

HOUSE BILL NO. 481

INTRODUCED BY B. BROWN, D. MORTENSEN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WILDFIRE INITIAL ATTACK AUTHORITY; ALLOWING COUNTY GOVERNING BODIES TO AUTHORIZE WILDFIRE INITIAL ATTACK ON ALL LANDS WITHIN THE COUNTY REGARDLESS OF OWNERSHIP; REQUIRING THE GOVERNING BODY TO PROVIDE NOTIFICATION; PROVIDING FOR COMPENSATION TO THE COUNTY FOR COSTS INCURRED IN INITIAL ATTACK ACTIVITIES; AND AMENDING SECTIONS 7-33-2202, 7-33-2209, AND 76-13-105, MCA."

WHEREAS, the Montana Constitution guarantees the state's citizens the right to a clean and healthful environment and the right to pursue life's basic necessities; and

WHEREAS, uncontained wildfires threaten the health, safety, and quality of life of the citizens of Montana, in addition to the state's air quality, water quality, fish and wildlife, grasslands, timber, infrastructure, and aesthetic values that affect citizens' economic well-being; and

WHEREAS, much of Montana's land is under federal management that at times conflicts with these constitutionally protected values when considering wildfire management; and

WHEREAS, the timely intervention in wildfire incidents reduces the number and size of uncontained wildfires; and

WHEREAS, counties should have a right to take action when fire danger is immediate.

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

Section 1. Section 7-33-2202, MCA, is amended to read:

"7-33-2202. Functions of county governing body. (1) The county governing body, with respect to rural fire control, shall carry out the specific authorities and duties imposed in this section.

(2) The governing body shall:

- (a) provide for the organization of volunteer rural fire control crews; and
- (b) provide for the formation of county volunteer fire companies.

(3) The governing body shall appoint a county rural fire chief and as many district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, that it considers necessary.

1 (4) (a) Pursuant to 76-13-105(3), the county governing body shall, within the limitations of 7-33-2205,
2 7-33-2206, 7-33-2208, and 7-33-2209, either:

3 ~~(a)~~(i) directly protect from fire land in the county that is not in a wildland fire protection district, as
4 provided in 76-13-204, or under the protection of a municipality, state agency, or federal agency; or

5 ~~(b)~~(ii) subject to subsection (4)(b), enter into an agreement for wildland fire protection with a recognized
6 agency, as that term is defined in 76-13-102.

7 (b) An agreement entered into under subsection (4)(a)(ii) must allow for a county to exercise the wildfire
8 initial attack authority described in subsection (7) if the county chooses to do so.

9 (5) The county governing body may enter into mutual aid agreements for itself and for county volunteer
10 fire companies with:

11 (a) other fire districts;

12 (b) unincorporated municipalities;

13 (c) incorporated municipalities;

14 (d) state agencies;

15 (e) private fire prevention agencies;

16 (f) federal agencies;

17 (g) fire service areas;

18 (h) governing bodies of other political subdivisions in Montana; or

19 (i) governing bodies of fire protection services, emergency medical care providers, and local government
20 subdivisions of any other state or the United States pursuant to Title 10, chapter 3, part 11.

21 (6) If the county governing body has not concluded a mutual aid agreement, the county governing body,
22 a representative of the county governing body, or an incident commander may request assistance pursuant to
23 10-3-209.

24 (7) (a) Regardless of the option for fire protection that the county governing body chooses under
25 subsection (4), the governing body may authorize fire protection entities organized under parts 20 through 24 of
26 this chapter to, when practicable and when fire danger is immediate and poses an imminent threat to health,
27 safety, or property, engage in wildfire initial attack on all lands within the county's jurisdictional boundaries,
28 including land under federal, state, municipal, and private ownership.

29 (b) If the governing body authorizes wildfire initial attack under subsection (7)(a):

30 (i) the governing body shall notify all other agencies having responsibility for direct fire protection in the

1 county of its decision;

2 (ii) the governing body shall require adherence to the provisions of 76-13-115(1) regarding prioritizing
3 the safety of firefighters and the public; and

4 (iii) the fire protection entity engaging in wildfire initial attack may use any equipment or resources that
5 are available to the entity.

6 (c) For the purposes of this section, wildfire initial attack activities include response to a fire for which
7 a permit has been obtained under 76-13-121 or to a fire that is part of a fire hazard management program when
8 either of those fires become a ~~wildland fire~~ WILDFIRE as that term is defined in 76-13-102.

9 (d) The wildfire initial attack authority provided for in this section applies only if a local fire protection
10 entity is able to respond to an incident more quickly or with more resources than the fire protection agency with
11 direct protection responsibility."

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13 **Section 2.** Section 7-33-2209, MCA, is amended to read:

14 **"7-33-2209. Finance of fire control activities -- voted levy for volunteer firefighters' disability**
15 **income insurance or workers' compensation coverage.** (1) The county governing body may appropriate funds
16 for the purchase, care, and maintenance of firefighting equipment or for the payment of wages in prevention,
17 detection, and suppression of fires.

18 (2) Subject to 15-10-420, if the general fund is budgeted to the full limit, the county governing body may,
19 at any time fixed by law for levy and assessment of taxes, levy a tax for the purposes of subsection (1).

20 (3) Subject to 15-10-425, the county governing body may levy a tax for the purpose of purchasing
21 disability income insurance coverage or workers' compensation coverage for volunteer firefighters of volunteer
22 rural fire control crews and county volunteer fire companies as provided in 7-6-621.

23 (4) If the county governing body has authorized its fire protection entities to engage in wildfire initial
24 attack on all lands as provided in 7-33-2202, the governing body shall keep a record of all costs associated with
25 the wildfire initial attack activities for each incident for which the entities provided initial attack response. The
26 agency having direct protection responsibilities for the land on which the county engaged in initial attack shall
27 compensate the county for the costs incurred."

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29 **Section 3.** Section 76-13-105, MCA, is amended to read:

30 **"76-13-105. Protection of lands and improvements from fire.** (1) Nonforest lands and improvements

1 may be protected by the department when requested by the landowner at rates determined by the department
2 in those areas where a recognized agency is available.

3 (2) Land classified as forest land under 76-13-107 that is within a wildland fire protection district, as
4 provided in 76-13-204, or that is otherwise under contract for fire protection by a recognized agency must be
5 protected as provided in 76-13-201 and 76-13-207.

6 (3) Private and public land, whether classified as forest land or otherwise, that is not within a wildland
7 fire protection district or under the protection of a recognized agency or a municipality must be protected by a
8 county as provided in 7-33-2202. The county governing body shall either provide direct protection, as provided
9 in 7-33-2202(4), or it shall enter into an agreement for protection with a recognized agency.

10 (4) As provided in 7-33-2202, a county governing body may authorize fire protection entities under its
11 jurisdiction to engage in wildfire initial attack on lands for which the county does not otherwise provide direct
12 protection."

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