

PROPOSED  
SENATE AMENDMENTS TO H.B. 2201  
(Reference to House engrossed bill)

Amendment instruction key:  
[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.  
[Green underlining in brackets] indicates text added to new session law or text restoring existing law.  
[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.  
[Green strikethrough in brackets] indicates text removed from existing statute, previously enacted session law or new session law.  
<<Green carets>> indicate a section added to the bill.  
<<Green strikethrough in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Title 30, Arizona Revised Statutes, is amended by adding  
3 chapter 7, to read:

4 CHAPTER 7

5 WILDFIRE MITIGATION PLANNING

6 ARTICLE 1. GENERAL PROVISIONS

7 30-901. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ATTACHOR" MEANS ANY CABLE TELEVISION SYSTEM OR PROVIDER OF  
10 TELECOMMUNICATIONS OR BROADBAND COMMUNICATION SERVICES THAT OWNS OR  
11 OPERATES EQUIPMENT THAT IS ATTACHED TO A POLE, DUCT OR CONDUIT OR THAT IS  
12 OTHERWISE LOCATED WITHIN A RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY A  
13 PUBLIC POWER ENTITY, PROVIDED THAT THE ATTACHING ENTITY IS A CURRENT PARTY  
14 TO AND IN COMPLIANCE WITH AN ATTACHMENT AGREEMENT WITH THE PUBLIC POWER  
15 ENTITY.

16 2. "ELECTRIC UTILITY" HAS THE SAME MEANING PRESCRIBED IN SECTION  
17 40-1301.

18 3. "GOVERNING BODY" MEANS THE GOVERNING BODY OF A PUBLIC POWER  
19 ENTITY.

20 4. "PUBLIC POWER ENTITY" MEANS ANY MUNICIPAL CORPORATION OR  
21 POLITICAL SUBDIVISION THAT OWNS AND OPERATES FACILITIES THAT GENERATE,  
22 TRANSMIT OR DISTRIBUTE ELECTRIC ENERGY FOR SALE TO RETAIL CUSTOMERS IN  
23 THIS STATE.

24 5. "PUBLIC SAFETY POWER SHUT OFF" MEANS THE INTENTIONAL TEMPORARY  
25 SHUT OFF OF POWER DURING CERTAIN WEATHER OR ENVIRONMENTAL CONDITIONS TO  
26 REDUCE THE RISK OF WILDFIRES.

27 6. "WILDFIRE" MEANS ANY UNWANTED, UNPLANNED OR UNCONTROLLED FIRE  
28 THAT IGNITES VEGETATION WITHIN A WILDLAND OR NATURAL AREA, INCLUDING:

- 1 (a) FORESTS.
- 2 (b) GRASSLANDS.
- 3 (c) PRAIRIES.
- 4 (d) ANY AREAS THAT INTERFACE BETWEEN WILDLAND OR NATURAL AND URBAN
- 5 AREAS.

6 7. "WILDFIRE MITIGATION PLAN" MEANS A PLAN THAT IS SUBMITTED TO THE  
7 GOVERNING BODY IN ACCORDANCE WITH THIS CHAPTER.

8 30-902. Cause of action; exclusive means of recovery; legal  
9 duty

10 A. THIS CHAPTER DOES NOT ESTABLISH A NEW CAUSE OF ACTION. IF THERE  
11 IS A CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER STATE LAW, THIS CHAPTER  
12 CONTROLS.

13 B. EXCEPT AS OTHERWISE AGREED TO IN WRITING OR ESTABLISHED BY  
14 FEDERAL LAW, THIS CHAPTER ESTABLISHES THE EXCLUSIVE MEANS OF RECOVERY FROM  
15 A PUBLIC POWER ENTITY FOR CLAIMS OR DAMAGES THAT RESULT FROM WILDFIRES.

16 C. THIS CHAPTER DOES NOT ESTABLISH ANY ADDITIONAL LEGAL DUTY THAT  
17 SUPPORTS ANY CLAIM THAT WOULD NOT OTHERWISE ALREADY EXIST.

18 D. IN ANY CAUSE OF ACTION AGAINST A PARENT, SUBSIDIARY OR OTHER  
19 CORPORATE AFFILIATE OF A PUBLIC POWER ENTITY THAT IS RELATED TO A  
20 WILDFIRE, THAT PARENT, SUBSIDIARY OR OTHER CORPORATE AFFILIATE OF THE  
21 PUBLIC POWER ENTITY SHALL BE TREATED THE SAME AS AND CONSIDERED EQUIVALENT  
22 TO A PUBLIC POWER ENTITY FOR THE PURPOSES OF SECTION 30-904.

23 E. IN ANY CAUSE OF ACTION AGAINST A PUBLIC POWER ENTITY THAT IS  
24 RELATED TO A WILDFIRE, AN ATTACHOR SHALL BE CONSIDERED TO BE A PUBLIC  
25 POWER ENTITY FOR THE PURPOSES OF SECTION 30-904 WITH RESPECT TO ANY  
26 LIABILITY THAT MAY BE ALLEGED TO HAVE ARISEN OUT OF THE ATTACHOR'S  
27 EQUIPMENT.

28 30-903. Wildfire mitigation plan

29 A. A PUBLIC POWER ENTITY SHALL PREPARE AND SUBMIT A WILDFIRE  
30 MITIGATION PLAN TO THE PUBLIC POWER ENTITY'S GOVERNING BODY FOR REVIEW AND  
31 APPROVAL. THE PUBLIC POWER ENTITY MAY USE THE SUBMISSION AS AN UPDATE TO  
32 THE LAST APPROVED WILDFIRE MITIGATION PLAN. THE PUBLIC POWER ENTITY SHALL  
33 SUBMIT THE WILDFIRE MITIGATION PLAN TO THE PUBLIC POWER ENTITY'S GOVERNING  
34 BODY ON OR BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR THEREAFTER  
35 UNLESS THE GOVERNING BODY ORDERS OTHERWISE. BEFORE A PUBLIC POWER ENTITY  
36 SUBMITS A WILDFIRE MITIGATION PLAN TO THE GOVERNING BODY, THE PUBLIC POWER  
37 ENTITY SHALL CONSULT WITH A STATE OR FEDERAL LAND MANAGEMENT OR FIRE  
38 PROTECTION AGENCY THAT HAS AUTHORITY IN THE PUBLIC POWER ENTITY'S SERVICE  
39 TERRITORY, AS APPLICABLE, AS TO THE CONTENT OF THE WILDFIRE MITIGATION  
40 PLAN.

41 B. THE GOVERNING BODY SHALL REVIEW THE SUBMITTED WILDFIRE  
42 MITIGATION PLAN TO ENSURE THAT THE PLAN:

43 1. COMPLIES WITH THIS CHAPTER AND ALL APPLICABLE RULES AND  
44 REGULATIONS.

45 2. IS REASONABLE.

1           3. IS IN THE PUBLIC INTEREST.

2           C. THE GOVERNING BODY MAY REQUEST ADDITIONAL INFORMATION OR A  
3 MODIFICATION TO THE SUBMITTED WILDFIRE MITIGATION PLAN WITHIN ONE HUNDRED  
4 TWENTY DAYS AFTER RECEIPT OF THE WILDFIRE MITIGATION PLAN BY PROVIDING  
5 WRITTEN NOTICE TO THE PUBLIC POWER ENTITY. IF THE GOVERNING BODY DOES NOT  
6 REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE  
7 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY  
8 APPROVED AT THE EXPIRATION OF ONE HUNDRED TWENTY DAYS.

9           D. WITHIN NINETY DAYS AFTER RECEIPT OF THE NOTICE PRESCRIBED IN  
10 SUBSECTION C OF THIS SECTION, THE PUBLIC POWER ENTITY SHALL REVISE THE  
11 PUBLIC POWER ENTITY'S WILDFIRE MITIGATION PLAN TO ADDRESS THE GOVERNING  
12 BODY'S REQUEST. THE GOVERNING BODY HAS SIXTY DAYS TO CONSIDER THE PUBLIC  
13 POWER ENTITY'S RESPONSE AND ANY PROPOSED ADDITIONAL INFORMATION OR  
14 MODIFICATION TO THE WILDFIRE MITIGATION PLAN. THE WILDFIRE MITIGATION  
15 PLAN IS DEEMED APPROVED DURING THE PENDENCY OF ANY JUDICIAL ACTION THAT  
16 SEEKS REVIEW OF THE GOVERNING BODY'S APPROVAL OR REJECTION OF THE WILDFIRE  
17 MITIGATION PLAN OR ANY PORTION OF THE WILDFIRE MITIGATION PLAN. IF THE  
18 GOVERNING BODY DOES NOT REQUEST ADDITIONAL INFORMATION OR A MODIFICATION  
19 TO THE WILDFIRE MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED  
20 ADMINISTRATIVELY APPROVED AT THE EXPIRATION OF SIXTY DAYS.

21           E. THE WILDFIRE MITIGATION PLAN SHALL INCLUDE THE FOLLOWING:

22           1. A DESCRIPTION OF AREAS WITHIN THE GEOGRAPHIC REGION WHERE THE  
23 PUBLIC POWER ENTITY'S FACILITIES MAY BE SUBJECT TO A HEIGHTENED RISK OF  
24 WILDFIRE.

25           2. A DESCRIPTION OF THE PROCEDURES AND STANDARDS THAT THE PUBLIC  
26 POWER ENTITY WILL USE TO INSPECT AND OPERATE THE PUBLIC POWER ENTITY'S  
27 INFRASTRUCTURE TO MITIGATE THE RISK OF WILDFIRES.

28           3. A DESCRIPTION OF THE KEY INDIVIDUALS OR POSITION TITLES OF THOSE  
29 PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING THE WILDFIRE MITIGATION PLAN.

30           4. A DESCRIPTION OF PROCEDURES FOR DEENERGIZING POWER LINES AND  
31 DISABLING RECLOSERS TO MITIGATE POTENTIAL WILDFIRES OR PROVIDE A PUBLIC  
32 SAFETY POWER SHUT OFF PLAN.

33           5. A PLAN FOR VEGETATION MANAGEMENT.

34           6. A SUMMARY OF THE PROCEDURES THE PUBLIC POWER ENTITY INTENDS TO  
35 USE TO RESTORE THE PUBLIC POWER ENTITY'S ELECTRICAL SYSTEM IN THE EVENT OF  
36 A WILDFIRE.

37           7. A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS  
38 EFFORTS.

39           8. A DESCRIPTION OF POTENTIAL PARTICIPATION, IF APPLICABLE, WITH  
40 STATE OR LOCAL WILDFIRE PROTECTION EFFORTS.

41           9. A DESCRIPTION OF HOW THE PUBLIC POWER ENTITY WILL MONITOR  
42 COMPLIANCE WITH THE WILDFIRE MITIGATION PLAN.

43           F. A PUBLIC POWER ENTITY MAY REFERENCE PROCEDURES AND STANDARDS  
44 THAT ARE NOT SPECIFICALLY ENUMERATED IN THE WILDFIRE MITIGATION PLAN IN  
45 LIEU OF THE REQUIREMENTS UNDER SUBSECTION E OF THIS SECTION. REFERENCED

1 MATERIAL MUST BE INCLUDED AS ATTACHMENTS TO THE WILDFIRE MITIGATION PLAN  
2 SUBMISSION.

3 30-904. Liability for causing wildfires; severability

4 ~~[A. FOR ANY CAUSE OF ACTION AGAINST A PUBLIC POWER ENTITY THAT IS~~  
5 ~~RELATED TO A WILDFIRE, ALL OF THE ELEMENTS MUST BE PROVEN BY CLEAR AND~~  
6 ~~CONVINCING EVIDENCE.]~~

7 [B.] [A. AS TO ANY CAUSE OF ACTION FOR NEGLIGENCE AGAINST A PUBLIC  
8 POWER ENTITY THAT IS RELATED TO A WILDFIRE,] A PUBLIC POWER ENTITY THAT  
9 [SUBSTANTIALLY] ACTS IN COMPLIANCE WITH THE APPROVED WILDFIRE MITIGATION  
10 PLAN IS DEEMED TO MEET THE STANDARD OF CARE FOR A REASONABLY PRUDENT  
11 PUBLIC POWER ENTITY [AND A PARTY ASSERTING THE CAUSE OF ACTION MUST PROVE  
12 THAT A FAILURE TO COMPLY WITH THE APPROVED WILDFIRE MITIGATION PLAN WAS  
13 THE PROXIMATE CAUSE OF ANY LOSS, INJURY, OR OTHER HARM ALLEGED.  
14 NOTWITHSTANDING THE FOREGOING, A PUBLIC POWER ENTITY THAT ENGAGES IN]  
15 [UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE OF] WILFUL, INTENTIONAL OR  
16 RECKLESS MISCONDUCT [THAT CAUSES A WILDFIRE IS NOT DEEMED TO MEET THE  
17 STANDARD OF CARE FOR A REASONABLY PRUDENT PUBLIC POWER ENTITY]. A FAILURE  
18 TO COMPLY WITH AN APPROVED WILDFIRE MITIGATION PLAN DOES NOT CONSTITUTE  
19 NEGLIGENCE PER SE. A PUBLIC POWER ENTITY'S OR ELECTRIC UTILITY'S WILDFIRE  
20 MITIGATION PLAN SHALL NOT BE ADMISSIBLE AS EVIDENCE AGAINST ANOTHER PUBLIC  
21 POWER ENTITY OR ELECTRIC UTILITY IN A CIVIL ACTION THAT AROSE OUT OF A  
22 WILDFIRE.

23 ~~[C.] [B.]~~ A PUBLIC POWER ENTITY SHALL NOT BE APPORTIONED ANY FAULT  
24 FOR THE IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE PUBLIC  
25 POWER ENTITY'S CONTROL, INCLUDING LIGHTNING STRIKES OR ACTIONS BY THIRD  
26 PARTIES.

27 ~~[D.] [C.]~~ A PUBLIC POWER ENTITY SHALL NOT BE APPORTIONED ANY FAULT  
28 FOR VEGETATION OR OTHER WILDFIRE RISKS OUTSIDE OF THE PUBLIC POWER  
29 ENTITY'S RIGHT-OF-WAY, LEASE OR OTHER PROPERTY RIGHTS OR AREAS IN WHICH  
30 THE PUBLIC POWER ENTITY HAS BEEN DELAYED IN ACCESSING OR DENIED ACCESS TO  
31 FOR PURPOSES OF PERFORMING VEGETATION MANAGEMENT.

32 ~~[E.] [D.]~~ A CLAIM FOR CONDEMNATION OR INVERSE CONDEMNATION SHALL NOT  
33 EXIST AGAINST A PUBLIC POWER ENTITY RELATED TO WILDFIRES.

34 ~~[F.] [E.]~~ IN AN ACTION ~~[AGAINST A PUBLIC POWER ENTITY] [PURSUANT TO~~  
35 ~~THIS SECTION]~~ TO RECOVER ANY DAMAGES THAT RESULT FROM A WILDFIRE, NEITHER  
36 ~~[CONSEQUENTIAL PROPERTY DAMAGES NOR] EXEMPLARY [OR] [NOR] PUNITIVE [BODILY~~  
37 ~~INJURY OR PROPERTY] DAMAGES [OF ANY KIND] SHALL BE RECOVERED.~~

38 ~~[G.] [F.]~~ IF ANY PROVISION OF THIS CHAPTER OR THE PUBLIC POWER  
39 ENTITY'S APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE  
40 INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS  
41 CHAPTER THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR  
42 APPLICATION AND TO THIS END THE PROVISIONS OF THIS CHAPTER ARE SEVERABLE.

43 Sec. 2. Title 40, Arizona Revised Statutes, is amended by adding  
44 chapter 8, to read:

45 CHAPTER 8

WILDFIRE MITIGATION PLANNING  
ARTICLE 1. GENERAL PROVISIONS

40-1301. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ATTACHOR" MEANS ANY CABLE TELEVISION SYSTEM OR PROVIDER OF TELECOMMUNICATIONS OR BROADBAND COMMUNICATION SERVICES THAT OWNS OR OPERATES EQUIPMENT THAT IS ATTACHED TO A POLE, DUCT OR CONDUIT OR THAT IS OTHERWISE LOCATED WITHIN A RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY AN ELECTRIC UTILITY, PROVIDED THAT THE ATTACHING ENTITY IS A CURRENT PARTY TO AND IN COMPLIANCE WITH AN ATTACHMENT AGREEMENT WITH THE ELECTRIC UTILITY.

2. "COMMISSION" MEANS THE CORPORATION COMMISSION.

3. "ELECTED BOARD" MEANS THE GOVERNING BODY OF AN ELECTRIC UTILITY THAT IS SELECTED BY VOTERS OR MEMBERS OF AN ELECTRIC COOPERATIVE IN AN ELECTION.

4. "ELECTRIC UTILITY":

(a) MEANS:

(i) ANY PERSON, BUSINESS ORGANIZATION, PUBLIC SERVICE CORPORATION, ELECTRIC COOPERATIVE OR OTHER LEGAL ENTITY THAT OWNS AND OPERATES FACILITIES FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC ENERGY FOR SALE TO RETAIL CUSTOMERS IN THIS STATE.

(ii) ANY GENERATION AND TRANSMISSION COOPERATIVE OPERATING IN THIS STATE.

(b) DOES NOT INCLUDE A PUBLIC POWER ENTITY.

5. "PUBLIC POWER ENTITY" MEANS A PUBLIC POWER ENTITY AS DEFINED IN SECTION 30-901.

6. "PUBLIC SAFETY POWER SHUT OFF" MEANS THE INTENTIONAL TEMPORARY SHUT OFF OF POWER DURING CERTAIN WEATHER OR ENVIRONMENTAL CONDITIONS TO REDUCE THE RISK OF WILDFIRES.

7. "WILDFIRE" MEANS ANY UNWANTED, UNPLANNED OR UNCONTROLLED FIRE THAT IGNITES VEGETATION WITHIN A WILDLAND OR NATURAL AREA, INCLUDING:

(a) FORESTS.

(b) GRASSLANDS.

(c) PRAIRIES.

(d) ANY AREAS THAT INTERFACE BETWEEN WILDLAND OR NATURAL AND URBAN AREAS.

8. "WILDFIRE MITIGATION PLAN" MEANS A PLAN THAT IS SUBMITTED TO THE COMMISSION OR ELECTED BOARD IN ACCORDANCE WITH THIS CHAPTER.

40-1302. Cause of action; exclusive means of recovery; legal duty

A. THIS CHAPTER DOES NOT ESTABLISH A NEW CAUSE OF ACTION. IF THERE IS A CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER STATE LAW, THIS CHAPTER CONTROLS.

B. EXCEPT AS OTHERWISE AGREED TO IN WRITING OR ESTABLISHED BY FEDERAL LAW, THIS CHAPTER ESTABLISHES THE EXCLUSIVE MEANS OF RECOVERY FROM AN ELECTRIC UTILITY FOR CLAIMS OR DAMAGES THAT RESULT FROM WILDFIRES.

1 C. THIS CHAPTER DOES NOT ESTABLISH ANY ADDITIONAL LEGAL DUTY THAT  
2 SUPPORTS ANY CLAIM THAT WOULD NOT OTHERWISE ALREADY EXIST.

3 D. IN ANY CAUSE OF ACTION AGAINST A PARENT, SUBSIDIARY OR OTHER  
4 CORPORATE AFFILIATE OF AN ELECTRIC UTILITY THAT IS RELATED TO A WILDFIRE,  
5 THAT PARENT, SUBSIDIARY OR OTHER CORPORATE AFFILIATE OF THE ELECTRIC  
6 UTILITY SHALL BE TREATED THE SAME AS AND CONSIDERED EQUIVALENT TO AN  
7 ELECTRIC UTILITY FOR THE PURPOSES OF SECTION 40-1304.

8 E. IN ANY CAUSE OF ACTION AGAINST AN ELECTRIC UTILITY THAT IS  
9 RELATED TO A WILDFIRE, ANY ATTACHOR SHALL BE CONSIDERED TO BE AN ELECTRIC  
10 UTILITY FOR THE PURPOSES OF SECTION 40-1304 WITH RESPECT TO ANY LIABILITY  
11 THAT MAY BE ALLEGED TO HAVE ARISEN OUT OF THE ATTACHOR'S EQUIPMENT.

12 [F. ANY ACTION BY THE COMMISSION PURSUANT TO THIS CHAPTER IS THE  
13 EXERCISE OF AN ADMINISTRATIVE FUNCTION INVOLVING THE DETERMINATION OF  
14 FUNDAMENTAL GOVERNMENTAL POLICY PURSUANT TO ARIZONA REVISED STATUTES  
15 SECTION 12-820.01.]

16 40-1303. Wildfire mitigation plan

17 A. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION, AN ELECTRIC  
18 UTILITY SHALL PREPARE AND SUBMIT A WILDFIRE MITIGATION PLAN TO THE  
19 COMMISSION FOR REVIEW AND APPROVAL. THE ELECTRIC UTILITY MAY USE THE  
20 SUBMISSION AS AN UPDATE TO THE LAST APPROVED WILDFIRE MITIGATION PLAN.  
21 THE ELECTRIC UTILITY SHALL SUBMIT THE WILDFIRE MITIGATION PLAN TO THE  
22 COMMISSION ON OR BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR  
23 THEREAFTER. BEFORE AN ELECTRIC UTILITY SUBMITS A WILDFIRE MITIGATION PLAN  
24 TO THE COMMISSION, THE ELECTRIC UTILITY SHALL CONSULT WITH A STATE OR  
25 FEDERAL LAND MANAGEMENT OR FIRE PROTECTION AGENCY THAT HAS AUTHORITY IN  
26 THE ELECTRIC UTILITY'S SERVICE TERRITORY, AS APPLICABLE, AS TO THE CONTENT  
27 OF THE WILDFIRE MITIGATION PLAN.

28 B. THE COMMISSION SHALL REVIEW THE SUBMITTED WILDFIRE MITIGATION  
29 PLAN TO ENSURE THAT THE PLAN:

30 1. COMPLIES WITH THIS CHAPTER AND ALL APPLICABLE RULES AND  
31 REGULATIONS.

32 2. IS REASONABLE.

33 3. IS IN THE PUBLIC INTEREST.

34 C. THE COMMISSION MAY REQUEST ADDITIONAL INFORMATION OR A  
35 MODIFICATION TO THE SUBMITTED WILDFIRE MITIGATION PLAN WITHIN ONE HUNDRED  
36 TWENTY DAYS AFTER RECEIPT OF THE WILDFIRE MITIGATION PLAN BY PROVIDING  
37 WRITTEN NOTICE TO THE ELECTRIC UTILITY. IF THE COMMISSION DOES NOT  
38 REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE  
39 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY  
40 APPROVED AT THE EXPIRATION OF ONE HUNDRED TWENTY DAYS.

41 D. WITHIN NINETY DAYS AFTER RECEIPT OF THE NOTICE PRESCRIBED IN  
42 SUBSECTION C OF THIS SECTION, THE ELECTRIC UTILITY SHALL REVISE THE  
43 ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN TO ADDRESS THE COMMISSION'S  
44 REQUEST. THE COMMISSION HAS SIXTY DAYS TO CONSIDER THE ELECTRIC UTILITY'S  
45 RESPONSE AND ANY PROPOSED ADDITIONAL INFORMATION OR MODIFICATION TO THE

1 WILDFIRE MITIGATION PLAN. THE WILDFIRE MITIGATION PLAN IS DEEMED APPROVED  
2 DURING THE PENDENCY OF ANY JUDICIAL ACTION THAT SEEKS REVIEW OF THE  
3 COMMISSION'S APPROVAL OR REJECTION OF THE WILDFIRE MITIGATION PLAN OR ANY  
4 PORTION OF THE WILDFIRE MITIGATION PLAN. IF THE COMMISSION DOES NOT  
5 REQUEST ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE  
6 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY  
7 APPROVED AT THE EXPIRATION OF SIXTY DAYS.

8 E. THE WILDFIRE MITIGATION PLAN SHALL INCLUDE THE FOLLOWING:

9 1. A DESCRIPTION OF AREAS WITHIN THE GEOGRAPHIC REGION WHERE THE  
10 UTILITIES FACILITIES MAY BE SUBJECT TO A HEIGHTENED RISK OF WILDFIRE.

11 2. A DESCRIPTION OF THE PROCEDURES AND STANDARDS THAT THE ELECTRIC  
12 UTILITY WILL USE TO INSPECT AND OPERATE THE ELECTRIC UTILITY'S  
13 INFRASTRUCTURE TO MITIGATE THE RISK OF WILDFIRES.

14 3. A DESCRIPTION OF THE KEY INDIVIDUALS OR POSITION TITLES OF THOSE  
15 PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING THE WILDFIRE MITIGATION PLAN.

16 4. A DESCRIPTION OF PROCEDURES FOR DEENERGIZING POWER LINES AND  
17 DISABLING RECLOSERS TO MITIGATE POTENTIAL WILDFIRES OR PROVIDE A PUBLIC  
18 SAFETY POWER SHUT OFF PLAN.

19 5. A PLAN FOR VEGETATION MANAGEMENT.

20 6. A SUMMARY OF THE PROCEDURES THE ELECTRIC UTILITY INTENDS TO USE  
21 TO RESTORE THE ELECTRIC UTILITY'S ELECTRICAL SYSTEM IN THE EVENT OF A  
22 WILDFIRE.

23 7. A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS  
24 EFFORTS.

25 8. A DESCRIPTION OF POTENTIAL PARTICIPATION, IF APPLICABLE, WITH  
26 STATE OR LOCAL WILDFIRE PROTECTION EFFORTS.

27 9. A DESCRIPTION OF HOW THE ELECTRIC UTILITY WILL MONITOR  
28 COMPLIANCE WITH THE WILDFIRE MITIGATION PLAN.

29 F. AN ELECTRIC UTILITY MAY REFERENCE PROCEDURES AND STANDARDS THAT  
30 ARE NOT SPECIFICALLY ENUMERATED IN THE WILDFIRE MITIGATION PLAN IN LIEU OF  
31 THE REQUIREMENTS UNDER SUBSECTION E OF THIS SECTION. REFERENCED MATERIAL  
32 MUST BE INCLUDED AS ATTACHMENTS TO THE WILDFIRE MITIGATION PLAN  
33 SUBMISSION.

34 G. ON OR BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR THEREAFTER  
35 UNLESS AN ELECTRIC UTILITY'S GOVERNING BOARD ORDERS OTHERWISE, AN ELECTRIC  
36 UTILITY THAT IS GOVERNED BY AN ELECTED BOARD SHALL SUBMIT A COPY OF THE  
37 ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN TO THE ELECTED BOARD, INSTEAD  
38 OF THE COMMISSION, FOR REVIEW AND APPROVAL. THE ELECTED BOARD SHALL  
39 REPLACE THE ROLE OF THE COMMISSION FOR THE PURPOSES OF THIS SECTION.  
40 BEFORE AN ELECTRIC UTILITY SUBMITS A WILDFIRE MITIGATION PLAN TO THE  
41 ELECTED BOARD, THE ELECTRIC UTILITY SHALL CONSULT WITH A STATE OR FEDERAL  
42 LAND MANAGEMENT OR FIRE PROTECTION AGENCY THAT HAS AUTHORITY IN THE  
43 ELECTRIC UTILITY'S SERVICE TERRITORY, AS APPLICABLE, AS TO THE CONTENT OF  
44 THE WILDFIRE MITIGATION PLAN.

1 [H. THE COMMISSION MAY DEVELOP RULES AND REGULATIONS IMPLEMENTING  
2 THE COMMISSION PROCESS FOR THE REVIEW AND APPROVAL OF WILDFIRE MITIGATION  
3 PLANS.

4 I. COMMISSION OR ELECTED BOARD ACTION APPROVING A WILDFIRE  
5 MITIGATION PLAN SHALL NOT BE CONSIDERED APPROVAL FOR RECOVERY OF THE  
6 ELECTRIC UTILITY'S COSTS NECESSARY TO IMPLEMENT THE WILDFIRE MITIGATION  
7 PLAN THROUGH RATES FOR SERVICE CHARGED TO THE ELECTRIC UTILITY'S  
8 CUSTOMERS.] 40-1304. Liability for causing wildfires; severability

9 ~~[A. FOR ANY CAUSE OF ACTION AGAINST AN ELECTRIC UTILITY THAT IS~~  
10 ~~RELATED TO A WILDFIRE, ALL OF THE ELEMENTS MUST BE PROVEN BY CLEAR AND~~  
11 ~~CONVINCING EVIDENCE.]~~

12 ~~[B.]~~[A. FOR ANY CAUSE OF ACTION FOR NEGLIGENCE AGAINST AN ELECTRIC  
13 UTILITY THAT IS RELATED TO A WILDFIRE,] AN ELECTRIC UTILITY THAT  
14 [SUBSTANTIALLY] ACTS IN COMPLIANCE WITH THE APPROVED WILDFIRE MITIGATION  
15 PLAN IS DEEMED TO MEET THE STANDARD OF CARE FOR A REASONABLY PRUDENT  
16 ELECTRIC UTILITY [AND A PARTY ASSERTING THE CAUSE OF ACTION MUST PROVE  
17 THAT A FAILURE TO COMPLY WITH THE APPROVED WILDFIRE MITIGATION PLAN WAS  
18 THE PROXIMATE CAUSE OF ANY LOSS, INJURY, OR OTHER HARM ALLEGED.  
19 NOTWITHSTANDING THE FOREGOING, AN ELECTRIC UTILITY THAT ENGAGES IN]  
20 [UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE OF] WILFUL, INTENTIONAL OR  
21 RECKLESS MISCONDUCT [THAT CAUSES A WILDFIRE IS NOT DEEMED TO MEET THE  
22 STANDARD OF CARE FOR A REASONABLY PRUDENT ELECTRIC UTILITY]. A FAILURE TO  
23 COMPLY WITH AN APPROVED WILDFIRE MITIGATION PLAN DOES NOT CONSTITUTE  
24 NEGLIGENCE PER SE. A PUBLIC POWER ENTITY'S OR ELECTRIC UTILITY'S WILDFIRE  
25 MITIGATION PLAN SHALL NOT BE ADMISSIBLE AS EVIDENCE AGAINST ANOTHER PUBLIC  
26 POWER ENTITY OR ELECTRIC UTILITY IN A CIVIL ACTION THAT AROSE OUT OF A  
27 WILDFIRE.

28 ~~[C.]~~[B.] AN ELECTRIC UTILITY SHALL NOT BE APPORTIONED ANY FAULT FOR  
29 THE IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE ELECTRIC  
30 UTILITY'S CONTROL, INCLUDING LIGHTNING STRIKES OR ACTIONS BY THIRD  
31 PARTIES.

32 ~~[D.]~~[C.] AN ELECTRIC UTILITY SHALL NOT BE APPORTIONED ANY FAULT FOR  
33 VEGETATION OR OTHER WILDFIRE RISKS OUTSIDE OF THE ELECTRIC UTILITY'S  
34 RIGHT-OF-WAY, LEASE OR OTHER PROPERTY RIGHTS OR AREAS IN WHICH THE  
35 ELECTRIC UTILITY HAS BEEN DELAYED IN ACCESSING OR DENIED ACCESS TO FOR  
36 PURPOSES OF PERFORMING VEGETATION MANAGEMENT.

37 ~~[E.]~~[D.] A CLAIM FOR CONDEMNATION OR INVERSE CONDEMNATION SHALL NOT  
38 EXIST AGAINST AN ELECTRIC UTILITY RELATED TO WILDFIRES.

39 ~~[F.]~~[E.] IN AN ACTION [AGAINST AN ELECTRIC UTILITY][PURSUANT TO  
40 THIS SECTION] TO RECOVER ANY DAMAGES THAT RESULT FROM A WILDFIRE, NEITHER  
41 [CONSEQUENTIAL PROPERTY DAMAGES NOR] EXEMPLARY [OR][NOR] PUNITIVE [BODILY  
42 INJURY OR PROPERTY] DAMAGES [OF ANY KIND] SHALL BE RECOVERED.

43 ~~[G.]~~[F.] IF ANY PROVISION OF THIS CHAPTER OR ITS APPLICATION TO ANY  
44 PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT  
45 OTHER PROVISIONS OR APPLICATIONS OF THIS CHAPTER THAT CAN BE GIVEN EFFECT



Senate Amendments to H.B. 2201

1 WITHOUT THE INVALID PROVISION OR APPLICATION AND TO THIS END THE  
2 PROVISIONS OF THIS CHAPTER ARE SEVERABLE.

3 Enroll and engross to conform

4 Amend title to conform

BRIAN FERNANDEZ

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