

SENATE BILL REPORT

SB 5803

As of January 27, 2022

Title: An act relating to establishing a presumption of liability for wildfires caused by an electric utility's equipment.

Brief Description: Establishing a presumption of liability for wildfires caused by an electric utility's equipment.

Sponsors: Senators Rolfes, Dhingra, Frockt and Nobles.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/27/22.

Brief Summary of Bill

- Requires each electric utility to provide to the UTC its wildfire risk mitigation plan by December 31, 2022, with annual updates subsequently.
- Requires the Utilities and Transportation Commission (UTC), in consultation with the Electric Utility Wildland Fire Prevention Advisory Committee (advisory committee), to adopt recommended best practices to minimize the risk of wildfires caused by electric utility equipment.
- Requires each electric utility to revise their wildfire risk mitigation planning to include the UTC's best practices and submit it to the UTC by December 31, 2024.
- Directs the advisory committee to submit to the Legislature a compilation of the existing utility fire risk mitigation plans; an analysis of the costs and benefits for a comprehensive statewide wildfire risk map; and recommendations for strengthening state agency coordination of wildfire risk reduction, prevention, and suppression.

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 ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Kimberly Cushing (786-7421)

Background: Wildland Fire Advisory Committee. 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.

Utility Wildland Fire Prevention Advisory Committee. In 2019, the Legislature directed the 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.

In 2021, the Legislature, directed the commissioner to convene a Utility Wildland Fire Prevention Advisory Committee (advisory committee) by August 1, 2021. The duties of the advisory committee are to advise the Department of Natural Resources (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; and
- 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.

Utilities and Transportation Commission. In May 2021, the Utilities and Transportation Commission (UTC) held a workshop on utility wildfire preparedness. The three investor-owned electric utilities (IOUs) presented their plans for the upcoming wildfire season, including plans for fire mitigation strategies and communications plans with state, federal, and local emergency response agencies, and customers.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Wildfire Risk Mitigation Plans. By December 31, 2022, each electric utility must provide to the UTC its wildfire risk mitigation plan. By December 31, 2023, and annually thereafter, each utility must provide to the UTC any revisions to its plans and a summary of wildland fires determined to have been caused by its equipment.

Electric utilities include IOUs and consumer-owned utilities (COUs).

Best Practices for Minimizing the Risk of Wildfires. In consultation with the advisory committee, the UTC must adopt recommended best practices for minimizing the risk of wildfires caused by electric utility equipment. The UTC must implement a strong public engagement plan in developing the best practices. The UTC must also solicit the assistance of expertise from relevant state agencies and local, federal, and tribal government agencies with wildland fire and natural resource management responsibilities.

By December 31, 2023, the UTC must adopt guidelines that describe the recommended best practices. The guidelines must address, but are not limited to:

- vegetation management along transmission and distribution lines and near associated equipment;
- inspection and maintenance repair activities and schedules;
- modification or upgrades to facilities and construction of new facilities to incorporate measures to minimize fire risk; and
- prevention programs, including adoption of new technologies to harden infrastructure.

By December 31, 2024, each electric utility must revise its wildfire mitigation planning to ensure that it incorporates the UTC's best practices guidelines, submit it to the UTC, and make its plan publicly available. The UTC must seek the expertise of the Emergency Management Division of the Military Department in the review of the plans.

For plans submitted by IOUs, the UTC must review the plan and make any recommendations for consideration by the utility. For plans submitted by COUs, the governing body of the utility must convey that it wants recommendations made by the UTC for the utility's consideration. The UTC must provide recommendations within six months of the utility's submission.

Utility Wildland Fire Prevention Advisory Committee. The advisory committee must cooperate with the UTC to integrate the committee's activities with the planning and public involvement activities for adopting best practices guidelines for minimizing the risk of wildfires caused by electric utility equipment.

By December 31, 2022, and at the beginning of each subsequent biennium, the advisory committee must submit to the Legislature:

- a compilation and summary of existing fire risk mitigation plans maintained by electric utilities;
- an analysis of the costs and benefits of preparing and maintaining a comprehensive statewide wildfire risk map that identifies relative risk classes, with detail to assist property owners, local governments, wildland management agencies, and fire response agencies in taking actions to minimize wildland fire starts and resulting damage, and address incorporating the boundaries of the wildland urban interface;

and

- recommendations for strengthening state agency coordination of wildfire risk reduction, prevention, and suppression, which include the views of the WFA, Department of Commerce Energy Policy Division, and the Emergency Management Division of the Military Department.

The advisory committee chair must schedule and hold meetings on a regular basis to expeditiously accomplish these duties and make recommendations.

A representative of the UTC is added to the advisory committee.

Appropriation: None.

Fiscal Note: Requested on January 22, 2022.

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 Substitute: PRO: Over the last two years, over 3 million acres of state land has burned. Wildfires are of statewide importance and we want to make sure utilities have plans that are transparent and consistent across the state. A wildfire map will be helpful. Wildfire mitigation plans should be approved to bring oversight for a consistent review to utilities. A plan should include foundational elements, such as risk modeling, situational awareness, system hardening, operation practices, and community engagement. There were concerns with the original bill and we appreciated the new draft. Utilities are having problems accessing adequate insurance, thus changes to insurance law could help. We must work together to create more resilient grid. The first line of defense is to prevent wildfires from happening in the first place.

OTHER: Utilities have learned from previous fires that we need better agency coordination and communication. Developing plans is the next logical step in reducing wildfires. Guidance on the appropriate elements to incorporate is important. The advisory committee could review plans for COUs. DNR would be the best place to review plans. To develop plans, utilities will be looking at the design of the electric system throughout the state and will need the appropriate expertise. A utility must use best practices based on their knowledge of their own system. Each utility is geographically, demographically, and operationally unique. Best practices will vary depending on utility's vegetation, topography, and weather. DNR has firefighting knowledge and utilities have equipment and system knowledge and can learn from each other. We share the end goal to make sure communities are well prepared to mitigate against wildfires.

Persons Testifying: PRO: Senator Christine Rolfes, Prime Sponsor; Matt Miller, Puget Sound Energy; Allen Berreth, PacifiCorp; John Rothlin, Avista; Loren Torgerson, 1111

Washington St. SE.

OTHER: David Bayard, Seattle City Light; Jim Smith, Klickitat Public Utility District; Peter Godlewski, Association of Washington Business; Kent Lopez, Washington Rural Electric Cooperative Association; Nicolas Garcia, WPUA; Dave Arbaugh, Chelan PUD; Dave Warren, Douglas County PUD; Clark McIsaac, Snohomish County PUD; Steve Taylor, Cowlitz PUD; Jason Lewis, Utilities and Transportation Commission.

Persons Signed In To Testify But Not Testifying: No one.