
**Rural Development, Agriculture, &
Natural Resources Committee**

HB 1334

Brief Description: Concerning electric utility wildland fire prevention.

Sponsors: Representatives Blake, Kretz, Chapman, Chandler and Springer.

Brief Summary of Bill

- Establishes a utility wildland fire prevention task force.
- Establishes a liability standard for electrical utilities related to wildland fire damage.

Hearing Date: 1/30/19

Staff: Robert Hatfield (786-7117).

Background:

The Department of Natural Resources (DNR) is responsible for forest fire prevention and response on both state-owned and private forest land in Washington.

The owner of public or private forested lands may bring a civil action in superior court for property damage to public or private forested lands, including real and personal property on those lands, when the damage results from a fire that started on or spread from public or private forested lands. Liability under such an action attaches to the extent that evidence demonstrates that: (a) an action or inaction by a person relating to the start or spread of the fire from public or private forested lands constituted negligence or a higher degree of fault; and (b) the action or inaction was a proximate cause of the property damage.

Any person, firm, or corporation whose negligence is responsible for the starting or existence of a fire which spreads on forestland shall be liable for any reasonable expenses made necessary by such negligence. The state, a municipality, a forest protective association, or any fire protection agency of the United States may recover such reasonable expenses in fighting the fire, together

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with costs of investigation and litigation, including reasonable attorneys' fees and taxable court costs, if the expense was authorized or subsequently approved by the Department of Natural Resources.

Negligence is the failure to exercise ordinary care. It is the doing of some act that a reasonably careful person would not do under the same or similar circumstances, or the failure to do some act that a reasonably careful person would have done under the same or similar circumstances.

Summary of Bill:

Utility Wildland Fire Prevention Task Force.

The Commissioner of Public Lands must convene a utility wildland fire prevention task force with electrical distribution utilities by July 1, 2019. The task force must continue to meet no less than quarterly until December 1, 2020.

The duties of the task force are to advise the Department of Natural Resources (DNR) on various specified matters related to the relationship between utility infrastructure and wildland fires.

Among other things, the task force must:

- develop, for the consideration of the DNR and individual electric utilities, a model agreement for managing danger trees and other vegetation that pose a risk of wildland fire;
- develop communication protocols and educational exchanges between the DNR and electric utilities for identifying and addressing issues relating to utility infrastructure in order to reduce the risks of wildland fires; and
- creating rosters of certified wildland fire investigation firms or persons and third-party qualified utility operations personnel.

In consultation with the task force, the DNR must undertake certain tasks, including:

- make available the communication protocols and educational exchanges between the DNR and the electric utilities;
- distribute to utilities a voluntary model danger tree management agreement; and
- issue a roster of third-party certified wildland fire investigators and qualified utility personnel that may assist the DNR or utility in understanding and reducing risks and liabilities from wildfire.

The DNR must submit a preliminary report to the Legislature by December 1, 2019, and a final report by December 1, 2020.

The Commissioner or the Commissioner's designee must chair the task force and must appoint task force members. Task force membership should include:

- one person representing each investor-owned utility;
- two persons representing municipal utilities;
- two persons representing public utility districts;
- two persons representing rural electric cooperatives; and
- other persons with expertise in wildland fire risk reductions and prevention.

Wildland Fire Liability for Electrical Utilities.

In any action against an electric utility or its contractors for wildland fire damage to forestland or forested lands, or fire response costs to the DNR arising from or relating to generation, transmission, and distribution systems, the plaintiff, in order to prevail, is required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise ordinary care consistent with the practical operation of the utility to prevent such damage, and that as a proximate result of the failure the plaintiff suffered damages.

Appropriation: None.

Fiscal Note: Available.

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