



**ARIZONA STATE SENATE**  
*Fifty-Seventh Legislature, First Regular Session*

**AMENDED**  
FACT SHEET FOR H.B. 2201

~~technical correction; electricity; power authority~~  
(NOW: wildfire mitigation planning; utilities; approval)

Purpose

Requires public power entities and electric utilities to prepare a biennial wildfire mitigation plan, as prescribed, and outlines wildfire mitigation plan review and approval requirements. Prescribes liability for causing wildfires in any cause of action for negligence against a public power entity or electric utility that is related to wildfire.

Background

The Arizona Constitution deems all corporations, other than municipal, engaged in furnishing gas, oil or electricity for light, fuel, power, water for irrigation, fire protection or other public purposes, or engaged in furnishing for profit hot or cold air or steam for heating or cooling purposes, as *public service corporations* ([Ariz. Const. art. 15 § 2](#)).

The Department of Forestry and Fire Management (DFFM) provides for land management and the prevention and suppression of wildland fires on state land and on private property located outside of cities and towns. The State Forester is responsible for directing, operating and controlling DFFM and must also monitor and conduct forestry projects and wildfire prevention, mitigation and suppression activities and develop recommendations for minimum standards for safeguarding life and property from wildland fires and fire hazards, preventing wildland fires and alleviating fire hazards (A.R.S. §§ [37-1301](#) and [37-1303](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

***Wildfire Mitigation Plan Review and Approval***

1. Requires a public power entity to prepare and submit a wildfire mitigation plan to its governing body for review and approval and allows the entity to use a submission as an update to the last approved plan.
2. Requires a public power entity's governing body to adopt a wildfire mitigation plan by May 1, 2026, and every even-numbered year thereafter, unless the governing body orders otherwise.
3. Requires a public power entity to submit its governing body-approved wildfire mitigation plan to the State Forester for further review and approval, as prescribed.

4. Requires an electric utility to prepare and submit to the State Forester, for review and approval, a wildfire mitigation plan by May 1, 2026, and every even-numbered year thereafter, and allows the utility to use a submission as an update to the last approved plan.
5. Allows the State Forester to charge reasonable fees to public power entities and electric utilities for the review and approval of wildfire mitigation plans and allows, when establishing the fees, the State Forester to consider factors such as the time and materials necessary to review the plans with consideration given to the relative size, resources and service territory complexity of the entity or utility submitting the plan.
6. Allows a public power entity with fewer than 40,000 meters in Arizona as of January 1, 2025, to prepare and submit a wildfire mitigation plan for review and approval to both the entity's governing body and the State Forester.
7. Exempts, from the statutes governing wildfire mitigation plans, a public power entity with fewer than 40,000 meters in Arizona as of January 1, 2025, that does not submit a wildfire mitigation plan for review and approval to both the governing body and the State Forester.
8. Requires an electric utility that is an electric cooperative with more than 40,000 meters in Arizona as of January 1, 2025, to prepare a wildfire mitigation plan and allows the cooperative to submit the plan to the State Forester, as statutorily prescribed.
9. Allows an electric utility that is an electric cooperative with fewer than 40,000 meters in Arizona as of January 1, 2025, to prepare and submit a wildfire mitigation plan for review and approval to the State Forester.
10. Exempts, from the statutes governing wildfire mitigation plans, an electric utility that is an electric cooperative that does not submit a wildfire mitigation plan to the State Forester for review and approval.
11. Requires a public power entity's governing body to review the submitted wildfire mitigation plan to ensure that the plan:
  - a) complies with the statutory wildfire mitigation planning requirements and all applicable rules and regulations;
  - b) is reasonable; and
  - c) is in the public interest.
12. Requires the State Forester to review and approve a public power entity's or electric utility's submitted wildfire mitigation plan, if the State Forester finds that the plan:
  - a) complies with all applicable laws and rules;
  - b) is reasonable considering the entity's or utility's size and resources;
  - c) is in the public interest; and
  - d) is designed to meet the specific conditions and risk of the entity's or utility's service area.
13. Requires a wildfire mitigation plan to identify preventive actions, protective equipment and monitoring programs that the public power entity or electric utility will carry out, install, repair, replace or implement to minimize the risk of wildfire and requires each plan to include:
  - a) a description of areas within the geographic region where the entity's or utility's facilities may be subject to a heightened risk of wildfire;

- b) a description of the procedures, standards and time frames that the entity or utility will use to inspect and operate its infrastructure to mitigate wildfire risk;
  - c) a description of the key individuals or position titles of those persons who are responsible for implementing the plan;
  - d) a description of procedures for deenergizing power lines and disabling reclosers to mitigate potential wildfires or provide a public safety power shut off plan;
  - e) a description of the procedures, standards and time frames that the entity or utility will use to carry out vegetation management;
  - f) a summary of the procedures the entity or utility intends to use to restore its electrical system in the event of a wildfire;
  - g) a description of community outreach and public awareness efforts;
  - h) a description of potential participation, if applicable, with state or local wildfire protection efforts; and
  - i) a description of how the entity or utility will monitor compliance with the plan.
14. Allows a public power entity and electric utility to reference procedures and standards that are not specifically enumerated in the wildfire mitigation plan in lieu of the above prescribed requirements and requires referenced material to be included as attachments to the plan submission.
15. Requires, during the pendency of any review and approval process by the State Forester, any wildfire mitigation plan previously approved by the State Forester to remain approved and in effect.
16. Requires the State Forester, within 14 days after receiving a submitted wildfire mitigation plan, to:
- a) identify the counties, cities and towns located within the geographic region described in the public power entity's or electric utility's plan;
  - b) establish the time period and instructions for the affected counties, cities and towns to provide public comment; and
  - c) provide the identified counties, cities and towns and the relevant time period and instructions to the public power entity or electric utility.
17. Requires a public power entity or electric utility, within 10 days after receiving the information relating to counties, cities and towns from the State Forester, to provide written notice to the identified counties, cities and towns of the opportunity to provide comment on a wildfire mitigation plan.
18. Requires the State Forester, within 45 days after receiving a wildfire mitigation plan, to hold a public meeting to solicit comments on the proposed plan and requires the State Forester to provide for remote attendance at the meeting using telephonic or video conferencing.
19. Allows the State Forester to request additional information or a modification to a submitted wildfire mitigation plan within 120 days after receiving the plan by providing written notice to the utility.

20. Stipulates that, if the State Forester does not request additional information or a modification to the wildfire mitigation plan, the plan is deemed administratively approved after the 120-day review period.
21. Requires a public power entity or electric utility, within 90 days after receiving a request for additional information or modification, to respond to the State Forester's request for information and allows, if necessary, the entity or utility to revise its wildfire mitigation plan.
22. Grants the State Forester 60 days after receiving responses or a revised wildfire mitigation plan to consider the approval or denial of a public power entity's or electric utility's wildfire mitigation plan.
23. Stipulates that, if the State Forester does not request additional information or a modification to the revised wildfire mitigation plan, the plan is deemed administratively approved after 60 days.
24. Requires the State Forester to provide public notice and an opportunity for public comment on a submitted wildfire mitigation plan and publish the notice on DFFM's website and in the Arizona Administrative Registrar.
25. Deems a wildfire mitigation plan approved by the State Forester or a public power entity's governing body during pendency of any judicial action that seeks review of the State Forester's or the governing body's approval or rejection of the plan or any portion of the plan.
26. Declares that any action by the State Forester and any comments on the wildfire mitigation plan provided by a county, city, town or other governmental entity are the exercise of an administrative function involving the determination of fundamental government policy.

### ***Liability for Causing Wildfires***

27. Specifies that the statutory wildfire mitigation planning requirements establish the exclusive means of recovery from a public power entity or electric utility for claims or damages resulting from wildfires, except as otherwise agreed to in writing or established by federal law.
28. Specifies that, for a cause of action for negligence against a public power entity or electric utility related to wildfire, a public power entity or electric utility that acts in compliance with an approved wildfire mitigation plan is deemed to meet the standard of care for a reasonably prudent entity or utility.
29. Specifies that a public power entity or electric utility that engages in wilful, intentional or reckless misconduct that causes a wildfire is deemed to not meet the standard of care for a reasonably prudent public power entity or electric utility.
30. Requires a party that asserts a cause of action to prove that a failure to comply with an approved wildfire mitigation plan was the proximate cause of any loss, injury or other harm alleged.
31. Specifies that a failure to comply with an approved wildfire mitigation plan does not constitute negligence per se.

32. Prohibits a public power entity's or electric utility's wildfire mitigation plan from being admissible as evidence against another entity or utility in a civil action arising out of a wildfire.
33. Prohibits a public power entity or electric utility from being apportioned any proportion of any fault for:
  - a) the ignition of a wildfire from sources outside the entity's or utility's control, including lightning strikes or actions by third parties; or
  - b) vegetation of other wildfire risks outside the entity's or utility's right-of-way, lease or other property rights or areas in which the entity has been delayed in accessing or denied access to for purposes of performing vegetation management if the delay or denial is outside the entity's or utility's control.
34. Prohibits a claim for condemnation or inverse condemnation from existing against a public power entity or electric utility related to wildfires.
35. Prohibits exemplary or punitive damages of any kind from being recovered in an action to recover damages resulting from wildfire against an electric utility, only provided that after it has been established that the utility, except an electric cooperative, is liable for personal injury or bodily harm resulting from wildfire, such damages may be sought if the plaintiff proves by clear and convincing evidence that the utility's conduct was both:
  - a) outrageous, oppressive or intolerable; and
  - b) consciously pursued knowingly or with intentional disregard that the conduct created a substantial risk of significant physical injury to others.
36. Requires, for the purpose of determining liability in a cause of action against a parent, subsidiary or other corporate affiliate that is related to a wildfire, the parent, subsidiary or other corporate affiliate of the public power entity or electric utility to be treated the same as and considered equivalent to a public power entity.
37. Requires, for the purpose of determining liability in a cause of action against a public power entity or electric utility that is related to a wildfire, an attachor to be considered a public power entity or electric utility and covered by the entity's or utility's wildfire mitigation plan with respect to any liability that may be alleged to have arisen out of the attachor's equipment.

#### *Miscellaneous*

38. Specifies that the statutory wildfire mitigation planning requirements do not establish a new cause of action and stipulates that, if there is a conflict between the statutory wildfire mitigation planning requirements and any other state law, the statutory wildfire mitigation planning requirements control.
39. Specifies that the statutory wildfire mitigation planning requirements do not establish any additional legal duty that supports any claim that would not otherwise already exist.
40. Specifies that the statutory wildfire mitigation planning requirements are severable and stipulates that, if any of the outlined requirements or a public power entity's or electric utility's application to any person or circumstance is held invalid, the invalidity does not affect other statutory provisions or applications that can be given effect without the invalid provision or application.

41. Specifies that any action by the State Forester that approves a wildfire mitigation plan is not considered approval for recovery of an electric utility's costs necessary to implement the plan through rates for service charged to the utility's customers.
42. Allows the State Forester to adopt rules to implement the wildfire mitigation plan review and approval process.
43. Exempts DFFM from rulemaking requirements for one year.
44. Defines terms.
45. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Requires the State Forester to review and approve a public power entity's submitted wildfire mitigation plan and ensure the plan complies with outlined requirements.
2. Prescribes timeframes and requirements for the State Forester when reviewing and approving a public power entity's wildfire mitigation plan.
3. Narrows the applicability of liability for causing wildfires to only causes of action for negligence
4. Removes the requirement for all elements to be proven by clear and convincing evidence in any cause of action against a public power entity or electric utility that is related to wildfire.
5. Specifies that a public power entity or electric utility that engages in wilful, intentional or reckless misconduct that causes a wildfire is deemed to not meet the standard of care for a reasonably prudent public power entity or electric utility.
6. Requires a party that asserts a cause of action to prove that a failure to comply with the approved wildfire mitigation plan was the proximate cause of any loss, injury or other harm alleged.
7. Removes consequential property damages from the prohibited damages in an action against a public power entity or electric utility to recover damages resulting from wildfire.
8. Declares any action by the ACC pursuant to the statutes governing wildfire mitigation plans is the exercise of an administrative function involving the determination of fundamental government policy.
9. Prohibits the ACC or an elected board action to approve a wildfire mitigation plan from being considered approved for recovery of the electric utility's costs necessary to implement the plan through rates for service charged to the utility's customers.
10. Allows the ACC to adopt rules to implement its process for the review and approval for wildfire mitigation plans.

11. Makes technical and conforming changes.

Amendments Adopted by Committee of the Whole

1. Removes the requirement for an electric utility to submit a wildfire mitigation plan to the Arizona Corporation Commission and instead requires the utility to submit a plan to the State Forester for review and approval every two years.
2. Requires a public power entity to submit its governing body-approved wildfire mitigation plan to the State Forester for further review and approval, as prescribed.
3. Exempts certain electric cooperatives and public power entities from the statutes governing wildfire mitigation planning, if the cooperative or entity does not submit a wildfire mitigation plan for review and approval.
4. Removes the prohibition on the types of damages that may be recovered in an action against a public power entity to recover damages resulting from wildfire.
5. Stipulates that exemplary and punitive damages may be sought in an action against an electric utility to recover damages that result from wildfire, if it has been established that the electric utility is liable for personal injury or bodily harm and the plaintiff proves by clear and convincing evidence that the electric utility's conduct was:
  - a) outrageous, oppressive or intolerable; and
  - b) consciously pursued knowingly or with intentional disregard that the conduct created a substantial risk of significant physical injury to others.
6. Allows the State Forester to charge reasonable fees to public power entities and electric utilities for the review and approval of wildfire mitigation plans and to consider specific factors when establishing the fees.
7. Stipulates that the State Forester must review and approve a submitted wildfire mitigation plan only if the plan:
  - a) complies with applicable laws and rules;
  - b) is reasonable considering the public power entity's or electric utility's size and resources;
  - c) is in the public interest;
  - d) meets the statutorily outlined plan requirements; and
  - e) is designed to meet the specific conditions and risk of the public power entity's or electric utility's service area.
8. Requires a public power entity's or electric utility's wildfire mitigation plan to:
  - a) identify preventive actions, protective equipment and monitoring programs that the entity or utility will carry out, install, repair, replace or implement to minimize wildfire risk; and
  - b) include a description of the procedures, standards and time frames that the entity or utility will use to carry out vegetation management.
9. Prescribes timeframes and requirements for the State Forester when reviewing and approving a public power entity's or electric utility's wildfire mitigation plan.

10. Requires, during a pending review and approval process by the State Forester, any wildfire mitigation plan previously approved by the State Forester to remain approved and in effect.
11. Removes the prohibition against the State Forester considering another wildfire mitigation plan as a basis for suggested medication or disapproval of the plan.
12. Specifies that any action by the State Forester that approves a wildfire mitigation plan is not considered approval for recovery of the electric utility's costs necessary to implement the wildfire mitigation plan through service rates charged to the utility's customers.
13. Requires, for the purpose of determining liability in a cause of action against a public power entity that is related to a wildfire, an attachor to be covered by the entity's wildfire mitigation plan.
14. Allows the State Forester to adopt rules to implement the wildfire mitigation plan review and approval process.
15. Exempts DFFM from rulemaking requirements for one year.
16. Declares that any action by the State Forester on a wildfire mitigation plan and any comment provided by a city, town, county or other governmental entity regarding a wildfire mitigation plan are the exercise of an administrative function involving the determination of fundamental government policy.
17. Removes the definition of *public safety power shut off*.
18. Defines terms.
19. Makes technical and conforming changes.

House Action

Senate Action

LARA	2/3/25	DPA/SE	5-2-1-1	FIN	3/24/25	DPA	5-2-0
3 <sup>rd</sup> Read	2/25/25		35-25-0				

Prepared by Senate Research

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