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**SUBSTITUTE SENATE BILL 5803**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Rolfes, Dhingra, Frockt, and Nobles)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to mitigating the risk of wildfires caused by an  
2 electric utility's equipment; amending RCW 76.04.780; adding new  
3 sections to chapter 43.21F RCW; adding a new section to chapter 80.28  
4 RCW; adding a new section to chapter 19.29A RCW; and creating a new  
5 section.

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

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

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

1 their service area, for reducing wildland fire risk and reducing  
2 damage from wildland fires as may be ignited by electric utility  
3 equipment.

4 (3) Therefore, the legislature intends to authorize the  
5 development of best practices guidelines and to require that electric  
6 utilities file their wildfire mitigation plans with the state in  
7 order to promote public transparency and to obtain review of the  
8 plans for inclusion of applicable best practices guidelines.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21F  
10 RCW to read as follows:

11 (1) The energy emergency management office of the department  
12 shall contract with an independent consultant to recommend a format  
13 and a list of elements to be included in electric utility wildfire  
14 mitigation plans, including best practices guidance for each element.  
15 The energy emergency management office shall seek input from the  
16 emergency management division of the military department, the  
17 utilities and transportation commission, the department of natural  
18 resources, the utility wildland fire prevention advisory committee,  
19 electric utilities, the state fire marshal, the governor's office of  
20 Indian affairs, and the public. By April 1, 2023, the energy  
21 emergency management office shall make public a recommended format  
22 and elements for electric utility wildfire mitigation plans.

23 (2) The recommended elements must acknowledge that utilities  
24 serve areas that vary in topography, vegetation, population, and  
25 other characteristics, and the best practices guidelines within each  
26 element must recognize that a utility's adoption will be chosen to  
27 fit site-specific circumstances. The recommended elements must  
28 include, but are not limited to:

29 (a) Vegetation management along transmission and distribution  
30 lines and near associated equipment;

31 (b) Infrastructure inspection and maintenance repair activities,  
32 schedules, and recordkeeping;

33 (c) Modifications or upgrades to facilities and construction of  
34 new facilities to incorporate cost-effective measures to minimize  
35 fire risk;

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

38 (e) Operational procedures.

1 (3) The recommended format and set of elements developed by the  
2 energy emergency management office must be forwarded to the utilities  
3 and transportation commission, the department of natural resources,  
4 and all electric utilities in Washington state for a review period of  
5 three months prior to finalizing the format that will be adopted, to  
6 update their electric utility wildfire mitigation plan.

7 (4) For the purposes of this section, "electric utility" means an  
8 electrical company as defined in RCW 80.04.010 and a consumer-owned  
9 utility. A "consumer-owned utility" means a municipal electric  
10 utility, public utility district, irrigation district, cooperative,  
11 or mutual corporation association engaged in the business of  
12 distributing electricity to one or more electric customers in the  
13 state.

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

16 By December 31, 2023, and every two years thereafter, each  
17 electrical company must review and revise, if appropriate, its  
18 wildfire mitigation plan. The plan should include a review of  
19 specific circumstances of that electrical company and incorporate as  
20 appropriate the recommendations developed pursuant to section 2 of  
21 this act. The electrical company must submit its plan to the  
22 commission and make the plan publicly available. Within six months of  
23 submission by the electrical company, the commission shall review the  
24 plan and confirm whether or not the plan contains the recommended  
25 elements. After the commission's review, the electrical company must  
26 provide a copy of the plan to the energy emergency management office  
27 along with a list and description of wildland fires within its  
28 customer service area over the previous two years as reported by the  
29 department of natural resources. The plan must be posted as specified  
30 in section 6 of this act.

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

33 (1) By December 31, 2023, and every two years thereafter, each  
34 consumer-owned utility must review and revise, if appropriate, its  
35 wildfire mitigation plan. The plan should include a review of  
36 specific circumstances of that utility and incorporate as appropriate  
37 the recommendations developed pursuant to section 2 of this act. Each  
38 consumer-owned utility must submit their plans to the energy

1 emergency management office for review, which must review the plans  
2 within six months and provide feedback and confirm the plans contain  
3 the recommended elements. The governing board of each consumer-owned  
4 utility shall review the plan and confirm whether or not the plan  
5 contains the recommended elements. After the governing board's  
6 review, the utility must provide a copy to the energy emergency  
7 management office, along with a list and description of wildland  
8 fires within its customer service area over the previous two years as  
9 reported by the energy emergency management office. The plan must be  
10 posted as specified in section 6 of this act.

11 (a) By December 31, 2022, each utility must provide a copy of  
12 their most recent wildfire risk mitigation plan to the energy  
13 emergency management office and they will be posted on a website.

14 (b) By December 31, 2023, the energy emergency management office  
15 will be available to provide technical assistance to consumer-owned  
16 utilities to include the best practices guidelines in their revision  
17 of wildfire risk mitigation plans.

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

23 (3) The department of commerce may assess a fee on each utility  
24 required to submit a plan under this section to recover the costs of  
25 the activities required or authorized by this section.

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

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

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

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

1 (ii) Implementing recommendations of the task force related to  
2 communications and information exchanges between the department and  
3 utilities;

4 (iii) Implementing recommendations of the task force related to  
5 protocols and thresholds when implementing provisions of RCW  
6 76.04.015; and

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

11 (b) Providing a forum for electric utilities, the department, and  
12 other fire suppression organizations of the state to identify and  
13 develop solutions to issues of (~~wildfire~~) wildland fire prevention  
14 and risk mitigation specifically related to electric utilities  
15 transmission and distribution networks, identification of best  
16 management practices, electric utility infrastructure protection, and  
17 wildland fire suppression and response. In conducting these  
18 activities, the committee must cooperate with the energy emergency  
19 management office of the department of commerce to integrate the  
20 committee's activities with the recommendations for electric utility  
21 wildfire mitigation plans under section 2 of this act;

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

26 (d) Providing comment to the wildland fire advisory committee  
27 established in RCW 76.04.179 through an annual presentation  
28 addressing policies and priorities of the utility wildland fire  
29 prevention advisory committee; and

30 (e) All other related issues deemed necessary by the  
31 commissioner.

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

34 (a) Communication protocols and educational exchanges between the  
35 department and electric utilities;

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

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

1 (d) A roster of third-party certified wildland fire investigators  
2 and qualified utility personnel that may assist the department or  
3 utility in understanding and reducing risks and liabilities from  
4 wildland fire.

5 (3) Beginning July 1, 2022, and at the beginning of each  
6 subsequent biennium thereafter, the department must submit, in  
7 compliance with RCW 43.01.036, a report describing the prior biennium  
8 proceedings of the advisory committee, including identification of  
9 recommended legislation, if any, necessary to prevent wildfires  
10 related to electric utilities. In addition, by December 31, 2022, the  
11 department must submit to the appropriate committees of the senate  
12 and house of representatives:

13 (a) A compilation and summary of existing fire risk mitigation  
14 plans maintained by electric utilities;

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

23 (c) Recommendations for strengthening state agency coordination  
24 of wildland fire risk reduction, prevention, and suppression. In this  
25 work the utility wildland fire prevention advisory committee shall  
26 seek the views of the wildland fire advisory committee created under  
27 RCW 76.04.179, as well as the views of the department of commerce  
28 energy policy division and the emergency management division of the  
29 military department.

30 (4) The commissioner or the commissioner's designee must chair  
31 the advisory committee created in subsection (1) of this section and  
32 must appoint advisory committee members. The advisory committee must  
33 include a representative of the energy emergency management office of  
34 the department of commerce and a representative of the utilities and  
35 transportation commission. Advisory committee membership should also  
36 include:

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

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

39 (ii) Two persons representing municipal utilities;

40 (iii) Two persons representing public utility districts;

1 (iv) Two persons representing rural electric cooperatives;  
2 (v) One person representing small forestland owners;  
3 (vi) One person representing industrial forestland owners;  
4 (b) Other persons with expertise in wildland fire risk reduction  
5 and prevention; and  
6 (c) No more than two other persons designated by the  
7 commissioner.

8 (5) In addition to the advisory committee membership established  
9 in subsection (4) of this section, the commissioner shall designate  
10 two additional advisory committee members representing historically  
11 marginalized or underrepresented communities.

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

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

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

23 (9) Any requirements in this section are subject to the  
24 availability of amounts appropriated for the specific purposes  
25 described.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21F  
27 RCW to read as follows:

28 (1) The department's energy emergency management office must  
29 create a public website to host electric utility wildfire mitigation  
30 plans developed under sections 3 and 4 of this act.

31 (2) Nothing in this act may be construed to preclude electric  
32 utilities from continuing to develop and implement their wildfire  
33 mitigation plans. Electric utilities are encouraged to submit their  
34 2022 plans to the department's energy emergency management office for  
35 inclusion on the website under subsection (1) of this section.

36 (3) For the purposes of this section, "electric utility" means an  
37 electrical company as defined in RCW 80.04.010 and a consumer-owned  
38 utility. A "consumer-owned utility" means a municipal electric  
39 utility, public utility district, irrigation district, cooperative,

1 or mutual corporation association engaged in the business of  
2 distributing electricity to one or more electric customers in the  
3 state.

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