

HOUSE BILL REPORT

ESB 5158

As Passed House - Amended:

April 8, 2021

Title: An act relating to utility wildland fire prevention advisory committee.

Brief Description: Concerning the utility wildland fire prevention advisory committee.

Sponsors: Senators Hawkins, Rolfes, Saldaña, Van De Wege and Wagoner.

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 3/12/21, 3/23/21 [DPA].

Floor Activity:

Passed House: 4/8/21, 98-0.

Brief Summary of Engrossed Bill
(As Amended By House)

- Creates the Utility Wildland Fire Prevention Advisory Committee to advise the Department of Natural Resources on matters related to recommendations of the Utility Wildland Fire Prevention Task Force.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 14 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

Minority Report: Without recommendation. Signed by 1 member: Representative Chandler, Ranking Minority Member.

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.

Staff: Rebecca Lewis (786-7339).

Background:

Department of Natural Resources.

The Department of Natural Resources (DNR) has direct charge of and supervision over all matters pertaining to forest fire service of the state. The forest fire-related duties of the DNR include enforcing all forest fire-related laws, investigating the cause of forest fires, and directing fire suppression efforts as necessary. In 2007 the Legislature designated the DNR as the state lead in developing a comprehensive forest health program for the state and created a tiered advisory and regulatory system to address forest health issues.

Utility Wildland Fire Prevention.

Utility Wildland Fire Prevention Task Force Creation and Membership.

In 2019 the Legislature directed the Commissioner of Public Lands (Commissioner) to convene the Utility Wildland Fire Prevention Task Force (Task Force). The Commissioner or the Commissioner's designee chaired the Task Force and was responsible for appointing Task Force members. The Task Force membership included:

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

Duties of the Utility Wildland Fire Prevention Task Force.

The stated duties of the Task Force were to advise the DNR on various matters related to the relationship between utility infrastructure and wildland fires, including:

- development of a model agreement for managing danger trees and other vegetation that pose a risk of wildland fire for the consideration of the DNR and individual electric utilities;
- development of 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
- creation of rosters of certified wildland fire investigation firms or persons and third-party qualified utility operations personnel.

Duties of the Department of Natural Resources.

In consultation with the Task Force, the DNR was required to undertake certain tasks, including:

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

The DNR submitted a final report to the Legislature in December of 2020.

Summary of Amended Bill:

Utility Wildland Fire Prevention Advisory Committee.

Subject to appropriations made for this specific purpose, the Utility Wildland Fire Prevention Advisory Task Force (Task Force) is deleted, and the Utility Wildland Fire Prevention Advisory Committee (Advisory Committee) is created. The Commissioner of Public Lands (Commissioner) must convene the Advisory Committee by August 1, 2021. In addition to the original membership of the Task Force, up to two other individuals may be designated by the Commissioner as members of the Advisory Committee. The Commissioner must appoint two additional members to the Advisory Committee who represent historically marginalized or underrepresented communities. Members of the Advisory Committee, or individuals acting on their behalf, are immune from civil liability for official actions taken in the course of their Advisory Committee-related duties.

Duties of the Advisory Committee.

Generally.

The duties of the Advisory Committee include advising the Department of Natural Resources (DNR) on:

- matters related to the ongoing implementation of recommendations of the Task Force;
- providing a forum for electric utilities, the DNR, and other fire suppression organizations to identify and develop solutions to wildfire prevention and risk mitigation related to electric utilities transmission and distribution networks, electric utility infrastructure protection, and wildland fire suppression and response;
- establishing joint public communications protocols among members of the advisory committee, and other entities, to provide information of potential critical fire weather events and the potential for power outages or disruptions;
- presenting annually to the Wildland Fire Advisory Committee on policies and priorities of the Advisory Committee; and
- all other related issues deemed necessary by the Commissioner.

Matters Related to Implementation of Task Force Recommendations.

By August 1, 2021, the Advisory Committee must finalize a model agreement developed by the Task Force for managing danger trees and other vegetation adjacent to utility rights of way on DNR-managed state uplands, and implement the recommendations of the Task Force related to: (1) communications and information exchanges between utilities and the DNR; (2) protocols and thresholds when carrying out the DNR's wildfire prevention powers and duties; and (3) creating rosters of certified wildland fire investigator firms or persons, and qualified utility operations personnel who may be called upon.

Duties of the Department of Natural Resources.

The DNR must post the following on its website by August 1, 2021, and update quarterly as necessary:

- communication protocols and educational exchanges between the DNR and electric utilities;
- a voluntary model danger tree management agreement for the consideration of utilities;
- investigation protocols and thresholds; and
- a roster of third-party certified wildland fire investigators and qualified utility personnel that may help the DNR or a utility understand and reduce risks and liabilities from wildland fire.

Beginning July 1, 2022, and at the beginning of each subsequent biennium, the DNR must submit a report describing the proceedings of the Advisory Committee in the prior biennium. The report must include identification of recommended legislation, if any, necessary to prevent wildfires related to electric utilities.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The Legislature created the Utility Wildland Fire Prevention Task Force (Task Force) a couple of years ago and it was a forum to be proactive and reduce the risk of wildfires caused by utility infrastructure. The Task Force did not complete its work, in part due to limitations from the COVID-19 pandemic. Utilities could not yet support the draft vegetation management agreement. However, the Task Force made progress and came up with some very helpful recommendations in 2020. There is optimism that the Utility Wildland Fire Advisory Committee can finish this work and respond to evolving related

issues such as equity and climate change. This bill builds on that work to improve communication between the Department of Natural Resources and utilities to help the parties understand their perspectives and roles. Utility-caused fires in California had huge economic impacts, including pushing one of the largest utilities into bankruptcy. Eighty-five people were killed in the Camp Fire and fires are moving north as the climate changes, dramatically increasing wildfire risk. Additionally, there were 13 utility-caused wildfires in Oregon, and it was reported that the Malden fire was caused by a downed tree coming into contact with utility infrastructure outside of the utility right-of-way. Transmission systems have always caused sparks. Drier weather and higher fuel load make the risk of fires caused by utility infrastructure much higher.

(Opposed) None.

Persons Testifying: Senator Hawkins, prime sponsor; Nicolas Garcia, Washington Public Utility Districts Association; Steve Wright, Chelan County Public Utility District; Colin Willenbrock, Pend Oreille Public Utility District; David Gottula, Okanogan County Electric Cooperative; Loren Torgerson, Department of Natural Resources; and Raelene Gold, League of Women Voters of Washington.

Persons Signed In To Testify But Not Testifying: None.