

HOUSE BILL NO. HB0192

Public utilities-wildfire mitigation and liability limits.

Sponsored by: Representative(s) Larson, JT, Campbell, E,
Lawley, Thayer and Wylie and Senator(s)
Barlow, Dockstader, Jones and Schuler

A BILL

for

1 AN ACT relating to public utilities; requiring public
2 utilities to prepare and submit wildfire mitigation plans;
3 specifying procedures for the submission and review of
4 wildfire mitigation plans; specifying how costs associated
5 with wildfire mitigation plans may be recovered; specifying
6 limits for liability and damages for public utilities
7 related to wildfires; requiring rulemaking; specifying
8 applicability; and providing for effective dates.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** 37-3-401 through 37-3-405 are created to
13 read:

14

15

ARTICLE 4

1 WILDFIRE MITIGATION

2

3 **37-3-401. Definitions.**

4

5 (a) As used in this article:

6

7 (i) "Economic loss" means pecuniary loss,
8 including losses resulting from medical expenses, business
9 interruption, loss of business, property damage loss,
10 replacement services loss, loss due to death and burial
11 costs to the extent recovery for the loss is allowed under
12 the laws of Wyoming;

13

14 (ii) "Electric utility" means any person,
15 including cooperative electric utilities that perform any
16 of the functions specified in W.S. 37-1-101(a)(vi)(C), that
17 is authorized to engage in business in Wyoming and that is
18 primarily engaged in the generation, transmission or sale
19 of electric energy. "Electric utility" shall not include
20 any electric utility owned or operated by a city or town;

21

22 (iii) "Wildfire" means an unplanned, unwanted
23 fire burning within Wyoming that may impact, damage or

1 cause harm to natural resources, agricultural resources,
2 homes and property or that threatens lives and safety.

3

4 **37-3-402. Wildfire mitigation plans; commission**
5 **authority; applicability.**

6

7 Nothing in this article shall be construed to limit the
8 commission's authority to regulate utilities or promulgate
9 rules under other provisions of this title.

10

11 **37-3-403. Electric utilities; wildfire mitigation**
12 **plans; contents.**

13

14 (a) Each electric utility shall prepare a wildfire
15 mitigation plan that shall include, at a minimum:

16

17 (i) A description of the electric utility's
18 service territory and the areas within the service
19 territory or rights-of-way that may be subject to a
20 heightened risk of wildfire;

21

22 (ii) A description of the procedures, standards
23 and schedules that the electric utility will use to inspect

1 and operate its transmission and distribution
2 infrastructure, if any;

3

4 (iii) A description of the procedures and
5 standards that the electric utility will use to perform
6 vegetation management;

7

8 (iv) A description of proposed modifications,
9 replacements and upgrades to facilities and preventative
10 programs that the electric utility will implement to reduce
11 the risk of its electric facilities initiating a wildfire;

12

13 (v) A description of how the electric utility's
14 wildfire mitigation strategies and policies have changed in
15 the immediately preceding five (5) years;

16

17 (vi) A description of how the electric utility
18 will coordinate with other electric utilities regarding any
19 shared facilities;

20

21 (vii) A description of procedures and
22 considerations for de-energizing power lines and disabling
23 reclosers to mitigate potential fires, including:

1

2 (A) The ability of the electric utility to
3 reasonably access the proposed power line to be
4 de-energized;

5

6 (B) Balancing the risk of wildfire with the
7 need for the continued supply of electricity to a
8 community;

9

10 (C) Any potential impact that de-energizing
11 lines may have on the resilience of the remainder of the
12 electric utility's transmission and distribution
13 facilities, if any;

14

15 (D) The need to provide notice to customers
16 and the public before or as soon as practicable after
17 de-energization;

18

19 (E) Any need to communicate and coordinate
20 with any other electric utilities that may be impacted by a
21 de-energization and any plans to accomplish communications,
22 including communications with transmission operators,
23 reliability coordinators and cooperative member systems;

1

2 (F) Anticipated potential impacts to public
3 safety.

4

5 (viii) A description of the procedures the
6 electric utility intends to use to restore its electrical
7 system in the event of a wildfire;

8

9 (ix) For electric utilities whose rates are
10 regulated by the commission, a description of the estimated
11 incremental costs and potential associated rate impacts for
12 the implementation of the wildfire mitigation plan,
13 including system improvements and upgrades;

14

15 (x) A description of community outreach and
16 public awareness efforts before and during the wildfire
17 season, particularly in areas impacted by wildfires or
18 de-energizations;

19

20 (xi) A description of potential participation
21 with emergency coordinators, if applicable;

22

1 (xii) Input from the Wyoming state forestry
2 division of the office of state lands and investments, an
3 association representing Wyoming rural firefighters and any
4 other appropriate federal, state or local fire entity.

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6 **37-3-404. Wildfire mitigation plans; commission**
7 **approval.**

8

9 (a) An electric utility shall apply to the commission
10 for approval of a wildfire mitigation plan.

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12 (b) Upon receiving an application for approval of a
13 wildfire mitigation plan, the commission shall, not later
14 than one hundred twenty (120) days after receipt, unless
15 the commission deems it is necessary to continue the
16 implementation of the wildfire mitigation plan for a longer
17 period of time and the commission has entered an order
18 confirming the continuance and stating the facts making the
19 continuance necessary, approve the plan if the plan is
20 reasonable, in the public interest and appropriately
21 balances the costs of implementing the plan with the risks
22 of a potential wildfire. For electric utilities whose rates
23 are regulated by the commission, approval of a wildfire

1 mitigation plan shall not automatically confer to the
2 electric utility the right to recover the costs associated
3 with the wildfire mitigation plan. An electric utility
4 whose rates are regulated by the commission may seek, and
5 the commission may authorize, cost recovery for the costs
6 associated with implementing a wildfire mitigation plan.

7

8 (c) Each electric utility shall submit subsequent or
9 updated plans to the commission not later than every fifth
10 year after the electric utility last submitted a plan to
11 the commission or as ordered by the commission. The
12 commission shall review and approve subsequent plans in
13 accordance with subsection (b) of this section.

14

15 (d) Not later than June 1 in the year following any
16 year in which the commission approves a wildfire mitigation
17 plan under this section, an electric utility shall file an
18 annual report with the commission detailing the electric
19 utility's compliance with the approved wildfire mitigation
20 plan and shall request an order of the commission finding
21 that the electric utility has substantially complied with
22 the plan during the preceding year.

23

1 **37-3-405. Wildfire mitigation plans; recovery of**
2 **costs.**

3

4 (a) Except as otherwise provided in this section,
5 there shall be a presumption in any civil action that the
6 approved wildfire mitigation plan is a reasonable and
7 prudent preparation for, and mitigation of, wildfire risk.

8

9 (b) An electric utility and a landowner with an
10 alleged wildfire related claim shall negotiate in good
11 faith before any landowner files a civil action against the
12 electric utility. During negotiations, an electric utility
13 shall respond to a landowner not later than ninety (90)
14 days after receipt of the landowner's submission of
15 itemized damages.

16

17 (c) A plaintiff may recover economic loss from an
18 electric utility as a result of a wildfire only if the
19 plaintiff shows one (1) or more of the following by a
20 preponderance of the evidence:

21

22 (i) The electric utility failed to substantially
23 comply with an approved wildfire mitigation plan, and that

1 failure was the actual and proximate cause of the damages
2 to the plaintiff. For purposes of this paragraph, an
3 electric utility shall be deemed to have substantially
4 complied with the wildfire mitigation plan if the electric
5 utility attempted in good faith to comply with the plan but
6 was denied or unreasonably delayed access to a right-of-way
7 after the electric utility requested access to the
8 right-of-way to perform vegetation management or fire
9 mitigation work in accordance with the plan;

10

11 (ii) The electric utility acted with malice or
12 criminal intent, and the electric utility's action was the
13 actual and proximate cause of the damages to the plaintiff.

14

15 (d) The following shall apply in any civil action
16 that any plaintiff brings against an electric utility for
17 damages caused by wildfire:

18

19 (i) An action against an electric utility for
20 damages caused by a wildfire shall be brought not later
21 than four (4) years after the date of the ignition of the
22 wildfire;

23

1 (ii) A plaintiff may recover economic losses;

2

3 (iii) No plaintiff shall recover noneconomic
4 damages unless the plaintiff's claim is based on the injury
5 or death of any person in a wildfire;

6

7 (iv) Nothing in this section shall be construed
8 to limit any defenses that an electric utility may be
9 entitled to raise in a civil action for damages caused by
10 wildfire.

11

12 **Section 2.** Nothing in this act shall be construed to
13 impair, alter or preempt any terms or agreements in
14 original grants of easements made before July 1, 2025.

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16 **Section 3.** The public service commission may
17 promulgate any rules necessary to implement this act.

18

1 **Section 4.**

2

3 (a) Except as provided in subsection (b) of this
4 section, this act is effective July 1, 2025.

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6 (b) Sections 3 and 4 of this act are effective
7 immediately upon completion of all acts necessary for a
8 bill to become law as provided by Article 4, Section 8 of
9 the Wyoming Constitution.

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11

(END)