

HOUSE BILL REPORT

E2SSB 5803

As Reported by House Committee On:

Rural Development, Agriculture & Natural Resources
Appropriations

Title: An act relating to mitigating the risk of wildfires caused by an electric utility's equipment.

Brief Description: Mitigating the risk of wildfires caused by an electric utility's equipment.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Rolfes, Dhingra, Frockt and Nobles).

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 2/18/22, 2/23/22 [DPA];
Appropriations: 2/25/22, 2/28/22 [DPA(RDAN)].

**Brief Summary of Engrossed Second Substitute Bill
(As Amended By Committee)**

- Directs the Department of Natural Resources (DNR) to contract with a consultant to recommend a format and list of elements to be included in an electric utility wildfire mitigation plan (wildfire mitigation plan), to be made public by July 1, 2023.
- Requires each investor-owned electric utility to review and revise its wildfire mitigation plan by October 31, 2023, and at a minimum every two years thereafter.
- Requires each consumer-owned electric utility to review and revise its wildfire mitigation plan by December 31, 2023, and every two years thereafter.
- Requires the Utilities and Transportation Commission, for investor-owned electric utilities, and the governing boards, for consumer-owned electric utilities, to review wildfire mitigation plans to confirm whether the wildfire mitigation plan contains recommended elements.

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.

- Directs the Utility Wildland Fire Prevention Advisory Committee to submit to the Legislature a compilation of the existing wildfire 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.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 15 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

Staff: Robert Hatfield (786-7117).

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 composed of individuals 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 Task Force recommendations;
- providing a forum where electric utilities, the DNR, and other state fire suppression organizations can identify issues and develop solutions for 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. Washington's three investor-owned electric utilities 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 Amended Bill:

Electric Utility Wildfire Mitigation Plans.

The DNR must contract with an independent consultant to recommend a format and list of elements to be included in an electric utility wildfire mitigation plan (wildfire mitigation plan), including best practices for each element.

The DNR must seek input from the Energy Emergency Management Office (EEMO) of the Department of Commerce, the UTC, the Advisory Committee, electric utilities, the State Fire Marshal, the Governor's Office of Indian Affairs, and the public.

By July 1, 2023, the DNR must make public a recommended format and a list of elements for wildfire mitigation plans.

The recommended elements must include, but are not limited to:

- vegetation management along transmission and distribution lines and near associated equipment;
- inspection and maintenance repair activities and schedules;
- modifications 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.

The recommended format and list of elements must be forwarded to the UTC, the EEMO, and all electric utilities for a review period of three months prior to DNR finalizing the recommended format and list of elements.

Wildfire Mitigation Plans—Investor-Owned Utilities.

Each investor-owned electric utility must review and revise, if appropriate, its wildfire mitigation plan by October 31, 2023, and at a minimum every two years thereafter. Each utility's wildfire mitigation plan should include a review of the specific circumstances of that utility and incorporate as appropriate the recommendations developed by the DNR.

Each investor-owned electric utility must submit their wildfire mitigation plans to the UTC, which must review the plans within six months and confirm whether each plan contains the recommended elements. The UTC must consult with the DNR and the EEMO when reviewing wildfire mitigation plans. The UTC's review does not relieve a company from proactively managing wildfire risk and the UTC is not liable for a company's performance in implementing its wildfire mitigation plan. An electrical company may pursue recovery of its reasonable costs and investments associated with a wildfire mitigation plan through a rate proceeding. Nothing in the bill precludes an electrical company from continuing to develop and implement wildfire mitigation measures.

Wildfire Mitigation Plans—Consumer-Owned Utilities.

Each consumer-owned electric utility must review and revise, if appropriate, its wildfire mitigation plan by December 31, 2023, and every two years thereafter. Each utility's wildfire mitigation plan should include a review of the specific circumstances of that utility and incorporate as appropriate the recommendations developed by the DNR.

The governing board of each consumer-owned utility must review the wildfire mitigation plan and confirm whether the plan contains the recommended elements. Local fire districts must be given the opportunity to review and provide feedback during this period. Each consumer-owned utility must also submit its wildfire mitigation plan to the EEMO for review, and the EEMO must provide feedback within six months for consideration for inclusion in the next plan revision. By December 31, 2023, the EEMO must be available to provide technical assistance to consumer-owned utilities to include the best practices guidelines in their wildfire mitigation plans.

Utility Wildland Fire Prevention Advisory Committee.

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 wildfire 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; and
- recommendations for strengthening state agency coordination of wildfire risk reduction, prevention, and suppression.

The Chair of the Advisory Committee must schedule and hold meetings on a regular basis

to expeditiously accomplish its duties and make recommendations.

The membership of the Advisory Committee is expanded to include a representative of the EEMO and a representative of the UTC.

Amended Bill Compared to Engrossed Second Substitute Bill:

The date by which investor-owned electrical companies must review and revise their wildfire mitigation plan is changed from December 31, 2023, to October 31, 2023.

The scope of costs and investments related to a wildfire mitigation plan for which an investor-owned utility is authorized to pursue recovery, through a proceeding to set rates at the UTC, is limited to the utility's reasonable costs and investments.

The date by which the DNR must make public a recommended format and list of elements for electric utility wildfire mitigation plans is changed from April 1, 2023, to July 1, 2023.

The date by which the DNR must submit to the Legislature its report related to electric utility wildfire mitigation plans is changed from December 31, 2022, to July 1, 2023.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill standardizes elements and formatting of utility wildfire mitigation plans. The bill will help utilities as landscapes and fire ecosystems change.

There are long-term and short-term policy considerations regarding utilities and wildfires. Utilities are having a challenge in accessing adequate liability insurance coverage, which leaves ratepayers exposed and could make it hard to provide compensation to people in case of a fire. There is a need for a work group to address the issue of liability insurance.

Wildfire mitigation is critical to the State of Washington, and this legislation helps the state move forward on that issue. There are a few minor technical amendments needed to improve the bill.

There needs to be adequate funding for a liability insurance work group.

There is a need for a small amendment regarding an insurance work group. There is a need to examine the issue of insurance liability coverage. It is an important issue that merits a thoughtful approach.

(Opposed) None.

Persons Testifying: Senator Christine Rolfes, prime sponsor; Dave Warren, Klickitat Public Utility District and Douglas Public Utility District; John Rothlin, Avista; Jason Lewis, Utilities and Transportation Commission; Jon Noski, Office of the Insurance Commissioner; Clark McIsaac, Snohomish Public Utilities District; and Dave Arbaugh, Chelan Public Utilities District.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Rural Development, Agriculture & Natural Resources. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Rural Development, Agriculture & Natural Resources:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.