

House Energy Committee
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HB 252

Utility Right-of-Way & Wildfire Mitigation

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House District 9
South Anchorage, Hillside, North Turnagain Arm, Whittier

Wildfire Risk and Utility Liability

- ▶ Trees falling on powerlines from outside of a utility's property have caused some of the most destructive fires in Alaska, including the 2019 McKinley Fire
- ▶ Currently, electric utilities are have limited ability to manage trees that threaten to fall on their lines from outside their property or right-of-way
- ▶ The status quo exposes communities to increased wildfire risk and exposes utilities (and therefore ratepayers) to significant costs from lawsuits
- ▶ In the lower 48, many utilities fearing bankruptcy from lawsuits have resorted to frequent power shutoffs to avoid liability

Proposed Statutory Changes

- ▶ Require utilities to adopt wildfire mitigation plans outlining the steps they will take to reduce wildfire risk, and have these plans approved by the Division of Forestry
- ▶ If utilities adopt and follow approved plans, they receive limited liability for wildfire damages
- ▶ Wildfire mitigation plans require utilities to notify adjacent property owners if vegetation on their property threatens powerlines, and allow utilities to enter an agreement with these property owners to clear the trees
- ▶ The result is a lower risk of
 - Utility-ignited wildfires
 - Increased rates due to lawsuits
 - Frequent shutoffs due to utility liability exposureAs well as improved notification about hazardous vegetation for adjacent property owners
- ▶ This proposal builds on legislation passed in Montana, Utah, Idaho, and other western states

Section 1

- ▶ Creates a rebuttable presumption that a utility is not liable for causing or failing to prevent a wildfire, so long as it has developed and complied with an approved wildfire mitigation plan, and has not acted with gross negligence (p. 2 lines 24-30)
- ▶ Defines exemptions to this protection where:
 - vegetation that causes a fire is growing within the utility's property or right-of-way (p. 1 line 12 - p. 2 line 2)
 - the utility is working in an unauthorized area (p. 2 lines 3-5)
 - the utility causes contact between vegetation and its powerlines (p. 2 lines 15-16)
- ▶ Protects owners of adjacent property from liability for work done outside the utility's property (p. 2 lines 10-14)
- ▶ Allows owners of adjacent property to voluntarily enter into an agreement for the utility to manage hazardous vegetation on their property (p. 2 lines 17-23)
- ▶ Provides definitions (p. 3 lines 1-5)

Section 2

- ▶ Outlines the required elements of a wildfire mitigation plan, including that the plan:
 - Be in writing, identify the property where the utility operates and neighboring properties, and receive approval from the Department of Natural Resources (p. 3 lines 7-14)
 - Evaluate the risk of a wildfire starting within the area the utility maintains, or starting elsewhere and spreading into that area (p. 3 lines 15-18)
 - Include procedures for: inspecting and maintaining utility infrastructure, de-energizing power lines during high-risk periods, managing vegetation, detecting wildfires, notifying emergency response agencies, and maintaining access routes (p.3 line 19 - p. 4 line 12)
 - Balance the potential impacts to health, safety, and commerce before the utility de-energizes powerlines in periods of high wildfire risk (p. 4 lines 13-19)
 - Require the utility 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 (p. 4 lines 20-24)

Section 3

- ▶ Applies the Act to civil lawsuits occurring after the act's effective date (p. 4 lines 29-31)

Questions?