

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5158

67th Legislature
2021 Regular Session

Passed by the Senate April 14, 2021
Yeas 48 Nays 0

President of the Senate

Passed by the House April 8, 2021
Yeas 98 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5158** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5158

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

State of Washington **67th Legislature** **2021 Regular Session**

By Senators Hawkins, Rolfes, Saldaña, Van De Wege, and Wagoner

Read first time 01/12/21. Referred to Committee on Agriculture,
Water, Natural Resources & Parks.

1 AN ACT Relating to utility wildland fire prevention advisory
2 committee; and amending RCW 76.04.780.

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

4 **Sec. 1.** RCW 76.04.780 and 2019 c 77 s 1 are each amended to read
5 as follows:

6 (1) The commissioner shall convene a utility wildland fire
7 prevention ~~((task force))~~ advisory committee with electrical power
8 distribution utilities by ~~((July 1, 2019, and no less than quarterly~~
9 ~~thereafter until December 1, 2020))~~ August 1, 2021. The duties of the
10 ~~((task force))~~ advisory committee are to advise the department on
11 issues including, but not limited to:

12 (a) ~~((Developing, for consideration by the department and~~
13 ~~individual electric utilities, a model agreement for managing danger~~
14 ~~trees and other vegetation that pose a risk of wildland fire and~~
15 ~~associated utility liability due to the proximity to electrical~~
16 ~~transmission wires and other utility equipment;~~

17 ~~(b) Developing communication protocols and educational exchanges~~
18 ~~between the department and electric utilities for identifying and~~
19 ~~addressing issues relating to utility infrastructure to reduce the~~
20 ~~risks of wildland fires;~~

1 ~~(c) Developing protocols, including thresholds, for implementing~~
2 ~~the relevant provisions of RCW 76.04.015 when the department's~~
3 ~~investigation involves electric utility infrastructure or potential~~
4 ~~electric utility liability;~~

5 ~~(d) Creating rosters of certified wildland fire investigation~~
6 ~~firms or persons and third-party qualified utility operations~~
7 ~~personnel who may be called upon by the parties as appropriate; and~~

8 ~~(e) Other issues brought forward by task force members.~~

9 ~~(2) In consultation with the task force created in subsection (1)~~
10 ~~of this section, the department must:~~

11 ~~(a) Make available the form of communication protocols and~~
12 ~~educational exchanges between the department and electric utilities;~~

13 ~~(b) With the assistance of the task force, distribute a voluntary~~
14 ~~model danger tree management agreement to utilities for their~~
15 ~~consideration for execution with the department;~~

16 ~~(c) Publish the protocols and thresholds described in subsection~~
17 ~~(1)(c) of this section;~~

18 ~~(d) Issue a roster of third-party certified wildland fire~~
19 ~~investigators and qualified utility personnel that may assist the~~
20 ~~department or utility in understanding and reducing risks and~~
21 ~~liabilities from wildland fire. The department must update the roster~~
22 ~~of third-party certified wildland fire investigators and qualified~~
23 ~~utility personnel no less than every four years.~~

24 ~~(3) The department must submit, in compliance with RCW 43.01.036,~~
25 ~~a preliminary report to the legislature by December 1, 2019, and a~~
26 ~~final report to the legislature by December 1, 2020, on the results~~
27 ~~of tasks identified in subsections (1) and (2) of this section and~~
28 ~~identification of legislation, if any, necessary to implement the~~
29 ~~recommendations of the task force)) Matters related to the ongoing~~
30 ~~implementation of the relevant recommendations of the electric~~
31 ~~utility wildland fire prevention task force established in chapter~~
32 ~~77, Laws of 2019, and by August 1, 2021:~~

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

36 ~~(ii) Implementing recommendations of the task force related to~~
37 ~~communications and information exchanges between the department and~~
38 ~~utilities;~~

1 (iii) Implementing recommendations of the task force related to
2 protocols and thresholds when implementing provisions of RCW
3 76.04.015; and

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

8 (b) Providing a forum for electric utilities, the department, and
9 other fire suppression organizations of the state to identify and
10 develop solutions to issues of wildfire prevention and risk
11 mitigation specifically related to electric utilities transmission
12 and distribution networks, identification of best management
13 practices, electric utility infrastructure protection, and wildland
14 fire suppression and response;

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

19 (d) Providing comment to the wildland fire advisory committee
20 established in RCW 76.04.179 through an annual presentation
21 addressing policies and priorities of the utility wildland fire
22 prevention advisory committee; and

23 (e) All other related issues deemed necessary by the
24 commissioner.

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

27 (a) Communication protocols and educational exchanges between the
28 department and electric utilities;

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

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

34 (d) A roster of third-party certified wildland fire investigators
35 and qualified utility personnel that may assist the department or
36 utility in understanding and reducing risks and liabilities from
37 wildland fire.

38 (3) Beginning July 1, 2022, and at the beginning of each
39 subsequent biennium thereafter, the department must submit, in
40 compliance with RCW 43.01.036, a report describing the prior biennium

1 proceedings of the advisory committee, including identification of
2 recommended legislation, if any, necessary to prevent wildfires
3 related to electric utilities.

4 (4) The commissioner or the commissioner's designee must chair
5 the ~~((task-force))~~ advisory committee created in subsection (1) of
6 this section and must appoint ~~((task-force))~~ advisory committee
7 members. ~~((Task-force))~~ Advisory committee membership should include:

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

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

10 (ii) Two persons representing municipal utilities;

11 (iii) Two persons representing public utility districts;

12 (iv) Two persons representing rural electric cooperatives;

13 (v) One person representing small forestland owners;

14 (vi) One person representing industrial forestland owners;

15 ~~((and))~~

16 (b) Other persons with expertise in wildland fire risk reduction
17 and prevention; and

18 (c) No more than two other persons designated by the
19 commissioner.

20 (5) In addition to the advisory committee membership established
21 in subsection (4) of this section, the commissioner shall designate
22 two additional advisory committee members representing historically
23 marginalized or underrepresented communities.

24 (6) The commissioner or the commissioner's designee shall convene
25 the initial meeting of the ~~((task-force))~~ advisory committee.

26 ~~((+6))~~ (7) The members of the advisory committee, or individuals
27 acting on their behalf, are immune from civil liability for official
28 acts performed in the course of their duties specifically related to
29 the advisory committee.

30 (8) Participation on the ~~((task-force))~~ advisory committee
31 created in subsection (1) of this section is strictly voluntary and
32 without compensation.

33 (9) Any requirements in this section are subject to the
34 availability of amounts appropriated for the specific purposes
35 described.

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