
SUBSTITUTE SENATE BILL 5803

State of Washington

67th Legislature

2022 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Rolfes, Dhingra, Frockt, and Nobles)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to mitigating the risk of wildfires caused by an
2 electric utility's equipment; amending RCW 76.04.780; adding new
3 sections to chapter 43.21F RCW; adding a new section to chapter 80.28
4 RCW; adding a new section to chapter 19.29A RCW; and creating a new
5 section.

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

7 NEW SECTION. **Sec. 1.** (1) It is in the best interest of the
8 state, our citizens, and our landscapes to identify the sources of
9 wildland fires; identify and implement best practices to reduce the
10 prevalence and intensity of those wildland fires; put those practices
11 in place; and by putting those practices in place, reduce the risk of
12 wildland fires and damage resulting from those fires.

13 (2) The legislature finds that electric utilities are partners
14 with relevant state agencies, emergency responders, and public and
15 private entities in identifying best practices to reduce the risk of
16 and prevent wildland fires. Many electric utilities have developed
17 and are implementing wildfire mitigation plans. The legislature
18 further finds that electric utilities should adopt and implement
19 wildfire mitigation plans, and that electric utilities should be
20 informed by recognized best practices, as applicable to their
21 geography, terrain, vegetation, and other characteristics specific in

1 their service area, for reducing wildland fire risk and reducing
2 damage from wildland fires as may be ignited by electric utility
3 equipment.

4 (3) Therefore, the legislature intends to authorize the
5 development of best practices guidelines and to require that electric
6 utilities file their wildfire mitigation plans with the state in
7 order to promote public transparency and to obtain review of the
8 plans for inclusion of applicable best practices guidelines.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21F
10 RCW to read as follows:

11 (1) The energy emergency management office of the department
12 shall contract with an independent consultant to recommend a format
13 and a list of elements to be included in electric utility wildfire
14 mitigation plans, including best practices guidance for each element.
15 The energy emergency management office shall seek input from the
16 emergency management division of the military department, the
17 utilities and transportation commission, the department of natural
18 resources, the utility wildland fire prevention advisory committee,
19 electric utilities, the state fire marshal, the governor's office of
20 Indian affairs, and the public. By April 1, 2023, the energy
21 emergency management office shall make public a recommended format
22 and elements for electric utility wildfire mitigation plans.

23 (2) The recommended elements must acknowledge that utilities
24 serve areas that vary in topography, vegetation, population, and
25 other characteristics, and the best practices guidelines within each
26 element must recognize that a utility's adoption will be chosen to
27 fit site-specific circumstances. The recommended elements must
28 include, but are not limited to:

29 (a) Vegetation management along transmission and distribution
30 lines and near associated equipment;

31 (b) Infrastructure inspection and maintenance repair activities,
32 schedules, and recordkeeping;

33 (c) Modifications or upgrades to facilities and construction of
34 new facilities to incorporate cost-effective measures to minimize
35 fire risk;

36 (d) Preventative programs, including adoption of new technologies
37 to harden utility infrastructure; and

38 (e) Operational procedures.

1 (3) The recommended format and set of elements developed by the
2 energy emergency management office must be forwarded to the utilities
3 and transportation commission, the department of natural resources,
4 and all electric utilities in Washington state for a review period of
5 three months prior to finalizing the format that will be adopted, to
6 update their electric utility wildfire mitigation plan.

7 (4) For the purposes of this section, "electric utility" means an
8 electrical company as defined in RCW 80.04.010 and a consumer-owned
9 utility. A "consumer-owned utility" means a municipal electric
10 utility, public utility district, irrigation district, cooperative,
11 or mutual corporation association engaged in the business of
12 distributing electricity to one or more electric customers in the
13 state.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.28
15 RCW to read as follows:

16 By December 31, 2023, and every two years thereafter, each
17 electrical company must review and revise, if appropriate, its
18 wildfire mitigation plan. The plan should include a review of
19 specific circumstances of that electrical company and incorporate as
20 appropriate the recommendations developed pursuant to section 2 of
21 this act. The electrical company must submit its plan to the
22 commission and make the plan publicly available. Within six months of
23 submission by the electrical company, the commission shall review the
24 plan and confirm whether or not the plan contains the recommended
25 elements. After the commission's review, the electrical company must
26 provide a copy of the plan to the energy emergency management office
27 along with a list and description of wildland fires within its
28 customer service area over the previous two years as reported by the
29 department of natural resources. The plan must be posted as specified
30 in section 6 of this act.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.29A
32 RCW to read as follows:

33 (1) By December 31, 2023, and every two years thereafter, each
34 consumer-owned utility must review and revise, if appropriate, its
35 wildfire mitigation plan. The plan should include a review of
36 specific circumstances of that utility and incorporate as appropriate
37 the recommendations developed pursuant to section 2 of this act. Each
38 consumer-owned utility must submit their plans to the energy

1 emergency management office for review, which must review the plans
2 within six months and provide feedback and confirm the plans contain
3 the recommended elements. The governing board of each consumer-owned
4 utility shall review the plan and confirm whether or not the plan
5 contains the recommended elements. After the governing board's
6 review, the utility must provide a copy to the energy emergency
7 management office, along with a list and description of wildland
8 fires within its customer service area over the previous two years as
9 reported by the energy emergency management office. The plan must be
10 posted as specified in section 6 of this act.

11 (a) By December 31, 2022, each utility must provide a copy of
12 their most recent wildfire risk mitigation plan to the energy
13 emergency management office and they will be posted on a website.

14 (b) By December 31, 2023, the energy emergency management office
15 will be available to provide technical assistance to consumer-owned
16 utilities to include the best practices guidelines in their revision
17 of wildfire risk mitigation plans.

18 (2) Two or more abutting utilities may codevelop a wildfire
19 mitigation plan. Wildfire mitigation plans that are codeveloped by
20 more than one utility may identify areas of common implementation,
21 including communication protocols, that will assist in implementing
22 the recommended elements pursuant to section 2 of this act.

23 (3) The department of commerce may assess a fee on each utility
24 required to submit a plan under this section to recover the costs of
25 the activities required or authorized by this section.

26 **Sec. 5.** RCW 76.04.780 and 2021 c 183 s 1 are each amended to
27 read as follows:

28 (1) The commissioner shall convene a utility wildland fire
29 prevention advisory committee with electrical power distribution
30 utilities by August 1, 2021. The duties of the advisory committee are
31 to advise the department on issues including, but not limited to:

32 (a) Matters related to the ongoing implementation of the relevant
33 recommendations of the electric utility wildland fire prevention task
34 force established in chapter 77, Laws of 2019, and by August 1, 2021:

35 (i) Finalizing a model agreement for managing danger trees and
36 other vegetation adjacent to utility rights-of-way on state uplands
37 managed by the department;

1 (ii) Implementing recommendations of the task force related to
2 communications and information exchanges between the department and
3 utilities;

4 (iii) Implementing recommendations of the task force related to
5 protocols and thresholds when implementing provisions of RCW
6 76.04.015; and

7 (iv) Implementing recommendations of the task force related to
8 creating rosters of certified wildland fire investigator firms or
9 persons and qualified utility operations personnel who may be called
10 upon as appropriate;

11 (b) Providing a forum for electric utilities, the department, and
12 other fire suppression organizations of the state to identify and
13 develop solutions to issues of (~~wildfire~~) wildland fire prevention
14 and risk mitigation specifically related to electric utilities
15 transmission and distribution networks, identification of best
16 management practices, electric utility infrastructure protection, and
17 wildland fire suppression and response. In conducting these
18 activities, the committee must cooperate with the energy emergency
19 management office of the department of commerce to integrate the
20 committee's activities with the recommendations for electric utility
21 wildfire mitigation plans under section 2 of this act;

22 (c) Establishing joint public communications protocols among
23 members of the advisory committee, and other entities, to inform
24 residents of the state of potential critical fire weather events and
25 the potential for power outages or disruptions;

26 (d) Providing comment to the wildland fire advisory committee
27 established in RCW 76.04.179 through an annual presentation
28 addressing policies and priorities of the utility wildland fire
29 prevention advisory committee; and

30 (e) All other related issues deemed necessary by the
31 commissioner.

32 (2) By August 1, 2021, the department must post on its website
33 and update quarterly as necessary:

34 (a) Communication protocols and educational exchanges between the
35 department and electric utilities;

36 (b) A voluntary model danger tree management agreement to
37 utilities for their consideration for execution with the department;

38 (c) Protocols and thresholds that may be utilized when the
39 department's investigation involves electric utility infrastructure
40 or potential electric utility liability; and

1 (d) A roster of third-party certified wildland fire investigators
2 and qualified utility personnel that may assist the department or
3 utility in understanding and reducing risks and liabilities from
4 wildland fire.

5 (3) Beginning July 1, 2022, and at the beginning of each
6 subsequent biennium thereafter, the department must submit, in
7 compliance with RCW 43.01.036, a report describing the prior biennium
8 proceedings of the advisory committee, including identification of
9 recommended legislation, if any, necessary to prevent wildfires
10 related to electric utilities. In addition, by December 31, 2022, the
11 department must submit to the appropriate committees of the senate
12 and house of representatives:

13 (a) A compilation and summary of existing fire risk mitigation
14 plans maintained by electric utilities;

15 (b) An analysis of the costs and benefits of preparing and
16 maintaining a comprehensive statewide wildland fire risk map that
17 identifies relative risk classes, with detail at a level to assist
18 property owners, local governments, utilities, wildland management
19 agencies, and fire response agencies in taking actions to minimize
20 wildland fire starts and resulting damage. The analysis must also
21 address incorporating the boundaries of the wildland urban interface
22 as mapped pursuant to RCW 19.27.031; and

23 (c) Recommendations for strengthening state agency coordination
24 of wildland fire risk reduction, prevention, and suppression. In this
25 work the utility wildland fire prevention advisory committee shall
26 seek the views of the wildland fire advisory committee created under
27 RCW 76.04.179, as well as the views of the department of commerce
28 energy policy division and the emergency management division of the
29 military department.

30 (4) The commissioner or the commissioner's designee must chair
31 the advisory committee created in subsection (1) of this section and
32 must appoint advisory committee members. The advisory committee must
33 include a representative of the energy emergency management office of
34 the department of commerce and a representative of the utilities and
35 transportation commission. Advisory committee membership should also
36 include:

37 (a) Entities providing retail electric service, including:

38 (i) One person representing each investor-owned utility;

39 (ii) Two persons representing municipal utilities;

40 (iii) Two persons representing public utility districts;

1 (iv) Two persons representing rural electric cooperatives;
2 (v) One person representing small forestland owners;
3 (vi) One person representing industrial forestland owners;
4 (b) Other persons with expertise in wildland fire risk reduction
5 and prevention; and
6 (c) No more than two other persons designated by the
7 commissioner.

8 (5) In addition to the advisory committee membership established
9 in subsection (4) of this section, the commissioner shall designate
10 two additional advisory committee members representing historically
11 marginalized or underrepresented communities.

12 (6) The commissioner or the commissioner's designee shall convene
13 the initial meeting of the advisory committee. The advisory committee
14 chair must schedule and hold meetings on a regular basis in order to
15 expeditiously accomplish the duties and make recommendations
16 regarding the elements described in subsection (3) of this section.

17 (7) The members of the advisory committee, or individuals acting
18 on their behalf, are immune from civil liability for official acts
19 performed in the course of their duties specifically related to the
20 advisory committee.

21 (8) Participation on the advisory committee created in subsection
22 (1) of this section is strictly voluntary and without compensation.

23 (9) Any requirements in this section are subject to the
24 availability of amounts appropriated for the specific purposes
25 described.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21F
27 RCW to read as follows:

28 (1) The department's energy emergency management office must
29 create a public website to host electric utility wildfire mitigation
30 plans developed under sections 3 and 4 of this act.

31 (2) Nothing in this act may be construed to preclude electric
32 utilities from continuing to develop and implement their wildfire
33 mitigation plans. Electric utilities are encouraged to submit their
34 2022 plans to the department's energy emergency management office for
35 inclusion on the website under subsection (1) of this section.

36 (3) For the purposes of this section, "electric utility" means an
37 electrical company as defined in RCW 80.04.010 and a consumer-owned
38 utility. A "consumer-owned utility" means a municipal electric
39 utility, public utility district, irrigation district, cooperative,

1 or mutual corporation association engaged in the business of
2 distributing electricity to one or more electric customers in the
3 state.

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