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# A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that as the risk of  
2 catastrophic wildfires in the State increases, it is imperative  
3 that electric utilities develop and implement effective plans  
4 for wildfire risk mitigation. Electric utilities should develop  
5 wildfire mitigation plans, and the public utilities commission,  
6 through a public process, should review and approve these plans  
7 and the related costs of implementation.

8           The purpose of this Act is to require electric utilities to  
9 design and operate in compliance with a risk-based wildfire  
10 protection plan approved by the public utilities commission.

11           SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
12 amended by adding a new part to be appropriately designated and  
13 to read as follows:

14                   **"PART           .   WILDFIRE PROTECTION AND MITIGATION**

15           **§269-           Electric utility workshops.** The public utilities  
16 commission may periodically convene community outreach workshops  
17 to help electric utilities identify, adopt, and implement best



1 practices regarding wildfires, including but not limited to  
2 risk-based wildfire protection and risk-based wildfire  
3 mitigation procedures and standards.

4       **§269- Wildfire protection plans.** (a) Each electric  
5 utility shall have and operate in compliance with a risk-based  
6 wildfire protection plan, which shall be filed with and  
7 evaluated and approved by the public utilities commission. The  
8 risk-based wildfire protection plan shall be based on reasonable  
9 and prudent practices and on commission standards adopted by  
10 rule or order. The electric utility shall design the risk-based  
11 wildfire protection plan to protect public safety, reduce risk  
12 to utility customers, and promote resilience of the Hawaii  
13 electric system to wildfire damage.

14       (b) Each electric utility shall, on an annual basis,  
15 update the risk-based wildfire protection plan on a schedule  
16 determined by the public utilities commission. The risk-based  
17 wildfire protection plan shall, at a minimum:

18       (1) Identify areas that are subject to a heightened risk  
19             of wildfire;



- 1           (2) Identify a means for mitigating wildfire risk that  
2                   reflects a reasonable balancing of mitigation costs  
3                   with the resulting reduction of wildfire risk;
- 4           (3) Identify preventive actions and programs that the  
5                   electric utility will carry out to minimize the risk  
6                   of utility facilities causing a wildfire;
- 7           (4) After seeking information from state and local  
8                   entities, identify a protocol for the deenergizing of  
9                   power lines and adjusting of power system operations  
10                  to mitigate wildfires, promote the safety of the  
11                  public and first responders, and preserve health and  
12                  communication infrastructure;
- 13          (5) Describe the procedures, standards, and time frames  
14                  that the electric utility will use to inspect utility  
15                  infrastructure in areas that the electric utility  
16                  identifies under paragraph (1);
- 17          (6) Describe the procedures, standards, and time frames  
18                  that the electric utility will use to carry out  
19                  vegetation management in areas that the electric  
20                  utility identifies under paragraph (1);



1           (7) Identify the estimated development, implementation,  
2                           and administration costs for the risk-based wildfire  
3                           protection plan;

4           (8) Identify the community outreach and public awareness  
5                           efforts that the electric utility will use before,  
6                           during, and after a wildfire season; and

7           (9) Identify the timelines, as applicable, for  
8                           development, implementation, and administration of any  
9                           aspects of the risk-based wildfire protection plan.

10           (c) The commission shall evaluate each electric utility's  
11 risk-based wildfire protection plan and plan updates through a  
12 public process.

13           (d) No more than one hundred eighty days after receiving a  
14 risk-based wildfire protection plan or plan update from an  
15 electric utility, the public utilities commission shall approve  
16 or approve with conditions the plan or update if the commission  
17 finds that the plan or update is based on reasonable and prudent  
18 practices and designed to meet all applicable standards adopted  
19 or established by rule or order by the commission. The  
20 commission may, in approving the plan or update with conditions,  
21 make modifications to the plan or update that the commission



1 determines represent a reasonable balancing of mitigation costs  
2 with the resulting reduction of wildfire risk. The public  
3 utilities commission shall issue a decision explaining any  
4 modifications at the time the risk-based wildfire protection  
5 plan or update is approved. In evaluating a risk-based wildfire  
6 protection plan, the commission may consult with and consider  
7 information from federal, state, and local governmental entities  
8 and industry organizations; provided that the commission shall  
9 identify the nature of any consultation in the decision.

10 (e) In the decision under subsection (d), the public  
11 utilities commission:

- 12 (1) Shall determine the reasonable costs to develop,  
13 implement, and administer the risk-based wildfire  
14 protection plan;
- 15 (2) Shall authorize the electric utility to recover these  
16 costs in rates;
- 17 (3) Shall establish a method to allow timely recovery of  
18 the costs authorized for recovery;
- 19 (4) Shall assess these costs on a statewide basis based on  
20 the development, implementation, and administration  
21 costs for the risk-based wildfire protection plan; and



1           (5) Shall not assess the costs based on the utility  
2           service territory that is particularly affected by any  
3           aspect of the risk-based wildfire protection plan.

4           (f) The electric utility shall track the costs it actually  
5 incurs to develop, implement, and administer the risk-based  
6 wildfire protection plan. In the electric utility's risk-based  
7 wildfire protection plan update, the electric utility shall  
8 report on the costs as actually incurred for the most recent  
9 past period for which the information is available. If the  
10 actual costs are less than the amounts the public utilities  
11 commission determined were reasonable in its decision under  
12 subsection (d), the commission shall direct the electric utility  
13 to refund or credit the costs to ratepayers. If the actual  
14 costs are equal to or greater than the amounts the commission  
15 determined were reasonable in its decision under subsection (d),  
16 then the commission shall not direct the electric utility to  
17 refund to ratepayers the amount the commission previously  
18 determined was reasonable, but may disallow the recovery from  
19 ratepayers of any additional costs the commission finds  
20 unreasonable. For purposes of evaluating additional costs, the  
21 following shall apply:



1 (1) Actual costs that are no more than fifteen per cent  
2 greater than the costs the commission previously  
3 determined were reasonable shall be presumed prudent  
4 and authorized for recovery from ratepayers absent  
5 proof by clear and convincing evidence that the costs  
6 were unreasonable; and

7 (2) The electric utility shall have the burden of proving  
8 the reasonableness of actual costs that are more than  
9 fifteen per cent greater than the costs the commission  
10 previously determined were reasonable.

11 (g) The commission may adopt rules for the implementation  
12 of this section. The rules may include but need not be limited  
13 to procedures and standards regarding vegetation management,  
14 public power safety shutoffs and restorations, pole materials,  
15 circuitry, and monitoring systems.

16 **§269- Liability.** (a) No electric utility shall be  
17 civilly liable for the death of or injury to persons, or  
18 property damage, as a result of or in connection with any the  
19 followings acts or omissions:



1           (1) Any act taken in accordance with a risk-based wildfire  
2                   protection plan or update approved by the commission  
3                   under this part; or

4           (2) Any failure to take an action proposed by an electric  
5                   utility in a plan or update and subsequently removed  
6                   from the plan by modification of the commission.

7           (b) In any action seeking to hold an electric utility  
8                   civilly liable for the death of or injury to persons, or  
9                   property damage, no inference of liability shall be drawn solely  
10                  based on a failure by the electric utility to adhere to the  
11                  requirements of an approved risk-based wildfire protection plan.

12           (c) There shall be no liability on the part of, and no  
13                  cause of action of any nature shall arise against, the State,  
14                  public utilities commission or the commission's agents and  
15                  employees, commissioners, or commissioners' representatives for  
16                  the death of or injury to persons, or property damage, for any  
17                  action taken by them in the performance of their powers and  
18                  duties under this part."

19           SECTION 3. This Act shall take effect upon its approval.

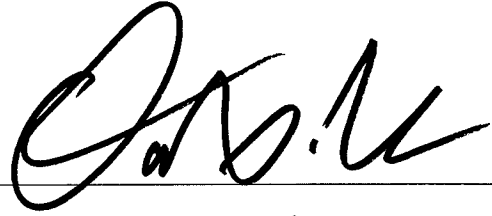




H.B. NO. 2281

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INTRODUCED BY:



JAN 22 2024



# H.B. NO. 2281

**Report Title:**

PUC; Electric Utilities; Risk-Based Wildfire Protection Plan

**Description:**

Allows the Public Utilities Commission to convene community outreach workshops to aid electric utilities in the development and implementation of best practices regarding wildfires. Requires electric utilities to design and operate in compliance with a risk-based wildfire protection plan approved by the Public Utilities Commission. Shields electric utilities from civil liability for acts taken in accordance with a risk-based wildfire protection plan and failing to act in accordance with an item in the draft plan but removed by the Public Utilities Commission. Shields the State, Public Utilities Commission, and its agents from liability for actions taken in the performance of their duties with respect to risk-based wildfire protection plans.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

