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SB-247 Wildland fire prevention: vegetation management. (2019-2020)

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Senate Bill No. 247

CHAPTER 406

An act to amend Section 8386.3 of, and to add Section 8386.6 to, the Public Utilities Code, relating to wildland fire prevention.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 247, Dodd. Wildland fire prevention: vegetation management.

Existing law establishes the Wildfire Safety Division within the Public Utilities Commission to, among other things, oversee and enforce electrical corporations' compliance with wildfire safety requirements. Existing law requires the division to approve or deny each wildfire mitigation plan and plan updates submitted by an electrical corporation.

This bill would require an electrical corporation, within one month of the completion of a substantial portion of the vegetation management requirements in its wildfire mitigation plan, to notify the division of the completion. The bill would require the division to audit the completed work and would require the audit to specify any failure of the electrical corporation to fully comply with the vegetation management requirements. The bill would require the division to provide the audit to the electrical corporation and to provide the electrical corporation a reasonable time period to correct and eliminate deficiencies specified in the audit. The bill would authorize the division to engage an independent evaluator to conduct the audit. Within one year after the expiration of the time period to correct and eliminate deficiencies, the bill would require the independent evaluator to issue a report to the electrical corporation, the division, and the Safety and Enforcement Division of the commission specifically describing any failure of the electrical corporation to substantially comply with the substantial portion of the vegetation management requirements.

This bill would require each electrical corporation to notify the commission of the date when it projects that it will have spent, or incurred obligations to spend, its entire annual revenue requirement for vegetation management not less than 30 days before that date.

This bill would specify the qualifications for electrical line clearance tree trimmers performing work to comply with the vegetation management requirements in an electrical corporation's wildfire mitigation plan, and would require that qualified line clearance tree trimmers be paid no less than a specified prevailing wage rate.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8386.3 of the Public Utilities Code is amended to read:

8386.3. (a) The Wildfire Safety Division shall approve or deny each wildfire mitigation plan and update submitted by an electrical corporation within three months of its submission, unless the division makes a written determination, including reasons supporting the determination, that the three-month deadline cannot be met. Each electrical corporation's approved plan shall remain in effect until the division approves the electrical corporation's subsequent plan. The division shall consult with the Department of Forestry and Fire Protection on the review of each wildfire mitigation plan and update. In rendering its decision, the division shall consider comments submitted pursuant to subdivision (d) of Section 8386. Before approval, the division may require modifications of the plan. After approval by the division, the commission shall ratify the action of the division.

(b) The Wildfire Safety Division's approval of a plan does not establish a defense to any enforcement action for a violation of a commission decision, order, or rule.

(c) Following approval of a wildfire mitigation plan, the Wildfire Safety Division shall oversee compliance with the plan consistent with the following:

(1) Three months after the end of an electrical corporation's initial compliance period as established by the Wildfire Safety Division pursuant to subdivision (b) of Section 8386, and annually thereafter, each electrical corporation shall file with the division a report addressing its compliance with the plan during the prior calendar year.

(2) (A) Before March 1, 2021, and before each March 1 thereafter, the Wildfire Safety Division, in consultation with the Department of Forestry and Fire Protection, shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure.

(B) (i) Each electrical corporation shall engage an independent evaluator listed pursuant to subparagraph (A) to review and assess the electrical corporation's compliance with its plan. The engaged independent evaluator shall consult with, and operate under the direction of, the Wildfire Safety Division of the commission. The independent evaluator shall issue a report on July 1 of each year in which a report required by paragraph (1) is filed. As a part of the independent evaluator's report, the independent evaluator shall determine whether the electrical corporation failed to fund any activities included in its plan.

(ii) The Wildfire Safety Division shall consider the independent evaluator's findings, but the independent evaluator's findings are not binding on the division, except as otherwise specified.

(iii) The independent evaluator's findings shall be used by the Wildfire Safety Division to carry out its obligations under Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.

(iv) The independent evaluator's findings shall not apply to events that occurred before the initial plan is approved for the electrical corporation.

(3) The commission shall authorize the electrical corporation to recover in rates the costs of the independent evaluator.

(4) The Wildfire Safety Division shall complete its compliance review within 18 months after the submission of the electrical corporation's compliance report.

(5) (A) An electrical corporation shall notify the Wildfire Safety Division, within one month after it completes a substantial portion of the vegetation management requirements in its wildfire mitigation plan, of the completion. Upon receiving the notice from the electrical corporation, the division shall, consistent with its authority pursuant to paragraph (1) of subdivision (a) of Section 326, promptly audit the work performed by, or on behalf of, the electrical corporation. The audit shall specify any failure of the electrical corporation to fully comply with the vegetation management requirements in the wildfire mitigation plan. The division shall provide the audit to the electrical corporation. The electrical corporation shall have a reasonable time, as determined by the division, to correct and eliminate any deficiency specified in the audit.

(B) The Wildfire Safety Division may engage its own independent evaluator, who shall be a certified arborist and shall have any other qualifications determined appropriate by the division, to conduct the audit specified in subparagraph (A). The independent evaluator shall consult with, and operate under the direction of, the division.

(C) Within one year of the expiration of the time period for an electrical corporation to correct and eliminate any deficiency identified in the audit, the independent evaluator shall issue a report to the electrical corporation, the Wildfire Safety Division, and the Safety and Enforcement Division of the commission specifically describing any failure of the electrical corporation to substantially comply with the substantial portion of the vegetation management requirements in the electrical corporation's wildfire mitigation plan. The report shall be made publicly available. The division shall include the report in its compliance review prepared pursuant to paragraph (4).

(6) Each electrical corporation shall reimburse the Wildfire Safety Division for its costs to implement this section with respect to that electrical corporation.

(d) An electrical corporation shall not divert revenues authorized to implement the plan to any activities or investments outside of the plan. An electrical corporation shall notify the commission by advice letter of the date when it projects that it will have spent, or incurred obligations to spend, its entire annual revenue requirement for vegetation management in its wildfire mitigation plan not less than 30 days before that date.

(e) The commission shall not allow a large electrical corporation to include in its equity rate base its share, as determined pursuant to the Wildfire Fund allocation metric specified in Section 3280, of the first five billion dollars (\$5,000,000,000) expended in aggregate by large electrical corporations on fire risk mitigation capital expenditures included in the electrical corporations' approved wildfire mitigation plans. An electrical corporation's share of the fire risk mitigation capital expenditures and the debt financing costs of these fire risk mitigation capital expenditures may be financed through a financing order pursuant to Section 850.1 subject to the requirements of that financing order.

(f) This section does not impose any liability on the Wildfire Safety Division regarding the performance of its duties.

SEC. 2. Section 8386.6 is added to the Public Utilities Code, to read:

8386.6. (a) All electrical line clearance tree trimmers performing work to comply with the vegetation management requirements in an electrical corporation's wildfire mitigation plan shall be qualified line clearance tree trimmers, or trainees under the direct supervision and instruction of qualified line clearance tree trimmers, as provided in the High-Voltage Electrical Safety Orders (Group 2 (commencing with Section 2700) of Subchapter 5 of Chapter 4 of Division 1 of Title 8 of the California Code of Regulations) of the Department of Industrial Relations.

(b) All qualified line clearance tree trimmers shall be paid no less than the prevailing wage rate for a first period apprentice electrical utility lineman as determined by the Director of Industrial Relations.