

SENATE BILL NO. 128

INTRODUCED BY

~~Jergeson John Johnson~~
JacobsonPittsington
Aberlin

A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A SURCHARGE ON OWNERS AND LESSEES OF RESIDENTIAL IMPROVED LOTS OR PARCELS IN FOREST FIRE PROTECTION DISTRICTS TO DEFRAY INCREASED COSTS OF FIRE SUPPRESSION ON THE FOREST LAND; AND AMENDING SECTIONS 76-13-102 AND 76-13-201, MCA."

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

Section 1. Section 76-13-102, MCA, is amended to read:

"76-13-102. Definitions. Unless the context requires otherwise, in this part and part 2, the following definitions apply:

(1) "Board" means the board of land commissioners provided for in Article X, section 4, of the Montana ~~Constitution~~ constitution.

(2) "Conservation" means the protection and wise use of forest, forest range, forest water, and forest soil resources in keeping with the common welfare of the people of this state.

(3) "Department" means the department of state lands provided for in Title 2, chapter 15, part 32.

(4) "Forest fire" means a fire burning uncontrolled on forest lands.

(5) "Forest fire protection" means the work of prevention, detection, and suppression of forest fires and includes training required to perform those functions.

(6) "Forest fire protection district" means a definite forest land area, the boundaries of which are fixed and ~~wherein~~ in which forest fire protection is provided through the medium of an agency recognized by the board.

(7) "Forest fire season" means the period of each year beginning on May 1 and ending on September 30, inclusive.

(8) "Forest land" means land ~~which~~ that has enough timber, whether standing, ~~or~~ down, slash, or brush, to constitute in the judgment of the department a fire menace to life or property. Grassland and agricultural areas are included when those areas are intermingled with or contiguous to and no further than one-half mile from areas of forest land.

1 (9) (a) "Forest practices" means the harvesting of trees, road construction or reconstruction
 2 associated with harvesting and accessing trees, site preparation for regeneration of a timber stand,
 3 reforestation, and the management of logging slash.

4 (b) The term does not include activities for the purpose of:

5 (i) the operation of a nursery or Christmas tree farm;

6 (ii) the harvest of Christmas trees;

7 (iii) the harvest of firewood; or

8 (iv) the cutting of trees for personal use by an owner or operator.

9 (10) "Lands" for conservation purposes means all forest lands within this state ~~which~~ that are
 10 officially classified by the department as forest lands under 76-13-107.

11 (11) "Operator" means a person responsible for conducting forest practices. An operator may be
 12 the owner, the owner's agent, or a person who, through contractual agreement with the landowner, is
 13 obligated to or entitled to conduct forest practices or to carry out a timber sale.

14 (12) "Owner" means the person, firm, association, or corporation having the actual, beneficial
 15 ownership of forest land or timber other than an easement, right-of-way, or mineral reservation.

16 (13) "Person" means an individual, corporation, partnership, or association of any kind.

17 (14) "Recognized agency" means an agency organized for the purpose of providing forest fire
 18 protection and recognized by the board as giving adequate fire protection to forest lands in accordance with
 19 rules adopted by the board.

20 (15) "Residential improved lot or parcel" means land upon which residential structures exist and for
 21 which the primary threats of fire exist from the presence of the residential structures or from impending
 22 forest fire extending to the residential structure, as determined by the department. In determining whether
 23 land is to be considered a residential improved lot or parcel under this subsection, the department may
 24 consult with the county assessor.

25 (16) "Timber sale" means a series of forest practices designed to access, harvest, and regenerate
 26 trees on a defined land area."

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 28 **Section 2.** Section 76-13-201, MCA, is amended to read:

29 **"76-13-201. Duty of owner to protect against fire -- costs -- surcharge.** (1) An owner of forest
 30 land classified as ~~such~~ forest land by the department shall protect against the starting or existence and

1 suppress the spread of fire on that land. This protection and suppression ~~shall~~ must be in conformity with
2 reasonable rules and standards for adequate fire protection adopted by the board.

3 (2) If the owner does not provide for the protection and suppression, the department may provide
4 it at a cost to the landowner of not more than \$30 for each landowner in the protection district and of not
5 more than an additional 20 cents per acre per year for each acre in excess of 20 acres owned by each
6 landowner in each protection district, as necessary to yield the amount of money provided for in
7 76-13-207. The owner of the land shall pay to the county treasurer of the county in which the land is
8 situated the charge for the ~~same~~ costs approved by the department in accordance with this part and part
9 1.

10 (3) ~~No other~~ Other charges may not be assessed ~~these landowners participating upon an owner~~
11 except as provided in subsection (4) and except in cases of proven negligence on the part of the landowner
12 or ~~his~~ the landowner's agent.

13 (4) (a) In addition to any other assessment prescribed in this chapter, an annual surcharge of \$20
14 must be levied and assessed upon the owner or lessee of each residential improved lot or parcel.

15 (b) Surcharge revenue collected under this subsection (4) must be placed in a special revenue
16 account. The revenue must be used to administer the provisions of this subsection (4) and to suppress
17 fires occurring under the direct protection responsibility of the department."

18 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0128, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act imposing a surcharge on owners and lessees of residential improved lots or parcels in forest fire districts to defray increased costs of fire suppression on the forest land caused by the existence of the improvements.

ASSUMPTIONS:

Department of State Lands (DSL)

1. Under such rules as the State Land Board may provide, DSL shall protect the natural resources of the state, especially the natural resources owned by the state, from destruction by fire (76-11-101, MCA).
2. DSL currently provides direct forest fire protection to 5,195,529 acres of state and private lands.
3. The expanding number of residential improved lots located within forest lands has greatly increased forest fire protection costs.
4. Owners of residential improved lots or residential structures on leased lots within forest areas should bear a greater share of wild fire protection costs.
5. Each residential improved lot and each residential structure on a leased lot within forest areas will be assessed an annual surcharge of \$20.00 to support DSL fire suppression costs.
6. Annual revenues are estimated at \$400,000, beginning in FY97. In accordance with statute, assessments will be distributed to appropriate counties by the second Tuesday in August 1996. First half payments will be due November 1996 and the second half in May 1997.
7. An additional 1.00 FTE will be needed to record and maintain an inventory of all residential improved parcels on forest lands. The grade 12 computer professional will be supervised by the assessment program manager.
8. Operating expenses in FY96 will include mainframe programming costs, and the equipment request includes a computer and communication equipment.
9. General fund will support the program in FY96, but will be reimbursed with the new suppression surcharge state special revenue account in FY97.
10. The fire suppression surcharge state special revenue account will be used to support ongoing administrative costs associated with the residential improvement inventory and actual fire suppression costs.

(continued on page 2)

David Lewis 1-20-95
DAVID LEWIS, BUDGET DIRECTOR DATE

Greg Jergeson 1/26/95
GREG JERGESON, PRIMARY SPONSOR DATE

Fiscal Note for SB0128, as introduced

SB 128

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>Expenditures</u>		
FTE	1.00	1.00
Personal Services	26,949	27,042
Operating Expenses	33,990	15,640
Equipment	5,800	0
Intangible Assets	500	0
Fire Suppression Costs	<u>0</u>	<u>290,079</u>
Total	67,239	332,761
<u>Funding</u>		
General Fund (01)	67,239	0
Fire Suppression Surcharge (02)	0	332,761
<u>Revenues</u>		
Fire Suppression Surcharge (02)	0	400,000

Net Impact:

Fire Suppression Surcharge (02)	0	67,239
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General fund supported expenditures in FY96 will be reimbursed with fire suppression surcharge revenues received in FY97.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: The proposed legislation will increase the workload and associated costs within county government offices in posting the surcharge to tax notices, collecting the surcharge, and disbursing the revenue to the state.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: The annual revenues received from implementation of the \$20.00 surcharge will decrease the amount of general fund needed to support fire suppression costs. A portion of the fire suppression costs will switch to the owners of record on residential improvements within forest lands from the general taxpayer.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

The revenue to fund SB 128 activities comes at the expense of the owners and lessees who will be paying a surcharge on improvements within forest lands. The amount needed to fund the management of the surcharge will reduce the amount utilized to pay fire suppression costs once the revenue is received. The amount of surcharges collected will far exceed the amount required to manage the collections.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

The special revenue fund created from the collection of a surcharge on those owners and lessees with improvements within forest lands will shift the burden of costs.

The burden for paying costs associated with protecting improvements within forest lands has been carried by the general fund. A surcharge will shift this burden to the landowners and lessees directly receiving the benefits of protection of improvements.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? Yes No (if no, explain)

The source of revenue will help reduce the annual fire suppression supplemental request. The revenue received is not intended to replace all the general funding needed but to shift a portion of the funding to individuals who receive the additional benefit of structural protection by a wildland fire protection agency. The amount of funding proposed in the Executive Budget is adequate to fund the program/activity that is intended.

- d) Does the need for this state special revenue provision still exist? Yes No (Explain)

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

The legislature will still have the ability to scrutinize and approve the budget associated with SB0128, as proposed in the Executive Budget.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

The implementation of a surcharge on owners and lessees of improvements within forest land areas is a new proposal to shift a portion of the burden of state general fund costs to those individuals directly receiving benefits.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

There are no efficiencies/inefficiencies associated with the dedicated revenue provision. We could account for the program/activity if the program were general funded.

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13 following definitions apply:

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15 Montana ~~Constitution~~ constitution.

16 (2) "Conservation" means the protection and wise use of forest, forest range, forest water, and
17 forest soil resources in keeping with the common welfare of the people of this state.

18 (3) "Department" means the department of state lands provided for in Title 2, chapter 15, part 32.

19 (4) "Forest fire" means a fire burning uncontrolled on forest lands.

20 (5) "Forest fire protection" means the work of prevention, detection, and suppression of forest fires
21 and includes training required to perform those functions.

22 (6) "Forest fire protection district" means a definite forest land area, the boundaries of which are
23 fixed and ~~wherein~~ in which forest fire protection is provided through the medium of an agency recognized
24 by the board.

25 (7) "Forest fire season" means the period of each year beginning on May 1 and ending on
26 September 30, inclusive.

27 (8) "Forest land" means land ~~which~~ that has enough timber, whether standing, ~~or~~ down, slash, or
28 brush, to constitute in the judgment of the department a fire menace to life or property. Grassland and
29 agricultural areas are included when those areas are intermingled with or contiguous to and no further than
30 one-half mile from areas of forest land.

1 (9) (a) "Forest practices" means the harvesting of trees, road construction or reconstruction
 2 associated with harvesting and accessing trees, site preparation for regeneration of a timber stand,
 3 reforestation, and the management of logging slash.

4 (b) The term does not include activities for the purpose of:

5 (i) the operation of a nursery or Christmas tree farm;

6 (ii) the harvest of Christmas trees;

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9 (10) "Lands" for conservation purposes means all forest lands within this state ~~which~~ that are
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11 (11) "Operator" means a person responsible for conducting forest practices. An operator may be
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 18 protection and recognized by the board as giving adequate fire protection to forest lands in accordance with
 19 rules adopted by the board.

20 (15) (A) "Residential improved lot or parcel" means land upon which residential structures exist and
 21 for which the primary threats of fire exist from the presence of the residential structures or from impending
 22 forest fire extending to the residential structure, as determined by the department.

23 (B) THE TERM DOES NOT INCLUDE LAND WITH RESIDENTIAL STRUCTURES FOR WHICH FIRE
 24 PROTECTION IS OTHERWISE PROVIDED:

25 (I) IN A LEGALLY ESTABLISHED RURAL FIRE DISTRICT;

26 (II) WITHIN A MUNICIPAL FIRE DEPARTMENT JURISDICTION;

27 (III) IN A FIRE SERVICE FEE AREA;

28 (IV) BY A PRIVATE, VOLUNTEER FIRE COMPANY THAT ASSESSES AND COLLECTS FROM ITS
 29 MEMBERS AN ANNUAL FEE OF AT LEAST \$25 AND THAT MAINTAINS A MUTUAL AID AGREEMENT
 30 WITH A FEDERAL OR STATE FIRE PROTECTION AGENCY OR AN ENTITY LISTED IN SUBSECTIONS

1 (15)(B)(I) THROUGH (15)(B)(III).

2 (C) In determining whether land is to be considered a residential improved lot or parcel under this
3 subsection, the department may consult with the county assessor.

4 (16) "Timber sale" means a series of forest practices designed to access, harvest, and regenerate
5 trees on a defined land area."

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7 **Section 2.** Section 76-13-201, MCA, is amended to read:

8 **"76-13-201. Duty of owner to protect against fire -- costs -- surcharge.** (1) An owner of forest
9 land classified as ~~such~~ forest land by the department shall protect against the starting or existence and
10 suppress the spread of fire on that land. This protection and suppression ~~shall~~ must be in conformity with
11 reasonable rules and standards for adequate fire protection adopted by the board.

12 (2) If the owner does not provide for the protection and suppression, the department may provide
13 it at a cost to the landowner of not more than \$30 for each landowner in the protection district and of not
14 more than an additional 20 cents per acre per year for each acre in excess of 20 acres owned by each
15 landowner in each protection district, as necessary to yield the amount of money provided for in
16 76-13-207. The owner of the land shall pay to the county treasurer of the county in which the land is
17 situated the charge for the ~~same~~ costs approved by the department in accordance with this part and part
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20 except as provided in subsection (4) and except in cases of proven negligence on the part of the landowner
21 or ~~his~~ the landowner's agent.

22 (4) (a) In addition to any other assessment prescribed in this chapter, an annual surcharge of \$20
23 \$30 must be levied and assessed upon the owner or lessee of each residential improved lot or parcel.

24 (b) Surcharge revenue collected under this subsection (4) must be placed in a DEPOSITED IN THE
25 STATE special revenue account FUND PURSUANT TO THE PROVISIONS OF 76-13-209. The revenue must
26 be used to administer the provisions of this subsection (4) and to suppress fires occurring under the direct
27 protection responsibility of the department."

28
29 **SECTION 3. SECTION 76-13-209, MCA, IS AMENDED TO READ:**

30 **"76-13-209. Disposition of assessments.** All sums collected pursuant to 76-13-201 and 76-13-207

1 ~~shall~~ must be promptly deposited in the state special revenue fund."

2 -END-

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