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**SUBSTITUTE SENATE BILL 5996**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Van De Wege, Rolfes, Frockt, Billig, Keiser, Lias, Hunt, and Randall)

1        AN ACT Relating to funding fire prevention and suppression  
2 activities; amending RCW 48.14.040; adding new sections to chapter  
3 76.04 RCW; adding a new section to chapter 48.02 RCW; creating a new  
4 section; providing an expiration date; and declaring an emergency.

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

6        NEW SECTION.    **Sec. 1.**    SHORT TITLE. Chapter . . ., Laws of 2019  
7 (this act) may be known and cited as the wildfire prevention and  
8 suppression act.

9        NEW SECTION.    **Sec. 2.**    FINDINGS AND DETERMINATIONS. (1) The  
10 legislature finds that the risk of catastrophic wildfire has  
11 significantly increased in recent years and a forest health crisis  
12 exists in the state of Washington. In 2018, more than forty percent  
13 of wildfires occurred in western Washington and more than two million  
14 acres have burned in the last five years alone. Communities in every  
15 corner of the state have felt the impact of smoke resulting from  
16 wildfires, posing serious risks to vulnerable populations and the  
17 general public.

18        (2) The state and its local, federal, and tribal partners have  
19 been working to restore our forests to health, protect communities  
20 and firefighters from catastrophic fire, and protect the health and

1 well-being of children and families, and need to increase the ability  
2 to respond to wildfires which have steadily increased in intensity  
3 and magnitude. Wildfire risk and forest health and resiliency is at a  
4 critical point of needing increased dedicated resources across to the  
5 entire state of Washington.

6 (3) It is the intent of the legislature to take immediate action  
7 to increase the resources required to restore 1.25 million acres of  
8 diseased and dying forestland, support local fire departments, hire  
9 new wildland firefighters, enhance and improve the wildfire air  
10 attack program, and provide communities the resources to prepare for  
11 wildfire prevention and suppression.

12 (4) The legislature intends that these investments protect the  
13 state economy and environment. Funding for effective fire  
14 suppression, initial attack, and forest health will promote  
15 reductions in fire frequency and intensity, improve ability to  
16 immediately and aggressively respond to wildfires, reduce postfire  
17 recovery costs and economic impacts, and mitigate health costs of  
18 asthma and other respiratory ailments due to wildfire smoke.

19 NEW SECTION. **Sec. 3.** WILDFIRE PREVENTION AND SUPPRESSION  
20 ACCOUNT. (1) The wildfire prevention and suppression account is  
21 created in the state treasury.

22 (2) The receipts collected by the surcharge imposed under section  
23 4 of this act must be deposited and distributed for the following  
24 purposes listed in order of priority:

25 (a) Suppression fire costs incurred by the department as defined  
26 in RCW 76.04.005;

27 (b) Funding fire preparedness activities, including but not  
28 limited to funding for full-time firefighters, investments in aerial  
29 assets, firefighter training, and the creation of a fire training  
30 academy;

31 (c) Fire suppression, prevention, preparedness, or recovery  
32 activities for other state agencies as appropriate;

33 (d) Fire prevention, including firewise and fire-adapted  
34 communities programs to help communities take action before, during,  
35 and after wildfires. The department of natural resources must develop  
36 draft procedures, criteria, and, if necessary or advisable, rules for  
37 the programs authorized under this subsection;

38 (e) Activities to improve forest health and reduce vulnerability  
39 to drought, insect infestation, disease, and other threats to healthy

1 forests. Funding priority must be given to programs, activities, or  
2 projects aligned with the twenty-year forest health plan and  
3 prioritized pursuant to RCW 76.06.200 and 79.10.530 across any  
4 combination of local, state, federal, tribal, and private ownerships.

5 (3) Forest health activities for each biennium are subject to the  
6 availability of amounts appropriated for this specific purpose.

7 (4) No expenditures from the wildfire prevention and suppression  
8 account may be made without appropriation.

9 (5) The legislature may direct the forest health advisory  
10 committee established in RCW 76.06.200 and wildland fire advisory  
11 committee established in RCW 76.04.179 to provide recommendations for  
12 investments under this section.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.02  
14 RCW to read as follows:

15 (1) Beginning July 1, 2019, each property and casualty insurer,  
16 except a medical professional liability business, must pay a wildfire  
17 surcharge of 0.52 percent of receipts collected or received on  
18 business in this state during the previous calendar year. However,  
19 the minimum wildfire surcharge is one thousand dollars.

20 (2) The commissioner must annually, on or before July 1st,  
21 calculate and bill each property and casualty insurer for the amount  
22 of the wildfire surcharge. The wildfire surcharge is due and payable  
23 no later than July 15th of each year. Any property and casualty  
24 insurer failing to pay the wildfire surcharge by July 31st must pay  
25 the same penalties as the penalties for failure to pay taxes when due  
26 under RCW 48.14.060. The wildfire surcharge required by this section  
27 is in addition to all other taxes and fees now imposed or that may be  
28 subsequently imposed.

29 (3) All moneys collected under this section must be deposited in  
30 the wildfire prevention and suppression account created in section 3  
31 of this act.

32 (4)(a) Each property and casualty insurer may annually collect  
33 wildfire surcharges remitted in preceding years by means of a  
34 policyholder surcharge on premiums charged for property and casualty  
35 insurance. The recoupment is at a uniform rate reasonably calculated  
36 to collect the wildfire surcharge remitted by the insurer.

37 (b) If an insurer fails to collect the entire amount of the  
38 recoupment in the first year under this section, it may repeat the  
39 recoupment procedure provided for in this subsection (4) in

1 succeeding years until the wildfire surcharge is fully collected or a  
2 de minimis amount remains uncollected. Any such de minimis amount may  
3 be collected as provided in (d) of this subsection.

4 (c) The amount and nature of any recoupment must be separately  
5 stated on either a billing or policy declaration sent to an insured.  
6 The amount of the recoupment must not be considered a premium for any  
7 purpose, including the premium tax or agents' commissions.

8 (d) An insurer may elect not to collect the wildfire surcharge  
9 from its insured. In such a case, the insurer may recoup the wildfire  
10 surcharge through its rates, if the following requirements are met:

11 (i) The insurer remits the amount of surcharge not collected by  
12 election under this subsection; and

13 (ii) The surcharge is not considered a premium for any purpose,  
14 including the premium tax or agents' commissions.

15 (5) The definitions in this subsection apply throughout this  
16 section unless the context clearly requires otherwise.

17 (a) "Property and casualty insurer" means every insurer, as  
18 defined in RCW 48.01.050, having a certificate of authority to do  
19 property and casualty business in this state.

20 (b) "Receipts" means net direct premiums consisting of direct  
21 gross premiums, as defined in RCW 48.18.170, paid for insurance  
22 written or renewed upon risks or property resident, situated, or to  
23 be performed in this state, less return premiums and premiums on  
24 policies not taken, dividends paid or credited to policyholders on  
25 direct business, and premiums received from policies or contracts  
26 issued in connection with qualified plans as defined in RCW  
27 48.14.021.

28 **Sec. 5.** RCW 48.14.040 and 2008 c 217 s 7 are each amended to  
29 read as follows:

30 (1) If pursuant to the laws of any other state or country, any  
31 taxes, licenses, fees, deposits, or other obligations or  
32 prohibitions, in the aggregate, or additional to or at a net rate in  
33 excess of any such taxes, licenses, fees, deposits or other  
34 obligations or prohibitions imposed by the laws of this state upon  
35 like foreign or alien insurers and their appointed insurance  
36 producers or title insurance agents, are imposed on insurers of this  
37 state and their appointed insurance producers or title insurance  
38 agents doing business in such other state or country, a like rate,  
39 obligation or prohibition may be imposed by the commissioner, as to

1 any item or combination of items involved, upon all insurers of such  
2 other state or country and their appointed insurance producers or  
3 title insurance agents doing business in this state, so long as such  
4 laws remain in force or are so applied.

5 (2) For the purposes of this section, an alien insurer may be  
6 deemed to be domiciled in the state wherein it has established its  
7 principal office or agency in the United States. If no such office or  
8 agency has been established, the domicile of the alien insurer  
9 (~~shall be~~) is deemed to be the country under the laws of which it  
10 is formed.

11 (3) For the purposes of this section, the regulatory surcharge  
12 imposed by RCW 48.02.190 (~~shall~~) and the wildfire surcharge imposed  
13 by section 4 of this act may not be included in the calculation of  
14 any retaliatory taxes, licenses, fees, deposits, or other obligations  
15 or prohibitions imposed under this section.

16 NEW SECTION. Sec. 6. (1) By July 1, 2025, in compliance with  
17 RCW 43.01.036, the joint legislative audit and review committee, in  
18 consultation with the department of natural resources and the office  
19 of the insurance commissioner, must report to the legislature on the  
20 following:

- 21 (a) The effectiveness of the expenditures made by this act;  
22 (b) The amount raised by the surcharge created in this act; and  
23 (c) The number and type of policies the surcharge created in this  
24 act applies to.

25 (2) The joint legislative audit and review committee must include  
26 recommendations on any adjustments that may be necessary or advisable  
27 to the surcharge created under this act, or the mechanism of funding  
28 dispensation as created under this act.

29 (3) This section expires July 1, 2026.

30 NEW SECTION. Sec. 7. Sections 1 through 3 of this act are each  
31 added to chapter 76.04 RCW with the subchapter heading of "WILDFIRE  
32 PREVENTION ACT."

33 NEW SECTION. Sec. 8. This act is necessary for the immediate  
34 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect immediately.

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