

AMENDED IN SENATE APRIL 6, 2016

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1463**

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**Introduced by Senator Moorlach**

February 19, 2016

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An act to add Section 761.2 to the Public Utilities Code, relating to electrical lines.

LEGISLATIVE COUNSEL'S DIGEST

SB 1463, as amended, Moorlach. Electrical lines: mitigation of wildfire risks.

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. Existing law establishes standards that are applicable to any person, as defined, to run, place, erect, or maintain wires or cables used to conduct electricity and requires the commission to enforce these provisions. Pursuant to its existing authority, the commission has adopted rules for the construction of electrical lines and the trimming of trees near electrical lines.

Except as specified, existing law requires any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous, forest-covered, brush-covered, or grass-covered land to maintain a clearance in all directions between all

vegetation and all conductors that are carrying electric current, as prescribed.

This bill would require the commission, in consultation with the Department of Forestry and Fire Protection, to prioritize areas in which communities are at high risk from the consequences of wildfires when determining areas in which it will require enhanced mitigation measures for wildfire hazards posed by overhead electrical lines and equipment. ~~The bill would require the commission to include as being at high risk any community (1) that has experienced serious consequences from a wildfire, as specified, (2) as to which the Governor has, as a result of a wildfire, declared a state of emergency or local emergency pursuant to the California Emergency Services Act involving the community, or (3) where at least 50% of the community is included in a “very high” or “high” risk zone of the map of the Fire Hazard Severity Zones in the Local Responsibility Areas of California. The bill would require that the enhanced mitigation measures include the undergrounding of any new construction, replacement, or required relocation of transmission, subtransmission, and distribution systems, except as provided. The bill would require an electrical corporation to recover its expenses incurred in providing enhanced mitigation measures as a general expense item in its rates, and not recover its expenses solely from the ratepayers within the community where the enhanced mitigation measures are undertaken. The bill, as part of any findings supporting a decision to approve the boundaries for those areas, would require the commission to describe how the commission incorporated the concerns of local governments, fire departments, or both in determining those boundaries.~~

~~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.~~

~~Because the provisions of this bill are within the act and any violation of an action by the commission to implement its requirements 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 a specified reason.~~

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

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

1 SECTION 1. Section 761.2 is added to the Public Utilities  
2 Code, to read:

3 761.2. (a) In determining areas in which to require enhanced  
4 mitigation measures for wildfire hazards posed by overhead  
5 electrical lines and equipment, the commission, in consultation  
6 with the Department of Forestry and Fire Protection, shall prioritize  
7 areas in which communities are at high risk from the consequences  
8 of wildfires. ~~The commission shall include as being at high risk~~  
9 ~~any community for which any of the following is true:~~

10 ~~(1) The community has experienced serious consequences from~~  
11 ~~a wildfire, including, but not limited to, human injury or fatality~~  
12 ~~or property damage in excess of twenty-five million dollars~~  
13 ~~(\$25,000,000).~~

14 ~~(2) The Governor has, as a result of a wildfire, declared a state~~  
15 ~~of emergency or local emergency involving the community~~  
16 ~~pursuant to the California Emergency Services Act (Chapter 7~~  
17 ~~(commencing with Section 8550) of Division 1 of Title 2 of the~~  
18 ~~Government Code).~~

19 ~~(3) At least 50 percent of the community is included in a “very~~  
20 ~~high” or “high” risk zone of the map of the Fire Hazard Severity~~  
21 ~~Zones in the Local Responsibility Areas of California, in use as~~  
22 ~~of January 1, 2016, prepared by the Department of Forestry and~~  
23 ~~Fire Prevention pursuant to Chapter 6.8 (commencing with Section~~  
24 ~~51175) of Part 1 of Division 1 of Title 5 of the Government Code.~~

25 ~~(b) Enhanced mitigation measures shall include the~~  
26 ~~undergrounding of any new construction, replacement, or required~~  
27 ~~relocation of transmission, subtransmission, and distribution~~  
28 ~~systems unless the governing body of the community, by adoption~~  
29 ~~of an appropriate ordinance or resolution, specifically agrees to~~  
30 ~~other mitigation measures.~~

31 ~~(c) An electrical corporation shall recover its expenses incurred~~  
32 ~~in providing enhanced mitigation measures as a general expense~~  
33 ~~item in its rates, and shall not recover its expenses solely from the~~  
34 ~~ratepayers within the community where the enhanced mitigation~~  
35 ~~measures are undertaken. Undergrounding of electrical~~  
36 ~~infrastructure, other than as part of enhanced mitigation measures,~~  
37 ~~may continue to be funded pursuant to Electric Tariff Rule 20A~~  
38 ~~budget allocations, which may be freely transferred between~~

1 communities pursuant to Rule 20A.2.e, or by a replacement process  
2 approved by the commission:

3 *(b) Any findings supporting a decision to approve the boundaries*  
4 *for areas described in subdivision (a) shall describe how the*  
5 *commission incorporated the concerns of local governments, fire*  
6 *departments, or both in determining those boundaries.*

7 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
8 ~~Section 6 of Article XIII B of the California Constitution because~~  
9 ~~the only costs that may be incurred by a local agency or school~~  
10 ~~district will be incurred because this act creates a new crime or~~  
11 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
12 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
13 ~~the Government Code, or changes the definition of a crime within~~  
14 ~~the meaning of Section 6 of Article XIII B of the California~~  
15 ~~Constitution.~~