
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

Senator Ben Hueso, Chair

2021 - 2022 Regular

Bill No:	AB 2070	Hearing Date:	6/21/2022
Author:	Bauer-Kahan		
Version:	5/19/2022 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Nidia Bautista		

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

DIGEST: This bill authorizes a fire protection district to require an electrical corporation or local publicly owned electric utility 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. This bill also establishes civil penalties for failing to provide the required notifications.

ANALYSIS:

Existing law:

- 1) Establishes and vests the California Public Utilities Commission (CPUC) with regulatory authority over electrical corporations. (Article XII of the California Constitution)
- 2) Establishes the Wildfire Safety Division (WSD) within the 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, et seq.)
- 3) Establishes the Wildfire Safety Oversight Advisory Board. (Public Utilities Code §326.1)
- 4) Requires 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. Requires each electrical corporation and local publicly owned electric utility to annually prepare and submit (to WSD and the Wildfire Safety Oversight Advisory Board, respectively) a wildfire mitigation plan which includes a description of its procedures for notifying customers who may be impacted by the deenergizing

of electrical lines. Requires those procedures to direct notification to all affected public safety offices, critical first responders, health care facilities, and operators of telecommunications infrastructure. (Public Utilities Code §§8386 and 8387)

- 5) Requires the CPUC and California Department of Fire and Forestry Protection (Cal FIRE) to enter into a memorandum of understanding (MOU) to cooperatively develop consistent approaches and share data related to fire prevention, safety, vegetation management, and energy distribution systems and to share results from various fire prevention activities, including relevant inspections and fire ignition data. (Public Utilities Code §8386.5)
- 6) Requires an electrical corporation, that has a contract for private 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 as determined by the electrical corporation and requires those electrical corporations to make an effort to reduce or eliminate the use of contract private fire safety and prevention personnel in favor of employing highly skilled and apprenticed personnel to perform those services in direct defense of utility infrastructure in collaboration with public agency fire departments having jurisdiction. States that nothing in the code section prohibits an electrical corporation from contracting with a public agency fire department or relevant agency. (Public Utilities Code §764)
- 7) Prohibits an electrical corporation from recovering a fine or penalty through a rate approved by the CPUC. (Public Utilities Code §748.1)
- 8) Defines “prescribed burning” to mean the planned application of fire to wild land fuels on land selected in advance of that application to achieve, among other objectives, vegetation management, and prevention of high-intensity wild land fires through reduction of the volume and continuity of wild land fuels. (Public Resources Code §4464)

This bill:

- 1) Authorizes a fire protection district to require an electrical corporation or local publicly owned electric utility to notify the district at least 24 hours, via both telephone and email, before performing specified work within the fire protection district’s jurisdiction. Specifically:
 - a) Scheduled, nonemergency “hot work” in a high fire risk area.

- b) Deploying 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.
 - c) Performing a prescribed or controlled burn.
- 2) Provides that if an electrical corporation or local publicly owned electric utility 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 telephone and email, the fire protection district at the earliest possible time.
 - 3) Prohibits an electrical corporation or local publicly owned electric utility from being required to pay any fee for a fire district’s costs to preposition resources in response to the proposed required notice.
 - 4) Subjects an electrical corporation or local publicly owned electric utility that fails to provide that notice to a civil penalty of \$500.
 - 5) Defines “hot work” to mean work on an energized overhead electrical line greater than 15 kilovolts (kv) 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.

Background

Wildfire mitigation plans (WMPs). Electrical equipment, including downed power lines, arcing, and conductor contact with trees and grass, can act as an ignition source. Risks for wildfires has increased with extended drought conditions, bark beetle infestation that has increased tree mortalities, extreme heat and high wind events, along with increased encroachment of development into forested and high-fire threat areas. After numerous wildfires, including several catastrophic and deadly wildfires, the state has passed numerous statutes to require electric utilities to mitigate wildfire risks. As a result of a number of recent statutes, electric utilities are required to file WMPs. The WMPs detail, describe, and summarize electric utility responsibilities, actions, and resources to mitigate wildfires. These actions include plans to harden their system and conduct vegetation management to prevent wildfire ignitions caused by utility infrastructure. The WMPs also require electric utilities to incorporate their protocols and procedures for proactive power shutoffs intended to be used as a last-resort to prevent wildfire ignitions, including required notifications to public safety agencies. Electrical corporations must file their WMPs with the WSD within OEIS at the Natural Resources Agency. The WSD reviews and determines whether to approve these plans and ensures

compliance with guidance and statute. Local publicly owned electric utilities submit their plans to the Wildfire Safety Oversight Advisory Board, which reviews the plans and provides advisory comments.

WMP requirements to address 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." In the case of Pacific Gas & Electric (PG&E), the utility deploys safety and infrastructure protection teams (SIPTs) which have consisted of 40 two-person International Brotherhood of Electrical Workers (IBEW) crews, with 40 engines and associated equipment, who are trained and certified in safety and infrastructure protection. 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 provide standby fire protection resources for PG&E crews performing work in the high fire threat districts during elevated risk conditions. In its most recent WMP, PG&E notes authorization to increase staffing for the SIPT to 130 in the current year.

"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. Hot work electric utility 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

AB 2070. This bill would authorize fire protection districts to require electric utilities to provide 24 hour notices prior to conducting specified activities, including hot work, prescribed burning, or deployment of safety and infrastructure protection team deployed to support work on overhead electrical infrastructure.

Jurisdictional conflicts. The proponents of this bill note the 2020 grand jury report from Contra Costa County which included recommendations for increasing revenues to fire districts, including a recommendation that county area fire district boards and cities consider ordinances that enable the fire district or fire department to recover labor and equipment costs from PG&E for overseeing electrical utility work that presents a high fire risk. Proponents also point to such local ordinances adopted by the Moraga-Orinda and San Ramon fire protection districts which require notices of PG&E for hot work and deenergization events, and which state that the respective fire district is the “sole and exclusive provider of fire protection, prevention, and suppression services within its jurisdictional territory.” In this regard, the proponents of this bill note the jurisdictional conflict with having PG&E maintain its own personnel for fire suppression and related activities. However, there was no data in the grand jury report of fire ignitions caused by utility hot work. There was no reference to the existence and use of safety teams by utilities when doing this work. As a result of these ordinances, PG&E electric ratepayers are being charged by the fire districts for services already provided by the utility.

Hot work is constant and, often, routine. The most common causes of utility-related ignitions are vegetation contact with utility infrastructure, contact with foreign objects, and equipment failure. As of the writing of this analysis, there were no known examples or data on ignitions caused by electric utilities doing hot work. Based on estimates provided by SCE and PG&E, each utility estimates that hundreds (if not, a thousand) of daily activities conducted by their respective utilities would fall under this bill’s definition for “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 likely must comply with the permit and notifications statutes in 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. On the other hand, the broad application of hot work, which would encompass routine utility work, seems overly prescriptive and not warranted. *As such, the author and committee may wish to only require notifications of prescribed burning activities, and strike the hot work and deployment of safety and infrastructure prevention teams notice*

requirements and related provisions proposed in this bill. Additionally, the author and committee may wish to add language that ensures that the prescribed burning notifications do not replace any existing requirements in statute for prescribed burning activities.

Double Referral. This bill is also referred to the Senate Committee on Governance and Finance.

Prior/Related Legislation

SB 247 (Dodd, Chapter 406, Statutes of 2019) made several changes related to the vegetation management requirements of electrical corporations, including: specifying qualifications and prevailing wages for line clearance tree trimmers, and other requirements.

AB 1054 (Holden, Chapter 79, Statutes of 2019) shifted the responsibility for review of WMPs from the CPUC to the WSD of the CPUC (temporarily located there) and made modifications to the review process, among other provisions.

AB 111 (Committee on Budget, Chapter 81, Statutes of 2019) required, by January 1, 2020, the CPUC to establish the WSD within the CPUC and requires all functions of the WSD to be transferred to the OEIS, effective July 1, 2021.

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

SB 1028 (Hill, Chapter 598, Statutes of 2016) required electric IOUs to file annual WMPs and requires the CPUC to review and comment on those plans. The bill also required POU and electrical cooperatives to determine their risk of catastrophic wildfire that can be caused by their electric lines and equipment and, if a risk exists, submit WMPs to their governing board for its approval.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

San Ramon Valley Fire Protection District, Sponsor
350 Bay Area Action
350 Contra Costa Action
California Fire Chiefs Association
Dayenu Circle of Jewish Silicon Valley
Democrats of Rossmoor
Fire Districts Association of California

Marin Clean Energy

OPPOSITION:

Golden State Power Cooperative
Northern California Power Agency
Pacific Gas & Electric Company
San Diego Gas & Electric Company
Southern California Edison

ARGUMENTS IN SUPPORT: 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 2070 will increase 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.

ARGUMENTS IN OPPOSITION: In opposition to this bill, the electric utilities argue that the bill would not aid in reducing the risk of wildfires and would hamper electric utilities with unnecessary notification requirements. The electrical corporations, San Diego Gas & Electric, SCE, and PG&E oppose the bill arguing that: (1) undermines the CPUC authority to determine what costs should be recovered in rates, (2) promote an inappropriate and confusing penalty structure, (3) the hot work definition would apply to routine work performed on a daily basis, (4) overly burdensome notice requirements for work that poses no demonstrable fire risk, and (5) confusing controlled burn notifications requirements.

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