
SECOND SUBSTITUTE SENATE BILL 5803

State of Washington

67th Legislature

2022 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rolfes, Dhingra, Frockt, and Nobles)

READ FIRST TIME 02/07/22.

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 76.04 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 provide their wildfire mitigation plans to 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 76.04
10 RCW to read as follows:

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

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

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

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

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

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

39 (e) Operational procedures.

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

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

10 (a) "Consumer-owned utility" means a municipal electric utility,
11 public utility district, irrigation district, cooperative, or mutual
12 corporation association.

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

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

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

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

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

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

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

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

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

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

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

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

37 (1) The commissioner shall convene a utility wildland fire
38 prevention advisory committee with electrical power distribution

1 utilities by August 1, 2021. The duties of the advisory committee are
2 to advise the department on issues including, but not limited to:

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

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

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

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

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

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

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

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

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

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

38 (a) Communication protocols and educational exchanges between the
39 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. In addition, by December 31, 2022, the
16 department must submit to the appropriate committees of the senate
17 and house of representatives:

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

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

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

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

1 transportation commission. Advisory committee membership should also
2 include:

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

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

5 (ii) Two persons representing municipal utilities;

6 (iii) Two persons representing public utility districts;

7 (iv) Two persons representing rural electric cooperatives;

8 (v) One person representing small forestland owners;

9 (vi) One person representing industrial forestland owners;

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

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

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

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

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

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

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

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

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

37 (2) Nothing in this act may be construed to preclude electric
38 utilities from continuing to develop and implement their wildfire
39 mitigation plans. Electric utilities are encouraged to submit their

1 2022 plans to the department's energy emergency management office for
2 inclusion on the website under subsection (1) of this section.

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

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

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

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