

# SENATE BILL REPORT

## SB 5039

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As of January 11, 2023

**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:** Senators Rolfes, Conway, Gildon, Hasegawa, Keiser, Kuderer, Nguyen, Nobles and Wellman.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/11/23.

### Brief Summary of Bill

- Directs the Energy Resilience and Emergency Management Office (Office) to contract with a consultant to recommend an electric utility wildfire mitigation plan (plan) format and identify a list of actions to be included in the plans by April 1, 2024, and create a public website to host the electric utilities' plans.
- Requires each utility to review and revise its plan by October 31, 2024, and every three years thereafter, and submit it to the Office.
- Requires the Utilities and Transportation Commission, for investor-owned utilities, and the governing boards, for consumer-owned utilities, to review plans to confirm whether they contain recommended actions.
- Directs the Utility Wildland Fire Prevention Advisory Committee to submit to the Legislature 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,

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*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.*

prevention, and suppression.

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## 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 2021 and 2022, the Utilities and Transportation Commission (UTC) held workshops on utility wildfire preparedness. In November 2022, the three investor-owned electric utilities (IOUs) presented about the effectiveness of their fire mitigation and communication plans, lessons learned, and planned changes for the following wildfire season.

**Summary of Bill:** The Legislature intends to identify best practices guidelines to reduce the risk of and prevent wildland fires that may be ignited by electric utility equipment, and to promote transparency, require that electric utilities make their wildfire mitigation plans public.

Electric Utility Wildfire Mitigation Plans. The Energy Resilience and Emergency Management Office (Office), located within the Department of Commerce, must contract with an independent consultant to recommend a format, and to identify and recommend a list of actions to be included in Electric Utility Wildfire Mitigation Plans (plans), including best practice guidance for each action. The consultant must have experience developing plans. The Office must seek input from the UTC, DNR, the advisory committee, electric utilities, the state fire marshal, the Governor's Office of Indian Affairs, and the public.

The recommended actions must acknowledge utilities serve areas that vary in topography, vegetation, population, and other characteristics, and that the best practices guidelines within each action must recognize a utility's plan will be designed to fit site-specific circumstances. The recommended actions must include, but are not limited to:

- vegetation management along transmission and distribution lines and near associated equipment;
- infrastructure inspection and maintenance repair activities and schedules;
- modification or upgrades to facilities and construction of new facilities to incorporate cost-effective measures to minimize fire risk;
- prevention programs, including adoption of new technologies to harden infrastructure;
- operational procedures;
- identification of appropriate widths for vegetation management and rights-of-way, including the consideration of fire-resistant vegetation alternatives;
- protocols for disabling reclosers and deenergizing portions of the electric system and associated communication plans; and
- public engagement and communication plans addressing wildfire safety and risk mitigation.

The recommended format and list of actions must be forwarded to the UTC, DNR, and all electric utilities for a review period of three months prior to finalizing the format and list of actions the utilities will use to adopt or update their plan. By April 1, 2024, the Office must make public a recommended format and a list of actions for the plans. The Office may update these guidelines if needed, but not more than once a year.

The Office must:

- provide technical assistance to electric utilities to support the inclusion of these guidelines in the revisions of their plans;
- create a public web site to host the plans; and
- submit to the Legislature, by December 31, 2024, a compilation and summary of existing plans maintained by electric utilities.

Electric Utilities. Each electrical company, or IOU, and consumer-owned utility (COU) must review and revise, if appropriate, its plan by October 31, 2024, and every three years thereafter. Each plan must include a review of the utility's specific circumstances and

incorporate the appropriate identified actions.

Each IOU must submit its plan to the UTC and make the plan publicly available. Within six months, the UTC must review the plan, consult with the Office when reviewing, and confirm whether the plan contains the recommended actions. After the UTC's review, an IOU must provide a copy of the plan to the Office along with a list and description of wildland fires within its customer service area over the previous two years as reported by DNR. The UTC's review does not relieve an IOU from proactively managing wildfire risk.

The governing board of each COU must review the plan and confirm whether the plan contains the recommended actions. Local fire districts must also be given the opportunity to review and provide feedback on the plan. After the governing board's review, the COU must provide a copy of the plan to the Office along with a list and description of wildland fires within its customer service area over the previous two years as reported by DNR. The Office must review the plan and provide feedback within six months for consideration for inclusion in the next plan revision. A COU is not prohibited from reviewing or updating its plan more often than once a year, nor is it required to submit a plan more often than once every three years.

Two or more abutting electric utilities may codevelop a plan and may identify areas of common implementation that will assist in implementing the identified recommended actions.

The UTC and the Office are not liable for a utility's implementation of its plan. The UTC's and Office's review of a 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. Nothing in this bill relieves an electric utility from proactively managing wildfire risk.

The Office must post the utilities' submitted plans on its related website. IOUs and COUs are encouraged to submit any 2023 plans to the Office prior to October 31, 2024.

Utility Wildland Fire Prevention Advisory Committee. By December 31, 2023, and at the beginning of each subsequent biennium, the advisory committee must submit to the Legislature:

- 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, utilities, 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 the boundaries of electric utilities' service territories; and
- recommendations for strengthening state agency coordination of wildfire risk reduction, prevention, and suppression, which include the views of the WFA Committee and the Office.

The advisory committee chair must schedule and hold meetings on a regular basis to expeditiously accomplish these duties and make recommendations. One representative from the Office and one from the UTC are added to the advisory committee.

**Appropriation:** None.

**Fiscal Note:** Requested on January 3, 2023.

**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:** PRO: Washington State is already feeling the impacts of climate change, with an increased number of natural disasters including wildfires. These fires have large lasting effects. There is a need for improved communication and coordination among governmental agencies to reduce the risks of wildfires. The bill intends to guide governmental agencies in the creation of a plan in the event of a wildfire as well as prevention. DNR should oversee the planning process instead of Commerce because they have the most experience. The point of the bill is to create a plan about the elements needed to reduce the risk of fire, with the details left to the Advisory Committee. We have concerns about the unintended consequences of a wildfire risk map that could increase insurance rates. The bill aptly recognizes that while plans share common elements, they must be appropriate to each utility's circumstances. We don't want overly prescriptive legislation.

OTHER: The Office is the lead agency for how state responds to an energy emergency. The bill deals with what a utility has to do to mitigate the risk of wildfire and when a utility might also have to take action because they are in the middle of a wildfire and need to make difficult decisions. These decisions should be made pursuant to community planning. There are currently no requirements for utilities to publish their wildfire plans. DNR works closely with utility partners to reduce wildfire risk. There is a role for the Advisory Committee in assisting how mitigation plans are developed. We recognized Commerce's role in energy resilience.

**Persons Testifying:** PRO: Senator Christine Rolfes, Prime Sponsor; Sherri Dysart, League of Women Voters of Washington; Jim Smith, Klickitat PUD; John Rothlin, Avista Corp; Andy Barth, Inland Power & Light; Colin Willenbrock, Pend Oreille.

OTHER: Jasmine Vasavada, Washington Department of Commerce; Brian Considine, Washington State Department of Natural Resources.

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