

ALASKA STATE LEGISLATURE

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House Energy Committee,
Co-Chair

Community and Regional
Affairs Committee

State Affairs Committee

Joined Armed Services
Committee

REPRESENTATIVE KY HOLLAND

HB 369

Summary of Changes: Version A to Version G

Note: bolded section numbers refer to Version G

Title: Title changed to reflect addition and removal of bill sections

- Removed: *“relating to the regulation of residential solar energy generation and portable solar generation devices,” “relating to the duties of the Department of Environmental Conservation”*
- Added: *“relating to liability of an electric utility for contact between vegetation and the utility’s facilities; relating to electric utility wildland fire mitigation planning and prevention”*

Sec. 1: This section was amended in the following ways:

- The energy efficiency target was clarified to include heating efficiency, beneficial electrification, and electricity generation and transmission efficiency;
- The diversified energy target was removed from this section to avoid confusion with the target’s introduction in Section 8;
- The Power Project Fund goal was removed;
- The reference to critical minerals was removed;
- Language around achieving average US prices in electricity was clarified.

Sec. 2: This is a new section to Version G. This section amends AS 09.65 to incentivize public utilities to adopt a wildland fire mitigation plan (WMP) by offering limited liability protections if they adopt such a plan.

- This section creates a presumption of non-negligence if a utility causes or fails to prevent a wildfire, so long as it has adopted and complied with a WMP.
- A utility may be held liable if it causes vegetation to make contact with powerlines, if vegetation contact with powerlines occurs in an area that it has a responsibility to maintain, or if the utility performs unauthorized work outside of its right-of-way.
- A utility may be held liable if it acts with negligence and causes damage to a residence, or bodily injury at a residence.
- A utility is protected from liability for removing vegetation in accordance with its WMP.
- If a utility provides notice to an adjacent property owner that vegetation on the adjacent property poses a risk, the utility is protected from liability resulting from that vegetation making contact with powerlines.

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- A utility is protected from liability for harm caused by vegetation that did not pose a reasonably foreseeable risk at the time of their most recent assessment.
- The owner of an adjacent property is protected from liability for damages caused by a utility working on that property.
- A utility and the owner of adjacent property may voluntarily enter an agreement governing the utility's maintenance of vegetation on the adjacent property.
- If a utility unnecessarily removes vegetation outside its right-of-way, it may be liable for damages up to the replacement value of the vegetation.

Sec. 3: This is a new section to Version G. This section outlines the required elements of a wildland fire mitigation plan (WMP).

- A plan must be in writing, must describe the property where the utility operates and adjacent properties, must be updated every three years, and must be on file with the Department of Natural Resources.
- A plan must assess the risk of a wildfire starting in the area that the utility is responsible for maintaining, or starting outside and spreading into that area.
- A plan must contain procedures for: the inspection and maintenance of utility infrastructure, consideration of de-energizing powerlines in high-risk periods, vegetation management, wildfire detection, notification of emergency response agencies, and maintenance of access routes.
- A utility is required to notify owners and occupants of an adjacent property, as well as DNR, if its assessment shows vegetation conditions creating a high risk of a wildfire igniting.
- A utility may remove vegetation outside of its right of way that poses an imminent threat of causing a fire.
- DNR may review and consult on a WMP and must acknowledge receipt of a final plan.
- A utility must publish a WMP at least 60 days before its adoption and must distribute notice to customers of a 30-day public comment period.

Sec. 4: Replaced “15,000 kilowatts” with “7,000 KW.”

Sec. 5: No change.

Sec. 6: No change.

Sec. 7 (previously Sec. 8 of Version A): No change.

Sec. 8 (previously Sec. 9 of Version A): There are several changes to this section:

- Version G removes Sec. 42.05.900 (e) from Version A, which would have created a duplicative role for the RCA in determining that a diversified energy project meet ‘best value’ criteria in parallel to the Railbelt Reliability Council in their creation of an Integrated Resource Plan;
- Sec. 42.05.905 is simplified from Version A, and now only includes a 1.5x multiplier for all diversified energy projects that meet the relevant criteria of being operational before 2033, >100MW, and shared between utilities; other multipliers were removed;
- The role of diversified portfolio credits was clarified as being distinct from renewable energy certificates (RECs) and only subject to exchange between ERO-regulated utilities;

- Version G makes several changes to Sec. 42.05.915 from Version A, which pertains to how utilities could seek to certify that energy resources that were not otherwise specifically cited in this section as ‘diversified energy resources.’ These include:
 - Moving the burden of certification from DEC to third-party certifier entities accredited under ISO 14064-3 and ISO 14065;
 - Requiring that that third-party certifier evaluate the plan for maintaining greenhouse gas emissions from the facility below 100kg CO2-eq/MW-hr across the lifetime of the project as well as submitting a cost estimate for complying with the plan;
 - Requiring an annual certification that the emissions from the facility remained below the above benchmark;
 - Requiring the certifier to submit all reports and evaluations to the RCA, who will designate the resource as a diversified energy resource if the statutory requirements were met.

Sec. 9 (previously Sec. 10 of Version A): No change.

Sec. 10 (previously Sec. 11 of Version A): No change.

Sec. 11 (previously Sec. 14 of Version A): Added “improving the efficiency of electricity generation and transmission” to the portion of the state energy policy pertaining to goals for energy efficiency and conservation

Sec. 12: This is a new section to Version G. It applies the contents of Section 2 to civil lawsuits occurring on or after the Act’s effective date.

Sec. 13: This is a new section to Version G. It requires ERO-served utilities to submit wildland fire mitigation plans to DNR before January 1st, 2028.

Sec. 14 (previously Sec. 15 of Version A): No change.

In addition, the following Sections of Version A have been removed:

- **Section 2**, which pertained to portable solar generation devices;
- **Section 3**, which pertained to economic development rates for excess renewable electricity;
- **Section 7**, which pertained to preapproval of diversified energy resource projects;
- **Section 12**, which pertained to DNR’s role in determining whether certain energy projects counted as diversified energy projects;
- **Section 13**, which also pertained to DNR’s role in determining whether certain energy projects counted as diversified energy projects.