

# SENATE BILL REPORT

## 2SHB 1168

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As of March 26, 2021

**Title:** An act relating to long-term forest health and the reduction of wildfire dangers.

**Brief Description:** Concerning long-term forest health and the reduction of wildfire dangers.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Springer, Kretz, Fitzgibbon, Griffey, Riccelli, Lekanoff, Ramos, Callan, Harris-Talley, Dent and Klicker).

**Brief History:** Passed House: 3/9/21, 96-0.

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 3/23/21, 3/25/21 [DPA-WM].

Ways & Means: 3/30/21.

### Brief Summary of Amended Bill

- Establishes legislative intent to provide \$500 million over the next four biennia to fund forest health and wildfire response activities.
- Creates the Wildfire Response, Forest Restoration, and Community Resilience Account (account) to fund certain wildfire preparedness, prevention, and protection activities and requires the Department of Natural Resources (DNR) to report every two years on how account funds are used.
- Directs DNR to implement several initiatives relating to forest health and wildfire response including additional mapping, forest health, workforce development, small forest landowner forest health, and wildland fire aviation support.

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**SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS**

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

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, Rolfes, Short and Stanford.

**Staff:** Jeff Olsen (786-7428)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Jed Herman (786-7346)

**Background:** The Department of Natural Resources (DNR) has direct charge and responsibility over all matters pertaining to forest fire services in the state. The forest fire related duties of DNR include enforcing all forest fire related laws, investigating the cause of forest fires, and directing fire suppression efforts. In 2007, the Legislature designated DNR as the lead in developing a comprehensive forest health program for the state. As part of that designation, DNR was directed to gather and disseminate forest health information, to coordinate forest health monitoring activities, and to coordinate with universities and other agencies to provide landowners with technical assistance regarding forest health. In 2019, DNR developed the 10-year Wildland Fire Strategic Plan that establishes goals and identifies strategies for wildland fire preparedness, response, and recovery.

The Board of Natural Resources (Board) sets policies to guide how DNR manages the state's lands and resources. The Board has the responsibility to establish the sustainable harvest level for forested trust lands.

In 2017, DNR established the Forest Health Assessment and Treatment Framework (framework) at the direction of the Legislature. The framework has three components—assessment, treatment, and progress review and reporting. The purpose of the framework is to proactively and systematically address forest health issues facing the state. DNR must use the framework to assess and treat fire prone lands each biennium, with a goal of assessing and treating 1 million acres of land by 2033. When developing and implementing the framework, DNR must use and build on the 20-year forest health strategic planning initiated at the direction of the Legislature in 2016.

In 2017, DNR established the Forest Health Advisory Committee (FHA Committee) to assist in developing and implementing the framework. The FHA Committee may include representation from a variety of forest health stakeholder groups, including forest landowners, wildland fire response organizations, conservation groups, and local communities. The FHA Committee may consult with federal agencies and with local, state, and tribal governments.

The Wildland Fire Advisory Committee (WFA Committee) was created in 2015. The WFA Committee advises the Commissioner of Public Lands (commissioner) on all matters related to wildland firefighting in the state. This includes developing strategies to enhance

the safe and effective use of private and public wildland firefighting resources.

The commissioner is designated as the lead for all forest health issues and is responsible for promoting government-to-government communications between the state and federal government on forest land management decisions. Each year, the commissioner must provide a progress report to the Legislature on their coordination responsibility and any recommended statutory changes, policy issues, or funding needs.

The Small Forest Landowner Office (office) was established in 1999 to provide assistance to small forest landowners (SFLOs) in Washington. An SFLO, is a forestland owner who harvests no more than an average of 2 million board feet of timber from their land per year. The office offers technical assistance to SFLOs, and manages several assistance programs for landowners.

The United States Congress first authorized a good neighbor pilot program in 2000 between the United States Forest Service (USFS) and the Colorado State Forest Service. Since that time, the Good Neighbor Authority Program has expanded to include the Bureau of Land Management (BLM) in addition to the USFS, and to encompass all 50 states and Puerto Rico. Under good neighbor authority agreements, state agencies are authorized to undertake a broad array of land management activities on USFS and BLM lands, including fuels management, and forest, range, and fisheries habitat restoration.

The Tribal Forest Protection Act authorizes the secretaries of Agriculture and Interior to give special consideration to tribally proposed stewardship, contracting, or other projects on USFS or BLM land bordering or adjacent to Indian trust land to protect the Indian trust resources from fire, disease, or other threat coming off of federal land.

**Summary of Amended Bill:** Within the assessment element of the framework, DNR must develop a mapping tool to identify SFLOs within wildfire risk areas. DNR must use the mapping tool to evaluate and optimize forest health work to reduce wildfire risk in high risk areas and leverage funding and landowner assistance programs with the greatest impact for wildfire prevention, preparedness, and response.

DNR must take additional actions when developing and implementing the framework. These actions include partnering with federally recognized tribes where possible to expand the use of the Tribal Forest Protection Act on certain federal lands; and prioritizing forest health treatments nearby or adjacent to state lands when entering into good neighbor agreements, to increase the speed, efficiency, and impact on the landscape.

A Small Forest Landowner Forest Health Program is established that promotes the coordination of services to SFLOs and integrates existing landowner assistance programs to efficiently and effectively reach diverse SFLOs; distributes funding effectively to lower wildfire risk in high risk areas; increases education and outreach to small forest land owners; and identifies and removes barriers to technical assistance, funding, and forest

health management planning. Priority areas for treatment under the Washington State Forest Action Plan, 10-year Forest Health Strategic Plan, and Wildland Fire Protection 10-year Strategic Plan may not prohibit technical support or stewardship plan support for SFLO lands outside the designated emphasis areas.

DNR, jointly with the Department of Commerce (Commerce), and in consultation with centers for excellence, higher education, secondary education, and workforce development centers, must develop and implement initiatives to develop a forest health workforce. This includes developing a plan for tracking, maintaining, and publicly reporting on specific items related to development of workforce initiatives including a working definition of the forest sector workforce, training recommendations, identification of gaps and barriers to a full forest sector workforce pool, and any recommendations for addressing barriers or other needs to develop a forest sector workforce.

DNR and the Department of Corrections (DOC) must jointly expand existing programs to provide additional wildfire, forest health, and silvicultural capacity, such as a post-release program to help formerly incarcerated individuals who have served on state fire response crews obtain employment in wildfire suppression and forest management. DNR must provide a gratuity equivalent to the local minimum wage for inmate fire suppression and support crews.

DNR must use existing programs, such as the Washington Conservation Corps, Washington Veterans Corps, or other similar programs to expand forest health workforce opportunities. Workforce development programs and policies should prioritize historically marginalized, underrepresented, rural, and low-income communities to the maximum extent possible.

The Wildfire Response, Forest Restoration, and Community Resilience Account (account) is created. Funds in the account may be spent only after appropriation and be used only to monitor, track, and implement certain wildfire preparedness, prevention, and protection purposes. Funds in the account may not be used for emergency fire costs or suppression costs. Appropriations for forest health activities must not be less than 25 percent of appropriations, and must not be less than 15 percent of appropriations for community resilience activities. DNR may solicit recommendations on how to use funds in the account from the FHA Committee and the WFA Committee. The advisory committees must use environmental justice or equity focused tools to identify highly impacted communities when making recommendations for investments from the account.

By December 1st of each odd-numbered year, DNR must provide a report to the Governor and Legislature on the type, amount, and purpose of expenditures made from the account by fiscal year; the amount of unspent and unobligated funds in the account, and recommendations for disbursement to local districts; progress on the implementation of the Wildland Fire Protection 10-year Strategic Plan; and progress on the implementation of the 20-year Forest Health Strategic Plan. DNR must also include any recommendations for adjustments to how account funds are disbursed. In addition, DNR must report on progress

in developing markets for forest residuals and biomass generated from forest health treatments when reporting on expenditures from the Wildfire Response, Forest Restoration, and Community Resilience Account.

The DNR and the Department of Commerce must work with forestland owners and companies to grow existing or develop new market opportunities for the use of material produced as a result of forest health treatments. The DNR must explore opportunities and developing markets for the use of woody biomass, including biochar, from forest treatments.

Upon the determination of a sustainable harvest calculation, DNR must provide the necessary information for the Joint Legislative Audit and Review Committee (JLARC) to oversee an independent review of the methodologies and data used for the sustainable harvest calculation. The review must assess the associated forest inventory, forest growth, harvest and yield data and modeling, as well as the regulations or policy decisions that impact harvest levels. When carrying out the review, JLARC must retain one or more contractors with expertise in forest growth and yield monitoring, timber harvest scheduling, and the management of timberlands. JLARC must convene an independent advisory committee and solicit and consider recommendations from state trust land beneficiaries, private timberland companies, and purchasers of DNR timber sales when selecting members of the independent advisory committee.

Within six months of the determination by DNR of the sustainable harvest level, JLARC must complete the independent review and submit a report with findings and recommendation to the Board of Natural Resources and the Legislature. Upon receiving the report from JLARC, the Board of Natural Resources shall determine whether modifications are necessary to the sustainable harvest calculation.

The government-to-government coordination responsibilities of the commissioner extend to communication and coordination with tribes. Duties of the commissioner are added requiring them to meet regularly with regional leadership of USFS to coordinate on:

- identifying strategies to improve the delivery and increase the pace and scale of forest health and resiliency treatments on USFS lands;
- documenting resources needed to increase the capacity available to USFS;
- identifying planning and implementation support to USFS through cooperative agreements and good neighbor agreements; and
- maximizing the use of efficiencies for compliance with the National Environmental Policy Act to increase the pace and scale of forest health treatments.

The commissioner must report to the Legislature every two years, instead of every year, and the report must include identification of any needed state or federal statutory changes, if deemed appropriate by the commissioner, and an estimate of the acres of at-risk forests on each national forest and number of acres treated.

DNR must develop and implement a Wildland Fire Aviation Support Plan as recommended by the Wildland Fire Protection 10-year Strategic Plan with the stated purpose to improve the effectiveness and cost-efficiency of DNR's wildland fire aviation program. The plan must include recommendations for the addition of air assets, and evaluation of opportunities to increase air assets, costs and benefits to increase dedicated air resources, and strategies to upgrade DNR's aircraft, as well as retardant loading and processing infrastructure at a port in eastern Washington.

**EFFECT OF AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE AMENDMENT(S):**

- Directs DNR and the Department of Commerce to work with forestland owners and companies to grow existing or develop new market opportunities for the use of material produced as a result of forest health treatments.
- Directs DNR to report on progress in developing markets for forest residuals and biomass generated from forest health treatments when reporting on expenditures from the Wildfire Response, Forest Restoration, and Community Resilience Account.
- Requires DNR to explore opportunities and developing markets for the use of woody biomass, including biochar, from forest treatments.

**Appropriation:** None.

**Fiscal Note:** Requested on March 22, 2021.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Proposed Striking Amendment (Agriculture, Water, Natural Resources & Parks):** The committee recommended a different version of the bill than what was heard. PRO: We were all impacted by the smoke and wildland fires last year, and proactive investments are needed to address increasing destruction from fire seasons. We can no longer rely on limited resources and must take bold action. This is a pro-active plan to expand and modernize resources. Long-term investments in forest health, wildfire response, and strengthening our communities are needed to address the problem. The forest and fish law was passed over 20 years ago and it had a disproportionate impact on small forestland owners. Language providing support for additional funding for technical assistance to small forestland owners' need is appreciated. Requiring a JLARC report on the calculation of the sustainable harvest is a concern. Seventy percent of 1,000 voters polled support this proposal. Washington has seen a three fold increase in wildfire seasons, however, funding has not been enough to meet the needs. A dedicated account is needed to support workforce development, mapping, and to assist small forestland owners. It is important to protect large trees and the carbon storage function they provide. DNR is the first line of attack for wildland fires, and additional investments are needed. While fires

are here to stay, we can reduce the risk. More well-trained firefighters are needed, with sustainable funding. Additional wildfire preparedness is needed for an effective attack on wildfires. There are several important elements in the bill including increasing active management of forests, tracking and reporting spending, non-supplant language, and the third-party JLARC review of the sustainable harvest. Reductions in harvest volumes impacts investments in the forest industry.

OTHER: Stakeholders were actively involved in developing a strong policy bill. There is support for providing incarcerated persons that work on wildland fires a local minimum wage, however, I strongly object to an audit of the sustainable harvest calculation. There was a balanced process used to develop the sustainable harvest calculation. There is currently active litigation against the state regarding the sustainable harvest calculation. The sustainable harvest policy is not a policy to reduce wildfire risk, it is to provide predictability of revenue. The sustainable harvest calculation independent advisory committee created in the bill is not balanced.

**Persons Testifying (Agriculture, Water, Natural Resources & Parks):** PRO: Heather Hansen, Washington Farm Forestry Association; Justin Allegro, The Nature Conservancy; Hilary Franz, Department of Natural Resources; Raelene Gold, League of Women Voters of Washington; Jason Callahan, Washington Forest Protection Association; Seamus Petrie, Washington Public Employees Association; Heath Heikkila, American Forest Resource Council; Giovanni Severino, Progreso: Latino Progress.

OTHER: Darcy Nonemacher, Washington Environmental Council.

**Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks):** No one.