

SENATE BILL REPORT

ESB 5158

As Amended by House, April 8, 2021

Title: An act relating to utility wildland fire prevention advisory committee.

Brief Description: Concerning the utility wildland fire prevention advisory committee.

Sponsors: Senators Hawkins, Rolfes, Saldaña, Van De Wege and Wagoner.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/19/21, 1/28/21 [DP].

Ways & Means: 2/08/21, 2/15/21 [DP, w/oRec].

Floor Activity: Passed Senate: 2/26/21, 46-0.

Passed House: 4/8/21, 98-0.

Brief Summary of Engrossed Bill

- Requires the Commissioner of Public Lands to establish a utility wildland fire prevention advisory committee to provide a forum for the Department of Natural Resources, electric utilities, small and industrial forest landowners, and other fire suppression organizations of the state to identify and develop solutions to issues of wildfire prevention and risk.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass.

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

Staff: Karen Epps (786-7424)

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.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Braun, Carlyle, Conway, Darneille, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Liias, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senator Schoesler, Assistant Ranking Member, Capital.

Staff: Jed Herman (786-7346)

Background: Department of Natural Resources Fire and Forest Health Programs. In 2007, the Legislature designated the Department of Natural Resources (DNR) as the state lead in developing a comprehensive forest health program for the state and created a tiered advisory and regulatory system to address forest health issues. DNR has direct charge of and supervision over all matters pertaining to the forest fire service of 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 as necessary.

Electric Utilities Wildland Fire Prevention Task Force. In 2019, the Legislature passed SSB 5305, directing the Commissioner of Public Lands (commissioner) to establish an Electric Utility Wildland Fire Prevention Task Force (task force). The task force was comprised of people with expertise in wildland fire risk reduction and prevention, a representative of both small and industrial forest landowners, and entities providing retail electric service, including:

- one person representing each investor-owned utility;
- two people representing municipal utilities;
- two people representing public utility districts; and
- two people representing rural electric cooperatives.

The task force advised DNR on the development of:

- a model agreement for managing danger trees and other vegetation that pose a risk of wildland fire and associated utility liability due to the proximity to electrical transmission wires and other utility equipment;
- communication protocols and educational exchanges between DNR and electric utilities for identifying and addressing issues relating to utility infrastructure to reduce the risks of wildland fires;
- protocols and thresholds when DNR's investigation involves electric utility infrastructure or potential electric utility liability; and
- rosters of certified wildland fire investigation firms or persons and third-party qualified utility operators.

DNR submitted a final report to the Legislature in December 2020. The commissioner intends to maintain a utility advisory committee to advise DNR on all matters related to the prevention of electric utility caused wildfires, and other issues deemed necessary by the commissioner.

Summary of Engrossed Bill: The commissioner must convene a Utility Wildland Fire Prevention Advisory Committee (advisory committee) by August 1, 2021. The duties of the advisory committee are to advise DNR on issues including:

- matters related to the implementation of recommendations of the task force;
- providing a forum for electric utilities, DNR, and other fire suppression organizations of the state to identify and develop solutions to issues of wildfire prevention and risk;
- mitigation specifically related to electric utilities transmission and distribution networks, identification of best management practices, electric utility infrastructure protection, and wildland fire suppression and response;
- establishing joint public communications protocols among members of the advisory committee, and other entities, to inform residents of potential critical fire weather events and the potential for power outages or disruptions; and
- all other related issues deemed necessary by the commissioner

The advisory committee membership is comprised of the same representatives that served on the task force, with the addition of four advisory committee members designated by the commissioner. The commissioner, or the commissioner's designee, must convene and chair the meetings of the advisory committee. Members of the advisory committee are immune from civil liability for official acts performed in the course of their duties specifically related to the advisory committee.

By August 1, 2021, DNR must post on its website and update quarterly as necessary:

- communication protocols and educational exchanges between DNR and electric utilities;
- a voluntary model danger tree management agreement;
- protocols and thresholds that may be used when DNR's investigation involves electric utility infrastructure or potential electric utility liability; and
- a roster of third-party certified wildland fire investigators and qualified utility personnel.

Beginning July 1, 2022, and at the beginning of each biennium thereafter, DNR must submit a report to the Legislature describing the prior biennium proceedings of the advisory committee, including identification, if any, of recommended legislation necessary to prevent wildfires related to electric utilities.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

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 (Agriculture, Water, Natural Resources & Parks): PRO: There is a sad history of catastrophic wildfires in the state. This bill is designed to keep the momentum of the task force going by establishing an advisory committee. Utilities need to have a trusted partner in DNR, with common definitions of danger and hazard trees, procedures for timely removals, streamlined data sharing, and fair and open wildfire investigations. Task force discussions have successfully improved understanding of each other's priorities, needs, operations, and challenges. This bill will continue this collaboration and finalize approaches to danger trees, investigations, informing the public on fire safety behaviors, and near-term wildfire risks, and other issues. This bill provides a framework for DNR and utilities to come together to create solutions to the issues of wildfire prevention, risk mitigation, identified best management practices, and protection of electric utility infrastructure.

Persons Testifying (Agriculture, Water, Natural Resources & Parks): PRO: Senator Brad Hawkins, Prime Sponsor; Loren Torgerson, Department of Natural Resources; Steve Wright, Chelan County PUD; Colin Willenbrock, Pend Oreille County PUD; Jim Smith, Klickitat County PUD; Nicolas Garcia, Washington PUD Association.

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

Staff Summary of Public Testimony (Ways & Means): PRO: The task force did important work, we need the advisory committee to keep the momentum. We do not need the same situation that happened in California with utilities and wildfire to occur here in our state. This bill will help complete the task force work. The fiscal note outlines the costs that need funding support beyond what the agency can provide. The coordination that has occurred with this group will lead to future savings. The task force has made good progress. With proper support we can avoid problems like what happened in California. Support of this effort is a small investment today and will pay large dividends tomorrow. We need to be able to clear vegetation that endanger power lines.

Persons Testifying (Ways & Means): PRO: Senator Brad Hawkins, Prime Sponsor; Loren Torgerson, Department of Natural Resources; Steve Wright, Chelan County PUD; Jim Smith, Klickitat PUD; Colin Willenbrock, Pend Oreille PUD.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

- Requires the commissioner to designate two members of the advisory committee representing historically marginalized or underrepresented communities.
- Reduces the number of other additional advisory committee members who may be designated by the commissioner from four to two.