

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE MARCH 17, 2016

SENATE BILL

No. 1028

Introduced by Senator Hill

February 12, 2016

An act to add Chapter 6 (commencing with Section 8385) to Division 4.1 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1028, as amended, Hill. Electrical corporations: local publicly owned electric utilities: electrical cooperatives: wildfire mitigation plans.

The California Constitution establishes the Public Utilities Commission, authorizes the commission to establish rules for all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the California Constitution, to confer additional authority and jurisdiction upon the commission that is cognate and germane to the regulation of public utilities. The Public Utilities Act provides the commission with broad authority over public utilities, including electrical corporations, while local publicly owned electric utilities and electrical cooperatives are under the direction of their governing boards. Existing law establishes requirements for equipment, practices, and facilities for public utilities, including standards, enforceable by the commission, for installation and maintenance of wires or cables used to conduct electricity. Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

This bill would require each electrical corporation, local publicly owned electric utility, and electrical cooperative to construct, maintain,

and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment. The bill would require each electrical corporation to annually prepare a wildfire mitigation plan. The bill would require each electrical corporation to submit its plan to the commission for approval, as specified. The bill would require the commission to accept, accept provisionally, or reject the submitted plan, as specified. The bill would require the governing board of a local publicly owned electric utility or electrical cooperative to determine whether any portion of the geographical area where the utility’s overhead electrical lines and equipment are located has a significant risk of catastrophic wildfire resulting from those electrical lines and equipment and, if so, would require the local publicly owned electric utility or electrical cooperative ~~to annually~~ *cooperative, at an interval determined by the board, to* present to the board for its approval those wildfire mitigation measures the utility intends to undertake to minimize the risk of its overhead electrical lines and equipment causing a catastrophic wildfire. By placing additional duties upon local publicly owned electric utilities, the bill would impose a state-mandated local program. Because a violation of these provisions by an electrical corporation would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6 (commencing with Section 8385) is
 2 added to Division 4.1 of the Public Utilities Code, to read:

3

4 CHAPTER 6. WILDFIRE MITIGATION

5

6 8385. (a) For purposes of this chapter, the following shall
 7 apply:

8 (1) “Compliance period” means a one-year period beginning
 9 approximately with the start of the fall fire season for the service

1 territory of the electrical corporation, electrical cooperative, or
2 local publicly owned electric utility.

3 (2) “Electrical cooperative” has the same meaning as defined
4 in Section 2776.

5 (b) The commission shall supervise an electrical corporation’s
6 compliance with the requirements of this chapter pursuant to the
7 Public Utilities Act (Part 1 (commencing with Section 201) of
8 Division 1). Nothing in this chapter provides the commission with
9 authority or jurisdiction over an electrical cooperative or local
10 publicly owned electrical corporation.

11 8386. (a) Each electrical corporation shall construct, maintain,
12 and operate its electrical lines and equipment in a manner that will
13 minimize the risk of catastrophic wildfire posed by those electrical
14 lines and equipment.

15 (b) Each electrical corporation shall annually, on or before
16 February 1, prepare and submit a wildfire mitigation plan for the
17 next compliance period to the commission for acceptance. The
18 wildfire mitigation plan shall include:

19 (1) An accounting of the responsibilities of persons responsible
20 for executing the plan.

21 (2) The objectives of the plan.

22 (3) A description of the preventive strategies and programs to
23 be adopted by the electrical corporation to minimize the risk of its
24 electrical lines and equipment causing catastrophic wildfires.

25 (4) A description of the metrics the electrical corporation plans
26 to use to evaluate the plan’s performance and the assumptions that
27 underlie the use of those metrics.

28 (5) A discussion of how the application of previously identified
29 metrics to previous plan performances has informed the plan.

30 (6) A description of the processes and procedures the electrical
31 corporation will use to do the following:

32 (A) Monitor and audit the implementation of the plan.

33 (B) Identify any deficiencies in the plan or the plan’s
34 implementation and correct those deficiencies.

35 (C) Monitor and audit the effectiveness of inspections, including
36 inspections performed by contractors, carried out under the plan.

37 (7) Any other information that the commission may require.

38 (c) The commission shall act expeditiously, but no later than
39 30 days before the beginning of the compliance period, to accept,

1 accept provisionally, or reject the electrical corporation’s wildfire
2 mitigation plan.

3 (1) Any provisional acceptance by the commission shall state
4 all of the following:

5 (A) The period for which the provisional acceptance will be in
6 force.

7 (B) The extent to which the wildfire mitigation plan has been
8 accepted.

9 (C) Any limitations or conditions that shall apply during the
10 provisional acceptance period.

11 (2) If the commission rejects the electrical corporation’s wildfire
12 mitigation plan, the commission shall provide the electrical
13 corporation with an opportunity to resubmit a wildfire mitigation
14 plan within 30 days.

15 (3) If the commission determines that an electrical corporation
16 will not be able to prepare an acceptable wildfire mitigation plan
17 before the beginning of the compliance period, the commission
18 may determine the contents of the electrical corporation’s wildfire
19 mitigation plan.

20 (d) The commission shall conduct or contract for audits to
21 determine if an electrical corporation is satisfactorily complying
22 with its accepted wildfire mitigation plan.

23 (e) The commission may contract with an independent third
24 party to evaluate wildfire mitigation plans or to conduct audits and
25 inspections authorized by this section, and may require electrical
26 corporations to reimburse any related expenses.

27 8387. (a) Each local publicly owned electric utility and
28 electrical cooperative shall construct, maintain, and operate its
29 electrical lines and equipment in a manner that will minimize the
30 risk of catastrophic wildfire posed by those electrical lines and
31 equipment.

32 (b) The governing board of the local publicly owned electric
33 utility or electrical cooperative shall determine, based on historical
34 fire data and local conditions, and in consultation with the fire
35 departments or other entities responsible for control of wildfires
36 within the geographical area where the utility’s overhead electrical
37 lines and equipment are located, whether any portion of that
38 geographical area has a significant risk of catastrophic wildfire
39 resulting from those electrical lines and equipment.

1 (c) If, pursuant to subdivision (b), the governing board
2 determines that there is a significant risk of catastrophic wildfire
3 resulting from the utility's electrical lines and equipment, the local
4 publicly owned electric utility or electrical cooperative ~~shall~~
5 ~~annually~~ *shall, at an interval determined by the board,* present to
6 the board for its approval those wildfire mitigation measures the
7 utility intends to undertake to minimize the risk of its overhead
8 electrical lines and equipment causing a catastrophic wildfire.

9 (d) *A fire prevention plan prepared by the local publicly owned*
10 *electric utility or electrical cooperative, submitted to and approved*
11 *by a federal agency as a license condition pursuant to subsection*
12 *(e) of Section 4 of the Federal Power Act (16 U.S.C. Sec. 797 (e))*
13 *may, at the discretion of the governing board, be deemed to meet*
14 *the requirements of this chapter for those areas covered by the*
15 *fire prevention plan.*

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act or because costs that may be
21 incurred by a local agency or school district will be incurred
22 because this act creates a new crime or infraction, eliminates a
23 crime or infraction, or changes the penalty for a crime or infraction,
24 within the meaning of Section 17556 of the Government Code, or
25 changes the definition of a crime within the meaning of Section 6
26 of Article XIII B of the California Constitution.