

Senate Engrossed House Bill

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

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HOUSE BILL 2201

AN ACT

AMENDING TITLE 30, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7; AMENDING TITLE 37, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 37-1311; AMENDING TITLE 40, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 8; RELATING TO WILDFIRE MITIGATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 30, Arizona Revised Statutes, is amended by adding
3 chapter 7, to read:

4 CHAPTER 7

5 WILDFIRE MITIGATION PLANNING

6 ARTICLE 1. GENERAL PROVISIONS

7 30-901. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ATTACHOR" MEANS ANY CABLE TELEVISION SYSTEM OR PROVIDER OF
10 TELECOMMUNICATIONS OR BROADBAND COMMUNICATION SERVICES THAT OWNS OR
11 OPERATES EQUIPMENT THAT IS ATTACHED TO A POLE, DUCT OR CONDUIT OR THAT IS
12 OTHERWISE LOCATED WITHIN A RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY A
13 PUBLIC POWER ENTITY, PROVIDED THAT THE ATTACHING ENTITY IS A CURRENT PARTY
14 TO AND IN COMPLIANCE WITH AN ATTACHMENT AGREEMENT WITH THE PUBLIC POWER
15 ENTITY.

16 2. "ELECTRIC UTILITY" HAS THE SAME MEANING PRESCRIBED IN SECTION
17 40-1301.

18 3. "GOVERNING BODY" MEANS THE GOVERNING BODY OF A PUBLIC POWER
19 ENTITY.

20 4. "PUBLIC POWER ENTITY" MEANS ANY MUNICIPAL CORPORATION OR
21 POLITICAL SUBDIVISION THAT OWNS AND OPERATES FACILITIES THAT GENERATE,
22 TRANSMIT OR DISTRIBUTE ELECTRIC ENERGY FOR SALE TO RETAIL CUSTOMERS IN
23 THIS STATE.

24 5. "WILDFIRE" MEANS ANY UNWANTED, UNPLANNED OR UNCONTROLLED FIRE
25 THAT IGNITES VEGETATION WITHIN A WILDLAND OR NATURAL AREA, INCLUDING:

26 (a) FORESTS.

27 (b) GRASSLANDS.

28 (c) PRAIRIES.

29 (d) ANY AREAS THAT INTERFACE BETWEEN WILDLAND OR NATURAL AND URBAN
30 AREAS.

31 6. "WILDFIRE MITIGATION PLAN" MEANS A PLAN THAT IS SUBMITTED TO THE
32 GOVERNING BODY IN ACCORDANCE WITH THIS CHAPTER.

33 30-902. Cause of action; exclusive means of recovery; legal
34 duty

35 A. THIS CHAPTER DOES NOT ESTABLISH A NEW CAUSE OF ACTION. IF THERE
36 IS A CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER STATE LAW, THIS CHAPTER
37 CONTROLS.

38 B. EXCEPT AS OTHERWISE AGREED TO IN WRITING OR ESTABLISHED BY
39 FEDERAL LAW, THIS CHAPTER ESTABLISHES THE EXCLUSIVE MEANS OF RECOVERY FROM
40 A PUBLIC POWER ENTITY FOR CLAIMS OR DAMAGES THAT RESULT FROM WILDFIRES.

41 C. THIS CHAPTER DOES NOT ESTABLISH ANY ADDITIONAL LEGAL DUTY THAT
42 SUPPORTS ANY CLAIM THAT WOULD NOT OTHERWISE ALREADY EXIST.

1 D. IN ANY CAUSE OF ACTION AGAINST A PARENT, SUBSIDIARY OR OTHER
2 CORPORATE AFFILIATE OF A PUBLIC POWER ENTITY THAT IS RELATED TO A
3 WILDFIRE, THAT PARENT, SUBSIDIARY OR OTHER CORPORATE AFFILIATE OF THE
4 PUBLIC POWER ENTITY SHALL BE TREATED THE SAME AS AND CONSIDERED EQUIVALENT
5 TO A PUBLIC POWER ENTITY FOR THE PURPOSES OF SECTION 30-904.

6 E. IN ANY CAUSE OF ACTION AGAINST A PUBLIC POWER ENTITY THAT IS
7 RELATED TO A WILDFIRE, AN ATTACHOR SHALL BE CONSIDERED TO BE A PUBLIC
8 POWER ENTITY AND TO BE COVERED BY THE PUBLIC POWER ENTITY'S WILDFIRE
9 MITIGATION PLAN FOR THE PURPOSES OF SECTION 30-904 WITH RESPECT TO ANY
10 LIABILITY THAT MAY BE ALLEGED TO HAVE ARISEN OUT OF THE ATTACHOR'S
11 EQUIPMENT.

12 30-903. Wildfire mitigation plan

13 A. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, A PUBLIC
14 POWER ENTITY SHALL PREPARE AND SUBMIT A WILDFIRE MITIGATION PLAN TO THE
15 GOVERNING BODY FOR REVIEW AND APPROVAL. THE PUBLIC POWER ENTITY MAY USE
16 THE SUBMISSION AS AN UPDATE TO THE LAST APPROVED WILDFIRE MITIGATION
17 PLAN. THE GOVERNING BODY SHALL ADOPT A WILDFIRE MITIGATION PLAN ON OR
18 BEFORE MAY 1, 2026 AND EVERY EVEN-NUMBERED YEAR THEREAFTER UNLESS THE
19 GOVERNING BODY ORDERS OTHERWISE.

20 B. THE GOVERNING BODY SHALL REVIEW THE SUBMITTED WILDFIRE
21 MITIGATION PLAN TO ENSURE THAT THE WILDFIRE MITIGATION PLAN:

22 1. COMPLIES WITH THIS CHAPTER AND ALL APPLICABLE RULES AND
23 REGULATIONS.

24 2. IS REASONABLE.

25 3. IS IN THE PUBLIC INTEREST.

26 C. THE WILDFIRE MITIGATION PLAN IS DEEMED APPROVED BY THE GOVERNING
27 BODY DURING THE PENDENCY OF ANY JUDICIAL ACTION THAT SEEKS REVIEW OF THE
28 GOVERNING BODY'S APPROVAL OR REJECTION OF THE WILDFIRE MITIGATION PLAN OR
29 ANY PORTION OF THE WILDFIRE MITIGATION PLAN.

30 D. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, A PUBLIC
31 POWER ENTITY SHALL SUBMIT THE APPROVED WILDFIRE MITIGATION PLAN TO THE
32 STATE FORESTER FOR FURTHER REVIEW AND APPROVAL AS PRESCRIBED IN SECTION
33 37-1311.

34 E. A PUBLIC POWER ENTITY WITH FEWER THAN FORTY THOUSAND METERS IN
35 THIS STATE AS OF JANUARY 1, 2025 MAY PREPARE AND SUBMIT A WILDFIRE
36 MITIGATION PLAN FOR REVIEW AND APPROVAL TO BOTH THE PUBLIC POWER ENTITY'S
37 GOVERNING BODY AND THE STATE FORESTER AS PRESCRIBED IN SUBSECTIONS A AND D
38 OF THIS SECTION. IF THE PUBLIC POWER ENTITY WITH FEWER THAN FORTY
39 THOUSAND METERS IN THIS STATE AS OF JANUARY 1, 2025 DOES NOT SUBMIT A
40 WILDFIRE MITIGATION PLAN FOR REVIEW AND APPROVAL TO BOTH THE GOVERNING
41 BODY PURSUANT TO THIS SECTION AND THE STATE FORESTER PURSUANT TO SECTION
42 37-1311, THIS CHAPTER DOES NOT APPLY TO THAT PUBLIC POWER ENTITY.

43 30-904. Liability for causing wildfires; severability

44 A. FOR ANY CAUSE OF ACTION FOR NEGLIGENCE AGAINST A PUBLIC POWER
45 ENTITY THAT IS RELATED TO A WILDFIRE, A PUBLIC POWER ENTITY THAT ACTS IN

1 COMPLIANCE WITH A WILDFIRE MITIGATION PLAN THAT IS APPROVED PURSUANT TO
2 SECTIONS 30-903 AND 37-1311 IS DEEMED TO MEET THE STANDARD OF CARE FOR A
3 REASONABLY PRUDENT PUBLIC POWER ENTITY. A PARTY THAT ASSERTS A CAUSE OF
4 ACTION SHALL PROVE THAT A FAILURE TO COMPLY WITH THE APPROVED WILDFIRE
5 MITIGATION PLAN WAS A PROXIMATE CAUSE OF ANY LOSS, INJURY OR OTHER HARM
6 ALLEGED.

7 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A PUBLIC POWER
8 ENTITY THAT ENGAGES IN WILFUL, INTENTIONAL OR RECKLESS MISCONDUCT THAT
9 CAUSES A WILDFIRE IS DEEMED TO NOT MEET THE STANDARD OF CARE FOR A
10 REASONABLY PRUDENT PUBLIC POWER ENTITY. A FAILURE TO COMPLY WITH AN
11 APPROVED WILDFIRE MITIGATION PLAN DOES NOT CONSTITUTE NEGLIGENCE PER SE.
12 A PUBLIC POWER ENTITY'S OR ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN
13 SHALL NOT BE ADMISSIBLE AS EVIDENCE AGAINST ANOTHER PUBLIC POWER ENTITY OR
14 ELECTRIC UTILITY IN A CIVIL ACTION THAT AROSE OUT OF A WILDFIRE.

15 C. A PUBLIC POWER ENTITY SHALL NOT BE APPORTIONED ANY PROPORTION OF
16 FAULT FOR THE IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE
17 PUBLIC POWER ENTITY'S CONTROL, INCLUDING LIGHTNING STRIKES OR ACTIONS BY
18 THIRD PARTIES.

19 D. A PUBLIC POWER ENTITY SHALL NOT BE APPORTIONED ANY PROPORTION OF
20 FAULT FOR VEGETATION OR OTHER WILDFIRE RISKS OUTSIDE OF THE PUBLIC POWER
21 ENTITY'S RIGHT-OF-WAY, LEASE OR OTHER PROPERTY RIGHTS OR AREAS IN WHICH
22 THE PUBLIC POWER ENTITY HAS BEEN DELAYED IN ACCESSING OR DENIED ACCESS TO
23 FOR PURPOSES OF PERFORMING VEGETATION MANAGEMENT IF THE DELAY OR DENIAL IS
24 OUTSIDE OF THE PUBLIC POWER ENTITY'S REASONABLE CONTROL.

25 E. A CLAIM FOR CONDEMNATION OR INVERSE CONDEMNATION SHALL NOT EXIST
26 AGAINST A PUBLIC POWER ENTITY RELATED TO WILDFIRES.

27 F. IF ANY PROVISION OF THIS CHAPTER OR THE PUBLIC POWER ENTITY'S
28 APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY
29 DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS CHAPTER THAT CAN
30 BE GIVEN EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION AND TO THIS
31 END THE PROVISIONS OF THIS CHAPTER ARE SEVERABLE.

32 Sec. 2. Title 37, chapter 9, article 1, Arizona Revised Statutes,
33 is amended by adding section 37-1311, to read:

34 37-1311. Wildfire mitigation plan; hearing; rules; fees;
35 definitions

36 A. THE STATE FORESTER SHALL REVIEW AND APPROVE A SUBMITTED WILDFIRE
37 MITIGATION PLAN IF THE STATE FORESTER FINDS THAT THE WILDFIRE MITIGATION
38 PLAN:

39 1. COMPLIES WITH TITLE 30, CHAPTER 7, ARTICLE 1 OR TITLE 40,
40 CHAPTER 8, ARTICLE 1 AND ANY OTHER APPLICABLE RULES.

41 2. IS REASONABLE CONSIDERING THE PUBLIC POWER ENTITY'S OR ELECTRIC
42 UTILITY'S SIZE AND RESOURCES.

43 3. IS IN THE PUBLIC INTEREST.

44 4. MEETS THE REQUIREMENTS OF SUBSECTION H OF THIS SECTION.

1 5. IS DESIGNED TO MEET THE SPECIFIC CONDITIONS AND RISK OF THE
2 PUBLIC POWER ENTITY'S OR ELECTRIC UTILITY'S SERVICE AREA IN WHICH THE
3 PUBLIC POWER ENTITY OR THE ELECTRIC UTILITY OPERATES.

4 B. THE STATE FORESTER SHALL PROVIDE PUBLIC NOTICE AND AN
5 OPPORTUNITY FOR PUBLIC COMMENT ON A SUBMITTED WILDFIRE MITIGATION PLAN.
6 THE STATE FORESTER SHALL PUBLISH THE NOTICE ON THE ARIZONA DEPARTMENT OF
7 FORESTRY AND FIRE MANAGEMENT'S WEBSITE AND IN THE ARIZONA ADMINISTRATIVE
8 REGISTER.

9 C. WITHIN FOURTEEN DAYS AFTER RECEIVING A SUBMITTED WILDFIRE
10 MITIGATION PLAN, THE STATE FORESTER SHALL:

11 1. IDENTIFY THE COUNTIES AND CITIES AND TOWNS THAT ARE LOCATED
12 WITHIN THE GEOGRAPHIC REGION AS DESCRIBED IN THE PUBLIC POWER ENTITY'S OR
13 ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN.

14 2. ESTABLISH THE TIME PERIOD AND INSTRUCTIONS FOR THE AFFECTED
15 COUNTIES AND CITIES AND TOWNS TO PROVIDE PUBLIC COMMENT.

16 3. PROVIDE THE INFORMATION PRESCRIBED IN PARAGRAPHS 1 AND 2 OF THIS
17 SUBSECTION TO THE PUBLIC POWER ENTITY OR ELECTRIC UTILITY.

18 D. WITHIN TEN DAYS AFTER RECEIPT OF THE INFORMATION PRESCRIBED IN
19 SUBSECTION C OF THIS SECTION, THE PUBLIC POWER ENTITY OR ELECTRIC UTILITY
20 SHALL PROVIDE WRITTEN NOTICE TO THE IDENTIFIED COUNTIES AND CITIES AND
21 TOWNS OF THE OPPORTUNITY TO PROVIDE COMMENT ON THE WILDFIRE MITIGATION
22 PLAN.

23 E. WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF ANY WILDFIRE MITIGATION
24 PLAN, THE STATE FORESTER SHALL HOLD A PUBLIC MEETING TO SOLICIT COMMENTS
25 ON ANY PROPOSED WILDFIRE MITIGATION PLAN. THE STATE FORESTER SHALL
26 PROVIDE FOR REMOTE ATTENDANCE AT THE PUBLIC MEETING USING TELEPHONIC OR
27 VIDEO CONFERENCING.

28 F. THE STATE FORESTER MAY REQUEST ADDITIONAL INFORMATION OR REQUEST
29 MODIFICATION TO THE SUBMITTED WILDFIRE MITIGATION PLAN WITHIN ONE HUNDRED
30 TWENTY DAYS AFTER THE INITIAL RECEIPT OF THE WILDFIRE MITIGATION PLAN BY
31 PROVIDING WRITTEN NOTICE TO THE PUBLIC POWER ENTITY OR ELECTRIC UTILITY.
32 IF THE STATE FORESTER DOES NOT REQUEST ADDITIONAL INFORMATION OR A
33 MODIFICATION TO THE WILDFIRE MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN
34 IS DEEMED ADMINISTRATIVELY APPROVED AFTER THE ONE HUNDRED TWENTY-DAY
35 REVIEW PERIOD.

36 G. WITHIN NINETY DAYS AFTER RECEIPT OF THE NOTICE PRESCRIBED IN
37 SUBSECTION F OF THIS SECTION, THE PUBLIC POWER ENTITY OR ELECTRIC UTILITY
38 SHALL RESPOND TO THE STATE FORESTER'S REQUEST FOR INFORMATION AND, IF
39 NECESSARY, MAY REVISE THE WILDFIRE MITIGATION PLAN. THE STATE FORESTER
40 SHALL HAVE SIXTY DAYS AFTER RECEIPT OF THE RESPONSES OR A REVISED WILDFIRE
41 MITIGATION PLAN, WHICHEVER IS LATER, TO CONSIDER THE APPROVAL OR DENIAL OF
42 THE WILDFIRE MITIGATION PLAN. IF THE STATE FORESTER DOES NOT REQUEST
43 FURTHER ADDITIONAL INFORMATION OR A MODIFICATION TO THE WILDFIRE
44 MITIGATION PLAN, THE WILDFIRE MITIGATION PLAN IS DEEMED ADMINISTRATIVELY
45 APPROVED AT THE EXPIRATION OF SIXTY DAYS. THE WILDFIRE MITIGATION PLAN IS

1 DEEMED APPROVED DURING THE PENDENCY OF ANY JUDICIAL ACTION PURSUANT TO
2 TITLE 12, CHAPTER 7, ARTICLE 6 THAT SEEKS REVIEW OF THE STATE FORESTER'S
3 APPROVAL OR DENIAL OF THE WILDFIRE MITIGATION PLAN OR ANY PORTION OF THE
4 WILDFIRE MITIGATION PLAN.

5 H. THE WILDFIRE MITIGATION PLAN SHALL DO THE FOLLOWING:

6 1. IDENTIFY PREVENTIVE ACTIONS, PROTECTIVE EQUIPMENT AND MONITORING
7 PROGRAMS THAT THE PUBLIC POWER ENTITY OR ELECTRIC UTILITY WILL CARRY OUT,
8 INSTALL, REPAIR, REPLACE OR IMPLEMENT TO MINIMIZE THE RISK OF A WILDFIRE.

9 2. INCLUDE:

10 (a) A DESCRIPTION OF AREAS WITHIN THE GEOGRAPHIC REGION WHERE THE
11 PUBLIC POWER ENTITY'S OR ELECTRIC UTILITY'S FACILITIES MAY BE SUBJECT TO A
12 HEIGHTENED RISK OF WILDFIRE.

13 (b) A DESCRIPTION OF THE PROCEDURES, STANDARDS AND TIME FRAMES THAT
14 THE PUBLIC POWER ENTITY OR ELECTRIC UTILITY WILL USE TO INSPECT AND
15 OPERATE THE PUBLIC POWER ENTITY'S OR ELECTRIC UTILITY'S INFRASTRUCTURE TO
16 MITIGATE THE RISK OF WILDFIRES.

17 (c) A DESCRIPTION OF THE KEY INDIVIDUALS OR POSITION TITLES OF
18 THOSE PERSONS WHO ARE RESPONSIBLE FOR IMPLEMENTING THE WILDFIRE MITIGATION
19 PLAN.

20 (d) A DESCRIPTION OF THE PROCEDURES FOR DEENERGIZING POWER LINES
21 AND DISABLING RECLOSERS TO MITIGATE POTENTIAL WILDFIRES OR PROVIDE A
22 PUBLIC SAFETY POWER SHUT OFF PLAN.

23 (e) A DESCRIPTION OF THE PROCEDURES, STANDARDS AND TIME FRAMES THAT
24 THE PUBLIC POWER ENTITY OR ELECTRIC UTILITY WILL USE TO CARRY OUT
25 VEGETATION MANAGEMENT.

26 (f) A SUMMARY OF THE PROCEDURES THE PUBLIC POWER ENTITY OR ELECTRIC
27 UTILITY INTENDS TO USE TO RESTORE THE PUBLIC POWER ENTITY'S OR ELECTRIC
28 UTILITY'S ELECTRICAL SYSTEM IN THE EVENT OF A WILDFIRE.

29 (g) A DESCRIPTION OF COMMUNITY OUTREACH AND PUBLIC AWARENESS
30 EFFORTS.

31 (h) A DESCRIPTION OF POTENTIAL PARTICIPATION, IF APPLICABLE, WITH
32 STATE OR LOCAL WILDFIRE PROTECTION EFFORTS.

33 (i) A DESCRIPTION OF HOW THE PUBLIC POWER ENTITY OR ELECTRIC
34 UTILITY WILL MONITOR COMPLIANCE WITH THE WILDFIRE MITIGATION PLAN.

35 I. A PUBLIC POWER ENTITY OR ELECTRIC UTILITY MAY REFERENCE
36 PROCEDURES AND STANDARDS THAT ARE NOT SPECIFICALLY ENUMERATED IN THE
37 WILDFIRE MITIGATION PLAN IN LIEU OF THE REQUIREMENTS PRESCRIBED IN
38 SUBSECTION H OF THIS SECTION. REFERENCED MATERIAL SHALL BE INCLUDED AS
39 ATTACHMENTS TO THE WILDFIRE MITIGATION PLAN SUBMISSION.

40 J. DURING THE PENDENCY OF ANY REVIEW AND APPROVAL PROCESS BY THE
41 STATE FORESTER PRESCRIBED IN THIS SECTION, ANY WILDFIRE MITIGATION PLAN
42 PREVIOUSLY APPROVED BY THE STATE FORESTER SHALL REMAIN APPROVED AND IN
43 EFFECT.

44 K. THE STATE FORESTER MAY ADOPT RULES TO IMPLEMENT THIS SECTION.

1 L. ANY ACTION BY THE STATE FORESTER PURSUANT TO THIS SECTION AND
2 ANY COMMENTS ON THE WILDFIRE MITIGATION PLAN PROVIDED BY ANY COUNTY, CITY,
3 TOWN OR OTHER GOVERNMENTAL ENTITY PURSUANT TO THIS SECTION ARE THE
4 EXERCISE OF AN ADMINISTRATIVE FUNCTION INVOLVING THE DETERMINATION OF
5 FUNDAMENTAL GOVERNMENTAL POLICY AS PRESCRIBED IN SECTION 12-820.01.

6 M. THE STATE FORESTER MAY CHARGE REASONABLE FEES TO PUBLIC POWER
7 ENTITIES AND ELECTRIC UTILITIES FOR THE REVIEW AND APPROVAL OF WILDFIRE
8 MITIGATION PLANS AS PRESCRIBED IN THIS SECTION. IN ESTABLISHING THE FEES,
9 THE STATE FORESTER MAY CONSIDER FACTORS SUCH AS THE TIME AND MATERIALS
10 NECESSARY TO REVIEW THE WILDFIRE MITIGATION PLANS WITH CONSIDERATION GIVEN
11 TO THE RELATIVE SIZE, RESOURCES AND SERVICE TERRITORY COMPLEXITY OF THE
12 PUBLIC POWER ENTITY OR ELECTRIC UTILITY SUBMITTING A WILDFIRE MITIGATION
13 PLAN.

14 N. FOR THE PURPOSES OF THIS SECTION:

15 1. "ELECTRIC UTILITY" HAS THE SAME MEANING PRESCRIBED IN SECTIONS
16 30-901 AND 40-1301.

17 2. "PUBLIC POWER ENTITY" HAS THE SAME MEANING PRESCRIBED IN
18 SECTIONS 30-901 AND 40-1301.

19 3. "PUBLIC SAFETY POWER SHUT OFF" MEANS THE INTENTIONAL TEMPORARY
20 SHUT OFF OF POWER DURING CERTAIN WEATHER OR ENVIRONMENTAL CONDITIONS TO
21 REDUCE THE RISK OF WILDFIRE.

22 4. "WILDFIRE" HAS THE SAME MEANING PRESCRIBED IN SECTIONS 30-901
23 AND 40-1301.

24 5. "WILDFIRE MITIGATION PLAN" HAS THE SAME MEANING PRESCRIBED IN
25 SECTION 30-901 OR 40-1301.

26 Sec. 3. Title 40, Arizona Revised Statutes, is amended by adding
27 chapter 8, to read:

28 CHAPTER 8
29 WILDFIRE MITIGATION PLANNING
30 ARTICLE 1. GENERAL PROVISIONS

31 40-1301. Definitions

32 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

33 1. "ATTACHOR" MEANS ANY CABLE TELEVISION SYSTEM OR PROVIDER OF
34 TELECOMMUNICATIONS OR BROADBAND COMMUNICATION SERVICES THAT OWNS OR
35 OPERATES EQUIPMENT THAT IS ATTACHED TO A POLE, DUCT OR CONDUIT OR THAT IS
36 OTHERWISE LOCATED WITHIN A RIGHT-OF-WAY THAT IS OWNED OR CONTROLLED BY AN
37 ELECTRIC UTILITY, PROVIDED THAT THE ATTACHING ENTITY IS A CURRENT PARTY TO
38 AND IN COMPLIANCE WITH AN ATTACHMENT AGREEMENT WITH THE ELECTRIC UTILITY.

39 2. "ELECTRIC UTILITY":

40 (a) MEANS:

41 (i) ANY PERSON, BUSINESS ORGANIZATION, PUBLIC SERVICE CORPORATION,
42 ELECTRIC COOPERATIVE OR OTHER LEGAL ENTITY THAT OWNS AND OPERATES
43 FACILITIES FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC
44 ENERGY FOR SALE TO RETAIL CUSTOMERS IN THIS STATE.

1 (ii) ANY GENERATION AND TRANSMISSION COOPERATIVE OPERATING IN THIS
2 STATE.

3 (b) DOES NOT INCLUDE A PUBLIC POWER ENTITY.

4 3. "PUBLIC POWER ENTITY" MEANS A PUBLIC POWER ENTITY AS DEFINED IN
5 SECTION 30-901.

6 4. "WILDFIRE" MEANS ANY UNWANTED, UNPLANNED OR UNCONTROLLED FIRE
7 THAT IGNITES VEGETATION WITHIN A WILDLAND OR NATURAL AREA, INCLUDING:

8 (a) FORESTS.

9 (b) GRASSLANDS.

10 (c) PRAIRIES.

11 (d) ANY AREAS THAT INTERFACE BETWEEN WILDLAND OR NATURAL AND URBAN
12 AREAS.

13 5. "WILDFIRE MITIGATION PLAN" MEANS A PLAN THAT IS SUBMITTED TO THE
14 STATE FORESTER IN ACCORDANCE WITH THIS CHAPTER AND SECTION 37-1311.

15 40-1302. Cause of action; exclusive means of recovery; legal
16 duty

17 A. THIS CHAPTER DOES NOT ESTABLISH A NEW CAUSE OF ACTION. IF THERE
18 IS A CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER STATE LAW, THIS CHAPTER
19 CONTROLS.

20 B. EXCEPT AS OTHERWISE AGREED TO IN WRITING OR ESTABLISHED BY
21 FEDERAL LAW, THIS CHAPTER ESTABLISHES THE EXCLUSIVE MEANS OF RECOVERY FROM
22 AN ELECTRIC UTILITY FOR CLAIMS OR DAMAGES THAT RESULT FROM WILDFIRES.

23 C. THIS CHAPTER DOES NOT ESTABLISH ANY ADDITIONAL LEGAL DUTY THAT
24 SUPPORTS ANY CLAIM THAT WOULD NOT OTHERWISE ALREADY EXIST.

25 D. IN ANY CAUSE OF ACTION AGAINST A PARENT, SUBSIDIARY OR OTHER
26 CORPORATE AFFILIATE OF AN ELECTRIC UTILITY THAT IS RELATED TO A WILDFIRE,
27 THAT PARENT, SUBSIDIARY OR OTHER CORPORATE AFFILIATE OF THE ELECTRIC
28 UTILITY SHALL BE TREATED THE SAME AS AND CONSIDERED EQUIVALENT TO AN
29 ELECTRIC UTILITY FOR THE PURPOSES OF SECTION 40-1304.

30 E. IN ANY CAUSE OF ACTION AGAINST AN ELECTRIC UTILITY THAT IS
31 RELATED TO A WILDFIRE, ANY ATTACHOR SHALL BE CONSIDERED TO BE AN ELECTRIC
32 UTILITY AND TO BE COVERED BY THE ELECTRIC UTILITY'S WILDFIRE MITIGATION
33 PLAN FOR THE PURPOSES OF SECTION 40-1304 WITH RESPECT TO ANY LIABILITY
34 THAT MAY BE ALLEGED TO HAVE ARISEN OUT OF THE ATTACHOR'S EQUIPMENT.

35 40-1303. Wildfire mitigation plan

36 A. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, AN ELECTRIC
37 UTILITY SHALL PREPARE AND SUBMIT A WILDFIRE MITIGATION PLAN TO THE STATE
38 FORESTER FOR REVIEW AND APPROVAL AS PRESCRIBED IN SECTION 37-1311. THE
39 ELECTRIC UTILITY MAY USE THE SUBMISSION AS AN UPDATE TO THE LAST APPROVED
40 WILDFIRE MITIGATION PLAN. THE ELECTRIC UTILITY SHALL SUBMIT THE WILDFIRE
41 MITIGATION PLAN TO THE STATE FORESTER ON OR BEFORE MAY 1, 2026 AND EVERY
42 EVEN-NUMBERED YEAR THEREAFTER.

43 B. ANY ACTION BY THE STATE FORESTER THAT APPROVES A WILDFIRE
44 MITIGATION PLAN IS NOT CONSIDERED APPROVAL FOR RECOVERY OF THE ELECTRIC

1 UTILITY'S COSTS NECESSARY TO IMPLEMENT THE WILDFIRE MITIGATION PLAN
2 THROUGH RATES FOR SERVICE CHARGED TO THE ELECTRIC UTILITY'S CUSTOMERS.

3 C. AN ELECTRIC UTILITY THAT IS AN ELECTRIC COOPERATIVE WITH FEWER
4 THAN FORTY THOUSAND METERS IN THIS STATE AS OF JANUARY 1, 2025 MAY PREPARE
5 AND SUBMIT A WILDFIRE MITIGATION PLAN FOR REVIEW AND APPROVAL TO THE STATE
6 FORESTER IN ACCORDANCE WITH SUBSECTION A OF THIS SECTION. AN ELECTRIC
7 UTILITY THAT IS AN ELECTRIC COOPERATIVE WITH FORTY THOUSAND OR MORE METERS
8 IN THIS STATE AS OF JANUARY 1, 2025 SHALL PREPARE A WILDFIRE MITIGATION
9 PLAN AS PRESCRIBED IN SECTION 37-1311, SUBSECTION H AND MAY SUBMIT THE
10 WILDFIRE MITIGATION PLAN TO THE STATE FORESTER AS PRESCRIBED IN SUBSECTION
11 A OF THIS SECTION.

12 D. IF AN ELECTRIC UTILITY THAT IS AN ELECTRIC COOPERATIVE DOES NOT
13 SUBMIT A WILDFIRE MITIGATION PLAN TO THE STATE FORESTER FOR REVIEW AND
14 APPROVAL PURSUANT TO SECTION 37-1311, THIS CHAPTER DOES NOT APPLY TO THAT
15 ELECTRIC UTILITY.

16 40-1304. Liability for causing wildfires; severability

17 A. FOR ANY CAUSE OF ACTION FOR NEGLIGENCE AGAINST AN ELECTRIC
18 UTILITY THAT IS RELATED TO A WILDFIRE, AN ELECTRIC UTILITY THAT ACTS IN
19 COMPLIANCE WITH THE APPROVED WILDFIRE MITIGATION PLAN IS DEEMED TO MEET
20 THE STANDARD OF CARE FOR A REASONABLY PRUDENT ELECTRIC UTILITY. A PARTY
21 THAT ASSERTS A CAUSE OF ACTION FOR NEGLIGENCE SHALL PROVE THAT A FAILURE
22 TO COMPLY WITH THE APPROVED WILDFIRE MITIGATION PLAN WAS A PROXIMATE CAUSE
23 OF ANY LOSS, INJURY OR OTHER HARM ALLEGED.

24 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, AN ELECTRIC
25 UTILITY THAT ENGAGES IN WILFUL, INTENTIONAL OR RECKLESS MISCONDUCT THAT
26 CAUSES A WILDFIRE IS NOT DEEMED TO MEET THE STANDARD OF CARE FOR A
27 REASONABLY PRUDENT ELECTRIC UTILITY. A FAILURE TO COMPLY WITH AN APPROVED
28 WILDFIRE MITIGATION PLAN DOES NOT CONSTITUTE NEGLIGENCE PER SE. A PUBLIC
29 POWER ENTITY'S OR ELECTRIC UTILITY'S WILDFIRE MITIGATION PLAN SHALL NOT BE
30 ADMISSIBLE AS EVIDENCE AGAINST ANOTHER PUBLIC POWER ENTITY OR ELECTRIC
31 UTILITY IN A CIVIL ACTION THAT AROSE OUT OF A WILDFIRE.

32 C. AN ELECTRIC UTILITY SHALL NOT BE APPORTIONED ANY PROPORTION OF
33 FAULT FOR THE IGNITION OF A WILDFIRE FROM SOURCES THAT ARE OUTSIDE OF THE
34 ELECTRIC UTILITY'S CONTROL, INCLUDING LIGHTNING STRIKES OR ACTIONS BY
35 THIRD PARTIES.

36 D. AN ELECTRIC UTILITY SHALL NOT BE APPORTIONED ANY PROPORTION OF
37 FAULT FOR VEGETATION OR OTHER WILDFIRE RISKS OUTSIDE OF THE ELECTRIC
38 UTILITY'S RIGHT-OF-WAY, LEASE OR OTHER PROPERTY RIGHTS OR AREAS IN WHICH
39 THE ELECTRIC UTILITY HAS BEEN DELAYED IN ACCESSING OR DENIED ACCESS TO FOR
40 PURPOSES OF PERFORMING VEGETATION MANAGEMENT IF THE DELAY OR DENIAL IS
41 OUTSIDE OF THE ELECTRIC UTILITY'S REASONABLE CONTROL.

42 E. A CLAIM FOR CONDEMNATION OR INVERSE CONDEMNATION SHALL NOT EXIST
43 AGAINST AN ELECTRIC UTILITY RELATED TO WILDFIRES.

44 F. IN AN ACTION AGAINST AN ELECTRIC UTILITY TO RECOVER ANY DAMAGES
45 THAT RESULT FROM A WILDFIRE, NEITHER EXEMPLARY NOR PUNITIVE DAMAGES OF ANY

1 KIND MAY BE RECOVERED, ONLY PROVIDED, HOWEVER, THAT AFTER IT HAS BEEN
2 ESTABLISHED THAT AN ELECTRIC UTILITY, WHICH IS NOT AN ELECTRIC
3 COOPERATIVE, IS LIABLE FOR PERSONAL INJURY OR BODILY HARM THAT RESULTS
4 FROM A WILDFIRE, SUCH DAMAGES MAY BE SOUGHT IF THE PLAINTIFF PROVES BY
5 CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT ELECTRIC UTILITY'S
6 CONDUCT WAS BOTH:

7 1. OUTRAGEOUS, OPPRESSIVE OR INTOLERABLE.

8 2. CONSCIOUSLY PURSUED KNOWINGLY OR WITH INTENTIONAL DISREGARD THAT
9 THE CONDUCT CREATED A SUBSTANTIAL RISK OF SIGNIFICANT PHYSICAL INJURY TO
10 OTHERS.

11 G. IF ANY PROVISION OF THIS CHAPTER OR ITS APPLICATION TO ANY
12 PERSON OR CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT
13 OTHER PROVISIONS OR APPLICATIONS OF THIS CHAPTER THAT CAN BE GIVEN EFFECT
14 WITHOUT THE INVALID PROVISION OR APPLICATION AND TO THIS END THE
15 PROVISIONS OF THIS CHAPTER ARE SEVERABLE.

16 Sec. 4. Exemption from rulemaking

17 Notwithstanding any other law, the Arizona Department of Forestry
18 and Fire Management is exempt from the rulemaking requirements of title
19 41, chapter 6, Arizona Revised Statutes, for one year after the effective
20 date of this act.