

## Rep Marsh

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**From:** Allnatt Christopher  
**Sent:** Monday, March 3, 2025 1:44 PM  
**To:** Rep Marsh  
**Subject:** RE: HB 3666 - LC Opinion

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Rep. Marsh,

My answers are in bold font.

1. Does the bill provide immunity to wildfire lawsuits for public utilities with a valid safety certification?

**No. HB3666 does not provide immunity to wildfire lawsuits for public utilities that have a valid safety certification. Section 3 (5) has no evidentiary or liability effect.**

2. Does the bill change Oregon evidentiary standards regarding wildfire lawsuits against public utilities?

**No. A valid safety certification does not change the evidentiary standards regarding wildfire lawsuits. A valid safety certification does not establish nor is it evidence that a public utility was reasonable or not reasonable, or not negligent or reckless at the time that a public utility may have started or contributed to a wildfire. It would be up to a judge to decide whether a safety certification is relevant evidence for a jury to consider or whether a safety certification would “be unfairly prejudicial, confuse the issues or mislead the jury.” While opining on a hypothetical lawsuit, I think a plaintiff’s attorney would have a strong argument that a safety certification is not probative or evidence as to what a public utility was doing or not doing that may have caused or contributed to a wildfire.**

**I could see where a judge may, possibly, allow an application or safety certification as evidence that a public utility was following routine practices. However, a plaintiff’s attorney could argue that the best evidence rule applies. The best evidence rule applies when a party seeks to prove the contents of a document. This means that a judge may require a public utility to offer as evidence an original document, such as a daily or weekly inspection report, rather than an application or safety certification.**

3. Does the bill establish wildfire prevention standards that do not already exist in statute?

**HB 3666 establishes unique standards that must be met for a public utility to get a wildfire safety certification, but nothing else. Those standards do not apply to or within any other context. As another observation, HB 3666 does not require a public utility to have or maintain a wildfire safety certification, but simply to file an application for one.**

*Chris Allnatt*

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**From:** Rep Marsh <Rep.PamMarsh@oregonlegislature.gov>  
**Sent:** Monday, March 3, 2025 1:11 PM  
**To:** Allnatt Christopher <Christopher.Allnatt@oregonlegislature.gov>  
**Subject:** HB 3666 - LC Opinion

Hi Chris,

We have a few questions about HB 3666 that I'm hoping you can provide LC opinion on:

1. Does the bill provide immunity to wildfire lawsuits for public utilities with a valid safety certification?
2. Does the bill change Oregon evidentiary standards regarding wildfire lawsuits against public utilities?
3. Does the bill establish wildfire prevention standards that do not already exist in statute?

Thanks!

**Selena Blick** (she/her)

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