

SB 926 B STAFF MEASURE SUMMARY

House Committee On Judiciary

Action Date: 05/22/25

Action: Do pass with amendments to the A-Eng bill, and be referred to Ways and Means.
(Printed B-Eng).

Vote: 7-0-1-0

Yeas: 7 - Andersen, Chaichi, Chotzen, Kropf, Lewis, Tran, Wallan

Exc: 1 - Mannix

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

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Meeting Dates: 5/12, 5/13, 5/14, 5/15, 5/21, 5/22

WHAT THE MEASURE DOES:

The measure prohibits an electric company from recovering from ratepayers the company's costs and expenses arising from a wildfire, if a court or jury found the company at fault, and permits a wildfire plaintiff to seek security and supplemental recovery relating to delay in judgment satisfaction. This measure also provides the Public Utility Commission (PUC) with additional oversight over electric companies' assets and equity. The measure also requires electric companies to apply for wildfire safety certifications and sets out associated standards and criteria. The measure also directs the PUC to commission a third-party expert report on catastrophic wildfire risk and recovery. The PUC must then report the expert's findings and recommendations to the Legislative Assembly committees related to energy and environment during the 2026 session along with recommendations for a stakeholder process to develop legislation for the 2027 session. The measure declares an emergency and is effective on passage.

Detailed Summary:

WILDFIRE LITIGATION

Sections 2: Prohibitions on at-fault electric company's ratepayer recovery

- Defines an “electric company” to mean a company, pursuant to ORS 757.600, that is not consumer-owned and provides electricity to 25,000 or more Oregon customers.
- Prohibits an electric company that is found negligent or otherwise at fault for a wildfire from recovering from its customers the following costs and expenses associated with the wildfire:
 - Fines or penalties;
 - Judgments or settlements;
 - Litigation costs; and
 - Replacement or repair costs for damaged infrastructure.

Section 3: PUC's oversight of judgment debtor electric company

- Requires an electric company to request the PUC to open an investigation pursuant to ORS 756.515 if the following criteria are met:
 - The electric company owes an outstanding wildfire judgment;
 - The judgment amount exceeds 50 percent of the dividends paid by the electric company in the preceding 12 months; and
 - The electric company plans to distribute dividends, income, interest, profits, or other value to those with an ownership interest in the electric company or a related company.
- Directs the PUC, upon receiving the electric company's request for an investigation, to:

SB 926 B STAFF MEASURE SUMMARY

- Evaluate the judgment debt's effect on the electric company, balancing the electric company's service obligations to its customers and its ability to pay the outstanding judgment(s);
- Suspend the electric company's planned distribution until the PUC completes its investigation; and
- Issue a final order within 90 days of the request.
- Allows the PUC in its final order to impose restrictions or conditions on the electric company's distributions while the judgment(s) remains outstanding.
- Allows the PUC to set a minimum common equity percentage to be maintained by the electric company.
- Allows the PUC, if this equity percentage is not met, to prohibit the electric company's distributions and to require the company to submit a plan detailing how it will meet the common equity percentage.

Section 4: Wildfire plaintiff's motion for security or bond

- Allows a wildfire plaintiff to file a motion to require an electric company defendant to file a security or bond.
- Directs the court to grant the motion if:
 - The civil action is proceeding in separate liability and damages stages;
 - The plaintiff establishes in the liability stage that the electric company acted with negligence or a higher degree of fault; and
 - The electric company has been found liable to other plaintiffs for the same wildfire.
- Directs the court to set the security or bond at an amount sufficient to cover a money award in light of other potential awards resulting from the same wildfire.

Section 5: Wildfire plaintiff's motion for prejudgment interest

- Allows a wildfire plaintiff to file a motion for prejudgment interest to the extent the loss is ascertainable, either from the date of the wildfire or from the date liability is established.
- Creates a rebuttable presumption that real property loss occurred on the date the property ignited.

Section 6: Wildfire plaintiff's motion for supplemental judgment for increased tax liability

- 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.
- Defines "judgment" for purposes of this section as a final judgment with no further right or time to appeal.

Section 7: Effective date

- Renders Sections 2 through 6 applicable to wildfires ignited on or after January 1, 2020.

WILDFIRE SAFETY CERTIFICATION

Section 9: Electric companies' safety certificates

- 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

SB 926 B STAFF MEASURE SUMMARY

standards on the date the certification is issued.

- The safety certificate does not relieve an electric company from its obligation of reasonable care nor does it establish immunity against wildfire claims or damages.
- 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.

Section 10: Application date

- Requires electric companies to file their first application for a safety certificate by the end of 2027.

STUDY ON CATASTROPHIC WILDFIRE RISK AND RECOVERY

Section 11: Expert study, PUC report, and stakeholder process

- Directs the PUC to commission a third-party expert's study of catastrophic wildfire risk and recovery with the study funded by fees collected from electric companies.
- Mandates that the study comprehensively examine the negative consequences of catastrophic wildfires, including:
 - Risks of electric service disruptions in high-risk areas, including those arising from mitigation efforts;
 - Electric company liability risk and the associated effect on the company's ability to raise capital and procure insurance as well as the secondary effects on customers, renewable energy development, the state's economic growth and pursuit of existing clean energy targets; and
 - The pace of wildfire recovery funding.
- Mandates that the study outline a range of policy options, balancing the needs of wildfire victims and utility customers, with such policies addressing:
 - A process to ensure fast compensation to victims;
 - An approach that fosters capital investment in green energy, reliable electricity, and economic growth; and
 - The investigative process to determine the cause of a given wildfire.
- Mandates that the study outline the steps and estimate the costs to implement the identified policy options.
- Directs the PUC to report the expert study's findings and recommendations to the committees of the Legislative Assembly relating to energy and environment during the 2026 session.
- Directs the PUC to consult with the State Forestry Department and the State Fire Marshal and provide recommendations for a stakeholder process to develop legislation for the 2027 session.

Section 14: Effective date of measure

- Declares an emergency, effective on passage.

ISSUES DISCUSSED:

- Labor Day 2020 Wildfire stories of survival and loss
- Ongoing PacifiCorp wildfire litigation
- Potential effect and constitutional concerns of measure language
- Potential for unintended consequences of measure
- Accountability and justice for wildfire victims
- Ensuring utilities' ability to pay wildfire damages
- Oregon law on prejudgment interest, setting of utility rates, taxation of damages, and appellate bonds
- The need for both immediate action and further study given increasing wildfire risk

EFFECT OF AMENDMENT:

The amendment replaced the measure except for Section 2, the prohibition on an electric company recovering from ratepayers the costs and expenses arising from a wildfire.

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

This Summary has not been adopted or officially endorsed by action of the committee.

SB 926 B STAFF MEASURE SUMMARY

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. SB 762 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.