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**HOUSE BILL 2086**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Dye, Sutherland, and Graham

AN ACT Relating to aviation assurance funding in response to wildland fires; amending RCW 76.04.511; and adding a new chapter to Title 89 RCW.

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

NEW SECTION. **Sec.**  (1) Local fire departments in the state of Washington serve as the frontline responders to wildland fires. The fire chief of each local fire department with jurisdiction over wildland fires is tasked with making rapid decisions, especially during the summer months when weather conditions can cause fires to rapidly enlarge. Flashy fuels, especially during times of low humidity, can be ignited by a single spark and erupt into a rapidly moving incident that can quickly destroy rangelands, ripe dryland crops, and timberlands.

(2) Local fire departments often hold contracts with local aviation companies that are certified to fly and drop fire retardants and water to suppress or extinguish wildland fires quickly. Many of these aviation companies also serve the state fire agency and federal fire agencies during state mobilization events. The use of aviation assets by trained air operations commands has proven to be a valuable tool to prevent many wildland fires from requiring the response of state mobilization and prevent the deployment of state and federal fire agencies and their mobilization partner agencies.

(3) Further, the strategic use of aviation assets in initial attack, or at times when conditions on the ground may warrant additional air support, can prevent fires from becoming uncontrollable. Local fire departments that use aviation assets on initial attack can prevent most fires from requiring a state mobilization. Providing financial assurances for local fire departments to deploy aviation assets will provide greater protection to our state's natural resources and air quality.

(4) The legislature intends to establish an office to administer a pool of funding to support the use of local aviation companies certified and trained to operate in wildland fires and drop fire retardant or water to suppress or extinguish fires as an initial attack strategy. Deployment and air operations command will be conducted at the direction of trained air operations commanders.

(5) The legislature intends to allow reimbursement for invoices of an aviation service utilized for early fire suppression in order to provide assurance that a local fire department will have sufficient financial capacity to effectively control wildland fires throughout the length of the fire season. Having assurance that local fire departments can afford to use aircraft under conditions that would warrant their use and at the discretion of the local fire department chief will create incentives to utilize aircraft more quickly in order to rapidly suppress the fire and minimize damage to lands, resources, and structures, and to protect regional air quality during the fire season.

NEW SECTION. **Sec.**  (1) The aviation assurance fund office is created and shall be located within the state conservation commission.

(2) Staff support for the office shall be provided by the state conservation commission.

(3) The aviation assurance fund office has the following responsibilities:

(a) Convene and administer the aviation assurance fund board established in section 3 of this act;

(b) Take such actions as may be necessary to administer and award aviation assurance funding, as established in section 4 of this act, to local fire suppression entities consistent with recommendations made by the aviation assurance fund board; and

(c) Prepare and submit an annual report, consistent with RCW 43.01.036, to the standing committees of the legislature with jurisdiction over wildland firefighting. The office must submit the report no later than December 1st of each year. The report must address, at a minimum, the following topics:

(i) The dollar value of aviation assurance funding utilized during the year;

(ii) The recipients of aviation assurance funding during the year;

(iii) The wildland fires on which aviation assurance funding was utilized during the year, including names, locations, and sizes of fires, the length of time it took to deploy aviation assets to a fire once the decision was made to utilize aviation assets as part of the wildland fire response, the amount of funding utilized on each of the fires, and where appropriate, details regarding mobilization funds made available by the state fire marshal for any of the fires; and

(iv) A review of lessons learned based on the preceding fire season, along with recommendations for future improvements to the wildland fire response process based on the lessons learned.

NEW SECTION. **Sec.**  (1) The aviation assurance fund office must staff and convene the aviation assurance fund board pursuant to the requirements set forth in this section.

(2) The aviation assurance fund board must consist of the following members appointed by a majority of the voting members of the state conservation commission:

(a) Two members representing local fire suppression entities serving areas located to the east of the crest of the Cascade mountains;

(b) One member representing a local fire suppression entity located to the west of the crest of the Cascade mountains;

(c) One member representing the local wildland fire liaison within the department of natural resources; and

(d) One member representing the state fire marshal.

(3) The aviation assurance fund board is responsible for:

(a) Reviewing the initial attack needs of local fire suppression entities around the state;

(b) Establishing criteria to guide the award of aviation assurance funding;

(c) Reviewing applications for aviation assurance funding and making funding available consistent with the criteria established by the board, based on a simple majority vote of the members of the board;

(d) Entering into prequalification agreements at the beginning of each fire season with local fire suppression entities that have been awarded funding for that fire season; and

(e) Reviewing lessons learned from recent wildland fire responses and developing recommendations for improvements to the state's initial wildland fire attack capabilities, to be included in the annual report submitted to the legislature pursuant to section 2 of this act.

NEW SECTION. **Sec.**  (1) Subject to the availability of amounts appropriated for this specific purpose, the aviation assurance fund office is responsible for administering the aviation assurance funding program pursuant to the requirements set forth in this section.

(2) The office may use aviation assurance funding only to assist local fire suppression entities with defraying the cost of contracting for private aerial fire response capabilities during the critical initial attack phase of fighting a wildland fire.

(3) The office may provide aviation assurance funding pursuant to the aviation assurance fund board selection process established in section 3 of this act.

(4) The office may award aviation assurance funding only on a reimbursement basis to local fire suppression entities that meet the following three requirements:

(a) The local fire suppression entity must have entered into a prequalification agreement with the office prior to the beginning of the fire season;

(b) The local fire suppression entity must have entered into a preemptive service agreement with a qualified wildland fire suppression contractor; and

(c) The local fire suppression entity must have incurred actual costs during the wildland fire season to contract for private aerial fire response capabilities during the initial attack phase of fighting a wildland fire.

The preemptive service agreement must specify an agreed-upon standard operating rate. The amount of reimbursement per wildland fire incident may not exceed the amount specified in the prequalification agreement entered into between the office and the local fire suppression entity. Actual reimbursement awards are subject to proration by the office if costs exceed amounts appropriated for this purpose. For purposes of this chapter, "local fire suppression entity" means a county or tribal fire department that is responsible for suppression of wildland fires within its jurisdiction.

(5) The office may not award aviation assurance funding in a manner or at a rate that is inconsistent with either the prequalification agreement or the preemptive service agreement entered into between a local fire suppression entity and a qualified wildland fire suppression contractor. Aviation assurance funding provided to a local fire suppression entity in a calendar year may not exceed the entity's actual invoiced costs to contract for private aerial fire response capabilities during the initial attack phase of fighting a wildland fire in the calendar year.

**Sec.**  RCW 76.04.511 and 2021 c 298 s 2 are each amended to read as follows:

(1) The wildfire response, forest restoration, and community resilience account is created in the state treasury. All receipts from moneys directed to the account must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for carrying out the purposes of chapter 298, Laws of 2021 and for no other purposes.

(2) Expenditures from the account may be made to state agencies, federally recognized tribes, local governments, fire and conservation districts, nonprofit organizations, forest collaboratives, and small forestland owners, consistent with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, ((~~and~~)) the Washington state forest action plan, and chapter 89.---RCW (the new chapter created in section 6 of this act).

(3) The wildfire response, forest restoration, and community resilience account may only be used to monitor, track, and implement the following purposes:

(a) Fire preparedness activities consistent with the goals contained in the state's wildland fire protection 10-year strategic plan including, but not limited to, funding for firefighting capacity and investments in ground and aerial firefighting resources, equipment, and technology, and the development and implementation of a wildland fire aviation support plan in order to expand and improve the effectiveness and cost-efficiency of the department's wildland fire aviation program;

(b) Fire prevention activities to restore and improve forest health and reduce vulnerability to drought, insect infestation, disease, and other threats to healthy forests including, but not limited to, silvicultural treatments, seedling development, thinning and prescribed fire, and postfire recovery activities to stabilize and prevent unacceptable degradation to natural and cultural resources and minimize threats to life and property resulting from the effects of a wildfire. Funding priority under this subsection must be given to programs, activities, or projects aligned with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, and the Washington state forest action plan across any combination of local, state, federal, tribal, and private ownerships;

(c) Fire protection activities for homes, properties, communities, and values at risk including, but not limited to: Potential control lines or strategic fuel breaks in forests and rangelands near communities; improved warning and communications systems to prepare for wildfires; increased engagement with non-English speaking communities in their home language for community preparedness; and the national fire protection association's fire wise USA and the fire-adapted communities network programs to help communities take action before wildfires.

(4) Appropriations for forest health activities funded by the wildfire response, forest restoration, and community resilience account shall not be less than 25 percent of the biennial appropriated funding.

(5) Appropriations for community resilience activities funded by the wildfire response, forest restoration, and community resilience account shall not be less than 15 percent of the biennial appropriated funding.

(6) Funding may not be used for emergency fire costs or suppression costs as defined in RCW 76.04.005.

(7) To the maximum extent possible, workforce development investments from the wildfire response, forest restoration, and community resilience account should prioritize historically marginalized, underrepresented, rural, and low-income communities.

(8) Any expenditures from the wildfire response, forest restoration, and community resilience account for forest health treatments on federal lands must be additive to the baseline accomplishments and outputs already funded through the federal government and outlined in the annual work plans of the United States forest service, bureau of land management, the national park service, and/or the United States fish and wildlife service.

(9) The department may solicit the forest health advisory committee established in RCW 76.06.200 and wildland fire advisory committee established in RCW 76.04.179 to provide recommendations for investments under this section. In assessing investments and developing recommendations for communities that will be impacted based on ecological, public infrastructure, and life safety needs as set forth in the 20-year forest health strategic plan and the wildland fire protection 10-year strategic plan, the forest health advisory committee and wildland fire advisory committee must use environmental justice or equity focused tools, such as the Washington tracking network's environmental health disparities tool to identify highly impacted communities. This identification must be used as a factor in determining recommendations for investments under this section. "Highly impacted communities" has the same meaning as defined in RCW 19.405.020.

(10) To the maximum extent practicable and where consistent with the 20-year forest health strategic plan, the wildland fire protection 10-year strategic plan, or the Washington state forest action plan and landowner objectives, forest health treatments funded through the wildfire response, forest restoration, and community resilience account shall seek to utilize the value of any merchantable materials to help offset treatment costs.

NEW SECTION. **Sec.**  Sections 1 through 4 of this act constitute a new chapter in Title 89 RCW.

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