

HOUSE BILL REPORT

HB 1032

As Reported by House Committee On:

Agriculture and Natural Resources
Appropriations

Title: An act relating to mitigating the risk of wildfires through electric utility planning and identification of best management practices appropriate to each electric utility's circumstances.

Brief Description: Mitigating the risk of wildfires through electric utility planning and identification of best management practices appropriate to each electric utility's circumstances.

Sponsors: Representatives Dent, Chapman, Ryu, Reed, Graham, Ramel, Pollet, Griffey, Reeves, Tharinger, Wylie, Springer, Kloba and Donaghy.

Brief History:

Committee Activity:

Agriculture and Natural Resources: 1/13/23, 2/3/23 [DPS];
Appropriations: 2/15/23, 2/21/23 [DP2S(w/o sub AGNR)].

Brief Summary of Second Substitute Bill

- 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.
- Requires the DNR to publish a recommended electric utility wildfire mitigation plan format and list of elements by April 1, 2024.
- Requires each investor-owned and consumer-owned electrical utility to review and revise its wildfire mitigation plan by October 31, 2024, and at a minimum every three years thereafter.
- Requires the DNR to submit a summary and compilation of the wildfire mitigation plans to the Legislature by December 31, 2024.

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.

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba, Lekanoff, Orcutt, Schmick and Springer.

Staff: Robert Hatfield (786-7117).

Background:

Wildland Fire Advisory Committee.

The Wildland Fire Advisory Committee was created in 2015. The 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;
- fire 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.

The Utilities and Transportation Commission (UTC) regulates the rates, services, and practices of investor-owned utilities and transportation companies, including electrical companies, natural gas companies, and telecommunications companies. In May 2021, the

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 Substitute Bill:

Department of Natural Resources—Recommended Format for Utility Wildfire Mitigation Plans.

The Department of Natural Resources (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. In identifying a plan format and list of elements, the DNR must seek input from the Utilities and Transportation Commission (UTC), the Utility Wildland Fire Prevention Advisory Committee (Advisory Committee), electric utilities, the State Fire Marshal, the Governor's Office of Indian Affairs, and the public.

The DNR must publish a recommended format and list of actions by April 1, 2024.

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

- vegetation management along transmission and distribution lines and near associated equipment;
- infrastructure inspection and maintenance repair activities, schedules, and recordkeeping; and
- identification of appropriate widths for vegetation management and rights-of-way, including the consideration of fire-resistant vegetation alternatives.

The recommended format and list of elements identified by the DNR must be forwarded to the UTC, the Energy Resilience and Management Office of the Department of Commerce, and all electric utilities in the state for a review period prior to finalizing the format and list of elements.

The DNR will provide technical assistance to utilities to support the inclusion of the guidelines in the revision of their wildfire mitigation plans.

The DNR must submit a summary and compilation of the wildfire mitigation plans to the Legislature by December 31, 2024.

Investor-Owned Electrical Companies—Wildfire Mitigation Plans.

Each investor-owned electrical utility must review, revise if appropriate, and adopt its wildfire mitigation plan by October 31, 2024, and every three years thereafter. The review must use the recommended format and elements developed by the DNR through the independent consultant process.

Local fire protection districts must be provided the opportunity to provide input for each wildfire mitigation plan.

Each investor-owned utility must provide its wildfire mitigation plan to the DNR to review, along with a list and description of wildland fires involving utility equipment within its customer service area over the previous two years as reported by the DNR. The wildfire mitigation plan must be submitted to the Advisory Committee to be posted on the Advisory Committee's website.

The DNR is not liable for an investor-owned utility's implementation of its wildfire mitigation plan. The DNR's review of the investor-owned utility's wildfire mitigation plan and any recommendations associated with the review do not constitute a reasonableness review or approval of recovery of any measure, investment, cost, or other component of the plan.

Investor-owned utilities are encouraged to submit any 2023 wildfire mitigation plans to the Advisory Committee prior to 2024.

Consumer-Owned Electrical Companies—Wildfire Mitigation Plans.

Each consumer-owned electrical company must review, revise if appropriate, and adopt its wildfire mitigation plan by October 31, 2024, and every three years thereafter. The review must use the recommended format and elements developed by the DNR through the independent consultant process. The electrical company must submit its plan to the governing board of the electrical company and make the plan publicly available.

The governing board of the electrical company must review the plan. Local fire districts must be given an opportunity to review and comment during this period. After the governing board's review, the electrical company must provide a copy of the plan to the DNR along with a list and description of wildland fires involving utility equipment within its customer service area over the previous two years as reported by the DNR.

The wildfire mitigation plan must be submitted to the Advisory Committee to be posted on the Advisory Committee's website.

The DNR is not liable for a consumer-owned utility's implementation of its wildfire mitigation plan. The DNR's review of the consumer-owned utility's wildfire mitigation plan and any recommendations associated with the review do not constitute a reasonableness review or approval of recovery of any measure, investment, cost, or other component of the plan.

Two or more abutting consumer-owned electric utilities may co-develop a wildfire mitigation plan.

Consumer-owned utilities are encouraged to submit any 2023 wildfire mitigation plans to

the Advisory Committee prior to 2024.

Utility Wildland Fire Prevention Advisory Committee—Duties and Composition.

The Advisory Committee must develop recommendations for strengthening state agency coordination of wildland fire risk reduction, prevention, and suppression. In this work, the Advisory Committee must seek the views of the Wildland Fire Advisory Committee, as well as the views of the Energy Resilience and Emergency Management Office and the Utilities and Transportation Commission. The Advisory Committee must host electric utility wildfire mitigation plans on its website. The membership of the Advisory Committee is expanded to include a representative of the Energy Resilience and Emergency Management Office and a representative of the UTC.

The Chair of the Advisory Committee must schedule and hold meetings on a regular basis, at a minimum of twice per year but not more than four times per year, to expeditiously accomplish its duties and make recommendations.

Substitute Bill Compared to Original Bill:

The Department of Natural Resources (DNR) in consultation with the Energy Resilience and Emergency Management Office of the Department of Commerce (Commerce), rather than the Energy Resilience and Emergency Management Office by itself, is directed to contract with an independent consultant in order to develop an electric utility wildfire mitigation plan format, along with elements to be included in such plans.

The requirement that the recommended elements of an electric utility wildfire mitigation plan include protocols for the operation of reclosers is removed.

Utility wildfire mitigation plans prepared by investor-owned utilities must be submitted to the DNR to review, rather than the Utilities and Transportation Commission.

Utility wildfire mitigation plans must be submitted to the Utility Wildland Fire Prevention Advisory Committee (Advisory Committee) and be posted on the Advisory Committee's website, rather than submitted to the Energy Resilience and Emergency Management Office of Commerce.

The requirement that the DNR prepare an analysis of the costs and benefits of preparing and maintaining a statewide wildland fire risk map is removed.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 3, 2023.

Effective Date of Substitute 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) It would be valuable to have the Department of Natural Resources (DNR) be the lead agency on this issue. The DNR is best suited to provide guidance on these issues because they have first-hand experience in wildfires.

This legislation will prevent many wildland fires in the future. Population density is increasing in the wildland urban interface, which expands wildland fire risk. A friendly amendment suggestion would be to have representatives from both the east and west sides of the state serve on the advisory committee described in the bill.

It would be preferable to assign the role of developing the format of a utility wildland fire mitigation plan to the DNR instead of the Department of Commerce (Commerce). The is overly prescriptive regarding utility wildfire mitigation plans. Utilities need to be able to be flexible in order to reflect their unique, individual circumstances. There don't need to be detailed protocols on the operation of reclosers because that's more of an individualized engineering question. There's a question as to whether every mitigation plan needs to be reviewed by the state. The state should have flexibility with regard to which plans get reviewed and which elements of plans get reviewed.

Some utility wildfire plans are already on file with the Utilities and Transportation Commission. Planning is essential to make sure utilities are doing everything they can to prevent wildfires. It would be good to align the bill with the current process that utilities follow with regulators.

(Opposed) This bill will not prevent wildfires, because it fails to address the underlying causes of ignition, such as inadequate rights-of-way and inability to remove hazard trees. The first step in wildfire reduction should be comprehensive forest management. This bill will impose costs on utilities, diverting resources away from important tasks. There is significant concern with language indemnifying the state, while appearing to indicate that all liability is on the utilities. There are provisions in the bill that could undermine the tradition of local control of public utility districts.

(Other) There needs to be better coordination between fire experts at the DNR and utilities. It is important to learn from the fire starts that do occur. There is support for the bill in its final version last session. In this bill, oversight has shifted from the DNR to Commerce. The bill also imposes certain operational requirements, such as the recloser protocols. Those operational requirements are better handled by the individual utility, rather than in legislation.

This bill is the utility equivalent of prepositioning assets to be ready for wildfire. The Utility Wildland Fire Advisory Committee is not functioning as effectively as it could be. It

would be good to go back to the committee striker from last session.

Washington is the only state on the west coast that does not require all utilities to have wildfire mitigation plans. One possible point of disagreement is that the original intent may have been to address wildfires and their impacts, but the bill also addresses public safety power shutoffs, which is important for ensuring that power outages are minimized.

Commerce does have a statutory duty related to emergency energy management issues.

Persons Testifying: (In support) Representative Tom Dent, prime sponsor; Andy Barth, Inland Power and Light; John Sinclair, Kittitas Valley Fire Rescue; Nicolas Garcia, Washington Public Utility Districts Association; and John Rothlin, Avista.

(Opposed) Steve Taylor, Okanogan County Public Utility District.

(Other) Brian Considine; Jim Smith and Dave Warren, Klickitat Public Utility District; and Jasmine Vasavada, Department of Commerce.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture and Natural Resources. Signed by 31 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; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Agriculture and Natural Resources:

Regarding utility wildfire mitigation plans prepared by investor-owned utilities, the second substitute bill:

- requires investor-owned utilities to submit their utility wildfire mitigation plans to the Utilities and Transportation Commission (UTC) for review;
- removes the requirement that the Department of Natural Resources (DNR) review utility wildfire mitigation plans prepared by investor-owned utilities;
- provides that the UTC, rather than the DNR, is not liable for an investor-owned utility's implementation of its wildfire mitigation plan;
- removes language that would have provided that the DNR's review of an investor-

- owned utility's wildfire mitigation plan and any recommendations associated with the review do not constitute a reasonableness review or approval of recovery of any measure, investment, cost, or other component of the plan; and
- authorizes investor-owned utilities to pursue recovery of costs and investments associated with a wildfire mitigation plan through a proceeding to set rates at the UTC.

The second substitute bill also specifies that the DNR is not responsible, rather than not liable, for a consumer-owned utility's implementation of its wildfire mitigation plan. The second substitute bill is null and void if specific funding is not provided in the operating budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This bill came out of a realization that it would benefit the Department of Natural Resources (DNR) to learn from utilities, and vice versa, in terms of preventing wildfires. The bill follows up on the work of the Electric Utility Wildland Fire Prevention Task Force in 2019. The bill allows each utility to write a mitigation plan based on its own unique circumstances. The bill would allow for the sharing of best management practices and standardize reporting on wildfire mitigation. The language related to investor-owned utilities should be amended to align with regulatory protocols at the Utilities and Transportation Commission. The wildfire mitigation plans will help lower the number and severity of wildfires and reduce state firefighting costs.

(Opposed) None.

Persons Testifying: Dave Warren, Klickitat Public Utility District and Okanogan Public Utility District; John Rothlin, Avista; and Nicolas Garcia, Washington Public Utility Districts Association.

Persons Signed In To Testify But Not Testifying: None.