

B-Engrossed

Senate Bill 926

Ordered by the House May 29
Including Senate Amendments dated April 18 and House Amendments
dated May 29

Sponsored by Senators SMITH DB, GORSEK, Representatives CATE, GOMBERG; Senators GOLDEN, MANNING JR, MEEK, Representatives ANDERSEN, DIEHL, JAVADI, SOSA

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Bans the recoupment of certain costs that a power company incurs from claims based on a wildfire. (Flesch Readability Score: 65.1).

Prohibits the recovery from customers of certain costs and expenses that an electric company incurs if a court or jury finds that a wildfire resulted from the negligence or a higher degree of fault on the part of the electric company.

[Prohibits an electric company from paying or distributing dividends, income, interest or profits or paying, distributing or repurchasing stock or other ownership interest to any person or individual with an ownership or beneficial interest in the electric company if the electric company owes any debt on an outstanding judgment that is based on a finding by a court or jury that a wildfire resulted from the negligence or a higher degree of fault on the part of the electric company.]

[Sets the rate of interest on the judgment at nine percent per annum to accrue from the date the wildfire was ignited if a plaintiff establishes that a wildfire resulted from the negligence or a higher degree of fault on the part of the electric company.]

[Provides that an electric company is liable for all taxes that may be owed by a prevailing party on a judgment that the electric company has not satisfied by January 1, 2026, for a judgment that is based on a finding by a court or jury that a wildfire resulted from the negligence or a higher degree of fault on the part of the electric company.]

Requires an electric company to request that the Public Utility Commission open an investigation if the electric company owes more than a certain amount of debt on an outstanding judgment or judgments that are based on a wildfire that resulted from the negligence or a higher degree of fault on the part of the electric company and the electric company plans to make a payment, distribution or repurchase related to dividends, income, interest, profits, stock or other ownership interest. Directs the commission to suspend the payment, distribution or repurchase during the investigation and allows the commission to issue a final order that imposes restrictions, requirements or conditions.

Allows a plaintiff to file motions in a civil action based on a wildfire caused by an electric company to require the electric company to file a security or bond if the electric company has been found to be liable to other plaintiffs for damages, losses or other harms resulting from the same wildfire, to have prejudgment interest accrue from the date the wildfire caused damages, losses or other harm and for a supplemental judgment for any additional tax liabilities that the plaintiff may owe on the underlying final judgment.

Requires an electric company to apply for a wildfire safety certification. Directs the commission to issue a certification if the applicant is implementing a wildfire protection plan and meets certain requirements. Provides that a certification establishes that the applicant has implemented wildfire policies and practices consistent with wildfire safety standards. Provides that a certification does not establish immunity against claims for damages resulting from a wildfire.

Directs the commission to commission a study to examine issues related to catastrophic wildfire risk and recovery and develop scenarios for a balanced solution. Directs the commission to provide an interim report on the study's findings and recommendations to the committees of the Legislative Assembly related to energy and environment during the 2026 regular session and provide recommendations for a stakeholder process to follow the final study report.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

- 1
- 2 Relating to wildfires resulting from the fault of an electric company; and declaring an emergency.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

Be It Enacted by the People of the State of Oregon:

WILDFIRE LITIGATION

SECTION 1. Sections 2 and 3 of this 2025 Act are added to and made a part of ORS chapter 757.

SECTION 2. (1) As used in this section:

(a) “Electric company” means an electric company, as defined in ORS 757.600, that serves more than 25,000 retail electricity consumers located in this state.

(b) “Retail electricity consumer” has the meaning given that term in ORS 757.600.

(2) If a court or jury finds that a wildfire resulted from the negligence or a higher degree of fault on the part of an electric company, the electric company may not recover from retail electricity consumers the following costs and expenses:

(a) Costs and expenses that are, or are associated with, a civil judgment, civil fine or penalty or criminal fine or penalty that results from or is based on the finding that the wildfire resulted from the negligence or a higher degree of fault on the part of the electric company.

(b) Costs and expenses that are, or are associated with, a settlement that is based on:

(A) The underlying allegations that there are losses, expenses or damages caused by the wildfire that resulted from the negligence or a higher degree of fault on the part of the electric company; or

(B) The finding that the wildfire resulted from the negligence or a higher degree of fault on the part of the electric company.

(c) Litigation costs and expenses of, or associated with, the civil or criminal action in which the court or jury finds that the wildfire resulted from the negligence or a higher degree of fault on the part of the electric company.

(d) Costs and expenses of, or associated with, repairing or replacing the electric company’s real or personal property that was damaged or destroyed in the wildfire that the court or jury finds resulted from the negligence or a higher degree of fault on the part of the electric company.

SECTION 3. (1) As used in this section:

(a) “Electric company” means an electric company, as defined in ORS 757.600, that serves more than 25,000 retail electricity consumers located in this state.

(b) “Retail electricity consumer” has the meaning given that term in ORS 757.600.

(2) An electric company shall immediately request that the Public Utility Commission open an investigation under ORS 756.515 if:

(a) The electric company owes any debt on an outstanding judgment or judgments that are based on a finding by a court or jury that a wildfire resulted from the negligence or a higher degree of fault on the part of the electric company;

(b) The total amount the electric company owes on the outstanding judgment or judgments is greater than 50 percent of the dividend payments that the electric company paid out during the prior 12 months; and

(c) The electric company plans to, prior to satisfying the judgment or judgments:

(A) Pay or distribute dividends, income, interest or profits of the electric company or its affiliate or subsidiary to any person or individual with an ownership or beneficial interest in

1 the electric company;

2 (B) Pay or distribute stock or other ownership interest in the electric company or its
3 affiliate or subsidiary to any person or individual with an ownership or beneficial interest in
4 the electric company; or

5 (C) Repurchase stock or other ownership interest in the electric company or its affiliate
6 or subsidiary from any person or individual with an ownership or beneficial interest in the
7 electric company.

8 (3) The purpose of an investigation under this section is to determine the financial effect
9 of a judgment or judgments on an electric company and the ability of the electric company
10 to satisfy the judgment or judgments. In carrying out the investigation, the commission shall
11 balance the electric company's obligation to provide adequate service to its customers and
12 its ability to pay the debts owed on the outstanding judgment or judgments.

13 (4) When an electric company requests an investigation under this section, the commis-
14 sion shall order the electric company to suspend the payment, distribution or repurchase
15 until the commission concludes its investigation and issues a final order. The commission
16 shall conclude its investigation and issue a final order within 90 days from the date the
17 electric company requests an investigation.

18 (5) In its final order, the commission may, based on its findings, impose restrictions, re-
19 quirements or conditions on the electric company's payment, distribution or repurchase ac-
20 tivities described under subsection (2)(c)(A) to (C) of this section. Any restrictions,
21 requirements or conditions that the commission imposes may be imposed for only so long
22 as the judgment or judgments remain outstanding. The types of restrictions, requirements
23 or conditions that the commission may impose in its final order include:

24 (a) Establishing minimum common equity percentages of the electric company's total
25 capital and requiring the electric company to maintain at least the minimum common equity
26 percentages; and

27 (b) If the electric company's common equity percentages are below minimum common
28 equity percentages established by the commission:

29 (A) Prohibiting the electric company from carrying out payment, distribution or repur-
30 chase activities described under subsection (2)(c)(A) to (C) of this section; and

31 (B) Requiring the electric company to submit a plan to the commission detailing how the
32 electric company plans to meet the minimum common equity percentages established by the
33 commission.

34 **SECTION 4.** (1) In a civil action arising out of allegations that the conduct of an electric
35 company, as defined in section 3 of this 2025 Act, caused or substantially contributed to a
36 wildfire, a plaintiff may file a motion to require the electric company to file a security or
37 bond.

38 (2) The court shall grant a motion filed under this section and order the electric company
39 to file a security or bond if:

40 (a) The civil action is proceeding in two stages such that liability and damages are de-
41 termined at different stages;

42 (b) At the liability stage, the plaintiff establishes that the wildfire resulted from the
43 negligence or a higher degree of fault on the part of the electric company; and

44 (c) The electric company has been found by a court or jury to be liable to other plaintiffs
45 or in other civil actions for damages, losses or other harms resulting from the same wildfire.

(3) The court shall establish the amount of a security or bond ordered under this section in an amount that is sufficient to demonstrate the ability of the electric company to pay a money award in the civil action. The court shall establish the amount in consideration of other money award judgments that may be awarded against the electric company for damages, losses or other harms resulting from the same wildfire.

SECTION 5. In a civil action arising out of allegations that the conduct of an electric company, as defined in section 3 of this 2025 Act, caused or substantially contributed to a wildfire:

(1) A plaintiff may file a motion at any time to have prejudgment interest accrue:

(a) From the date the wildfire caused the claimed damages, losses or other harm if the amount of the damages, losses or other harm is ascertainable from the date the wildfire caused the claimed damages, losses or other harm.

(b) From the date liability in the civil action is established if the amount of the damages, losses or other harm is ascertainable from the date liability in the civil action is established.

(2) For purposes of a motion filed under this section, there is a rebuttable presumption that damages, losses or other harm to real property occurred from the date the wildfire ignited the real property.

SECTION 6. (1) As used in this section, “final judgment” means a judgment that is not subject to further appeal or review or for which the time to file an appeal has expired without a party filing an appeal.

(2) In a civil action arising out of allegations that the conduct of an electric company, as defined in section 3 of this 2025 Act, caused or substantially contributed to a wildfire, a plaintiff may file a motion for entry of a supplemental judgment against the electric company for any additional tax liabilities that the plaintiff may owe on the underlying final judgment if the tax liabilities on the final judgment are greater than the tax liabilities that a plaintiff would have owed, taking into consideration any changes in tax treatment under federal or state law, on the final judgment if the final judgment was entered and satisfied on the date the electric company was found to be liable.

SECTION 7. Sections 2 to 6 of this 2025 Act apply to wildfires that are ignited on or after January 1, 2020.

WILDFIRE SAFETY CERTIFICATION

SECTION 8. Sections 9 and 10 of this 2025 Act are added to and made a part of ORS chapter 757.

SECTION 9. (1) As used in this section, “electric company” has the meaning given that term in ORS 757.600.

(2) An electric company shall file annually an application with the Public Utility Commission for a wildfire safety certification.

(3) The commission shall issue a wildfire safety certification to an applicant if the applicant:

(a) Has a wildfire protection plan approved under ORS 757.963.

(b) Establishes that the applicant is implementing and taking actions identified in the wildfire protection plan. The application must describe and verify the development and adoption of the wildfire protection plan’s components and measures by documenting, for the

1 prior 12-month period, the applicant's wildfire mitigation expenditures and physical evidence
2 of the work undertaken in the development and adoption of the wildfire protection plan's
3 components and measures.

4 (c) Identifies any actions identified in the wildfire protection plan that have not been
5 implemented, provides adequate justification for not taking such actions and establishes
6 dates by which such actions will be taken.

7 (d) Demonstrates a commitment to wildfire safety. An applicant may demonstrate a
8 commitment to wildfire safety through various means, such as:

9 (A) Participating in workshops convened by the commission under ORS 757.960.

10 (B) Performing an internal wildfire safety culture assessment and adopting a process to
11 implement the findings of the assessment.

12 (C) Providing wildfire safety training to employees.

13 (D) Conducting annual safety performance reviews establishing processes to facilitate the
14 reporting of risks and management accountability.

15 (E) Implementing other wildfire mitigation measures.

16 (e) Has taken timely and reasonable actions on matters within the applicant's control,
17 that are consistent with safety rules adopted by the commission under ORS 757.035, to ad-
18 dress any outstanding deficiencies reported by the commission during the commission's most
19 recent audit and safety inspection of the applicant's infrastructure.

20 (f) Meets any other requirements adopted by the commission.

21 (4) The commission may adopt requirements under subsection (3)(f) of this section that
22 help verify that an applicant is applying risk-based wildfire mitigation standards and proce-
23 dures to protect the public safety, reduce risks to utility customers and promote electric
24 system resilience to wildfire damage. To verify that the applicant meets requirements
25 adopted under subsection (3)(f) of this section, an applicant may provide reviews, assess-
26 ments or evaluations conducted by third parties that demonstrate the applicant's efforts
27 regarding risk reduction and development of a resilient electric system.

28 (5) The commission shall approve or deny an application for a wildfire safety certification
29 within 90 days after receipt of the application. If the commission finds that an application
30 does not include documentation sufficient to approve the application, the commission may
31 allow the applicant to provide additional documentation or require the applicant to refile.

32 (6) The issuance of a wildfire safety certification:

33 (a) Establishes that the applicant has established and implemented wildfire policies and
34 practices consistent with the commission's wildfire safety standards for electric companies
35 on the date the certification is issued.

36 (b) Does not relieve an applicant from its obligation to take reasonable care to proac-
37 tively prevent wildfires and mitigate wildfire risk.

38 (c) Does not establish immunity against claims for damages resulting from a wildfire.

39 (7) The denial of an application for a wildfire safety certification does not establish li-
40 ability for claims for damages resulting from a wildfire.

41 (8) Failure of the commission to act in a timely manner on an application for a wildfire
42 safety certification is not admissible evidence in a civil proceeding relating to allegations that
43 an electric company caused or contributed to a wildfire.

44 (9) The commission, in consultation with the State Forestry Department, the Department
45 of the State Fire Marshal and academic institutions with expertise in evidence-based wildfire

mitigation strategies, shall adopt rules for the implementation of this section. The rules must include:

(a) Reporting and auditing requirements for determining an applicant's implementation of the applicant's wildfire protection plan approved under ORS 757.963.

(b) The timing, procedures, reporting requirements and standards for the review of an application for a wildfire safety certification.

SECTION 10. An electric company shall first file an application under section 9 of this 2025 Act no later than December 31, 2027.

STUDY ON CATASTROPHIC WILDFIRE RISK AND RECOVERY

SECTION 11. (1) The Public Utility Commission shall commission a third-party expert to conduct a study and examine issues related to catastrophic wildfire risk and recovery and develop a range of scenarios for a balanced solution.

(2) The study must:

(a) Articulate and examine the negative consequences of catastrophic wildfires, including:

(A) The risks and impacts of electricity service disruption to communities located in areas with high risk of wildfires, including electricity service disruption resulting from wildfire mitigation practices;

(B) 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

(C) The pace of wildfire recovery funding;

(b) Outline a range of policy options, including their essential elements, that balance the needs of communities impacted by a wildfire and utility customers. The range of policy options must address:

(A) 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;

(B) 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

(C) The process and timing by which the causes of a wildfire are determined; and

(c) Enumerate the steps required to implement the proposed policy option solutions and provide a general cost estimate for carrying out the administrative implementation steps with enough sufficiency to support a fiscal impact analysis.

(3) During the 2026 regular session of the Eighty-third Legislative Assembly, the commission shall provide an interim report, in the manner provided in ORS 192.245, to the committees of the Legislative Assembly related to energy and environment on the study's findings and recommendations. The commission shall consult with the State Forestry Department and the State Fire Marshal and provide recommendations for a stakeholder process

1 to follow the final study report, with the goal of the stakeholder process being to develop
2 recommendations for legislation for the 2027 regular session of the Eighty-fourth Legislative
3 Assembly.

4 (4) The commission shall assess a fee against the electric companies to defray the costs
5 of carrying out the provisions of this section. An electric company may not recover from
6 ratepayers a fee assessed under this section.

7 SECTION 12. Section 11 of this 2025 Act is repealed on January 2, 2028.

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9 CAPTIONS

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11 SECTION 13. The unit captions used in this 2025 Act are provided only for the conven-
12 ience of the reader and do not become part of the statutory law of this state or express any
13 legislative intent in the enactment of this 2025 Act.

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15 EFFECTIVE DATE

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17 SECTION 14. This 2025 Act being necessary for the immediate preservation of the public
18 peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect
19 on its passage.
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