

SENATE BILL REPORT

2SHB 1032

As of March 31, 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: House Committee on Appropriations (originally sponsored by Representatives Dent, Chapman, Ryu, Reed, Graham, Ramel, Pollet, Griffey, Reeves, Tharinger, Wylie, Springer, Kloba and Donaghy).

Brief History: Passed House: 3/4/23, 96-0.

Committee Activity: Environment, Energy & Technology: 3/14/23, 3/21/23 [DP-WM].
Ways & Means: 3/31/23.

Brief Summary of Bill

- Directs the Department of Natural Resources, in consultation with the Energy Resilience and Emergency Management Office, to contract with a consultant to recommend an electric utility wildfire mitigation plan (plan) format and identify a list of elements to be included in the plans by April 1, 2024.
- Requires each utility to review, revise, and adopt its plan by October 31, 2024, and every three years thereafter.
- Directs the Utility Wildland Fire Prevention Advisory Committee to meet at least twice a year; provide updates on required tasks; develop recommendations for strengthening state agency coordination of wildland fire risk reduction, prevention, and suppression; and host electric utility plans on its website.

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.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; MacEwen, Ranking Member; Boehnke, Lovick, Short, Trudeau and Wellman.

Staff: Kimberly Cushing (786-7421)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jed Herman (786-7346)

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: Electric Utility Wildfire Mitigation Plans. DNR, in consultation with the Energy Resilience and Emergency Management Office (Office) located within the Department of Commerce, must contract with an independent consultant to recommend an electric utility wildfire mitigation plan (plan) format, and to identify and list elements to be included in plans. The consultant must have experience developing plans. The Office must seek input from UTC, the advisory committee, electric utilities, the state fire marshal, the Governor's Office of Indian Affairs, and the public.

The recommended elements must acknowledge utilities serve areas that vary in topography, vegetation, population, and other characteristics, and the best practices guidelines within each element must recognize a utility's plan will be designed to fit site-specific circumstances. The recommended element 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; and
- public engagement and communication plans addressing wildfire safety and risk mitigation.

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

DNR must:

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

Electric Utilities. Each IOU must review and, if appropriate, revise its plan by October 31, 2024, and every three years thereafter. When reviewing or revising a plan, an IOU must use the recommended format and elements. Local fire protection districts must be provided the opportunity to provide input for each plan.

Each IOU must submit its plan to UTC for review, and UTC will confirm whether or not the plan contains the recommended elements. UTC is not liable for a utility's implementation of

its plan. An IOU may pursue recovery of costs and investments associated with a plan through a rate case proceeding.

Each consumer-owned utility (COU) must review, if appropriate revise, and adopt its plan by October 31, 2024, and every three years thereafter. When reviewing or revising a plan, a COU must use the recommended format and elements. Local fire protection districts must be provided the opportunity to provide input for each plan. The governing board of each COU must review the plan. Two or more abutting COUs may codevelop a plan and may identify areas of common implementation, which will assist in implementing the identified recommended elements.

DNR is not liable for a COU's implementation of its plan. DNR'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.

After UTC's review for IOUs or the governing board's review for COUs, each utility must provide their plan to DNR to review, along with a list and description of wildland fires involving utility equipment over the previous two years as reported by DNR. IOUs and COUs must submit their plans to the advisory committee to be posted on its website, and are encouraged to submit any 2023 plans to the advisory committee prior to October 31, 2024.

An electric utility is not prohibited from reviewing or updating its plan more often than once every three years.

Utility Wildland Fire Prevention Advisory Committee. The advisory committee must provide updates on the ongoing implementation of the recommendations from the task force every three years, starting May 30, 2024. The advisory committee must develop recommendations for strengthening the state agency coordination of wildfire risk reduction, prevention, and suppression, and in doing so seek the views of the WFA Committee, the Office, and UTC. The advisory committee must host electric utility plans on its website.

The advisory committee chair must schedule and hold meetings on a regular basis, at a minimum of twice per year but not more than four times per year, to expeditiously accomplish these duties and make recommendations.

The commissioner must invite one representative from the Office and one from UTC to join the advisory committee. Advisory committee membership may also include people the commissioner deems appropriate to carry out the functions of the committee. A lack of volunteers or applicants for any category of membership will not prevent the advisory committee from meeting and conducting its business.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

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 (Environment, Energy & Technology): PRO: There have been devastating fires in California. And this well-worked bill can really make a difference. We don't want to burn up our state's natural resources, property, or human life. To be able to manage these electric utility lines, it is important to keep vegetation under control. Some vegetation does not burn as easily. The UTC appreciates being named onto the advisory committee. The bill aligns with regulatory processes of the UTC. Hazardous fire mitigation is part of a utility's work on a daily basis. The bill codifies plans we already have in place. We care about governance in the bill and have struck a balance that all stakeholders can accommodate. The Office, by statute, plays a role in operating contingency plans if there is a disaster. Utilities value expertise of DNR, but the bill also gives the Office a seat at the table and allows it to help contract out for an expert. Utilities are already working with the advisory committee, so this is natural progression for where we should be. Each utility is different but this bill will help with the exchange of information, and up everyone's game, even though utility fires are only a small percent of wildfires. We recognize planning is essential.

Persons Testifying (Environment, Energy & Technology): PRO: Representative Tom Dent, Prime Sponsor; Dave Warren, Klickitat PUD and Okanogan PUD; Jasmine Vasavada, Dept of Commerce; Jason Lewis, Utilities and Transportation Commission; Paul Griffin, Washington Rural Electric Cooperative Association; John Rothlin, Avista; Nicolas Garcia, WPUA.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: We came to understand that we needed to come to the state and talk about how to deal with wildfire risks. This bill sets up a good process for dealing with risk. The consultant that is identified in the fiscal note needs to be fully funded to make this work. There are 36,000 miles of powerlines in the state. The bill provides a framework to analyze risk. We appreciate the collaboration.

Persons Testifying (Ways & Means): PRO: Dave Warren, Klickitat PUD and Okanogan PUD; Nicolas Garcia, Nicolas.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.