

SENATE BILL REPORT

SB 6502

As Reported by Senate Committee On:
Natural Resources & Parks, February 4, 2016

Title: An act relating to forest fire prevention and suppression.

Brief Description: Concerning forest fire prevention and suppression.

Sponsors: Senators Hargrove and Frockt.

Brief History:

Committee Activity: Natural Resources & Parks: 2/03/16, 2/04/16 [DPS-WM].

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 6502 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Pearson, Chair; Dansel, Vice Chair; Jayapal, Ranking Member; Chase, Fraser, Hewitt and Warnick.

Staff: Bonnie Kim (786-7316)

Background: The Department of Natural Resources (DNR) is responsible for forest fire prevention and response on both state-owned and private forest land in Washington.

Forest land is defined as unimproved land with enough trees or flammable material to create a fire menace to life or property. Sagebrush and grass areas east of the Cascade mountains may be considered forest land if such lands are adjacent to, or intermingled with, tree growth. For protection purposes, forest land does not include structures.

Forest Protection Zones. DNR is responsible for working with the state's other fire control agencies to define geographic areas of responsibility. Forest protection zones include all forest land which DNR is obligated to protect but does not include forest land within rural or municipal fire districts.

Forest Fire Protection Assessments (FFPAs). The costs of forest fire protection are to be equitably shared between forest landowners and the state. Owners of forest land are under an obligation to provide forest fire protection on their land at a level that provides adequate protection against the spread of fire from or across their land. However, if a landowner's

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

property is located on forest land not included within the boundaries of certain rural or municipal fire districts, and the landowner fails to provide adequate protection against the spread of forest fire, then the landowner must pay the protection assessment to DNR.

Landowners paying the assessment are billed both at a flat rate and an additional rate according to the size of their forest land. All owners of forest land must pay a flat rate assessment fee of \$17.50 per parcel. Landowners who own more than 50 acres of forest land must pay the flat fee plus an additional \$0.27 per acre exceeding the 50 acres.

FFPA Refunds. Qualifying landowners who pay assessments on multiple parcels may claim a refund for assessments. To qualify for the refund, a landowner must have paid assessments on more than one parcel less than 50 acres in size in the same county.

If the cumulative size of all parcels owned by the landowner is less than 50 acres, then the landowner is entitled to be refunded the \$17.50 assessment paid on all but one of the properties, less \$0.50 per parcel retained for county administration. The landowner is not refunded the additional \$0.27 per acre assessment paid for the acreage exceeding 50 acres.

Forest Fire Protection Liability. When DNR is acting in its fire prevention and suppression capacity, a duty is owed to the public in general and not to any individual or class of persons separate from the general public.

Wildland Urban Interface (WUI) Code. The WUI Code is a model code developed and published by the International Code Council, Inc. (ICC). The ICC is a nonprofit organization that develops and publishes model codes for building, construction, and design standards. Updates to the codes are developed and published on a three-year cycle.

The WUI Code establishes minimum regulations for land use and the built environment in designated wildland-urban interface areas for the stated purpose of mitigating wildfire hazard. The WUI Code applies to the construction, alteration, movement, repair, maintenance, and use of any building, structure, or premises within the "wildland-urban interface areas" of a jurisdiction. "Wildland-urban interface area" is defined as the geographical areas where structures and other human development meets or intermingles with wildland or vegetative fuels.

Three counties in Washington - Clark, Kittitas, and Yakima - have adopted the WUI Code.

Prescribed Burning. Silvicultural or prescribed burning is governed by the state's smoke management plan. Prescribed burning is the controlled application of fire to wildland fuels under specific environmental conditions which allow the fire to be confined to a predetermined area, and at the same time to produce the fireline intensity and rate of spread required to attain planned management objectives. Prescribed burn project managers are often referred to as "burn bosses."

Summary of Bill (Recommended Substitute): Legislative Findings. The Legislature's findings regarding wildfires is amended to include the following:

- second only to saving lives, the mission of the department is protecting forest resources and preventing the spread of wildfires into communities and homes; and

- specific firefighting priorities are coordinated among firefighting entities and those priorities are heavily influenced by the protection of human life, communities, and property.

A finding that the most effective way to protect structures is to focus efforts and resources on aggressively suppressing forest wildfires is removed.

Forest Fire Protection Assessment. The current FFPA system for forest lands is unchanged. All taxable parcels not currently subject to the FFPA are assessed annually at \$4.95. Ten percent of FFPA revenue is transferred to the military department active state service account.

WUI Code. DNR must recommend incentives for fire-prone counties to adopt the ICC WUI Code.

Prescribed Burn Manager Certification Program. DNR must create a non-mandatory certification for prescribed burn managers. Certified prescribed burn managers are granted additional liability protection for permitted burns. DNR may set renewal criteria, add a decertification process for rule violators, and create an equivalency test for experienced burn bosses.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & PARKS COMMITTEE (Recommended Substitute): Clarifies that second only to saving lives, DNR's mission is to protect forest resources and prevent the spread of wildfires into communities and homes.

Appropriation: Central Washington University Wildfire Behavior Forecasting Program. \$650,000 is appropriated from GF-S to CWU to create a bachelor of science degree program for wildfire behavior forecasting and a wildfire management certification course for wildfire professionals.

DNR Appropriations. \$12,226,000 is appropriated from the Disaster Response Account (DRA) and \$928,000 is appropriated from GF-S for the following activities:

- \$464,000/FYs 2016-17 from GF-S to fund a 90-day exclusive use contract for a fixed-wing single engine air tanker, aerial coordination, and associated operational costs.
- \$3,796,000 from DRA for joint wildland fire training of DNR, WA National Guard, local government, and tribal firefighters.
- \$1,372,000 from DRA to enhance the DNR's capacity to response to large wildfires using in-state resources and to enhance capacity for aerial attack for wildfires.
- \$1,177,000 from DRA for implementation of Firewise, wildfire prevention education, community outreach programs, and technical assistance to landowners; and to ensure landowner compliance with grant and contract requirements, burn permit conditions, and industrial fire precaution levels.
- \$1,200,000 from DRA for radio communications system maintenance and upgrades in coordination with the state interoperability executive committee.
- \$4,681,000 from DRA for a grant program to local fire districts for wildland firefighting equipment and to provide state match for federal equipment grants to fire

districts. In providing these grants, priority shall be given to districts with the highest risk of wildfire, greatest equipment deficiencies, and the greatest financial need.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill clarifies DNR's fire responsibilities. In many cases, communities encroaching on forest lands do not pay the assessment but still get DNR fire protection services. This bill will generate more money for forest fire prevention. This bill would increase our assessment cost but we support it because it would improve fire suppression and protect fish and wildlife habitat. Proactive mapping is a useful tool to advance wildfire management.

CON: We oppose expanding the FFPA to all parcels in Washington. Assessments are typically related to the impact or benefit to particular property. This is really a tax.

OTHER: DNR appreciates the support for our joint training goals. The Board of Commissioners has authority to implement code to help our situation. Agencies put restriction grant funds when incentivizing programs.

Persons Testifying on Original Bill: PRO: Shawn O'Neill for Senator Hargrove, prime sponsor; Seamus Petrie, Washington Public Employees Association; Clay Sprague, WDFW; Dr. Antonio Sanchez, Central Washington University.

CON: Bill Clarke, Washington REALTORS.

OTHER: Mary Verner, Department of Natural Resources; Wes McCart, Stevens County.

Persons Signed In To Testify But Not Testifying on Original Bill: No one.