

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Public utilities-wildfire protection plans.

Sponsored by: Joint Minerals, Business & Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to public utilities; requiring the
2 establishment of wildland fire protection plans by public
3 utilities; specifying presumptions for civil actions
4 against public utilities for damages from wildfires;
5 specifying limits on damages from wildfires; specifying
6 applicability; requiring rulemaking; and providing for
7 effective dates.

8

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

10

11 **Section 1.** W.S. 37-3-401 through 37-3-403 are created
12 to read:

1

2

ARTICLE 4 - WILDFIRE MITIGATION AND PROTECTION

3

4

37-3-401. Definitions.

5

6

(a) As used in this article:

7

8

(i) "Cooperative electric utility" means as defined by W.S. 37-17-101(a)(i);

10

11

12

(ii) "Public utility" means as defined by W.S. 37-1-101(a)(vi) and includes cooperative electric utilities.

14

15

37-3-402. Public utilities; wildland fire protection plan; requirements.

17

18

19

20

(a) Each public utility shall establish a wildland fire protection plan and file the plan with the commission that is in accordance with all of the following:

21

22

23

(i) The plan shall be developed using approaches and methods that are reflective of and commensurate with

1 the size and complexity of the public utility's operations,
2 considering the nature of the fire risk of the public
3 utility's service territory;

4

5 (ii) The plan shall include the following
6 preventative measures:

7

8 (A) Designation of at least one (1) natural
9 person who has operational authority over the plan,
10 including the management and implementation of the plan.
11 The person designated under this subparagraph shall also be
12 responsible for reporting fire events that originate within
13 the public utility's service territory and shall act as a
14 liaison with federal, state, tribal and local officials and
15 agencies before, during and after each fire event;

16

17 (B) Identifying and describing areas within
18 the public utility's service territory that may be subject
19 to a heightened risk of fire at the time the plan is
20 finalized;

21

22 (C) Examining and identifying assets,
23 facilities and procedures that may reduce a risk of

1 ignition of a fire in an area with a heightened risk of
2 fire;

3

4 (D) Conducting community outreach efforts
5 and a public awareness campaign at specified intervals
6 regarding the risk of wildfire specific to the public
7 utility's service territory;

8

9 (E) Developing and conducting regular
10 workforce training that is informed by the public utility's
11 plan;

12

13 (F) Coordinating with federal, state, tribal
14 and local officials and agencies on wildfire preparedness
15 and emergency response plans;

16

17 (G) Other preventative measures as required
18 by the commission.

19

20 (iii) The plan shall include the following
21 mitigation measures:

22

1 (A) On a reasonably regular basis and as
2 weather conditions dictate, monitoring forecasted and
3 current weather data from a variety of sources that may
4 include the national oceanic and atmospheric
5 administration, the United States national weather service,
6 the United States forest service wildland fire assessment
7 system and the national fire danger rating system, for
8 purposes of assessing current and future fire risk;

9

10 (B) Developing procedures and schedules for
11 the following:

12

13 (I) The inspection of and upgrade to or
14 repair of the public utility's assets, infrastructure,
15 rights-of-way and facilities where financially prudent and
16 reasonably practicable;

17

18 (II) If considered appropriate by the
19 public utility, de-energization of the public utility's
20 power lines or the disabling of automatic reclosing
21 capabilities of the public utility's power line protection
22 equipment;

23

1 (III) Vegetation management and fuel
2 clearance within the public utility's rights-of-way within
3 its service territory.

4

5 (C) Subject to the timely approval of access
6 to the right-of-way if necessary, promptly addressing known
7 hazards impacting the public utility's assets,
8 infrastructure and facilities.

9

10 (iv) The plan shall include the following
11 response measures:

12

13 (A) Developing and implementing an emergency
14 response plan that includes public agency and customer
15 communication for planned outages and outages resulting
16 from a fire event and the restoration process for
17 operations and services after a fire event;

18

19 (B) Promptly investigating fire events that
20 may be related to the public utility's assets,
21 infrastructure or facilities;

22

1 (C) Providing timely reports to the
2 commission on any fire event that, after investigation, did
3 ignite or reasonably could have ignited from the public
4 utility's assets, infrastructure or facilities;

5

6 (D) Reviewing and updating the plan as
7 reasonably necessary but not less than once every two (2)
8 years.

9

10 (v) Any update to the plan shall be filed with
11 and reviewed by the commission.

12

13 (c) Upon receiving a wildland fire protection plan
14 from a public utility under this section, the commission
15 shall provide notice and an opportunity to comment and
16 shall approve or reject the plan. In reviewing plans under
17 this subsection, the commission shall consider:

18

19 (i) The consistency of the plan with the public
20 health, safety and welfare of Wyoming customers and
21 residents;

22

1 (ii) The feasibility of the plan and the cost of
2 implementing the plan;

3

4 (iii) The degree to which the plan adequately
5 minimizes risk of fire and properly proposes to respond to
6 fires that do occur;

7

8 (iv) Any other factor deemed relevant by the
9 commission.

10

11 **37-3-403. Public utilities; wildland fire protection**
12 **plans; limitations on liability and damages.**

13

14 (a) If the commission approves a wildland fire
15 protection plan under this article for a public utility, it
16 shall be presumed in any civil action against the public
17 utility for damages caused by wildfire originating in a
18 service area covered by the approved plan that the plan is
19 a reasonable and prudent preparation for wildfire risk,
20 except as otherwise provided in this subsection. Except
21 upon a showing by clear and convincing evidence to the
22 contrary, in no civil action shall it be determined or

1 found that the public utility's plan was insufficient or
2 inadequate.

3

4 (b) In the event of a wildfire and if the public
5 utility substantially follows the approved plan, it shall
6 be presumed to have responded reasonably to the fire
7 emergency absent a showing by clear and convincing evidence
8 that the public utility failed to follow an essential
9 element of the public utility's plan and that the failure
10 to follow the plan or an element of the plan was the actual
11 and proximate cause of damage.

12

13 (c) The following shall apply to causes of action
14 brought against public utilities that have prepared and
15 submitted wildland fire protection plans and that are
16 approved by the commission in accordance with this section:

17

18 (i) An action against a public utility for
19 damages caused by a wildfire subject to this section shall
20 only be brought within two (2) years after the date of the
21 ignition of the wildfire;

22

1 (ii) Subject to subsection (d) of this section,
2 the amount of damages recoverable for economic losses due
3 to fire shall be the lesser of:

4

5 (A) The cost to restore the damaged property
6 to the property's pre-fire condition; or

7

8 (B) The difference between the fair market
9 value of the damaged property immediately before the fire
10 and the fair market value of the property after the fire.

11

12 (iii) Subject to subsection (d) of this section
13 and excluding wrongful death actions and for physical
14 injuries, the amount of damages recoverable for noneconomic
15 losses due to fire shall not exceed one hundred thousand
16 dollars (\$100,000.00) for a person who is not physically
17 injured as a result of the fire;

18

19 (iv) No judgment against a public utility for
20 damages caused by wildfire shall include an award for
21 exemplary or punitive damages.

22

1 (d) The limitations on damages specified in subsection
2 (c) of this section shall not apply if:

3

4 (i) The public utility did not have a wildland
5 fire protection plan approved by the commission in place
6 before the occurrence of the fire; or

7

8 (ii) The public utility was in material
9 noncompliance with the utility's wildland fire protection
10 plan in the area of the fire at the time the fire occurred.

11

12 **Section 2.** Nothing in this act shall be construed to
13 impair or alter any agreement, contract or obligation
14 entered into before the effective date of this section.

15

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

18

19 **Section 4.**

20

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

23

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

5

6

(END)