

Proposed Substitute House Bill 1032 (H-1020.1)

House Agriculture & Natural Resources Committee

By Representative Dent

Original Bill:

Mitigating the risk of wildfires through electric utility planning and identification of best management practices appropriate to each utility's circumstances.

Proposed Substitute House Bill (H-1020.1) compared to the Original Bill:

- The Department of Natural Resources (DNR) in consultation with the Energy Resilience and Emergency Management Office of the Department of Commerce (Commerce), rather than the Energy Resilience and Emergency Management Office by itself, is directed to contract with an independent consultant in order to develop an electric utility wildfire mitigation plan format, along with elements to be included in such plans.
- The requirement that the recommended elements of an electric utility wildfire mitigation plan include protocols for the operation of reclosers is removed.
- Utility wildfire mitigation plans prepared by investor-owned utilities must be submitted to the DNR to review, rather than the Utilities and Transportation Commission.
- Local fire protection districts must be provided with an opportunity to provide input for each utility wildfire mitigation plan prepared by investor-owned utilities.
- The DNR is not liable for an investor-owned utility's or consumer-owned utility's implementation of its wildfire mitigation plan.
- Utility wildfire mitigation plans must be submitted to the Utility Wildland Fire Prevention Advisory Committee (Committee) and be posted on the Committee's website, rather than submitted to the Energy Resilience and Emergency Management Office of Commerce.
- The Committee is required to update its 2021 report by May 30, 2024, and every three years thereafter.
- The requirement that the DNR prepare an analysis of the costs and benefits of preparing and maintaining a statewide wildland fire risk map is removed.
- The membership of the Committee is expanded to include two persons representing historically marginalized or underrepresented communities.

Staff: Robert Hatfield

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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 a new section.

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, if appropriate revise, and adopt
3 its 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 provide their wildfire mitigation plan to
9 the department of natural resources to review, along with a list and
10 description of wildland fires involving utility equipment within its
11 customer service area over the previous two years as reported by the
12 department of natural resources. The wildfire mitigation plan must be
13 submitted to the utility wildland fire prevention advisory committee
14 created in RCW 76.04.780 to be posted on their website as specified
15 in RCW 76.04.780.

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

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

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

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

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

37 (1) By October 31, 2024, and every three years thereafter, each
38 consumer-owned utility must review, if appropriate revise, and adopt
39 its wildfire mitigation plan. When reviewing or revising a wildfire

1 mitigation plan, a consumer-owned utility must use the recommended
2 format and elements pursuant to section 2 of this act.

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

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

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

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

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

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

35 (1) The commissioner shall convene a utility wildland fire
36 prevention advisory committee with electrical power distribution
37 utilities by August 1, 2021. The duties of the advisory committee are
38 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.

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