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**SECOND SUBSTITUTE HOUSE BILL 1032**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Dent, Chapman, Ryu, Reed, Graham, Ramel, Pollet, Griffey, Reeves, Tharinger, Wylie, Springer, Kloba, and Donaghy)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to mitigating the risk of wildfires through  
2 electric utility planning and identification of best management  
3 practices appropriate to each electric utility's circumstances;  
4 amending RCW 76.04.780; adding a new section to chapter 76.04 RCW;  
5 adding a new section to chapter 80.28 RCW; adding a new section to  
6 chapter 19.29A RCW; and creating new sections.

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

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

15 (2) The legislature finds that electric utilities are partners  
16 with relevant state agencies, emergency responders, and public and  
17 private entities in identifying best practices to reduce the risk of  
18 and prevent wildland fires. Many electric utilities have developed  
19 and are implementing wildfire mitigation plans. The legislature  
20 further finds that electric utilities should adopt and implement  
21 wildfire mitigation plans, and that electric utilities should be

1 informed by recognized best practices, as applicable to their  
2 geography, terrain, vegetation, and other characteristics specific in  
3 their service area, for reducing wildland fire risk and reducing  
4 damage from wildland fires as may be ignited by electric utility  
5 equipment.

6 (3) Therefore, the legislature intends to authorize the  
7 identification of best practices guidelines and to require that  
8 electric utilities provide their wildfire mitigation plans to the  
9 state in order to promote public transparency.

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

12 (1) The department, in consultation with the energy resilience  
13 and emergency management office of the department of commerce, shall  
14 contract with an independent consultant with experience in developing  
15 electric utility wildfire mitigation plans to develop an electric  
16 utility wildfire mitigation plan format and a list of elements to be  
17 included in electric utility wildfire mitigation plans. When  
18 developing the plan format and list of elements, the department shall  
19 seek input from the utilities and transportation commission, the  
20 utility wildland fire prevention advisory committee, electric  
21 utilities, the state fire marshal, the governor's office of Indian  
22 affairs, and the public. By April 1, 2024, the department shall make  
23 public a recommended format and list of elements for electric utility  
24 wildfire mitigation plans. The department may update these guidelines  
25 annually if needed, but not more than once in each year.

26 (2) The recommended elements must acknowledge that utilities  
27 serve areas that vary in topography, vegetation, population, and  
28 other characteristics, and that best practices guidelines within each  
29 element must recognize that a utility's wildfire mitigation measures  
30 will be designed to fit site-specific circumstances. The recommended  
31 elements must include, but are not limited to:

32 (a) Vegetation management along transmission and distribution  
33 lines and near associated equipment;

34 (b) Infrastructure inspection and maintenance repair activities,  
35 schedules, and recordkeeping;

36 (c) Modifications or upgrades to facilities and construction of  
37 new facilities to incorporate cost-effective measures to minimize  
38 fire risk;

1 (d) Preventative programs, including adoption of new technologies  
2 to harden utility infrastructure;

3 (e) Operational procedures;

4 (f) Identification of appropriate widths for vegetation  
5 management and rights-of-way, including the consideration of fire-  
6 resistant vegetation alternatives; and

7 (g) Public and interested parties' engagement and communication  
8 plans addressing wildfire safety and risk mitigation.

9 (3) The recommended format and list of elements identified by the  
10 department must be forwarded to the utilities and transportation  
11 commission, the energy resilience and emergency management office of  
12 the department of commerce, and all electric utilities in Washington  
13 state for a review period of no less than three months prior to  
14 finalizing the format and list of elements that utilities will use to  
15 adopt or update their electric utility wildfire mitigation plan.

16 (4) The department will provide technical assistance to all  
17 electric utilities to support inclusion of these guidelines in the  
18 revision of their plans.

19 (5) By December 31, 2024, the department must submit to the  
20 appropriate committees of the senate and house of representatives a  
21 compilation and summary of existing wildfire mitigation plans  
22 maintained by electric utilities.

23 (6) The definitions in this subsection apply throughout this  
24 section unless the context clearly requires otherwise.

25 (a) "Consumer-owned utility" means a municipal electric utility  
26 formed under Title 35 RCW, a public utility district formed under  
27 Title 54 RCW, an irrigation district formed under chapter 87.03 RCW,  
28 a cooperative formed under chapter 23.86 RCW, or a mutual corporation  
29 or association formed under chapter 24.06 RCW, that is engaged in the  
30 business of distributing electricity to more than one retail electric  
31 customer in the state.

32 (b) "Electric utility" means a consumer-owned utility or an  
33 investor-owned utility as defined in this section.

34 (c) "Investor-owned utility" means a corporation owned by  
35 investors that meets the definition of "corporation" as defined in  
36 RCW 80.04.010 and is engaged in distributing electricity to more than  
37 one retail electric customer in the state.

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

1 (1) By October 31, 2024, and every three years thereafter, each  
2 investor-owned utility must review and, if appropriate, revise its  
3 wildfire mitigation plan. When reviewing or revising a wildfire  
4 mitigation plan, an investor-owned utility must use the recommended  
5 format and elements pursuant to section 2 of this act.

6 (a) Local fire protection districts must be provided the  
7 opportunity to provide input for each wildfire mitigation plan. Each  
8 investor-owned utility must submit its wildfire mitigation plan to  
9 the utilities and transportation commission for review, and the  
10 commission will confirm whether or not the plan contains the  
11 recommended elements. Each investor-owned utility must provide a copy  
12 of their wildfire mitigation plan to the department of natural  
13 resources, along with a list and description of wildland fires  
14 involving utility equipment over the previous two years as reported  
15 by the department of natural resources. The wildfire mitigation plan  
16 must be submitted to the utility wildland fire prevention advisory  
17 committee created in RCW 76.04.780 to be posted on their website as  
18 specified in RCW 76.04.780.

19 (b) The utilities and transportation commission is not liable for  
20 an investor-owned utility's implementation of its wildfire mitigation  
21 plan. An investor-owned utility may pursue recovery of costs and  
22 investments associated with a wildfire mitigation plan through a  
23 proceeding to set rates at the commission.

24 (c) Investor-owned utilities are encouraged to submit any 2023  
25 wildfire mitigation plans to the utility wildland fire prevention  
26 advisory committee created in RCW 76.04.780 prior to the revision  
27 date required in this subsection.

28 (2) Nothing in this section prohibits an investor-owned utility  
29 from reviewing or updating its wildfire mitigation plan more often  
30 than required in subsection (1) of this section.

31 (3) For the purposes of this section, the term "investor-owned  
32 utility" means a corporation owned by investors that meets the  
33 definition of "corporation" as defined in RCW 80.04.010 and is  
34 engaged in distributing electricity to more than one retail electric  
35 customer in the state.

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

38 (1) By October 31, 2024, and every three years thereafter, each  
39 consumer-owned utility must review, if appropriate revise, and adopt

1 its wildfire mitigation plan. When reviewing or revising a wildfire  
2 mitigation plan, a consumer-owned utility must use the recommended  
3 format and elements pursuant to section 2 of this act.

4 (a) The governing board of each consumer-owned utility shall  
5 review the plan. Local fire protection districts must be provided the  
6 opportunity to provide input. After the governing board's review, the  
7 utility must provide a copy to the department of natural resources,  
8 along with a list and description of wildland fires involving utility  
9 equipment within its customer service area over the previous two  
10 years as reported by the department of natural resources. The plan  
11 must be submitted to the utility wildland fire prevention advisory  
12 committee created in RCW 76.04.780 to be posted on their website as  
13 specified in RCW 76.04.780.

14 (b) The department of natural resources is not responsible for a  
15 consumer-owned utility's implementation of its wildfire mitigation  
16 plan. The department's review of the consumer-owned utility's  
17 wildfire mitigation plan and any recommendations associated with the  
18 review do not constitute a reasonableness review or approval of  
19 recovery of any measure, investment, cost, or other component of the  
20 plan.

21 (c) Consumer-owned utilities are encouraged to submit any 2023  
22 wildfire mitigation plans to the utility wildland fire prevention  
23 advisory committee created in RCW 76.04.780 prior to the revision  
24 date required in this subsection.

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

31 (3) Nothing in this section prohibits a consumer-owned utility  
32 from reviewing or updating its wildfire mitigation plan more often  
33 than required in subsection (1) of this section.

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

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

1 (a) Matters related to the ongoing implementation of the relevant  
2 recommendations of the electric utility wildland fire prevention task  
3 force established in chapter 77, Laws of 2019, and by August 1, 2021,  
4 with an update by May 30, 2024, and updated every three years  
5 thereafter:

6 (i) (~~Finalizing~~) Implementing and updating as appropriate a  
7 model agreement for managing danger trees and other vegetation  
8 adjacent to utility rights-of-way on state uplands managed by the  
9 department;

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

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

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

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

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

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

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

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

39 (a) Communication protocols and educational exchanges between the  
40 department and electric utilities;

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

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

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

10 (3) Beginning July 1, 2022, and at the beginning of each  
11 subsequent biennium thereafter, the department must submit, in  
12 compliance with RCW 43.01.036, a report describing the prior biennium  
13 proceedings of the advisory committee, including identification of  
14 recommended legislation, if any, necessary to prevent wildfires  
15 related to electric utilities.

16 (4) The utility wildland fire prevention advisory committee must  
17 develop recommendations for strengthening state agency coordination  
18 of wildland fire risk reduction, prevention, and suppression. In this  
19 work, the utility wildland fire prevention advisory committee shall  
20 seek the views of the wildland fire advisory committee created under  
21 RCW 76.04.179, as well as the views of the energy resilience and  
22 emergency management office of the department of commerce and the  
23 utilities and transportation commission.

24 (5) The utility wildland fire prevention advisory committee must  
25 host electric utility wildfire mitigation plans as described under  
26 section 4 of this act on its website.

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

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

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

36 (ii) Two persons representing municipal utilities;

37 (iii) Two persons representing public utility districts;

38 (iv) Two persons representing rural electric cooperatives or  
39 mutual corporations or associations;

40 (v) One person representing small forestland owners;

1 (vi) One person representing industrial forestland owners;  
2 (b) Other persons with expertise in wildland fire risk reduction  
3 and prevention; (~~and~~)  
4 (c) (~~No more than two other~~) Other persons (~~designated by~~)  
5 whom the commissioner(~~-~~  
6 ~~(5) In addition to the advisory committee membership established~~  
7 ~~in subsection (4) of this section, the commissioner shall designate~~  
8 ~~two additional advisory committee members~~) deems appropriate to  
9 carry out the functions of the advisory committee; and  
10 (d) Two persons representing historically marginalized or  
11 underrepresented communities.  
12 (~~(6)~~) (7) The commissioner or the commissioner's designee shall  
13 convene the initial meeting of the advisory committee. The advisory  
14 committee chair must schedule and hold meetings on a regular basis,  
15 at a minimum of twice per year but not more than four times per year,  
16 in order to expeditiously accomplish the duties and make  
17 recommendations regarding the elements described in this section.  
18 (~~(7)~~) (8) The members of the advisory committee, or individuals  
19 acting on their behalf, are immune from civil liability for official  
20 acts performed in the course of their duties specifically related to  
21 the advisory committee.  
22 (~~(8)~~) (9) Participation on the advisory committee created in  
23 subsection (1) of this section is strictly voluntary and without  
24 compensation. A lack of volunteers or applicants for any category may  
25 not prevent the committee from meeting and conducting its business.  
26 (~~(9)~~) (10) Any requirements in this section are subject to the  
27 availability of amounts appropriated for the specific purposes  
28 described.

29 NEW SECTION. Sec. 6. If specific funding for the purposes of  
30 this act, referencing this act by bill or chapter number, is not  
31 provided by June 30, 2023, in the omnibus appropriations act, this  
32 act is null and void.

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