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**SUBSTITUTE HOUSE BILL 2596**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Dye, Blake, Kretz, Tharinger, Short, Schmick, McCabe, Haler, Rossetti, Muri, Condotta, and Springer)

READ FIRST TIME 02/05/16.

1       AN ACT Relating to reducing the occurrences of small wildland  
2 fires escalating into catastrophic fires through the creation of a  
3 mechanism to better equip local wildland fire suppression entities in  
4 their immediate, local suppression activities; amending RCW 43.30.111  
5 and 43.88.550; reenacting and amending RCW 76.04.005; adding new  
6 sections to chapter 76.04 RCW; creating a new section; and providing  
7 an expiration date.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9       NEW SECTION.   **Sec. 1.**   A new section is added to chapter 76.04  
10 RCW to read as follows:

11       (1) The local wildland fire severity account is created in the  
12 state treasury. All moneys appropriated to the account by law and any  
13 applicable cost match payments made by a local suppression entity  
14 under section 2 of this act must be deposited in the account. Moneys  
15 in the account may be spent only after appropriation. Expenditures  
16 from the account may only be used by the department to provide  
17 funding for immediate, local wildland fire response consistent with  
18 section 2 of this act.

19       (2) All appropriations to the local wildland fire severity  
20 account are separate and in addition to all base wildfire suppression  
21 appropriations provided directly to the department.

1 (3) Every two years as part of its budget request process under  
2 chapter 43.88 RCW, the department shall prepare a budget request for  
3 the local wildland fire severity account based on the demand on the  
4 account in recent biennia and the anticipated fire conditions for the  
5 requested biennium.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04  
7 RCW to read as follows:

8 (1) A local suppression entity that has satisfied the  
9 prerequisites established in this section may, upon confirmation of  
10 the start of a wildland fire within its jurisdiction or area of  
11 response, submit a request to the department or the state fire  
12 marshal for an expenditure from the local wildland fire severity  
13 account to fund an immediate local suppression effort or provide  
14 access to prepositioned fire suppression resources. The department  
15 must accept the confirmation provided by the local suppression entity  
16 and must implement the provisions of this section without first  
17 independently confirming the reported start of the wildland fire.

18 (2) The department shall, consistent with this section and upon  
19 request by a local suppression entity for an expenditure from the  
20 local wildland fire severity account, take either or all of the  
21 following actions within thirty minutes of the request:

22 (a) Release the requested money, or as much of the requested  
23 money as is appropriate, from the local wildland fire severity  
24 account to the requesting local suppression entity to be used for  
25 immediate suppression efforts;

26 (b) Provide a guaranteed level of reimbursement, and a timeline  
27 for reimbursement, from the local wildland fire severity account to  
28 the requesting local suppression entity for immediate suppression  
29 efforts undertaken by the local suppression entity;

30 (c) Release department-controlled suppression assets, including  
31 aerial assets, to the requesting local suppression entity to be used  
32 for immediate suppression efforts.

33 (3)(a) A local suppression entity that receives money,  
34 reimbursement, or assets under this section is responsible for  
35 matching ten percent of the value received from the local wildland  
36 fire severity account unless the local suppression entity can confirm  
37 that their local suppression efforts completely contained the fire  
38 within six hours of receiving the support. There is no cost match  
39 requirement if the local suppression entity achieves the six-hour

1 containment. In the event that the six-hour containment goal is not  
2 met, the measure of the local suppression entity's cost match  
3 requirement is the value it received from the local wildland fire  
4 severity account for the time used after the six-hour suppression  
5 effort, but prior to any state mobilization response for the fire,  
6 and not ten percent of the overall fire response cost incurred by the  
7 local suppression entity, the state government, the federal  
8 government, or any other response partners.

9 (b) Cost match payments by local suppression entities must be  
10 made to the department within one year of the receipt of support from  
11 the local wildland fire severity account. All cost match payments  
12 received by the department must be deposited into the local wildland  
13 fire severity account.

14 (c) In lieu of making payments to the department, a local  
15 suppression entity may contribute any cost match by using in-kind  
16 services, including the use of existing staff, equipment, and  
17 volunteers.

18 (d) The local wildland fire liaison may intervene as a mediator  
19 in the event of a disagreement between the department and a local  
20 suppression entity arising from the cost match requirements of this  
21 section.

22 (4) As a prerequisite to receiving resources or assets under this  
23 section, a local suppression entity must establish agreements, prior  
24 to its funding request, with the department and, as applicable, with  
25 other local suppression entities and private contractors in the  
26 general vicinity of the requesting local suppression entity's  
27 jurisdiction. The purpose of these agreements is to ensure that the  
28 release of resources or assets under this section is well planned.

29 (5)(a) The costs of fulfilling the requests of local suppression  
30 entities under this section must be incurred initially by the  
31 department out of its base wildfire suppression appropriation. The  
32 department may reimburse itself from the local wildland fire severity  
33 account for the costs incurred fulfilling requests under this section  
34 within the same fiscal biennium of incurring the costs.

35 (b) If the costs incurred by the department under this section  
36 exceed the balance in the local wildland fire severity account, the  
37 department may continue to implement this section and may receive  
38 reimbursements for the costs incurred by subsequent supplemental  
39 legislative appropriations to the local wildland fire severity  
40 account.

1 (6)(a) A local suppression entity seeking certainty in funding or  
2 reimbursement under this section prior to initiating suppression  
3 activities under this chapter must first notify the department that  
4 it has confirmed the start of a wildland fire in its jurisdiction,  
5 its proposed suppression actions, and the estimated total costs.

6 (b) Upon a request for reimbursement by a local suppression  
7 entity, the department must make the local suppression entity aware  
8 of the timeline for reimbursement. The department may assure  
9 reimbursement for up to two years following the suppression action.  
10 The department must maintain, and is authorized to pay,  
11 reimbursements for suppression activities that occurred in a previous  
12 fiscal biennium.

13 (7) Nothing in this section creates or infers additional  
14 liability on the department, a local suppression entity, or a  
15 contractor of the department or a local suppression entity in any  
16 suppression efforts funded through the local wildland fire severity  
17 account or for the failure to fund suppression efforts.

18 (8) Nothing in this section affects the ability of the department  
19 to preposition fire suppression resources deemed necessary or  
20 beneficial by the department both before and during a state  
21 mobilization.

22 NEW SECTION. **Sec. 3.** (1) The department of natural resources  
23 must present a report to the legislature, consistent with RCW  
24 43.01.036, by October 31, 2018, that summarizes the demand placed on  
25 the local wildland fire severity account and an estimate of a funding  
26 level for the local wildland fire severity account that would more  
27 accurately match the demand on the account.

28 (2) This section expires June 30, 2019.

29 **Sec. 4.** RCW 43.30.111 and 2015 c 182 s 1 are each amended to  
30 read as follows:

31 (1) The commissioner must appoint a local wildland fire liaison  
32 that reports directly to the commissioner or the supervisor and  
33 generally represents the interests and concerns of landowners and the  
34 general public during any fire suppression activities of the  
35 department.

36 (2) The role of the local wildland fire liaison is to provide  
37 advice to the commissioner on issues such as access to land during

1 fire suppression activities, the availability of local fire  
2 suppression assets, environmental concerns, and landowner interests.

3 (3) The local wildland fire liaison may also serve as a mediator  
4 between the department and recipients of local fire suppression  
5 funding as provided in section 2 of this act.

6 (4) In appointing the local wildland fire liaison, the  
7 commissioner must consult with county legislative authorities either  
8 directly or through an organization that represents the interests of  
9 county legislative authorities.

10 ((+4)) (5) All requirements in this section are subject to the  
11 availability of amounts appropriated for the specific purposes  
12 described.

13 **Sec. 5.** RCW 76.04.005 and 2015 c 182 s 7 are each reenacted and  
14 amended to read as follows:

15 As used in this chapter, the following terms have the meanings  
16 indicated unless the context clearly requires otherwise.

17 (1) "Additional fire hazard" means a condition existing on any  
18 land in the state:

19 (a) Covered wholly or in part by forest debris which is likely to  
20 further the spread of fire and thereby endanger life or property; or

21 (b) When, due to the effects of disturbance agents, broken, down,  
22 dead, or dying trees exist on forest land in sufficient quantity to  
23 be likely to further the spread of fire within areas covered by a  
24 forest health hazard warning or order issued by the commissioner of  
25 public lands under RCW 76.06.180. The term "additional fire hazard"  
26 does not include green trees or snags left standing in upland or  
27 riparian areas under the provisions of RCW 76.04.465 or chapter 76.09  
28 RCW.

29 (2) "Closed season" means the period between April 15th and  
30 October 15th, unless the department designates different dates  
31 because of prevailing fire weather conditions.

32 (3) "Commissioner" means the commissioner of public lands.

33 (4) "Department" means the department of natural resources, or  
34 its authorized representatives, as defined in chapter 43.30 RCW.

35 (5) "Department protected lands" means all lands subject to the  
36 forest protection assessment under RCW 76.04.610 or covered under  
37 contract or agreement pursuant to RCW 76.04.135 by the department.

1 (6) "Disturbance agent" means those forces that damage or kill  
2 significant numbers of forest trees, such as insects, diseases, wind  
3 storms, ice storms, and fires.

4 (7) "Emergency fire costs" means those costs incurred or approved  
5 by the department for emergency forest fire suppression, including  
6 the employment of personnel, rental of equipment, and purchase of  
7 supplies over and above costs regularly budgeted and provided for  
8 nonemergency fire expenses for the biennium in which the costs occur.

9 (8) "Exploding target" means a device that is designed or  
10 marketed to ignite or explode when struck by firearm ammunition or  
11 other projectiles.

12 (9) "Forest debris" includes forest slash, chips, and any other  
13 vegetative residue resulting from activities on forest land.

14 (10) "Forest fire service" includes all wardens, rangers, and  
15 other persons employed especially for preventing or fighting forest  
16 fires.

17 (11) "Forest land" means any unimproved lands which have enough  
18 trees, standing or down, or flammable material, to constitute in the  
19 judgment of the department, a fire menace to life or property.  
20 Sagebrush and grass areas east of the summit of the Cascade mountains  
21 may be considered forest lands when such areas are adjacent to or  
22 intermingled with areas supporting tree growth. Forest land, for  
23 protection purposes, does not include structures.

24 (12) "Forest landowner," "owner of forest land," "landowner," or  
25 "owner" means the owner or the person in possession of any public or  
26 private forest land.

27 (13) "Forest material" means forest slash, chips, timber,  
28 standing or down, or other vegetation.

29 (14) "Incendiary ammunition" means ammunition that is designed to  
30 ignite or explode upon impact with or penetration of a target or  
31 designed to trace its course in the air with a trail of smoke,  
32 chemical incandescence, or fire.

33 (15) "Landowner operation" means every activity, and supporting  
34 activities, of a forest landowner and the landowner's agents,  
35 employees, or independent contractors or permittees in the management  
36 and use of forest land subject to the forest protection assessment  
37 under RCW 76.04.610 for the primary benefit of the owner. The term  
38 includes, but is not limited to, the growing and harvesting of forest  
39 products, the development of transportation systems, the utilization  
40 of minerals or other natural resources, and the clearing of land. The

1 term does not include recreational and/or residential activities not  
2 associated with these enumerated activities.

3 (16) "Local fire suppression assets" means firefighting equipment  
4 that is located in close proximity to the wildland fire and that  
5 meets department standards and requirements.

6 (17) "Local wildland fire liaison" means the person appointed by  
7 the commissioner to serve as the local wildland fire liaison as  
8 provided in RCW 43.30.111.

9 (18) "Participating landowner" means an owner of forest land  
10 whose land is subject to the forest protection assessment under RCW  
11 76.04.610.

12 (19) "Sky lantern" means an unmanned self-contained luminary  
13 device that uses heated air produced by an open flame or produced by  
14 another source to become or remain airborne.

15 (20) "Slash" means organic forest debris such as tree tops,  
16 limbs, brush, and other dead flammable material remaining on forest  
17 land as a result of a landowner operation.

18 (21) "Slash burning" means the planned and controlled burning of  
19 forest debris on forest lands by broadcast burning, underburning,  
20 pile burning, or other means, for the purposes of silviculture,  
21 hazard abatement, or reduction and prevention or elimination of a  
22 fire hazard.

23 (22) "Suppression" means all activities involved in the  
24 containment and control of forest fires, including the patrolling  
25 thereof until such fires are extinguished or considered by the  
26 department to pose no further threat to life or property.

27 (23) "Unimproved lands" means those lands that will support  
28 grass, brush and tree growth, or other flammable material when such  
29 lands are not cleared or cultivated and, in the opinion of the  
30 department, are a fire menace to life and property.

31 (24) "Local suppression entity" means a city, county, fire  
32 department, fire district, or other nonstate, nonfederal public  
33 entity responsible for suppressing wildland fires within its  
34 jurisdiction.

35 (25) "Local wildland fire severity account" means the account  
36 created in section 1 of this act to assist in funding immediate,  
37 local suppression efforts.

38 **Sec. 6.** RCW 43.88.550 and 1989 c 362 s 3 are each amended to  
39 read as follows:

1       (1) Based on schedules submitted by the director of financial  
2 management, the state treasurer shall transfer from the general fund—  
3 state, or such other funds as the state treasurer deems appropriate,  
4 to the Clarke-McNary fund such amounts as are necessary to meet  
5 unbudgeted forest firefighting expenses, including expenses incurred  
6 from the implementation of section 2 of this act.

7       (2) All amounts borrowed under the authority of this section  
8 shall be repaid to the appropriate fund, together with interest at a  
9 rate determined by the state treasurer to be equivalent to the return  
10 on investments of the state treasury during the period the amounts  
11 are borrowed.

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