

## HB 3984 -2, -5 STAFF MEASURE SUMMARY

### House Committee On Rules

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**Meeting Dates:** 6/23

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#### WHAT THE MEASURE DOES:

The measure requires the Public Utility Commission to study wildfires and report to the Legislative Assembly by September 15, 2026.

#### ISSUES DISCUSSED:

#### EFFECT OF AMENDMENT:

-2 The amendment replaces the measure. It requires the Public Utility Commission (PUC) to have a third-party expert conduct a study and examine issues related to catastrophic wildfire risk and recovery and develop a range of scenarios for a balanced solution. It specifies the contents of the study, including outlining policy options and enumerating the steps required to implement those options. It requires the PUC to provide an interim report on the study's findings and recommendations to the Legislative Assembly during the 2026 regular session and for the PUC to consult with the State Forestry Department and State Fire Marshal on a stakeholder process to develop recommendations for the 2027 regular session. The amendment requires the PUC to assess a fee against the electric companies to defray the costs of carrying out the study and stakeholder process and prohibits a company from recovering the fee from ratepayers. It declares an emergency and is effective upon passage.

#### Detailed Summary

Requires the Public Utility Commission (PUC) to have a third-party expert conduct a study and examine issues related to catastrophic wildfire risk and recovery and develop a range of scenarios for a balanced solution.

Requires the study to:

- Articulate and examine the negative consequences of catastrophic wildfires, including:
  - The risks and impacts of electricity service disruption to communities located in areas with high risk of wildfires;
  - The liability risks from wildfires for an electric company and the effects of those risks on an electric company's ability to access capital or insurance, and the secondary effects on customers, the state's economic growth, electricity reliability, electricity generated from zero-emissions or renewable resources, and the ability of the state to achieve the clean energy targets set forth in ORS 469A.410 and other state policy goals, and
  - The pace of wildfire recovery funding;
- Outline a range of policy options that balance the needs of communities impacted by a wildfire and utility customers. Specifies that these must address:
  - A process by which communities and individuals who are impacted by a wildfire that is caused by utility infrastructure may receive fair and expedient economic compensation for damages resulting from the wildfire;
  - An overall approach that supports stable access to low-cost capital in order to advance the state's economic growth, electricity reliability, electricity generated from zero-emissions or renewable resources, and the ability of the state to achieve the clean energy targets set forth in ORS 469A.410 and other state policy goals; and
  - The process and timing by which the causes of a wildfire are determined.

- Enumerate the steps required to implement the proposed policy option solutions and provide a general cost estimate that is able to support a fiscal impact analysis.

Requires the PUC to provide an interim report on the study's findings and recommendations to the energy and environment committees of the Legislative Assembly during the 2026 regular session.

Requires the PUC to consult with the State Forestry Department and State Fire Marshal and provide recommendations for a stakeholder process to follow the final study report with the goal to develop recommendations for the 2027 regular session.

Requires the PUC to assess a fee against the electric companies to defray the costs of carrying out the study and stakeholder process and prohibits a company from recovering the fee from ratepayers.

Sunsets the provisions on January 2, 2028. Declares an emergency, effective upon passage.

-5 The amendment replaces the measure. It allows a wildfire plaintiff to file a motion for supplemental judgment to recover any additional tax liability incurred when the electric company paid the final judgment as compared to the tax liability the plaintiff would have incurred had the electric company rendered payment when found liable. It specifies findings and sets an intent to establish wildfire safety standards that apply to electric companies and vest the Public Utility Commission (PUC) with the authority to implement and enforce the wildfire safety standards in a manner that is consistent with state law. The amendment also requires electric companies to apply for wildfire safety certifications and sets out associated standards and criteria. It requires the PUC to have a third-party expert conduct a study and examine issues related to catastrophic wildfire risk and recovery and develop a range of scenarios for a balanced solution that must be reported to the Legislative Assembly in 2026. It requires the PUC to assess a fee against the electric companies to defray the costs of carrying out the study and stakeholder process and prohibits a company from recovering the fee from ratepayers. It declares an emergency and is effective upon passage.

#### Detailed Summary

##### **Wildfire Litigation**

- Defines "electric company," "final judgment," and "Retail electricity consumer."
- Allows a wildfire plaintiff to file a motion for supplemental judgment to recover any additional tax liability incurred when the electric company paid the final judgment as compared to the tax liability the plaintiff would have incurred had the electric company rendered payment when found liable.

##### **Wildfire Safety Certification**

- Establishes findings and sets intent of the Legislative Assembly to establish wildfire safety standards that apply to electric companies and vest the Public Utility Commission (PUC) with the authority to implement and enforce the wildfire safety standards in a manner that is consistent with state law.
- Requires electric companies to apply annually for PUC wildfire safety certificates with documentation satisfying the following criteria:
  - An existing wildfire protection plan under ORS 757.963;
  - Proof of development, adoption, and implementation of a wildfire protection plan over the preceding year, including evidence of mitigation expenditures and physical evidence of work undertaken;
  - Identification of, justification for, and a timeline to effectuate any outstanding elements of an electric company's wildfire protection plan;
  - A demonstrated commitment to wildfire safety with examples provided; and
  - Responsiveness to PUC safety rules, additional requirements, and identified deficiencies.
- Authorizes the PUC to adopt additional requirements to verify an electric company's implementation of wildfire safety measures and electrical grid resiliency, and allows an electric company to provide third-party assessments to demonstrate such implementation.

- Requires the PUC to approve or deny an electric company's application for wildfire safety certification within 90 days with the option to demand additional documentation or refiling.
- Establishes that the issuance of a wildfire safety certificate demonstrates that an electric company has established and implemented wildfire policies and practices consistent with the PUC's wildfire safety standards on the date the certification is issued.
- The safety certificate does not relieve an electric company from its obligation to take reasonable care to mitigate wildfire risk resulting from utility equipment or operations to prevent wildfires.
- The denial of a safety certificate does not establish liability for wildfire claims or damages.
- Directs the PUC to consult with the State Forestry Department, State Fire Marshall, and academic institutions to adopt rules to implement and audit safety certifications.
- Requires electric companies to file their first application for a safety certificate by the end of 2027.

#### **Study On Catastrophic Wildfire Risk And Recovery**

- Requires the Public Utility Commission (PUC) to have a third-party expert conduct a study and examine issues related to catastrophic wildfire risk and recovery and develop a range of scenarios for a balanced solution. Requires the study to:
  - - Articulate and examine the negative consequences of catastrophic wildfires, including:
      - The risks and impacts of electricity service disruption to communities located in areas with high risk of wildfires;
      - The liability risks from wildfires for an electric company and the effects of those risks on an electric company's ability to access capital or insurance, and the secondary effects on customers, the state's economic growth, electricity reliability, electricity generated from zero-emissions or renewable resources, and the ability of the state to achieve the clean energy targets set forth in ORS 469A.410 and other state policy goals, and
      - The pace of wildfire recovery funding;
    - Outline a range of policy options that balance the needs of communities impacted by a wildfire and utility customers. Specifies that these must address:
      - A process by which communities and individuals who are impacted by a wildfire that is caused by utility infrastructure may receive fair and expedient economic compensation for damages resulting from the wildfire;
      - An overall approach that supports stable access to low-cost capital in order to advance the state's economic growth, electricity reliability, electricity generated from zero-emissions or renewable resources, and the ability of the state to achieve the clean energy targets set forth in ORS 469A.410 and other state policy goals; and
      - The process and timing by which the causes of a wildfire are determined.
    - Enumerate the steps required to implement the proposed policy option solutions and provide a general cost estimate that is able to support a fiscal impact analysis.
  - Requires the PUC to provide an interim report on the study's findings and recommendations to the energy and environment committees of the Legislative Assembly during the 2026 regular session.
  - Requires the PUC to consult with the State Forestry Department and State Fire Marshal and provide recommendations for a stakeholder process to follow the final study report with the goal to develop recommendations for the 2027 regular session.
  - Requires the PUC to assess a fee against the electric companies to defray the costs of carrying out the study and stakeholder process and prohibits a company from recovering the fee from ratepayers.

#### **BACKGROUND:**

Pursuant to ORS Chapter 756, the Public Utility Commission has broad regulatory power over investor-owned electric companies (IOUs) and public utilities in general. See ORS 756.040. Public utilities in Oregon must apply with the Public Utilities Commission (PUC) before raising consumer prices or rates. When

deciding whether to approve a requested rate adjustment, the PUC must ensure the change is fair and reasonable for utility customers while also allowing the utility service provider to recover reasonable costs and earn a reasonable return on its investments. The PUC uses a quasi-judicial investigation to examine a utility's operating expenses, investments, and capital costs and thereby determine the extent to which these costs can be passed along to consumers through increased rates.

In 2021, the Legislative Assembly enacted Senate Bill 762, a wide-ranging wildfire law that invested in dozens of programs and initiatives with a focus on creating fire-adapted communities, developing safe and effective wildfire responses, and increasing the resiliency of Oregon's landscapes and electrical grid. The measure required public utilities to submit annual wildfire protection plans to the PUC for review pursuant to ORS 757.963. Public utilities' wildfire protection plans must, among other requirements, identify high risk areas along with associated mitigation actions and investments, protocols for deenergizing power lines, vegetation management, and public awareness efforts. In 2023, the Legislative Assembly enacted Senate Bill 80, which adapted and refined various provisions of SB 762.