

**E2SSB 5803** - H COMM AMD

By Committee on Rural Development, Agriculture & Natural Resources

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) It is in the best interest of the  
4 state, our citizens, and our landscapes to identify the sources of  
5 wildland fires; identify and implement best practices to reduce the  
6 prevalence and intensity of those wildland fires; put those practices  
7 in place; and by putting those practices in place, reduce the risk of  
8 wildland fires and damage resulting from those fires.

9 (2) The legislature finds that electric utilities are partners  
10 with relevant state agencies, emergency responders, and public and  
11 private entities in identifying best practices to reduce the risk of  
12 and prevent wildland fires. Many electric utilities have developed  
13 and are implementing wildfire mitigation plans. The legislature  
14 further finds that electric utilities should adopt and implement  
15 wildfire mitigation plans, and that electric utilities should be  
16 informed by recognized best practices, as applicable to their  
17 geography, terrain, vegetation, and other characteristics specific in  
18 their service area, for reducing wildland fire risk and reducing  
19 damage from wildland fires as may be ignited by electric utility  
20 equipment.

21 (3) Therefore, the legislature intends to authorize the  
22 development of best practices guidelines and to require that electric  
23 utilities provide their wildfire mitigation plans to the state in  
24 order to promote public transparency and to obtain review of the  
25 plans for inclusion of applicable best practices guidelines.

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04  
27 RCW to read as follows:

28 (1) The department shall contract with an independent consultant  
29 with experience in developing utility wildfire mitigation plans to  
30 recommend a format and a list of elements to be included in electric  
31 utility wildfire mitigation plans, including best practices guidance

1 that may apply to each element as appropriate. In developing the  
2 format and list of elements, the department shall seek input from the  
3 utilities and transportation commission, the energy emergency  
4 management office of the department of commerce, the utility wildland  
5 fire prevention advisory committee, electric utilities, the state  
6 fire marshal, the governor's office of Indian affairs, and the  
7 public. By July 1, 2023, the department shall make public a  
8 recommended format and list of elements for electric utility wildfire  
9 mitigation plans.

10 (2) The recommended elements must acknowledge that utilities  
11 serve areas that vary in topography, vegetation, population, and  
12 other characteristics, and that best practices guidelines within each  
13 element must recognize that a utility's wildfire mitigation plan will  
14 be designed to fit site-specific circumstances. The recommended  
15 elements must include, but are not limited to:

16 (a) Vegetation management along transmission and distribution  
17 lines and near associated equipment;

18 (b) Infrastructure inspection and maintenance repair activities,  
19 schedules, and recordkeeping;

20 (c) Modifications or upgrades to facilities and construction of  
21 new facilities to incorporate cost-effective measures to minimize  
22 fire risk;

23 (d) Preventative programs, including adoption of new technologies  
24 to harden utility infrastructure; and

25 (e) Operational procedures.

26 (3) The recommended format and list of elements developed by the  
27 department must be forwarded to the utilities and transportation  
28 commission, the energy emergency management office of the department  
29 of commerce, and all electric utilities in Washington state for a  
30 review period of three months prior to finalizing the format and list  
31 of elements that utilities will use to adopt or update their electric  
32 utility wildfire mitigation plan.

33 (4) The definitions in this subsection apply throughout this  
34 section unless the context clearly requires otherwise.

35 (a) "Consumer-owned utility" means a municipal electric utility,  
36 public utility district, irrigation district, cooperative, or mutual  
37 corporation association.

38 (b) "Electric utility" means: (i) An electrical company as  
39 defined in RCW 80.04.010 that is engaged in the business of  
40 distributing electricity to one or more electric customers in the

1 state; or (ii) a consumer-owned utility that is engaged in the  
2 business of distributing electricity to one or more electric  
3 customers in the state.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 80.28  
5 RCW to read as follows:

6 (1) By October 31, 2023, and at a minimum every two years  
7 thereafter, each electrical company must review and revise, if  
8 appropriate, its wildfire mitigation plan and submit it to the  
9 commission. The plan should include a review of specific  
10 circumstances of that electrical company and incorporate as  
11 appropriate the recommendations developed pursuant to section 2 of  
12 this act. The electrical company must submit its plan to the  
13 commission and make the plan publicly available. Within six months of  
14 submission by the electrical company, the commission shall review the  
15 plan and confirm whether or not the plan contains the recommended  
16 elements. In reviewing the plan, the commission must consult with the  
17 department of natural resources and the energy emergency management  
18 office of the department of commerce. The commission's review of an  
19 electrical company's wildfire mitigation plan does not relieve an  
20 electrical company from proactively managing wildfire risk, including  
21 by monitoring emerging practices and technologies, and mitigating and  
22 responding to wildfires. The commission is not liable for an  
23 electrical company's performance implementing its wildfire mitigation  
24 plan. An electrical company may pursue recovery of reasonable costs  
25 and investments associated with a wildfire mitigation plan through a  
26 proceeding to set rates at the commission. Nothing in this section or  
27 sections 2, 4, and 6 of this act may be construed to preclude  
28 electrical companies from continuing to develop and implement  
29 wildfire mitigation measures. After the commission's review, the  
30 electrical company must provide a copy of the plan to the department  
31 of natural resources along with a list and description of wildland  
32 fires within its customer service area over the previous two years as  
33 reported by the department of natural resources. The plan must be  
34 posted as specified in section 6 of this act.

35 (2) For the purposes of this section, "electrical company" means  
36 a company owned by investors that meets the definition of  
37 "corporation" in RCW 80.04.010 and is engaged in distributing  
38 electricity to more than one retail electric customer in the state.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 19.29A  
2 RCW to read as follows:

3        (1) By December 31, 2023, and every two years thereafter, each  
4 consumer-owned utility must review and revise, if appropriate, its  
5 wildfire mitigation plan. The plan should include a review of  
6 specific circumstances of that utility and incorporate as appropriate  
7 the recommendations developed pursuant to section 2 of this act.

8        (a) The governing board of each consumer-owned utility shall  
9 review the plan and confirm whether the plan contains the recommended  
10 elements. Local fire districts must be provided the opportunity to  
11 review and provide feedback during this period. After the governing  
12 board's review, the utility must provide a copy to the department of  
13 natural resources, along with a list and description of wildland  
14 fires within its customer service area over the previous two years as  
15 reported by the department of natural resources. The plan must be  
16 posted as specified in section 6 of this act.

17        (b) Each consumer-owned utility must also provide its plan to the  
18 energy emergency management office of the department of commerce for  
19 review, which must review the plans and provide feedback within six  
20 months for consideration for inclusion in the next plan revision.

21        (c) By December 31, 2022, each utility must provide a copy of  
22 their most recent plan to the department of natural resources and it  
23 must be posted on a website.

24        (d) By December 31, 2023, the energy emergency management office  
25 will be available to provide technical assistance to consumer-owned  
26 utilities to include the best practices guidelines in their revision  
27 of plans.

28        (2) Two or more abutting utilities may codevelop a wildfire  
29 mitigation plan. Wildfire mitigation plans that are codeveloped by  
30 more than one utility may identify areas of common implementation,  
31 including communication protocols, that will assist in implementing  
32 the recommended elements pursuant to section 2 of this act.

33        (3) Nothing in this section prohibits a utility from reviewing or  
34 updating its wildfire mitigation plan more often than every two years  
35 or requires that the utility submit their plan beyond the  
36 requirements of subsection (1) of this section.

37        **Sec. 5.**    RCW 76.04.780 and 2021 c 183 s 1 are each amended to  
38 read as follows:

1 (1) The commissioner shall convene a utility wildland fire  
2 prevention advisory committee with electrical power distribution  
3 utilities by August 1, 2021. The duties of the advisory committee are  
4 to advise the department on issues including, but not limited to:

5 (a) Matters related to the ongoing implementation of the relevant  
6 recommendations of the electric utility wildland fire prevention task  
7 force established in chapter 77, Laws of 2019, and by August 1, 2021:

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

11 (ii) Implementing recommendations of the task force related to  
12 communications and information exchanges between the department and  
13 utilities;

14 (iii) Implementing recommendations of the task force related to  
15 protocols and thresholds when implementing provisions of RCW  
16 76.04.015; and

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

21 (b) Providing a forum for electric utilities, the department, and  
22 other fire suppression organizations of the state to identify and  
23 develop solutions to issues of (~~wildfire~~) wildland fire prevention  
24 and risk mitigation specifically related to electric utilities  
25 transmission and distribution networks, identification of best  
26 management practices, electric utility infrastructure protection, and  
27 wildland fire suppression and response;

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

32 (d) Providing comment to the wildland fire advisory committee  
33 established in RCW 76.04.179 through an annual presentation  
34 addressing policies and priorities of the utility wildland fire  
35 prevention advisory committee; and

36 (e) All other related issues deemed necessary by the  
37 commissioner.

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

1 (a) Communication protocols and educational exchanges between the  
2 department and electric utilities;

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

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

8 (d) A roster of third-party certified wildland fire investigators  
9 and qualified utility personnel that may assist the department or  
10 utility in understanding and reducing risks and liabilities from  
11 wildland fire.

12 (3) Beginning July 1, 2022, and at the beginning of each  
13 subsequent biennium thereafter, the department must submit, in  
14 compliance with RCW 43.01.036, a report describing the prior biennium  
15 proceedings of the advisory committee, including identification of  
16 recommended legislation, if any, necessary to prevent wildfires  
17 related to electric utilities. In addition, by July 1, 2023, the  
18 department must submit to the appropriate committees of the senate  
19 and house of representatives:

20 (a) A compilation and summary of existing wildfire mitigation  
21 plans maintained by electric utilities;

22 (b) An analysis of the costs and benefits of preparing and  
23 maintaining a comprehensive statewide wildland fire risk map that  
24 identifies relative risk classes, with detail at a level to assist  
25 property owners, local governments, utilities, wildland management  
26 agencies, and fire response agencies in taking actions to minimize  
27 wildland fire starts and resulting damage. The analysis must also  
28 address incorporating the boundaries of the wildland urban interface  
29 as mapped pursuant to RCW 19.27.031; and

30 (c) Recommendations for strengthening state agency coordination  
31 of wildland fire risk reduction, prevention, and suppression. In this  
32 work the utility wildland fire prevention advisory committee shall  
33 seek the views of the wildland fire advisory committee created under  
34 RCW 76.04.179, as well as the views of the department of commerce  
35 energy policy division and the emergency management division of the  
36 military department.

37 (4) The commissioner or the commissioner's designee must chair  
38 the advisory committee created in subsection (1) of this section and  
39 must appoint advisory committee members. The advisory committee must  
40 include a representative of the energy emergency management office of

1 the department of commerce and a representative of the utilities and  
2 transportation commission. Advisory committee membership should also  
3 include:

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

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

6 (ii) Two persons representing municipal utilities;

7 (iii) Two persons representing public utility districts;

8 (iv) Two persons representing rural electric cooperatives;

9 (v) One person representing small forestland owners;

10 (vi) One person representing industrial forestland owners;

11 (b) Other persons with expertise in wildland fire risk reduction  
12 and prevention; and

13 (c) No more than two other persons designated by the  
14 commissioner.

15 (5) In addition to the advisory committee membership established  
16 in subsection (4) of this section, the commissioner shall designate  
17 two additional advisory committee members representing historically  
18 marginalized or underrepresented communities.

19 (6) The commissioner or the commissioner's designee shall convene  
20 the initial meeting of the advisory committee. The advisory committee  
21 chair must schedule and hold meetings on a regular basis in order to  
22 expeditiously accomplish the duties and make recommendations  
23 regarding the elements described in subsection (3) of this section.

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

28 (8) Participation on the advisory committee created in subsection  
29 (1) of this section is strictly voluntary and without compensation.

30 (9) Any requirements in this section are subject to the  
31 availability of amounts appropriated for the specific purposes  
32 described.

33 NEW SECTION. Sec. 6. A new section is added to chapter 76.04  
34 RCW to read as follows:

35 (1) The department must create a public website to host electric  
36 utility wildfire mitigation plans developed under sections 3 and 4 of  
37 this act.

38 (2) Nothing in this act may be construed to preclude electric  
39 utilities from continuing to develop and implement their wildfire

1 mitigation plans. Electric utilities are encouraged to submit their  
2 2022 plans to the department's energy emergency management office for  
3 inclusion on the website under subsection (1) of this section.

4 (3) The definitions in this subsection apply throughout this  
5 section unless the context clearly requires otherwise.

6 (a) "Consumer-owned utility" means a municipal electric utility,  
7 public utility district, irrigation district, cooperative, or mutual  
8 corporation association.

9 (b) "Electric utility" means: (i) An electrical company as  
10 defined in RCW 80.04.010 that is engaged in the business of  
11 distributing electricity to one or more electric customers in the  
12 state; or (ii) a consumer-owned utility that is engaged in the  
13 business of distributing electricity to one or more electric  
14 customers in the state."

15 Correct the title.

EFFECT: Requires investor-owned electrical companies to review  
and revise their wildfire mitigation plans by October 31, 2023,  
rather than December 31, 2023, and at a minimum every two years  
thereafter, and to submit the plans to the Utilities and  
Transportation Commission (UTC).

Authorizes investor-owned electrical companies to pursue recovery  
of reasonable costs and investments associated with a wildfire  
mitigation plan through a proceeding to set rates at the UTC.

Changes, from April 1, 2023, to July 1, 2023, the date by which  
the Department of Natural Resources (DNR) must make public a  
recommended format and list of elements for electric utility wildfire  
mitigation plans.

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

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