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**SB-694 Fire prevention: electrical corporations: wildfire mitigation: workforce diversity.** (2021-2022)

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**Senate Bill No. 694**

**CHAPTER 733**

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

[ Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 694, Bradford. Fire prevention: electrical corporations: wildfire mitigation: workforce diversity.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law establishes the Wildfire Safety Division within the commission. Existing law requires each electrical corporation to annually prepare and submit a wildfire mitigation plan to the division for review and approval, as specified. Existing law prevents an electrical corporation from diverting revenues authorized to implement the plan to any activities or investments outside of the plan and requires an electrical corporation to notify the commission and the Office of Energy Infrastructure Safety by advice letter of the date when the electrical corporation projects that it will have spent, or incurred obligations to spend, its entire annual revenue requirement for vegetation management in its plan, as specified.

This bill would require an electrical corporation to also notify the commission and the office by advice letter a detailed summary of specified workforce development efforts completed in compliance with the Office of Federal Contract Compliance Programs, including, but not limited to, a description of and data on the extent to which the electrical corporation advertises job openings to members of California Conservation Corps and members of community conservation corps, as defined.

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because a violation of an order or decision of the commission implementing this bill's requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

This bill would incorporate additional changes to Section 8386.3 of the Public Utilities Code proposed by AB 9 to be operative only if this bill and AB 9 are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

**SECTION 1.** It is the intent of the Legislature to enact legislation that would expand opportunities for meaningful employment in electrical grid modernization, vegetation management, and wildland firefighting.

**SEC. 2.** 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, which shall include 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 is not a defense to any enforcement action by the office or for a violation of a commission enforcement action, decision, order, or rule.

(c) Following approval of a wildfire mitigation plan, the Wildfire Safety Division shall oversee compliance with the plan consistent with all of 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 the electrical corporation's 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 office. 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 do 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 Wildfire Safety 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 the division's costs to implement this section with respect to that electrical corporation.

(d) (1) An electrical corporation shall not divert revenues authorized by the commission to implement the wildfire mitigation plan to any activities or investments outside of the plan. An electrical corporation shall notify the commission by advice letter of both of the following:

(A) The date when the electrical corporation 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.

(B) A detailed summary of the electrical corporation's workforce development efforts completed in compliance with the Office of Federal Contract Compliance Programs, including, but not limited to, all of the following:

(i) A description of and data on the extent to which the electrical corporation advertises job openings to members of California Conservation Corps crews and members of community conservation corps, as defined in Section 14507.5 of the Public Resources Code.

(ii) A description of and data on the extent to which the electrical corporation, in seeking to develop potential members of its workforce, has links to or otherwise works with community-based or other organizations that work with current members of California Conservation Corps crews and current members of community conservation corps, as defined in Section 14507.5 of the Public Resources Code, and formerly incarcerated conservation crew members.

(iii) A description of the extent to which the electrical corporation supports skill-development efforts that would assist current and former members of California Conservation Corps crews, members of community conservation corps, as defined in Section 14507.5 of the Public Resources Code, formerly incarcerated conservation crew members, and others with similar skillsets in acquiring skills needed to complete work on or near electrical facilities. Nothing in this clause alters the requirements imposed on an employer pursuant to Section 12952 of the Government Code.

(2) An electrical corporation shall provide to the office a copy of the advice letter pursuant to paragraph (1) at the same time the advice letter is submitted to the commission.

(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. 2.5.** 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, which shall include 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 Office of the State Fire Marshal 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 is not a defense to any enforcement action by the office or for a violation of a commission enforcement action, decision, order, or rule.

(c) Following approval of a wildfire mitigation plan, the Wildfire Safety Division shall oversee compliance with the plan consistent with all of 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 the electrical corporation's 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 Office of the State Fire Marshal, 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 office. 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 do 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 Wildfire Safety 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 the division's costs to implement this section with respect to that electrical corporation.

(d) (1) An electrical corporation shall not divert revenues authorized by the commission to implement the wildfire mitigation plan to any activities or investments outside of the plan. An electrical corporation shall notify the commission by advice letter of both of the following:

(A) The date when the electrical corporation 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.

(B) A detailed summary of the electrical corporation's workforce development efforts completed in compliance with the Office of Federal Contract Compliance Programs, including, but not limited to, all of the following:

(i) A description of and data on the extent to which the electrical corporation advertises job openings to members of California Conservation Corps crews and members of community conservation corps, as defined in Section 14507.5 of the Public Resources Code.

(ii) A description of and data on the extent to which the electrical corporation, in seeking to develop potential members of its workforce, has links to or otherwise works with community-based or other organizations that work with current members of California Conservation Corps crews and current members of community conservation corps, as defined in Section 14507.5 of the Public Resources Code, and formerly incarcerated conservation crew members.

(iii) A description of the extent to which the electrical corporation supports skill-development efforts that would assist current and former members of California Conservation Corps crews, members of community conservation corps, as defined in Section 14507.5 of the Public Resources Code, formerly incarcerated conservation crew members, and others with similar skillsets in acquiring skills needed to complete work on or near electrical facilities. Nothing in this clause alters the requirements imposed on an employer pursuant to Section 12952 of the Government Code.

(2) An electrical corporation shall provide to the office a copy of the advice letter pursuant to paragraph (1) at the same time the advice letter is submitted to the commission.

(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. 3.** Section 2.5 of this bill incorporates amendments to Section 8386.3 of the Public Utilities Code proposed by both this bill and Assembly Bill 9. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 8386.3 of the Public Utilities Code, and (3) this bill is enacted after Assembly Bill 9, in which case Section 2 of this bill shall not become operative.

**SEC. 4.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.