

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ENERGY

January 23, 2024

10:15 a.m.

MEMBERS PRESENT

Representative George Rauscher, Chair
Representative Tom McKay
Representative Thomas Baker
Representative Stanley Wright
Representative Mike Prax
Representative Calvin Schrage
Representative Jennie Armstrong

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 227

"An Act relating to liability of an electric utility for contact between vegetation and the utility's facilities."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 227

SHORT TITLE: ELECTRIC UTILITY LIABILITY

SPONSOR(S): REPRESENTATIVE(S) RAUSCHER

01/16/24	(H)	PREFILE RELEASED 1/8/24
01/16/24	(H)	READ THE FIRST TIME - REFERRALS
01/16/24	(H)	ENE, JUD
01/23/24	(H)	ENE AT 10:15 AM BARNES 124

WITNESS REGISTER

RYAN MCKEE, Staff

Representative George Rauscher
Juneau, Alaska

POSITION STATEMENT: Presented HB 227 on behalf of
Representative Rauscher, prime sponsor.

TRAVIS MILLION, Chief Operating Officer

Golden Valley Electric Association
Fairbanks, Alaska

POSITION STATEMENT: Testified in favor of HB 227.

ANDY LEMAN, General Council
Alaska Power Association
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 227.

ACTION NARRATIVE

[10:15:12 AM](#)

CHAIR RAUSCHER called the House Special Committee on Energy meeting to order at 10:15 a.m. Representatives McKay, Baker, Wright, Prax, Schrage, Armstrong, and Rauscher were present at the call to order.

HB 227-ELECTRIC UTILITY LIABILITY

[10:17:27 AM](#)

CHAIR RAUSCHER announced that the only order of business would be HOUSE BILL NO. 227 "An Act relating to liability of an electric utility for contact between vegetation and the utility's facilities."

[10:18:08 AM](#)

RYAN MCKEE, Staff, Representative George Rauscher, presented HB 227 on behalf of Representative Rauscher, prime sponsor. He provided the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

"An Act relating to liability of an electric utility for contact between vegetation and the utility's facilities."

House Bill 227 protects Alaska's electric utilities and their ratepayers from paying for damage caused by vegetation that falls from outside an electric utility's legal right-of-way and contacts a utility's electric facilities. If HB 227 becomes law, electric utilities would not be liable for damage caused by vegetation outside their easements contacting electric facilities.

For vegetation inside an easement, electric utilities could still face liability under existing negligence standards. In cases where the location of vegetation or the cause of the damage is disputed, a court would have to determine whether the protection provided by this bill applies.

This bill does not prevent electric utilities from being sued. It provides a court with clear direction on when liability does and does not apply in a situation where vegetation contacts powerlines or other electric infrastructure. HB 227 accomplishes this by:

- making clear in statute that electric utilities may not be held liable for costs, property damage, death, or personal injury resulting from contact between vegetation and the utility's facilities if the vegetation is located or originated outside the boundaries of the utility's real property, lease, permit, easement, or right-of-way.
- HB 227 also makes clear that a utility is not liable for cutting, girdling, or otherwise injuring or removing vegetation if part of the trunk of the vegetation is inside the boundaries of the utility's real property, lease, permit, easement, or right-of-way.

Importantly, the bill does not preclude civil liability if the utility itself causes vegetation to contact the utilities' facilities.

Alaska's electric utilities diligently maintain their rights-of-way to prevent damage to powerlines and other infrastructure. Those electric utilities should not be held liable for damage caused by vegetation outside of their legal control.

By passing HB 227, the Legislature will help protect Alaska utilities and their ratepayers from potential increases in rates due to a situation that is outside the control of an electric utility.

MR. MCKEE offered the HB 227 sectional analysis [included in the committee packet], which read as follows [original punctuation provided]:

Section 1: Amends AS 09.65 by adding a new section. Ensures a utility offering services to the public may not be held liable for property damage, death, or

personal injury if vegetation outside the utility's right-of-way falls onto a utility's facilities unless the utility caused the vegetation to fall. It also allows a utility to remove vegetation if the trunk straddles the right of way.

Section 2: Amends the uncodified law of the State of Alaska. This section outlines that the act will apply to civil lawsuits against electric utilities filed on or after the effective date.

CHAIR RAUSCHER said the committee would hear invited testimony.

[10:22:25 AM](#)

TRAVIS MILLION, Chief Operating Officer, Golden Valley Electric Association, gave invited testimony in favor of HB 227. He said that Golden Valley Electric serves 36,000 members in the Interior of Alaska with 3,300 miles of electric lines. He reminded the committee of a similar bill that was introduced during the previous legislative session. He said that electric utilities are granted easements from property owners, which dictates how wide the right-of-way is for the purpose of equipment installation, operation, and maintenance. Utilities are not legally authorized to remove any vegetation located outside of easements and should not be held liable for damages caused by the vegetation outside the easement. He emphasized that there is a lack of cost-effective options for utilities to mitigate risks without statute. Most utilities in Alaska are cooperatives or municipalities, and cost burdens would be passed onto member owners. He urged the committee to pass HB 227 to protect Alaska electric utilities and their member owners.

[10:25:47 AM](#)

REPRESENTATIVE PRAX asked about ensuring robust right-of-way utility clearing policies.

[10:26:06 AM](#)

ANDY LEMAN, General Council, Alaska Power Association, answered that HB 227 does not protect the utilities. Easements and rights-of-way remain the responsibility of the utility. He noted the potential liability of the utility if rights-of-way and easements are neglected.

[10:27:07 AM](#)

REPRESENTATIVE PRAX noted the difficulties involved with removing hazards across significant miles of rights-of-way and easements. He told a personal anecdote and expressed that the root of the problem is not addressed by HB 227. He mentioned the individual responsibility of property owners to remove fire hazards on their land and the potential of increased insurance costs rather than electricity costs.

[10:29:07 AM](#)

REPRESENTATIVE ARMSTRONG asked how HB 227 differs from the bill heard in the previous session and how concerns with the previous version are addressed in HB 227.

[10:29:43 AM](#)

MR. LEMAN answered that the primary difference between the bills concerned liability standards for vegetation inside the right-of-way being dependent on whether the utility was following a vegetation management plan as opposed to leaving it to a common-law negligence standard. He noted that HB 227 was edited to include utility responsibility; if the vegetation contacted utility facilities, there would be no protection from liability.

[10:31:04 AM](#)

REPRESENTATIVE PRAX asked whether there is oversight to ensure a robust vegetation management plan.

[10:31:40 AM](#)

MR. LEMAN expressed that other Alaska utilities take vegetation management plans seriously. Almost all Alaska utilities are cooperatives or are municipally owned and are exempt from regulation by the Regulatory Commission of Alaska (RCA) because they are locally owned and govern themselves. He expressed his confidence that Alaska utilities maintain rights-of-way and easements prudently. He suggested inviting utilities to testify and provide more information about their vegetation management plans.

REPRESENTATIVE PRAX asked whether the power association had spoken with the Division of Forestry and Fire Protection.

MR. LEMAN noted that discussions about fire response have been about costs and not about HB 227 specifically.

REPRESENTATIVE PRAX expressed his desire to address forest fire prevention.

[10:35:15 AM](#)

REPRESENTATIVE SCHRAGE asked why the bill is necessary.

MR. LEMAN explained that in the absence of HB 227, if a tree falls on an electric facility and the tree is outside the right-of-way, fault for potential fire or damage would be put upon the utility even though the tree was not considered the responsibility of the utility.

[10:37:02 AM](#)

REPRESENTATIVE SCHRAGE asked if there were any examples where a court had found a utility liable under similar circumstances to the hypothetical situation mentioned previously.

MR. LEMAN responded that there have been no cases in Alaska relating to these claims. To the best of his knowledge, he explained, there have been lawsuits, all of which have been settled. He alluded to fires in the Lower 48 where utilities have been found liable for fires that started due to vegetation found outside of the right-of-way. He noted that this is not just a hypothetical risk.

REPRESENTATIVE SCHRAGE sought to understand why a court would find a utility liable and asked whether there were other factors like negligence or lack of a well-funded vegetation management plan that would contribute to liability charges for a utility.

MR. LEMAN explained that HB 227 attempts to clarify uncertainty in the legal language in situations concerning liability.

[10:40:18 AM](#)

CHAIR RAUSCHER expressed his concern about the recent devastation in Hawai'i. He noted Alaska's bark beetle problems, which lead to dry timber forests and could potentially cause devastation if wildfires are sparked.

REPRESENTATIVE PRAX asked if the insurance industry could provide testimony about HB 227 and offered to get in touch.

REPRESENTATIVE SCHRAGE made note of the first House Special Committee on Energy meeting of the year and expressed his appreciation for the new committee members and the chair.

[10:41:52 AM](#)

CHAIR RAUSCHER provided closing remarks.

[HB 227 was held over.]

[10:42:53 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Energy meeting was adjourned at [10:43] p.m.