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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 the risk of  
2 catastrophic wildfires has increased, making it imperative that  
3 electric utilities develop, implement, and administer effective  
4 plans for wildfire risk mitigation. Electric utilities should  
5 develop, implement, and administer wildfire protection plans,  
6 and, through a public process, the public utilities commission  
7 should review and approve such plans.

8           The legislature also finds that a resilience working group,  
9 convened throughout 2019 and 2020, sought to: (1) identify and  
10 prioritize resilience threat scenarios and potential grid  
11 impacts; (2) identify key customer and infrastructure sector  
12 capabilities and needs following a severe event and loss of  
13 power; (3) identify gaps and priorities in grid and customer  
14 capabilities following a severe event and loss of power; (4)  
15 provide recommendations and inputs for investor-owned utility  
16 grid planning to address resilience needs; and (5) recommend  
17 additional grid and customer actions to close gaps and



1 capabilities following severe events. The resilience working  
2 group identified wildfires as one of five types of severe events  
3 of utmost importance to consider for achieving a resilient grid  
4 and provided resilience options for utilities to consider.

5 The purpose of this Act is to:

6 (1) Create a process whereby electric utilities develop  
7 and submit effective risk-based wildfire protection  
8 plans to the public utilities commission for approval  
9 and the commission evaluates those plans and either  
10 approves them or does so with modifications; and

11 (2) Require public utilities to report wildfires caused by  
12 or occurring in connection with their operations.

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

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

17 **§269-A Definitions.** As used in this part:

18 "Commission" means the public utilities commission.

19 "Electric utility" means a public utility that is engaged  
20 in the production, transmission, or distribution of electricity.



1 "Wildfire protection plan" means the risk-based wildfire  
2 protection plan mandated by section 269-C(a) and approved by the  
3 commission.

4 **§269-B Electric utility workshops.** The commission may  
5 periodically convene workshops to help electric utilities  
6 develop and share information for the identification, adoption,  
7 and implementation of best practices regarding wildfires,  
8 including but not limited to risk-based wildfire protection and  
9 risk-based wildfire mitigation procedures and standards.

10 **§269-C Wildfire protection plans.** (a) Each electric  
11 utility shall have and operate in compliance with a risk-based  
12 wildfire protection plan, which shall be filed with and  
13 evaluated by the commission. The risk-based wildfire protection  
14 plan shall be based on reasonable and prudent practices, which  
15 may be identified through workshops convened by the commission  
16 pursuant to section 269-B, regulatory proceedings conducted by  
17 the commission, and commission standards adopted by rule or  
18 order. The electric utility shall design the risk-based  
19 wildfire protection plan to protect public safety, reduce risk  
20 to electric utility customers, and promote resilience of the



1 Hawaii electric system to wildfire damage. Each electric  
2 utility's wildfire protection plan shall, at a minimum:

- 3 (1) Account for the responsibilities of persons  
4 responsible for executing the plan;
- 5 (2) Describe the objectives of the plan;
- 6 (3) Identify areas that are subject to a heightened risk  
7 of wildfire and are:
  - 8 (A) Within the right of way or legal control or  
9 ownership of the electric utility; and
  - 10 (B) Outside the right of way or legal control or  
11 ownership of the electric utility but within a  
12 reasonable distance, as determined by the  
13 commission, of the electric utility's generation  
14 or transmission assets;
- 15 (4) Identify a means for mitigating wildfire risk that  
16 reflects a reasonable balancing of mitigation costs  
17 continuity of reliable service and reduction of  
18 wildfire risk;
- 19 (5) Identify preventive actions and programs that the  
20 electric utility shall carry out to minimize the risk  
21 of electric utility facilities causing wildfire;



- 1           (6) Identify the metrics the electric utility plans to use  
2                   to evaluate the plan's performance and the assumptions  
3                   that underlie the use of those metrics;
- 4           (7) Describe how the application of previously identified  
5                   metrics to previous plan performances has informed the  
6                   plan;
- 7           (8) 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          (9) Describe appropriate and feasible procedures for  
14                  notifying a customer who may be impacted by the  
15                  deenergizing of electrical lines. The procedures  
16                  shall consider the need to notify, as a priority,  
17                  critical first responders, health care facilities,  
18                  operators of wastewater and water delivery  
19                  infrastructure, and operators of telecommunications  
20                  infrastructure;



- 1           (10) Describe the procedures, standards, and time frames  
2           that the electric utility shall use to inspect  
3           electric utility infrastructure in areas that the  
4           electric utility identifies under paragraph (3),  
5           including whether those procedures, standards, and  
6           time frames are already set forth in the electric  
7           utility's existing plans or protocols and in  
8           coordination with any relevant entities;
- 9           (11) Describe the procedures, standards, and time frames  
10           that the electric utility will use to carry out  
11           vegetation management in areas that the electric  
12           utility identifies under paragraph (3), including  
13           whether those procedures, standards, and time frames  
14           are already set forth in the electric utility's  
15           existing plans or protocols and in coordination with  
16           any relevant entities;
- 17           (12) Include a list that identifies, describes, and  
18           prioritizes all wildfire risks, and drivers for those  
19           risks, throughout the electric utility's service  
20           territory. The list shall include but not be limited  
21           to the following:



- 1 (A) Risks and risk drivers associated with design,  
2 construction, operations, and maintenance of the  
3 electric utility's equipment and facilities; and  
4 (B) Particular risks and risk drivers associated with  
5 topographic and climatological risk factors  
6 throughout the different parts of the electric  
7 utility's service territory;
- 8 (13) Describe how the plan accounts for the wildfire risk  
9 identified in the electric utility's risk assessment;
- 10 (14) Describe the actions the electric utility will take to  
11 ensure its system will achieve the highest level of  
12 safety, reliability, and resiliency, and to ensure  
13 that its system is prepared for a wildfire, including  
14 hardening and modernizing its infrastructure with  
15 improved engineering, system design, standards,  
16 equipment, and facilities, including but not limited  
17 to undergrounding lines, insulation of distribution  
18 wires, and pole replacement;
- 19 (15) Demonstrate that the electric utility has an  
20 adequately sized and trained workforce to promptly  
21 restore service after a wildfire, taking into account



- 1 employees of other utilities pursuant to mutual aid  
2 agreements and employees of entities that have entered  
3 into contracts with the electric utility;
- 4 (16) Identify the estimated development, implementation,  
5 and administration costs for the plan;
- 6 (17) Identify the timelines, as applicable, for  
7 development, implementation, and administration of any  
8 aspects of the plan;
- 9 (18) Describe how the plan is consistent with the electric  
10 utility's other hazard mitigation and grid hardening  
11 plans, including plans to prepare for, and to restore  
12 service after, a wildfire, including workforce  
13 mobilization and prepositioning equipment and  
14 employees;
- 15 (19) Identify community outreach and public awareness  
16 efforts that the electric utility will use before,  
17 during, and after a wildfire;
- 18 (20) Describe the processes and procedures the electric  
19 utility will use to do all of the following:
- 20 (A) Monitor and audit the implementation of the plan;





1 (B) Identify any deficiencies in the plan or the  
2 plan's implementation and correct those  
3 deficiencies; and  
4 (C) Monitor and audit the effectiveness of electrical  
5 line and equipment inspections, including  
6 inspections performed by contractors, carried out  
7 under the plan and other applicable statutes and  
8 rules of the commission;  
9 (21) Demonstrate elements of data governance, including  
10 enterprise systems; and  
11 (22) Any modifications to paragraphs (1) to (21), or other  
12 information as required by the commission.  
13 (b) Each electric utility shall regularly update its risk-  
14 based wildfire protection plan on a schedule determined by the  
15 commission.  
16 (c) To develop the risk-based wildfire protection plan,  
17 the electric utility may consult with and consider information  
18 from federal, state, local, and other expert entities.  
19 (d) The commission, in consultation with the department of  
20 land and natural resources, Hawaii emergency management agency,  
21 and local emergency services agencies, shall evaluate each



1 electric utility's risk-based wildfire protection plan and plan  
2 updates through a public process.

3 (e) No more than ninety days after the last party filing,  
4 and no more than a total of one hundred eighty days after the  
5 initial filing in the docket or non-docketed case related to the  
6 commission's evaluation of a risk-based wildfire protection plan  
7 or plan update from an electric utility, the commission shall  
8 approve or approve with conditions the plan or update if the  
9 commission finds that the plan or update is based on reasonable  
10 and prudent practices and designed to meet all applicable rules  
11 and standards adopted by the commission. The commission may, in  
12 approving the plan or update with conditions, direct the  
13 electric utility to make modifications to the plan or updates  
14 that the commission believes represent a reasonable balancing of  
15 mitigation costs with the resulting reduction of wildfire risk  
16 based on the information provided by the electric utility and  
17 based on best practices. The commission shall issue a decision  
18 explaining any such directed modifications at the time it  
19 approves the plan.

20 (f) The electric utility shall track the costs that it  
21 actually incurs to develop, implement, and administer the risk-



1 based wildfire protection plan. In the electric utility's risk-  
2 based wildfire protection plan update, the electric utility  
3 shall report on the costs as actually incurred for the most  
4 recent past period for which the information is available.

5 If the actual costs are less than the amounts that the  
6 commission determined were reasonable in its decision under  
7 subsection (e), the commission shall direct the electric utility  
8 to refund or credit the costs to ratepayers.

9 If the actual costs are equal to or greater than the  
10 amounts that the commission determined were reasonable in its  
11 decision under subsection (e), the commission shall not direct  
12 the electric utility to refund to ratepayers the amount the  
13 commission previously determined was reasonable but may disallow  
14 the recovery from ratepayers of any additional costs the  
15 commission finds unreasonable.

16 (g) The commission's approval of a risk-based wildfire  
17 protection plan does not by itself establish a defense to any  
18 enforcement action for violation of a commission rule or order,  
19 or relieve an electric utility from proactively managing  
20 wildfire risk, including by monitoring emerging practices and  
21 technologies. Electric utilities are expected to continuously



1 improve and take reasonable actions outside of approved plans to  
2 mitigate wildfire risk.

3 (h) The commission shall, as appropriate, adopt rules or  
4 issue orders for the implementation of this section. The rules  
5 or orders may include but need not be limited to procedures and  
6 standards regarding data governance, risk-based decision-making,  
7 vegetation management, public power safety shutoffs and  
8 restorations, pole materials, circuitry, and monitoring systems.

9 **§269-D Penalties.** In addition to any other penalties  
10 provided by law, a failure by an electric utility to comply with  
11 an approved plan or part of an approved plan shall be subject to  
12 a civil penalty, as determined by the commission. Imposition of  
13 penalties pursuant to this section shall otherwise be in  
14 accordance with section 269-28 and all applicable administrative  
15 rules. All moneys collected under this section shall be  
16 deposited into the public utilities commission special fund."

17 SECTION 3. Section 269-9, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§269-9 Report accidents.** (a) Every public utility shall  
20 report to the public utilities commission all accidents and  
21 wildfires potentially caused by or occurring in connection with



1 its operations and service, and the commission shall investigate  
2 the causes of ~~[any]~~:

3 (1) Any accident [~~which results~~] that resulted in the loss  
4 of life[~~7~~]; and

5 (2) Any wildfires that:

6 (A) May have been caused by a public utility;

7 (B) Destroyed a significant amount of public utility  
8 equipment; or

9 (C) Resulted in the loss of life; and

10 may investigate any other accidents which in its opinion require  
11 investigation.

12 (b) The public utility's reporting of an accident or  
13 wildfire under this section shall not be admissible evidence in  
14 any judicial, administrative, or other governmental proceeding  
15 for purposes of establishing that the wildfire was caused by the  
16 public utility."

17 SECTION 4. In codifying the new sections added by section  
18 2 of this Act, the revisor of statutes shall substitute  
19 appropriate section numbers for the letters used in designating  
20 the new sections in this Act.



1           SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 6. This Act shall take effect on July 1, 3000.



S.B. NO. 2997  
S.D. 2  
H.D. 1

**Report Title:**

PUC; Wildfires; Electric Utilities; Risk-based Wildfire  
Protection Plans; Mitigation; Wildfire Reporting

**Description:**

Creates a process for electric utilities to develop and submit risk-based wildfire protection plans to the Public Utilities Commission for approval. Requires public utilities to report wildfires potentially caused by or occurring in connection with their operations. Effective 7/1/3000. (HD1)

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