

JAN 24 2024

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;



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- 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 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.



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INTRODUCED BY:

Hy. Alt



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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.

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