

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Cottie Petrie-Norris, Chair

AB 3062 (Bauer-Kahan) – As Introduced February 16, 2024

SUBJECT: Fire protection districts: electrical corporations and local publicly owned electric utilities: wildfire mitigation: notice requirements

SUMMARY: Authorizes a fire protection district to require an investor-owned electric utility (IOU) or local publicly owned electric utility (POU) to notify the district at least 24 hours, via both telephone and email, before the utility performs specified work within the fire protection district's jurisdiction. Establishes civil penalties for failing to provide the required notifications.

Specifically, **this bill:**

- 1) Defines “hot work” as work on an energized overhead electrical line greater than 15 kilovolts and cutting, welding, thermit welding, brazing, soldering, grinding, thermal spraying, thawing pipe, installation of torch-applied roof systems, or any other similar activity on electrical infrastructure.
- 2) Authorizes a fire protection district to require an IOU or POU to notify the district at least 24 hours, via both telephone and email, before performing any of the following specified work within the fire protection district's jurisdiction:
 - a. Scheduled, nonemergency hot work in a high fire risk area;
 - b. The deployment of a safety and infrastructure protection team (SIFT), or a similar fire suppression or emergency response crew, to a location in a high fire risk area where hot work will be performed; and
 - c. The performance of a prescribed or controlled burn.
- 3) Provides that if utilities cannot provide 24 hour notice due to unforeseen circumstances or an immediate need to perform critical or emergency repairs, the electric utility must notify, via both telephone and email, the fire protection district at the earliest possible time.
- 4) Exempts utilities from any fees for a fire district's costs to reposition resources in response to the proposed required notice.
- 5) Establishes a civil penalty of \$500 for failure to notify a fire district and restates law that the penalty is not eligible for rate recovery.

EXISTING LAW:

- 1) Establishes the Wildfire Safety Division (WSD) within the California Public Utilities Commission (CPUC) and transfers, by July 1, 2021, all functions of the WSD to the Office of Energy Infrastructure Safety (OEIS) within the Natural Resources Agency. (Public Utilities Code § 326 and Government Code §15470)

- 2) Establishes the Wildfire Safety Oversight Advisory Board. (Public Utilities Code § 326.1)
- 3) Requires each IOU, POU, 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. Requires each IOU and POU to annually prepare and submit (to WSD and the Wildfire Safety Oversight Advisory Board, respectively) a wildfire mitigation plan. (Public Utilities Code §§ 8386 and 8387)
- 4) Requires an IOU that has a contract for fire safety and prevention, mitigation, or maintenance services, to only use those services for the direct defense of utility infrastructure when conducting fire safety and prevention, mitigation, and maintenance activities. And requires such an IOU to make efforts towards eliminating the use of contract private services in favor of working or contracting with public agency fire departments. (Public Utilities Code § 764)
- 5) Prohibits rate recovery of fines and penalties by an electric or gas corporation. (Public Utilities Code § 748.1)
- 6) Defines “prescribed burning” to mean the planned application of fire to wildland fuels on land selected in advance of that application to achieve, among other objectives, vegetation management, and prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels. (Public Resources Code § 4464)
- 7) Authorizes persons, firms, or corporations to apply for permission to utilize prescribed burning for public purposes, as specified. (Public Resources Code § 4492)

FISCAL EFFECT: Unknown. This bill is keyed fiscal and will be referred to the Committee on Appropriations for its review.

BACKGROUND:

Electric utility-related wildfires – California has experienced some of the most devastating and costly wildfires over the past decade. Spurred by climate change, the risks for wildfires has increased with larger populations of dead trees – which serve as fuel – from extended drought conditions and bark beetle infestations,¹ more frequent extreme heat and high wind events, and growing encroachment of development into forested and high-fire threat areas.² Of the 20 most destructive wildfires since 2015, power lines have caused six.³ Utility-caused fires are often more destructive than those resulting from other sources because many occur in remote areas during high wind events, and those same weather conditions cause the fire to spread quickly, making it difficult to control. In response, the Legislature has passed many statutes to require electric utilities to mitigate the risk of their equipment and operations from igniting wildfires.

¹ Vox; “Beetles, drought, and fires are a ticking time bomb in the West”; July 2021; <https://www.vox.com/2021/7/29/22594137/bark-beetles-wildfire-california-oregon-climate-change>.

² Stanford News; “The shifting burden of wildfires in the United States”; January 2021; <https://news.stanford.edu/2021/01/12/shifting-burden-wildfires-united-states/>.

³ State Auditor; “Electrical System Safety: California’s Oversight of the Efforts by Investor-Owned Utilities to Mitigate the Risk of Wildfires Needs Improvement”; March 2022.

Wildfire mitigation plans (WMPs) – Utilities are required to develop a wildfire mitigation plan, which is approved and enforced by OEIS and the Wildfire Safety Oversight Advisory Board. The plans employ a variety of strategies and programs to minimize the risk of catastrophic wildfires caused by electrical lines and equipment, including vegetation management, prescribed fires, system hardening, and public safety power shutoffs.⁴ During the development of WMPs, utilities typically collaborate with external stakeholders, including the California Department of Forestry and Fire Protection as well as local fire departments, fire protection districts, emergency management departments, and communications departments.⁵

Crew-accompanying ignition prevention and suppression. Electrical corporations' WMPs are required to address crew-accompanying ignition prevention and suppression resources and services, and personnel work procedures and training in conditions of elevated fire risk. When utilities do this work, personnel and resources, which could be contracted for, or be a safety team of utility employees, are deployed who are trained to perform fire prevention duties when at-risk work is performed. As an example, Southern California Edison's (SCE's) most recent WMP notes contract crews performing specified work, known as "hot work," are equipped with basic fire mitigation and suppression tools "with the goal of preventing ignitions and rapidly responding to incipient stage ignitions should one occur during the normal course of their work in the field."⁶ In the case of Pacific Gas & Electric (PG&E), the utility deploys safety and infrastructure protection teams (SIPTs) which consist of two- to three-person International Brotherhood of Electrical Workers (IBEW) crews who are trained and certified in safety and infrastructure protection.⁷ The SIPTs conduct numerous activities, including applying fire retardant to combustible utility infrastructure during wildfires, collecting fuels data to support decision-making related to deenergization events, and providing standby fire protection resources for PG&E crews performing work in the high fire threat districts during elevated risk conditions. In their 2022 WMP, PG&E noted authorization to increase staffing for the SIPT to 130 employees.⁸

"Hot work" – Hot work is generally defined as activities that are capable of initiating a fire or generating potential ignition sources through a flame, heat, or a spark. Electric utility hot work activities generally include metal cutting, welding, brazing, soldering grinding, thermal spraying, pipe thawing, installation of torch-applied roof systems, burning, and oxygenated arc cutting. Crews working on utility lines are designated as qualified electrical workers (QEWs or linemen). In the industry, the work is also referred to as "working hot." Hot work is a constant for any electric utility, as repairing and conducting maintenance of electric infrastructure is a constant.

COMMENTS:

- 1) *Author's statement.* According to the author, "Climate change has made our fire season much less predictable, and has contributed to both the intensity and duration of wildfires that our state faces. California had its worst fire season in modern history in 2020, with over 10,000 wildfires burning over 4.2 million acres of land. It is past time for our state to take action in the face of these fires and natural calamities. AB 3062 will increase

⁴ Table 7.1.4-4, PG&E; "2023-2025 Wildfire Mitigation Plan"; March 2023.

⁵ Table 8-61, PG&E; "2023-2025 Wildfire Mitigation Plan"; March 2023.

⁶ Pg. 340, SCE; "2023-2025 Wildfire Mitigation Plan"; October 2023.

⁷ Pg. 476, PG&E; "2022 Wildfire Mitigation Plan"; February 2022.

⁸ Pg. 416, PG&E; "2022 Wildfire Mitigation Plan"; February 2022.

accountability and transparency by requiring all electrical utilities to notify local fire districts at least 24 hours before conducting mitigation or planned burns in a high fire risk area during fire season. This will ensure that local fire districts are aware and prepared when utility companies conduct “hot work” or controlled burns within their jurisdiction. When fire districts know in advance that there is risky work being conducted in their area, they can be prepared by having fire personnel and equipment poised and ready. Without this critical notification from utilities, districts can be caught off guard and lose precious moments to stop the flames should a fire break out. It is essential we give fire districts all the tools they need, especially during fire season.”

- 2) *Hot work is constant and, often, routine.* The most common causes of utility-related ignitions are vegetation contact, contact with foreign objects, and equipment failures.⁹ As of the writing of this analysis, there were no known examples or data on ignitions caused by electric utilities from doing hot work. Based on estimated provided by SCE and PG&E, each utility estimates that hundreds of daily activities conducted by their respective utilities would fall under this bill’s definition of “hot work” in a high fire risk area that would require 24 hour daily notices to local fire districts via telephone and email. Yet, electric utilities may feel compelled to avoid necessary maintenance and safety activities on their circuits in order to avoid fines, as proposed by this bill. These policy signals could work to undermine safety and not improve safety, at a time when electric utilities need to aggressively conduct upgrades and maintenance on their infrastructure in order to prevent additional fires.

To the extent some electric utilities conduct prescribed burning, they must comply with the permit and notification statutes in the Public Resources Code. However, this bill’s proposal to require advance notices to fire districts for prescribed burning activities by electric utilities seems reasonable to the extent such notifications do not negate the requirements already in statute. Yet, the broad application of hot work in this bill, which would encompass routine utility work, seems overly prescriptive and not warranted. As such, *the committee recommends striking all aspects of this bill except the 24-hour notification requirement for the performance of prescribed or controlled burns.*

- 3) *Prior legislation.*

AB 2070 (Bauer-Kahan, 2022), as reintroduced in this measure, would have authorized fire protection districts to require electrical corporations to notify the district at least 24 hours, via both telephone and email, before the utility performs specified work within the fire protection district’s jurisdiction. Establishes civil penalties for failing to provide the required notifications. Status: Held in Senate Committee on Utilities, Energy, and Communications.

AB 1054 (Holden) established the California Wildfire Safety Advisory Board (CWSAB) to review and provide comments and advisory opinions to each POU and IOU regarding the context and sufficiency of its WMPs. Also established the Wildfire Fund, which would be funded by a nonbypassable charge to ratepayers, to pay eligible claims arising from a covered wildfire, as provided. Status: Chapter 79, Statutes of 2019.

⁹ WSD, Boston Consulting Group; *Reducing Utility-Related Wildfire Risk*; December 2020.

AB 111 (Committee on Budget) created OEIS within the Natural Resources Agency, under the supervision of a director appointed by the Governor, to oversee each IOU's WMPs. Status: Chapter 81, Statutes of 2019.

SB 901 (Dodd) established, among other provisions, the requirement that the WMPs of each electrical corporation meet a number of specified requirements. Status: Chapter 626, Statutes of 2018.

SB 1028 (Hill) required IOUs to file annual WMPs and required the CPUC to review and comment on those plans. Status: Chapter 598, Statutes of 2016.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
350 Contra Costa Action (350 Cca)
California Fire Chiefs Association
Democrats of Rossmoor
Fire Districts Association of California
Marin Clean Energy (MCE)

Opposition

Edison International and Affiliates, Including Southern California Edison
Pacific Gas and Electric Company and Its Affiliated Entities
San Diego Gas and Electric Company

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