

JAN 24 2024

A BILL FOR AN ACT

RELATING TO VEGETATION MANAGEMENT NEAR UTILITY LINES.

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

1 SECTION 1. The legislature finds that on August 8, 2023,
2 catastrophic wildfires swept through various communities on
3 Maui. The wildfires impacted human life, the community,
4 housing, education, the economy, the environment, and the health
5 of Maui residents. The legislature further finds that a
6 significant issue regarding fire safety is the presence of
7 grasses, trees, and other vegetation adjacent to or under
8 electric utility lines. Utility companies in Hawaii have miles
9 of utility lines installed throughout the State on private
10 lands, either within or outside established utility easements on
11 public lands, which are often located in the public right of way
12 and mountainous areas of the State. Recognizing this issue, the
13 legislature proposes to establish a vegetation management
14 program for utility lines within public rights of way and on all
15 public and private lands.



1 The purpose of this Act is to reduce wildfire risk by
2 establishing a vegetation management program as it relates to
3 public utility lines that:

4 (1) Defines property owner obligations, which, in limited
5 circumstances will authorize Hawaii's utility
6 companies to either trim or remove hazardous
7 vegetation away from transmission utility lines,
8 distribution utility lines, and service drops, even if
9 the hazardous vegetation is located outside an
10 established easement;

11 (2) Provides a recovery mechanism to recoup the additional
12 vegetation management costs; and

13 (3) Limits liability against Hawaii's utility companies
14 who perform, or who choose not to perform, vegetation
15 management as authorized under this Act.

16 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§269- Vegetation management; department of land and
20 natural resources; wildfire hazard map. (a) The department of
21 land and natural resources shall create and update annually a



1 single wildfire hazard map identifying high-risk, medium-risk,
2 and low-risk wildfire areas in each county.

3 (b) Unless otherwise stated in contractual documents:

4 (1) A utility company shall not be obligated to trim or
5 remove trees and other vegetation located within the
6 utility company's easements or within a public right
7 of way;

8 (2) A utility company shall not be obligated to trim or
9 remove trees and other vegetation located outside of
10 the utility company's easements or outside of a public
11 right of way;

12 (3) Any private and public property owner shall be
13 responsible for the maintenance of their property and
14 shall manage the growth of trees, grasses, and other
15 vegetation located thereon, either within or outside
16 of a utility company's easements, to mitigate the risk
17 of wildfire ignition on or adjacent to the private or
18 public property owner's property;

19 (4) A utility company shall not be considered a private or
20 public property owner solely because it possesses



1 easement rights that cross other private or public
2 properties; and

3 (5) Public entities that own and maintain public rights of
4 way shall be responsible for the maintenance of public
5 rights of way and shall manage the growth of trees,
6 grasses, and other vegetation located thereon to
7 mitigate the risk of wildfire ignition on or adjacent
8 to public rights of way.

9 (c) From months _____ to _____, each year, any
10 private or public property owner whose property is located in
11 high- and medium-risk fire areas identified pursuant to
12 subsection (a) shall trim grasses located on their property to
13 create a combustible-free space within twenty-five feet from the
14 edge of any public right of way that is adjacent to or runs
15 through the property and shall trim grasses located on their
16 property to create a combustible-free space within ten feet from
17 any utility line that crosses their property.

18 (d) During the months identified in subsection (c), the
19 department may notify a private or public property owner that
20 their property is in violation of subsection (c), provide the
21 private or public property owner with a description of the



1 condition that violates subsection (c), and provide the private
2 or public property owner with notice that the violation shall be
3 abated within thirty days of when the notice was mailed to the
4 property owner. If the private or public property owner has not
5 abated the violation of subsection (c) within thirty days of the
6 notice being mailed, the department shall issue a fine of \$1,000
7 against the private or public property owner. Each day after
8 the thirty-day period provided by the department's notice that a
9 violation continues shall constitute a separate offense. The
10 notice provided under this subsection shall be sent by certified
11 mail to the last known address of the private or public property
12 owner identified on public land records associated with the
13 subject property.

14 (e) During the months identified in subsection (c), a
15 utility company may trim or remove hazardous vegetation on
16 properties in high- and medium- risk fire areas identified
17 pursuant to subsection (a); provided that in the utility
18 company's reasonable commercial judgment, the hazardous
19 vegetation poses a risk of falling into or interfering with the
20 utility company's utility lines located on private property
21 within or outside of the utility company's easement; provided



1 further that the utility company may trim or remove hazardous
2 vegetation located on public land within or outside of the
3 public right of way. A utility company shall have a right of
4 entry to enter private property or public property, pursuant to
5 this section. A utility company that elects to trim or remove
6 hazardous vegetation under this subsection located outside of
7 its easement, where no easement exists, or within or outside of
8 a public right of way, shall notify the private or public
9 property owner of the utility company's intent to trim or remove
10 the hazardous vegetation; provided that the utility company
11 provides the private or public property owner with a general
12 location and description of the hazardous vegetation proposed to
13 be trimmed or removed. If the private or public property owner:
14 (1) Fails to respond to the utility company's notice of
15 its intent to trim or remove hazardous vegetation
16 located on their property; or
17 (2) Does not abate the hazardous vegetation within thirty
18 days of the mailing notice,
19 the utility company shall be entitled to enter the property in
20 question and trim or remove the hazardous vegetation at the
21 private or public property owner's expense. The notice provided



1 under this subsection shall be sent by certified mail to the
2 last known address of the private or public property owner
3 identified on public land records associated with the property
4 in question.

5 (f) If a utility company reasonably determines that
6 hazardous vegetation poses an imminent risk of wildfire ignition
7 and reasonably believes that the hazardous vegetation must be
8 trimmed or removed without giving notice as provided in
9 subsection (e), the utility company may enter private or public
10 property without notice and may trim or remove the hazardous
11 vegetation. After trimming or removing the hazardous vegetation
12 under this subsection, the utility company shall notify the
13 private or public property owner of the action taken under this
14 subsection within fourteen days of having taken action. The
15 notice provided under this subsection shall be sent by certified
16 mail to the last known address of the private or public property
17 owner identified on public land records associated with the
18 property in question.

19 (g) If a utility company trims or removes hazardous
20 vegetation as provided in subsection (e), the utility company
21 shall be immune from any liability arising from the utility



1 company's performance, either by itself or through others, of
2 any work authorized under subsection (e), including but not
3 limited to any damage to other vegetation or other property
4 caused in whole or in part by the utility company's actions or
5 omissions, acting by itself or through others. A utility
6 company that enters private or public property pursuant to
7 subsection (f) shall be liable for any negligent act that is a
8 direct cause of damages to other vegetation or other property
9 located on the property in question as a result of trimming or
10 removing the hazardous vegetation, excluding any liability for
11 erosion or land subsidence or other considerations.

12 (h) A utility company shall not be liable for any failure
13 to determine the existence of hazardous vegetation on private or
14 public property that is located within or outside of the utility
15 company's easements or within or outside a public right of way.

16 A utility company that does not trim or remove hazardous
17 vegetation as provided in subsections (e) and (f) shall be
18 immune from any liability associated with the utility company's
19 decision to refrain from doing so.

20 (i) For purposes of this section:



1 "Department" means the department of land and natural
2 resources.

3 "Hazardous vegetation" means any tree or shrub or other
4 vegetation located within or outside of an existing easement or
5 located within or near a public right of way that poses an
6 imminent threat of interfering with or damaging electric utility
7 lines located within or outside an existing easement or within
8 the public right of way.

9 "Utility company" means any company operating in the State
10 to provide electricity service and is regulated by the public
11 utilities commission."

12 SECTION 3. In accordance with section 9 of article VII of
13 the Hawaii State Constitution and sections 37-91 and 37-93,
14 Hawaii Revised Statutes, the legislature has determined that the
15 appropriations contained in Act 164, Regular Session of 2023,
16 and this Act will cause the state general fund expenditure
17 ceiling for fiscal year 2024-2025 to be exceeded by
18 \$ or per cent. This current declaration takes
19 into account general fund appropriations authorized for fiscal
20 year 2024-2025 in Act 164, Regular Session of 2023, and this Act



1 only. The reasons for exceeding the general fund expenditure
2 ceiling are that:

3 (1) The appropriation made in this Act is necessary to
4 serve the public interest; and

5 (2) The appropriation made in this Act meets the needs
6 addressed by this Act.

7 SECTION 4. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so
9 much thereof as may be necessary for fiscal year 2024-2025 for
10 the purposes of this Act.

11 The sum appropriated shall be expended by the department of
12 land and natural resources for the purposes of this Act.

13 SECTION 5. New statutory material is underscored.

14 SECTION 6. This Act shall take effect on July 1, 2024.

15

INTRODUCED BY: *Terrence R. Young*



S.B. NO. 3326

Report Title:

DLNR; Electric Utility Companies; Wildfire Mitigation; Fines; Hazardous Vegetation; Expenditure Ceiling; Appropriation

Description:

Requires the Department of Land and Natural Resources to create and annually update a wildfire hazard map. Requires private and public property owners to trim grasses within certain proximities of public rights of way and utility lines. Authorizes electric utility companies to enter private or public property to trim or remove hazardous vegetation. Protects electric utility companies from liability for certain damages to other vegetation and property caused during the removal of hazardous vegetation. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation.

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