

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Petition of the City and County of San Francisco  
for a Valuation of Certain Pacific Gas & Electric  
Company Property Pursuant to Public Utilities  
Code Sections 1401-1421.

P.21-07-012  
(Filed July 27, 2021)

**DECLARATION OF WILLIAM D. KISSINGER IN SUPPORT OF THE SECTION 851  
BRIEF OF THE CITY AND COUNTY OF SAN FRANCISCO**

WILLIAM D. KISSINGER  
PEJMAN MOSHFEGH  
MORGAN, LEWIS & BOCKIUS, LLP  
One Market, Spear Street Tower  
San Francisco, CA 94105  
Telephone: (415) 442-1480  
Facsimile: (415) 442-1000  
Email: [william.kissinger@morganlewis.com](mailto:william.kissinger@morganlewis.com)  
[pejman.moshfegh@morganlewis.com](mailto:pejman.moshfegh@morganlewis.com)

DAVID CHIU, City Attorney  
THERESA L. MUELLER,  
Chief Energy and Telecommunications Deputy  
WILLIAM SANDERS, Deputy City Attorney  
City Hall  
1 Dr Carlton B Goodlett Pl,  
San Francisco, CA 94102  
Telephone: (415) 554-4640  
Facsimile: (415) 554-4763  
Email: [Theresa.Mueller@sfgov.org](mailto:Theresa.Mueller@sfgov.org)  
[William.Sanders@sfcityatty.org](mailto:William.Sanders@sfcityatty.org)

Attorneys for Petitioner  
CITY AND COUNTY OF SAN FRANCISCO

August 23, 2022

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Petition of the City and County of San Francisco for a Valuation of Certain Pacific Gas & Electric Company Property Pursuant to Public Utilities Code Sections 1401-1421.

P. 21-07-012  
(Filed July 27, 2021)

**DECLARATION OF WILLIAM D. KISSINGER IN SUPPORT OF THE SECTION 851  
BRIEF OF THE CITY AND COUNTY OF SAN FRANCISCO**

I, William D. Kissinger, declare that the following is true and correct to my best knowledge and belief:

1. I am an attorney licensed to practice law in the courts of the State of California and serve as outside counsel to the City and County of San Francisco in this proceeding. All facts stated herein are within my personal knowledge and if called as a witness, I could and would testify competently thereto.

2. On February 21, 2019, the California Legislature introduced Assembly Bill (AB) 1054, an act to amend Section 307.6 of the Public Utilities Code, relating to the Public Utilities Commission. A true and correct copy of AB 1054, as introduced by Assembly Member Holden on February 21, 2019, is attached hereto as **Exhibit A**. (Also available at: [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1054](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1054).)

3. On June 27, 2019, the Senate amended AB 1054, entirely refocusing the legislation on wildfires. A true and correct copy of AB 1054, as amended by the senate on June 27, 2019, is attached hereto as **Exhibit B**. (Also available at: [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1054](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1054).)

4. On July 5, 2019, the Senate again amended AB 1054, amending Public Utilities Code Sections 854 and 854.2. A true and correct copy of AB 1054, as amended on July 5, 2019, is attached hereto as **Exhibit C**. (Also available at:

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1054](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1054).)

For the ease of the reader, we have highlighted in yellow the specific text referred to in CCSF's Section 851 brief.

5. After passage of AB 1054, the co-authors of AB 1054, Senators Hertzberg and Dodd, requested that the Secretary of the Senate print in the Senate Daily Journal a letter expressing the senators' intent regarding the implementation of AB 1054. A true and correct copy of Senators Hertzberg's and Dodd's letter to the Secretary of the Senate, Erika Contreras, is attached hereto as **Exhibit D**. For the ease of the reader, we have highlighted in yellow the specific text referred to in CCSF's Section 851 brief.

6. On September 6, 2019, the Senate amended Senate Bill (SB) 550, an act to amend Sections 851 and 854 of the Public Utilities Code. A true and correct copy of SB 550, as amended on September 6, 2019, is attached hereto as **Exhibit E**. (Also available at: [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB550](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB550)). For the ease of the reader, we have highlighted in yellow the specific text referred to in CCSF's Section 851 brief.

7. The California Assembly prepared analysis of the Senate's third reading of SB 550 dated September 6, 2019. A true and correct copy of the assembly analysis of SB 550, dated September 6, 2019, is attached hereto as **Exhibit F**. (Also available at: [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200SB550](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB550)). For the ease of the reader, we have highlighted in yellow the specific text referred to in CCSF's Section 851 brief.

8. On or about September 11, 2019, the Senate Committee on Energy, Utilities and Communications, issued analysis of SB 550, as amended September 6, 2019. A true and correct copy the Senate Committee on Energy, Utilities and Communications' analysis of SB 550, as amended September 6, 2019, is attached hereto as **Exhibit G**. (Also available at: [https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201920200SB550](https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200SB550)). For the ease of the reader, we have highlighted in yellow the specific text referred to in CCSF's Section 851 brief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and belief. This declaration was executed this 23 day of August, 2022 in San Francisco, California.

By:

*/s/ William Kissinger*

---

William D. Kissinger

# EXHIBIT A

**ASSEMBLY BILL**

**No. 1054**

---

---

**Introduced by Assembly Member Holden**

February 21, 2019

---

---

An act to amend Section 307.6 of the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 1054, as introduced, Holden. Public Utilities Commission: chief internal auditor.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Existing law requires the commission to appoint a chief internal auditor, to hold office at the pleasure of the commission and to perform specified functions.

This bill would require that the chief internal auditor have expertise in accounting, risk management, and information technology, and have familiarity with industry best practices.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 307.6 of the Public Utilities Code is  
2 amended to read:  
3 307.6. (a) The commission shall appoint a chief internal  
4 auditor, *with expertise in accounting, risk management, and*  
5 *information technology, and familiarity with industry best*  
6 *practices*, who shall hold office at the pleasure of the commission.

1 (b) The chief internal auditor shall be responsible for the  
2 oversight of the internal audit unit and shall plan, initiate, and  
3 perform audits of key financial, management, operational, and  
4 information technology functions within the commission to  
5 improve accountability and transparency to executive and state  
6 management.

7 (c) The chief internal auditor shall report ~~his or her~~ *the auditor's*  
8 findings and recommendations directly to an audit subcommittee  
9 of the commission.

10 (d) The chief internal auditor shall comply with Part 3.5  
11 (commencing with Section 13885) of Division 3 of Title 2 of the  
12 Government Code.

# EXHIBIT B



AMENDED IN SENATE JUNE 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1054**

---

---

**Introduced by Assembly Member ~~Holden~~ Members *Holden, Burke, and Mayes***

February 21, 2019

---

---

~~An act to amend Section 307.6 of the Public Utilities Code, relating to the Public Utilities Commission.~~ *An act to add Chapter 16 (commencing with Section 8899.70) to Division 1 of Title 2 of the Government Code, to amend Section 10089.6 of, and to add Section 10089.55 to, the Insurance Code, to amend Sections 311, 451.1, 850, 850.1, 1701, 1701.1, 1701.3, 1701.4, 1702.5, 8386, and 8387 of, to amend the heading of Article 5.8 (commencing with Section 850) of Chapter 4 of Part 1 of Division 1 of, to amend and repeal Section 1711 of, to add Sections 326, 326.1, 326.2, 451.3, 1701.8, 8386.1, 8386.2, and 8389 to, and to add Part 6 (commencing with Section 3279) to Division 1 of, the Public Utilities Code, and to add Division 28 (commencing with Section 80500) to the Water Code, relating to public utilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1054, as amended, ~~Holden. Public Utilities Commission: chief internal auditor.~~ *Public utilities: wildfires.*

*Existing law establishes various programs for the prevention, detection, and mitigation of wildfires. Other existing law establishes the California Earthquake Authority (CEA), administered under the authority of the Insurance Commissioner, to transact insurance in this*

*state as necessary to sell policies of basic residential earthquake insurance.*

*This bill would create in state government the California Catastrophe Council to oversee the CEA and the Wildfire Fund Administrator, who this bill would require the council to appoint. The bill would require the council to be composed of the Governor, the Treasurer, the commissioner, and the Secretary of the Natural Resources Agency, or their designees, and a member of the public appointed by the Governor. The President pro Tempore of the Senate and the Speaker of the Assembly or their designees would be ex officio members.*

*The California Constitution establishes the Public Utilities Commission and authorizes the commission to exercise ratemaking and rulemaking authority over all public utilities, as defined, subject to control by the Legislature. The Public Utilities Act authorizes the commission to supervise and regulate every public utility, including electrical corporations, and to do all things that are necessary and convenient in the exercise of such power and jurisdiction. Existing law authorizes the commission to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. Existing law authorizes the commission, in a proceeding on an application by an electrical corporation to recover costs and expenses arising from a catastrophic wildfire occurring on or after January 1, 2019, to allow cost recovery if the costs and expenses are just and reasonable, after consideration of the conduct of the utility, including consideration of specified factors.*

*This bill would require the commission, on or before January 1, 2020, to establish the Wildfire Safety Division within the commission. The bill would require the division to take specified actions related to wildfire safety. The bill would establish the California Wildfire Safety Advisory Board consisting of 7 members appointed by the Governor, Speaker of the Assembly, and President pro Tempore of the Senate, as provided, who would serve 4-year staggered terms. The bill would require the board, among other actions, to advise and make recommendations related to wildfire safety to the division.*

*This bill would require the commission, when determining an application by an electrical corporation to recover costs and expenses arising from a covered wildfire, as defined, to allow cost recovery if the costs and expenses are determined just and reasonable based on reasonable conduct by the electrical corporation. The bill would require the commission to find that an electrical corporation's conduct was*

*reasonable if that conduct was consistent with actions that a reasonable utility would have undertaken in good faith under similar circumstances, at the relevant point in time, and based on the information available at the time, as provided. The bill would provide that an electrical corporation bears the burden to demonstrate, based on a preponderance of the evidence, that its conduct was reasonable, unless it has a valid safety certification for the time period in which the covered wildfire that is the subject of the application ignited. If the electrical corporation has that valid safety certification, the bill would provide that the electrical corporation's conduct would be deemed reasonable unless a party to the proceeding demonstrates, based on a preponderance of the evidence, that the electrical corporation's conduct was not reasonable. If the commission finds that an electrical corporation has requested recovery of costs for which the commission had previously authorized cost recovery, the bill would authorize the commission to assess a penalty in an amount up to 3 times the penalty authorized by law for certain utility-related violations.*

*Existing law authorizes an electrical corporation to file an application requesting the commission to issue a financing order to authorize the recovery of costs and expenses related to a catastrophic wildfire through the issuance of bonds by the electrical corporation that are secured by a rate component, as provided.*

*This bill would additional authorize an electrical corporation to file an application requesting the commission to issue a financing order to authorize the recovery of significant and unavoidable costs and expenses incurred before December 31, 2035, in excess of \$1,000,000,000 under specified conditions through the issuance of bonds by the electrical corporation that are secured by a rate component.*

*This bill would establish the Wildfire Fund to pay eligible claims arising from a covered wildfire, as provided. The bill would continuously appropriate moneys in the fund to the Wildfire Fund Administrator for that purpose, thereby making an appropriation. The bill would require the commission to initiate a rulemaking proceeding to consider using its existing authority to require each electrical corporation to collect a nonbypassable charge from its ratepayers to support the Wildfire Fund, and would require the commission to direct each electrical corporation to collect that charge if the commission determines that the imposition for the charge is just and reasonable and that it is an appropriate exercise of its authority, as specified. The bill would specify the funding sources for the fund, which include, among other sources,*

*contributions from electrical corporations and revenues generated from the charge.*

*The Public Utilities Act contains procedural requirements that are applicable to all commission hearings, investigations, and proceedings and provides that the technical rules of evidence are not applicable to those hearings, investigations, and proceedings, which are governed by the rules of practice and procedure adopted by the commission. Existing law requires the commission to determine whether each proceeding is a quasi-legislative proceeding, an adjudication proceeding, or a ratesetting proceeding, and makes that determination subject to a request for rehearing.*

*This bill would require the commission to determine whether a proceeding is a catastrophic wildfire proceeding, defined as a proceeding to determine whether an electrical corporation's costs and expenses relating to a covered wildfire, as defined, are just and reasonable, as specified, and would establish procedures and standards applicable to catastrophic wildfire proceedings, as specified.*

*This bill would repeal the provision subjecting to a rehearing the commission's determination as to the type of proceeding, and would make other revisions to various commission procedures. The bill would authorize the commission, in quasi-legislative, ratesetting, and catastrophic wildfire proceedings that do not include hearings, to receive as evidence, and use as proof of any fact, reports of state and federal agencies, commission staff, and interagency and stakeholder groups, as specified, without requiring a sponsoring witness subject to cross-examination. The bill would require the commission to adopt rules that provide for discretionary expedited treatment of proceedings related to emergencies, safety, and enforcement, and would authorize the commission to develop procedures to expedite ratesetting and catastrophic wildfire proceedings that do not require an evidentiary hearing.*

*Under existing law, ratesetting cases are cases in which rates are established for a specific company.*

*This bill would specify that cases in which a regulated public utility files an application for the approval of specific contracts or projects exceeding \$5,000,000 are also to be treated as ratesetting cases. The bill would make various changes to the rules and procedures governing ratesetting proceedings.*

*Existing law requires each electrical corporation to annually prepare and submit a wildfire mitigation plan to the commission for review and*

*approval. Existing law requires the commission to consider whether the cost of implementing an electrical corporation's plan is just and reasonable in the electrical corporation's general rate case.*

*This bill would instead require each electrical corporation to triennially prepare a comprehensive wildfire mitigation plan and submit the plan to the commission for review and approval. The bill would require each electrical corporation, until the submission of the next comprehensive wildfire mitigation plan, to submit annually an update of the approved plan to the commission for review and approval. The bill would authorize the electrical corporation to recover the cost of implementing the plan in its general rate case, or to elect to recover the cost of implementation as accounted in a memorandum account at the conclusion of the time period covered by the plan, subject to a specified limit for a large electrical corporation. The bill would require the chief executive officer of an electrical corporation, in the electrical corporation's general rate case application, to certify that the electrical corporation has not received authorization from the commission to recover those costs in a previous proceeding. The bill would require the commission to issue a safety certification to an electrical corporation if it meets certain requirements.*

*Existing law requires each local publicly owned electric utility and electrical cooperative to annually prepare a wildfire mitigation plan.*

*This bill would require each local publicly owned electric utility or electrical cooperative to submit the wildfire mitigation plan to the Wildfire Safety Division for review. By placing additional duties upon local public entities, the bill would impose a state-mandated local program. The bill would require the division, in consultation with the board, to provide comments and an advisory opinion to the local publicly owned electric utility or electrical cooperative on the content and sufficiency of its plan and to make recommendations on how to mitigate wildfire risks.*

*Existing law, until January 1, 2003, authorizes the Department of Water Resources to enter into contracts for the purchase of electric power. Existing law authorizes the department to sell power to retail end use customers and local publicly owned electric utilities under certain circumstances. Existing law authorizes the department to issue revenue bonds and entitles the department to recover, as a revenue requirement, amounts necessary to enable it to finance the bonds and purchase electric power pursuant to these provisions.*

*This bill would authorize the department to issue revenue bonds, on and after either the date on which the department legally defeases all of its remaining bonds under the provisions described above or the date on which it pays those obligations in full at maturity, whichever is earlier. The bill would entitle the department to recover, as a revenue requirement, amounts necessary to enable it to finance those bonds. The bill would require the bond proceeds and revenues received by the department to be deposited in the Department of Water Resources Charge Fund, which the bill would establish. The bill would continuously appropriate the moneys in the Department of Water Resources Charge Fund to the department for specified purposes, including transfers to the Wildfire Fund and repayment of the bonds.*

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

*Because certain of the above provisions would be codified in the act and would require action by the commission, a violation of which would be a crime, this bill would impose a state-mandated local program.*

*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 specified reasons.*

*The bill would transfer an unspecified amount from the General Fund to the Department of Water Resources Charge Fund, thereby making an appropriation, and would additionally appropriate an unspecified amount from the General Fund to the department for the 2019–20 fiscal year for the department’s administrative costs associated with this bill.*

*Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*

*This bill would make legislative findings to that effect.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities. Existing law requires the commission to~~

appoint a chief internal auditor, to hold office at the pleasure of the commission and to perform specified functions.

This bill would require that the chief internal auditor have expertise in accounting, risk management, and information technology, and have familiarity with industry best practices.

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~yes. Fiscal committee: yes. State-mandated local program: ~~no~~yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 16 (commencing with Section 8899.70)  
2 is added to Division 1 of Title 2 of the Government Code, to read:

3  
4             CHAPTER 16. CALIFORNIA CATASTROPHE COUNCIL

5  
6     8899.70. (a) There is hereby created in state government the  
7 California Catastrophe Council to oversee the California  
8 Earthquake Authority and the Wildfire Fund Administrator.

9     (b) The council shall be composed of the following five members.  
10     (1) The Governor or their designee.  
11     (2) The Treasurer or their designee.  
12     (3) The Insurance Commissioner or their designee.  
13     (4) The Secretary of the Natural Resources Agency or their  
14 designee.

15     (5) A member of the public appointed by the Governor.  
16     (c) The President pro Tempore of the Senate and the Speaker  
17 of the Assembly or their respective designees shall be ex officio  
18 members of the council.

19     8899.71. For purposes of conducting the business of the  
20 council, a quorum shall be three members, except that if the three  
21 members in attendance at a meeting are the Governor, the  
22 Treasurer, and the Insurance Commissioner, a fourth member  
23 shall be present to establish a quorum.

24     SEC. 2. Section 10089.6 of the Insurance Code is amended to  
25 read:

26     10089.6. (a) There is hereby created the California Earthquake  
27 Authority, which shall be administered under the authority of the  
28 commissioner and overseen by the California Catastrophe Council.  
29 The authority shall have the powers conferred by this chapter. The  
30 authority shall be authorized to transact insurance in this state as

1 necessary to sell policies of basic residential earthquake insurance  
2 in the manner set forth in Sections 10089.26, 10089.27, and  
3 10089.28. The authority shall have no authority to transact any  
4 other type of insurance business.

5 (b) (1) The investments of the authority shall be limited to those  
6 securities eligible under Section 16430 of the Government Code.

7 (2) The rights, obligations, and duties owed by the authority to  
8 its insureds, beneficiaries of insureds, and applicants for insurance  
9 shall be the same as the rights, obligations, and duties owed by  
10 insurers to its insureds, beneficiaries of insureds, and applicants  
11 for insurance under common law, regulations, and statutes. The  
12 authority shall be liable to its insureds, beneficiaries of insureds,  
13 and applicants for insurance as an insurer is liable to its insureds,  
14 beneficiaries of insureds, and applicants for insurance under  
15 common law, regulations, and statutes.

16 (c) The operating expenses of the authority shall be capped at  
17 not more than 6 percent of the premium income received by the  
18 authority. The funds shall be available to pay any advocacy fees  
19 awarded in a proceeding under subdivision (c) of Section 10089.11.

20 (d) For purposes of this section, the term “operating expenses  
21 of the authority” excludes solely the following:

22 (1) The costs of and transaction expenses associated with  
23 risk-transfer purchases, including the purchase of reinsurance and  
24 with capital-market contracts.

25 (2) The expense of securing and repaying bonds.

26 (3) The cost of repayment of bonds guaranteed, insured, or  
27 otherwise backed by any department or agency of the United States  
28 or of this state, or by any private entity.

29 (4) Payments to third parties for all of the following services  
30 provided to the authority:

31 (A) Investment.

32 (B) Loss-modeling.

33 (C) Legal services.

34 (5) Costs associated with the authority’s efforts to acquaint the  
35 public with and market authority products, promote earthquake  
36 preparedness, and earthquake-loss mitigation under the authority’s  
37 duly adopted strategic plan.

38 (6) Producer compensation.

39 (7) Participating insurer fees and reimbursement amounts arising  
40 under written contracts.



1 (8) Amounts paid by the authority to support research in seismic  
2 science and seismic engineering.

3 (9) Loans, grants, and expenses to support and maintain the  
4 authority's earthquake loss-mitigation goals and programs, whether  
5 conducted by the authority alone or in collaboration with or by  
6 other persons.

7 (10) The costs of and loss-adjustment expenses associated with  
8 adjusting and paying policyholder claims for earthquake losses  
9 that are incurred by the authority under its earthquake insurance  
10 policies, including all costs and expenses associated with  
11 claim-related litigation, provided that all of those costs and  
12 expenses shall be reported to the Legislature in the manner required  
13 by subdivision (e) of Section 10089.13.

14 *SEC. 3. Section 10089.55 is added to the Insurance Code, to*  
15 *read:*

16 *10089.55. The board shall conduct the affairs of the authority*  
17 *with respect to transacting earthquake insurance, including*  
18 *administering the California Earthquake Authority Fund. The*  
19 *board has no authority to administer the Wildfire Fund. At every*  
20 *meeting of the board, the board shall post an agenda that clearly*  
21 *identifies the meeting as relating to the business of earthquake*  
22 *insurance.*

23 *SEC. 4. Section 311 of the Public Utilities Code is amended*  
24 *to read:*

25 311. (a) The commission, each commissioner, the executive  
26 director, and the assistant executive directors may administer oaths,  
27 certify to all official acts, and issue subpoenas for the attendance  
28 of witnesses and the production of papers, waybills, books,  
29 accounts, documents, and testimony in any inquiry, investigation,  
30 hearing, or proceeding in any part of the state.

31 (b) The administrative law judges may administer oaths,  
32 examine witnesses, issue subpoenas, and receive evidence, under  
33 rules that the commission adopts.

34 (c) The evidence in any hearing shall be taken by the  
35 commissioner or the administrative law judge designated for that  
36 purpose. The commissioner or the administrative law judge may  
37 receive and exclude evidence offered in the hearing in accordance  
38 with the rules of practice and procedure of the commission.

39 (d) Consistent with the procedures contained in Sections 1701.1,  
40 1701.2, 1701.3, ~~1701.4~~, 1701.8, the assigned

1 commissioner or the administrative law judge shall prepare and  
2 file an opinion setting forth recommendations, findings, and  
3 conclusions. The opinion of the assigned commissioner or the  
4 administrative law judge is the proposed decision and a part of the  
5 public record in the proceeding. The proposed decision of the  
6 assigned commissioner or the administrative law judge shall be  
7 filed with the commission and served upon all parties to the action  
8 or proceeding without undue delay, not later than 90 days after the  
9 matter has been submitted for decision. The commission shall issue  
10 its decision not sooner than 30 days following filing and service  
11 of the proposed decision by the assigned commissioner or the  
12 administrative law judge, except that the 30-day period may be  
13 reduced or waived by the commission in an unforeseen emergency  
14 situation or upon the stipulation of all parties to the proceeding or  
15 as otherwise provided by law. The commission may, in issuing its  
16 decision, adopt, modify, or set aside the proposed decision or any  
17 part of the decision. Where the modification is of a decision in an  
18 adjudicatory hearing it shall be based upon the evidence in the  
19 record. Every finding, opinion, and order made in the proposed  
20 decision and approved or confirmed by the commission shall, upon  
21 that approval or confirmation, be the finding, opinion, and order  
22 of the commission.

23 (e) Any item appearing on the commission's public agenda as  
24 an alternate item to a proposed decision or to a decision subject to  
25 subdivision (g) shall be served upon all parties to the proceeding  
26 without undue delay and shall be subject to public review and  
27 comment before it may be voted upon. For purposes of this  
28 subdivision, "alternate" means either a substantive revision to a  
29 proposed decision that materially changes the resolution of a  
30 contested issue or any substantive addition to the findings of fact,  
31 conclusions of law, or ordering paragraphs. The commission shall  
32 adopt rules that provide for the time and manner of review and  
33 comment and the rescheduling of the item on a subsequent public  
34 agenda, except that the item may not be rescheduled for  
35 consideration sooner than 30 days following service of the  
36 alternative item upon all parties. The alternate item shall be  
37 accompanied by a digest that clearly explains the substantive  
38 revisions to the proposed decision. The commission's rules may  
39 provide that the time and manner of review and comment on an

1 alternate item may be reduced or waived by the commission in an  
2 unforeseen emergency situation.

3 (f) The commission may specify that the administrative law  
4 judge assigned to a proceeding involving an electrical, gas,  
5 telephone, railroad, or water corporation, or a highway carrier,  
6 initiated by customer or subscriber complaint need not prepare,  
7 file, and serve an opinion, unless the commission finds that to do  
8 so is required in the public interest in a particular case.

9 (g) (1) ~~Prior to~~ *Before* voting on any commission decision not  
10 subject to subdivision (d), the decision shall be served on parties  
11 and subject to at least 30 days public review and comment. Any  
12 alternate to any commission decision shall be subject to the same  
13 requirements as provided for alternate decisions under subdivision  
14 (e). For purposes of this subdivision, “decision” also includes  
15 resolutions, including resolutions on advice letter filings.

16 (2) The 30-day period may be reduced or waived in an  
17 unforeseen emergency situation, upon the stipulation of all parties  
18 in the proceeding, for an uncontested matter in which the decision  
19 grants the relief requested, or for an order seeking temporary  
20 injunctive relief. *relief, or may be reduced to no less than 15 days*  
21 *at the discretion of the assigned commissioner.*

22 (3) This subdivision does not apply to uncontested matters that  
23 pertain solely to water corporations, or to orders instituting  
24 investigations or rulemakings, categorization resolutions under  
25 Sections 1701.1 to 1701.4, inclusive, *and Section 1701.8*, or orders  
26 authorized by law to be considered in executive session. Consistent  
27 with regulatory efficiency and the need for adequate prior notice  
28 and comment on commission decisions, the commission may adopt  
29 rules, after notice and comment, establishing additional categories  
30 of decisions subject to waiver or reduction of the time period in  
31 this section.

32 (h) Notwithstanding any other provision of law, amendments,  
33 revisions, or modifications by the commission of its Rules of  
34 Practice and ~~Procedure~~, *Procedure* shall be submitted to the Office  
35 of Administrative Law for prior review in accordance with Sections  
36 11349, 11349.3, 11349.4, 11349.5, 11349.6, and 11350.3 of, and  
37 subdivisions (a) and (b) of Section 11349.1 of, the Government  
38 Code. If the commission adopts an emergency revision to its Rules  
39 of Practice and Procedure based upon a finding that the revision  
40 is necessary for the preservation of the public peace, health and

1 safety, or general welfare, this emergency revision shall only be  
2 reviewed by the Office of Administrative Law in accordance with  
3 subdivisions (b) to (d), inclusive, of Section 11349.6 of the  
4 Government Code. The emergency revision shall become effective  
5 upon filing with the Secretary of State and shall remain in effect  
6 for no more than 120 days. A petition for writ of review pursuant  
7 to Section 1756 of a commission decision amending, revising, or  
8 modifying its Rules of Practice and Procedure shall not be filed  
9 until the regulation has been approved by the Office of  
10 Administrative Law, the Governor, or a court pursuant to Section  
11 11350.3 of the Government Code. If the period for filing the  
12 petition for writ of review would otherwise have already  
13 commenced under Section 1733 or 1756 at the time of that  
14 approval, then the period for filing the petition for writ of review  
15 shall continue until 30 days after the date of that approval. Nothing  
16 in this subdivision shall require the commission to comply with  
17 Article 5 (commencing with Section 11346) of Chapter 3.5 of Part  
18 1 of Division 3 of Title 2 of the Government Code. This  
19 subdivision is only intended to provide for the Office of  
20 Administrative Law review of procedural commission decisions  
21 relating to commission Rules of Practice and Procedure, and not  
22 general orders, resolutions, or other substantive regulations.

23 (i) The commission shall immediately notify the Legislature  
24 whenever the commission reduces or waives the time period for  
25 public review and comment due to an unforeseen emergency  
26 situation, as provided in subdivision (d), (e), or (g).

27 *SEC. 5. Section 326 is added to the Public Utilities Code, to*  
28 *read:*

29 *326. By January 1, 2020, the commission shall establish the*  
30 *Wildfire Safety Division within the commission. The division shall*  
31 *do all of the following:*

32 *(a) Oversee and enforce electrical corporations' compliance*  
33 *with wildfire safety pursuant to Chapter 6 (commencing with*  
34 *Section 8385) of Division 4.1.*

35 *(b) In consultation with the California Wildfire Safety Advisory*  
36 *Board, develop and recommend to the commission performance*  
37 *metrics to evaluate an electrical corporation's compliance with*  
38 *its approved wildfire mitigation plan.*

39 *(c) Consult with the Office of Emergency Services in the office's*  
40 *management and response to utility public safety power shutoff*

1 *events and utility actions for compliance with public safety power*  
2 *shutoff program rules and regulations.*

3 *(d) Support efforts to assess and analyze fire weather data and*  
4 *other atmospheric conditions that could lead to catastrophic*  
5 *wildfires and to reduce the likelihood and severity of wildfire*  
6 *incidents that could endanger the safety of persons, properties,*  
7 *and the environment within the state.*

8 *(e) Retain appropriate staff that includes experts in wildfire,*  
9 *weather, climate change, emergency response, and other relevant*  
10 *subject matters.*

11 *(f) Review, as necessary, in coordination with the California*  
12 *Wildfire Safety Advisory Board and necessary commission staff,*  
13 *safety requirements for infrastructure operated by telephone*  
14 *corporations, water corporations, local publicly owned water*  
15 *utilities, and water districts, and provide recommendations to the*  
16 *commission to address the dynamic risk of climate change and to*  
17 *mitigate wildfire risk.*

18 *SEC. 6. Section 326.1 is added to the Public Utilities Code, to*  
19 *read:*

20 *326.1. (a) There is hereby established the California Wildfire*  
21 *Safety Advisory Board. The board shall advise the Wildfire Safety*  
22 *Division established pursuant to Section 326.*

23 *(b) The board shall consist of seven members. Five members*  
24 *shall be appointed by the Governor, one member shall be appointed*  
25 *by the Speaker of the Assembly, and one member shall be appointed*  
26 *by the President pro Tempore of the Senate. The members of the*  
27 *board shall serve four-year staggered terms. The initial members*  
28 *of the board shall be appointed by January 1, 2020. The Governor*  
29 *shall designate three of the initial members who shall serve*  
30 *two-year terms. Members of the board shall be selected from*  
31 *industry experts, academics, and persons with labor and workforce*  
32 *safety experience or other relevant qualifications.*

33 *(c) The board shall meet no less often than quarterly and*  
34 *alternate meeting locations between northern, central, and*  
35 *southern California, when feasible.*

36 *(d) Members of the board who are not salaried state service*  
37 *employees shall be eligible for reasonable compensation, not to*  
38 *exceed a per diem four hundred dollars (\$400), for attendance at*  
39 *board meetings.*

1 (e) All reasonable costs incurred by the board, including  
 2 staffing, travel at state travel reimbursement rates, and  
 3 administrative costs, shall be reimbursed through the public  
 4 utilities reimbursement account and shall be part of the budget of  
 5 the commission. The commission shall consult with the board in  
 6 the preparation of this portion of the commission’s proposed  
 7 annual budget.

8 (f) The board is exempt from the requirements of the  
 9 Bagley-Keene Open Meeting Act (Chapter 9 (commencing with  
 10 Section 54950) of Part 1 of Division 2 of Title 5 of the Government  
 11 Code).

12 (g) (1) Notwithstanding subdivision (f), a congregation or  
 13 meeting of a majority of the board members at the same time and  
 14 place to hear or discuss an issue within its jurisdiction shall be  
 15 open to the public and a period of 20 minutes shall be set aside at  
 16 the congregation or meeting to receive public comment.

17 (2) Paragraph (1) does not apply to a congregation or meeting  
 18 that satisfies the requirements of Section 11126 of the Government  
 19 Code for closed meetings.

20 (h) (1) Communications between the board and the commission  
 21 are privileged as deliberative process communication.

22 (2) Communications by the board, its staff, and individual  
 23 members of the board are not subject to the commission’s ex parte  
 24 rules set forth in Article 1 (commencing with Section 1701) of  
 25 Chapter 9 of Part 1.

26 SEC. 7. Section 326.2 is added to the Public Utilities Code, to  
 27 read:

28 326.2. The board shall do all of the following:

29 (a) Develop and make recommendations to the Wildfire Safety  
 30 Division related to wildfire safety and mitigation performance  
 31 metrics.

32 (b) Develop and make recommendations related to the contents  
 33 of wildfire mitigation plans pursuant to Chapter 6 (commencing  
 34 with Section 8385) of Division 4.1.

35 (c) Provide other advice and recommendations related to  
 36 wildfire safety as requested by the Wildfire Safety Division.

37 SEC. 8. Section 451.1 of the Public Utilities Code is amended  
 38 to read:

39 451.1. (a) For purposes of this section, the following terms  
 40 have the following meanings:

1 (1) “Covered wildfire” means any wildfire ignited on or after  
2 the effective date of Part 6 (commencing with Section 3279), that  
3 the Department of Forestry and Fire Protection has determined  
4 was caused by the electrical corporation.

5 (2) “Wildfire fund” means the Wildfire Fund created pursuant  
6 to Section 3284.

7 (a)

8 (b) ~~In~~ When determining an application by an electrical  
9 corporation to recover costs and expenses arising from a  
10 catastrophic wildfire occurring on or after January 1, 2019, covered  
11 wildfire, the commission ~~may~~ shall allow cost recovery if the costs  
12 and expenses are just and reasonable, ~~after consideration of the~~  
13 ~~conduct of the utility. In evaluating the reasonableness of the costs~~  
14 ~~and expenses, reasonable. Costs and expenses arising from a~~  
15 ~~covered wildfire are just and reasonable if the commission shall~~  
16 ~~consider the~~ conduct of the electrical corporation ~~and was~~  
17 consistent with actions that a reasonable utility would have  
18 undertaken in good faith under similar circumstances, at the  
19 relevant information submitted into point in time, and based on  
20 the ~~commission record, which may include, but information~~  
21 available at that time. Reasonable conduct is not limited to, all to  
22 the optimum practice, method, or act to the exclusion of others,  
23 but rather encompasses a spectrum of possible practices, methods,  
24 or acts consistent with utility system needs, the following: interest  
25 of the ratepayers, and the requirements of governmental agencies  
26 of competent jurisdiction. Costs and expenses in the application  
27 may be allocated for cost recovery in full or in part taking into  
28 account factors that may have exacerbated the costs and expenses.

29 (1) ~~The nature and severity of the conduct of the electrical~~  
30 ~~corporation and its officers, employees, contractors, and other~~  
31 ~~entities with which the electrical corporation forms a contractual~~  
32 ~~relationship, including systemic corporate defects.~~

33 (2) ~~Whether the electrical corporation disregarded indicators of~~  
34 ~~wildfire risk.~~

35 (3) ~~Whether the electrical corporation failed to design its assets~~  
36 ~~in a reasonable manner.~~

37 (4) ~~Whether the electrical corporation failed to operate its assets~~  
38 ~~in a reasonable manner.~~

39 (5) ~~Whether the electrical corporation failed to maintain its~~  
40 ~~assets in a reasonable manner.~~

- 1     ~~(6)~~  
 2     ~~(c) Whether An electrical corporation bears the burden to~~  
 3     ~~demonstrate, based on a preponderance of the evidence, that its~~  
 4     ~~conduct was reasonable pursuant to subdivision (b) unless it has~~  
 5     ~~a valid safety certification pursuant to Section 8389 for the time~~  
 6     ~~period in which the covered wildfire that is the subject of the~~  
 7     ~~application ignited. If the electrical corporation has received a~~  
 8     ~~valid safety certification for the time period in which the covered~~  
 9     ~~wildfire ignited, an electrical corporation’s practices conduct shall~~  
 10    ~~be deemed to monitor, predict, and anticipate wildfires, and have~~  
 11    ~~been reasonable pursuant to operate its facilities in subdivision~~  
 12    ~~(b) unless a reasonable manner party to the proceeding~~  
 13    ~~demonstrates, based on information gained from its monitoring~~  
 14    ~~and predicting of wildfires, were a preponderance of the evidence,~~  
 15    ~~that the electrical corporation’s conduct was not reasonable.~~  
 16    ~~(7) The extent to which the costs and expenses were in part~~  
 17    ~~caused by circumstances beyond the electrical corporation’s~~  
 18    ~~control.~~  
 19    ~~(8)~~  
 20    ~~(d) Whether extreme climate conditions at If an electrical~~  
 21    ~~corporation has drawn amounts from the location of the wildfire’s~~  
 22    ~~ignition, including humidity, temperature, or winds occurring~~  
 23    ~~during the Wildfire Fund for eligible claims for a covered wildfire,~~  
 24    ~~contributed to then the fire’s ignition or exacerbated the extent of~~  
 25    ~~the damages. The electrical corporation shall provide the~~  
 26    ~~commission with specific evidence file an application to recover~~  
 27    ~~costs and data demonstrating the impact of climate conditions on~~  
 28    ~~the severity of the expenses pursuant to Section 1701.8 after it has~~  
 29    ~~paid substantially all third-party liability claims arising from the~~  
 30    ~~covered wildfire.~~  
 31    ~~(9) The electrical corporation’s compliance with regulations,~~  
 32    ~~laws, commission orders, and its wildfire mitigation plans prepared~~  
 33    ~~pursuant to Section 8386, including its history of compliance.~~  
 34    ~~(10) Official findings of state, local, or federal government~~  
 35    ~~offices summarizing statutory, regulatory, or ordinance violations~~  
 36    ~~by any actor that contributed to the extent of the damages.~~  
 37    ~~(11) Whether the costs and expenses were caused by a single~~  
 38    ~~violation or multiple violations of relevant rules.~~



~~(12) Other factors the commission finds necessary to evaluate the reasonableness of the costs and expenses, including factors traditionally relied upon by the commission in its decisions.~~

~~(b)~~

(e) Notwithstanding Section 451, this section shall direct the commission’s evaluation of applications for recovery of costs and expenses arising from a catastrophic covered wildfire. This section shall not apply to any other applications for cost recovery.

(e)

(f) This section shall not affect any civil action, appeal, or other action or proceeding.

SEC. 9. Section 451.3 is added to the Public Utilities Code, to read:

451.3. If the commission finds that an electrical corporation is requesting recovery of costs that were previously authorized by the commission for cost recovery by the electrical corporation, the commission may fine the electrical corporation an amount up to three times the amount of the penalty provided in Section 2107 for each violation.

SEC. 10. The heading of Article 5.8 (commencing with Section 850) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code is amended to read:

Article 5.8. Catastrophic Wildfire and Ratepayer Protection  
Financing

SEC. 11. Section 850 of the Public Utilities Code is amended to read:

850. (a) This article applies in either of the following circumstances:

(a)

(1) If an electrical corporation applies to the commission for recovery of costs and expenses related to a catastrophic wildfire and the commission finds some or all of the costs and expenses to be reasonable pursuant to Section 451.1, or for the amount of costs and expenses determined pursuant to subdivision (c) of Section 451.2, then the electrical corporation may file an application requesting the commission to issue a financing order to authorize these costs and expenses to be recovered through fixed recovery charges pursuant to this article.

1     (2) *If an electrical corporation submits an application for cost*  
2 *recovery in a proceeding to recover costs and expenses in rates,*  
3 *the commission may, after finding that some or all of the costs*  
4 *identified in the electrical corporation's application are*  
5 *appropriate costs, and that recovery of those appropriate costs is*  
6 *reasonable pursuant to Section 451, issue a financing order to*  
7 *authorize the recovery of those reasonable appropriate costs by*  
8 *means of a financing order, with those costs and expenses being*  
9 *recovered through a fixed charge pursuant to this article. The*  
10 *paragraph does not apply for costs and expenses incurred by the*  
11 *electrical corporation after December 31, 2035.*

12     (b) For the purposes of this article, the following terms shall  
13 have the following meanings:

14     (1) "Ancillary agreement" means a bond insurance policy, letter  
15 of credit, reserve account, surety bond, swap arrangement, hedging  
16 arrangement, liquidity or credit support arrangement, or other  
17 similar agreement or arrangement entered into in connection with  
18 the issuance of recovery bonds that is designed to promote the  
19 credit quality and marketability of the bonds or to mitigate the risk  
20 of an increase in interest rates.

21     (2) "Appropriate costs" means significant and unavoidable  
22 costs and expenses in excess of one billion dollars (\$1,000,000,000)  
23 identified in an application for cost recovery in a commission rate  
24 proceeding other than a general rate case, excepting the portion  
25 of a general rate case addressing the recovery of costs to  
26 implement a wildfire mitigation plan submitted pursuant to Section  
27 8386. Those costs shall be demonstrated in the cost recovery  
28 application to be appropriate for recovery in a fixed recovery  
29 charge on grounds, including, but not limited to, the following:

30     (A) *The rates resulting from the adoption of a fixed recovery*  
31 *charge will be lower than the rates resulting from the application*  
32 *of traditional rate recovery mechanisms over the life of any*  
33 *proposed recovery bonds.*

34     (B) *The costs are not incurred in the normal course of business.*

35     (C) *The costs are not typically incurred in the course of utility*  
36 *maintenance and operations.*

37     (D) *The electrical corporation's overall rate structure will not*  
38 *be harmed by including the fixed recovery charges in its rates in*  
39 *the amount that likely would result from any proposed recovery*  
40 *bonds.*

1 (E) *The electrical corporation's cost of capital will be*  
2 *appropriately adjusted to reflect the lower cost of finance via a*  
3 *recovery bond.*

4 (F) *Those costs could not have been foreseen and accounted*  
5 *for by ordinary forecasting and cost recovery methods.*

6 (G) *The electrical corporation has taken all reasonable steps*  
7 *to guard against the recurrence of any similar cost.*

8 (H) *The electrical corporation has not submitted a cost recovery*  
9 *application pursuant to this paragraph in the preceding 18 months.*

10 ~~(2)~~

11 (3) "Catastrophic wildfire amounts" means the portion of costs  
12 and expenses the commission finds to be just and reasonable  
13 pursuant to Section 451.1 or the amount determined pursuant to  
14 subdivision (c) of Section 451.2.

15 ~~(3)~~

16 (4) "Consumer" means any individual, governmental body,  
17 trust, business entity, or nonprofit organization that consumes  
18 electricity that has been transmitted or distributed by means of  
19 electric transmission or distribution facilities, whether those electric  
20 transmission or distribution facilities are owned by the consumer,  
21 the electrical corporation, or any other party.

22 ~~(4)~~

23 (5) "Financing costs" means the costs to issue, service, repay,  
24 or refinance recovery bonds, whether incurred or paid upon  
25 issuance of the recovery bonds or over the life of the recovery  
26 bonds, if they are approved for recovery by the commission in a  
27 financing order. "Financing costs" may include any of the  
28 following:

29 (A) Principal, interest, and redemption premiums that are  
30 payable on recovery bonds.

31 (B) A payment required under an ancillary agreement.

32 (C) An amount required to fund or replenish reserve accounts  
33 or other accounts established under an indenture, ancillary  
34 agreement, or other financing document relating to the recovery  
35 bonds.

36 (D) Taxes, franchise fees, or license fees imposed on fixed  
37 recovery charges.

38 (E) Costs related to issuing and servicing recovery bonds or the  
39 application for a financing order, including, without limitation,  
40 servicing fees and expenses, trustee fees and expenses, legal fees

1 and expenses, accounting fees, administrative fees, underwriting  
2 and placement fees, financial advisory fees, original issue discount,  
3 capitalized interest, rating agency fees, and any other related costs  
4 that are approved for recovery in the financing order.

5 (F) Other costs as specifically authorized by a financing order.

6 ~~(5)~~

7 (6) “Financing entity” means the electrical corporation or any  
8 subsidiary or affiliate of the electrical corporation that is authorized  
9 by the commission to issue recovery bonds or acquire recovery  
10 property, or both.

11 ~~(6)~~

12 (7) “Financing order” means an order of the commission adopted  
13 in accordance with this article, which shall include, without  
14 limitation, a procedure to require the expeditious approval by the  
15 commission of periodic adjustments to fixed recovery charges and  
16 to any associated fixed recovery tax amounts included in that  
17 financing order to ensure recovery of all recovery costs and the  
18 costs associated with the proposed recovery, financing, or  
19 refinancing thereof, including the costs of servicing and retiring  
20 the recovery bonds contemplated by the financing order.

21 ~~(7)~~

22 (8) “Fixed recovery charges” means those nonbypassable rates  
23 and other charges, including, but not limited to, distribution,  
24 connection, disconnection, and termination rates and charges, that  
25 are authorized by the commission in a financing order to recover  
26 both of the following:

27 (A) Recovery costs specified in the financing order.

28 (B) The costs of recovering, financing, or refinancing those  
29 recovery costs through a plan approved by the commission in the  
30 financing order, including the costs of servicing and retiring  
31 recovery bonds.

32 ~~(8)~~

33 (9) “Fixed recovery tax amounts” means those nonbypassable  
34 rates and other charges, including, but not limited to, distribution,  
35 connection, disconnection, and termination rates and charges, that  
36 are needed to recover federal and State of California income and  
37 franchise taxes associated with fixed recovery charges authorized  
38 by the commission in a financing order, but are not approved as  
39 financing costs financed from proceeds of recovery bonds.

40 ~~(9)~~

1 (10) “Recovery bonds” means bonds, notes, certificates of  
2 participation or beneficial interest, or other evidences of  
3 indebtedness or ownership, issued pursuant to an executed  
4 indenture or other agreement of a financing entity, the proceeds  
5 of which are used, directly or indirectly, to recover, finance, or  
6 refinance recovery costs, and that are directly or indirectly secured  
7 by, or payable from, recovery property.

8 ~~(10)~~

9 (11) “Recovery costs” means any of the following:

10 (A) The catastrophic wildfire amounts *or appropriate costs*  
11 authorized by the commission in a financing order for recovery.

12 (B) Federal and State of California income and franchise taxes  
13 associated with recovery of the amounts pursuant to subparagraph  
14 (A).

15 (C) Financing costs.

16 (D) Professional fees, consultant fees, redemption premiums,  
17 tender premiums and other costs incurred by the electrical  
18 corporation in using proceeds of recovery bonds to acquire  
19 outstanding securities of the electrical corporation, as authorized  
20 by the commission in a financing order.

21 ~~(11)~~

22 (12) (A) “Recovery property” means the property right created  
23 pursuant to this article, including, without limitation, the right,  
24 title, and interest of the electrical corporation or its transferee:

25 (i) In and to the fixed recovery charges established pursuant to  
26 a financing order, including all rights to obtain adjustments to the  
27 fixed recovery charges in accordance with Section 850.1 and the  
28 financing order.

29 (ii) To be paid the amount that is determined in a financing  
30 order to be the amount that the electrical corporation or its  
31 transferee is lawfully entitled to receive pursuant to the provisions  
32 of this article and the proceeds thereof, and in and to all revenues,  
33 collections, claims, payments, moneys, or proceeds of or arising  
34 from the fixed recovery charges that are the subject of a financing  
35 order.

36 (B) “Recovery property” shall not include a right to be paid  
37 fixed recovery tax amounts.

38 (C) “Recovery property” shall constitute a current property  
39 right, notwithstanding the fact that the value of the property right  
40 will depend on consumers using electricity or, in those instances

1 where consumers are customers of the electrical corporation, the  
2 electrical corporation performing certain services.

3 ~~(12)~~

4 (13) “Service territory” means the geographical area that the  
5 electrical corporation provides with electric distribution service.

6 ~~(13)~~

7 (14) “True-up adjustment” means an adjustment to the fixed  
8 recovery charges as they appear on customer bills that is necessary  
9 to correct for any overcollection or undercollection of the fixed  
10 recovery charges authorized by a financing order and to otherwise  
11 ensure the timely and complete payment and recovery of recovery  
12 costs over the authorized repayment term.

13 *SEC. 12. Section 850.1 of the Public Utilities Code is amended*  
14 *to read:*

15 850.1. (a) (1) *This section applies only in either of the*  
16 *following:*

17 ~~(a)~~

18 (A) ~~(1) If—This section applies only if~~ an electrical corporation  
19 files for recovery of the amount of costs and expenses pursuant to  
20 Section 451.1 or subdivision (c) of Section 451.2 and the  
21 commission finds some or all of those costs and expenses to be  
22 just and reasonable pursuant to Section 451.1 or the commission  
23 allocates to the ratepayers some or all of those costs and expenses  
24 pursuant to subdivision (c) of Section 451.2.

25 (B) *If an electrical corporation files for recovery of the amount*  
26 *or appropriate costs pursuant to paragraph (2) of subdivision (a)*  
27 *of Section 850.*

28 (2) The commission may issue a financing order to allow  
29 recovery through fixed recovery charges, which would therefore  
30 constitute recovery property under this article, and order that any  
31 portion of the electrical corporation’s federal and State of California  
32 income and franchise taxes associated with those fixed recovery  
33 charges and not financed from proceeds of recovery bonds may  
34 be recovered through fixed recovery tax amounts.

35 (3) (A) Following application by an electrical corporation, the  
36 commission shall issue a financing order if the commission  
37 determines that the following conditions are satisfied:

38 (i) The recovery cost to be reimbursed from the recovery bonds  
39 have been found to be just and reasonable pursuant to Section

1 451.1 or are allocated to the ratepayers pursuant to subdivision (c)  
2 of Section 451.2.

3 (ii) The issuance of the recovery bonds, including all material  
4 terms and conditions of the recovery bonds, including, without  
5 limitation, interest rates, rating, amortization redemption, and  
6 maturity, and the imposition and collection of fixed recovery  
7 charges as set forth in an application satisfy all of the following  
8 ~~conditions:~~ *conditions, as applicable:*

9 (I) They are just and reasonable.

10 (II) They are consistent with the public interest.

11 (III) The recovery of recovery costs *for catastrophic wildfire*  
12 *amounts* through the designation of the fixed recovery charges and  
13 any associated fixed recovery tax amounts, and the issuance of  
14 recovery bonds in connection with the fixed recovery charges,  
15 would reduce, to the maximum extent possible, the rates on a  
16 present value basis that consumers within the electrical  
17 corporation's service territory would pay as compared to the use  
18 of traditional utility financing mechanisms, which shall be  
19 calculated using the electrical corporation's corporate debt and  
20 equity in the ratio approved by the commission at the time of the  
21 financing order.

22 (IV) *The recovery of recovery costs for appropriate costs*  
23 *through the designation of the fixed recovery charges and any*  
24 *associated fixed recovery tax amounts, and the issuance of recovery*  
25 *bonds in connection with the fixed recovery charges, would meet*  
26 *the requirements set forth in subparagraphs (A) to (H), inclusive,*  
27 *of paragraph (2) of subdivision (b) of Section 850.*

28 (B) The electrical corporation may request the determination  
29 specified in subparagraph (A) by the commission in a separate  
30 proceeding or in an existing proceeding or both. If the commission  
31 makes the determination specified in subparagraph (A), the  
32 commission shall establish, as part of the financing order, a  
33 procedure for the electrical corporation to submit applications from  
34 time to time to request the issuance of additional financing orders  
35 designating fixed recovery charges and any associated fixed  
36 recovery tax amounts as recoverable. The electrical corporation  
37 may submit an application with respect to recovery costs that an  
38 electrical corporation (i) has paid, (ii) has an existing legal  
39 obligation to pay, or (iii) would be obligated to pay pursuant to an  
40 executed settlement agreement. The commission shall, within 180

1 days of the filing of that application, issue a financing order, which  
2 may take the form of a resolution, if the commission determines  
3 that the amounts identified in the application are recovery costs.

4 (4) Fixed recovery charges and any associated fixed recovery  
5 tax amounts shall be imposed only on existing and future  
6 consumers in the service territory. Consumers within the service  
7 territory shall continue to pay fixed recovery charges and any  
8 associated fixed recovery tax amounts until the recovery bonds  
9 and associated financing costs are paid in full by the financing  
10 entity.

11 (5) An electrical corporation may exercise the same rights and  
12 remedies under its tariff and applicable law and regulation based  
13 upon a customer's nonpayment of fixed recovery charges and any  
14 associated fixed recovery tax as it could for a customer's failure  
15 to pay any other charge payable to that electrical corporation.

16 (b) The commission may establish in a financing order an  
17 effective mechanism that ensures recovery of recovery costs  
18 through nonbypassable fixed recovery charges and any associated  
19 fixed recovery tax amounts from existing and future consumers  
20 in the service territory, and those consumers shall be required to  
21 pay those charges until the recovery bonds and all associated  
22 financing costs are paid in full by the financing entity, at which  
23 time those charges shall be terminated. Fixed recovery charges  
24 shall be irrevocable, notwithstanding the true-up adjustment  
25 pursuant to subdivision (g).

26 (c) Recovery bonds authorized by the commission's financing  
27 orders may be issued in one or more series on or before December  
28 31, 2035.

29 (d) The commission may issue financing orders in accordance  
30 with this article to facilitate the recovery, financing, or refinancing  
31 of recovery costs. A financing order may be adopted only upon  
32 the application of the electrical corporation and shall become  
33 effective in accordance with its terms only after the electrical  
34 corporation files with the commission the electrical corporation's  
35 written consent to all terms and conditions of the financing order.  
36 A financing order may specify how amounts collected from a  
37 consumer shall be allocated between fixed recovery charges, any  
38 associated fixed recovery tax amounts, and other charges.

39 (e) Notwithstanding Section 455.5 or 1708, or any other law,  
40 and except as otherwise provided in subdivision (g), with respect



1 to recovery property that has been made the basis for the issuance  
2 of recovery bonds and with respect to any associated fixed recovery  
3 tax amounts, the financing order, the fixed recovery charges, and  
4 any associated fixed recovery tax amounts shall be irrevocable.  
5 The commission shall not, either by rescinding, altering, or  
6 amending the financing order or otherwise, revalue or revise for  
7 ratemaking purposes the recovery costs or the costs of recovering,  
8 financing, or refinancing the recovery costs, in any way reduce or  
9 impair the value of recovery property or of the right to receive any  
10 associated fixed recovery tax amounts either directly or indirectly  
11 by taking fixed recovery charges or any associated fixed recovery  
12 tax amounts into account when setting other rates for the electrical  
13 corporation or when setting charges for the Department of Water  
14 Resources. The amount of revenues shall not be subject to  
15 reduction, impairment, postponement, or termination. The State  
16 of California does hereby pledge and agree with the electrical  
17 corporation, owners of recovery property, financing entities, and  
18 holders of recovery bonds that the state shall neither limit nor alter,  
19 except as otherwise provided with respect to the true-up adjustment  
20 of the fixed recovery charges pursuant to subdivision (i), the fixed  
21 recovery charges, any associated fixed recovery tax amounts,  
22 recovery property, financing orders, or any rights under a financing  
23 order until the recovery bonds, together with the interest on the  
24 recovery bonds and associated financing costs, are fully paid and  
25 discharged, and any associated fixed recovery tax amounts have  
26 been satisfied or, in the alternative, have been refinanced through  
27 an additional issue of recovery bonds, provided that nothing  
28 contained in this section shall preclude the limitation or alteration  
29 if and when adequate provision shall be made by law for the  
30 protection of the electrical corporation and of owners and holders  
31 of the recovery bonds. The financing entity is authorized to include  
32 this pledge and undertaking for the state in these recovery bonds.  
33 When setting other rates for the electrical corporation, nothing in  
34 this subdivision shall prevent the commission from taking into  
35 account either of the following:

36 (1) Any collection of fixed recovery charges in excess of  
37 amounts actually required to pay recovery costs financed or  
38 refinanced by recovery bonds.

39 (2) Any collection of fixed recovery tax amounts in excess of  
40 amounts actually required to pay federal and State of California

1 income and franchise taxes associated with fixed recovery charges,  
2 provided that this would not result in a recharacterization of the  
3 tax, accounting, and other intended characteristics of the financing,  
4 including, but not limited to, either of the following:

5 (A) Treating the recovery bonds as debt of the electrical  
6 corporation or its affiliates for federal income tax purposes.

7 (B) Treating the transfer of the recovery property by the  
8 electrical corporation as a true sale for bankruptcy purposes.

9 (f) (1) Neither financing orders nor recovery bonds issued under  
10 this article shall constitute a debt or liability of the state or of any  
11 political subdivision thereof, nor shall they constitute a pledge of  
12 the full faith and credit of the state or any of its political  
13 subdivisions, but are payable solely from the funds provided  
14 therefor under this article and shall be consistent with Sections 1  
15 and 18 of Article XVI of the California Constitution. All recovery  
16 bonds shall contain on the face thereof a statement to the following  
17 effect: “Neither the full faith and credit nor the taxing power of  
18 the State of California is pledged to the payment of the principal  
19 of, or interest on, this bond.”

20 (2) The issuance of recovery bonds under this article shall not  
21 directly, indirectly, or contingently obligate the state or any  
22 political subdivision thereof to levy or to pledge any form of  
23 taxation therefor or to make any appropriation for their payment.

24 (g) The commission shall establish procedures for the  
25 expeditious processing of an application for a financing order,  
26 which shall provide for the approval or disapproval of the  
27 application within 120 days of the application. Any fixed recovery  
28 charge authorized by a financing order shall appear on consumer  
29 bills. The commission shall, in any financing order, provide for a  
30 procedure for periodic true-up adjustments to fixed recovery  
31 charges, which shall be made at least annually and may be made  
32 more frequently. The electrical corporation shall file an application  
33 with the commission to implement any true-up adjustment.

34 (h) Fixed recovery charges are recovery property when, and to  
35 the extent that, a financing order authorizing the fixed recovery  
36 charges has become effective in accordance with this article, and  
37 the recovery property shall thereafter continuously exist as property  
38 for all purposes, and all of the rights and privileges relating to that  
39 property accorded by this article shall continuously exist for the  
40 period and to the extent provided in the financing order, but in any

1 event until the recovery bonds are paid in full, including all  
2 principal, premiums, if any, and interest with respect to the  
3 recovery bonds, and all associated financing costs are paid in full.

4 A financing order may provide that the creation of recovery  
5 property shall be simultaneous with the sale of the recovery  
6 property to a transferee or assignee as provided in the application  
7 of the pledge of the recovery property to secure the recovery bonds.

8 (i) Recovery costs shall not be imposed upon customers  
9 participating in the California Alternative Rates for Energy or  
10 Family Electric Rate Assistance programs discount pursuant to  
11 Section 739.1.

12 (j) This article and any financing order made pursuant to this  
13 article do not amend, reduce, modify, or otherwise affect the right  
14 of the Department of Water Resources to recover its revenue  
15 requirements and to receive the charges that it is to recover and  
16 receive pursuant to Division 27 (commencing with Section 80000)  
17 of the Water Code, or pursuant to any agreement entered into by  
18 the commission and the Department of Water Resources pursuant  
19 to that division.

20 *SEC. 13. Section 1701 of the Public Utilities Code is amended*  
21 *to read:*

22 1701. (a) All hearings, investigations, and proceedings shall  
23 be governed by this part and by rules of practice and procedure  
24 adopted by the commission, and in the conduct thereof the technical  
25 rules of evidence need not be applied. No informality in any  
26 hearing, investigation, or proceeding or in the manner of taking  
27 testimony shall invalidate any order, decision, or rule made,  
28 approved, or confirmed by the commission.

29 (b) *In quasi-legislative, ratesetting, or catastrophic wildfire*  
30 *proceedings that do not include hearings, the commission may*  
31 *receive as evidence, and use as proof of any fact, both of the*  
32 *following types of information without requiring a sponsoring*  
33 *witness subject to cross-examination:*

- 34 (1) *Reports of other state or federal agencies.*
- 35 (2) *Reports of commission staff or interagency and stakeholder*  
36 *groups provided to all parties for notice and comment.*

37 ~~(b)~~  
38 (c) Notwithstanding Section 11425.10 of the Government Code,  
39 Articles 1 to 15, inclusive, of Chapter 4.5 (commencing with  
40 Section 11400) of Part 1 of Division 3 of Title 2 of the Government

1 Code do not apply to a hearing by the commission under this code.  
2 The Administrative Adjudication Code of Ethics (Article 16  
3 (commencing with Section 11475) of Chapter 4.5 of Part 1 of  
4 Division 3 of Title 2 of the Government Code) shall apply to  
5 administrative law judges of the commission.

6 *SEC. 14. Section 1701.1 of the Public Utilities Code is amended*  
7 *to read:*

8 1701.1. (a) (1) The commission shall determine whether  
9 each proceeding is a quasi-legislative, an adjudication, a  
10 ~~ratesetting~~, or a ~~ratesetting proceeding~~. The commission's decision  
11 as to the nature of the proceeding shall be subject to a request for  
12 ~~rehearing within 10 days of the date of that decision or of any~~  
13 ~~subsequent ruling that expands the scope of the catastrophic~~  
14 ~~wildfire proceeding. Only those parties who have requested a~~  
15 ~~rehearing within that time period shall subsequently have standing~~  
16 ~~for judicial review and that review shall only be available at the~~  
17 ~~conclusion of the proceeding. The commission shall render its~~  
18 ~~decision regarding the rehearing within 30 days. The commission~~  
19 ~~shall establish rules regarding ex parte communication on case~~  
20 ~~categorization issues.~~

21 (2) *The commission shall adopt rules that provide for*  
22 *discretionary expedited treatment of proceedings related to*  
23 *emergencies, safety, and enforcement that would provide for the*  
24 *completion of such a proceeding within 180 days. On or before*  
25 *December 1, 2019, the commission shall propose these rules.*

26 (b) (1) The commission, upon initiating an adjudication  
27 proceeding or ratesetting proceeding, shall assign one or more  
28 commissioners to oversee the case and an administrative law judge  
29 when appropriate. The assigned commissioner ~~shall~~ *may* schedule  
30 a prehearing conference and ~~shall~~ *may* prepare and issue by order  
31 or ruling a scoping memo that describes the issues to be considered  
32 and the applicable timetable for resolution and that, consistent with  
33 due process, public policy, and statutory requirements, determines  
34 whether the proceeding requires a hearing.

35 (2) The administrative law judge shall either preside over and  
36 conduct, or assist the assigned commissioner or commissioners in  
37 presiding over and conducting, any evidentiary or adjudication  
38 hearing that may be required.

1 (3) *The commission may develop procedures to expedite*  
2 *ratesetting and catastrophic wildfire proceedings that do not*  
3 *require an evidentiary hearing.*

4 (c) The commission, upon initiating a quasi-legislative  
5 proceeding, shall assign one or more commissioners to oversee  
6 the case and ~~an administrative law judge, when appropriate, who~~  
7 ~~may be assisted by a technical advisory staff member in conducting~~  
8 ~~the proceeding.~~ *appropriate technical advisory staff, which may*  
9 *include an administrative law judge.* The assigned commissioner  
10 shall prepare and issue by order or ruling a scoping memo that  
11 describes the issues to be considered and the applicable timetable  
12 for resolution and that, consistent with due process, public policy,  
13 and statutory requirements, determines whether the proceeding  
14 requires a hearing. *resolution.*

15 (d) (1) Quasi-legislative cases, for purposes of this article, are  
16 cases that establish policy, including, but not limited to,  
17 rulemakings and investigations that may establish rules affecting  
18 an entire industry. *Quasi-legislative cases may have an ancillary*  
19 *effect on rates, such as when the commission establishes programs*  
20 *that apply to multiple regulated public utilities.*

21 (2) Adjudication cases, for purposes of this article, are  
22 enforcement cases and complaints except those challenging the  
23 reasonableness of any rates or charges as specified in Section 1702.

24 (3) Ratesetting cases, for purposes of this article, are cases in  
25 which rates are established for a specific company, including, but  
26 not limited to, general rate cases, performance-based ratemaking,  
27 and other ratesetting ~~mechanisms.~~ *mechanisms, and cases in which*  
28 *a regulated public utility files an application for the approval of*  
29 *specific contracts or projects exceeding five million dollars*  
30 *(\$5,000,000).*

31 (4) *Catastrophic wildfire proceedings, for purposes of this*  
32 *article, are proceedings in which an electrical corporation files*  
33 *an application to recover costs and expenses pursuant to Section*  
34 *451.1.*

35 (e) (1) (A) “Ex parte communication,” for purposes of this  
36 article, means any oral or written communication between a  
37 decisionmaker and an interested person concerning any matter  
38 before the commission that the commission has not specified in  
39 its Rules of Practice and Procedure as being a procedural matter  
40 and that does not occur in a public hearing, workshop, or other

1 public proceeding, or on the official record of the proceeding on  
2 the matter. The commission shall specify in its Rules of Practice  
3 and Procedure, enacted by rulemaking, the types of issues  
4 considered procedural matters under this article.

5 (B) “Interested person,” for purposes of this article, means any  
6 of the following:

7 (i) Any applicant, an agent or an employee of the applicant, or  
8 a person receiving consideration for representing the applicant, or  
9 a participant in the proceeding on any matter before the  
10 commission.

11 (ii) Any person with a financial interest, as described in Article  
12 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the  
13 Government Code, in a matter before the commission, an agent  
14 or employee of the person with a financial interest, or a person  
15 receiving consideration for representing the person with a financial  
16 interest. A person involved in issuing credit ratings or advising  
17 entities or persons who invest in the shares or operations of any  
18 party to a proceeding is a person with a financial interest.

19 (iii) A representative acting on behalf of any civic,  
20 environmental, neighborhood, business, labor, trade, or similar  
21 organization who intends to influence the decision of a commission  
22 member on a matter before the commission.

23 (iv) Other categories of individuals deemed by the commission,  
24 by rule, to be an interested person.

25 (2) The commission shall by rule adopt and publish a definition  
26 of decisionmakers and interested persons for purposes of this  
27 article, along with any requirements for written reporting of ex  
28 parte communications and appropriate sanctions for noncompliance  
29 with any rule proscribing ex parte communications. The definition  
30 of decisionmakers shall include, but is not limited to: each  
31 commissioner; the personal staff of a commissioner if the staff is  
32 acting in a policy or legal advisory capacity; the chief  
33 administrative law judge of the commission; and the administrative  
34 law judge assigned to the proceeding. The commission shall, by  
35 rule, explicitly ban both of the following:

36 (A) The practice of one-way ex parte communications from a  
37 decisionmaker to an interested person.

38 (B) Any communication between an interested person and a  
39 decisionmaker regarding which commissioner or administrative  
40 law judge may be assigned to a matter before the commission.

1 (3) For adjudication cases, the rules shall provide that ex parte  
2 communications shall be prohibited, as required by this article.  
3 The rules shall provide that if an ex parte communication occurs  
4 that is prohibited by this article, or if an ex parte communication  
5 occurs in a ratesetting—~~ease~~, *case or catastrophic wildfire*  
6 *proceeding*, whether initiated by a decisionmaker or an interested  
7 person, all of the following shall be required:

8 (A) The interested person shall report the communication within  
9 three working days of the communication by filing a notice with  
10 the commission that includes all the following:

11 (i) The date, time, and location of the communication, whether  
12 the communication was oral or written, or a combination of both,  
13 and the communication medium used.

14 (ii) The identity of the decisionmaker, the identity of the person  
15 initiating the communication, and the identities of any other persons  
16 present.

17 (iii) The topic of the communication, including applicable  
18 proceeding numbers.

19 (iv) A substantive description of the interested person's  
20 communication and its content.

21 (v) A copy of any written material or text used during the  
22 communication.

23 (B) Any decisionmaker who participated in the communication  
24 shall promptly log the ex parte communication by filing a notice  
25 that includes all the following:

26 (i) The date, time, and location of the communication, whether  
27 the communication was oral or written, or a combination of both,  
28 and the communication medium used.

29 (ii) The identity of the interested person, the identity of the  
30 person initiating the communication, and the identities of any other  
31 persons present.

32 (iii) The topic of the communication, including any applicable  
33 proceeding numbers.

34 (iv) A brief description of the communication.

35 (C) If the interested person who participated in the  
36 communication has not timely submitted the notice required by  
37 subparagraph (A), the decisionmaker shall refer the matter to the  
38 attorney for the commission, and an assigned commissioner, by  
39 ruling, shall order the interested person to submit the required  
40 notice. The interested person shall be subject to any applicable

1 penalties for the initial violation and, if the interested person does  
2 not submit the required notice within the time period specified in  
3 the assigned commissioner’s ruling, the interested person shall be  
4 subject to continuing violations pursuant to Section 2108.

5 (4) The requirements of paragraph (3) shall not apply to any  
6 oral ex parte communication occurring at a meeting if all parties  
7 are invited to participate and given not less than three working  
8 days’ notice.

9 (5) The commission shall not take any vote on a matter in which  
10 a notice of a prohibited ex parte communication has been filed  
11 pursuant to subparagraph (A) or (B) of paragraph (3) until all  
12 parties to the proceeding have been provided a reasonable  
13 opportunity to respond to the communication.

14 (6) If an ex parte communication is not disclosed as required  
15 by this subdivision until after the commission has issued a decision  
16 on the matter to which the communication pertained, a party not  
17 participating in the communication may file a petition to rescind  
18 or modify the decision. The party may seek a finding that the ex  
19 parte communication significantly influenced the decision’s process  
20 or outcome as part of any petition to rescind or modify the decision.  
21 The commission shall process the petition in accordance with the  
22 commission’s procedures for petitions for modification and shall  
23 issue a decision on the petition no later than 180 days after the  
24 filing of the petition.

25 (7) (A) Ex parte communications that occur at conferences and  
26 that are within the scope of an ~~adjudication~~ *adjudication*,  
27 *ratesetting*, or ~~ratesetting~~ *catastrophic wildfire* proceeding shall  
28 be subject to the requirements of this article.

29 (B) Ex parte communications that occur at conferences and that  
30 are within the scope of a quasi-legislative proceeding shall be  
31 governed by the ex parte communication disclosure requirements  
32 developed by the commission.

33 (C) For purposes of this section, “ex parte communications that  
34 occur at conferences” includes, but is not limited to,  
35 communications in a private setting or during meals, entertainment  
36 events, and tours, and informal discussions among conference  
37 attendees.

38 (8) The commission shall render its decisions based on the law  
39 and on the evidence in the record. Ex parte communications shall  
40 not be a part of the evidentiary record of the proceedings.



1 (f) The commission may meet in a closed session to discuss  
 2 administrative matters so long as no collective consensus is reached  
 3 or vote taken on any matter requiring a vote of the commissioners.  
 4 The commission shall, by rule, adopt and publish a definition of  
 5 “administrative matters” for purposes of this section.

6 (g) The commission shall permit written comments received  
 7 from the public to be included in the record of its proceedings, but  
 8 the comments shall not be treated as evidence. The commission  
 9 shall provide parties to the proceeding a reasonable opportunity  
 10 to respond to any public comments included in the record of  
 11 proceedings.

12 (h) It is the intent of the Legislature that the commission, and  
 13 any entity or person seeking to influence actions taken by the  
 14 commission, shall be subject to all applicable ethical standards,  
 15 including any applicable obligations under the Political Reform  
 16 Act of 1974 (Title 9 (commencing with Section 81000) of the  
 17 Government Code), including, but not limited to, any applicable  
 18 lobbying obligations.

19 *SEC. 15. Section 1701.3 of the Public Utilities Code is amended*  
 20 *to read:*

21 1701.3. (a) ~~This~~ *Except as specified in subdivision (g), this*  
 22 *section shall apply only to ratesetting cases, except, if the*  
 23 *commissioner assigned pursuant to Section 1701.1 has determined*  
 24 *that a ratesetting case does not require a hearing, the procedures*  
 25 *prescribed by subdivisions (b), (d), ~~(f)~~, and ~~(i)~~ (h) shall not apply.*

26 (b) ~~The assigned commissioner shall determine prior to before~~  
 27 ~~the first hearing whether the commissioner or the assigned~~  
 28 ~~administrative law judge shall be designated as will preside over~~  
 29 ~~the principal hearing officer. hearing. The principal hearing officer~~  
 30 ~~shall be present for more than one-half of the hearing days. The~~  
 31 ~~decision of the principal hearing officer assigned commissioner~~  
 32 ~~shall be the proposed decision.~~

33 (c) ~~An alternate decision may be issued by the assigned any~~  
 34 ~~commissioner or other than the assigned administrative law judge~~  
 35 ~~who is not the principal hearing officer. commissioner. Any~~  
 36 ~~alternate decision may be filed with the commission and served~~  
 37 ~~upon all parties to the proceeding any time prior to before~~ issuance  
 38 of a final decision by the commission, consistent with the  
 39 requirements of Section 311.

1 (d) The commission shall establish a procedure for any party  
2 to request the presence of a commissioner at a hearing. The  
3 assigned commissioner shall be present at any closing arguments  
4 in the case.

5 (e) The ~~principal hearing officer~~ *assigned commissioner, or the*  
6 *commissioner's designee*, shall present the proposed decision to  
7 the full commission in a public meeting. The alternate decision,  
8 if any, shall also be presented to the full commission at that public  
9 meeting.

10 ~~(f) The presentation to the full commission shall contain a record~~  
11 ~~of the number of days of the hearing, the number of days that each~~  
12 ~~commissioner was present, and whether the decision was completed~~  
13 ~~on time.~~

14 ~~(g)~~

15 (f) The commission shall provide by rule for peremptory  
16 challenges and challenges for cause of the administrative law judge.  
17 Challenges for cause shall include, but not be limited to, *challenges*  
18 *for* financial interests and prejudice. All parties shall be entitled  
19 to unlimited peremptory challenges in any case in which the  
20 administrative law judge has within the previous 12 months served  
21 in any capacity in an advocacy position at the commission, been  
22 employed by a regulated public utility, or has represented a party  
23 or has been an interested person in the case.

24 ~~(h)~~

25 (g) (1) Ex parte communications in ratesetting cases *and*  
26 *catastrophic wildfire proceedings* are subject to the disclosure  
27 requirements of this article. The commission, by order or ruling,  
28 may prohibit ex parte communications in a ratesetting ~~case~~: *case*  
29 *or catastrophic wildfire proceeding*.

30 (2) Oral communications may be permitted by a decisionmaker  
31 if all parties are given not less than three working days' notice.  
32 No individual ex parte meetings shall be held during the three  
33 business days before the commission's scheduled vote on the  
34 decision.

35 (3) (A) If an ex parte communication meeting is granted to any  
36 party, all other parties, upon request, shall also be granted  
37 individual ex parte meetings of a substantially equal period of time  
38 and shall be sent a notice of that opportunity at the time the request  
39 is granted.

1 (B) Subparagraph (A) shall not apply if the decisionmaker  
2 participating in the ex parte communication meeting is a member  
3 of the personal staff of a commissioner acting in a policy or legal  
4 advisory capacity and no other decisionmaker to whom  
5 subparagraph (A) applies is a participant.

6 (4) Written ex parte communications by any interested person  
7 may be permitted if copies of the communication are transmitted  
8 to all parties on the same day as the original communication.

9 (5) Written and oral ex parte communications shall not be part  
10 of the evidentiary record of the proceeding.

11 ~~(6) (A) The commission may establish a “quiet period” during~~  
12 ~~which no oral or written ex parte communications may be permitted~~  
13 ~~and the commission may meet in closed session during that period.~~

14 ~~(B) A quiet period may be established only during the following~~  
15 ~~periods:~~

16 ~~(i) After a proposed decision or order is issued and is scheduled~~  
17 ~~for a vote.~~

18 ~~(ii) After a proposed decision is scheduled for a vote, but is then~~  
19 ~~held and rescheduled for a vote.~~

20 ~~(C)~~

21 ~~(6) (A) The commission shall may meet in closed session on~~  
22 ~~any proposed decision in a ratesetting case or catastrophic wildfire~~  
23 ~~proceeding and may establish a quiet period “quiet period” during~~  
24 ~~the three business days before the commission’s scheduled vote~~  
25 ~~on a decision. the decision during which no oral ex parte~~  
26 ~~communications may be permitted.~~

27 ~~(D)~~

28 ~~(B) (i) Any meeting of the commission during a the quiet~~  
29 ~~period shall require a minimum of three days’ advance public~~  
30 ~~notice.~~

31 ~~(ii)~~

32 ~~(C) The requirement specified in subparagraph (F) of paragraph~~  
33 ~~(1) of subdivision (b) of Section 11123 of the Government Code~~  
34 ~~shall not apply to a meeting of the commission during a quiet~~  
35 ~~period that is held by teleconference.~~

36 ~~(i)~~

37 ~~(h) Any party has the right to present a final oral argument of~~  
38 ~~its case before the commission. Those requests Upon request to~~  
39 ~~present a final oral argument before the commission, the argument~~

1 shall be scheduled in a timely manner. A quorum of the  
 2 commission shall be present for the final oral arguments.

3 (j)

4 (i) The commission may, in issuing its decision, adopt, modify,  
 5 or set aside the proposed decision or any part of the decision based  
 6 on evidence in the record. The final decision of the commission  
 7 shall be issued not later than 60 days after the issuance of the  
 8 proposed decision. Under extraordinary circumstances the  
 9 commission may extend this date for a reasonable period. The  
 10 60-day period shall be extended for 30 days if any alternate  
 11 decision is proposed pursuant to Section 311.

12 *SEC. 16. Section 1701.4 of the Public Utilities Code is amended*  
 13 *to read:*

14 1701.4. (a) This section shall apply only to quasi-legislative  
 15 cases, except, if the commissioner assigned pursuant to Section  
 16 1701.1 has determined that a quasi-legislative case does not require  
 17 a hearing, the procedures prescribed by subdivisions (b), (d), and  
 18 (e) shall not apply.

19 (b) ~~The assigned administrative law judge and any assigned~~  
 20 ~~technical advisory staff shall act as an assistant to the assigned~~  
 21 ~~commissioner in quasi-legislative cases. The assigned~~  
 22 ~~commissioner shall prepare the proposed rule or order with the~~  
 23 ~~assistance of the administrative law judge and any assigned~~  
 24 ~~technical advisory staff. staff, which may include an administrative~~  
 25 ~~law judge. The assigned commissioner shall present the proposed~~  
 26 ~~rule or order to the full commission in a public meeting. The report~~  
 27 ~~shall include the number of days of hearing and the number of~~  
 28 ~~days that the commissioner was present.~~

29 (c) Ex parte communications in quasi-legislative proceedings  
 30 are permitted and not subject to the disclosure requirements of this  
 31 article, except when the commission, by order or ruling, determines  
 32 either of the following:

33 (1) That ex parte communications are subject to the disclosure  
 34 requirements of this article.

35 (2) That ex parte communications are prohibited and subject to  
 36 the disclosure requirements of this article.

37 (d) Any party has the right to present a final oral argument of  
 38 its case before the commission. ~~Those requests~~ *Upon request to*  
 39 *present a final oral argument before the commission, the argument*

1 shall be scheduled in a timely manner. A quorum of the  
2 commission shall be present for the final oral arguments.

3 (e) The commission may, in issuing its rule or order, adopt,  
4 modify, or set aside the proposed decision or any part of the rule  
5 or order. The final rule or order of the commission shall be issued  
6 not later than 60 days after the issuance of the proposed rule or  
7 order. Under extraordinary circumstances the commission may  
8 extend this date for a reasonable period. The 60-day period shall  
9 be extended for 30 days if any alternate rule or order is proposed  
10 pursuant to Section 311.

11 (f) No informality in the manner of taking testimony or evidence  
12 shall invalidate any order, decision, or rule made, approved, or  
13 confirmed by the commission in quasi-legislative cases.

14 *SEC. 17. Section 1701.8 is added to the Public Utilities Code,*  
15 *to read:*

16 *1701.8. (a) For purposes of this section, the following*  
17 *definitions apply:*

18 (1) *“Covered wildfire” means a wildfire described in Section*  
19 *451.1.*

20 (2) *“Wildfire Fund” means the wildfire fund created pursuant*  
21 *to Section 3284.*

22 (b) *The following procedures and standards apply to a*  
23 *catastrophic wildfire proceeding:*

24 (1) (A) *An electrical corporation may file an application*  
25 *pursuant to Section 451.1 at any time after it has paid all or, if*  
26 *authorized by the commission for good cause, substantially all*  
27 *third party damage claims, including payments made pursuant to*  
28 *judgments or settlement agreements related to a covered wildfire.*  
29 *Except as authorized by the commission for good cause, before*  
30 *filing the application, the electrical corporation shall exhaust all*  
31 *rights to indemnification or other claims, contractual or otherwise,*  
32 *against any third parties, including collecting insurance proceeds,*  
33 *related to the covered wildfire.*

34 (B) *If an electrical corporation has received payments from the*  
35 *Wildfire Fund for a third party damage claim for the covered*  
36 *wildfire, the electrical corporation shall file an application to*  
37 *recover the costs pursuant to subparagraph (A) no later than the*  
38 *earlier of the following:*

39 (i) *The date when it has resolved all third party damage claims*  
40 *and exhausted all right to indemnification or other claims,*

1 *contractual or otherwise, against any third parties, including*  
2 *collecting insurance proceeds, related to the covered wildfire.*

3 *(ii) The date that is 45 days after the date the administrator*  
4 *requests the electrical corporation to make such an application.*

5 *(2) The president of the commission, upon the initiation of a*  
6 *catastrophic wildfire proceeding by the filing of an application*  
7 *pursuant to paragraph (1), shall assign a commissioner to act as*  
8 *the presiding officer in the proceeding and an administrative law*  
9 *judge to assist in conducting the proceeding.*

10 *(3) Within 15 days of the filing date of the application, the*  
11 *commission shall notice a prehearing conference.*

12 *(4) (A) Within 30 days of the filing date of the application, the*  
13 *assigned commissioner shall prepare and issue, by order or ruling,*  
14 *a scoping memorandum that states that the scope of the proceeding*  
15 *shall be whether the electrical corporation's costs and expenses*  
16 *for the covered wildfire are just and reasonable pursuant to Section*  
17 *451.1.*

18 *(B) The scoping memorandum shall establish a schedule for the*  
19 *proceeding, including the date of issuance of a proposed decision*  
20 *that is no later than 12 months after the filing date of the*  
21 *application.*

22 *(C) The assigned commissioner may extend the time established*  
23 *in the scoping memorandum for the date of issuance of a proposed*  
24 *decision by up to six months upon a showing of good cause.*

25 *(5) Notwithstanding other law, the commission may meet in*  
26 *closed session at any point during the pendency of the catastrophic*  
27 *wildfire proceeding with a three-day notice to the public if the*  
28 *commission establishes a quiet period pursuant to paragraph (6)*  
29 *of subdivision (g) of Section 1701.3.*

30 *SEC. 18. Section 1702.5 of the Public Utilities Code is amended*  
31 *to read:*

32 *1702.5. (a) The commission shall, in an existing or new*  
33 *proceeding, develop and implement a safety enforcement program*  
34 *applicable to gas corporations and electrical corporations*~~which~~  
35 *that includes procedures for monitoring, data tracking and analysis,*  
36 *and investigations, as well as issuance of citations by commission*  
37 *staff, under the direction of the executive director. The enforcement*  
38 *program shall be designed to improve gas and electrical system*  
39 *safety through the enforcement of applicable law, or order or rule*  
40 *of the commission related to safety using a variety of enforcement*

1 mechanisms, including the issuance of corrective actions, orders,  
2 and citations by designated commission staff, and recommendations  
3 for action made to the commission by designated commission staff.

4 (1) When considering the issuance of citations and assessment  
5 of penalties, the commission staff shall take into account voluntary  
6 reporting of potential violations, voluntary removal or resolution  
7 efforts undertaken, the prior history of violations, the gravity of  
8 the violation, and the degree of culpability.

9 (2) The procedures shall include, but are not limited to,  
10 providing notice of violation within a reasonable period of time  
11 after the discovery of the violation.

12 (3) The commission shall adopt an administrative limit on the  
13 amount of monetary penalty that may be set by commission staff.

14 (b) The commission shall develop and implement an appeals  
15 process to govern the issuance and appeal of citations or resolution  
16 of corrective action orders issued by the commission staff. The  
17 appeals process shall provide the respondent a reasonable period  
18 of time, upon receiving a citation, to file a notice of appeal, shall  
19 afford an opportunity for a hearing, and shall require the hearing  
20 officer to expeditiously provide a draft disposition.

21 (c) The commission shall, within a reasonable time set by the  
22 commission, conclude a safety enforcement action with a finding  
23 of violation, a corrective action order, a citation, a determination  
24 of no violation, approval of the corrective actions undertaken by  
25 the gas corporation or electrical corporation, or other action. The  
26 commission may institute a formal proceeding regarding the alleged  
27 violation, potentially resulting in additional enforcement action,  
28 regardless of any enforcement action taken at the commission staff  
29 level.

30 ~~(d) The commission shall implement the safety enforcement~~  
31 ~~program for gas safety by July 1, 2014, and implement the safety~~  
32 ~~enforcement program for electrical safety no later than January 1,~~  
33 ~~2015.~~

34 (e)

35 (d) This section does not apply to an exempt wholesale  
36 generator, a qualifying small power producer, or qualifying  
37 cogenerator, as defined in Section 796 of Title 16 of the United  
38 States Code and the regulations enacted pursuant thereto. Nothing  
39 in this section affects the commission's authority pursuant to  
40 Section 761.3.

1     *SEC. 19. Section 1711 of the Public Utilities Code is amended*  
 2     *to read:*

3     1711. (a) Where feasible and appropriate, except for  
 4     adjudication cases, before determining the scope of the proceeding,  
 5     the commission shall seek the participation of those who are likely  
 6     to be affected, including those who are likely to benefit from, and  
 7     those who are potentially subject to, a decision in that proceeding.  
 8     The commission shall demonstrate its efforts to comply with this  
 9     section in the text of the initial scoping memo of the proceeding.

10    (b) (1) The Policy and Planning Division of the commission  
 11    shall undertake one or more studies of outreach efforts undertaken  
 12    by other state and federal utility regulatory bodies and make  
 13    recommendations to the commission to promote effective outreach,  
 14    including metrics for use in evaluating success.

15    (2) ~~This subdivision section shall remain in effect only until~~  
 16    ~~January 1, 2020, and shall have no force or effect on or after as of~~  
 17    ~~that date, unless a later enacted statute that date is chaptered before~~  
 18    ~~January 1, 2020, deletes or extends that date. repealed.~~

19    *SEC. 20. Part 6 (commencing with Section 3279) is added to*  
 20    *Division 1 of the Public Utilities Code, to read:*

21  
 22                     *PART 6. WILDFIRE FUND*

23  
 24                     *CHAPTER 1. DEFINITIONS*

25  
 26     3279. *For purposes of this part, the following definitions apply:*

27     (a) *“Administrator” means the Wildfire Fund Administrator*  
 28     *appointed pursuant to Section 3280.*

29     (b) *“Annual contribution” means either of the following:*

30     (1) *For an electrical corporation that qualifies as a large*  
 31     *electrical corporation at the end of the prior calendar year, an*  
 32     *amount equal to three hundred million dollars (\$300,000,000)*  
 33     *multiplied by the Wildfire Fund allocation metric.*

34     (2) *For an electrical corporation that qualifies as a regional*  
 35     *electrical corporation at the end of the prior calendar year, an*  
 36     *amount equal to twenty-five dollars (\$25) multiplied by the number*  
 37     *of customer accounts serviced by the electrical corporation within*  
 38     *the state at the end of that calendar year.*

39     (c) *“Council” means the California Catastrophe Council*  
 40     *created pursuant to Section 8899.70 of the Government Code.*



- 1 (d) “Covered wildfire” has the same meaning as set forth in  
2 Section 451.1.
- 3 (e) “Electrical corporation” has the same meaning as set forth  
4 in Section 218.
- 5 (f) “Eligible claims” means claims for third-party damages  
6 against an electrical corporation resulting from covered wildfires  
7 exceeding the greater of (1) one billion dollars (\$1,000,000,000)  
8 in any calendar year, or (2) the amount of the insurance coverage  
9 required to be in place for the electrical corporation pursuant to  
10 Section 3293, measured by the amount of that excess.
- 11 (g) “Fund” means the Wildfire Fund created pursuant to Section  
12 3284.
- 13 (h) “High fire-threat district” means areas identified as tier 2  
14 (elevated) or tier 3 (extreme) fire risk on the fire-threat map  
15 maintained by the commission.
- 16 (i) “Initial contribution” means either of the following:  
17 (1) For a large electrical corporation, an amount equal to seven  
18 billion five hundred million dollars (\$7,500,000,000) multiplied  
19 by the Wildfire Fund allocation metric.  
20 (2) For a regional electrical corporation, an amount equal to  
21 six hundred twenty-five dollars (\$625) multiplied by the number  
22 of customer accounts serviced by the electrical corporation within  
23 the state as of the effective date of this part.
- 24 (j) “Insolvency proceeding” means a bankruptcy, insolvency,  
25 liquidation, reorganization, or similar proceeding brought pursuant  
26 to Title 11 of the United States Code.
- 27 (k) “Large electrical corporation” means an electrical  
28 corporation with 250,000 or more customer accounts within the  
29 state.
- 30 (l) “Participating electrical corporation” means an electrical  
31 corporation that satisfies the conditions to participate in the fund  
32 pursuant to Section 3291 or 3292, as applicable.
- 33 (m) “Regional electrical corporation” means an electrical  
34 corporation with less than 250,000 customer accounts within the  
35 state.
- 36 (n) “Wildfire Fund allocation metric” means \_\_\_\_\_.
- 37 (o) “Wildfire Fund assets” means the sum of all moneys and  
38 invested assets held in the fund which shall include, without  
39 limitation, any loans or other investments made by the state to the  
40 fund, all interest or other income from the investment of money

1 held in the fund, any other funds specifically designated for the  
2 fund by applicable law, the proceeds of any special charge (or  
3 continuation of existing charge) allocated to and deposited into  
4 the fund, and the proceeds of any bonds issue for the benefit of the  
5 fund.

6

7

CHAPTER 2. THE WILDFIRE FUND

8

9 3280. The council shall appoint and oversee the administrator  
10 who shall be responsible for the operation, management, and  
11 administration of all matters related to the fund.

12 3281. The administrator shall carry out the duties of this part  
13 and may do all of the following:

14 (a) Retain, employ, or contract with officers, experts, employees,  
15 accountants, actuaries, financial professionals, and other  
16 executives, advisers, consultants, attorneys, and professionals as  
17 may be necessary in the administrator's judgment for the efficient  
18 operation and administration of the fund.

19 (b) Enter into contracts and other obligations relating to the  
20 operation, management, and administration of the fund.

21 (c) Invest the moneys in the fund in those securities eligible  
22 under Section 16430 of the Government Code.

23 (d) Review and approve claims and settlements, and provide  
24 funds to the participating electrical corporations for the purposes  
25 of paying eligible claims.

26 (e) Buy insurance or take other actions to maximize the claims  
27 paying resources of the fund.

28 (f) Pay costs, expenses, and other obligations of the fund from  
29 Wildfire Fund assets.

30 (g) Take any actions necessary to collect any amounts owing  
31 to the fund from participating electrical corporations.

32 (h) Undertake such other activities as are related to the  
33 operation, management, and administration of the fund.

34 3283. The council may, in its sole discretion, direct the  
35 administrator to prepare and present for approval a plan of  
36 operations related to the operations, management, and  
37 administration of the fund.

38 3284. (a) There is hereby created the Wildfire Fund, which is  
39 not a fund in the State Treasury.

1 (b) Notwithstanding Section 13340 of the Government Code,  
2 the fund is continuously appropriated without regard to fiscal  
3 years for the purposes of this part.

4 (c) (1) The fund shall be administered by the administrator,  
5 subject to the direction of the council, in accordance with Chapter  
6 3 (commencing with Section 3291) to provide funds to participating  
7 electrical corporations to satisfy eligible claims arising from a  
8 covered wildfire in accordance with this part.

9 (2) At the discretion of the administrator, segregated, dedicated  
10 accounts within the fund may be established.

11 (d) The fund shall be continued in existence unless the  
12 administrator winds down the fund in accordance with Section  
13 3291 or 3292, as applicable.

14 (e) Uninvested moneys in the fund may be deposited from time  
15 to time in financial institutions authorized by law to receive  
16 deposits of public moneys or, with the approval of the Treasurer,  
17 the Surplus Money Investment Fund as provided in Article 4  
18 (commencing with Section 16470) of Chapter 3 of Part 2 of  
19 Division 4 of Title 2 of the Government Code.

20 (f) A national bank shall be custodian of all securities belonging  
21 to the fund, except as otherwise provided in the constituent  
22 instruments that define the rights of the holders of the bonds as  
23 set forth in Division 28 (commencing with Section 80500) of the  
24 Water Code.

25 3285. (a) The fund shall be initially capitalized by a loan from  
26 the state's Surplus Money Investment Fund pursuant to Section  
27 3288.

28 (b) Proceeds of any bonds issued as provided in Division 28  
29 (commencing with Section 80500) of the Water Code shall be used  
30 as provided in Section 80550 of the Water Code. Any proceeds  
31 from the bonds allocated to the fund shall be deposited into a  
32 segregated account within the fund.

33 (c) All of the following shall be deposited into the fund:

34 (1) Initial contributions from electrical corporations.

35 (2) Annual contributions from electrical corporations.

36 (3) Revenue generated from the ratepayers of a regional  
37 electrical corporation by a charge authorized by the commission  
38 pursuant to subparagraph (B) of paragraph (1) of subdivision (a)  
39 of Section 3289 and remitted to the fund pursuant to Section 3291  
40 or 3292, as applicable.

1 (4) Revenues generated from the ratepayers of each large  
2 electrical corporation by a charge authorized by the commission  
3 pursuant to subparagraph (A) of paragraph (1) of subdivision (a)  
4 of Section 3289.

5 (5) Proceeds of bonds allocated to the fund as provided in  
6 Section 80550 of the Water Code.

7 (6) Any fines or penalties imposed pursuant to Section 2107  
8 resulting from or related to a wildfire to the extent such fines or  
9 penalties are permitted by law to be deposited into the fund.

10 3286. The Director of Finance may, at any time, examine the  
11 books and records of the council and the administrator relating  
12 to the operation, management, and administration of the fund.

13 3287. (a) On January 1, 2021, and annually thereafter, the  
14 council, with the assistance of the administrator, shall prepare  
15 and file with the Legislature and the Department of Finance  
16 periodic reports regarding the formation, administration, and  
17 disposition of the fund, as the council deems appropriate.

18 (b) A report submitted to the Legislature pursuant to this section  
19 shall be submitted in compliance with Section 9795 of the  
20 Government Code.

21 3288. (a) If Section 3291 is operative, the Director of Finance,  
22 in consultation with the administrator, shall determine the amount  
23 and timing of moneys needed to support the purposes of this part.  
24 The Director of Finance shall request such moneys from the  
25 Controller. Upon such request, the Controller shall transfer up to  
26 ten billion five hundred million dollars (\$10,500,000,000) to the  
27 fund from the Surplus Money Investment Fund and other funds  
28 that accrue interest to the General Fund as a cash loan. The loan  
29 principal and interest shall be fully repaid as provided in  
30 subdivision (b) of Section 80550 of the Water Code.

31 (b) In the event Section 3292 is operative, the Director of  
32 Finance, in consultation with the administrator, shall determine  
33 a schedule to provide ten billion five hundred million dollars  
34 (\$10,500,000,000) to the fund and shall provide that schedule to  
35 the Controller within 60 days. The Controller shall transfer the  
36 moneys from the Surplus Money Investment Fund and other funds  
37 that accrue interest to the General Fund pursuant to the schedule  
38 provided by the Director of Finance as a loan to support the  
39 purposes of this part. The loan shall be repaid by the proceeds of  
40 the charges authorized pursuant to subparagraph (A) of paragraph

1 *(1) of subdivision (a) of Section 3289 or the proceeds of any bonds*  
2 *as set forth in Division 28 (commencing with Section 80500) of*  
3 *the Water Code.*

4 *(c) In the case of subdivision (a) or (b), interest payments on*  
5 *outstanding loan amounts shall be calculated at the greater of the*  
6 *quarter-to-date yield at the one-year constant maturity United*  
7 *States Treasury rate for the calendar quarter concluded directly*  
8 *before the calculation or the Surplus Money Investment Fund rate*  
9 *at the time of the cash transfer. The interest payments shall be*  
10 *paid on a quarterly basis following the cash transfer and shall*  
11 *continue until the loan has been fully repaid. The interest payments*  
12 *are interest earnings of the Surplus Money Investment Fund and*  
13 *shall be apportioned pursuant to Sections 16475 and 16480.6 of*  
14 *the Government Code.*

15 *(d) Whether Section 3291 or 3292 is operative, an initial transfer*  
16 *to the fund of no less than two billion dollars (\$2,000,000) shall*  
17 *be made in the 2019–20 fiscal year.*

18 *3289. (a) (1) Within 14 days of the effective date of this part,*  
19 *the commission shall initiate a rulemaking proceeding to consider*  
20 *using its authority pursuant to Section 701 to require each*  
21 *electrical corporation to collect a nonbypassable charge from*  
22 *ratepayers of the electrical corporation to support the Wildfire*  
23 *Fund established pursuant to Section 3284, including the payment*  
24 *of any bonds issued pursuant to Division 28 (commencing with*  
25 *Section 80500) of the Water Code, as follows:*

26 *(A) For a large electrical corporation, a charge in an amount*  
27 *sufficient to fund the revenue requirement, as established pursuant*  
28 *to Section 80524 of the Water Code.*

29 *(B) For a regional electrical corporation, the amount equal to*  
30 *one-half cent per kilowatt-hour (\$0.005/kWh).*

31 *(2) If the commission determines that the imposition of the*  
32 *charge described in paragraph (1) is just and reasonable, and that*  
33 *it is appropriate to exercise its authority pursuant to Section 701*  
34 *to do so, the commission shall direct each electrical corporation*  
35 *to collect that charge commencing in the month immediately*  
36 *following the month in which the final collection of the revenue*  
37 *requirement established by the Department of Water Resources*  
38 *pursuant to Division 27 (commencing with Section 80000) of the*  
39 *Water Code is made. The charge shall be collected in the same*  
40 *manner as that for the payments made to reimburse the Department*

1 of Water Resources pursuant to Division 27 (commencing with  
2 Section 80000) of the Water Code.

3 (b) Notwithstanding any other law, no later than 90 days after  
4 the initiation of the rulemaking proceeding, the commission shall  
5 adopt a decision regarding the imposition of the charge.

6 (c) Notwithstanding Section 455.5 or 1708, or any other law,  
7 the commission shall not revise, amend, or otherwise modify a  
8 decision to impose a charge made pursuant to this section at any  
9 time prior to January 1, 2036.

10

11 *CHAPTER 3. OPERATION OF THE FUND*

12

13 3291. (a) The fund shall be established as a revolving liquidity  
14 fund that will pay eligible claims as provided in subdivision (c)  
15 and obtain reimbursement from electrical corporations as set forth  
16 in subdivision (d).

17 (b) Except as provided in subdivision (e), to participate in the  
18 fund established pursuant to subdivision (a), an electrical  
19 corporation must meet the following conditions by June 30, 2020:

20 (1) The electrical corporation holds a valid safety certification  
21 pursuant to Section 8389.

22 (2) The electrical corporation is not the subject of an insolvency  
23 proceeding unless the electrical corporation meets the following  
24 conditions:

25 (A) The electrical corporation's insolvency proceeding has been  
26 resolved pursuant to a plan or similar document not subject to a  
27 stay.

28 (B) The bankruptcy court or a court of competent jurisdiction,  
29 in the insolvency proceeding, has determined that the resolution  
30 of the insolvency proceeding provides funding or establishes  
31 reserves for, provides for assumption of, or otherwise provides for  
32 satisfying any prepetition wildfire claims asserted against the  
33 electrical corporation in the insolvency proceeding, including any  
34 claims asserted pursuant to any preinsolvency proceeding  
35 settlement agreements, in full in the amounts of the allowed claims  
36 approved by the court.

37 (C) The commission has approved the reorganization plan and  
38 other documents resolving the insolvency proceeding, including  
39 the electrical corporation's resulting governance structure, which  
40 shall include the governance structure of any direct or indirect

1 owners of the electrical corporation following the resolution of  
2 the insolvency proceedings.

3 (D) The commission has determined that the reorganization  
4 plan and other documents resolving the insolvency proceeding are  
5 consistent with the climate goals of the state and are neutral, on  
6 average, to the ratepayers of the electrical corporation.

7 (3) For a regional electrical corporation, it has established a  
8 charge required by the commission pursuant to Section 3289. The  
9 charge shall be included on monthly bills for customers.  
10 Collections on that charge shall be remitted, on a monthly basis,  
11 to the administrator for deposit into the fund.

12 (c) A participating electrical corporation may seek payment  
13 from the fund to satisfy settled or finally adjudicated eligible  
14 claims. Only eligible claims shall be made against or paid by the  
15 fund. The administrator shall review and approve any settlement  
16 of an eligible claim before releasing funds to the electrical  
17 corporation for payment. The administrator may establish  
18 processes to facilitate the review and approval of settled eligible  
19 claims, including guidelines or values of settlements. To the extent  
20 approved by the administrator, the settlement shall not be subject  
21 to further review by the commission.

22 (d) Within six months after the commission adopts a decision  
23 in an application filed pursuant to Section 1701.8, the electrical  
24 corporation shall reimburse the fund for the full amount of  
25 payments received from the fund. The electrical corporation may  
26 recover in rates those costs and expenses allowed by the  
27 commission pursuant to Section 451.1.

28 (e) The administrator may authorize an electrical corporation  
29 that is formed after the effective date of this part to participate in  
30 the fund if the administrator determines that the electrical  
31 corporation meets the requirements of this Section 3291, other  
32 than the requirement that the conditions be met by June 30, 2020.  
33 The authorization shall be effective as of a date determined by the  
34 administrator and shall apply to covered wildfires after the date  
35 of authorization.

36 (f) The fund shall terminate when the administrator determines  
37 that the fund is no longer necessary to serve the purposes of this  
38 part. Upon the determination of the administrator that the fund  
39 shall be terminated, the administrator shall pay all remaining

1 eligible claims and fund expenses, liquidate any remaining assets,  
2 and refund the remaining funds to ratepayers.

3 (g) This section shall become inoperative upon timely payment  
4 of the initial contribution pursuant to Section 3292 by each large  
5 electrical corporation not subject to an insolvency proceeding on  
6 the effective date of this section, and is repealed on January 1 of  
7 the following year. The administrator shall notify the Secretary of  
8 State as to whether those payments were timely made.

9 3292. (a) If, within 15 days of the effective date of this part,  
10 each large electrical corporation not subject to an insolvency  
11 proceeding on the effective date of this part notifies the commission  
12 of its commitment to provide the initial contribution and the annual  
13 contributions, and subsequently provides its initial contribution  
14 as set forth in paragraph (4) of subdivision (b), the fund shall be  
15 established to pay eligible claims as set forth in subdivision (f)  
16 and obtain reimbursement from electrical corporations as set forth  
17 in subdivision (g).

18 (b) Except as provided in subdivision (d), to participate in the  
19 fund established pursuant to subdivision (a), an electrical  
20 corporation shall satisfy the following conditions by June 30, 2020:

21 (1) The electrical corporation holds a valid safety certification  
22 pursuant to Section 8389.

23 (2) The electrical corporation is not the subject of an insolvency  
24 proceeding, unless the electrical corporation meets the following  
25 conditions:

26 (A) The electrical corporation's insolvency proceeding has been  
27 resolved pursuant to a plan or similar document not subject to a  
28 stay.

29 (B) The bankruptcy court or a court of competent jurisdiction,  
30 in the insolvency proceeding, has determined that the resolution  
31 of the insolvency proceeding provides funding or establishes  
32 reserves for, provides for assumption of, or otherwise provides for  
33 satisfying any prepetition wildfire claims asserted against the  
34 electrical corporation in the insolvency proceeding, including any  
35 claims asserted pursuant to any preinsolvency proceeding  
36 settlement agreements, in full in the amounts of the allowed claims  
37 approved by the court.

38 (C) The commission has approved the reorganization plan and  
39 other documents resolving the insolvency proceeding, including  
40 the electrical corporation's resulting governance structure, which



1 shall include the governance structure of any direct or indirect  
2 owners of the electrical corporation following the resolution of  
3 the insolvency proceedings.

4 (D) The commission has determined that the reorganization  
5 plan and other documents resolving the insolvency proceeding are  
6 consistent with the climate goals of the state and are neutral, on  
7 average, to the ratepayers of the electrical corporation.

8 (3) For a regional electrical corporation, it has established a  
9 charge required by the commission pursuant to Section 3289. This  
10 charge shall be included on monthly bills for customers.  
11 Collections on that charge shall be remitted, on a monthly basis,  
12 to the administrator for deposit into the fund.

13 (4) Except as provided in subdivision (e), the electrical  
14 corporation has provided its initial contribution to the fund within  
15 60 days of the effective date of this part. Initial contributions shall  
16 not be recovered from the ratepayers of an electrical corporation.

17 (c) Each participating electrical corporation shall make its  
18 annual contribution by January 1 of each calendar year, including,  
19 without limitation, any annual contributions for calendar years in  
20 which the electrical corporation was not a participating electrical  
21 corporation. Annual contributions shall not be recovered from the  
22 ratepayers of an electrical corporation.

23 (d) The administrator may authorize an electrical corporation  
24 that is formed after the effective date of this part to participate in  
25 the fund if the administrator determines that the electrical  
26 corporation meets the requirements of this section. Authorization  
27 of an electrical corporation that is formed after the effective date  
28 of this part shall be effective as of a date determined by the  
29 administrator and shall apply to covered wildfires after the date  
30 of authorization.

31 (e) An electrical corporation that is the subject of an insolvency  
32 proceeding on the effective date of this part that wishes to  
33 participate in the fund shall (1) within 15 days of the effective date  
34 of this part, provide written notification to the commission of its  
35 election to participate in the fund, and (2) within 60 days of the  
36 effective date of this part, obtain approval from the bankruptcy  
37 court or a court of competent jurisdiction of its irrevocable  
38 determination and approval of its payment of the initial  
39 contribution and, as they become due, annual contributions to the  
40 fund, provided, that the contributions shall not be due to the fund

1 *until the date the electrical corporation exits the insolvency*  
2 *proceeding. The electrical corporation shall not be entitled to seek*  
3 *payments from the fund pursuant to subdivision (f) until it has*  
4 *funded its initial contribution and has met the other conditions*  
5 *provided in subdivision (b). Participation of an electrical*  
6 *corporation that is the subject of an insolvency proceeding that*  
7 *satisfies the requirements of this subdivision shall be effective as*  
8 *of the effective date of this part and shall apply to covered wildfires*  
9 *after the effective date, provided that the fund shall not pay more*  
10 *than 40 percent of the allowed amount of any claim arising between*  
11 *the effective date and the date the electrical corporation exits*  
12 *bankruptcy.*

13 *(f) (1) An electrical corporation meeting the applicable*  
14 *requirements of subdivision (b) may seek payment from the fund*  
15 *to satisfy settled or finally adjudicated eligible claims. Only eligible*  
16 *claims shall be made against or paid by the fund. The administrator*  
17 *shall review and approve any settlement of an eligible claim before*  
18 *releasing funds to the electrical corporation for payment. The*  
19 *administrator may establish processes to facilitate the review and*  
20 *approval of settled eligible claims, including establishing*  
21 *guidelines or values for settlements. To the extent approved by the*  
22 *administrator, a settlement shall not be subject to further review*  
23 *by the commission.*

24 *(2) The administrator shall not approve a settlement of an*  
25 *eligible claim that is a subrogation claim if the settlement exceeds*  
26 *40 percent of the total asserted claim value, as determined by the*  
27 *administrator, unless the administrator finds that the specific facts*  
28 *and circumstances surrounding the claim justify a higher settlement*  
29 *percentage.*

30 *(g) (1) Except as provided in paragraph (2), within six months*  
31 *after the commission adopts a decision in an application filed*  
32 *pursuant to Section 1701.8, the electrical corporation shall*  
33 *reimburse the fund for the full amount of costs and expenses the*  
34 *commission determined were disallowed pursuant to Section*  
35 *1701.8.*

36 *(2) The obligation of an electrical corporation to reimburse the*  
37 *fund for amounts received from the fund shall be limited to 20*  
38 *percent of the electrical corporation's transmission and*  
39 *distribution equity rate base for any rolling three-calendar-year*  
40 *period as determined by the administrator. Except as provided in*

1 *paragraph (3), the electrical corporation shall not be required to*  
2 *reimburse the fund for any additional amounts in any*  
3 *three-calendar-year period.*

4 *(3) Paragraph (2) does not apply under either of the following*  
5 *circumstances:*

6 *(A) If the administrator determines that the electrical*  
7 *corporation's actions or inactions that resulted in the covered*  
8 *wildfire constituted conscious or willful disregard of the rights*  
9 *and safety of others.*

10 *(B) If the electrical corporation fails to maintain a valid safety*  
11 *certification.*

12 *(h) The fund shall terminate when the administrator determines*  
13 *that the fund resources are exhausted taking into account the*  
14 *amount of any unpaid liabilities including necessary reserves, any*  
15 *remaining unpaid annual contributions from participating*  
16 *electrical corporations and the charges authorized pursuant to*  
17 *Section 3289. Upon the determination of the administrator that*  
18 *the fund shall be terminated, the administrator shall pay all*  
19 *remaining eligible claims and fund expenses, liquidate any*  
20 *remaining assets, and refund the remaining funds to ratepayers.*

21 *(i) This Section shall become inoperative if timely payment of*  
22 *the initial contribution is not made pursuant to paragraph (4) of*  
23 *subdivision (b) by each large electrical corporations not subject*  
24 *to an insolvency proceeding on the effective date of this section,*  
25 *and is repealed on the first January 1 more than three months after*  
26 *the initial contributions are due. The administrator shall notify*  
27 *the Secretary of State as to whether those payments were timely*  
28 *made.*

29 *3293. A participating electrical corporation shall maintain*  
30 *commercially reasonable insurance coverage as determined*  
31 *annually by the administrator. The administrator shall determine*  
32 *the appropriate amount of insurance coverage required, taking*  
33 *into account the availability of insurance, the electrical*  
34 *corporation's service territory, including the fire risk of the*  
35 *territory, the size of the territory, and the value of the real estate*  
36 *in the territory, the safety record of the electrical corporation, the*  
37 *wildfire mitigation measures implemented by the electrical*  
38 *corporation, the impact to the ratepayers, and other factors deemed*  
39 *appropriate by the administrator.*

1 3294. *Costs and expenses of administration of the fund shall*  
2 *be paid from Wildfire Fund assets.*

3 3295. *The fund shall be granted a statutory lien on any*  
4 *revenues of an electrical corporation to secure the amount of any*  
5 *reimbursement obligations to the fund, which statutory lien shall*  
6 *be, in any subsequent insolvency proceeding, senior to the liens*  
7 *on the assets or property of the electrical corporation. The*  
8 *statutory lien shall be automatically perfected without further*  
9 *action of the fund. The foregoing lien shall apply regardless of*  
10 *whether the amounts are comingled with other cash or other*  
11 *property of the electrical corporation.*

12 3296. *In addition to any rights and remedies of the*  
13 *administrator provided by law, the administrator is authorized at*  
14 *any time and from time to time, without notice to the participating*  
15 *electrical corporations, to set off and apply any and all funds,*  
16 *deposits, or contributions from a participating electrical*  
17 *corporation at any time held by the fund and other obligations*  
18 *owed to the fund, irrespective of whether or not the administrator*  
19 *made demand, and whether the obligations may be contingent or*  
20 *unmatured. The administrator will promptly notify the participating*  
21 *electrical corporation after any such set-off.*

22 SEC. 21. *Section 8386 of the Public Utilities Code is amended*  
23 *to read:*

24 8386. (a) Each electrical corporation shall construct, maintain,  
25 and operate its electrical lines and equipment in a manner that will  
26 minimize the risk of catastrophic wildfire posed by those electrical  
27 lines and equipment.

28 (b) Each electrical corporation shall ~~annually~~ *triennially* prepare  
29 and submit a *comprehensive* wildfire mitigation plan to the  
30 commission for review and approval, according to a schedule  
31 established by the commission, which may allow for the staggering  
32 of compliance periods for each electrical corporation. ~~The~~  
33 ~~Department of Forestry and Fire Protection~~ *Until its next*  
34 *comprehensive wildfire mitigation plan, an electrical corporation*  
35 *shall consult with annually submit to the commission on the review*  
36 *of each wildfire mitigation plan. Prior to approval, the commission*  
37 *may require modifications of the plans. Following approval, the*  
38 *commission shall oversee compliance with the plans pursuant to*  
39 *subdivision (h). Wildfire Safety Division for review and approval*

1 *an update to the last approved comprehensive wildfire mitigation*  
2 *plan.*

3 (c) The wildfire mitigation plan shall ~~include~~: *include all of the*  
4 *following*:

5 (1) An accounting of the responsibilities of persons responsible  
6 for executing the plan.

7 (2) The objectives of the plan.

8 (3) A description of the preventive strategies and programs to  
9 be adopted by the electrical corporation to minimize the risk of its  
10 electrical lines and equipment causing catastrophic wildfires,  
11 including consideration of dynamic climate change risks.

12 (4) A description of the metrics the electrical corporation plans  
13 to use to evaluate the plan's performance and the assumptions that  
14 underlie the use of those metrics.

15 (5) A discussion of how the application of previously identified  
16 metrics to previous plan performances has informed the plan.

17 (6) Protocols for disabling reclosers and deenergizing portions  
18 of the electrical distribution system that consider the associated  
19 impacts on public safety, as well as protocols related to mitigating  
20 the public safety impacts of those protocols, including impacts on  
21 critical first responders and on health and communication  
22 infrastructure.

23 (7) Appropriate and feasible procedures for notifying a customer  
24 who may be impacted by the deenergizing of electrical lines. The  
25 procedures shall consider the need to notify, as a priority, critical  
26 first responders, health care facilities, and operators of  
27 telecommunications infrastructure.

28 (8) Plans for vegetation management.

29 (9) Plans for inspections of the electrical corporation's electrical  
30 infrastructure.

31 (10) A list that identifies, describes, and prioritizes all wildfire  
32 risks, and drivers for those risks, throughout the electrical  
33 corporation's service territory, including all relevant wildfire risk  
34 and risk mitigation information that is part of Safety Model  
35 Assessment Proceeding and Risk Assessment Mitigation Phase  
36 filings. The list shall include, but not be limited to, both of the  
37 following:

38 (A) Risks and risk drivers associated with design, construction,  
39 operations, and maintenance of the electrical corporation's  
40 equipment and facilities.

1 (B) Particular risks and risk drivers associated with topographic  
2 and climatological risk factors throughout the different parts of  
3 the electrical corporation's service territory.

4 (11) A description of how the plan accounts for the wildfire risk  
5 identified in the electrical corporation's Risk Assessment  
6 Mitigation Phase filing.

7 (12) A description of the actions the electrical corporation will  
8 take to ensure its system will achieve the highest level of safety,  
9 reliability, and resiliency, and to ensure that its system is prepared  
10 for a major event, including hardening and modernizing its  
11 infrastructure with improved engineering, system design, standards,  
12 equipment, and facilities, such as undergrounding, insulation of  
13 distribution wires, and pole replacement.

14 (13) A showing that the utility has an adequate sized and trained  
15 workforce to promptly restore service after a major event, taking  
16 into account employees of other utilities pursuant to mutual aid  
17 agreements and employees of entities that have entered into  
18 contracts with the utility.

19 (14) Identification of any geographic area in the electrical  
20 corporation's service territory that is a higher wildfire threat than  
21 is currently identified in a commission fire threat map, and where  
22 the commission should consider expanding the high fire threat  
23 district based on new information or changes in the environment.

24 (15) A methodology for identifying and presenting  
25 enterprise-wide safety risk and wildfire-related risk that is  
26 consistent with the methodology used by other electrical  
27 corporations unless the commission determines otherwise.

28 (16) A description of how the plan is consistent with the  
29 electrical corporation's disaster and emergency preparedness plan  
30 prepared pursuant to Section 768.6, including both of the following:

31 (A) Plans to prepare for, and to restore service after, a wildfire,  
32 including workforce mobilization and prepositioning equipment  
33 and employees.

34 (B) Plans for community outreach and public awareness before,  
35 during, and after a wildfire, including language notification in  
36 English, Spanish, and the top three primary languages used in the  
37 state other than English or Spanish, as determined by the  
38 commission based on the United States Census data.

39 (17) A statement of how the electrical corporation will restore  
40 service after a wildfire.

1 (18) Protocols for compliance with requirements adopted by  
2 the commission regarding activities to support customers during  
3 and after a wildfire, outage reporting, support for low-income  
4 customers, billing adjustments, deposit waivers, extended payment  
5 plans, suspension of disconnection and nonpayment fees, repair  
6 processing and timing, access to utility representatives, and  
7 emergency communications.

8 (19) A description of the processes and procedures the electrical  
9 corporation will use to do all of the following:

10 (A) Monitor and audit the implementation of the plan.

11 (B) Identify any deficiencies in the plan or the plan's  
12 implementation and correct those deficiencies.

13 (C) Monitor and audit the effectiveness of electrical line and  
14 equipment inspections, including inspections performed by  
15 contractors, carried out under the plan and other applicable statutes  
16 and commission rules.

17 (20) Any other information that the ~~commission~~ *Wildfire Safety*  
18 *Division* may require.

19 ~~(d) The commission shall accept comments on each plan from~~  
20 ~~the public, other local and state agencies, and interested parties,~~  
21 ~~and verify that the plan complies with all applicable rules,~~  
22 ~~regulations, and standards, as appropriate.~~

23 ~~(e) The commission shall approve each plan within three months~~  
24 ~~of its submission, unless the commission makes a written~~  
25 ~~determination, including reasons supporting the determination,~~  
26 ~~that the three-month deadline cannot be met and issues an order~~  
27 ~~extending the deadline. Each electrical corporation's approved~~  
28 ~~plan shall remain in effect until the commission approves the~~  
29 ~~electrical corporation's subsequent plan. At the time it approves~~  
30 ~~each plan, the commission shall authorize the utility to establish~~  
31 ~~a memorandum account to track costs incurred to implement the~~  
32 ~~plan.~~

33 ~~(f) The commission's approval of a plan does not establish a~~  
34 ~~defense to any enforcement action for a violation of a commission~~  
35 ~~decision, order, or rule.~~

36 ~~(g) The commission shall consider whether the cost of~~  
37 ~~implementing each electrical corporation's plan is just and~~  
38 ~~reasonable in its general rate case application. Nothing in this~~  
39 ~~section shall be interpreted as a restriction or limitation on Article~~

1 ~~1 (commencing with Section 451) of Chapter 3 of Part 1 of~~  
2 ~~Division 1.~~

3 ~~(h) The commission shall conduct an annual review of each~~  
4 ~~electrical corporation's compliance with its plan as follows:~~

5 ~~(1) Three months after the end of an electrical corporation's~~  
6 ~~initial compliance period as established by the commission pursuant~~  
7 ~~to subdivision (b), and annually thereafter, each electrical~~  
8 ~~corporation shall file with the commission a report addressing its~~  
9 ~~compliance with the plan during the prior calendar year.~~

10 ~~(2) (A) Before March 1, 2021, and before each March 1~~  
11 ~~thereafter, the commission, in consultation with the Department~~  
12 ~~of Forestry and Fire Protection, shall make available a list of~~  
13 ~~qualified independent evaluators with experience in assessing the~~  
14 ~~safe operation of electrical infrastructure.~~

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

25 ~~(ii) The commission shall consider the independent evaluator's~~  
26 ~~findings, but the independent evaluator's findings are not binding~~  
27 ~~on the commission, except as otherwise specified.~~

28 ~~(iii) The independent evaluator's findings shall be used by the~~  
29 ~~commission to carry out its obligations under Article 1~~  
30 ~~(commencing with Section 451) of Chapter 3 of Part 1 of Division~~  
31 ~~1.~~

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

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

37 ~~(4) The commission shall complete its compliance review within~~  
38 ~~18 months after the submission of the electrical corporation's~~  
39 ~~compliance report.~~



1 ~~(i) An electrical corporation shall not divert revenues authorized~~  
2 ~~to implement the plan to any activities or investments outside of~~  
3 ~~the plan.~~

4 ~~(j) Each electrical corporation shall establish a memorandum~~  
5 ~~account to track costs incurred for fire risk mitigation that are not~~  
6 ~~otherwise covered in the electrical corporation's revenue~~  
7 ~~requirements. The commission shall review the costs in the~~  
8 ~~memorandum accounts and disallow recovery of those costs the~~  
9 ~~commission deems unreasonable.~~

10 *SEC. 22. Section 8386.1 is added to the Public Utilities Code,*  
11 *to read:*

12 *8386.1. (a) The Wildfire Safety Division shall approve or deny*  
13 *each wildfire mitigation plan and update submitted by an electrical*  
14 *corporation within three months of its submission, unless the*  
15 *division makes a written determination, including reasons*  
16 *supporting the determination, that the three-month deadline cannot*  
17 *be met. Each electrical corporation's approved plan shall remain*  
18 *in effect until the division approves the electrical corporation's*  
19 *subsequent plan. The division shall consult with the Department*  
20 *of Forestry and Fire Protection on the review of each wildfire*  
21 *mitigation plan and update. Before approval, the division may*  
22 *require modifications of the plan. After approval by the division,*  
23 *the commission shall ratify the action of the division.*

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

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

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

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

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

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

14 (iii) The independent evaluator's findings shall be used by the  
15 Wildfire Safety Division to carry out its obligations under Article  
16 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division  
17 1.

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

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

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

26 (d) An electrical corporation shall not divert revenues  
27 authorized to implement the plan to any activities or investments  
28 outside of the plan.

29 (e) (1) Each electrical corporation shall establish a  
30 memorandum account to track costs incurred for fire risk  
31 mitigation that are not otherwise covered in the electrical  
32 corporation's revenue requirements. The commission shall review  
33 the costs in the memorandum accounts and disallow recovery of  
34 those costs the commission deems unreasonable.

35 (2) The commission shall not allow a large electrical  
36 corporation to include in its equity rate base its share, as  
37 determined pursuant to the wildfire allocation metric specified in  
38 Section 3279, of the first five billion dollars (\$5,000,000,000)  
39 expended in aggregate by large electrical corporations over the  
40 period of 2020 to 2024, inclusive, on fire risk mitigation capital

1 expenditures included in the electrical corporations' approved  
2 wildfire mitigation plans. Nothing in this paragraph shall prevent  
3 an electrical corporation from recovering the debt financing costs  
4 of these fire risk mitigation capital expenditures.

5 SEC. 23. Section 8386.2 is added to the Public Utilities Code,  
6 to read:

7 8386.2. (a) At the time it approves each plan, the commission  
8 shall authorize the utility to establish a memorandum account to  
9 track costs incurred to implement the plan.

10 (b) (1) The commission shall consider whether the cost of  
11 implementing each electrical corporation's plan is just and  
12 reasonable in its general rate case application.

13 (2) In lieu of paragraph (1), an electrical corporation may elect  
14 to file an application for recovery of the cost of implementing its  
15 plan as accounted in the memorandum account at the conclusion  
16 of the time period covered by the plan. If the electrical corporation  
17 files an application for cost recovery pursuant to this paragraph,  
18 the commission shall issue a proposed decision within 12 months  
19 of the filing date of the application unless the commission issues  
20 an order extending the deadline upon a finding of good cause. The  
21 Wildfire Safety Division shall advise the commission on whether  
22 the cost is just and reasonable.

23 (3) The chief executive officer of an electrical corporation shall  
24 certify in each general rate case application that the electrical  
25 corporation has not received authorization from the commission  
26 to recover the costs in a previous proceeding, including wildfire  
27 cost recovery applications.

28 (4) Nothing in this section shall be interpreted as a restriction  
29 or limitation on Article 1 (commencing with Section 451) of  
30 Chapter 3 of Part 1 of Division 1.

31 SEC. 24. Section 8387 of the Public Utilities Code is amended  
32 to read:

33 8387. (a) Each local publicly owned electric utility and  
34 electrical cooperative shall construct, maintain, and operate its  
35 electrical lines and equipment in a manner that will minimize the  
36 risk of wildfire posed by those electrical lines and equipment.

37 (b) (1) The local publicly owned electric utility or electrical  
38 cooperative shall, before January 1, 2020, and annually thereafter,  
39 prepare a wildfire mitigation plan.

- 1 (2) The wildfire mitigation plan shall consider as necessary, at  
2 minimum, all of the following:
- 3 (A) An accounting of the responsibilities of persons responsible  
4 for executing the plan.
- 5 (B) The objectives of the wildfire mitigation plan.
- 6 (C) A description of the preventive strategies and programs to  
7 be adopted by the local publicly owned electric utility or electrical  
8 cooperative to minimize the risk of its electrical lines and  
9 equipment causing catastrophic wildfires, including consideration  
10 of dynamic climate change risks.
- 11 (D) A description of the metrics the local publicly owned electric  
12 utility or electrical cooperative plans to use to evaluate the wildfire  
13 mitigation plan's performance and the assumptions that underlie  
14 the use of those metrics.
- 15 (E) A discussion of how the application of previously identified  
16 metrics to previous wildfire mitigation plan performances has  
17 informed the wildfire mitigation plan.
- 18 (F) Protocols for disabling reclosers and deenergizing portions  
19 of the electrical distribution system that consider the associated  
20 impacts on public safety, as well as protocols related to mitigating  
21 the public safety impacts of those protocols, including impacts on  
22 critical first responders and on health and communication  
23 infrastructure.
- 24 (G) Appropriate and feasible procedures for notifying a customer  
25 who may be impacted by the deenergizing of electrical lines. The  
26 procedures shall consider the need to notify, as a priority, critical  
27 first responders, health care facilities, and operators of  
28 telecommunications infrastructure.
- 29 (H) Plans for vegetation management.
- 30 (I) Plans for inspections of the local publicly owned electric  
31 utility's or electrical cooperative's electrical infrastructure.
- 32 (J) A list that identifies, describes, and prioritizes all wildfire  
33 risks, and drivers for those risks, throughout the local publicly  
34 owned electric utility's or electrical cooperative's service territory.  
35 The list shall include, but not be limited to, both of the following:
- 36 (i) Risks and risk drivers associated with design, construction,  
37 operation, and maintenance of the local publicly owned electric  
38 utility's or electrical cooperative's equipment and facilities.
- 39 (ii) Particular risks and risk drivers associated with topographic  
40 and climatological risk factors throughout the different parts of

1 the local publicly owned electric utility’s or electrical cooperative’s  
2 service territory.

3 (K) Identification of any geographic area in the local publicly  
4 owned electric utility’s or electrical cooperative’s service territory  
5 that is a higher wildfire threat than is identified in a commission  
6 fire threat map, and identification of where the commission should  
7 expand a high fire threat district based on new information or  
8 changes to the environment.

9 (L) A methodology for identifying and presenting enterprisewide  
10 safety risk and wildfire-related risk.

11 (M) A statement of how the local publicly owned electric utility  
12 or electrical cooperative will restore service after a wildfire.

13 (N) A description of the processes and procedures the local  
14 publicly owned electric utility or electrical cooperative shall use  
15 to do all of the following:

16 (i) Monitor and audit the implementation of the wildfire  
17 mitigation plan.

18 (ii) Identify any deficiencies in the wildfire mitigation plan or  
19 its implementation, and correct those deficiencies.

20 (iii) Monitor and audit the effectiveness of electrical line and  
21 equipment inspections, including inspections performed by  
22 contractors, that are carried out under the plan, other applicable  
23 statutes, or commission rules.

24 (3) The local publicly owned electric utility or electrical  
25 cooperative shall present each wildfire mitigation plan in an  
26 appropriately noticed public meeting. The local publicly owned  
27 electric utility or electrical cooperative shall accept comments on  
28 its wildfire mitigation plan from the public, other local and state  
29 agencies, and interested parties, and shall verify that the wildfire  
30 mitigation plan complies with all applicable rules, regulations, and  
31 standards, as appropriate.

32 (c) The local publicly owned electric utility or electrical  
33 cooperative shall contract with a qualified independent evaluator  
34 with experience in assessing the safe operation of electrical  
35 infrastructure to review and assess the comprehensiveness of its  
36 wildfire mitigation plan. The independent evaluator shall issue a  
37 report that shall be made available on the ~~Internet Web site~~ *internet*  
38 *website* of the local publicly owned electric utility or electrical  
39 cooperative, and shall present the report at a public meeting of the

1 local publicly owned electric utility's or electrical cooperative's  
2 governing board.

3 *(d) (1) Each local publicly owned electric utility or electrical*  
4 *cooperative shall submit to the Wildfire Safety Division the wildfire*  
5 *mitigation plan prepared pursuant to subdivision (b).*

6 *(2) The Wildfire Safety Division, in consultation with the*  
7 *California Wildfire Safety Advisory Board, shall review the plans*  
8 *and provide comments and advisory opinions to each local publicly*  
9 *owned electric utility or electrical cooperative regarding the*  
10 *content and sufficiency of the plan and recommendations on how*  
11 *to mitigate wildfire risks.*

12 *(3) By December 1, 2020, and annually thereafter, the*  
13 *commission, after consultation with the Wildfire Safety Division,*  
14 *shall adopt and approve a process for division staff to review and*  
15 *provide comments and advisory opinions pursuant to paragraph*  
16 *(2).*

17 *SEC. 25. Section 8389 is added to the Public Utilities Code,*  
18 *to read:*

19 *8389. (a) For purposes of this section, the following definitions*  
20 *apply:*

21 *(1) "Board" means the California Wildfire Safety Advisory*  
22 *Board established pursuant to Section 326.1.*

23 *(2) "Division" means the Wildfire Safety Division established*  
24 *pursuant to Section 326.*

25 *(3) "Substantial compliance" means actual compliance in*  
26 *respect to the substance essential to every reasonable objective of*  
27 *a particular law, rule, regulation, metric, or requirement taking*  
28 *into account cure periods to the extent provided.*

29 *(b) By June 30, 2020, and annually thereafter, the board shall*  
30 *make recommendations to the division on all of the following:*

31 *(1) Appropriate performance metrics and processes for*  
32 *determining an electrical corporation's compliance with its*  
33 *approved wildfire mitigation plan.*

34 *(2) Appropriate requirements in addition to the requirements*  
35 *set forth in Section 8386 for the wildfire mitigation plan.*

36 *(3) The appropriate scope and process for assessing the safety*  
37 *culture of an electrical corporation.*

38 *(c) By October 31, 2020, and annually thereafter, the division*  
39 *shall issue an analysis and recommendation to the commission on*

1 *the recommendations provided by the board pursuant to*  
2 *subdivision (b).*

3 *(d) By December 1, 2020, and annually thereafter, the*  
4 *commission, after consultation with the division, shall adopt and*  
5 *approve all of the following:*

6 *(1) Performance metrics for electrical corporations.*

7 *(2) Additional requirements for wildfire mitigation plans.*

8 *(3) A wildfire mitigation plan compliance process.*

9 *(4) A process for the division to conduct annual safety culture*  
10 *assessments for each electrical corporation.*

11 *(e) Thirty days after the effective date of this section, and*  
12 *annually thereafter, the commission, after consultation with the*  
13 *division and the board, shall issue a safety certification to an*  
14 *electrical corporation if the electrical corporation shows, to the*  
15 *satisfaction of the commission, all of the following:*

16 *(1) The electrical corporation has an approved wildfire*  
17 *mitigation plan.*

18 *(2) The division has not found that the electrical corporation*  
19 *is not in substantial compliance with its wildfire mitigation plan.*

20 *(3) The electrical corporation is in substantial compliance with*  
21 *the findings of its most recent safety culture assessment, if*  
22 *applicable.*

23 *(4) Establishment of a safety committee of its board of directors*  
24 *composed of members with relevant safety experience.*

25 *(5) Establishment of an executive incentive compensation plan*  
26 *linked to safety performance metrics.*

27 *(6) Establishment of board-of-director-level reporting to the*  
28 *commission on safety issues.*

29 *(f) (1) A safety certification shall be valid for 12 months*  
30 *following the issuance of the certification. Before the expiration*  
31 *of a certification, an electrical corporation shall file with the*  
32 *commission a request for certification for the following calendar*  
33 *year.*

34 *(2) Notwithstanding paragraph (1), a safety certification shall*  
35 *remain valid until the commission issues a determination related*  
36 *to an electrical corporation's pending application for safety*  
37 *certification.*

38 *(g) If the division determines an electrical corporation is not*  
39 *in compliance with its approved wildfire mitigation plan, it may*  
40 *recommend that the commission pursue an enforcement action*

1 *against the electrical corporation for noncompliance with its*  
 2 *approved plan.*

3 *SEC. 26. Division 28 (commencing with Section 80500) is*  
 4 *added to the Water Code, to read:*

5

6 *DIVISION 28. WILDFIRE PREVENTION AND RECOVERY*  
 7 *ACT OF 2019*

8

9 *CHAPTER 1. GENERAL PROVISIONS*

10

11 *80500. The Legislature finds and declares \_\_\_\_.*

12 *80502. Nothing in this division shall be construed to reduce*  
 13 *or modify an electrical corporation’s obligation to serve. The*  
 14 *commission shall issue orders it determines are necessary to carry*  
 15 *out this section.*

16 *80503. (a) The development and operation of a program as*  
 17 *provided in this division is in all respects for the welfare and the*  
 18 *benefit of the people of the state, to protect the public peace, health,*  
 19 *and safety, and constitutes an essential governmental purpose.*

20 *(b) This division shall be liberally construed in a manner so as*  
 21 *to effectuate its purposes and objectives.*

22 *80504. (a) The powers and responsibilities of the department*  
 23 *established pursuant to this division are separate from, and not*  
 24 *governed by, the provisions relating to the State Water Resources*  
 25 *Development System.*

26 *(b) The Department of Water Resources Charge Fund*  
 27 *established in Section 80550 and the moneys in that fund are*  
 28 *separate and distinct from any other fund and moneys administered*  
 29 *by the department.*

30 *80506. As used in this division, unless the context otherwise*  
 31 *requires, the following terms have the following meanings:*

32 *(a) “Administrator” has the same meaning as defined in Section*  
 33 *3279 of the Public Utilities Code.*

34 *(b) “Bonds” means bonds, notes, or other evidences of*  
 35 *indebtedness issued solely for purposes of supporting the Wildfire*  
 36 *Fund and other related expenses incurred by the department*  
 37 *pursuant to this division, or for reimbursing expenditures from*  
 38 *the fund or the Wildfire Fund for those purposes; repaying to the*  
 39 *Surplus Money Investment Fund any loans made to the Wildfire*  
 40 *Fund; establishing or maintaining reserves in connection with the*



1 *bonds; costs of issuance of bonds or incidental to their payment*  
2 *or security; capitalized interest; or renewing or refunding any*  
3 *bonds.*

4 *(c) "Commission" means the Public Utilities Commission.*

5 *(d) "Electrical corporation" means an electrical corporation,*  
6 *as defined in Section 218 of the Public Utilities Code, that*  
7 *participates in the Wildfire Fund.*

8 *(e) "Fund" means the Department of Water Resources Charge*  
9 *Fund established by Section 80550.*

10 *(f) "Wildfire Fund" has the same meaning as defined in Section*  
11 *3279 of the Public Utilities Code.*

12 *80508. (a) The department may prescribe, adopt, and enforce*  
13 *emergency regulations relating to the administration and*  
14 *enforcement of this division. Any emergency regulations*  
15 *prescribed, adopted, or enforced pursuant to this division shall*  
16 *be adopted in accordance with Chapter 3.5 (commencing with*  
17 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
18 *Code, and, for purposes of that chapter, including Section 11349.6*  
19 *of the Government Code, the adoption of such regulations is an*  
20 *emergency and shall be considered by the Office of Administrative*  
21 *Law as necessary for the immediate preservation of the public*  
22 *peace, health and safety, and general welfare.*

23 *(b) The provisions of the Government Code and Public Contract*  
24 *Code applicable to state contracts, including, but not limited to,*  
25 *advertising and competitive bidding requirements and prompt*  
26 *payment requirements, apply to contracts entered into under this*  
27 *division, unless the department determines that application of any*  
28 *of those provisions to contracts entered into under this division is*  
29 *detrimental to accomplishing the purposes of this division.*

30 *80510. All state agencies and other official state organizations,*  
31 *and all persons connected with those agencies and organizations,*  
32 *shall, at the request of the department, give the department*  
33 *assistance or other cooperation in carrying out the purposes of*  
34 *this division.*

35

36 *CHAPTER 2. POWERS OF THE DEPARTMENT*

37

38 *80520. (a) The department may contract with an electrical*  
39 *corporation or its successor in the performance of related service,*  
40 *as an agent of the department, to provide billing, collection, and*

1 *other related services on terms and conditions that reasonably*  
2 *compensate the electrical corporation or its successor for its*  
3 *services, and adequately secure payment to the department.*

4 *(b) At the request of the department, the commission shall order*  
5 *an electrical corporation or its successor to perform the duties*  
6 *pursuant to a contract described in subdivision (a).*

7 80522. *The commission may issue rules regulating the*  
8 *enforcement of the agency functions pursuant this division,*  
9 *including collection and payment to the department.*

10 80524. *(a) The revenue requirement shall be equal to the*  
11 *revenue requirement under Section 80110 on January 1, 2019.*

12 *(b) For purposes of this division, the commission's authority,*  
13 *as set forth in Section 451 of the Public Utilities Code, shall apply,*  
14 *except any just and reasonable review under Section 451 of the*  
15 *Public Utilities Code with respect to the revenue requirement set*  
16 *forth in this section shall be conducted and determined by the*  
17 *commission no later than 120 days after the effective date of this*  
18 *division.*

19 *(c) If, pursuant to subsection (b) above, the commission makes*  
20 *a just and reasonable determination with respect to the revenue*  
21 *requirement, then the commission shall enter into an agreement*  
22 *with the department with respect to charges under Section 451 of*  
23 *the Public Utilities Code with respect to the revenue requirement,*  
24 *and that agreement shall have the force and effect of a financing*  
25 *order adopted in accordance with Article 5.5 (commencing with*  
26 *Section 840) of Chapter 4 of Part 1 of Division 1 of the Public*  
27 *Utilities Code, as determined by the commission.*

28 80526. *To the extent any moneys are received by an electrical*  
29 *corporation pursuant to Section 80520 in the process of collection,*  
30 *and pending their transfer to the department, those moneys shall*  
31 *be segregated by the electrical corporation on terms and conditions*  
32 *established by the department and shall be held in trust for the*  
33 *department's exercise of its obligations regarding those moneys*  
34 *until paid over to the department pursuant to the contract or order*  
35 *established pursuant to Section 80520.*

36 80528. *(a) The department may do any of the following as*  
37 *may be, in the determination of the department, necessary for the*  
38 *purposes of this division:*

1 (1) Engage the services of private parties to render professional  
2 and technical assistance and advice and other services in carrying  
3 out the purposes of this division.

4 (2) Contract for the services of other public agencies.

5 (3) Engage in such activities or enter into such contracts or  
6 arrangements as may be necessary or desirable to carry out the  
7 department's duties and responsibilities pursuant to this division.

8 (b) Hire personnel necessary and desirable for the timely and  
9 successful implementation and administration of the department's  
10 duties and responsibilities pursuant to this division. The State  
11 Personnel Board and the Department of Human Resources shall  
12 assist the department in expediting that hiring.

13  
14 CHAPTER 3. BONDS

15  
16 80540. (a) The department may incur indebtedness and issue  
17 bonds as evidence thereof solely for the purposes of supporting  
18 the Wildfire Fund and other related expenses incurred by the  
19 department pursuant to this division, provided that bonds may not  
20 be issued in an amount the debt service on which, to the extent  
21 payable from the fund, is estimated by the department to exceed  
22 the amounts estimated to be available in the fund for their payment.

23 (b) The department may authorize the issuance of bonds,  
24 excluding any notes issued in anticipation of the issuance of bonds  
25 and retired from the proceeds of those bonds, in an aggregate  
26 amount up to ten billion five hundred million dollars  
27 (\$10,500,000,000).

28 (c) Refunding bonds for any of the following purposes shall not  
29 be included in the calculation of the aggregate amount described  
30 in subdivision (b):

31 (1) Refunding bonds to obtain a lower interest rate.

32 (2) Refunding bonds bearing a variable interest rate with bonds  
33 bearing interest at a fixed rate.

34 (3) Refunding bonds if any nationally recognized rating agency  
35 reduces or withdraws, or proposes to reduce or withdraw, the  
36 rating assigned to securities that are secured by bond insurance  
37 policies, credit or liquidity facilities issued by the provider of a  
38 bond insurance policy, or a credit or liquidity facility securing the  
39 bonds being refunded.

1 (d) Before the issuance of bonds in a public offering, the  
2 department shall establish a mechanism to ensure the bonds are  
3 sold at investment grade ratings and repaid on a timely basis from  
4 pledged revenues. This mechanism may include, but is not limited  
5 to, an agreement between the department and the commission as  
6 described in Section 80524.

7 (e) Notwithstanding any provision of this division to the  
8 contrary, the department shall not issue any bonds pursuant to  
9 this division until the earlier of either of the following:

10 (1) The date on which the department shall have legally defeased  
11 all of its outstanding power supply revenue bonds issued pursuant  
12 to Section 80134 and provided written notice to the commission.

13 (2) The date on which the department shall have paid in full, at  
14 maturity, all of its outstanding power supply revenue bonds issued  
15 pursuant to Section 80134 and provided written notice to the  
16 commission.

17 80542. (a) Bonds may be issued by the department, upon  
18 authorization by written determination of the director of the  
19 department, with the approval of the Director of Finance and the  
20 Treasurer, on terms acceptable to and approved by the  
21 administrator. The Department of Finance shall notify the  
22 Chairperson of the Joint Legislative Budget Committee and the  
23 chairpersons of the fiscal committees of each house of the  
24 Legislature of its written determination. The bonds shall be sold  
25 at the prices and in the manner, and on the terms and conditions,  
26 as shall be specified in that determination, and the determination  
27 may contain or authorize any other provision, condition, or  
28 limitation not inconsistent with this division and those provisions  
29 as may be deemed reasonable and proper for the security of the  
30 bondholders. Bonds may mature at the time or times, and bear  
31 interest at the rate or rates, which may be fixed or variable and  
32 be determined by reference to an index or such other method, that  
33 are specified in the determination. Neither the person executing  
34 the determination to issue bonds nor any person executing bonds  
35 shall be personally liable therefor or be subject to any personal  
36 liability or accountability by reason of the issuance of the bonds.

37 (b) In the discretion of the department, any bonds may be  
38 secured by a trust agreement by and between the department and  
39 a corporate trustee, which may be any trust company or bank  
40 having trust powers within or outside the state, or the Treasurer.

1 *Notwithstanding any other law, the Treasurer shall not be deemed*  
2 *to have a conflict of interest by reason of acting as the trustee. The*  
3 *department may enter into such contracts or arrangements as it*  
4 *shall deem to be necessary or appropriate for the issuance and*  
5 *further security of the bonds.*

6 *(c) Bonds shall be legal investments for all trust funds, the funds*  
7 *of all insurance companies, savings and commercial banks, trust*  
8 *companies, executors, administrators, trustees, and other*  
9 *fiduciaries, for state school funds, pension funds, and for any funds*  
10 *that may be invested in county, school, or municipal bonds.*

11 *(d) Notwithstanding that bonds may be payable from a special*  
12 *fund, the bonds shall be deemed to be negotiable instruments for*  
13 *all purposes.*

14 *(e) Any bonds, and the transfer of and income derived from*  
15 *those bonds, shall at all times be free from taxation of every kind*  
16 *by the state and by the political subdivisions of the state.*

17 *(f) Bonds shall not be deemed to constitute a debt or liability*  
18 *of the state or of any political subdivision thereof, other than the*  
19 *department, or a pledge of the faith and credit of the state or of*  
20 *any such political subdivision, but shall be payable solely from*  
21 *the funds herein provided for. All bonds shall contain a statement*  
22 *to the following effect: "Neither the faith and credit nor the taxing*  
23 *power of the State of California is pledged to the payment of the*  
24 *principal of or interest on this bond." The issuance of bonds shall*  
25 *not directly or indirectly or contingently obligate the state or any*  
26 *political subdivision thereof to levy or to pledge any form of*  
27 *taxation whatever therefor or to make any appropriation for their*  
28 *payment.*

29 *(g) (1) The department may pledge or assign any revenues*  
30 *under any obligation entered into, and rights to receive the same,*  
31 *and moneys on deposit in the fund and income or revenue derived*  
32 *from the investment thereof, as security for the department's*  
33 *obligations pursuant to this division.*

34 *(2) It is the intent of the Legislature that any pledge of moneys,*  
35 *revenues, or property made by the department shall be valid and*  
36 *binding from the time when the pledge is made; that the moneys,*  
37 *revenues, or property so pledged and thereafter collected from*  
38 *retail end use customers, or paid directly or indirectly to or for*  
39 *the account of the department, is hereby made, and shall*  
40 *immediately be, subject to the lien of that pledge without any*

1 *physical delivery thereof or further act; that the lien of any such*  
2 *pledge shall be valid and binding against all parties having claims*  
3 *of any kind in tort, contract, or otherwise against the department*  
4 *irrespective of whether those parties have notice thereof, and that*  
5 *no resolution or instrument by which the pledge or lien created*  
6 *pursuant to this subdivision is expressed, confirmed, or approved*  
7 *need be filed or recorded in order to perfect the pledge or lien.*  
8 *These provisions shall in all respects govern the creation,*  
9 *perfection, priority, and enforcement of any lien created by or*  
10 *under this division.*

11 *80544. (a) If, pursuant to Section 80524, the commission makes*  
12 *a just and reasonable determination with respect to that revenue*  
13 *requirement, the department shall, and in any obligation entered*  
14 *into pursuant to this division may covenant to, at least annually,*  
15 *and more frequently as required, allocate or cause to be allocated*  
16 *moneys collected pursuant to this division to provide any of the*  
17 *following:*

18 *(1) The amounts necessary to pay the principal of, and premium,*  
19 *if any, and interest on, all bonds as and when the bonds shall*  
20 *become due.*

21 *(2) The amounts necessary to make payments under any*  
22 *contracts, agreements, or obligations entered into by it pursuant*  
23 *hereto, in the amounts and at the times they shall become due.*

24 *(3) Reserves in such amount as may be determined by the*  
25 *department from time to time to be necessary or desirable.*

26 *(4) Consistent with Section 3288, repayment of loans made from*  
27 *the Surplus Money Investment Fund to the Wildfire Fund.*

28 *(5) The administrative costs of the department incurred in*  
29 *administering this division.*

30 *(6) After meeting the purposes in paragraphs (1) to (5),*  
31 *inclusive, the transfer of any remaining revenue requirement*  
32 *amount to the Wildfire Fund.*

33 *(b) The commission shall not revise the revenue requirement*  
34 *established pursuant to this division at any time prior to January*  
35 *1, 2036. For avoidance of doubt, the revenue requirement*  
36 *established pursuant to this division shall not be imposed and*  
37 *collected until the department has legally defeased power supply*  
38 *revenue bonds issued pursuant to Section 80134 and provided*  
39 *written notice thereof to the commission.*

1           *CHAPTER 4. DEPARTMENT OF WATER RESOURCES CHARGE*  
2   *FUND*  
3

4       80550. (a) *There is hereby established in the State Treasury*  
5 *the Department of Water Resources Charge Fund. Notwithstanding*  
6 *Section 13340 of the Government Code, all moneys in the fund are*  
7 *continuously appropriated, without regard to fiscal year, to the*  
8 *department and shall be available for the purposes of this division.*

9       (b) *All revenues payable to the department under this division,*  
10 *including proceeds of bonds issued pursuant to Chapter 3*  
11 *(commencing with Section 80540), shall be deposited in the fund.*  
12 *Notwithstanding any other law, interest accruing on the moneys*  
13 *in the fund shall be deposited in the fund and shall be used for*  
14 *purposes of this division. Payments from the fund may be made*  
15 *only for the following purposes:*

16       (1) *Payment of any bonds or other contractual obligations*  
17 *authorized by this division.*

18       (2) *The expenses incurred by the department in administering*  
19 *this division.*

20       (3) *Consistent with Section 3288, repayment of principal of,*  
21 *and interest on, loans made from the Surplus Money Investment*  
22 *Fund to the Wildfire Fund. Repayment of loans made from the*  
23 *Surplus Money Investment Fund shall be made as soon as*  
24 *practicable.*

25       (4) *The transfers to the Wildfire Fund.*

26       (c) *Obligations authorized by this division shall be payable*  
27 *solely from the fund. Neither the full faith and credit nor the taxing*  
28 *power of the state are or may be pledged for any payment under*  
29 *any obligation authorized by this division.*

30       (d) *While any obligations of the department incurred under this*  
31 *division remain outstanding and not fully performed or discharged,*  
32 *the rights, powers, duties, and existence of the department and the*  
33 *commission shall not be diminished or impaired in any manner*  
34 *that will affect adversely the interests and rights of the holders of*  
35 *or parties to those obligations. The department may include this*  
36 *pledge and undertaking of the state in the department's obligations.*

37       SEC. 27. *The revenues of the Department of Water Resources*  
38 *Charge Fund established pursuant to Section 80550 of the Water*  
39 *Code shall not be used to pay for any undercollected amount due*

1 to any electrical corporation or to any entity to which the amount  
2 has been assigned.

3 SEC. 28. No reimbursement is required by this act pursuant  
4 to Section 6 of Article XIII B of the California Constitution because  
5 a local agency or school district has the authority to levy service  
6 charges, fees, or assessments sufficient to pay for the program or  
7 level of service mandated by this act or because costs that may be  
8 incurred by a local agency or school district will be incurred  
9 because this act creates a new crime or infraction, eliminates a  
10 crime or infraction, or changes the penalty for a crime or  
11 infraction, within the meaning of Section 17556 of the Government  
12 Code, or changes the definition of a crime within the meaning of  
13 Section 6 of Article XIII B of the California Constitution.

14 SEC. 29. (a) The sum of \_\_\_\_ dollars (\$\_\_\_\_) is hereby  
15 transferred from the General Fund to the Department of Water  
16 Resources Charge Fund, established by Section 80550 of the Water  
17 Code, for the purposes of Division 28 (commencing with Section  
18 80500) of the Water Code. The amount transferred pursuant to  
19 this subdivision shall be repaid from the Department of Water  
20 Resources Charge Fund to the General Fund at the earliest  
21 possible time.

22 (b) The sum of \_\_\_\_ dollars (\$\_\_\_\_) is hereby appropriated  
23 from the General Fund to the Department of Water Resources for  
24 the 2019–20 fiscal year for the administrative costs incurred by  
25 the Department of Water Resources pursuant to Division 28  
26 (commencing with Section 80500) of the Water Code.

27 SEC. 30. The Legislature finds and declares that Section 6 of  
28 this act, which adds Section 326.1 to the Public Utilities Code,  
29 imposes a limitation on the public's right of access to the meetings  
30 of public bodies or the writings of public officials and agencies  
31 within the meaning of Section 3 of Article I of the California  
32 Constitution. Pursuant to that constitutional provision, the  
33 Legislature makes the following findings to demonstrate the interest  
34 protected by this limitation and the need for protecting that  
35 interest:

36 The need to encourage candid and timely advice by the  
37 California Wildfire Safety Advisory Board to the Wildfire Safety  
38 Division of the Public Utilities Commission to protect the public  
39 health and safety and the environment outweighs the importance  
40 of providing access in the circumstances of those communications



1 *as to which that access is limited by the bill, and the bill provides*  
2 *an alternative requirement, as set forth in subdivision (g) of Section*  
3 *326.1 of the Public Utilities Code, for public access to meetings*  
4 *of the California Wildfire Safety Advisory Board to ensure*  
5 *transparency in the operation of the board.*

6 *SEC. 31. This act is an urgency statute necessary for the*  
7 *immediate preservation of the public peace, health, or safety within*  
8 *the meaning of Article IV of the California Constitution and shall*  
9 *go into immediate effect. The facts constituting the necessity are:*

10 *In order to address wildfire safety and wildfire liability of*  
11 *electrical utilities and ensure that the claims of wildfire victims*  
12 *may be paid expeditiously, it is necessary for this act to take effect*  
13 *immediately.*

14 ~~SECTION 1. Section 307.6 of the Public Utilities Code is~~  
15 ~~amended to read:~~

16 ~~307.6. (a) The commission shall appoint a chief internal~~  
17 ~~auditor, with expertise in accounting, risk management, and~~  
18 ~~information technology, and familiarity with industry best~~  
19 ~~practices, who shall hold office at the pleasure of the commission.~~

20 ~~(b) The chief internal auditor shall be responsible for the~~  
21 ~~oversight of the internal audit unit and shall plan, initiate, and~~  
22 ~~perform audits of key financial, management, operational, and~~  
23 ~~information technology functions within the commission to~~  
24 ~~improve accountability and transparency to executive and state~~  
25 ~~management.~~

26 ~~(c) The chief internal auditor shall report the auditor's findings~~  
27 ~~and recommendations directly to an audit subcommittee of the~~  
28 ~~commission.~~

29 ~~(d) The chief internal auditor shall comply with Part 3.5~~  
30 ~~(commencing with Section 13885) of Division 3 of Title 2 of the~~  
31 ~~Government Code.~~

# EXHIBIT C

AMENDED IN SENATE JULY 5, 2019

AMENDED IN SENATE JUNE 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1054**

---

---

**Introduced by Assembly Members Holden, Burke, and Mayes**  
*(Coauthors: Senators Dodd and Hertzberg)*

February 21, 2019

---

---

An act to add Chapter 16 (commencing with Section 8899.70) to Division 1 of Title 2 of the Government Code, to amend Section 10089.6 of, and to add Section 10089.55 to, the Insurance Code, to amend Sections 311, ~~451.1~~, 850, 850.1, ~~1701~~, 854, 854.2, 1701.1, 1701.3, 1701.4, ~~1702.5~~, 8386, and 8387 of, to amend the heading of Article 5.8 (commencing with Section 850) of Chapter 4 of Part 1 of Division 1 of, to amend and repeal Section ~~1711~~ 451.1 of, to add Sections 326, 326.1, 326.2, 451.3, 1701.8, ~~8386.1~~, ~~8386.2~~, 8386.3, 8386.4, and 8389 to, and to add Part 6 (commencing with Section ~~3279~~) 3280 to Division 1 of, and to repeal Sections 3291 and 3292 of, the Public Utilities Code, and to add Division 28 (commencing with Section 80500) to the Water Code, relating to public utilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1054, as amended, Holden. Public utilities: ~~wildfires~~. *wildfires and employee protection.*

Existing law establishes various programs for the prevention, detection, and mitigation of wildfires. Other existing law establishes the California Earthquake Authority (CEA), administered under the authority of the Insurance Commissioner, to transact insurance in this

~~state as necessary to sell policies of basic residential earthquake insurance.~~

~~This bill would create in state government the California Catastrophe Council to oversee the CEA and the Wildfire Fund Administrator, who this bill would require the council to appoint. The bill would require the council to be composed of the Governor, the Treasurer, the commissioner, and the Secretary of the Natural Resources Agency, or their designees, and a member of the public appointed by the Governor. The President pro Tempore of the Senate and the Speaker of the Assembly or their designees would be ex officio members.~~

The California Constitution establishes the Public Utilities Commission and authorizes the commission to exercise ratemaking and rulemaking authority over all public utilities, as defined, subject to control by the Legislature. The Public Utilities Act authorizes the commission to supervise and regulate every public utility, including electrical corporations, and to do all things that are necessary and convenient in the exercise of such power and jurisdiction. Existing law authorizes the commission to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. Existing law authorizes the commission, in a proceeding on an application by an electrical corporation to recover costs and expenses arising from a catastrophic wildfire occurring on or after January 1, 2019, to allow cost recovery if the costs and expenses are just and reasonable, after consideration of the conduct of the utility, including consideration of specified factors.

~~This bill would require the commission, on or before January 1, 2020, to establish the Wildfire Safety Division within the commission. The bill would require the division to take specified actions related to wildfire safety. The bill would establish the California Wildfire Safety Advisory Board consisting of 7 members appointed by the Governor, Speaker of the Assembly, and President pro Tempore of the Senate, Senate Committee on Rules, as provided, who would serve 4-year staggered terms. The bill would require the board, among other actions, to advise and make recommendations related to wildfire safety to the division. *Wildfire Safety Division or, on and after July 1, 2021, the Office of Energy Infrastructure Safety, as established pursuant to AB 111 or SB 111 of the 2019–20 Regular Session.*~~

*This bill would require the commission and the Office of Energy Infrastructure Safety to enter into a memorandum of understanding with the commission to cooperatively develop consistent approaches*

*and share data related to electric infrastructure safety, and to share results from various safety activities, including relevant inspections and regulatory development.*

This bill would require the commission, when determining an application by an electrical corporation to recover costs and expenses arising from a covered wildfire, as defined, to allow cost recovery if the costs and expenses are determined just and reasonable based on reasonable conduct by the electrical corporation. The bill would require the commission to find that an electrical corporation's conduct was reasonable if that ~~conduct~~ *conduct, related to the ignition*, was consistent with actions that a reasonable utility would have undertaken in good faith under similar circumstances, at the relevant point in time, and based on the information available *to the electrical corporation* at the time, as provided. The bill would provide that an electrical corporation bears the burden to demonstrate, based on a preponderance of the evidence, that its conduct was reasonable, unless it has a valid safety certification for the time period in which the covered wildfire that is the subject of the application ignited. If the electrical corporation has that valid safety certification, the bill would provide that the electrical corporation's conduct would be deemed reasonable unless a party to the proceeding ~~demonstrates, based on a preponderance of the evidence, that the electrical corporation's conduct was not reasonable.~~ *creates a serious doubt as to the reasonableness of the electrical corporation's conduct. Once serious doubt has been raised, the electrical corporation would have the burden of dispelling the doubt and proving the conduct to have been reasonable.* If the commission finds that an electrical corporation has requested recovery of costs for which the commission had previously authorized cost recovery, the bill would authorize the commission to assess a penalty in an amount up to 3 times the penalty authorized by law for certain utility-related violations.

Existing law authorizes an electrical corporation to file an application requesting the commission to issue a financing order to authorize the recovery of costs and expenses related to a catastrophic wildfire through the issuance of bonds by the electrical corporation that are secured by a rate component, as provided.

This bill would ~~additional~~ *additionally* authorize an electrical corporation to file an application requesting the commission to issue a financing order to authorize the recovery of ~~significant and unavoidable costs and expenses incurred before December 31, 2035, in excess of \$1,000,000,000~~ *costs and expenses related to catastrophic wildfires*

under specified conditions through the issuance of bonds by the electrical corporation that are secured by a rate component.

This bill would establish the Wildfire Fund to pay eligible claims arising from a covered wildfire, as provided. The bill would continuously appropriate moneys in the fund to the Wildfire Fund Administrator for that purpose, thereby making an appropriation. The bill would require the commission to initiate a rulemaking proceeding to consider using its existing authority to require ~~each~~ *certain* electrical ~~corporation~~ *corporations* to collect a nonbypassable charge from its ratepayers to support the Wildfire Fund, and would require the commission to direct each electrical corporation to collect that charge if the commission determines that the imposition ~~for~~ *of* the charge is just and reasonable and that it is an appropriate exercise of its authority, as specified. The bill would specify the funding sources for the fund, which include, among other sources, contributions from electrical corporations and revenues generated from the charge.

The Public Utilities Act contains procedural requirements that are applicable to all commission hearings, investigations, and proceedings and provides that the technical rules of evidence are not applicable to those hearings, investigations, and proceedings, which are governed by the rules of practice and procedure adopted by the commission. ~~Existing law requires the commission to determine whether each proceeding is a quasi-legislative proceeding, an adjudication proceeding, or a ratesetting proceeding, and makes that determination subject to a request for rehearing.~~

This bill would require the commission to determine whether a proceeding is a catastrophic wildfire proceeding, defined as a proceeding to determine whether an electrical corporation's costs and expenses relating to a covered wildfire, as defined, are just and reasonable, as specified, and would establish procedures and standards applicable to catastrophic wildfire proceedings, as specified.

~~This bill would repeal the provision subjecting to a rehearing the commission's determination as to the type of proceeding, and would make other revisions to various commission procedures. The bill would authorize the commission, in quasi-legislative, ratesetting, and catastrophic wildfire proceedings that do not include hearings, to receive as evidence, and use as proof of any fact, reports of state and federal agencies, commission staff, and interagency and stakeholder groups, as specified, without requiring a sponsoring witness subject to cross-examination. The bill would require the commission to adopt~~

~~rules that provide for discretionary expedited treatment of proceedings related to emergencies, safety, and enforcement, and would authorize the commission to develop procedures to expedite ratesetting and catastrophic wildfire proceedings that do not require an evidentiary hearing.~~

~~Under existing law, ratesetting cases are cases in which rates are established for a specific company.~~

~~This bill would specify that cases in which a regulated public utility files an application for the approval of specific contracts or projects exceeding \$5,000,000 are also to be treated as ratesetting cases. The bill would make various changes to the rules and procedures governing ratesetting proceedings.~~

Existing law requires each electrical corporation to annually prepare and submit a wildfire mitigation plan to the commission for review and approval. Existing law requires the commission to consider whether the cost of implementing an electrical corporation's plan is just and reasonable in the electrical corporation's general rate case.

~~This bill would instead require each electrical corporation to triennially prepare a comprehensive wildfire mitigation plan and submit the plan to the commission for review and approval. The bill would require each electrical corporation, until the submission of the next comprehensive wildfire mitigation plan, to submit annually an update of the approved plan to the commission for review and approval. *require the plan, in calendar year 2020 and thereafter, to cover at least a 3-year period. The bill would authorize the division to allow the annual submissions to be updates to the plan but would require the submission of a comprehensive wildfire mitigation plan at least once every 3 years.* The bill would authorize the electrical corporation to recover the cost of implementing the plan in its general rate case, or to elect to recover the cost of implementation as accounted in a memorandum account at the conclusion of the time period covered by the plan, subject to a specified limit for a large electrical corporation. The bill would require the chief executive officer of an electrical corporation, in the electrical corporation's general rate case application, to certify that the electrical corporation has not received authorization from the commission to recover those costs in a previous proceeding. The bill would require the *executive director of the* commission to issue a safety certification to an electrical corporation if it meets certain requirements.~~

Existing law requires each local publicly owned electric utility and electrical cooperative to annually *cooperative, by January 1, 2020, and annually thereafter, to prepare a wildfire mitigation plan.*

This bill would ~~require~~ *require, after January 1, 2020, that each local publicly owned electric utility or electrical cooperative to submit the wildfire mitigation plan to the Wildfire Safety Division for review. By placing additional duties upon local public entities, the bill would impose a state-mandated local program. The bill would require the division, in consultation with the board, submit, by July 1 of each year, its plan to the California Wildfire Safety Advisory Board for review and commission. The bill would require the California Wildfire Safety Advisory Board to provide comments and an advisory opinion to the each local publicly owned electric utility or electrical cooperative on regarding the content and sufficiency of its plan and to make recommendations on how to mitigate wildfire risks. The bill would require each local publicly owned electric utility to comprehensively revise its plan at least once every 3 years.*

*Existing law prohibits a person or corporation from merging, acquiring, or controlling, either directly or indirectly, any public utility organized and doing business in this state without first securing authorization to do so from the Public Utilities Commission. Existing law, in the context of a change of control of an electrical corporation or gas corporation, requires a successor employer to retain all covered employees, as defined, for at least 180 days immediately following the effective date of a change of control. Existing law prohibits the successor employer from reducing the total compensation of a covered employee during that period. Existing law prohibits, for 2 years after the 180-day period, a successor employer from reducing the total number of employees who would have been covered employees for succession purposes below the total number of those employees who were protected during that 180-day period, unless approved by the commission. Existing law prohibits the commission from authorizing a successor employer to reduce the number of those employees unless the successor employer makes a specified showing.*

*This bill would add to the definition of “change of control” for purposes of the bill: (1) the sale of all or a material portion of the assets of the electrical corporation or gas corporation, its parent company, or its holding company, or any merger, consolidation, or acquisition of the electrical corporation or gas corporation, its parent company, or its holding company with, by, or into another corporation, entity, or*



*person, (2) the voluntary or involuntary change in ownership in assets of an electrical or gas corporation to ownership by a public entity, or (3) in the case of a combined electrical and gas corporation, the change in ownership of all or a substantial portion of either the gas or electric line of business of the combined corporation. The bill would require the posting of the required notice in a conspicuous place in a manner that is readily viewed by covered employees. The bill would require the successor employer, for 3 years after the 180-days covered employee retention period, to provide to employees who would have qualified as covered employees during the 90-day period immediately before a change of control no less than the wages, hours, and other terms and conditions of employment provided before the change of control, including any previously negotiated increase in wages, and to maintain no less than the total number of employees who would have qualified as covered employees during that 90-day period, except with commission approval based on proof of certain criteria. The bill would prohibit a person or corporation from merging, acquiring, or controlling, including a change in control as revised by this bill, either directly or indirectly, any public utility organized and doing business in this state without first securing authorization from the commission.*

Existing law, until January 1, 2003, authorizes the Department of Water Resources to enter into contracts for the purchase of electric power. Existing law authorizes the department to sell power to retail end use customers and local publicly owned electric utilities under certain circumstances. Existing law authorizes the department to issue revenue bonds and entitles the department to recover, as a revenue requirement, amounts necessary to enable it to finance the bonds and purchase electric power pursuant to these provisions.

This bill would authorize the department to issue revenue bonds, on and after either the date on which the department legally defeases all of its remaining bonds under the provisions described above or the date on which it pays those obligations in full at maturity, whichever is earlier. The bill would entitle the department to recover, as a revenue requirement, amounts necessary to enable it to finance those bonds. The bill would require the bond proceeds and revenues received by the department to be deposited in the Department of Water Resources Charge Fund, which the bill would establish. The bill would continuously appropriate the moneys in the Department of Water Resources Charge Fund to the department for specified purposes, including transfers to the Wildfire Fund and repayment of the bonds.

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

Because certain of the above provisions would be codified in the act and would require action by the commission, a violation of which would be a crime, this bill would impose a state-mandated local program.

~~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 specified reasons:~~

~~*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.*~~

~~The bill would transfer an unspecified amount \$9,000,000 from the General Fund to the Department of Water Resources Charge Fund, thereby making an appropriation, and would additionally appropriate an unspecified amount from the General Fund to the department for the 2019–20 fiscal year for the department’s administrative costs associated with this bill. appropriation.~~

~~Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~This bill would make legislative findings to that effect.~~

~~*This bill would become operative only if Assembly Bill 111 or Senate Bill 111 is enacted during the 2019–20 Regular Session and becomes effective before January 1, 2020.*~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.~~

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 16 (commencing with Section 8899.70)  
2 is added to Division 1 of Title 2 of the Government Code, to read:

3  
4 CHAPTER 16. CALIFORNIA CATASTROPHE COUNCIL  
5

6 8899.70. (a) There is hereby created in state government the  
7 California Catastrophe Council to oversee the California  
8 Earthquake Authority and the Wildfire Fund Administrator.

9 (b) The council shall be composed of the following five  
10 members:

11 (1) The Governor or their designee.

12 (2) The Treasurer or their designee.

13 (3) The Insurance Commissioner or their designee.

14 (4) The Secretary of the Natural Resources Agency or  
15 their designee.

16 (5) A member of the public appointed by the Governor.

17 (c) The President pro Tempore of the Senate and the Speaker  
18 of the Assembly or their respective designees shall be ex officio  
19 members of the council.

20 8899.71. For purposes of conducting the business of the  
21 council, a quorum shall be three members, except that if the three  
22 members in attendance at a meeting are the Governor, the  
23 Treasurer, and the Insurance Commissioner, a fourth member shall  
24 be present to establish a quorum.

25 SEC. 2. Section 10089.6 of the Insurance Code is amended to  
26 read:

27 10089.6. (a) There is hereby created the California Earthquake  
28 Authority, which shall be administered under the authority of the  
29 commissioner and overseen by the California Catastrophe Council.  
30 The authority shall have the powers conferred by this chapter. The  
31 authority shall be authorized to transact insurance in this state as  
32 necessary to sell policies of basic residential earthquake insurance  
33 in the manner set forth in Sections 10089.26, 10089.27, and  
34 10089.28. The authority shall have no authority to transact any  
35 other type of insurance business.

36 (b) (1) The investments of the authority shall be limited to those  
37 securities eligible under Section 16430 of the Government Code.

1     ~~(2) The rights, obligations, and duties owed by the authority to~~  
2 ~~its insureds, beneficiaries of insureds, and applicants for insurance~~  
3 ~~shall be the same as the rights, obligations, and duties owed by~~  
4 ~~insurers to its insureds, beneficiaries of insureds, and applicants~~  
5 ~~for insurance under common law, regulations, and statutes. The~~  
6 ~~authority shall be liable to its insureds, beneficiaries of insureds,~~  
7 ~~and applicants for insurance as an insurer is liable to its insureds,~~  
8 ~~beneficiaries of insureds, and applicants for insurance under~~  
9 ~~common law, regulations, and statutes.~~

10     ~~(e) The operating expenses of the authority shall be capped at~~  
11 ~~not more than 6 percent of the premium income received by the~~  
12 ~~authority. The funds shall be available to pay any advocacy fees~~  
13 ~~awarded in a proceeding under subdivision (c) of Section 10089.11.~~

14     ~~(d) For purposes of this section, the term “operating expenses~~  
15 ~~of the authority” excludes solely the following:~~

16     ~~(1) The costs of and transaction expenses associated with~~  
17 ~~risk-transfer purchases, including the purchase of reinsurance and~~  
18 ~~with capital-market contracts.~~

19     ~~(2) The expense of securing and repaying bonds.~~

20     ~~(3) The cost of repayment of bonds guaranteed, insured, or~~  
21 ~~otherwise backed by any department or agency of the United States~~  
22 ~~or of this state, or by any private entity.~~

23     ~~(4) Payments to third parties for all of the following services~~  
24 ~~provided to the authority:~~

25     ~~(A) Investment.~~

26     ~~(B) Loss-modeling.~~

27     ~~(C) Legal services.~~

28     ~~(5) Costs associated with the authority’s efforts to acquaint the~~  
29 ~~public with and market authority products, promote earthquake~~  
30 ~~preparedness, and earthquake-loss mitigation under the authority’s~~  
31 ~~duly adopted strategic plan.~~

32     ~~(6) Producer compensation.~~

33     ~~(7) Participating insurer fees and reimbursement amounts arising~~  
34 ~~under written contracts.~~

35     ~~(8) Amounts paid by the authority to support research in seismic~~  
36 ~~science and seismic engineering.~~

37     ~~(9) Loans, grants, and expenses to support and maintain the~~  
38 ~~authority’s earthquake loss-mitigation goals and programs, whether~~  
39 ~~conducted by the authority alone or in collaboration with or by~~  
40 ~~other persons.~~

1 ~~(10) The costs of and loss-adjustment expenses associated with~~  
2 ~~adjusting and paying policyholder claims for earthquake losses~~  
3 ~~that are incurred by the authority under its earthquake insurance~~  
4 ~~policies, including all costs and expenses associated with~~  
5 ~~claim-related litigation, provided that all of those costs and~~  
6 ~~expenses shall be reported to the Legislature in the manner required~~  
7 ~~by subdivision (c) of Section 10089.13.~~

8 SEC. 3. ~~Section 10089.55 is added to the Insurance Code, to~~  
9 ~~read:~~

10 ~~10089.55. The board shall conduct the affairs of the authority~~  
11 ~~with respect to transacting earthquake insurance, including~~  
12 ~~administering the California Earthquake Authority Fund. The board~~  
13 ~~has no authority to administer the Wildfire Fund. At every meeting~~  
14 ~~of the board, the board shall post an agenda that clearly identifies~~  
15 ~~the meeting as relating to the business of earthquake insurance.~~

16 SECTION 1. *(a) The Legislature finds and declares the*  
17 *following:*

18 *(1) The increased risk of catastrophic wildfires poses an*  
19 *immediate threat to communities and properties throughout the*  
20 *state.*

21 *(2) With increased risk of catastrophic wildfires, the electrical*  
22 *corporations' exposure to financial liability resulting from wildfires*  
23 *that were caused by utility equipment has created increased costs*  
24 *to ratepayers.*

25 *(3) The creation of a wildfire insurance fund will reduce the*  
26 *costs to ratepayers in addressing utility-caused catastrophic*  
27 *wildfires.*

28 *(4) Electrical corporation need capital to fund ongoing*  
29 *operations and make new investments to promote safety, reliability,*  
30 *and California's clean energy mandates and ratepayers benefit*  
31 *from low utility capital costs in the form of reduced rates.*

32 *(5) The establishment of a wildfire fund supports the credit*  
33 *worthiness of electrical corporations, and provides a mechanism*  
34 *to attract capital for investment in safe, clean, and reliable power*  
35 *for California at a reasonable cost to ratepayers.*

36 *(b) It is the intent of the Legislature to provide a mechanism*  
37 *that allows electrical corporations that are safe actors to guard*  
38 *against impairment of their ability to provide safe and reliable*  
39 *service because of the financial effects of wildfires in their service*  
40 *territories using mechanisms that are more cost effective than*

1 *traditional insurance, to the direct benefit of ratepayers and*  
2 *prudent electrical corporations.*

3 *SEC. 2. The Legislature further finds and declares the*  
4 *following:*

5 *(a) The state has dramatically increased investment in wildfire*  
6 *prevention and response, which must be matched by increased*  
7 *efforts of the electrical corporations.*

8 *(b) The state's electrical corporations must invest in hardening*  
9 *of the state's electrical infrastructure and vegetation management*  
10 *to reduce the risk of catastrophic wildfire.*

11 *(c) The state has a substantial interest that its electrical*  
12 *corporations are operating in a safe and reliable manner and have*  
13 *access to capital at reasonable cost to make safety investments.*

14 *(d) A major electrical corporation operating within the state is*  
15 *on criminal probation, has engaged in a series of safety violations,*  
16 *filed to timely pay wildfire victims, and voluntarily filed for*  
17 *bankruptcy pursuant to Chapter 11 (commencing with Section*  
18 *1101) of Title 11 of the United States Code.*

19 *(e) The creation of a new Wildfire Safety Division will ensure*  
20 *safe operations by electrical corporations and the establishment*  
21 *of a Wildfire Safety Advisory Board will ensure that broad expertise*  
22 *is available to develop best practices for wildfire reduction.*

23 *(f) A safety certification encourages electrical corporations to*  
24 *invest in safety and improve safety culture to limit wildfire risks*  
25 *and reduce costs.*

26 *(g) The first \$5 billion in safety investments in the aggregate*  
27 *by the large electrical corporations must be made under this act*  
28 *without return on equity that would have otherwise been borne by*  
29 *ratepayers.*

30 ~~SEC. 4.~~

31 *SEC. 3. Section 311 of the Public Utilities Code is amended*  
32 *to read:*

33 311. (a) The commission, each commissioner, the executive  
34 director, and the assistant executive directors may administer oaths,  
35 certify to all official acts, and issue subpoenas for the attendance  
36 of witnesses and the production of papers, waybills, books,  
37 accounts, documents, and testimony in any inquiry, investigation,  
38 hearing, or proceeding in any part of the state.

1 (b) The administrative law judges may administer oaths,  
2 examine witnesses, issue subpoenas, and receive evidence, under  
3 rules that the commission adopts.

4 (c) The evidence in any hearing shall be taken by the  
5 commissioner or the administrative law judge designated for that  
6 purpose. The commissioner or the administrative law judge may  
7 receive and exclude evidence offered in the hearing in accordance  
8 with the rules of practice and procedure of the commission.

9 (d) Consistent with the procedures contained in Sections 1701.1,  
10 1701.2, 1701.3, 1701.4, and 1701.8, the assigned commissioner  
11 or the administrative law judge shall prepare and file an opinion  
12 setting forth recommendations, findings, and conclusions. The  
13 opinion of the assigned commissioner or the administrative law  
14 judge is the proposed decision and a part of the public record in  
15 the proceeding. The proposed decision of the assigned  
16 commissioner or the administrative law judge shall be filed with  
17 the commission and served upon all parties to the action or  
18 proceeding without undue delay, not later than 90 days after the  
19 matter has been submitted for decision. The commission shall issue  
20 its decision not sooner than 30 days following filing and service  
21 of the proposed decision by the assigned commissioner or the  
22 administrative law judge, except that the 30-day period may be  
23 reduced or waived by the commission in an unforeseen emergency  
24 situation or upon the stipulation of all parties to the proceeding or  
25 as otherwise provided by law. The commission may, in issuing its  
26 decision, adopt, modify, or set aside the proposed decision or any  
27 part of the decision. Where the modification is of a decision in an  
28 adjudicatory hearing it shall be based upon the evidence in the  
29 record. Every finding, opinion, and order made in the proposed  
30 decision and approved or confirmed by the commission shall, upon  
31 that approval or confirmation, be the finding, opinion, and order  
32 of the commission.

33 (e) Any item appearing on the commission's public agenda as  
34 an alternate item to a proposed decision or to a decision subject to  
35 subdivision (g) shall be served upon all parties to the proceeding  
36 without undue delay and shall be subject to public review and  
37 comment before it may be voted upon. For purposes of this  
38 subdivision, "alternate" means either a substantive revision to a  
39 proposed decision that materially changes the resolution of a  
40 contested issue or any substantive addition to the findings of fact,

1 conclusions of law, or ordering paragraphs. The commission shall  
2 adopt rules that provide for the time and manner of review and  
3 comment and the rescheduling of the item on a subsequent public  
4 agenda, except that the item may not be rescheduled for  
5 consideration sooner than 30 days following service of the  
6 alternative item upon all parties. The alternate item shall be  
7 accompanied by a digest that clearly explains the substantive  
8 revisions to the proposed decision. The commission's rules may  
9 provide that the time and manner of review and comment on an  
10 alternate item may be reduced or waived by the commission in an  
11 unforeseen emergency situation.

12 (f) The commission may specify that the administrative law  
13 judge assigned to a proceeding involving an electrical, gas,  
14 telephone, railroad, or water corporation, or a highway carrier,  
15 initiated by customer or subscriber complaint need not prepare,  
16 file, and serve an opinion, unless the commission finds that to do  
17 so is required in the public interest in a particular case.

18 (g) (1) Before voting on any commission decision not subject  
19 to subdivision (d), the decision shall be served on parties and  
20 subject to at least 30 days public review and comment. Any  
21 alternate to any commission decision shall be subject to the same  
22 requirements as provided for alternate decisions under subdivision  
23 (e). For purposes of this subdivision, "decision" also includes  
24 resolutions, including resolutions on advice letter filings.

25 (2) The 30-day period may be reduced or waived in an  
26 unforeseen emergency situation, upon the stipulation of all parties  
27 in the proceeding, for an uncontested matter in which the decision  
28 grants the relief requested, or for an order seeking temporary  
29 injunctive relief, ~~or~~ *or, in the case of a catastrophic wildfire*  
30 *proceeding*, may be reduced to no less than 15 days at the  
31 discretion of the assigned commissioner.

32 (3) This subdivision does not apply to uncontested matters that  
33 pertain solely to water corporations, or to orders instituting  
34 investigations or rulemakings, categorization resolutions under  
35 Sections 1701.1 to 1701.4, inclusive, and Section 1701.8, or orders  
36 authorized by law to be considered in executive session. Consistent  
37 with regulatory efficiency and the need for adequate prior notice  
38 and comment on commission decisions, the commission may adopt  
39 rules, after notice and comment, establishing additional categories



1 of decisions subject to waiver or reduction of the time period in  
2 this section.

3 (h) Notwithstanding any other provision of law, amendments,  
4 revisions, or modifications by the commission of its Rules of  
5 Practice and Procedure shall be submitted to the Office of  
6 Administrative Law for prior review in accordance with Sections  
7 11349, 11349.3, 11349.4, 11349.5, 11349.6, and 11350.3 of, and  
8 subdivisions (a) and (b) of Section 11349.1 of, the Government  
9 Code. If the commission adopts an emergency revision to its Rules  
10 of Practice and Procedure based upon a finding that the revision  
11 is necessary for the preservation of the public peace, health and  
12 safety, or general welfare, this emergency revision shall only be  
13 reviewed by the Office of Administrative Law in accordance with  
14 subdivisions (b) to (d), inclusive, of Section 11349.6 of the  
15 Government Code. The emergency revision shall become effective  
16 upon filing with the Secretary of State and shall remain in effect  
17 for no more than 120 days. A petition for writ of review pursuant  
18 to Section 1756 of a commission decision amending, revising, or  
19 modifying its Rules of Practice and Procedure shall not be filed  
20 until the regulation has been approved by the Office of  
21 Administrative Law, the Governor, or a court pursuant to Section  
22 11350.3 of the Government Code. If the period for filing the  
23 petition for writ of review would otherwise have already  
24 commenced under Section 1733 or 1756 at the time of that  
25 approval, then the period for filing the petition for writ of review  
26 shall continue until 30 days after the date of that approval. Nothing  
27 in this subdivision shall require the commission to comply with  
28 Article 5 (commencing with Section 11346) of Chapter 3.5 of Part  
29 1 of Division 3 of Title 2 of the Government Code. This  
30 subdivision is only intended to provide for the Office of  
31 Administrative Law review of procedural commission decisions  
32 relating to commission Rules of Practice and Procedure, and not  
33 general orders, resolutions, or other substantive regulations.

34 (i) The commission shall immediately notify the Legislature  
35 whenever the commission reduces or waives the time period for  
36 public review and comment due to an unforeseen emergency  
37 situation, as provided in subdivision (d), (e), or (g).

38 ~~SEC. 5.—Section 326 is added to the Public Utilities Code, to~~  
39 ~~read:~~

1 326. ~~By January 1, 2020, the commission shall establish the~~  
2 ~~Wildfire Safety Division within the commission. The division shall~~  
3 ~~do all of the following:~~

4 ~~(a) Oversee and enforce electrical corporations' compliance~~  
5 ~~with wildfire safety pursuant to Chapter 6 (commencing with~~  
6 ~~Section 8385) of Division 4.1.~~

7 ~~(b) In consultation with the California Wildfire Safety Advisory~~  
8 ~~Board, develop and recommend to the commission performance~~  
9 ~~metrics to evaluate an electrical corporation's compliance with its~~  
10 ~~approved wildfire mitigation plan.~~

11 ~~(c) Consult with the Office of Emergency Services in the office's~~  
12 ~~management and response to utility public safety power shutoff~~  
13 ~~events and utility actions for compliance with public safety power~~  
14 ~~shutoff program rules and regulations.~~

15 ~~(d) Support efforts to assess and analyze fire weather data and~~  
16 ~~other atmospheric conditions that could lead to catastrophic~~  
17 ~~wildfires and to reduce the likelihood and severity of wildfire~~  
18 ~~incidents that could endanger the safety of persons, properties, and~~  
19 ~~the environment within the state.~~

20 ~~(e) Retain appropriate staff that includes experts in wildfire,~~  
21 ~~weather, climate change, emergency response, and other relevant~~  
22 ~~subject matters.~~

23 ~~(f) Review, as necessary, in coordination with the California~~  
24 ~~Wildfire Safety Advisory Board and necessary commission staff,~~  
25 ~~safety requirements for infrastructure operated by telephone~~  
26 ~~corporations, water corporations, local publicly owned water~~  
27 ~~utilities, and water districts, and provide recommendations to the~~  
28 ~~commission to address the dynamic risk of climate change and to~~  
29 ~~mitigate wildfire risk.~~

30 ~~SEC. 6.~~

31 *SEC. 4.* Section 326.1 is added to the Public Utilities Code, to  
32 read:

33 326.1. (a) There is hereby established the California Wildfire  
34 Safety Advisory Board. The board shall advise the Wildfire Safety  
35 Division established pursuant to Section 326.

36 (b) The board shall consist of seven members. Five members  
37 shall be appointed by the Governor, one member shall be appointed  
38 by the Speaker of the Assembly, and one member shall be  
39 appointed by the ~~President pro Tempore of the Senate.~~ *Senate*  
40 *Committee on Rules.* The members of the board shall serve

1 four-year staggered terms. The initial members of the board shall  
2 be appointed by January 1, 2020. The Governor shall designate  
3 three of the initial members who shall serve two-year terms.  
4 Members of the board shall be selected from industry experts,  
5 academics, and persons with labor and workforce safety experience  
6 or other relevant ~~qualifications~~. *qualifications and shall represent*  
7 *a cross-section of relevant expertise including, at all times, at least*  
8 *three members experienced in the safe operation, design, and*  
9 *engineering of electrical infrastructure.*

10 (c) The board shall meet no less often than quarterly and  
11 alternate meeting locations between northern, central, and southern  
12 California, when feasible.

13 (d) Members of the board who are not salaried state service  
14 employees shall be eligible for reasonable compensation, not to  
15 exceed a per diem four hundred dollars (\$400), for attendance at  
16 board meetings.

17 (e) All reasonable costs incurred by the board, including staffing,  
18 travel at state travel reimbursement rates, and administrative costs,  
19 shall be reimbursed through the public utilities reimbursement  
20 account and shall be part of the budget of the commission. The  
21 commission shall consult with the board in the preparation of this  
22 portion of the commission's proposed annual budget.

23 ~~(f) The board is exempt from the requirements of the~~  
24 ~~Bagley-Keene Open Meeting Act (Chapter 9 (commencing with~~  
25 ~~Section 54950) of Part 1 of Division 2 of Title 5 of the Government~~  
26 ~~Code).~~

27 ~~(g) (1) Notwithstanding subdivision (f), a congregation or~~  
28 ~~meeting of a majority of the board members at the same time and~~  
29 ~~place to hear or discuss an issue within its jurisdiction shall be~~  
30 ~~open to the public and a period of 20 minutes shall be set aside at~~  
31 ~~the congregation or meeting to receive public comment.~~

32 ~~(2) Paragraph (1) does not apply to a congregation or meeting~~  
33 ~~that satisfies the requirements of Section 11126 of the Government~~  
34 ~~Code for closed meetings.~~

35 ~~(h)~~

36 ~~(f) (1) Communications~~ *The commission or board may assert*  
37 *the deliberative process privilege for a communication between*  
38 *the board and the commission* ~~are privileged that satisfies the~~  
39 *criteria for privilege as a deliberative process communication.*

1 (2) Communications by the board, its staff, and individual  
 2 members of the board are not subject to the commission’s ex parte  
 3 rules set forth in Article 1 (commencing with Section 1701) of  
 4 Chapter 9 of Part 1.

5 ~~SEC. 7.~~

6 *SEC. 5.* Section 326.2 is added to the Public Utilities Code, to  
 7 read:

8 326.2. The ~~board~~ *California Wildfire Safety Advisory Board*  
 9 shall do all of the following:

10 (a) Develop and make recommendations to the Wildfire Safety  
 11 Division related to wildfire safety and mitigation performance  
 12 metrics.

13 (b) Develop and make recommendations related to the contents  
 14 of wildfire mitigation plans pursuant to Chapter 6 (commencing  
 15 with Section 8385) of Division 4.1.

16 (c) *Review and provide comments and advisory opinions to each*  
 17 *local publicly owned electric utility and electrical cooperative*  
 18 *regarding the content and sufficiency of its wildfire mitigation*  
 19 *plan and recommendations on how to mitigate wildfire risk.*

20 (e)

21 (d) Provide other advice and recommendations related to wildfire  
 22 safety as requested by the Wildfire Safety Division.

23 ~~SEC. 8.~~

24 *SEC. 6.* Section 451.1 of the Public Utilities Code is amended  
 25 to read:

26 451.1. (a) For purposes of this section, the following terms  
 27 have the following meanings:

28 (1) ~~“Covered wildfire” means any wildfire ignited on or after~~  
 29 ~~the effective date of Part 6 (commencing with Section 3279), that~~  
 30 ~~the Department of Forestry and Fire Protection has determined~~  
 31 ~~was caused by the electrical corporation.~~ *has the same meaning*  
 32 *as defined in Section 1701.8.*

33 (2) ~~“Wildfire fund” Fund~~” means the Wildfire Fund created  
 34 pursuant to Section 3284.

35 (b) When determining an application by an electrical  
 36 corporation to recover costs and expenses arising from a covered  
 37 wildfire, the commission shall allow cost recovery if the costs and  
 38 expenses are just and reasonable. Costs and expenses arising from  
 39 a covered wildfire are just and reasonable if the conduct of the  
 40 electrical corporation *related to the ignition* was consistent with

1 actions that a reasonable utility would have undertaken in good  
2 faith under similar circumstances, at the relevant point in time,  
3 and based on the information available ~~at that~~ *to the electrical*  
4 *corporation at the relevant point of time*. Reasonable conduct is  
5 not limited to the optimum practice, method, or act to the exclusion  
6 of others, but rather encompasses a spectrum of possible practices,  
7 methods, or acts consistent with utility system needs, the interest  
8 of the ratepayers, and the requirements of governmental agencies  
9 of competent jurisdiction. Costs and expenses in the application  
10 may be allocated for cost recovery in full or in part taking into  
11 account factors *both within and beyond the utility's control* that  
12 may have exacerbated the costs and ~~expenses~~. *expenses, including*  
13 *humidity, temperature, and winds*.

14 (c) An electrical corporation bears the burden to demonstrate,  
15 based on a preponderance of the evidence, that its conduct was  
16 reasonable pursuant to subdivision (b) unless it has a valid safety  
17 certification pursuant to Section 8389 for the time period in which  
18 the covered wildfire that is the subject of the application ignited.  
19 If the electrical corporation has received a valid safety certification  
20 for the time period in which the covered wildfire ignited, an  
21 electrical corporation's conduct shall be deemed to have been  
22 reasonable pursuant to subdivision (b) unless a party to the  
23 proceeding ~~demonstrates, based on a preponderance of the~~  
24 ~~evidence, that the electrical corporation's conduct was not~~ *creates*  
25 *a serious doubt as to the reasonableness of the electrical*  
26 *corporation's conduct. Once serious doubt has been raised, the*  
27 *electrical corporation has the burden of dispelling that doubt and*  
28 *proving the conduct to have been reasonable*.

29 (d) If an electrical corporation has drawn amounts from the  
30 Wildfire Fund for eligible claims for a covered wildfire, then the  
31 electrical corporation shall file an application to recover costs and  
32 expenses pursuant to Section 1701.8 after it has paid substantially  
33 all third-party liability claims arising from the covered wildfire.

34 (e) Notwithstanding Section 451, this section shall direct the  
35 commission's evaluation of applications for recovery of costs and  
36 expenses arising from a covered wildfire. This section shall not  
37 apply to any other applications for cost recovery.

38 (f) This section shall not affect any civil action, appeal, or other  
39 action or proceeding.

1 (g) This section shall become inoperative if Section 3292  
2 becomes inoperative pursuant to subdivision (k) of that section  
3 and this section shall be repealed on the first January 1 more than  
4 three months after this section becomes inoperative. The  
5 commission shall notify the Secretary of State as to whether this  
6 section becomes inoperative and is repealed.

7 ~~SEC. 9.~~

8 SEC. 7. Section 451.3 is added to the Public Utilities Code, to  
9 read:

10 451.3. If the commission finds that an electrical corporation is  
11 requesting recovery of costs that were previously authorized by  
12 the commission for cost recovery by the electrical corporation, the  
13 commission may fine the electrical corporation an amount up to  
14 three times the amount of the penalty provided in Section 2107  
15 for each violation.

16 ~~SEC. 10.~~

17 SEC. 8. The heading of Article 5.8 (commencing with Section  
18 850) of Chapter 4 of Part 1 of Division 1 of the Public Utilities  
19 Code is amended to read:

20

21 Article 5.8. Catastrophic Wildfire and Ratepayer Protection  
22 Financing

23

24 ~~SEC. 11.~~

25 SEC. 9. Section 850 of the Public Utilities Code is amended  
26 to read:

27 850. (a) This article applies in either of the following  
28 circumstances:

29 (1) If an electrical corporation applies to the commission for  
30 recovery of costs and expenses related to a catastrophic wildfire  
31 and the commission finds some or all of the costs and expenses to  
32 be reasonable pursuant to Section 451.1, or for the amount of costs  
33 and expenses determined pursuant to subdivision (c) of Section  
34 451.2, then the electrical corporation may file an application  
35 requesting the commission to issue a financing order to authorize  
36 these costs and expenses to be recovered through fixed recovery  
37 charges pursuant to this article.

38 (2) If an electrical corporation submits an application for ~~cost~~  
39 recovery of costs and expenses related to catastrophic wildfires,  
40 including fire risk mitigation capital expenditures identified in

1 *subdivision (e) of Section 8386.3, in a proceeding to recover costs*  
2 *and expenses in rates, rates and the commission may, after finding*  
3 *finds that some or all of the costs and expenses identified in the*  
4 *electrical corporation's application are appropriate costs, and that*  
5 *recovery of those appropriate costs is just and reasonable pursuant*  
6 *to Section 451, the electrical corporation may file an application*  
7 *requesting the commission to issue a financing order to authorize*  
8 *the recovery of those just and reasonable appropriate costs and*  
9 *expenses by means of a financing order, with those costs and*  
10 *expenses being recovered through a fixed charge pursuant to this*  
11 *article. The paragraph does not apply for costs and expenses*  
12 *incurred by the electrical corporation after December 31, 2035.*

13 (b) For the purposes of this article, the following terms shall  
14 have the following meanings:

15 (1) "Ancillary agreement" means a bond insurance policy, letter  
16 of credit, reserve account, surety bond, swap arrangement, hedging  
17 arrangement, liquidity or credit support arrangement, or other  
18 similar agreement or arrangement entered into in connection with  
19 the issuance of recovery bonds that is designed to promote the  
20 credit quality and marketability of the bonds or to mitigate the risk  
21 of an increase in interest rates.

22 (2) "Appropriate costs" means significant and unavoidable costs  
23 and expenses in excess of one billion dollars (\$1,000,000,000)  
24 identified in an application for cost recovery in a commission rate  
25 proceeding other than a general rate case, excepting the portion of  
26 a general rate case addressing the recovery of costs to implement  
27 a wildfire mitigation plan submitted pursuant to Section 8386.  
28 Those costs shall be demonstrated in the cost recovery application  
29 to be appropriate for recovery in a fixed recovery charge on  
30 grounds, including, but not limited to, the following:

31 (A) The rates resulting from the adoption of a fixed recovery  
32 charge will be lower than the rates resulting from the application  
33 of traditional rate recovery mechanisms over the life of any  
34 proposed recovery bonds.

35 (B) The costs are not incurred in the normal course of business.

36 (C) The costs are not typically incurred in the course of utility  
37 maintenance and operations.

38 (D) The electrical corporation's overall rate structure will not  
39 be harmed by including the fixed recovery charges in its rates in

1 the amount that likely would result from any proposed recovery  
2 bonds.

3 ~~(E) The electrical corporation's cost of capital will be~~  
4 ~~appropriately adjusted to reflect the lower cost of finance via a~~  
5 ~~recovery bond.~~

6 ~~(F) Those costs could not have been foreseen and accounted for~~  
7 ~~by ordinary forecasting and cost recovery methods.~~

8 ~~(G) The electrical corporation has taken all reasonable steps to~~  
9 ~~guard against the recurrence of any similar cost.~~

10 ~~(H) The electrical corporation has not submitted a cost recovery~~  
11 ~~application pursuant to this paragraph in the preceding 18 months.~~

12 ~~(3)~~

13 (2) "Catastrophic wildfire amounts" means the portion of costs  
14 and expenses the commission finds to be just and reasonable  
15 pursuant to Section 451.1 or the amount determined pursuant to  
16 subdivision (c) of Section 451.2.

17 ~~(4)~~

18 (3) "Consumer" means any individual, governmental body,  
19 trust, business entity, or nonprofit organization that consumes  
20 electricity that has been transmitted or distributed by means of  
21 electric transmission or distribution facilities, whether those electric  
22 transmission or distribution facilities are owned by the consumer,  
23 the electrical corporation, or any other party.

24 ~~(5)~~

25 (4) "Financing costs" means the costs to issue, service, repay,  
26 or refinance recovery bonds, whether incurred or paid upon  
27 issuance of the recovery bonds or over the life of the recovery  
28 bonds, if they are approved for recovery by the commission in a  
29 financing order. "Financing costs" may include any of the  
30 following:

31 (A) Principal, interest, and redemption premiums that are  
32 payable on recovery bonds.

33 (B) A payment required under an ancillary agreement.

34 (C) An amount required to fund or replenish reserve accounts  
35 or other accounts established under an indenture, ancillary  
36 agreement, or other financing document relating to the recovery  
37 bonds.

38 (D) Taxes, franchise fees, or license fees imposed on fixed  
39 recovery charges.



1 (E) Costs related to issuing and servicing recovery bonds or the  
2 application for a financing order, including, without limitation,  
3 servicing fees and expenses, trustee fees and expenses, legal fees  
4 and expenses, accounting fees, administrative fees, underwriting  
5 and placement fees, financial advisory fees, original issue discount,  
6 capitalized interest, rating agency fees, and any other related costs  
7 that are approved for recovery in the financing order.

8 (F) Other costs as specifically authorized by a financing order.

9 ~~(6)~~

10 (5) “Financing entity” means the electrical corporation or any  
11 subsidiary or affiliate of the electrical corporation that is authorized  
12 by the commission to issue recovery bonds or acquire recovery  
13 property, or both.

14 ~~(7)~~

15 (6) “Financing order” means an order of the commission adopted  
16 in accordance with this article, which shall include, without  
17 limitation, a procedure to require the expeditious approval by the  
18 commission of periodic adjustments to fixed recovery charges and  
19 to any associated fixed recovery tax amounts included in that  
20 financing order to ensure recovery of all recovery costs and the  
21 costs associated with the proposed recovery, financing, or  
22 refinancing thereof, including the costs of servicing and retiring  
23 the recovery bonds contemplated by the financing order.

24 ~~(8)~~

25 (7) “Fixed recovery charges” means those nonbypassable rates  
26 and other charges, including, but not limited to, distribution,  
27 connection, disconnection, and termination rates and charges, that  
28 are authorized by the commission in a financing order to recover  
29 both of the following:

30 (A) Recovery costs specified in the financing order.

31 (B) The costs of recovering, financing, or refinancing those  
32 recovery costs through a plan approved by the commission in the  
33 financing order, including the costs of servicing and retiring  
34 recovery bonds.

35 ~~(9)~~

36 (8) “Fixed recovery tax amounts” means those nonbypassable  
37 rates and other charges, including, but not limited to, distribution,  
38 connection, disconnection, and termination rates and charges, that  
39 are needed to recover federal and State of California income and  
40 franchise taxes associated with fixed recovery charges authorized

1 by the commission in a financing order, but are not approved as  
2 financing costs financed from proceeds of recovery bonds.

3 ~~(10)~~

4 (9) “Recovery bonds” means bonds, notes, certificates of  
5 participation or beneficial interest, or other evidences of  
6 indebtedness or ownership, issued pursuant to an executed  
7 indenture or other agreement of a financing entity, the proceeds  
8 of which are used, directly or indirectly, to recover, finance, or  
9 refinance recovery costs, and that are directly or indirectly secured  
10 by, or payable from, recovery property.

11 ~~(11)~~

12 (10) “Recovery costs” means any of the following:

13 (A) The catastrophic wildfire amounts or ~~appropriate~~ costs  
14 *pursuant to paragraph (2) of subdivision (a)* authorized by the  
15 commission in a financing order for recovery.

16 (B) Federal and State of California income and franchise taxes  
17 associated with recovery of the amounts pursuant to subparagraph

18 (A).

19 (C) Financing costs.

20 (D) Professional fees, consultant fees, redemption premiums,  
21 tender premiums and other costs incurred by the electrical  
22 corporation in using proceeds of recovery bonds to acquire  
23 outstanding securities of the electrical corporation, as authorized  
24 by the commission in a financing order.

25 ~~(12)~~

26 (11) (A) “Recovery property” means the property right created  
27 pursuant to this article, including, without limitation, the right,  
28 title, and interest of the electrical corporation or its transferee:

29 (i) In and to the fixed recovery charges established pursuant to  
30 a financing order, including all rights to obtain adjustments to the  
31 fixed recovery charges in accordance with Section 850.1 and the  
32 financing order.

33 (ii) To be paid the amount that is determined in a financing  
34 order to be the amount that the electrical corporation or its  
35 transferee is lawfully entitled to receive pursuant to the provisions  
36 of this article and the proceeds thereof, and in and to all revenues,  
37 collections, claims, payments, moneys, or proceeds of or arising  
38 from the fixed recovery charges that are the subject of a financing  
39 order.

1 (B) “Recovery property” shall not include a right to be paid  
2 fixed recovery tax amounts.

3 (C) “Recovery property” shall constitute a current property  
4 right, notwithstanding the fact that the value of the property right  
5 will depend on consumers using electricity or, in those instances  
6 where consumers are customers of the electrical corporation, the  
7 electrical corporation performing certain services.

8 ~~(13)~~

9 (12) “Service territory” means the geographical area that the  
10 electrical corporation provides with electric distribution service.

11 ~~(14)~~

12 (13) “True-up adjustment” means ~~an~~ *a formulaic* adjustment to  
13 the fixed recovery charges as they appear on customer bills that  
14 is necessary to correct for any overcollection or undercollection  
15 of the fixed recovery charges authorized by a financing order and  
16 to otherwise ensure the timely and complete payment and recovery  
17 of recovery costs over the authorized repayment term.

18 ~~SEC. 12.~~

19 *SEC. 10.* Section 850.1 of the Public Utilities Code is amended  
20 to read:

21 ~~850.1. (a) (1) This section applies only in either of the~~  
22 ~~following:~~

23 ~~(A)~~

24 ~~850.1. (a) If an electrical corporation files for recovery of the~~  
25 ~~amount of costs and expenses pursuant to Section 451.1 or~~  
26 ~~subdivision (c) of Section 451.2 recovery costs and the commission~~  
27 ~~finds some or all of those costs and expenses to be just and~~  
28 ~~reasonable pursuant to Section 451.1 451 or 451.1, as applicable,~~  
29 ~~or the commission allocates to the ratepayers some or all of those~~  
30 ~~costs and expenses pursuant to subdivision (c) of Section 451.2.~~

31 ~~(B) If an electrical corporation files for recovery of the amount~~  
32 ~~or appropriate costs pursuant to paragraph (2) of subdivision (a)~~  
33 ~~of Section 850.~~

34 ~~(2) The 451.2, the commission may issue a financing order to~~  
35 ~~allow recovery through fixed recovery charges, which would~~  
36 ~~therefore constitute recovery property under this article, and order~~  
37 ~~that any portion of the electrical corporation’s federal and State~~  
38 ~~of California income and franchise taxes associated with those~~  
39 ~~fixed recovery charges and not financed from proceeds of recovery~~  
40 ~~bonds may be recovered through fixed recovery tax amounts.~~

1 (3) (A) Following application by an electrical corporation, the  
2 commission shall issue a financing order if the commission  
3 determines that the following conditions are satisfied:

4 (i) The recovery cost to be reimbursed from the recovery bonds  
5 have been found to be just and reasonable pursuant to Section  
6 ~~451.1~~ 451 or 451.1, as applicable, or are allocated to the ratepayers  
7 pursuant to subdivision (c) of Section 451.2.

8 (ii) The issuance of the recovery bonds, including all material  
9 terms and conditions of the recovery bonds, including, without  
10 limitation, interest rates, rating, amortization redemption, and  
11 maturity, and the imposition and collection of fixed recovery  
12 charges as set forth in an application satisfy all of the following  
13 conditions, as applicable:

14 (I) They are just and reasonable.

15 (II) They are consistent with the public interest.

16 (III) The recovery of recovery costs ~~for catastrophic wildfire~~  
17 ~~amounts~~ through the designation of the fixed recovery charges and  
18 any associated fixed recovery tax amounts, and the issuance of  
19 recovery bonds in connection with the fixed recovery charges,  
20 would reduce, to the maximum extent possible, the rates on a  
21 present value basis that consumers within the electrical  
22 corporation's service territory would pay as compared to the use  
23 of traditional utility financing mechanisms, which shall be  
24 calculated using the electrical corporation's corporate debt and  
25 equity in the ratio approved by the commission at the time of the  
26 financing order.

27 ~~(IV) The recovery of recovery costs for appropriate costs~~  
28 ~~through the designation of the fixed recovery charges and any~~  
29 ~~associated fixed recovery tax amounts, and the issuance of recovery~~  
30 ~~bonds in connection with the fixed recovery charges, would meet~~  
31 ~~the requirements set forth in subparagraphs (A) to (H), inclusive,~~  
32 ~~of paragraph (2) of subdivision (b) of Section 850.~~

33 (B) The electrical corporation may request the determination  
34 specified in subparagraph (A) by the commission in a separate  
35 proceeding or in an existing proceeding or both. If the commission  
36 makes the determination specified in subparagraph (A), the  
37 commission shall establish, as part of the financing order, a  
38 procedure for the electrical corporation to submit applications from  
39 time to time to request the issuance of additional financing orders  
40 designating fixed recovery charges and any associated fixed

1 recovery tax amounts as recoverable. The electrical corporation  
2 may submit an application with respect to recovery costs that an  
3 electrical corporation (i) has paid, (ii) has an existing legal  
4 obligation to pay, or (iii) would be obligated to pay pursuant to an  
5 executed settlement agreement. The commission shall, within 180  
6 days of the filing of that application, issue a financing order, which  
7 may take the form of a resolution, if the commission determines  
8 that the amounts identified in the application are recovery costs.

9 (4) Fixed recovery charges and any associated fixed recovery  
10 tax amounts shall be imposed only on existing and future  
11 consumers in the service territory. Consumers within the service  
12 territory shall continue to pay fixed recovery charges and any  
13 associated fixed recovery tax amounts until the recovery bonds  
14 and associated financing costs are paid in full by the financing  
15 entity.

16 (5) An electrical corporation may exercise the same rights and  
17 remedies under its tariff and applicable law and regulation based  
18 upon a customer's nonpayment of fixed recovery charges and any  
19 associated fixed recovery tax as it could for a customer's failure  
20 to pay any other charge payable to that electrical corporation.

21 (b) The commission may establish in a financing order an  
22 effective mechanism that ensures recovery of recovery costs  
23 through nonbypassable fixed recovery charges and any associated  
24 fixed recovery tax amounts from existing and future consumers  
25 in the service territory, and those consumers shall be required to  
26 pay those charges until the recovery bonds and all associated  
27 financing costs are paid in full by the financing entity, at which  
28 time those charges shall be terminated. Fixed recovery charges  
29 shall be irrevocable, notwithstanding the true-up adjustment  
30 pursuant to subdivision (g).

31 (c) Recovery bonds authorized by the commission's financing  
32 orders may be issued in one or more series on or before December  
33 31, 2035.

34 (d) The commission ~~may~~ *shall* issue financing orders in  
35 accordance with this article to facilitate the recovery, financing,  
36 or refinancing of recovery costs. A financing order may be adopted  
37 only upon the application of the electrical corporation and shall  
38 become effective in accordance with its terms only after the  
39 electrical corporation files with the commission the electrical  
40 corporation's written consent to all terms and conditions of the

1 financing order. A financing order may specify how amounts  
2 collected from a consumer shall be allocated between fixed  
3 recovery charges, any associated fixed recovery tax amounts, and  
4 other charges.

5 (e) Notwithstanding Section 455.5 or 1708, or any other law,  
6 and except as otherwise provided in subdivision (g), with respect  
7 to recovery property that has been made the basis for the issuance  
8 of recovery bonds and with respect to any associated fixed recovery  
9 tax amounts, the financing order, the fixed recovery charges, and  
10 any associated fixed recovery tax amounts shall be irrevocable.  
11 The commission shall not, either by rescinding, altering, or  
12 amending the financing order or otherwise, revalue or revise for  
13 ratemaking purposes the recovery costs or the costs of recovering,  
14 financing, or refinancing the recovery costs, in any way reduce or  
15 impair the value of recovery property or of the right to receive any  
16 associated fixed recovery tax amounts either directly or indirectly  
17 by taking fixed recovery charges or any associated fixed recovery  
18 tax amounts into account when setting other rates for the electrical  
19 corporation or when setting charges for the Department of Water  
20 Resources. The amount of revenues shall not be subject to  
21 reduction, impairment, postponement, or termination. The State  
22 of California does hereby pledge and agree with the electrical  
23 corporation, owners of recovery property, financing entities, and  
24 holders of recovery bonds that the state shall neither limit nor alter,  
25 except as otherwise provided with respect to the true-up adjustment  
26 of the fixed recovery charges pursuant to subdivision (i), the fixed  
27 recovery charges, any associated fixed recovery tax amounts,  
28 recovery property, financing orders, or any rights under a financing  
29 order until the recovery bonds, together with the interest on the  
30 recovery bonds and associated financing costs, are fully paid and  
31 discharged, and any associated fixed recovery tax amounts have  
32 been satisfied or, in the alternative, have been refinanced through  
33 an additional issue of recovery bonds, provided that nothing  
34 contained in this section shall preclude the limitation or alteration  
35 if and when adequate provision shall be made by law for the  
36 protection of the electrical corporation and of owners and holders  
37 of the recovery bonds. The financing entity is authorized to include  
38 this pledge and undertaking for the state in these recovery bonds.  
39 When setting other rates for the electrical corporation, nothing in

1 this subdivision shall prevent the commission from taking into  
2 account either of the following:

3 (1) Any collection of fixed recovery charges in excess of  
4 amounts actually required to pay recovery costs financed or  
5 refinanced by recovery bonds.

6 (2) Any collection of fixed recovery tax amounts in excess of  
7 amounts actually required to pay federal and State of California  
8 income and franchise taxes associated with fixed recovery charges,  
9 provided that this would not result in a recharacterization of the  
10 tax, accounting, and other intended characteristics of the financing,  
11 including, but not limited to, either of the following:

12 (A) Treating the recovery bonds as debt of the electrical  
13 corporation or its affiliates for federal income tax purposes.

14 (B) Treating the transfer of the recovery property by the  
15 electrical corporation as a true sale for bankruptcy purposes.

16 (f) (1) Neither financing orders nor recovery bonds issued under  
17 this article shall constitute a debt or liability of the state or of any  
18 political subdivision thereof, nor shall they constitute a pledge of  
19 the full faith and credit of the state or any of its political  
20 subdivisions, but are payable solely from the funds provided  
21 therefor under this article and shall be consistent with Sections 1  
22 and 18 of Article XVI of the California Constitution. All recovery  
23 bonds shall contain on the face thereof a statement to the following  
24 effect: “Neither the full faith and credit nor the taxing power of  
25 the State of California is pledged to the payment of the principal  
26 of, or interest on, this bond.”

27 (2) The issuance of recovery bonds under this article shall not  
28 directly, indirectly, or contingently obligate the state or any  
29 political subdivision thereof to levy or to pledge any form of  
30 taxation therefor or to make any appropriation for their payment.

31 (g) The commission shall establish procedures for the  
32 expeditious processing of an application for a financing order,  
33 which shall provide for the approval or disapproval of the  
34 application within 120 days of the application. Any fixed recovery  
35 charge authorized by a financing order shall appear on consumer  
36 bills. The commission shall, in any financing order, provide for a  
37 procedure for periodic true-up adjustments to fixed recovery  
38 charges, which shall be made at least annually and may be made  
39 more frequently. The electrical corporation shall file an application  
40 with the commission to implement any true-up adjustment.

1 (h) Fixed recovery charges are recovery property when, and to  
2 the extent that, a financing order authorizing the fixed recovery  
3 charges has become effective in accordance with this article, and  
4 the recovery property shall thereafter continuously exist as property  
5 for all purposes, and all of the rights and privileges relating to that  
6 property accorded by this article shall continuously exist for the  
7 period and to the extent provided in the financing order, but in any  
8 event until the recovery bonds are paid in full, including all  
9 principal, premiums, if any, and interest with respect to the  
10 recovery bonds, and all associated financing costs are paid in full.

11 A financing order may provide that the creation of recovery  
12 property shall be simultaneous with the sale of the recovery  
13 property to a transferee or assignee as provided in the application  
14 of the pledge of the recovery property to secure the recovery bonds.

15 (i) Recovery costs shall not be imposed upon customers  
16 participating in the California Alternative Rates for Energy or  
17 Family Electric Rate Assistance programs discount pursuant to  
18 Section 739.1.

19 (j) *Any successor to a financing entity shall be bound by the*  
20 *requirements of this article and shall perform and satisfy all*  
21 *obligations of, and have the same rights under a financing order*  
22 *as and to the same extent as, the financing entity, including the*  
23 *obligation to collect and pay energy transition revenues to persons*  
24 *entitled to receive the revenues.*

25 (j)  
26 (k) This article and any financing order made pursuant to this  
27 article do not amend, reduce, modify, or otherwise affect the right  
28 of the Department of Water Resources to recover its revenue  
29 requirements and to receive the charges that it is to recover and  
30 receive pursuant to Division 27 (commencing with Section 80000)  
31 and Division 28 (commencing with Section 80500) of the Water  
32 Code, or pursuant to any agreement entered into by the commission  
33 and the Department of Water Resources pursuant to ~~that the~~  
34 *applicable division.*

35 ~~SEC. 13. Section 1701 of the Public Utilities Code is amended~~  
36 ~~to read:~~

37 ~~1701. (a) All hearings, investigations, and proceedings shall~~  
38 ~~be governed by this part and by rules of practice and procedure~~  
39 ~~adopted by the commission, and in the conduct thereof the technical~~  
40 ~~rules of evidence need not be applied. No informality in any~~



1 hearing, investigation, or proceeding or in the manner of taking  
2 testimony shall invalidate any order, decision, or rule made,  
3 approved, or confirmed by the commission.

4 (b) In quasi-legislative, ratesetting, or catastrophic wildfire  
5 proceedings that do not include hearings, the commission may  
6 receive as evidence, and use as proof of any fact, both of the  
7 following types of information without requiring a sponsoring  
8 witness subject to cross-examination:

9 (1) Reports of other state or federal agencies.

10 (2) Reports of commission staff or interagency and stakeholder  
11 groups provided to all parties for notice and comment.

12 (c) Notwithstanding Section 11425.10 of the Government Code,  
13 Articles 1 to 15, inclusive, of Chapter 4.5 (commencing with  
14 Section 11400) of Part 1 of Division 3 of Title 2 of the Government  
15 Code do not apply to a hearing by the commission under this code.  
16 The Administrative Adjudication Code of Ethics (Article 16  
17 (commencing with Section 11475) of Chapter 4.5 of Part 1 of  
18 Division 3 of Title 2 of the Government Code) shall apply to  
19 administrative law judges of the commission.

20 SEC. 14. Section 1701.1 of the Public Utilities Code is  
21 amended to read:

22 1701.1. (a) (1) The commission shall determine whether  
23 each proceeding is a quasi-legislative, an adjudication, a ratesetting,  
24 or a catastrophic wildfire proceeding.

25 (2) The commission shall adopt rules that provide for  
26 discretionary expedited treatment of proceedings related to  
27 emergencies, safety, and enforcement that would provide for the  
28 completion of such a proceeding within 180 days. On or before  
29 December 1, 2019, the commission shall propose these rules.

30 (b) (1) The commission, upon initiating an adjudication  
31 proceeding or ratesetting proceeding, shall assign one or more  
32 commissioners to oversee the case and an administrative law judge  
33 when appropriate. The assigned commissioner may schedule a  
34 prehearing conference and may prepare and issue by order or ruling  
35 a scoping memo that describes the issues to be considered and the  
36 applicable timetable for resolution and that, consistent with due  
37 process, public policy, and statutory requirements, determines  
38 whether the proceeding requires a hearing.

39 (2) The administrative law judge shall either preside over and  
40 conduct, or assist the assigned commissioner or commissioners in

1 presiding over and conducting, any evidentiary or adjudication  
2 hearing that may be required.

3 (3) The commission may develop procedures to expedite  
4 ratesetting and catastrophic wildfire proceedings that do not require  
5 an evidentiary hearing.

6 (e) The commission, upon initiating a quasi-legislative  
7 proceeding, shall assign one or more commissioners to oversee  
8 the case and appropriate technical advisory staff, which may  
9 include an administrative law judge. The assigned commissioner  
10 shall prepare and issue by order or ruling a scoping memo that  
11 describes the issues to be considered and the applicable timetable  
12 for resolution.

13 (d) (1) Quasi-legislative cases, for purposes of this article, are  
14 cases that establish policy, including, but not limited to,  
15 rulemakings and investigations that may establish rules affecting  
16 an entire industry. Quasi-legislative cases may have an ancillary  
17 effect on rates, such as when the commission establishes programs  
18 that apply to multiple regulated public utilities.

19 (2) Adjudication cases, for purposes of this article, are  
20 enforcement cases and complaints except those challenging the  
21 reasonableness of any rates or charges as specified in Section 1702.

22 (3) Ratesetting cases, for purposes of this article, are cases in  
23 which rates are established for a specific company, including, but  
24 not limited to, general rate cases, performance-based ratemaking,  
25 and other ratesetting mechanisms, and cases in which a regulated  
26 public utility files an application for the approval of specific  
27 contracts or projects exceeding five million dollars (\$5,000,000).

28 (4) Catastrophic wildfire proceedings, for purposes of this  
29 article, are proceedings in which an electrical corporation files an  
30 application to recover costs and expenses pursuant to Section 451.1.

31 (e) (1) (A) “Ex parte communication,” for purposes of this  
32 article, means any oral or written communication between a  
33 decisionmaker and an interested person concerning any matter  
34 before the commission that the commission has not specified in  
35 its Rules of Practice and Procedure as being a procedural matter  
36 and that does not occur in a public hearing, workshop, or other  
37 public proceeding, or on the official record of the proceeding on  
38 the matter. The commission shall specify in its Rules of Practice  
39 and Procedure, enacted by rulemaking, the types of issues  
40 considered procedural matters under this article.

1 (B) “Interested person,” for purposes of this article, means any  
2 of the following:

3 (i) ~~Any applicant, an agent or an employee of the applicant, or~~  
4 ~~a person receiving consideration for representing the applicant, or~~  
5 ~~a participant in the proceeding on any matter before the~~  
6 ~~commission.~~

7 (ii) ~~Any person with a financial interest, as described in Article~~  
8 ~~1 (commencing with Section 87100) of Chapter 7 of Title 9 of the~~  
9 ~~Government Code, in a matter before the commission, an agent~~  
10 ~~or employee of the person with a financial interest, or a person~~  
11 ~~receiving consideration for representing the person with a financial~~  
12 ~~interest. A person involved in issuing credit ratings or advising~~  
13 ~~entities or persons who invest in the shares or operations of any~~  
14 ~~party to a proceeding is a person with a financial interest.~~

15 (iii) ~~A representative acting on behalf of any civic,~~  
16 ~~environmental, neighborhood, business, labor, trade, or similar~~  
17 ~~organization who intends to influence the decision of a commission~~  
18 ~~member on a matter before the commission.~~

19 (iv) ~~Other categories of individuals deemed by the commission,~~  
20 ~~by rule, to be an interested person.~~

21 (2) ~~The commission shall by rule adopt and publish a definition~~  
22 ~~of decisionmakers and interested persons for purposes of this~~  
23 ~~article, along with any requirements for written reporting of ex~~  
24 ~~parte communications and appropriate sanctions for noncompliance~~  
25 ~~with any rule proscribing ex parte communications. The definition~~  
26 ~~of decisionmakers shall include, but is not limited to: each~~  
27 ~~commissioner; the personal staff of a commissioner if the staff is~~  
28 ~~acting in a policy or legal advisory capacity; the chief~~  
29 ~~administrative law judge of the commission; and the administrative~~  
30 ~~law judge assigned to the proceeding. The commission shall, by~~  
31 ~~rule, explicitly ban both of the following:~~

32 (A) ~~The practice of one-way ex parte communications from a~~  
33 ~~decisionmaker to an interested person.~~

34 (B) ~~Any communication between an interested person and a~~  
35 ~~decisionmaker regarding which commissioner or administrative~~  
36 ~~law judge may be assigned to a matter before the commission.~~

37 (3) ~~For adjudication cases, the rules shall provide that ex parte~~  
38 ~~communications shall be prohibited, as required by this article.~~  
39 ~~The rules shall provide that if an ex parte communication occurs~~  
40 ~~that is prohibited by this article, or if an ex parte communication~~

1 ~~occurs in a ratesetting case or catastrophic wildfire proceeding,~~  
2 ~~whether initiated by a decisionmaker or an interested person, all~~  
3 ~~of the following shall be required:~~

4 ~~(A) The interested person shall report the communication within~~  
5 ~~three working days of the communication by filing a notice with~~  
6 ~~the commission that includes all the following:~~

7 ~~(i) The date, time, and location of the communication, whether~~  
8 ~~the communication was oral or written, or a combination of both,~~  
9 ~~and the communication medium used.~~

10 ~~(ii) The identity of the decisionmaker, the identity of the person~~  
11 ~~initiating the communication, and the identities of any other persons~~  
12 ~~present.~~

13 ~~(iii) The topic of the communication, including applicable~~  
14 ~~proceeding numbers.~~

15 ~~(iv) A substantive description of the interested person's~~  
16 ~~communication and its content.~~

17 ~~(v) A copy of any written material or text used during the~~  
18 ~~communication.~~

19 ~~(B) Any decisionmaker who participated in the communication~~  
20 ~~shall promptly log the ex parte communication by filing a notice~~  
21 ~~that includes all the following:~~

22 ~~(i) The date, time, and location of the communication, whether~~  
23 ~~the communication was oral or written, or a combination of both,~~  
24 ~~and the communication medium used.~~

25 ~~(ii) The identity of the interested person, the identity of the~~  
26 ~~person initiating the communication, and the identities of any other~~  
27 ~~persons present.~~

28 ~~(iii) The topic of the communication, including any applicable~~  
29 ~~proceeding numbers.~~

30 ~~(iv) A brief description of the communication.~~

31 ~~(C) If the interested person who participated in the~~  
32 ~~communication has not timely submitted the notice required by~~  
33 ~~subparagraph (A), the decisionmaker shall refer the matter to the~~  
34 ~~attorney for the commission, and an assigned commissioner, by~~  
35 ~~ruling, shall order the interested person to submit the required~~  
36 ~~notice. The interested person shall be subject to any applicable~~  
37 ~~penalties for the initial violation and, if the interested person does~~  
38 ~~not submit the required notice within the time period specified in~~  
39 ~~the assigned commissioner's ruling, the interested person shall be~~  
40 ~~subject to continuing violations pursuant to Section 2108.~~

1 ~~(4) The requirements of paragraph (3) shall not apply to any~~  
2 ~~oral ex parte communication occurring at a meeting if all parties~~  
3 ~~are invited to participate and given not less than three working~~  
4 ~~days' notice.~~

5 ~~(5) The commission shall not take any vote on a matter in which~~  
6 ~~a notice of a prohibited ex parte communication has been filed~~  
7 ~~pursuant to subparagraph (A) or (B) of paragraph (3) until all~~  
8 ~~parties to the proceeding have been provided a reasonable~~  
9 ~~opportunity to respond to the communication.~~

10 ~~(6) If an ex parte communication is not disclosed as required~~  
11 ~~by this subdivision until after the commission has issued a decision~~  
12 ~~on the matter to which the communication pertained, a party not~~  
13 ~~participating in the communication may file a petition to rescind~~  
14 ~~or modify the decision. The party may seek a finding that the ex~~  
15 ~~parte communication significantly influenced the decision's process~~  
16 ~~or outcome as part of any petition to rescind or modify the decision.~~  
17 ~~The commission shall process the petition in accordance with the~~  
18 ~~commission's procedures for petitions for modification and shall~~  
19 ~~issue a decision on the petition no later than 180 days after the~~  
20 ~~filing of the petition.~~

21 ~~(7) (A) Ex parte communications that occur at conferences and~~  
22 ~~that are within the scope of an adjudication, ratesetting, or~~  
23 ~~catastrophic wildfire proceeding shall be subject to the~~  
24 ~~requirements of this article.~~

25 ~~(B) Ex parte communications that occur at conferences and that~~  
26 ~~are within the scope of a quasi-legislative proceeding shall be~~  
27 ~~governed by the ex parte communication disclosure requirements~~  
28 ~~developed by the commission.~~

29 ~~(C) For purposes of this section, "ex parte communications that~~  
30 ~~occur at conferences" includes, but is not limited to,~~  
31 ~~communications in a private setting or during meals, entertainment~~  
32 ~~events, and tours, and informal discussions among conference~~  
33 ~~attendees.~~

34 ~~(8) The commission shall render its decisions based on the law~~  
35 ~~and on the evidence in the record. Ex parte communications shall~~  
36 ~~not be a part of the evidentiary record of the proceedings.~~

37 ~~(f) The commission may meet in a closed session to discuss~~  
38 ~~administrative matters so long as no collective consensus is reached~~  
39 ~~or vote taken on any matter requiring a vote of the commissioners.~~

1 The commission shall, by rule, adopt and publish a definition of  
2 “administrative matters” for purposes of this section.

3 ~~(g) The commission shall permit written comments received~~  
4 ~~from the public to be included in the record of its proceedings, but~~  
5 ~~the comments shall not be treated as evidence. The commission~~  
6 ~~shall provide parties to the proceeding a reasonable opportunity~~  
7 ~~to respond to any public comments included in the record of~~  
8 ~~proceedings.~~

9 ~~(h) It is the intent of the Legislature that the commission, and~~  
10 ~~any entity or person seeking to influence actions taken by the~~  
11 ~~commission, shall be subject to all applicable ethical standards,~~  
12 ~~including any applicable obligations under the Political Reform~~  
13 ~~Act of 1974 (Title 9 (commencing with Section 81000) of the~~  
14 ~~Government Code), including, but not limited to, any applicable~~  
15 ~~lobbying obligations.~~

16 ~~SEC. 15. Section 1701.3 of the Public Utilities Code is~~  
17 ~~amended to read:~~

18 ~~1701.3. (a) Except as specified in subdivision (g), this section~~  
19 ~~shall apply only to ratesetting cases, except, if the commissioner~~  
20 ~~assigned pursuant to Section 1701.1 has determined that a~~  
21 ~~ratesetting case does not require a hearing, the procedures~~  
22 ~~prescribed by subdivisions (b), (d), and (h) shall not apply.~~

23 ~~(b) The assigned commissioner shall determine before the first~~  
24 ~~hearing whether the commissioner or the assigned administrative~~  
25 ~~law judge will preside over the hearing. The decision of the~~  
26 ~~assigned commissioner shall be the proposed decision.~~

27 ~~(c) An alternate decision may be issued by any commissioner~~  
28 ~~other than the assigned commissioner. Any alternate decision may~~  
29 ~~be filed with the commission and served upon all parties to the~~  
30 ~~proceeding any time before issuance of a final decision by the~~  
31 ~~commission, consistent with the requirements of Section 311.~~

32 ~~(d) The commission shall establish a procedure for any party~~  
33 ~~to request the presence of a commissioner at a hearing. The~~  
34 ~~assigned commissioner shall be present at any closing arguments~~  
35 ~~in the case.~~

36 ~~(e) The assigned commissioner, or the commissioner’s designee,~~  
37 ~~shall present the proposed decision to the full commission in a~~  
38 ~~public meeting. The alternate decision, if any, shall also be~~  
39 ~~presented to the full commission at that public meeting.~~

1 ~~(f) The commission shall provide by rule for peremptory~~  
2 ~~challenges and challenges for cause of the administrative law judge.~~  
3 ~~Challenges for cause shall include, but not be limited to, challenges~~  
4 ~~for financial interests and prejudice. All parties shall be entitled~~  
5 ~~to unlimited peremptory challenges in any case in which the~~  
6 ~~administrative law judge has within the previous 12 months served~~  
7 ~~in any capacity in an advocacy position at the commission, been~~  
8 ~~employed by a regulated public utility, or has represented a party~~  
9 ~~or has been an interested person in the case.~~

10 ~~(g) (1) Ex parte communications in ratesetting cases and~~  
11 ~~catastrophic wildfire proceedings are subject to the disclosure~~  
12 ~~requirements of this article. The commission, by order or ruling,~~  
13 ~~may prohibit ex parte communications in a ratesetting case or~~  
14 ~~catastrophic wildfire proceeding.~~

15 ~~(2) Oral communications may be permitted by a decisionmaker~~  
16 ~~if all parties are given not less than three working days' notice.~~  
17 ~~No individual ex parte meetings shall be held during the three~~  
18 ~~business days before the commission's scheduled vote on the~~  
19 ~~decision.~~

20 ~~(3) (A) If an ex parte communication meeting is granted to any~~  
21 ~~party, all other parties, upon request, shall also be granted~~  
22 ~~individual ex parte meetings of a substantially equal period of time~~  
23 ~~and shall be sent a notice of that opportunity at the time the request~~  
24 ~~is granted.~~

25 ~~(B) Subparagraph (A) shall not apply if the decisionmaker~~  
26 ~~participating in the ex parte communication meeting is a member~~  
27 ~~of the personal staff of a commissioner acting in a policy or legal~~  
28 ~~advisory capacity and no other decisionmaker to whom~~  
29 ~~subparagraph (A) applies is a participant.~~

30 ~~(4) Written ex parte communications by any interested person~~  
31 ~~may be permitted if copies of the communication are transmitted~~  
32 ~~to all parties on the same day as the original communication.~~

33 ~~(5) Written and oral ex parte communications shall not be part~~  
34 ~~of the evidentiary record of the proceeding.~~

35 ~~(6) (A) The commission may meet in closed session on any~~  
36 ~~proposed decision in a ratesetting case or catastrophic wildfire~~  
37 ~~proceeding and may establish a "quiet period" during the three~~  
38 ~~business days before the commission's scheduled vote on the~~  
39 ~~decision during which no oral ex parte communications may be~~  
40 ~~permitted.~~

1 ~~(B) Any meeting of the commission during the quiet period~~  
2 ~~shall require a minimum of three days' advance public notice.~~

3 ~~(C) The requirement specified in subparagraph (F) of paragraph~~  
4 ~~(1) of subdivision (b) of Section 11123 of the Government Code~~  
5 ~~shall not apply to a meeting of the commission during a quiet~~  
6 ~~period that is held by teleconference.~~

7 ~~(h) Any party has the right to present a final oral argument of~~  
8 ~~its case before the commission. Upon request to present a final~~  
9 ~~oral argument before the commission, the argument shall be~~  
10 ~~scheduled in a timely manner. A quorum of the commission shall~~  
11 ~~be present for the final oral arguments.~~

12 ~~(i) The commission may, in issuing its decision, adopt, modify,~~  
13 ~~or set aside the proposed decision or any part of the decision based~~  
14 ~~on evidence in the record. The final decision of the commission~~  
15 ~~shall be issued not later than 60 days after the issuance of the~~  
16 ~~proposed decision. Under extraordinary circumstances the~~  
17 ~~commission may extend this date for a reasonable period. The~~  
18 ~~60-day period shall be extended for 30 days if any alternate~~  
19 ~~decision is proposed pursuant to Section 311.~~

20 ~~SEC. 16. Section 1701.4 of the Public Utilities Code is~~  
21 ~~amended to read:~~

22 ~~1701.4. (a) This section shall apply only to quasi-legislative~~  
23 ~~eases, except, if the commissioner assigned pursuant to Section~~  
24 ~~1701.1 has determined that a quasi-legislative ease does not require~~  
25 ~~a hearing, the procedures prescribed by subdivisions (b), (d), and~~  
26 ~~(e) shall not apply.~~

27 ~~(b) The assigned commissioner shall prepare the proposed rule~~  
28 ~~or order with the assistance of any assigned technical advisory~~  
29 ~~staff, which may include an administrative law judge. The assigned~~  
30 ~~commissioner shall present the proposed rule or order to the full~~  
31 ~~commission in a public meeting.~~

32 ~~(c) Ex parte communications in quasi-legislative proceedings~~  
33 ~~are permitted and not subject to the disclosure requirements of this~~  
34 ~~article, except when the commission, by order or ruling, determines~~  
35 ~~either of the following:~~

36 ~~(1) That ex parte communications are subject to the disclosure~~  
37 ~~requirements of this article.~~

38 ~~(2) That ex parte communications are prohibited and subject to~~  
39 ~~the disclosure requirements of this article.~~



1 ~~(d) Any party has the right to present a final oral argument of~~  
2 ~~its case before the commission. Upon request to present a final~~  
3 ~~oral argument before the commission, the argument shall be~~  
4 ~~scheduled in a timely manner. A quorum of the commission shall~~  
5 ~~be present for the final oral arguments.~~

6 ~~(e) The commission may, in issuing its rule or order, adopt,~~  
7 ~~modify, or set aside the proposed decision or any part of the rule~~  
8 ~~or order. The final rule or order of the commission shall be issued~~  
9 ~~not later than 60 days after the issuance of the proposed rule or~~  
10 ~~order. Under extraordinary circumstances the commission may~~  
11 ~~extend this date for a reasonable period. The 60-day period shall~~  
12 ~~be extended for 30 days if any alternate rule or order is proposed~~  
13 ~~pursuant to Section 311.~~

14 ~~(f) No informality in the manner of taking testimony or evidence~~  
15 ~~shall invalidate any order, decision, or rule made, approved, or~~  
16 ~~confirmed by the commission in quasi-legislative cases.~~

17 **SEC. 11. Section 854 of the Public Utilities Code is amended**  
18 **to read:**

19 **854. (a) No person or corporation, whether or not organized**  
20 **under the laws of this state, shall merge, acquire, or control,**  
21 **including pursuant to a change in control as described in**  
22 **subparagraphs (D) to (F), inclusive, of paragraph (1) of**  
23 **subdivision (b) of Section 854.2, either directly or indirectly**  
24 **indirectly, any public utility organized and doing business in this**  
25 **state without first securing authorization to do so from the**  
26 **commission.** The commission may establish by order or rule the  
27 definitions of what constitute merger, acquisition, or control  
28 activities which are subject to this section. Any merger, acquisition,  
29 or control without that prior authorization shall be void and of no  
30 effect. No public utility organized and doing business under the  
31 laws of this state, and no subsidiary or affiliate of, or corporation  
32 holding a controlling interest in a public utility, shall aid or abet  
33 any violation of this section.

34 (b) Before authorizing the merger, acquisition, or control of any  
35 electrical, gas, or telephone corporation organized and doing  
36 business in this state, where any of the utilities that are parties to  
37 the proposed transaction has gross annual California revenues  
38 exceeding five hundred million dollars (\$500,000,000), the  
39 commission shall find that the proposal does all of the following:

1 (1) Provides short-term and long-term economic benefits to  
2 ratepayers.

3 (2) Equitably allocates, where the commission has ratemaking  
4 authority, the total short-term and long-term forecasted economic  
5 benefits, as determined by the commission, of the proposed merger,  
6 acquisition, or control, between shareholders and ratepayers.  
7 Ratepayers shall receive not less than 50 percent of those benefits.

8 (3) Not adversely affect competition. In making this finding,  
9 the commission shall request an advisory opinion from the Attorney  
10 General regarding whether competition will be adversely affected  
11 and what mitigation measures could be adopted to avoid this result.

12 (4) For an electric or gas utility, ensures the utility will have an  
13 adequate workforce to maintain the safe and reliable operation of  
14 the utility assets.

15 (c) Before authorizing the merger, acquisition, or control of any  
16 electrical, gas, or telephone corporation organized and doing  
17 business in this state, where any of the entities that are parties to  
18 the proposed transaction has gross annual California revenues  
19 exceeding five hundred million dollars (\$500,000,000), the  
20 commission shall consider each of the criteria listed in paragraphs  
21 (1) to (8), inclusive, and find, on balance, that the merger,  
22 acquisition, or control proposal is in the public interest.

23 (1) Maintain or improve the financial condition of the resulting  
24 public utility doing business in the state.

25 (2) Maintain or improve the quality of service to public utility  
26 ratepayers in the state.

27 (3) Maintain or improve the quality of management of the  
28 resulting public utility doing business in the state.

29 (4) Be fair and reasonable to affected public utility employees,  
30 including both union and nonunion employees.

31 (5) Be fair and reasonable to the majority of all affected public  
32 utility shareholders.

33 (6) Be beneficial on an overall basis to state and local  
34 economies, and to the communities in the area served by the  
35 resulting public utility.

36 (7) Preserve the jurisdiction of the commission and the capacity  
37 of the commission to effectively regulate and audit public utility  
38 operations in the state.

39 (8) Provide mitigation measures to prevent significant adverse  
40 consequences which may result.

1 (d) When reviewing a merger, acquisition, or control proposal,  
2 the commission shall consider reasonable options to the proposal  
3 recommended by other parties, including no new merger,  
4 acquisition, or control, to determine whether comparable short-term  
5 and long-term economic savings can be achieved through other  
6 means while avoiding the possible adverse consequences of the  
7 proposal.

8 (e) The person or corporation seeking acquisition or control of  
9 a public utility organized and doing business in this state shall  
10 have, before the commission, the burden of proving by a  
11 preponderance of the evidence that the requirements of subdivisions  
12 (b) and (c) are met.

13 (f) In determining whether an acquiring utility has gross annual  
14 revenues exceeding the amount specified in subdivisions (b) and  
15 (c), the revenues of that utility's affiliates shall not be considered  
16 unless the affiliate was utilized for the purpose of effecting the  
17 merger, acquisition, or control.

18 (g) Paragraphs (1) and (2) of subdivision (b) shall not apply to  
19 the formation of a holding company.

20 (h) For purposes of paragraphs (1) and (2) of subdivision (b),  
21 the legislature does not intend to include acquisitions or changes  
22 in control that are mandated by either the commission or the  
23 Legislature as a result of, or in response to any electric industry  
24 restructuring. However, the value of an acquisition or change in  
25 control may be used by the commission in determining the costs  
26 or benefits attributable to any electric industry restructuring and  
27 for allocating those costs or benefits for collection in rates.

28 *SEC. 12. Section 854.2 of the Public Utilities Code is amended*

29 *to read:*

30 **854.2.** (a) The Legislature finds and declares all of the  
31 following:

32 (1) California's electric and gas utilities provide essential  
33 services to California residents and businesses, which are necessary  
34 to maintaining the vitality of California's economy.

35 (2) Consistent with Sections 913.4, 961, and 977, an adequately  
36 sized workforce of experienced electric and gas utility employees  
37 with the appropriate training and skills, as well as the knowledge  
38 of an electric or gas utility's facilities and equipment, is essential  
39 to the safe, efficient, and uninterrupted provision of electrical and  
40 gas services. Safe and reliable electric and gas utility service is

1 vital to public health, public safety, air quality, and reducing  
2 emissions of greenhouse gases.

3 (3) Changes in the ownership or control of an electrical  
4 corporation or gas corporation may create uncertainty regarding  
5 the safe, efficient, and continuous provision of safe and reliable  
6 electrical and gas service to California consumers, leading to  
7 economic instability.

8 (4) Mass displacement of electrical corporation or gas  
9 corporation workers as a result of a change in the ownership or  
10 control of an electrical corporation or gas corporation causes  
11 excessive reliance on the unemployment insurance system, and  
12 public social services and health programs, increasing costs to  
13 these vital governmental programs and placing a significant burden  
14 on the state and California taxpayers.

15 (5) The state has a compelling interest in ensuring that when  
16 there is a change in the ownership or control of an electrical  
17 corporation or gas corporation, the new employer maintains a  
18 qualified and knowledgeable workforce with the ability to ensure  
19 safe, efficient, reliable, and continuous service to California  
20 consumers and communities.

21 (6) *Because of destructive and deadly wildfires and gas pipeline*  
22 *explosions, the electric and gas industries are in an unprecedented*  
23 *state of instability. One combined electrical and gas corporation*  
24 *has sought bankruptcy protection. All the major electrical*  
25 *corporations have had their credit ratings lowered to junk bond*  
26 *status or are at risk of downgrades to junk bond status. This*  
27 *jeopardizes the ability of these corporations to provide safe and*  
28 *reliable electric and gas service, to reduce the risk of future*  
29 *catastrophes, to provide service at just and reasonable rates, to*  
30 *meet the state's mandates to reduce carbon emissions, and to*  
31 *address the risks of climate change.*

32 (7) *There is a nationwide shortage of the qualified utility line*  
33 *workers and qualified line clearance tree trimmers needed to*  
34 *prevent and respond to wildfires, storms, and other major events.*  
35 *Because this work is performed on and near high voltage lines*  
36 *and other energized electrical equipment, these jobs require*  
37 *substantial training and are highly dangerous. Current efforts to*  
38 *hire enough qualified people to perform these functions have fallen*  
39 *short even though exceptional compensation packages are being*  
40 *offered. Any reduction in the number or qualifications of these*

1 employees would increase the risk to employees and the risk of  
2 future catastrophic wildfires, and would increase the frequency  
3 and duration of outages, particularly as a result of more common  
4 and more severe major storms. It is in the interest of the state and  
5 its citizens that utilities have the qualified workforce necessary to  
6 minimize the risk of future wildfires, to minimize future outages  
7 and to restore service as promptly as possible after storms.

8 (8) For the reasons provided in this subdivision, the Legislature  
9 must take action to stabilize the utility workforce so as to preserve  
10 the ability of utilities to provide safe and reliable electric and gas  
11 service. This requires that the size of the workforce be preserved  
12 or increased, and workers not be lost to other utilities offering  
13 more stable employment or better compensation.

14 (b) For purposes of this section, the following definitions shall  
15 apply:

16 (1) “Change of control” means any event of the following:

17 (A) An event that triggers the application of Section 851 or 854,  
18 any 854.

19 (B) A material change in ownership of the electric corporation  
20 or gas corporation, its parent company or its holding company, or  
21 any company.

22 (C) A filing seeking bankruptcy protection.

23 (D) The sale of all or a material portion of the assets of the  
24 electrical corporation or gas corporation, its parent company, or  
25 its holding company, or any merger, consolidation, or acquisition  
26 of the electrical corporation or gas corporation, its parent  
27 company, or its holding company with, by, or into another  
28 corporation, entity, or person.

29 (E) In the case of a combined electrical and gas corporation,  
30 the change in ownership of all or a substantial portion of either  
31 the gas or electric line of business of the combined corporation.

32 (F) A voluntary or involuntary change in ownership of assets  
33 from an electrical or gas corporation to ownership by a public  
34 entity.

35 (2) (A) “Covered employee” means an individual who has been  
36 employed by an electrical corporation or gas corporation for at  
37 least 90 days immediately before a change of control affecting that  
38 individual’s principal place of employment. A change of control  
39 affects a covered employee’s principal place of employment where  
40 the change of control results in the predecessor employer

1 transferring control of the place of employment to the successor  
2 employer.

3 (B) “Covered employee” does not include any of the following:

4 (i) A managerial, supervisory, or confidential employee.

5 (ii) A temporary employee.

6 (iii) A part-time employee who has worked less than 20 hours  
7 per week for the predecessor employer for at least 90 days  
8 immediately before the change of control.

9 (3) “Person” means a corporation as defined in Section 204, a  
10 person as defined in Section 205, any other individual, corporation,  
11 partnership, limited partnership, limited liability partnership,  
12 limited liability company, business trust, estate, trust, association,  
13 joint venture, agency, instrumentality, or any other legal or  
14 commercial entity, whether domestic or foreign.

15 (4) “Predecessor employer” means the person who controls the  
16 electric or gas utility before the change of control.

17 (5) “Principal place of employment” of an employee means the  
18 office or other facility of the electrical corporation or gas  
19 corporation where the employee is principally assigned to work  
20 by the predecessor employer.

21 (6) “Successor employer” means the person who controls the  
22 electrical corporation or gas corporation after the change of control.

23 (7) “Total compensation” means the combined value of the  
24 covered employee’s wages and benefits immediately before the  
25 change of control. Total compensation may be paid entirely as  
26 wages or in any combination of wages and fringe benefits, to be  
27 determined by the successor employer. Total compensation  
28 includes, but is not necessarily limited to, both of the following  
29 amounts:

30 (A) The covered employee’s hourly wage rate or the per diem  
31 value of the covered employee’s monthly salary.

32 (B) Employer payments toward the covered employee’s health  
33 and welfare and pension benefits. Employer payments toward  
34 health and welfare and pension benefits shall include only those  
35 payments that are recognized as employer payments under  
36 paragraphs (1) and (2) of subdivision (b) of Section 1773.1 of the  
37 Labor Code.

38 (8) “Transition period” means a period of 180 days immediately  
39 following the effective date of a change of control.

1 (c) (1) Except as otherwise provided in this section, a successor  
2 employer shall retain all covered employees for at least the  
3 transition period following a change of control, unless the  
4 commission approves a reduction in the workforce pursuant to  
5 subdivision (i). During the transition period, the successor employer  
6 shall not reduce the total compensation of a covered employee.

7 (2) During the transition period, a successor employer shall not  
8 terminate a covered employee without cause.

9 ~~(3) A successor employer and a labor organization representing  
10 covered employees may, in a collective bargaining agreement,  
11 provide that the agreement supersedes the requirements of this  
12 section.~~

13 (d) (1) No later than 15 days before the effective date of a  
14 change of control, the predecessor employer shall ~~cause to be~~  
15 ~~posted~~ *do both of the following:*

16 (A) *Cause to be posted, in a conspicuous place in a manner that*  
17 *is readily viewed by covered employees, a public notice of the*  
18 *change of control at each principal place of employment of any*  
19 *covered employee.* ~~The~~

20 (B) *Cause the notice to be sent to any labor organization that*  
21 *represents covered employees.*

22 (2) *The notice shall include the name of the predecessor*  
23 *employer and its contact information, the name of the successor*  
24 *employer and its contact information, and the effective date of the*  
25 *change of control. The notice shall be posted in a conspicuous*  
26 *place in a manner that is readily viewed by covered employees.*  
27 ~~No later than 15 days before the effective date of a change of~~  
28 ~~control, the predecessor employer shall also cause the notice to be~~  
29 ~~sent to any labor organization that represents covered employees.~~

30 (e) This part shall not be construed to limit the right of covered  
31 employees to bring legal action for wrongful termination.

32 (f) The rights and remedies provided pursuant to this section  
33 are in addition to, and are not intended to supplant, any existing  
34 rights or remedies.

35 (g) No later than 15 days before the effective date of a change  
36 of control, a predecessor employer shall provide to the successor  
37 employer the name, address, date of hire, total compensation, and  
38 classification of each covered employee.

39 (h) A successor employer shall retain the following written or  
40 electronic records for at least three years:

1 (1) The list provided to the successor employer pursuant to  
2 subdivision (g).

3 (2) Any offer of employment made to a covered employee.

4 (3) Any termination of a covered employee during a transition  
5 period, including the reasons for the termination.

6 (4) Any written evaluation of a covered employee.

7 (i) ~~For two three years after the transition period, period and~~  
8 *subject to the provisions of any existing collective bargaining*  
9 *agreement, a successor employer may reduce shall provide to*  
10 *employees who would have qualified as covered employees had*  
11 *they been employed during the 90-day period immediately before*  
12 *a change of control no less than the wages, hours, and other terms*  
13 *and conditions of employment provided before the change of*  
14 *control, including any previously negotiated increase in wages,*  
15 *and shall maintain no less than the total number of employees*  
16 *who would have qualified as covered employees had they been*  
17 *employed during the 90-day period immediately before a change*  
18 *of control control. The successor employer may reduce the wages,*  
19 *hours, and other terms and conditions of employment or the total*  
20 *number of employees in a manner inconsistent with collective*  
21 *bargaining agreements only if approved authorized by the*  
22 ~~commission.~~ *commission in a final, nonappealable decision. The*  
23 *commission shall not authorize a successor employer to reduce*  
24 *the number of those employees provide this authorization except*  
25 *on a showing proof by a preponderance of the evidence in an*  
26 *application proceeding of all of the following:*

27 (1) ~~The electrical corporation or gas corporation has conducted~~  
28 ~~a study of the nature and~~ *Neither the nature nor scope of the work*  
29 ~~performed by those employees proposed to be eliminated and the~~  
30 ~~study shows that neither the nature nor the scope of this work is~~  
31 *necessary to providing safe and reliable utility service. The*  
32 *electrical corporation or gas corporation shall provide an*  
33 *independent third-party study to support its position. Other parties*  
34 *to the proceeding shall be provided with an opportunity to conduct*  
35 *their own studies.*

36 (2) *The proposed new wages, hours, and other terms and*  
37 *conditions of employment shall be consistent with wages, hours,*  
38 *and other terms for California electrical corporations and gas*  
39 *corporations. The electrical corporation or gas corporation shall*  
40 *provide an independent third-party study to support its position.*



1 *Other parties to the proceeding shall be provided an opportunity*  
2 *to conduct their own studies.*

3 ~~(2)~~

4 (3) There will be no reduction in the ability of ~~those~~ employees  
5 *of the electrical or gas corporation* to prevent damage from or to  
6 respond to an emergency such as a wildfire, storm, flood, mudslide,  
7 or earthquake, or to gas leaks, electric outages, interconnection  
8 requests, work requested by others, locate and mark requests, or  
9 other utility services.

10 ~~(3)~~

11 (4) There will be no reduction in the ability of the electrical  
12 corporation or gas corporation to respond to mutual aid requests  
13 of other utilities.

14 (j) A successor employer may terminate an employee with cause  
15 consistent with any applicable selective bargaining agreement  
16 during the period specified in subdivision (i).

17 (k) *A successor employer and a labor organization representing*  
18 *covered employees may, in a collective bargaining agreement,*  
19 *provide that the agreement supersedes the requirements of this*  
20 *section with respect to the represented employees.*

21 ~~(k)~~

22 (l) The provisions of this section are severable. If any provision  
23 of this section or its application is held invalid, that invalidity shall  
24 not affect other provisions or applications that can be given effect  
25 without the invalid provision or application.

26 *SEC. 13. Section 1701.1 of the Public Utilities Code is amended*  
27 *to read:*

28 1701.1. (a) The commission shall determine whether each  
29 proceeding is a quasi-legislative, an adjudication, ~~or a ratesetting~~  
30 *a ratesetting, or a catastrophic wildfire* proceeding. The  
31 commission's decision as to the nature of the proceeding shall be  
32 subject to a request for rehearing within 10 days of the date of that  
33 decision or of any subsequent ruling that expands the scope of the  
34 proceeding. Only those parties who have requested a rehearing  
35 within that time period shall subsequently have standing for judicial  
36 review and that review shall only be available at the conclusion  
37 of the proceeding. The commission shall render its decision  
38 regarding the rehearing within 30 days. The commission shall  
39 establish rules regarding ex parte communication on case  
40 categorization issues.

1 (b) (1) The commission, upon initiating an adjudication  
2 proceeding or ratesetting proceeding, shall assign one or more  
3 commissioners to oversee the case and an administrative law judge  
4 when appropriate. The assigned commissioner shall schedule a  
5 prehearing conference and shall prepare and issue by order or  
6 ruling a scoping memo that describes the issues to be considered  
7 and the applicable timetable for resolution and that, consistent with  
8 due process, public policy, and statutory requirements, determines  
9 whether the proceeding requires a hearing.

10 (2) The administrative law judge shall either preside over and  
11 conduct, or assist the assigned commissioner or commissioners in  
12 presiding over and conducting, any evidentiary or adjudication  
13 hearing that may be required.

14 (c) The commission, upon initiating a quasi-legislative  
15 proceeding, shall assign one or more commissioners to oversee  
16 the case and an administrative law judge, when appropriate, who  
17 may be assisted by a technical advisory staff member in conducting  
18 the proceeding. The assigned commissioner shall prepare and issue  
19 by order or ruling a scoping memo that describes the issues to be  
20 considered and the applicable timetable for resolution and that,  
21 consistent with due process, public policy, and statutory  
22 requirements, determines whether the proceeding requires a  
23 hearing.

24 (d) (1) Quasi-legislative cases, for purposes of this article, are  
25 cases that establish policy, including, but not limited to,  
26 rulemakings and investigations that may establish rules affecting  
27 an entire industry.

28 (2) Adjudication cases, for purposes of this article, are  
29 enforcement cases and complaints except those challenging the  
30 reasonableness of any rates or charges as specified in Section 1702.

31 (3) Ratesetting cases, for purposes of this article, are cases in  
32 which rates are established for a specific company, including, but  
33 not limited to, general rate cases, performance-based ratemaking,  
34 and other ratesetting mechanisms.

35 (4) *Catastrophic wildfire proceedings, for purposes of this*  
36 *article, are proceedings in which an electrical corporation files*  
37 *an application to recover costs and expenses pursuant to Section*  
38 *451 or 451.1, as applicable, related to a covered wildfire, as*  
39 *defined in Section 1701.8.*

1 (e) (1) (A) “Ex parte communication,” for purposes of this  
2 article, means any oral or written communication between a  
3 decisionmaker and an interested person concerning any matter  
4 before the commission that the commission has not specified in  
5 its Rules of Practice and Procedure as being a procedural matter  
6 and that does not occur in a public hearing, workshop, or other  
7 public proceeding, or on the official record of the proceeding on  
8 the matter. The commission shall specify in its Rules of Practice  
9 and Procedure, enacted by rulemaking, the types of issues  
10 considered procedural matters under this article.

11 (B) “Interested person,” for purposes of this article, means any  
12 of the following:

13 (i) Any applicant, an agent or an employee of the applicant, or  
14 a person receiving consideration for representing the applicant, or  
15 a participant in the proceeding on any matter before the  
16 commission.

17 (ii) Any person with a financial interest, as described in Article  
18 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the  
19 Government Code, in a matter before the commission, an agent  
20 or employee of the person with a financial interest, or a person  
21 receiving consideration for representing the person with a financial  
22 interest. A person involved in issuing credit ratings or advising  
23 entities or persons who invest in the shares or operations of any  
24 party to a proceeding is a person with a financial interest.

25 (iii) A representative acting on behalf of any civic,  
26 environmental, neighborhood, business, labor, trade, or similar  
27 organization who intends to influence the decision of a commission  
28 member on a matter before the commission.

29 (iv) Other categories of individuals deemed by the commission,  
30 by rule, to be an interested person.

31 (2) The commission shall by rule adopt and publish a definition  
32 of decisionmakers and interested persons for purposes of this  
33 article, along with any requirements for written reporting of ex  
34 parte communications and appropriate sanctions for noncompliance  
35 with any rule proscribing ex parte communications. The definition  
36 of decisionmakers shall include, but is not limited to: each  
37 commissioner; the personal staff of a commissioner if the staff is  
38 acting in a policy or legal advisory capacity; the chief  
39 administrative law judge of the commission; and the administrative

1 law judge assigned to the proceeding. The commission shall, by  
2 rule, explicitly ban both of the following:

3 (A) The practice of one-way ex parte communications from a  
4 decisionmaker to an interested person.

5 (B) Any communication between an interested person and a  
6 decisionmaker regarding which commissioner or administrative  
7 law judge may be assigned to a matter before the commission.

8 (3) For adjudication cases, the rules shall provide that ex parte  
9 communications shall be prohibited, as required by this article.  
10 The rules shall provide that if an ex parte communication occurs  
11 that is prohibited by this article, or if an ex parte communication  
12 occurs in a ratesetting—~~ease~~, *case or catastrophic wildfire*  
13 *proceeding*, whether initiated by a decisionmaker or an interested  
14 person, all of the following shall be required:

15 (A) The interested person shall report the communication within  
16 three working days of the communication by filing a notice with  
17 the commission that includes all the following:

18 (i) The date, time, and location of the communication, whether  
19 the communication was oral or written, or a combination of both,  
20 and the communication medium used.

21 (ii) The identity of the decisionmaker, the identity of the person  
22 initiating the communication, and the identities of any other persons  
23 present.

24 (iii) The topic of the communication, including applicable  
25 proceeding numbers.

26 (iv) A substantive description of the interested person's  
27 communication and its content.

28 (v) A copy of any written material or text used during the  
29 communication.

30 (B) Any decisionmaker who participated in the communication  
31 shall promptly log the ex parte communication by filing a notice  
32 that includes all the following:

33 (i) The date, time, and location of the communication, whether  
34 the communication was oral or written, or a combination of both,  
35 and the communication medium used.

36 (ii) The identity of the interested person, the identity of the  
37 person initiating the communication, and the identities of any other  
38 persons present.

39 (iii) The topic of the communication, including any applicable  
40 proceeding numbers.

1 (iv) A brief description of the communication.

2 (C) If the interested person who participated in the  
3 communication has not timely submitted the notice required by  
4 subparagraph (A), the decisionmaker shall refer the matter to the  
5 attorney for the commission, and an assigned commissioner, by  
6 ruling, shall order the interested person to submit the required  
7 notice. The interested person shall be subject to any applicable  
8 penalties for the initial violation and, if the interested person does  
9 not submit the required notice within the time period specified in  
10 the assigned commissioner’s ruling, the interested person shall be  
11 subject to continuing violations pursuant to Section 2108.

12 (4) The requirements of paragraph (3) shall not apply to any  
13 oral ex parte communication occurring at a meeting if all parties  
14 are invited to participate and given not less than three working  
15 days’ notice.

16 (5) The commission shall not take any vote on a matter in which  
17 a notice of a prohibited ex parte communication has been filed  
18 pursuant to subparagraph (A) or (B) of paragraph (3) until all  
19 parties to the proceeding have been provided a reasonable  
20 opportunity to respond to the communication.

21 (6) If an ex parte communication is not disclosed as required  
22 by this subdivision until after the commission has issued a decision  
23 on the matter to which the communication pertained, a party not  
24 participating in the communication may file a petition to rescind  
25 or modify the decision. The party may seek a finding that the ex  
26 parte communication significantly influenced the decision’s process  
27 or outcome as part of any petition to rescind or modify the decision.  
28 The commission shall process the petition in accordance with the  
29 commission’s procedures for petitions for modification and shall  
30 issue a decision on the petition no later than 180 days after the  
31 filing of the petition.

32 (7) (A) Ex parte communications that occur at conferences and  
33 that are within the scope of an ~~an adjudication or ratesetting~~  
34 *adjudication, ratesetting, or catastrophic wildfire* proceeding shall  
35 be subject to the requirements of this article.

36 (B) Ex parte communications that occur at conferences and that  
37 are within the scope of a quasi-legislative proceeding shall be  
38 governed by the ex parte communication disclosure requirements  
39 developed by the commission.

1 (C) For purposes of this section, “ex parte communications that  
2 occur at conferences” includes, but is not limited to,  
3 communications in a private setting or during meals, entertainment  
4 events, and tours, and informal discussions among conference  
5 attendees.

6 (8) The commission shall render its decisions based on the law  
7 and on the evidence in the record. Ex parte communications shall  
8 not be a part of the evidentiary record of the proceedings.

9 (f) The commission may meet in a closed session to discuss  
10 administrative matters so long as no collective consensus is reached  
11 or vote taken on any matter requiring a vote of the commissioners.  
12 The commission shall, by rule, adopt and publish a definition of  
13 “administrative matters” for purposes of this section.

14 (g) The commission shall permit written comments received  
15 from the public to be included in the record of its proceedings, but  
16 the comments shall not be treated as evidence. The commission  
17 shall provide parties to the proceeding a reasonable opportunity  
18 to respond to any public comments included in the record of  
19 proceedings.

20 (h) It is the intent of the Legislature that the commission, and  
21 any entity or person seeking to influence actions taken by the  
22 commission, shall be subject to all applicable ethical standards,  
23 including any applicable obligations under the Political Reform  
24 Act of 1974 (Title 9 (commencing with Section 81000) of the  
25 Government Code), including, but not limited to, any applicable  
26 lobbying obligations.

27 *SEC. 14. Section 1701.3 of the Public Utilities Code is amended*  
28 *to read:*

29 1701.3. (a) ~~This~~ *Except as specified in subdivision (h), this*  
30 *section shall apply only to ratesetting cases, except, if the*  
31 *commissioner assigned pursuant to Section 1701.1 has determined*  
32 *that a ratesetting case does not require a hearing, the procedures*  
33 *prescribed by subdivisions (b), (d), (f), and (i) shall not apply.*

34 (b) The assigned commissioner shall determine prior to the first  
35 hearing whether the commissioner or the assigned administrative  
36 law judge shall be designated as the principal hearing officer. The  
37 principal hearing officer shall be present for more than one-half  
38 of the hearing days. The decision of the principal hearing officer  
39 shall be the proposed decision.

1 (c) An alternate decision may be issued by the assigned  
2 commissioner or the assigned administrative law judge who is not  
3 the principal hearing officer. Any alternate decision may be filed  
4 with the commission and served upon all parties to the proceeding  
5 any time prior to issuance of a final decision by the commission,  
6 consistent with the requirements of Section 311.

7 (d) The commission shall establish a procedure for any party  
8 to request the presence of a commissioner at a hearing. The  
9 assigned commissioner shall be present at any closing arguments  
10 in the case.

11 (e) The principal hearing officer shall present the proposed  
12 decision to the full commission in a public meeting. The alternate  
13 decision, if any, shall also be presented to the full commission at  
14 that public meeting.

15 (f) The presentation to the full commission shall contain a record  
16 of the number of days of the hearing, the number of days that each  
17 commissioner was present, and whether the decision was completed  
18 on time.

19 (g) The commission shall provide by rule for peremptory  
20 challenges and challenges for cause of the administrative law judge.  
21 Challenges for cause shall include, but not be limited to, financial  
22 interests and prejudice. All parties shall be entitled to unlimited  
23 peremptory challenges in any case in which the administrative law  
24 judge has within the previous 12 months served in any capacity  
25 in an advocacy position at the commission, been employed by a  
26 regulated public utility, or has represented a party or has been an  
27 interested person in the case.

28 (h) (1) Ex parte communications in ratesetting cases *and*  
29 *catastrophic wildfire proceedings* are subject to the disclosure  
30 requirements of this article. The commission, by order or ruling,  
31 may prohibit ex parte communications in a ratesetting-~~ease-~~ *case*  
32 *or catastrophic wildfire proceeding*.

33 (2) Oral communications may be permitted by a decisionmaker  
34 if all parties are given not less than three working days' notice.  
35 No individual ex parte meetings shall be held during the three  
36 business days before the commission's scheduled vote on the  
37 decision.

38 (3) (A) If an ex parte communication meeting is granted to any  
39 party, all other parties, upon request, shall also be granted  
40 individual ex parte meetings of a substantially equal period of time

1 and shall be sent a notice of that opportunity at the time the request  
2 is granted.

3 (B) Subparagraph (A) shall not apply if the decisionmaker  
4 participating in the ex parte communication meeting is a member  
5 of the personal staff of a commissioner acting in a policy or legal  
6 advisory capacity and no other decisionmaker to whom  
7 subparagraph (A) applies is a participant.

8 (4) Written ex parte communications by any interested person  
9 may be permitted if copies of the communication are transmitted  
10 to all parties on the same day as the original communication.

11 (5) Written and oral ex parte communications shall not be part  
12 of the evidentiary record of the proceeding.

13 (6) (A) The commission may establish a “quiet period” during  
14 which no oral or written ex parte communications may be permitted  
15 and the commission may meet in closed session during that period.

16 (B) A quiet period may be established only during the following  
17 periods:

18 (i) After a proposed decision or order is issued and is scheduled  
19 for a vote.

20 (ii) After a proposed decision is scheduled for a vote, but is then  
21 held and rescheduled for a vote.

22 (C) The commission shall establish a quiet period during the  
23 three business days before the commission’s scheduled vote on a  
24 decision.

25 *(D) Notwithstanding subparagraphs (A), (B), and (C), the*  
26 *commission may meet in closed session on any proposed decision*  
27 *in a catastrophic wildfire proceeding and may establish a quiet*  
28 *period during the three business days before the commission’s*  
29 *scheduled vote on the decision, during which time no written or*  
30 *oral ex parte communications may be permitted.*

31 ~~(D)~~

32 (E) (i) Any meeting of the commission during a quiet period  
33 shall require a minimum of three days’ advance public notice.

34 (ii) The requirement specified in subparagraph (F) of paragraph  
35 (1) of subdivision (b) of Section 11123 of the Government Code  
36 shall not apply to a meeting of the commission during a quiet  
37 period that is held by teleconference.

38 (i) Any party has the right to present a final oral argument of  
39 its case before the commission. ~~Those requests~~ *Upon request to*  
40 *present a final oral argument before the commission, the argument*



1 shall be scheduled in a timely manner. A quorum of the  
2 commission shall be present for the final oral arguments.

3 (j) The commission may, in issuing its decision, adopt, modify,  
4 or set aside the proposed decision or any part of the decision based  
5 on evidence in the record. The final decision of the commission  
6 shall be issued not later than 60 days after the issuance of the  
7 proposed decision. Under extraordinary circumstances the  
8 commission may extend this date for a reasonable period. The  
9 60-day period shall be extended for 30 days if any alternate  
10 decision is proposed pursuant to Section 311.

11 ~~SEC. 17.~~

12 *SEC. 15.* Section 1701.8 is added to the Public Utilities Code,  
13 to read:

14 1701.8. (a) For purposes of this section, the following  
15 definitions apply:

16 (1) “Covered wildfire” means ~~a wildfire described in Section~~  
17 ~~451.1. any wildfire ignited on or after the effective date of this~~  
18 ~~section, caused by an electrical corporation as determined by the~~  
19 ~~governmental agency responsible for determining causation.~~

20 (2) “Wildfire Fund” means the ~~wildfire fund~~ *Wildfire Fund*  
21 created pursuant to Section 3284.

22 (b) The following procedures and standards apply to a  
23 catastrophic wildfire proceeding:

24 (1) (A) An electrical corporation may file an application  
25 pursuant to Section ~~451.1~~ *451 or 451.1, as applicable*, at any time  
26 after it has ~~paid~~ *paid, or entered into binding commitments to pay*,  
27 all or, if authorized by the commission for good cause, substantially  
28 all ~~third party~~ *third-party* damage claims, including payments made  
29 pursuant to judgments or settlement agreements related to a covered  
30 wildfire. Except as authorized by the commission for good cause,  
31 before filing the application, the electrical corporation shall exhaust  
32 all rights to indemnification or other claims, contractual or  
33 otherwise, against any third parties, including collecting insurance  
34 proceeds, related to the covered wildfire.

35 (B) If an electrical corporation has received payments from the  
36 Wildfire Fund for a ~~third party~~ *third-party* damage claim for the  
37 covered wildfire, the electrical corporation shall file an application  
38 to recover the costs pursuant to subparagraph (A) no later than the  
39 earlier of the following:

1 (i) The date when it has resolved all ~~third-party~~ *third-party*  
2 damage claims and exhausted all right to indemnification or other  
3 claims, contractual or otherwise, against any third parties, including  
4 collecting insurance proceeds, related to the covered wildfire.

5 (ii) The date that is 45 days after the date the administrator  
6 requests the electrical corporation to make such an application.

7 (2) The president of the commission, upon the initiation of a  
8 catastrophic wildfire proceeding by the filing of an application  
9 pursuant to paragraph (1), shall assign a commissioner to act as  
10 the presiding officer in the proceeding and an administrative law  
11 judge to assist in conducting the proceeding.

12 (3) Within 15 days of the filing date of the application, the  
13 commission shall notice a prehearing ~~conference~~; *conference*,  
14 *which shall be held within 25 days of the filing date.*

15 (4) (A) Within 30 days of the filing date of the application, the  
16 assigned commissioner shall prepare and issue, by order or ruling,  
17 a scoping memorandum that states that the scope of the proceeding  
18 shall be whether the electrical corporation's costs and expenses  
19 for the covered wildfire are just and reasonable pursuant to Section  
20 ~~451.1~~; *451 or 451.1, as applicable.*

21 (B) The scoping memorandum shall establish a schedule for the  
22 proceeding, including the date of issuance of a proposed decision  
23 that is no later than 12 months after the filing date of the  
24 application.

25 (C) The assigned commissioner may extend the time established  
26 in the scoping memorandum for the date of issuance of a proposed  
27 decision by up to six months upon a showing of good cause.

28 (5) Notwithstanding other law, the commission may meet in  
29 closed session at any point during the pendency of the catastrophic  
30 wildfire proceeding with a three-day notice to the public if the  
31 commission establishes a quiet period pursuant to paragraph (6)  
32 of subdivision (g) of Section 1701.3.

33 ~~SEC. 18. Section 1702.5 of the Public Utilities Code is~~  
34 ~~amended to read:~~

35 ~~1702.5. (a) The commission shall, in an existing or new~~  
36 ~~proceeding, develop and implement a safety enforcement program~~  
37 ~~applicable to gas corporations and electrical corporations that~~  
38 ~~includes procedures for monitoring, data tracking and analysis,~~  
39 ~~and investigations, as well as issuance of citations by commission~~  
40 ~~staff, under the direction of the executive director. The enforcement~~

1 ~~program shall be designed to improve gas and electrical system~~  
2 ~~safety through the enforcement of applicable law, or order or rule~~  
3 ~~of the commission related to safety using a variety of enforcement~~  
4 ~~mechanisms, including the issuance of corrective actions, orders,~~  
5 ~~and citations by designated commission staff, and recommendations~~  
6 ~~for action made to the commission by designated commission staff.~~

7 ~~(1) When considering the issuance of citations and assessment~~  
8 ~~of penalties, the commission staff shall take into account voluntary~~  
9 ~~reporting of potential violations, voluntary removal or resolution~~  
10 ~~efforts undertaken, the prior history of violations, the gravity of~~  
11 ~~the violation, and the degree of culpability.~~

12 ~~(2) The procedures shall include, but are not limited to,~~  
13 ~~providing notice of violation within a reasonable period of time~~  
14 ~~after the discovery of the violation.~~

15 ~~(3) The commission shall adopt an administrative limit on the~~  
16 ~~amount of monetary penalty that may be set by commission staff.~~

17 ~~(b) The commission shall develop and implement an appeals~~  
18 ~~process to govern the issuance and appeal of citations or resolution~~  
19 ~~of corrective action orders issued by the commission staff. The~~  
20 ~~appeals process shall provide the respondent a reasonable period~~  
21 ~~of time, upon receiving a citation, to file a notice of appeal, shall~~  
22 ~~afford an opportunity for a hearing, and shall require the hearing~~  
23 ~~officer to expeditiously provide a draft disposition.~~

24 ~~(c) The commission shall, within a reasonable time set by the~~  
25 ~~commission, conclude a safety enforcement action with a finding~~  
26 ~~of violation, a corrective action order, a citation, a determination~~  
27 ~~of no violation, approval of the corrective actions undertaken by~~  
28 ~~the gas corporation or electrical corporation, or other action. The~~  
29 ~~commission may institute a formal proceeding regarding the alleged~~  
30 ~~violation, potentially resulting in additional enforcement action,~~  
31 ~~regardless of any enforcement action taken at the commission staff~~  
32 ~~level.~~

33 ~~(d) This section does not apply to an exempt wholesale~~  
34 ~~generator, a qualifying small power producer, or qualifying~~  
35 ~~cogenerator, as defined in Section 796 of Title 16 of the United~~  
36 ~~States Code and the regulations enacted pursuant thereto. Nothing~~  
37 ~~in this section affects the commission's authority pursuant to~~  
38 ~~Section 761.3.~~

39 ~~SEC. 19. Section 1711 of the Public Utilities Code is amended~~  
40 ~~to read:~~

1 1711. ~~(a) Where feasible and appropriate, except for~~  
 2 ~~adjudication cases, before determining the scope of the proceeding,~~  
 3 ~~the commission shall seek the participation of those who are likely~~  
 4 ~~to be affected, including those who are likely to benefit from, and~~  
 5 ~~those who are potentially subject to, a decision in that proceeding.~~  
 6 ~~The commission shall demonstrate its efforts to comply with this~~  
 7 ~~section in the text of the initial scoping memo of the proceeding.~~

8 ~~(b) (1) The Policy and Planning Division of the commission~~  
 9 ~~shall undertake one or more studies of outreach efforts undertaken~~  
 10 ~~by other state and federal utility regulatory bodies and make~~  
 11 ~~recommendations to the commission to promote effective outreach,~~  
 12 ~~including metrics for use in evaluating success.~~

13 ~~(2) This section shall remain in effect only until January 1, 2020,~~  
 14 ~~and as of that date is repealed.~~

15 ~~SEC. 20. Part 6 (commencing with Section 3279) is added to~~  
 16 ~~Division 1 of the Public Utilities Code, to read:~~

17 ~~SEC. 16. Part 6 (commencing with Section 3280) is added to~~  
 18 ~~Division 1 of the Public Utilities Code, to read:~~

19  
 20 PART 6. WILDFIRE FUND

21  
 22 CHAPTER 1. DEFINITIONS

23  
 24 ~~3279.~~

25 3280. For purposes of this part, the following definitions apply:

26 (a) “Administrator” means the Wildfire Fund Administrator  
 27 appointed pursuant to ~~Section 3280. 8899.72 of the Government~~  
 28 ~~Code.~~

29 (b) “Annual contribution” means either of the following:

30 (1) For an electrical corporation that qualifies as a large electrical  
 31 corporation at the end of the prior calendar year, an amount equal  
 32 to three hundred million dollars (\$300,000,000) multiplied by the  
 33 Wildfire Fund allocation metric.

34 (2) For an electrical corporation that qualifies as a regional  
 35 electrical corporation at the end of the prior calendar year, an  
 36 amount equal to twenty-five dollars (\$25) multiplied by the number  
 37 of customer accounts serviced by the electrical corporation within  
 38 the state at the end of that calendar year.

1 (c) “Council” means the California Catastrophe *Response*  
2 Council created pursuant to Section 8899.70 of the Government  
3 Code.

4 (d) “Covered wildfire” has the same meaning as set forth in  
5 Section ~~451.1~~ 1701.8.

6 (e) “Electrical corporation” has the same meaning as set forth  
7 in Section 218.

8 (f) “Eligible claims” means claims for third-party damages  
9 against an electrical corporation resulting from covered wildfires  
10 exceeding the greater of (1) one billion dollars (\$1,000,000,000)  
11 *in the aggregate* in any calendar year, or (2) the amount of the  
12 insurance coverage required to be in place for the electrical  
13 corporation pursuant to Section 3293, measured by the amount of  
14 that excess.

15 (g) “Fund” means the Wildfire Fund created pursuant to Section  
16 3284.

17 (h) “High fire-threat district” means areas identified as tier 2  
18 (elevated) or tier 3 (extreme) fire risk on the fire-threat map  
19 maintained by the commission.

20 (i) “Initial contribution” means either of the following:

21 (1) For a large electrical corporation, an amount equal to seven  
22 billion five hundred million dollars (\$7,500,000,000) multiplied  
23 by the Wildfire Fund allocation metric.

24 (2) For a regional electrical corporation, an amount equal to six  
25 hundred twenty-five dollars (\$625) multiplied by the number of  
26 customer accounts serviced by the electrical corporation within  
27 the state as of the effective date of this part.

28 (j) “Insolvency proceeding” means a bankruptcy, insolvency,  
29 liquidation, reorganization, or similar proceeding brought pursuant  
30 to Title 11 of the United States Code.

31 (k) “Large electrical corporation” means an electrical  
32 corporation with 250,000 or more customer accounts within the  
33 state.

34 (l) “Participating electrical corporation” means an electrical  
35 corporation that satisfies the conditions to participate in the fund  
36 pursuant to Section 3291 or 3292, as applicable.

37 (m) “Regional electrical corporation” means an electrical  
38 corporation with less than 250,000 customer accounts within the  
39 state.

1 (n) “Wildfire Fund allocation metric” means \_\_\_\_\_; for each  
 2 large electrical corporation the arithmetic average of (1) the land  
 3 area of the electrical corporation’s territory, measured in square  
 4 miles, in the high fire-threat districts as a proportion of all large  
 5 electrical corporations’ territory in the high fire-threat districts  
 6 and (2) the electrical corporation’s line miles of transmission and  
 7 distribution lines in the high fire-threat districts as a proportion  
 8 of all large electrical corporations’ line miles of transmission and  
 9 distribution lines in the high fire-threat districts. The large  
 10 electrical corporations’ averages shall then be adjusted to account  
 11 for risk mitigation efforts. This adjustment shall reduce the  
 12 allocation to electrical corporations that have invested historically  
 13 in mitigation efforts and those allocations shall be reallocated to  
 14 the other electrical corporations based on their proportionate  
 15 share resulting from the initial calculation above. The Wildfire  
 16 Fund allocation metric shall be determined by the Director of  
 17 Finance no later than five days after the effective date of this part.  
 18 It is the expectation of the Legislature that the Wildfire Fund  
 19 allocation metric is 64.2 percent for Pacific Gas and Electric  
 20 Company, 31.5 percent for Southern California Edison Company,  
 21 and 4.3 percent for San Diego Gas and Electric Company. If a  
 22 new electrical corporation that is a large electrical corporation  
 23 is admitted to the Wildfire Fund, the administrator shall promptly  
 24 determine and publish a revised Wildfire Fund allocation metric  
 25 based on the factors set forth in this subdivision.

26 (o) “Wildfire Fund assets” means the sum of all moneys and  
 27 invested assets held in the fund which shall include, without  
 28 limitation, any loans or other investments made by the state to the  
 29 fund, all interest or other income from the investment of money  
 30 held in the fund, any other funds specifically designated for the  
 31 fund by applicable law, the proceeds of any special charge (or  
 32 continuation of existing charge) allocated to and deposited into  
 33 the fund, *reinsurance*, and the proceeds of any bonds issue for the  
 34 benefit of the fund.

35  
 36 CHAPTER 2. THE WILDFIRE FUND  
 37

38 ~~3280. The council shall appoint and oversee the administrator~~  
 39 ~~who shall be responsible for the operation, management, and~~  
 40 ~~administration of all matters related to the fund.~~

1 3281. The administrator shall carry out the duties of this part  
2 and may do all of the ~~following~~: *following, subject to the oversight*  
3 *of the council*:

4 (a) Retain, employ, or contract with officers, experts, employees,  
5 accountants, actuaries, financial professionals, and other executives,  
6 advisers, consultants, attorneys, and professionals as may be  
7 necessary in the administrator's judgment for the efficient operation  
8 and administration of the fund.

9 (b) Enter into contracts and other obligations relating to the  
10 operation, management, and administration of the fund.

11 (c) Invest the moneys in the fund in those securities eligible  
12 under Section 16430 of the Government Code.

13 (d) Review and approve claims and settlements, and provide  
14 funds to the participating electrical corporations for the purposes  
15 of paying eligible claims.

16 (e) Buy insurance or take other actions to maximize the claims  
17 paying resources of the fund.

18 (f) Pay costs, expenses, and other obligations of the fund from  
19 Wildfire Fund assets.

20 (g) Take any actions necessary to collect any amounts owing  
21 to the fund from participating electrical corporations.

22 (h) Undertake such other activities as are related to the operation,  
23 management, and administration of the ~~fund~~: *fund, as approved*  
24 *by the council*.

25 3282. *There shall be a limited civil immunity and no criminal*  
26 *liability in a private capacity, on account of any act performed or*  
27 *omitted or obligation entered into in an official capacity, when*  
28 *done or omitted in good faith and without intent to defraud, on the*  
29 *part of the counsel, the administrator, or on the part of any officer,*  
30 *employee, or agent of the Wildfire Fund. The State of California*  
31 *shall have no liability for payment of claims in excess of funds*  
32 *available pursuant to this part. The State of California, and any*  
33 *of the funds of the State of California, shall have no obligations*  
34 *whatsoever for payment of claims or costs arising from this part,*  
35 *except as specifically provided in this part.*

36 3283. The council ~~may, in its sole discretion,~~ *shall* direct the  
37 administrator to prepare and present for approval a plan of  
38 operations related to the operations, management, and  
39 administration of the ~~fund~~: *fund on an annual basis. At least*  
40 *annually, the council shall direct the administrator to present the*

1 *plan of operations to the appropriate policy committees of the*  
2 *Legislature. The plan shall include, but not be limited to, reporting*  
3 *on the Wildfire Fund assets, projections for the durability of the*  
4 *Wildfire Fund, the success of the Wildfire Fund, whether or not*  
5 *the Wildfire Fund is serving its purpose, and a plan for winding*  
6 *up the Wildfire Fund if projections demonstrate that the Wildfire*  
7 *Fund will be exhausted within the next three years.*

8 3284. (a) There is hereby created the Wildfire Fund, which is  
9 not a fund in the State Treasury.

10 (b) Notwithstanding Section 13340 of the Government Code,  
11 the fund is continuously appropriated without regard to fiscal years  
12 for the purposes of this part.

13 (c) (1) The fund shall be administered by the administrator,  
14 subject to the direction of the council, in accordance with Chapter  
15 3 (commencing with Section 3291) to provide funds to participating  
16 electrical corporations to satisfy eligible claims arising from a  
17 covered wildfire in accordance with this part.

18 (2) At the discretion of the administrator, segregated, dedicated  
19 accounts within the fund may be established.

20 (d) The fund shall be continued in existence unless the  
21 administrator winds down the fund in accordance with Section  
22 3291 or 3292, as applicable.

23 (e) Uninvested moneys in the fund may be deposited from time  
24 to time in financial institutions authorized by law to receive  
25 deposits of public moneys or, with the approval of the Treasurer,  
26 the Surplus Money Investment Fund as provided in Article 4  
27 (commencing with Section 16470) of Chapter 3 of Part 2 of  
28 Division 4 of Title 2 of the Government Code.

29 (f) A national bank shall be custodian of all securities belonging  
30 to the fund, except as otherwise provided in the constituent  
31 instruments that define the rights of the holders of the bonds as set  
32 forth in Division 28 (commencing with Section 80500) of the  
33 Water Code.

34 (g) *With the approval of the council, the administrator shall*  
35 *establish and approve procedures for the review, approval, and*  
36 *timely funding of eligible claims. The procedures may be revised*  
37 *from time to time by the administrator with the approval of the*  
38 *council. The procedures may include processes to facilitate and*  
39 *expedite the review and approval of settled eligible claims,*  
40 *including guidelines for, or preapproval of, settlement levels. The*



1 *procedures shall provide for the reimbursement of eligible claims*  
2 *within 45 days of the date the administrator approves the settlement*  
3 *amount for any eligible claim unless that timing is not practicable.*

4 3285. (a) The fund shall be initially capitalized by a loan from  
5 the state's Surplus Money Investment Fund pursuant to Section  
6 3288.

7 (b) Proceeds of any bonds issued as provided in Division 28  
8 (commencing with Section 80500) of the Water Code shall be used  
9 as provided in Section 80550 of the Water Code. Any proceeds  
10 from the bonds allocated to the fund shall be deposited into a  
11 segregated account within the fund.

12 (c) All of the following shall be deposited into the fund:

13 (1) Initial contributions from electrical corporations.

14 (2) Annual contributions from electrical corporations.

15 (3) Revenue generated from the ratepayers of a *participating*  
16 regional electrical corporation by a charge authorized by the  
17 commission pursuant to subparagraph (B) of paragraph (1) of  
18 subdivision (a) of Section 3289 and remitted to the fund pursuant  
19 to Section 3291 or 3292, as applicable.

20 (4) Revenues generated from the ratepayers of each large  
21 electrical corporation by a charge authorized by the commission  
22 pursuant to subparagraph (A) of paragraph (1) of subdivision (a)  
23 of Section ~~3289~~. *3289 as provided in paragraph (4) of subdivision*  
24 *(b) of Section 80550.*

25 (5) Proceeds of bonds allocated to the fund as provided in  
26 Section 80550 of the Water Code.

27 ~~(6) Any fines or penalties imposed pursuant to Section 2107~~  
28 ~~resulting from or related to a wildfire to the extent such fines or~~  
29 ~~penalties are permitted by law to be deposited into the fund.~~

30 3286. The Director of Finance may, at any time, examine the  
31 books and records of the council and the administrator relating to  
32 the operation, management, and administration of the fund.

33 3287. (a) On January 1, 2021, and annually thereafter, the  
34 council, with the assistance of the administrator, shall prepare and  
35 file with the Legislature and the Department of Finance periodic  
36 reports regarding the formation, administration, and disposition  
37 of the fund, as the council deems appropriate.

38 (b) A report submitted to the Legislature pursuant to this section  
39 shall be submitted in compliance with Section 9795 of the  
40 Government Code.

1 3288. (a) If Section 3291 is operative, the Director of Finance,  
2 in consultation with the *Treasurer and the* administrator, shall  
3 determine the amount and timing of moneys needed to support the  
4 purposes of this part. The Director of Finance shall request such  
5 moneys from the Controller. Upon such request, the Controller  
6 shall transfer up to ten billion five hundred million dollars  
7 (\$10,500,000,000) to the fund from the Surplus Money Investment  
8 Fund and other funds that accrue interest to the General Fund as  
9 a cash loan. The loan principal and interest shall be fully repaid  
10 as provided in subdivision (b) of Section 80550 of the Water Code.

11 (b) In the event Section 3292 is operative, the Director of  
12 Finance, in consultation with the *Treasurer and the* administrator,  
13 shall determine a schedule to provide ten billion five hundred  
14 million dollars (\$10,500,000,000) to the fund and shall provide  
15 that schedule to the Controller within 60 days. The Controller shall  
16 transfer the moneys from the Surplus Money Investment Fund and  
17 other funds that accrue interest to the General Fund pursuant to  
18 the schedule provided by the Director of Finance as a loan to  
19 support the purposes of this part. *The loan from the Surplus Money*  
20 *Investment Fund is intended to provide necessary cash on a*  
21 *short-term basis for claims-paying resources. It is the intent that*  
22 *the loan be repaid as quickly as possible within a fiscal year.* The  
23 loan shall be repaid by the proceeds of the charges authorized  
24 pursuant to subparagraph (A) of paragraph (1) of subdivision (a)  
25 of Section 3289 or the proceeds of any bonds as set forth in  
26 Division 28 (commencing with Section 80500) of the Water Code.

27 (c) In the case of subdivision (a) or (b), interest payments on  
28 outstanding loan amounts shall be calculated at the greater of the  
29 quarter-to-date yield at the one-year constant maturity United  
30 States Treasury rate for the calendar quarter concluded directly  
31 before the calculation or the Surplus Money Investment Fund rate  
32 at the time of the cash transfer. The interest payments shall be paid  
33 on a quarterly basis *from Wildfire Fund assets* following the cash  
34 transfer and shall continue until the loan has been fully repaid. The  
35 interest payments are interest earnings of the Surplus Money  
36 Investment Fund and shall be apportioned pursuant to Sections  
37 16475 and 16480.6 of the Government Code.

38 (d) Whether Section 3291 or 3292 is operative, an initial transfer  
39 to the fund of no less than two billion dollars—~~(\$2,000,000)~~  
40 ~~(\$2,000,000,000)~~ shall be made in the 2019–20 fiscal year.

1 (e) *Prior to a transfer being made from the Surplus Money*  
2 *Investment Fund pursuant to subdivision (a) or (b), the Director*  
3 *of Finance shall determine if the transfer would result in the*  
4 *General Fund's estimated cash and unused borrowable resources*  
5 *declining below three billion dollars (\$3,000,000,000) at any point*  
6 *in time over the succeeding twenty-four month period. If the*  
7 *Director of Finance determines that the transfer would result in*  
8 *estimated cash and unused borrowable resources declining below*  
9 *that level, the transfer of funds from the Surplus Money Investment*  
10 *Fund shall not be made. This subdivision shall not apply to the*  
11 *first two billion dollars (\$2,000,000,000) of transfers made in the*  
12 *2019'20 fiscal year.*

13 3289. (a) (1) Within 14 days of the effective date of this part,  
14 the commission shall initiate a rulemaking proceeding to consider  
15 using its authority pursuant to Section 701 to require each electrical  
16 ~~corporation~~ *corporation, except a regional electrical corporation*  
17 *that chooses not to participate in any fund pursuant to Chapter 3,*  
18 to collect a nonbypassable charge from ratepayers of the electrical  
19 corporation to support the Wildfire Fund established pursuant to  
20 Section 3284, including the payment of any bonds issued pursuant  
21 to Division 28 (commencing with Section 80500) of the Water  
22 Code, as follows:

23 (A) For a large electrical corporation, a charge in an amount  
24 sufficient to fund the revenue requirement, as established pursuant  
25 to Section 80524 of the Water Code.

26 (B) For a regional electrical corporation, the amount equal to  
27 one-half cent per kilowatt-hour (\$0.005/kWh).

28 (2) If the commission determines that the imposition of the  
29 charge described in paragraph (1) is just and reasonable, and that  
30 it is appropriate to exercise its authority pursuant to Section 701  
31 to do so, the commission shall direct each electrical corporation  
32 to *impose and* collect that charge commencing in the month  
33 immediately following the month in which the ~~final-collection~~  
34 *imposition* of the revenue requirement ~~established by the~~  
35 ~~Department of Water Resources with respect to bonds previously~~  
36 *issued* pursuant to Division 27 (commencing with Section 80000)  
37 of the Water Code is made. The charge shall be collected in the  
38 same manner as that for the payments made to reimburse the  
39 Department of Water Resources pursuant to Division 27  
40 (commencing with Section 80000) of the Water Code.

1 (b) Notwithstanding any other law, no later than 90 days after  
2 the initiation of the rulemaking proceeding, the commission shall  
3 adopt a decision regarding the imposition of the charge.

4 (c) Notwithstanding Section 455.5 or 1708, or any other law,  
5 the commission shall not revise, amend, or otherwise modify a  
6 decision to impose a charge made pursuant to this section at any  
7 time prior to January 1, 2036.

8  
9 CHAPTER 3. OPERATION OF THE FUND

10  
11 3291. (a) The fund shall be established as a revolving liquidity  
12 fund that will pay eligible claims as provided in subdivision (c)  
13 and obtain reimbursement from electrical corporations as set forth  
14 in subdivision (d).

15 (b) Except as provided in subdivision (e), to participate in the  
16 fund established pursuant to subdivision (a), an electrical  
17 corporation must meet the following conditions by *no later than*  
18 June 30, 2020:

19 ~~(1) The electrical corporation holds a valid safety certification~~  
20 ~~pursuant to Section 8389.~~

21 ~~(2)~~  
22 ~~The electrical corporation is not the subject of an insolvency~~  
23 ~~proceeding unless the electrical corporation meets the following~~  
24 ~~conditions:~~

25 ~~(1) The electrical corporation is not, and has not been since the~~  
26 ~~effective date of this part, the subject of an insolvency proceeding~~  
27 ~~or on criminal probation unless the electrical corporation meets~~  
28 ~~the following conditions:~~

29 ~~(A) The electrical corporation’s insolvency proceeding has been~~  
30 ~~resolved pursuant to a plan or similar document not subject to a~~  
31 ~~stay.~~

32 ~~(B) The bankruptcy court or a court of competent jurisdiction,~~  
33 ~~in the insolvency proceeding, has determined that the resolution~~  
34 ~~of the insolvency proceeding provides funding or establishes~~  
35 ~~reserves for, provides for assumption of, or otherwise provides for~~  
36 ~~satisfying any prepetition wildfire claims asserted against the~~  
37 ~~electrical corporation in the insolvency proceeding, including any~~  
38 ~~claims asserted pursuant to proceeding in the amounts agreed upon~~  
39 ~~in any preinsolvency pre-insolvency proceeding settlement~~  
40 ~~agreements, in full in the amounts of the agreements or any~~

1 *post-insolvency settlement agreements, authorized by the court*  
2 *through an estimation process or otherwise allowed—claims*  
3 *approved by the court.*

4 (C) The commission has approved the reorganization plan and  
5 other documents resolving the insolvency proceeding, including  
6 the electrical corporation’s resulting governance structure, which  
7 shall include the governance structure of any direct or indirect  
8 owners of the electrical corporation following the resolution of  
9 the insolvency proceedings. *structure, as being acceptable in light*  
10 *of the electrical corporation’s safety history, criminal probation,*  
11 *recent financial condition, and other factors deemed relevant by*  
12 *the commission.*

13 (D) The commission has determined that the reorganization  
14 plan and other documents resolving the insolvency proceeding are  
15 (i) consistent with the state’s climate goals as required pursuant  
16 to the California Renewables Portfolio Standard Program and  
17 related procurement requirements of the state and are (ii) neutral,  
18 on average, to the ratepayers of the electrical corporation.

19 (E) *The commission has determined that the reorganization*  
20 *plan and other documents resolving the insolvency proceeding*  
21 *recognize the contributions of ratepayers, if any, and compensate*  
22 *them accordingly through mechanisms approved by the*  
23 *commission, which may include sharing of value appreciation.*

24 (3)

25 (2) For a regional electrical corporation, it ~~has~~ shall have  
26 requested to participate and have established a charge required  
27 by the commission pursuant to Section 3289. The charge shall be  
28 included on monthly bills for customers. Collections on that charge  
29 shall be remitted, on a monthly basis, to the administrator for  
30 deposit into the fund.

31 (c) A participating electrical corporation may seek payment  
32 from the fund to satisfy settled or finally adjudicated eligible  
33 claims. Only eligible claims shall be made against or paid by the  
34 fund. ~~The~~ *In accordance with the procedures established by the*  
35 *administrator, the administrator shall review and approve any*  
36 *settlement of an eligible claim as being in the reasonable business*  
37 *judgment of the electrical corporation before releasing funds to*  
38 *the electrical corporation for payment. The administrator may*  
39 *establish processes to facilitate the review and approval of settled*  
40 *eligible claims, including guidelines or values of settlements. To*

1 the extent approved by the administrator, the settlement shall not  
2 be subject to further review by the commission.

3 (d) Within six months after the commission adopts a decision  
4 in an application filed pursuant to Section 1701.8, the electrical  
5 corporation shall reimburse the fund for the full amount of  
6 payments received from the fund. The electrical corporation may  
7 recover in rates those costs and expenses allowed by the  
8 commission pursuant to Section ~~451.1~~, *451 or 451.1, as applicable*.

9 (e) The administrator may authorize an electrical corporation  
10 that is formed after the effective date of this part to participate in  
11 the fund if the administrator determines that the electrical  
12 corporation meets the requirements of this Section 3291, other  
13 than the requirement that the conditions be met by June 30, 2020.  
14 The authorization shall be effective as of a date determined by the  
15 administrator and shall apply to covered wildfires after the date  
16 of authorization.

17 (f) The fund shall terminate when the administrator determines  
18 that the fund is no longer necessary to serve the purposes of this  
19 part. Upon the determination of the administrator that the fund  
20 shall be terminated, the administrator shall pay all remaining  
21 eligible claims and fund expenses, liquidate any remaining assets,  
22 and refund the remaining funds to ratepayers.

23 (g) This section shall become inoperative upon timely payment  
24 of the initial contribution pursuant to Section 3292 by each large  
25 electrical corporation not subject to an insolvency proceeding on  
26 the effective date of this section, and is repealed on January 1 of  
27 the following year. The administrator shall notify the Secretary of  
28 State as to whether those payments were timely made.

29 3292. (a) If, within 15 days of the effective date of this part,  
30 each large electrical corporation not subject to an insolvency  
31 proceeding on the effective date of this part notifies the commission  
32 of its commitment to provide the initial contribution and the annual  
33 contributions, and subsequently provides its initial contribution as  
34 set forth in paragraph (4) of subdivision (b), the fund shall be  
35 established to pay eligible claims as set forth in subdivision (f)  
36 and obtain reimbursement from electrical corporations as set forth  
37 in subdivision (g).

38 (b) Except as provided in subdivision (d), to participate in the  
39 fund established pursuant to subdivision (a), an electrical

1 corporation shall satisfy the following conditions by *no later than*  
2 June 30, 2020:

3 ~~(1) The electrical corporation holds a valid safety certification~~  
4 ~~pursuant to Section 8389.~~

5 ~~(2)~~

6 ~~The electrical corporation is not the subject of an insolvency~~  
7 ~~proceeding, unless the electrical corporation meets the following~~  
8 ~~conditions:~~

9 ~~(1) The electrical corporation is not, and has not been since the~~  
10 ~~effective date of this part, the subject of an insolvency proceeding~~  
11 ~~or on criminal probation unless the electrical corporation meets~~  
12 ~~the following conditions:~~

13 ~~(A) The electrical corporation's insolvency proceeding has been~~  
14 ~~resolved pursuant to a plan or similar document not subject to a~~  
15 ~~stay.~~

16 ~~(B) The bankruptcy court or a court of competent jurisdiction,~~  
17 ~~in the insolvency proceeding, has determined that the resolution~~  
18 ~~of the insolvency proceeding provides funding or establishes~~  
19 ~~reserves for, provides for assumption of, or otherwise provides for~~  
20 ~~satisfying any prepetition wildfire claims asserted against the~~  
21 ~~electrical corporation in the insolvency proceeding, including any~~  
22 ~~claims asserted pursuant to proceeding in the amounts agreed upon~~  
23 ~~in any preinsolvency pre-insolvency proceeding settlement~~  
24 ~~agreements, in full in the amounts of the agreements or any~~  
25 ~~post-insolvency settlement agreements, authorized by the court~~  
26 ~~through an estimation process or otherwise allowed claims~~  
27 ~~approved by the court.~~

28 ~~(C) The commission has approved the reorganization plan and~~  
29 ~~other documents resolving the insolvency proceeding, including~~  
30 ~~the electrical corporation's resulting governance structure, which~~  
31 ~~shall include the governance structure of any direct or indirect~~  
32 ~~owners of the electrical corporation following the resolution of~~  
33 ~~the insolvency proceedings. structure as being acceptable in light~~  
34 ~~of the electrical corporation's safety history, criminal probation,~~  
35 ~~recent financial condition, and other factors deemed relevant by~~  
36 ~~the commission.~~

37 ~~(D) The commission has determined that the reorganization~~  
38 ~~plan and other documents resolving the insolvency proceeding are~~  
39 ~~(i) consistent with the state's climate goals as required pursuant~~  
40 ~~to the California Renewables Portfolio Standard Program and~~

1 *related procurement requirements of the state and are (ii) neutral,*  
 2 *on average, to the ratepayers of the electrical corporation.*

3 *(E) The commission has determined that the reorganization*  
 4 *plan and other documents resolving the insolvency proceeding*  
 5 *recognize the contributions of ratepayers, if any, and compensate*  
 6 *them accordingly through mechanisms approved by the*  
 7 *commission, which may include sharing of value appreciation.*

8 ~~(3)~~

9 (2) For a regional electrical corporation, it has *voluntarily*  
 10 established a charge required by the commission pursuant to  
 11 Section 3289. This charge shall be included on monthly bills for  
 12 customers. Collections on that charge shall be remitted, on a  
 13 monthly basis, to the administrator for deposit into the fund.

14 ~~(4)~~

15 (3) Except as provided in subdivision (e), the electrical  
 16 corporation has provided its initial contribution to the fund within  
 17 60 days of the effective date of this part. Initial contributions shall  
 18 not be recovered from the ratepayers of an electrical corporation.

19 (c) Each participating electrical corporation shall make its annual  
 20 contribution by January 1 of each calendar year, including, without  
 21 limitation, any annual contributions for calendar years in which  
 22 the electrical corporation was not a participating electrical  
 23 corporation. Annual contributions shall not be recovered from the  
 24 ratepayers of an electrical corporation.

25 (d) The administrator may authorize an electrical corporation  
 26 that is formed after the effective date of this part to participate in  
 27 the fund if the administrator determines that the electrical  
 28 corporation meets the requirements of this section. Authorization  
 29 of an electrical corporation that is formed after the effective date  
 30 of this part shall be effective as of a date determined by the  
 31 administrator and shall apply to covered wildfires after the date  
 32 of authorization.

33 (e) An electrical corporation that is the subject of an insolvency  
 34 proceeding on the effective date of this part that wishes to  
 35 participate in the fund shall (1) within 15 days of the effective date  
 36 of this part, provide written notification to the commission of its  
 37 election to participate in the fund, and (2) within 60 days of the  
 38 effective date of this part, obtain approval from the bankruptcy  
 39 court or a court of competent jurisdiction of its ~~irrevocable~~  
 40 determination *to pay*, and approval of its payment ~~of~~ *of*, the initial



1 contribution and, as they become due, annual contributions to the  
2 fund, provided, that the contributions shall not be due to the fund  
3 until the date the electrical corporation exits the insolvency  
4 proceeding. The electrical corporation shall not be entitled to seek  
5 payments from the fund pursuant to subdivision (f) until it has  
6 funded its initial contribution and has met the other conditions  
7 provided in subdivision (b). Participation of an electrical  
8 corporation that is the subject of an insolvency proceeding that  
9 satisfies the requirements of this subdivision shall be effective as  
10 of the effective date of this part and shall apply to covered ~~wildfires~~  
11 ~~after the effective date, wildfires~~, provided that the fund shall not  
12 pay more than 40 percent of the allowed amount of ~~any~~ a claim  
13 arising between the effective date and the date the electrical  
14 corporation exits ~~bankruptcy~~. *bankruptcy, with the balance of those*  
15 *claims being addressed through the insolvency proceeding.*

16 (f) (1) An electrical corporation meeting the applicable  
17 requirements of subdivision (b) may seek payment from the fund  
18 to satisfy settled or finally adjudicated eligible claims. Only eligible  
19 claims shall be made against or paid by the fund. ~~The In~~  
20 ~~accordance with the procedures established by the administrator,~~  
21 *the administrator shall review and approve any settlement of an*  
22 *eligible claim as being in the reasonable business judgment of the*  
23 *electrical corporation before releasing funds to the electrical*  
24 *corporation for payment. The administrator may establish processes*  
25 ~~to facilitate the review and approval of settled eligible claims,~~  
26 ~~including establishing guidelines or values for settlements.~~  
27 *Settlements of subrogation claims that are less than or equal to*  
28 *40 percent of total asserted claim value as determined by the*  
29 *administrator shall be paid unless the administrator finds that the*  
30 *exceptional facts and circumstances surrounding the underlying*  
31 *claim do not justify the electrical corporation's exercise of such*  
32 *business judgment. To the extent approved by the administrator,*  
33 *a settlement shall not be subject to further review by the*  
34 *commission.*

35 (2) The administrator shall ~~not~~ approve a settlement of an  
36 eligible claim that is a subrogation claim if the settlement exceeds  
37 40 percent of the total asserted claim value, as determined by the  
38 administrator, ~~unless and includes a full release of the balance of~~  
39 ~~the asserted claim so long as the administrator finds that the~~  
40 *electrical corporation exercised its reasonable business judgment*

1 *in determining to settle for a higher percentage or on different*  
2 *terms based on a determination that the specific facts and*  
3 *circumstances surrounding the underlying claim justify a higher*  
4 *settlement percentage. percentage or different terms. A subrogation*  
5 *claim that is finally adjudicated shall be paid in the full judgment*  
6 *amount.*

7 *(g) All initial and annual contributions shall be excluded from*  
8 *the measurement of the authorized capital structure.*

9 ~~(g)~~

10 *(h) (1) Except as provided in paragraph (2), within six months*  
11 *after the commission adopts a decision in an application filed*  
12 *pursuant to Section 1701.8, the electrical corporation shall*  
13 *reimburse the fund for the full amount of costs and expenses the*  
14 *commission determined were disallowed pursuant to Section*  
15 *1701.8.*

16 *(2) (A) The obligation of an electrical corporation to reimburse*  
17 *the fund for amounts received from the fund shall be limited to 20*  
18 ~~*percent of the electrical corporation's transmission and distribution*~~  
19 ~~*equity rate base for any rolling three-calendar-year period as*~~  
20 ~~*determined by the administrator. Except shall be the lesser amount*~~  
21 ~~*of subparagraph (B) or (C).*~~

22 *(B) The costs and expenses disallowed pursuant to Section*  
23 *1701.8.*

24 *(C) The amount determined pursuant to clause (i) minus the*  
25 *amount determined pursuant to clause (ii).*

26 *(i) Twenty percent of the electrical corporation's total*  
27 *transmission and distribution equity rate base, including, but not*  
28 *limited to, its Federal Energy Regulatory Commission (FERC)*  
29 *assets, as determined by the administrator for the calendar year*  
30 *in which the disallowance occurred.*

31 *(ii) The sum of (I) the amounts actually reimbursed to the*  
32 *Wildfire Fund for costs and expenses that were disallowed pursuant*  
33 *to Section 1701.8 during the measurement period, added to (II)*  
34 *the amount of any reimbursements to the Wildfire Fund owed by*  
35 *the electrical corporation for costs and expenses disallowed during*  
36 *the measurement period that have not yet been paid.*

37 *(iii) For purposes of this subparagraph, "measurement period"*  
38 *means the period of three consecutive calendar years ending on*  
39 *December 31 of the year in which the calculation is being*  
40 *performed.*

1 (D) *The administrator shall publish calculations of the amounts*  
2 *determined pursuant to subparagraphs (B) and (C) on or before*  
3 *January 1 of each calendar year for each electrical corporation.*

4 (E) *Except as provided in paragraph (3), the electrical*  
5 *corporation shall not be required to reimburse the fund for any*  
6 *additional amounts in any three-calendar-year period.*

7 (F) *The limitation set forth in this section shall apply only so*  
8 *long as the fund has not been terminated pursuant to subdivision*  
9 *(i).*

10 (3) Paragraph (2) does not apply under either of the following  
11 circumstances:

12 (A) If the administrator determines that the electrical  
13 corporation's actions or inactions that resulted in the covered  
14 wildfire constituted conscious or willful disregard of the rights  
15 and safety of others.

16 (B) If the electrical corporation fails to maintain a valid safety  
17 certification.

18 (i) (1) *The administrator shall, to the extent practicable, manage*  
19 *the fund to prioritize the use of contributions of the electrical*  
20 *corporations before the use of contributions by ratepayers.*

21 ~~(h)~~

22 (2) The fund shall terminate when the administrator determines  
23 that the fund resources are exhausted taking into account the  
24 amount of any unpaid liabilities including necessary reserves, any  
25 remaining unpaid annual contributions from participating electrical  
26 corporations and the charges authorized pursuant to Section 3289.  
27 Upon the determination of the administrator that the fund shall be  
28 terminated, the administrator shall pay all remaining eligible claims  
29 and fund expenses, liquidate any remaining assets, and refund the  
30 remaining funds to ratepayers.

31 (j) *Notwithstanding subdivision (f), a regional electrical*  
32 *corporation's access to the Wildfire Fund to pay eligible claims*  
33 *shall be limited to three times the sum of the regional electrical*  
34 *corporation's initial contribution and any funded annual*  
35 *contributions per covered wildfire.*

36 ~~(i)~~

37 (k) ~~This Section~~ *section shall become inoperative if timely*  
38 *payment of the initial contribution is not made pursuant to*  
39 *paragraph (4) of subdivision (b) by each large electrical*  
40 ~~corporations~~ *corporation not subject to an insolvency proceeding*

1 on the effective date of this section, and is repealed on the first  
2 January 1 more than three months after the initial contributions  
3 are ~~due~~: *due but not all paid*. The administrator shall notify the  
4 Secretary of State as to whether those payments were timely made.

5 3293. A participating electrical corporation shall maintain  
6 ~~commercially~~ reasonable insurance ~~coverage as determined~~  
7 ~~annually by the administrator~~: *coverage*. The administrator shall  
8 ~~determine periodically review and make a recommendation as to~~  
9 the appropriate amount of insurance coverage required, taking into  
10 account the availability of insurance, the electrical corporation's  
11 service territory, including the fire risk of the territory, the size of  
12 the territory, and the value of the real estate in the territory, the  
13 safety record of the electrical corporation, the wildfire mitigation  
14 measures implemented by the electrical corporation, the impact  
15 to the ratepayers, and other factors deemed appropriate by the  
16 administrator.

17 3294. Costs and expenses of administration of the fund shall  
18 be paid from Wildfire Fund assets.

19 ~~3295. The fund shall be granted a statutory lien on any revenues~~  
20 ~~of an electrical corporation to secure the amount of any~~  
21 ~~reimbursement obligations to the fund, which statutory lien shall~~  
22 ~~be, in any subsequent insolvency proceeding, senior to the liens~~  
23 ~~on the assets or property of the electrical corporation. The statutory~~  
24 ~~lien shall be automatically perfected without further action of the~~  
25 ~~fund. The foregoing lien shall apply regardless of whether the~~  
26 ~~amounts are commingled with other cash or other property of the~~  
27 ~~electrical corporation.~~

28 3295. (a) *Except as provided in subdivision (b), within six*  
29 *months after the commission adopts a decision in an application*  
30 *filed pursuant to Section 1701.8, a governmental assessment shall*  
31 *be imposed in the full amount of, and the electrical corporation*  
32 *shall reimburse the fund for the full amount of, costs and expenses*  
33 *the commission determined were the amount of the obligation to*  
34 *reimburse the fund pursuant to subdivision (d) of Section 3291 or*  
35 *subdivision (h) of Section 3292 in a proceeding authorized*  
36 *pursuant to Section 1701.8.*

37 (b) *With respect to a governmental assessment pursuant to*  
38 *subdivision (a), the fund is granted a statutory lien on the revenues*  
39 *of an electrical corporation participating in the fund to secure the*  
40 *electrical corporation's reimbursement obligations to the fund,*

1 *which statutory lien shall be subordinated and junior in lien*  
2 *priority and right of payment to any lien, mortgage, or security*  
3 *interest securing any debt, note, indenture, lease, contract, or other*  
4 *obligation of the electrical corporation or a financing entity defined*  
5 *in Section 850 in existence on the effective date of this part or*  
6 *thereafter authorized by the commission, including pursuant to*  
7 *subdivision (g) of Section 80540; provided that no such lien shall*  
8 *be deemed to have been granted with respect to the revenues of*  
9 *an electrical corporation to the extent that the terms of any debt,*  
10 *note, indenture, lease, contract, or other obligation of the electrical*  
11 *corporation existing on the effective date prohibits the granting*  
12 *of the lien, or if a breach or default would occur thereunder as a*  
13 *result of the granting of the lien whether or not the breach or*  
14 *default is subject to the passage of time, notice requirements, or*  
15 *otherwise, it being understood that the lien will be deemed to have*  
16 *been automatically granted at the time that the prohibition no*  
17 *longer applies or no breach or default would occur. Subject to the*  
18 *immediately preceding sentence, the subordinated and junior*  
19 *statutory lien shall be automatically perfected without further*  
20 *action of the fund and shall apply regardless of whether the*  
21 *amounts are commingled with other cash or other property of the*  
22 *electrical corporation. The statutory lien granted pursuant to this*  
23 *section shall not attach to any real property of an electrical*  
24 *corporation.*

25 3296. In addition to any rights and remedies of the  
26 administrator provided by law, the administrator is authorized at  
27 any time and from time to time, without notice to the participating  
28 electrical corporations, to set off and apply any and all funds,  
29 deposits, or contributions from a participating electrical corporation  
30 at any time held by the fund and other obligations owed to the  
31 fund, irrespective of whether or not the administrator made  
32 demand, and whether the obligations may be contingent or  
33 unmatured. The administrator will promptly notify the participating  
34 electrical corporation after any such set-off.

35 3297. *Fund earnings are tax exempt and fund contributions*  
36 *are tax deductible for state tax purposes.*

37 ~~SEC. 21.~~

38 *SEC. 17.* Section 8386 of the Public Utilities Code is amended  
39 to read:

1 8386. (a) Each electrical corporation shall construct, maintain,  
2 and operate its electrical lines and equipment in a manner that will  
3 minimize the risk of catastrophic wildfire posed by those electrical  
4 lines and equipment.

5 (b) Each electrical corporation shall ~~triennially~~ *annually* prepare  
6 and submit a ~~comprehensive~~ wildfire mitigation plan to the  
7 ~~commission~~ *division* for review and ~~approval, according to a~~  
8 ~~schedule established by the commission,~~ *approval. In calendar*  
9 *year 2020, and thereafter, the plan shall cover at least a three-year*  
10 *period. The division shall establish a schedule for the submission*  
11 *of subsequent comprehensive wildfire mitigation plans, which may*  
12 *allow for the staggering of compliance periods for each electrical*  
13 *corporation. Until its next comprehensive wildfire mitigation plan,*  
14 *an electrical corporation shall annually submit to the Wildfire*  
15 *Safety Division for review and approval an update. In its discretion,*  
16 *the division may allow the annual submissions to be updates to*  
17 *the last approved comprehensive wildfire mitigation plan. plan;*  
18 *provided, that each electrical corporation shall submit a*  
19 *comprehensive wildfire mitigation plan at least once every three*  
20 *years.*

21 (c) The wildfire mitigation plan shall include all of the  
22 following:

23 (1) An accounting of the responsibilities of persons responsible  
24 for executing the plan.

25 (2) The objectives of the plan.

26 (3) A description of the preventive strategies and programs to  
27 be adopted by the electrical corporation to minimize the risk of its  
28 electrical lines and equipment causing catastrophic wildfires,  
29 including consideration of dynamic climate change risks.

30 (4) A description of the metrics the electrical corporation plans  
31 to use to evaluate the plan's performance and the assumptions that  
32 underlie the use of those metrics.

33 (5) A discussion of how the application of previously identified  
34 metrics to previous plan performances has informed the plan.

35 (6) Protocols for disabling reclosers and deenergizing portions  
36 of the electrical distribution system that consider the associated  
37 impacts on public safety, as well as protocols related to mitigating  
38 the public safety impacts of those protocols, including impacts on  
39 critical first responders and on health and communication  
40 infrastructure.

- 1 (7) Appropriate and feasible procedures for notifying a customer  
2 who may be impacted by the deenergizing of electrical lines. The  
3 procedures shall consider ~~th~~ *the* need ~~the~~ *to* notify, as a priority,  
4 critical first responders, health care facilities, and operators of  
5 telecommunications infrastructure.
- 6 (8) Plans for vegetation management.
- 7 (9) Plans for inspections of the electrical corporation's electrical  
8 infrastructure.
- 9 (10) A list that identifies, describes, and prioritizes all wildfire  
10 risks, and drivers for those risks, throughout the electrical  
11 corporation's service territory, including all relevant wildfire risk  
12 and risk mitigation information that is part of Safety Model  
13 Assessment Proceeding and Risk Assessment Mitigation Phase  
14 filings. The list shall include, but not be limited to, both of the  
15 following:
- 16 (A) Risks and risk drivers associated with design, construction,  
17 operations, and maintenance of the electrical corporation's  
18 equipment and facilities.
- 19 (B) Particular risks and risk drivers associated with topographic  
20 and climatological risk factors throughout the different parts of  
21 the electrical corporation's service territory.
- 22 (11) A description of how the plan accounts for the wildfire risk  
23 identified in the electrical corporation's Risk Assessment  
24 Mitigation Phase filing.
- 25 (12) A description of the actions the electrical corporation will  
26 take to ensure its system will achieve the highest level of safety,  
27 reliability, and resiliency, and to ensure that its system is prepared  
28 for a major event, including hardening and modernizing its  
29 infrastructure with improved engineering, system design, standards,  
30 equipment, and facilities, such as undergrounding, insulation of  
31 distribution wires, and pole replacement.
- 32 (13) A showing that the utility has an adequate sized and trained  
33 workforce to promptly restore service after a major event, taking  
34 into account employees of other utilities pursuant to mutual aid  
35 agreements and employees of entities that have entered into  
36 contracts with the utility.
- 37 (14) Identification of any geographic area in the electrical  
38 corporation's service territory that is a higher wildfire threat than  
39 is currently identified in a commission fire threat map, and where

1 the commission should consider expanding the high fire threat  
2 district based on new information or changes in the environment.

3 (15) A methodology for identifying and presenting  
4 enterprise-wide safety risk and wildfire-related risk that is  
5 consistent with the methodology used by other electrical  
6 corporations unless the commission determines otherwise.

7 (16) A description of how the plan is consistent with the  
8 electrical corporation's disaster and emergency preparedness plan  
9 prepared pursuant to Section 768.6, including both of the following:

10 (A) Plans to prepare for, and to restore service after, a wildfire,  
11 including workforce mobilization and repositioning equipment  
12 and employees.

13 (B) Plans for community outreach and public awareness before,  
14 during, and after a wildfire, including language notification in  
15 English, Spanish, and the top three primary languages used in the  
16 state other than English or Spanish, as determined by the  
17 commission based on the United States Census data.

18 (17) A statement of how the electrical corporation will restore  
19 service after a wildfire.

20 (18) Protocols for compliance with requirements adopted by  
21 the commission regarding activities to support customers during  
22 and after a wildfire, outage reporting, support for low-income  
23 customers, billing adjustments, deposit waivers, extended payment  
24 plans, suspension of disconnection and nonpayment fees, repair  
25 processing and timing, access to utility representatives, and  
26 emergency communications.

27 (19) A description of the processes and procedures the electrical  
28 corporation will use to do all of the following:

29 (A) Monitor and audit the implementation of the plan.

30 (B) Identify any deficiencies in the plan or the plan's  
31 implementation and correct those deficiencies.

32 (C) Monitor and audit the effectiveness of electrical line and  
33 equipment inspections, including inspections performed by  
34 contractors, carried out under the plan and other applicable statutes  
35 and commission rules.

36 (20) Any other information that the Wildfire Safety Division  
37 may require.

38 (d) *The Wildfire Safety Division shall post all wildfire mitigation*  
39 *plans and annual updates on the commission's internet website*  
40 *for no less than two months before the Wildfire Safety Division's*



1 *decision regarding approval of the plan. The Wildfire Safety*  
2 *Division shall accept comments on each plan from the public,*  
3 *other local and state agencies, and interested parties, and verify*  
4 *that the plan complies with all applicable rules, regulations, and*  
5 *standards, as appropriate.*

6 ~~SEC. 22.~~

7 SEC. 18. Section ~~8386.1~~8386.3 is added to the Public Utilities  
8 Code, to read:

9 ~~8386.1.~~

10 8386.3. (a) The Wildfire Safety Division shall approve or deny  
11 each wildfire mitigation plan and update submitted by an electrical  
12 corporation within three months of its submission, unless the  
13 division makes a written determination, including reasons  
14 supporting the determination, that the three-month deadline cannot  
15 be met. Each electrical corporation's approved plan shall remain  
16 in effect until the division approves the electrical corporation's  
17 subsequent plan. The division shall consult with the Department  
18 of Forestry and Fire Protection on the review of each wildfire  
19 mitigation plan and update. *In rendering its decision, the division*  
20 *shall consider comments submitted pursuant to subdivision (d) of*  
21 *Section 8386.* Before approval, the division may require  
22 modifications of the plan. After approval by the division, the  
23 commission shall ratify the action of the division.

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

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

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

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

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

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

14 (iii) The independent evaluator's findings shall be used by the  
15 Wildfire Safety Division to carry out its obligations under Article  
16 1 (commencing with Section 451) of Chapter 3 of Part 1 of  
17 Division 1.

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

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

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

26 (d) An electrical corporation shall not divert revenues authorized  
27 to implement the plan to any activities or investments outside of  
28 the plan.

29 ~~(e) (1) Each electrical corporation shall establish a~~  
30 ~~memorandum account to track costs incurred for fire risk mitigation~~  
31 ~~that are not otherwise covered in the electrical corporation's~~  
32 ~~revenue requirements. The commission shall review the costs in~~  
33 ~~the memorandum accounts and disallow recovery of those costs~~  
34 ~~the commission deems unreasonable.~~

35 ~~(2)~~

36 (e) The commission shall not allow a large electrical corporation  
37 to include in its equity rate base its share, as determined pursuant  
38 to the ~~wildfire~~ *Wildfire Fund* allocation metric specified in Section  
39 ~~3279, 3280~~, of the first five billion dollars (\$5,000,000,000)  
40 expended in aggregate by large electrical corporations ~~over the~~

1 ~~period of 2020 to 2024, inclusive, on fire risk mitigation capital~~  
 2 ~~expenditures included in the electrical corporations’ approved~~  
 3 ~~wildfire mitigation plans. Nothing in this paragraph shall prevent~~  
 4 ~~an electrical corporation from recovering~~ *An electrical*  
 5 *corporation’s share of the fire risk mitigation capital expenditures*  
 6 *and the debt financing costs of these fire risk mitigation capital*  
 7 ~~expenditures.~~ *expenditures may be financed through a financing*  
 8 *order pursuant to Section 851, subject to the requirements of that*  
 9 *financing order.*

10 ~~SEC. 23.~~

11 *SEC. 19.* Section 8386.28386.4 is added to the Public Utilities  
 12 Code, to read:

13 ~~8386.2.~~

14 ~~8386.4.~~ (a) ~~At the time it approves each of approval of an~~  
 15 *electrical corporation’s wildfire mitigation plan, the commission*  
 16 *shall authorize the utility electrical corporation to establish a*  
 17 *memorandum account to track costs incurred to implement the*  
 18 *plan.*

19 (b) (1) The commission shall consider whether the cost of  
 20 implementing each electrical corporation’s plan is just and  
 21 reasonable in its general rate case application. *Each electrical*  
 22 *corporation shall establish a memorandum account to track costs*  
 23 *incurred for fire risk mitigation that are not otherwise covered in*  
 24 *the electrical corporation’s revenue requirements. The commission*  
 25 *shall review the costs in the memorandum accounts and disallow*  
 26 *recovery of those costs the commission deems unreasonable.*

27 (2) In lieu of paragraph (1), an electrical corporation may elect  
 28 to file an application for recovery of the cost of implementing its  
 29 plan as accounted in the memorandum account at the conclusion  
 30 of the time period covered by the plan. If the electrical corporation  
 31 files an application for cost recovery pursuant to this paragraph,  
 32 the commission shall issue a proposed decision within 12 months  
 33 of the filing date of the application unless the commission issues  
 34 an order extending the deadline upon a finding of good cause. ~~The~~  
 35 ~~Wildfire Safety Division shall advise the commission on whether~~  
 36 ~~the cost is just and reasonable.~~

37 (3) The chief executive officer of an electrical corporation shall  
 38 certify in each general rate case application that the electrical  
 39 corporation has not received authorization from the commission

1 to recover the costs in a previous proceeding, including wildfire  
2 cost recovery applications.

3 (4) Nothing in this section shall be interpreted as a restriction  
4 or limitation on Article 1 (commencing with Section 451) of  
5 Chapter 3 of Part 1 of Division 1.

6 ~~SEC. 24.~~

7 *SEC. 20.* Section 8387 of the Public Utilities Code is amended  
8 to read:

9 8387. (a) Each local publicly owned electric utility and  
10 electrical cooperative shall construct, maintain, and operate its  
11 electrical lines and equipment in a manner that will minimize the  
12 risk of wildfire posed by those electrical lines and equipment.

13 (b) (1) The local publicly owned electric utility or electrical  
14 cooperative shall, before January 1, 2020, ~~and annually thereafter,~~  
15 *prepare a wildfire mitigation plan. After January 1, 2020, a local*  
16 *publicly owned electric utility or electrical cooperative shall*  
17 *prepare a wildfire mitigation plan annually and shall submit the*  
18 *plan to the California Wildfire Safety Advisory Board on or before*  
19 *July 1 of that calendar year. Each local publicly owned electric*  
20 *utility and electrical cooperative shall update its plan annually*  
21 *and submit the update to the California Wildfire Safety Advisory*  
22 *Board by July 1 of each year. At least once every three years, the*  
23 *submission shall be a comprehensive revision of the plan.*

24 (2) The wildfire mitigation plan shall consider as necessary, at  
25 minimum, all of the following:

26 (A) An accounting of the responsibilities of persons responsible  
27 for executing the plan.

28 (B) The objectives of the wildfire mitigation plan.

29 (C) A description of the preventive strategies and programs to  
30 be adopted by the local publicly owned electric utility or electrical  
31 cooperative to minimize the risk of its electrical lines and  
32 equipment causing catastrophic wildfires, including consideration  
33 of dynamic climate change risks.

34 (D) A description of the metrics the local publicly owned electric  
35 utility or electrical cooperative plans to use to evaluate the wildfire  
36 mitigation plan's performance and the assumptions that underlie  
37 the use of those metrics.

38 (E) A discussion of how the application of previously identified  
39 metrics to previous wildfire mitigation plan performances has  
40 informed the wildfire mitigation plan.

1 (F) Protocols for disabling reclosers and deenergizing portions  
2 of the electrical distribution system that consider the associated  
3 impacts on public safety, as well as protocols related to mitigating  
4 the public safety impacts of those protocols, including impacts on  
5 critical first responders and on health and communication  
6 infrastructure.

7 (G) Appropriate and feasible procedures for notifying a customer  
8 who may be impacted by the deenergizing of electrical lines. The  
9 procedures shall consider the need to notify, as a priority, critical  
10 first responders, health care facilities, and operators of  
11 telecommunications infrastructure.

12 (H) Plans for vegetation management.

13 (I) Plans for inspections of the local publicly owned electric  
14 utility's or electrical cooperative's electrical infrastructure.

15 (J) A list that identifies, describes, and prioritizes all wildfire  
16 risks, and drivers for those risks, throughout the local publicly  
17 owned electric utility's or electrical cooperative's service territory.  
18 The list shall include, but not be limited to, both of the following:

19 (i) Risks and risk drivers associated with design, construction,  
20 operation, and maintenance of the local publicly owned electric  
21 utility's or electrical cooperative's equipment and facilities.

22 (ii) Particular risks and risk drivers associated with topographic  
23 and climatological risk factors throughout the different parts of  
24 the local publicly owned electric utility's or electrical cooperative's  
25 service territory.

26 (K) Identification of any geographic area in the local publicly  
27 owned electric utility's or electrical cooperative's service territory  
28 that is a higher wildfire threat than is identified in a commission  
29 fire threat map, and identification of where the commission should  
30 expand a ~~high-fire-threat~~ *fire-threat* district based on new  
31 information or changes to the environment.

32 (L) A methodology for identifying and presenting enterprisewide  
33 safety risk and wildfire-related risk.

34 (M) A statement of how the local publicly owned electric utility  
35 or electrical cooperative will restore service after a wildfire.

36 (N) A description of the processes and procedures the local  
37 publicly owned electric utility or electrical cooperative shall use  
38 to do all of the following:

39 (i) Monitor and audit the implementation of the wildfire  
40 mitigation plan.

1 (ii) Identify any deficiencies in the wildfire mitigation plan or  
2 its implementation, and correct those deficiencies.

3 (iii) Monitor and audit the effectiveness of electrical line and  
4 equipment inspections, including inspections performed by  
5 contractors, that are carried out under the plan, other applicable  
6 statutes, or commission rules.

7 (3) The local publicly owned electric utility or electrical  
8 cooperative ~~shall~~ *shall, on or before January 1, 2020, and not less*  
9 *than annually thereafter*, present ~~each~~ its wildfire mitigation plan  
10 in an appropriately noticed public meeting. The local publicly  
11 owned electric utility or electrical cooperative shall accept  
12 comments on its wildfire mitigation plan from the public, other  
13 local and state agencies, and interested parties, and shall verify  
14 that the wildfire mitigation plan complies with all applicable rules,  
15 regulations, and standards, as appropriate.

16 (c) The local publicly owned electric utility or electrical  
17 cooperative shall contract with a qualified independent evaluator  
18 with experience in assessing the safe operation of electrical  
19 infrastructure to review and assess the comprehensiveness of its  
20 wildfire mitigation plan. The independent evaluator shall issue a  
21 report that shall be made available on the internet website of the  
22 local publicly owned electric utility or electrical cooperative, and  
23 shall present the report at a public meeting of the local publicly  
24 owned electric utility's or electrical cooperative's governing board.

25 ~~(d) (1) Each local publicly owned electric utility or electrical~~  
26 ~~cooperative shall submit to the Wildfire Safety Division the~~  
27 ~~wildfire mitigation plan prepared pursuant to subdivision (b).~~

28 ~~(2) The Wildfire Safety Division, in consultation with the~~  
29 ~~California Wildfire Safety Advisory Board, shall review the plans~~  
30 ~~and provide comments and advisory opinions to each local publicly~~  
31 ~~owned electric utility or electrical cooperative regarding the content~~  
32 ~~and sufficiency of the plan and recommendations on how to~~  
33 ~~mitigate wildfire risks.~~

34 ~~(3) By December 1, 2020, and annually thereafter, the~~  
35 ~~commission, after consultation with the Wildfire Safety Division,~~  
36 ~~shall adopt and approve a process for division staff to review and~~  
37 ~~provide comments and advisory opinions pursuant to paragraph~~  
38 ~~(2).~~

1 ~~SEC. 25.~~

2 *SEC. 21.* Section 8389 is added to the Public Utilities Code,  
3 to read:

4 8389. (a) For purposes of this section, the following definitions  
5 apply:

6 (1) “Board” means the California Wildfire Safety Advisory  
7 Board established pursuant to Section 326.1.

8 (2) “Division” means the Wildfire Safety Division established  
9 pursuant to Section 326.

10 ~~(3) “Substantial compliance” means actual compliance in respect~~  
11 ~~to the substance essential to every reasonable objective of a~~  
12 ~~particular law, rule, regulation, metric, or requirement taking into~~  
13 ~~account cure periods to the extent provided.~~

14 (b) By June 30, 2020, and annually thereafter, the board shall  
15 make recommendations to the division on all of the following:

16 (1) Appropriate performance metrics and processes for  
17 determining an electrical corporation’s compliance with its  
18 approved wildfire mitigation plan.

19 (2) Appropriate requirements in addition to the requirements  
20 set forth in Section 8386 for the wildfire mitigation plan.

21 (3) The appropriate scope and process for assessing the safety  
22 culture of an electrical corporation.

23 (c) By October 31, 2020, and annually thereafter, the division  
24 shall issue an analysis and recommendation to the commission on  
25 the recommendations provided by the board pursuant to subdivision  
26 (b).

27 (d) By December 1, 2020, and annually thereafter, the  
28 commission, after consultation with the division, shall adopt and  
29 approve all of the following:

30 (1) Performance metrics for electrical corporations.

31 (2) Additional requirements for wildfire mitigation plans.

32 (3) A wildfire mitigation plan compliance process.

33 (4) A process for the division to conduct annual safety culture  
34 assessments for each electrical corporation.

35 ~~(e) Thirty days after the effective date of this section, and~~  
36 ~~annually thereafter, the commission, after consultation with the~~  
37 ~~division and the board, The executive director of the commission~~  
38 shall issue a safety certification to an electrical corporation if the  
39 electrical corporation shows, to the satisfaction of the commission,  
40 all of the following: *provides documentation of the following:*

1 (1) The electrical corporation has an approved wildfire  
2 mitigation plan.

3 ~~(2) The division has not found that the electrical corporation is~~  
4 ~~not in substantial compliance with its wildfire mitigation plan.~~

5 ~~(3)~~

6 (2) The electrical corporation is in ~~substantial compliance with~~  
7 *good standing, which can be satisfied by the electrical corporation*  
8 *having agreed to implement the findings of its most recent safety*  
9 *culture assessment, if applicable.*

10 ~~(4) Establishment of~~

11 (3) *The electrical corporation has established a safety committee*  
12 *of its board of directors composed of members with relevant safety*  
13 *experience.*

14 ~~(5) Establishment of~~

15 (4) *The electrical corporation has established an executive*  
16 *incentive compensation plan linked to safety performance metrics.*  
17 *structure approved by the division and structured to promote safety*  
18 *as a priority and to ensure public safety and utility financial*  
19 *stability with performance metrics, including incentive*  
20 *compensation based on meeting performance metrics that are*  
21 *measurable and enforceable, for all executive officers, as defined*  
22 *in Section 451.5. This may include tying 100 percent of incentive*  
23 *compensation to safety performance and denying all incentive*  
24 *compensation in the event the electrical corporation causes a*  
25 *catastrophic wildfire that results in one or more fatalities.*

26 ~~(6) Establishment of~~

27 (5) *The electrical corporation has established*  
28 *board-of-director-level reporting to the commission on safety*  
29 *issues.*

30 (6) (A) *The electrical corporation has established a*  
31 *compensation structure for any new or amended contracts for*  
32 *executive officers, as defined in Section 451.5, that is based on the*  
33 *following principles:*

34 (i) (I) *Strict limits on guaranteed cash compensation, with the*  
35 *primary portion of the executive officers' compensation based on*  
36 *achievement of objective performance metrics.*

37 (II) *No guaranteed monetary incentives in the compensation*  
38 *structure.*

39 (ii) *It satisfies the compensation principles identified in*  
40 *paragraph (4).*



1 (iii) A long-term structure that provides a significant portion  
2 of compensation, which may take the form of grants of the electrical  
3 corporation's stock, based on the electrical corporation's  
4 long-term performance and value. This compensation shall be held  
5 or deferred for a period of at least three years.

6 (iv) Minimization or elimination of indirect or ancillary  
7 compensation that is not aligned with shareholder and taxpayer  
8 interest in the electrical corporation.

9 (B) The division shall approve the compensation structure of  
10 an electrical corporation if it determines the structure meets the  
11 principles set forth in subparagraph (A) and paragraph (4).

12 (C) It is the intent of the Legislature, in enacting this paragraph  
13 and paragraph (4), that any approved bankruptcy reorganization  
14 plan of an electrical corporation should, in regards to  
15 compensation for executive officers of the electrical corporation,  
16 comply with the requirements of those paragraphs.

17 (7) The electrical corporation is implementing its approved  
18 wildfire mitigation plan. The electrical corporation shall file a tier  
19 1 advice letter on a quarterly basis that details the implementation  
20 of both its approved wildfire mitigation plan and recommendations  
21 of the most recent safety culture assessment, and a statement of  
22 the recommendations of the board of directors safety committee  
23 meetings that occurred during the quarter. The advice letter shall  
24 also summarize the implementation of the safety committee  
25 recommendations from the electrical corporation's previous advice  
26 letter filing. If the division has reason to doubt the veracity of the  
27 statements contained in the advice letter filing, it shall perform an  
28 audit of the issue of concern.

29 (f) (1) The executive director shall issue an initial safety  
30 certification within 30 days of receipt of a request for that  
31 certification by an electrical corporation if the electrical  
32 corporation provides documentation that it is meeting the  
33 requirements set forth in paragraphs (1), (2), (3) and (5) of  
34 subdivision (e). A safety certification shall be valid for ~~12~~ the 12  
35 consecutive months following the issuance of the certification.  
36 **Before**

37 (2) **Before** the expiration of a certification, an electrical  
38 corporation shall ~~file with the commission~~ submit to the division  
39 a request for certification for the following ~~calendar year~~. 12  
40 months. The division shall issue a safety certification within 90

1 *days of a request if the electrical corporation has provided*  
2 *documentation that it has satisfied the requirements in subdivision*  
3 *(e).*

4 *(3) All documents submitted pursuant to this section shall be*  
5 *publicly available on the commission’s internet website.*

6 ~~(2)~~

7 *(4) Notwithstanding paragraph (1), a safety certification shall*  
8 *remain valid until the ~~commission issues a determination related~~*  
9 *to ~~an~~ division acts on the electrical corporation’s pending*  
10 *application request for safety certification.*

11 *(g) If the division determines an electrical corporation is not in*  
12 *compliance with its approved wildfire mitigation plan, it may*  
13 *recommend that the commission pursue an enforcement action*  
14 *against the electrical corporation for noncompliance with its*  
15 *approved plan.*

16 ~~SEC. 26.~~

17 *SEC. 22.* Division 28 (commencing with Section 80500) is  
18 added to the Water Code, to read:

19

20 DIVISION 28. WILDFIRE PREVENTION AND RECOVERY  
21 ACT OF 2019

22

23 CHAPTER 1. GENERAL PROVISIONS

24

25 80500. The Legislature finds and declares \_\_\_\_.

26 80502. Nothing in this division shall be construed to reduce  
27 or modify an electrical corporation’s obligation to serve. The  
28 commission shall issue orders it determines are necessary to carry  
29 out this section.

30 80503. (a) The development and operation of a program as  
31 provided in this division is in all respects for the welfare and the  
32 benefit of the people of the state, to protect the public peace, health,  
33 and safety, and constitutes an essential governmental purpose.

34 (b) This division shall be liberally construed in a manner so as  
35 to effectuate its purposes and objectives.

36 80504. (a) The powers and responsibilities of the department  
37 established pursuant to this division are separate from, and not  
38 governed by, the provisions relating to the State Water Resources  
39 Development System.

1 (b) The Department of Water Resources Charge Fund  
2 established in Section 80550 and the moneys in that fund are  
3 separate and distinct from any other fund and moneys administered  
4 by the department.

5 80506. As used in this division, unless the context otherwise  
6 requires, the following terms have the following meanings:

7 (a) “Administrator” has the same meaning as defined in Section  
8 ~~3279~~ 3280 of the Public Utilities Code.

9 (b) “Bonds” means bonds, notes, or other evidences of  
10 indebtedness issued solely for purposes of supporting the Wildfire  
11 Fund and other related expenses incurred by the department  
12 pursuant to this division, or for reimbursing expenditures from the  
13 fund or the Wildfire Fund for those purposes; repaying to the  
14 Surplus Money Investment Fund any loans made to the Wildfire  
15 Fund; establishing or maintaining reserves in connection with the  
16 bonds; costs of issuance of bonds or incidental to their payment  
17 or security; capitalized interest; or renewing or refunding any  
18 bonds.

19 (c) “Commission” means the Public Utilities Commission.

20 (d) “Electrical corporation” means ~~an~~ *a large* electrical  
21 corporation, as defined in Section ~~218~~ 3280 of the Public Utilities  
22 Code, that participates in the Wildfire Fund.

23 (e) “Fund” means the Department of Water Resources Charge  
24 Fund established by Section 80550.

25 (f) “Wildfire Fund” has the same meaning as defined in Section  
26 ~~3279~~ 3280 of the Public Utilities Code.

27 80508. (a) The department may prescribe, adopt, and enforce  
28 emergency regulations relating to the administration and  
29 enforcement of this division. Any emergency regulations  
30 prescribed, adopted, or enforced pursuant to this division shall be  
31 adopted in accordance with Chapter 3.5 (commencing with Section  
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
33 and, for purposes of that chapter, including Section 11349.6 of the  
34 Government Code, the adoption of such regulations is an  
35 emergency and shall be considered by the Office of Administrative  
36 Law as necessary for the immediate preservation of the public  
37 peace, health and safety, and general welfare.

38 (b) The provisions of the Government Code and Public Contract  
39 Code applicable to state contracts, including, but not limited to,  
40 advertising and competitive bidding requirements and prompt

1 payment requirements, apply to contracts entered into under this  
2 division, unless the department determines that application of any  
3 of those provisions to contracts entered into under this division is  
4 detrimental to accomplishing the purposes of this division.

5 80510. All state agencies and other official state organizations,  
6 and all persons connected with those agencies and organizations,  
7 shall, at the request of the department, give the department  
8 assistance or other cooperation in carrying out the purposes of this  
9 division.

10  
11 CHAPTER 2. POWERS OF THE DEPARTMENT  
12

13 80520. (a) The department may contract with an electrical  
14 corporation or its successor in the performance of related service,  
15 as an agent of the department, to provide billing, collection, and  
16 other related services on terms and conditions that reasonably  
17 compensate the electrical corporation or its successor for its  
18 services, and adequately secure payment to the department.

19 (b) At the request of the department, the commission shall order  
20 an electrical corporation or its successor to perform the duties  
21 pursuant to a contract described in subdivision (a).

22 80522. The commission may issue rules regulating the  
23 enforcement of the agency functions pursuant this division,  
24 including collection and payment to the department.

25 80524. (a) ~~The revenue requirement shall be equal to the~~  
26 ~~revenue requirement under Section 80110 on January 1, 2019; for~~  
27 ~~each year or, with respect to the first year and last year, the pro~~  
28 ~~rata portion of the year; shall be equal to the average annual~~  
29 ~~amount of collections by the department with respect to charges~~  
30 ~~imposed pursuant to the revenue requirements established by the~~  
31 ~~department under Section 80110 of Division 27 for the period from~~  
32 ~~January 1, 2013, through December 31, 2018. The revenue~~  
33 ~~requirement shall remain in effect until January 1, 2036.~~

34 ~~(b) For purposes of this division, the commission's authority,~~  
35 ~~as set forth in Section 451 of the Public Utilities Code, shall apply,~~  
36 ~~except any just and reasonable review under Section 451 of the~~  
37 ~~Public Utilities Code with respect to the revenue requirement set~~  
38 ~~forth in this section shall be conducted and determined by the~~  
39 ~~commission no later than 120 days after the effective date of this~~  
40 ~~division.~~

1 (e)

2 (b) If, pursuant to ~~subsection (b) above~~, *Section 3289 of the*  
3 *Public Utilities Code*, the commission makes a just and reasonable  
4 determination with respect to the revenue requirement, then the  
5 commission shall enter into an agreement with the department  
6 with respect to charges under ~~Section 451~~ *Section 3289 of the Public*  
7 *Utilities Code* with respect to the revenue requirement, and that  
8 agreement shall have the force and effect of ~~a~~ *an irrevocable*  
9 *financing order* adopted in accordance with Article 5.5  
10 (commencing with Section 840) of Chapter 4 of Part 1 of Division  
11 1 of the *Public Utilities Code*, as determined by the commission.  
12 *The agreement and financing order shall provide for the*  
13 *administration of the revenue requirement, including provisions*  
14 *to the effect that (1) the department shall notify the commission*  
15 *each year of the annual collections received by the department*  
16 *with respect to the revenue requirement and the amount of any*  
17 *excess or deficiency in collections above or below the revenue*  
18 *requirement and that the commission shall adjust charges in the*  
19 *subsequent year to reflect any such excess or deficiency, and (2)*  
20 *during any revenue requirement period if the department forecasts*  
21 *that the revenue requirement for that period will not be met and*  
22 *that collections will not be sufficient to fund any of the amounts*  
23 *in paragraphs (1) to (5), inclusive, of Section 80544, then the*  
24 *department shall notify the commission in writing and the*  
25 *commission shall act within 30 days to increase charges so that*  
26 *the amounts collected during that period are sufficient to meet*  
27 *those obligations. For avoidance of doubt, no such adjustment to*  
28 *charges by the commission shall affect in any respect the*  
29 *commission's just and reasonable determination with respect to*  
30 *the revenue requirement.*

31 80526. To the extent any moneys are received by an electrical  
32 corporation pursuant to Section 80520 in the process of collection,  
33 and pending their transfer to the department, those moneys shall  
34 be segregated by the electrical corporation on terms and conditions  
35 established by the department and shall be held in trust for the  
36 department's exercise of its obligations regarding those moneys  
37 until paid over to the department pursuant to the contract or order  
38 established pursuant to Section 80520.

1 80528. (a) The department may do any of the following as  
 2 may be, in the determination of the department, necessary for the  
 3 purposes of this division:

4 (1) Engage the services of private parties to render professional  
 5 and technical assistance and advice and other services in carrying  
 6 out the purposes of this division.

7 (2) Contract for the services of other public agencies.

8 (3) Engage in such activities or enter into such contracts or  
 9 arrangements as may be necessary or desirable to carry out the  
 10 department’s duties and responsibilities pursuant to this division.

11 (b) Hire personnel necessary and desirable for the timely and  
 12 successful implementation and administration of the department’s  
 13 duties and responsibilities pursuant to this division. The State  
 14 Personnel Board and the Department of Human Resources shall  
 15 assist the department in expediting that hiring.

16

17

CHAPTER 3. BONDS

18

19 80540. (a) The department may incur indebtedness and issue  
 20 bonds as evidence thereof solely for the purposes of supporting  
 21 the Wildfire Fund and other related expenses incurred by the  
 22 department pursuant to this division, provided that bonds may not  
 23 be issued in an amount the debt service on which, to the extent  
 24 payable from the fund, is estimated by the department to exceed  
 25 the amounts estimated to be available in the fund for their payment.

26 (b) The department may authorize the issuance of bonds,  
 27 excluding any notes issued in anticipation of the issuance of bonds  
 28 and retired from the proceeds of those bonds, in an aggregate  
 29 amount up to ten billion five hundred million dollars  
 30 (\$10,500,000,000).

31 (c) Refunding bonds for any of the following purposes shall not  
 32 be included in the calculation of the aggregate amount described  
 33 in subdivision (b):

34 (1) Refunding bonds to obtain a lower interest rate.

35 (2) Refunding bonds bearing a variable interest rate with bonds  
 36 bearing interest at a fixed rate.

37 (3) Refunding bonds if any nationally recognized rating agency  
 38 reduces or withdraws, or proposes to reduce or withdraw, the rating  
 39 assigned to securities that are secured by bond insurance policies,  
 40 credit or liquidity facilities issued by the provider of a bond

1 insurance policy, or a credit or liquidity facility securing the bonds  
2 being refunded.

3 (d) Before the issuance of bonds in a public offering, the  
4 department shall establish a mechanism to ensure the bonds are  
5 sold at investment grade ratings and repaid on a timely basis from  
6 pledged revenues. This mechanism may include, but is not limited  
7 to, an agreement between the department and the commission as  
8 described in Section 80524.

9 (e) Notwithstanding any provision of this division to the  
10 contrary, the department shall not issue any bonds pursuant to this  
11 division until the earlier of either of the following:

12 (1) The date on which the department shall have legally defeased  
13 all of its outstanding power supply revenue bonds issued pursuant  
14 to Section 80134 and provided written notice to the commission.

15 (2) The date on which the department shall have paid in full, at  
16 maturity, all of its outstanding power supply revenue bonds issued  
17 pursuant to Section 80134 and provided written notice to the  
18 commission.

19 80542. (a) Bonds may be issued by the department, upon  
20 authorization by written determination of the director of the  
21 department, with the approval of the Director of Finance and the  
22 Treasurer, on terms acceptable to and approved by the  
23 administrator. The Department of Finance shall notify the  
24 Chairperson of the Joint Legislative Budget Committee and the  
25 chairpersons of the fiscal committees of each house of the  
26 Legislature of its written determination. The bonds shall be sold  
27 at the prices and in the manner, and on the terms and conditions,  
28 as shall be specified in that determination, and the determination  
29 may contain or authorize any other provision, condition, or  
30 limitation not inconsistent with this division and those provisions  
31 as may be deemed reasonable and proper for the security of the  
32 bondholders. Bonds may mature at the time or times, and bear  
33 interest at the rate or rates, which may be fixed or variable and be  
34 determined by reference to an index or such other method, that are  
35 specified in the determination. Neither the person executing the  
36 determination to issue bonds nor any person executing bonds shall  
37 be personally liable therefor or be subject to any personal liability  
38 or accountability by reason of the issuance of the bonds.

39 (b) In the discretion of the department, any bonds may be  
40 secured by a trust agreement by and between the department and

1 a corporate trustee, which may be any trust company or bank  
2 having trust powers within or outside the state, or the Treasurer.  
3 Notwithstanding any other law, the Treasurer shall not be deemed  
4 to have a conflict of interest by reason of acting as the trustee. The  
5 department may enter into such contracts or arrangements as it  
6 shall deem to be necessary or appropriate for the issuance and  
7 further security of the bonds.

8 (c) Bonds shall be legal investments for all trust funds, the funds  
9 of all insurance companies, savings and commercial banks, trust  
10 companies, executors, administrators, trustees, and other  
11 fiduciaries, for state school funds, pension funds, and for any funds  
12 that may be invested in county, school, or municipal bonds.

13 (d) Notwithstanding that bonds may be payable from a special  
14 fund, the bonds shall be deemed to be negotiable instruments for  
15 all purposes.

16 (e) Any bonds, and the transfer of and income derived from  
17 those bonds, shall at all times be free from taxation of every kind  
18 by the state and by the political subdivisions of the state.

19 (f) Bonds shall not be deemed to constitute a debt or liability  
20 of the state or of any political subdivision thereof, other than the  
21 department, or a pledge of the faith and credit of the state or of  
22 any such political subdivision, but shall be payable solely from  
23 the funds herein provided for. All bonds shall contain a statement  
24 to the following effect: "Neither the faith and credit nor the taxing  
25 power of the State of California is pledged to the payment of the  
26 principal of or interest on this bond." The issuance of bonds shall  
27 not directly or indirectly or contingently obligate the state or any  
28 political subdivision thereof to levy or to pledge any form of  
29 taxation whatever therefor or to make any appropriation for their  
30 payment.

31 (g) (1) The department may pledge or assign any revenues  
32 under any obligation entered into, and rights to receive the same,  
33 and moneys on deposit in the fund and income or revenue derived  
34 from the investment thereof, as security for the department's  
35 obligations pursuant to this division.

36 (2) It is the intent of the Legislature that any pledge of moneys,  
37 revenues, or property made by the department shall be valid and  
38 binding from the time when the pledge is made; that the moneys,  
39 revenues, or property so pledged and thereafter collected from  
40 retail end use customers, or paid directly or indirectly to or for the



1 account of the department, is hereby made, and shall immediately  
2 be, subject to the lien of that pledge without any physical delivery  
3 thereof or further act; that the lien of any such pledge shall be valid  
4 and binding against all parties having claims of any kind in tort,  
5 contract, or otherwise against the department irrespective of  
6 whether those parties have notice thereof, and that no resolution  
7 or instrument by which the pledge or lien created pursuant to this  
8 subdivision is expressed, confirmed, or approved need be filed or  
9 recorded in order to perfect the pledge or lien. These provisions  
10 shall in all respects govern the creation, perfection, priority, and  
11 enforcement of any lien created by or under this division.

12 80544. (a) If, pursuant to Section 80524, the commission  
13 makes a just and reasonable determination with respect to that  
14 revenue requirement, the department shall, and in any obligation  
15 entered into pursuant to this division may covenant to, at least  
16 annually, and more frequently as required, allocate or cause to be  
17 allocated moneys collected pursuant to this division to provide  
18 any of the following:

19 (1) The amounts necessary to pay the principal of, and premium,  
20 if any, and interest on, all bonds as and when the bonds shall  
21 become due.

22 (2) The amounts necessary to make payments under any  
23 contracts, agreements, or obligations entered into by it pursuant  
24 hereto, in the amounts and at the times they shall become due.

25 (3) Reserves in such amount as may be determined by the  
26 department from time to time to be necessary or desirable.

27 (4) Consistent with Section 3288, repayment of loans made  
28 from the Surplus Money Investment Fund to the Wildfire Fund.

29 (5) The administrative costs of the department incurred in  
30 administering this division.

31 (6) After meeting the purposes in paragraphs (1) to (5), inclusive,  
32 the transfer of any remaining revenue requirement amount to the  
33 Wildfire Fund.

34 (b) The commission shall not revise the revenue requirement  
35 established pursuant to this division at any time prior to January  
36 1, 2036. For avoidance of doubt, the revenue requirement  
37 established pursuant to this division shall not be imposed and  
38 collected until the department has legally defeased *or paid at*  
39 *maturity* the power supply revenue bonds issued pursuant to

1 Section 80134 and provided written notice thereof to the  
2 commission.

3

4 CHAPTER 4. DEPARTMENT OF WATER RESOURCES CHARGE  
5 FUND  
6

7 80550. (a) There is hereby established in the State Treasury  
8 the Department of Water Resources Charge Fund. Notwithstanding  
9 Section 13340 of the Government Code, all moneys in the fund  
10 are continuously appropriated, without regard to fiscal year, to the  
11 department and shall be available for the purposes of this division.

12 (b) All revenues payable to the department under this division,  
13 including proceeds of bonds issued pursuant to Chapter 3  
14 (commencing with Section 80540), shall be deposited in the fund.  
15 Notwithstanding any other law, interest accruing on the moneys  
16 in the fund shall be deposited in the fund and shall be used for  
17 purposes of this division. Payments from the fund may be made  
18 only for the following purposes:

19 (1) Payment of any bonds or other contractual obligations  
20 authorized by this division.

21 (2) The expenses incurred by the department in administering  
22 this division.

23 (3) Consistent with Section 3288, repayment of principal of,  
24 and interest on, loans made from the Surplus Money Investment  
25 Fund to the Wildfire Fund. Repayment of loans made from the  
26 Surplus Money Investment Fund shall be made as soon as  
27 practicable.

28 (4) The transfers to the Wildfire Fund.

29 (c) Obligations authorized by this division shall be payable  
30 solely from the fund. Neither the full faith and credit nor the taxing  
31 power of the state are or may be pledged for any payment under  
32 any obligation authorized by this division.

33 (d) While any obligations of the department incurred under this  
34 division remain outstanding and not fully performed or discharged,  
35 the rights, powers, duties, and existence of the department and the  
36 commission shall not be diminished or impaired in any manner  
37 that will affect adversely the interests and rights of the holders of  
38 or parties to those obligations. The department may include this  
39 pledge and undertaking of the state in the department's obligations.

1 ~~SEC. 27.~~

2 *SEC. 23.* The revenues of the Department of Water Resources  
3 Charge Fund established pursuant to Section 80550 of the Water  
4 Code shall not be used to pay for any undercollected amount due  
5 to any electrical corporation or to any entity to which the amount  
6 has been assigned.

7 ~~SEC. 28.~~ ~~No reimbursement is required by this act pursuant~~  
8 ~~to Section 6 of Article XIII B of the California Constitution because~~  
9 ~~a local agency or school district has the authority to levy service~~  
10 ~~charges, fees, or assessments sufficient to pay for the program or~~  
11 ~~level of service mandated by this act or because costs that may be~~  
12 ~~incurred by a local agency or school district will be incurred~~  
13 ~~because this act creates a new crime or infraction, eliminates a~~  
14 ~~crime or infraction, or changes the penalty for a crime or infraction,~~  
15 ~~within the meaning of Section 17556 of the Government Code, or~~  
16 ~~changes the definition of a crime within the meaning of Section 6~~  
17 ~~of Article XIII B of the California Constitution.~~

18 *SEC. 24.* *No reimbursement is required by this act pursuant*  
19 *to Section 6 of Article XIII B of the California Constitution because*  
20 *the only costs that may be incurred by a local agency or school*  
21 *district will be incurred because this act creates a new crime or*  
22 *infraction, eliminates a crime or infraction, or changes the penalty*  
23 *for a crime or infraction, within the meaning of Section 17556 of*  
24 *the Government Code, or changes the definition of a crime within*  
25 *the meaning of Section 6 of Article XIII B of the California*  
26 *Constitution.*

27 ~~SEC. 29.~~

28 *SEC. 25.* (a) The sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) *nine million*  
29 *dollars (\$9,000,000)* is hereby transferred from the General Fund  
30 to the Department of Water Resources Charge Fund, established  
31 by Section 80550 of the Water Code, for the purposes of Division  
32 28 (commencing with Section 80500) of the Water Code. The  
33 amount transferred pursuant to this subdivision shall be repaid  
34 from the Department of Water Resources Charge Fund to the  
35 General Fund at the earliest possible time.

36 (b) ~~The sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) is hereby appropriated~~  
37 ~~from the General Fund to the Department of Water Resources for~~  
38 ~~the 2019–20 fiscal year for the administrative costs incurred by~~  
39 ~~the Department of Water Resources pursuant to Division 28~~  
40 ~~(commencing with Section 80500) of the Water Code.~~

1     ~~SEC. 30.—The Legislature finds and declares that Section 6 of~~  
2     ~~this act, which adds Section 326.1 to the Public Utilities Code,~~  
3     ~~imposes a limitation on the public’s right of access to the meetings~~  
4     ~~of public bodies or the writings of public officials and agencies~~  
5     ~~within the meaning of Section 3 of Article I of the California~~  
6     ~~Constitution. Pursuant to that constitutional provision, the~~  
7     ~~Legislature makes the following findings to demonstrate the interest~~  
8     ~~protected by this limitation and the need for protecting that interest:~~

9     ~~The need to encourage candid and timely advice by the California~~  
10    ~~Wildfire Safety Advisory Board to the Wildfire Safety Division~~  
11    ~~of the Public Utilities Commission to protect the public health and~~  
12    ~~safety and the environment outweighs the importance of providing~~  
13    ~~access in the circumstances of those communications as to which~~  
14    ~~that access is limited by the bill, and the bill provides an alternative~~  
15    ~~requirement, as set forth in subdivision (g) of Section 326.1 of the~~  
16    ~~Public Utilities Code, for public access to meetings of the~~  
17    ~~California Wildfire Safety Advisory Board to ensure transparency~~  
18    ~~in the operation of the board.~~

19    ~~SEC. 26. This act shall become operative only if Assembly Bill~~  
20    ~~111 of, or Senate Bill 111 of, the 2019–20 Regular Session becomes~~  
21    ~~effective before January 1, 2020.~~

22    ~~SEC. 31.~~

23    ~~SEC. 27. This act is an urgency statute necessary for the~~  
24    ~~immediate preservation of the public peace, health, or safety within~~  
25    ~~the meaning of Article IV of the California Constitution and shall~~  
26    ~~go into immediate effect. The facts constituting the necessity are:~~

27    ~~In order to address wildfire safety and wildfire liability of~~  
28    ~~electrical utilities and ensure that the claims of wildfire victims~~  
29    ~~may be paid expeditiously, it is necessary for this act to take effect~~  
30    ~~immediately.~~

# EXHIBIT D



# California State Senate

STATE CAPITOL  
SACRAMENTO, CALIFORNIA  
95814

Erika Contreras  
Secretary of the Senate  
State Capitol  
Sacramento, CA 95814

**RE: Implementation of AB 1054 of the 2019-2020 Regular Session**

Dear Madame Secretary:

As Senate co-authors of AB 1054, we request that the following letter be printed in the Senate Daily Journal expressing our intent with respect to this measure:

Implementation of AB 1054 should reflect a focus on enhanced grid resilience, including improvements in adaption of the grid to planned outages, unplanned outages caused by wildfires or other events and increased speed in recovering from service disruptions.

In particular, electrical corporations' strategies and programs implementing their wildfire mitigation plans under AB 1054 and existing law should prioritize grid hardening and community resilience projects in vulnerable communities. This focus on vulnerable communities should include consideration of medical baseline and critical infrastructure, including water pumps.

Under the provisions of this legislation and current law, the California Public Utilities Commission (CPUC), through the newly implemented Wildfire Safety Division, will oversee electrical corporation's compliance with their wildfire mitigation plans.

Each electrical corporation, in implementing the provisions of AB 1054, shall collaborate with the Office of Emergency Services, and local governments and other interested parties in its service-territory, to ensure that the applicable electrical corporation's wildfire mitigation plans and related expenditures are consistent with state and local community resiliency planning and projects to maximize overall community resiliency.

In implementing its wildfire mitigation plan consistent with the AB 1054, each electrical corporation shall ensure that its systems achieve the highest level of safety, reliability, and resiliency to be prepared for a major event, through investments such as hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, including pilot programs for new technologies to enhance overall community resiliency.

The CPUC should coordinate investments in infrastructure made by electrical corporations consistent with their approved wildfire mitigation plans with investments in clean distributed energy resources.

Furthermore, the CPUC should ensure that the \$5 billion in safety investments made by the electrical corporations under AB 1054 prioritize projects consistent with the principles and objectives outlined in this letter.

In addition, AB 1054 creates a wildfire fund to pay claims from catastrophic wildfires. The legislation creates a California Catastrophe Response Council to oversee the fund and hire an administrator for the fund, and provides that the California Earthquake Authority (CEA) shall administer the fund until the Council is established and the fund administrator is retained.

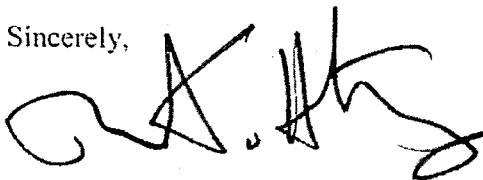
Insurance Code section 10089.7 provides statutory immunities from civil and criminal liability for employees, officers and agents of the CEA for any acts performed or omitted or obligation entered into an official capacity, when done or omitted in good faith and without intent to defraud.

AB 1054 extends these statutory immunities to employees, officers and agents in administering the newly created wildfire fund. The application of this provision is not intended to extend to financial institutions and advisors retained by the Department of Water Resources related to the issuance of any bonds issued under authority provided in AB 1054 or to any other entities or individuals beyond the employees, officers and agents of the Wildfire Fund.

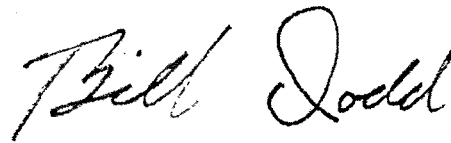
Finally, it is our intention that, as to CPUC review of a public entity's acquisition of electrical or gas assets, the amendments in Public Utilities Code Section 854(a) modify existing law only to the extent necessary to assure that the CPUC review the impact of change of ownership on public utility employees, including union and non-union employees.

Thank you, in advance, for your consideration of this request.

Sincerely,



ROBERT HERTZBERG  
Senate Majority Leader



BILL DODD, SENATOR  
3<sup>rd</sup> Senate District

# EXHIBIT E



AMENDED IN ASSEMBLY SEPTEMBER 6, 2019

AMENDED IN ASSEMBLY AUGUST 13, 2019

AMENDED IN SENATE APRIL 2, 2019

**SENATE BILL**

**No. 550**

---

---

**Introduced by Senator Hill  
(Coauthor: Senator Rubio)**

February 22, 2019

---

---

An act to amend ~~Section~~ *Sections 851 and 854* of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 550, as amended, Hill. Public utilities: merger, acquisition, or control of electrical or gas corporations.

~~Under~~

*(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and gas corporations. Existing law prohibits a public utility, other than certain common carriers, from selling, leasing, assigning, mortgaging, or otherwise disposing of, or encumbering its assets that are necessary or useful in the performance of its duties to the public by any means with any other public utility, unless the public utility has secured an order from the commission to do so for a qualified transaction above \$5,000,000 or an approval from the commission through the filing of an advice letter for a qualified transaction at or below \$5,000,000.*

*This bill would eliminate the requirement that the above-described transactions be with another public utility to be subject to those conditions on approval. The bill would explicitly require the commission*

*to approve or reject any voluntary or involuntary change in ownership of assets from an electrical or gas corporation to ownership by a public entity and would require the commission to determine whether that transaction is fair and reasonable to the affected public utility employees as part of that review.*

(2) Existing law prohibits a person or ~~corporation~~ corporation, including a public entity, from merging, acquiring, or controlling, as described, either directly or indirectly, any public utility organized and doing business in this state without first securing authorization to do so from the commission. Before authorizing the merger, acquisition, or control of any electrical, gas, or telephone corporation organized and doing business in this state, where any of the entities that are parties to the proposed transaction has gross annual California revenues exceeding \$500,000,000, existing law requires the commission to consider specified criteria and to find that the merger, acquisition, or control proposal meets certain requirements and is in the public interest, as specified.

This bill would require the commission, before authorizing a merger, acquisition, or change in control of an electrical or gas corporation, *where an entity to the proposed transaction has gross annual California revenues exceeding \$400,000,000*, to additionally consider specified ~~elements~~, *elements relating to the safety activities of an electrical or gas corporation*, including a nonpunitive system for reporting potential safety incidents to the commission, and find, on balance, that the proposal is in the public interest. The bill would authorize the commission to delay the requirement that the commission consider these specified elements and find, on balance, that the proposal is in the public interest, until July 1, 2021, or until the commission adopts rules implementing this requirement, whichever is earlier. The bill would prohibit subjecting an employee of, or the employee of a contractor performing work for, the electrical or gas corporation to demotion, discharge, or any other form of retaliation or discrimination for participating in the nonpunitive system for reporting potential safety incidents. *The bill would eliminate the requirements for these reviews for a change in ownership in the assets of an electrical or gas corporation to ownership by a public entity.*

~~Under~~

(3) *Under* existing law, a violation of any provision of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill are within the act and a violation of an order, decision, rule, direction, demand, or requirement of the commission implementing the bill’s requirements would be a crime, the bill would impose a state-mandated local program.

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.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 851 of the Public Utilities Code is  
2     amended to read:  
3     851. (a) A public utility, other than a common carrier by  
4     railroad subject to Part A of the Interstate Commerce Act (49  
5     U.S.C. Sec. 10101 et seq.), shall not sell, lease, assign, mortgage,  
6     or otherwise dispose of, or encumber the whole or any part of its  
7     railroad, street railroad, line, plant, system, or other property  
8     necessary or useful in the performance of its duties to the public,  
9     or any franchise or permit or any right thereunder, or by any means  
10    whatsoever, directly or indirectly, merge or consolidate its railroad,  
11    street railroad, line, plant, system, or other property, or franchises  
12    or permits or any part thereof, ~~with any other public utility,~~ without  
13    first having either secured an order from the commission  
14    authorizing it to do so for qualified transactions valued above five  
15    million dollars (\$5,000,000), or for qualified transactions valued  
16    at five million dollars (\$5,000,000) or less, filed an advice letter  
17    and obtained approval from the commission authorizing it to do  
18    so. If the advice letter is uncontested, approval may be given by  
19    the executive director or the director of the division of the  
20    commission having regulatory jurisdiction over the utility. The  
21    commission shall determine the types of transactions valued at  
22    five million dollars (\$5,000,000) or less, that qualify for advice  
23    letter handling. For a qualified transaction valued at five million  
24    dollars (\$5,000,000) or less, the commission may designate a  
25    procedure different than the advice letter procedure if it determines  
26    that the transaction warrants a more comprehensive review. Absent

1 protest or incomplete documentation, the commission shall approve  
2 or deny the advice letter within 120 days of its filing by the  
3 applicant public utility. The commission shall reject any advice  
4 letter that seeks to circumvent the five million dollar (\$5,000,000)  
5 threshold by dividing a single asset with a value of more than five  
6 million dollars (\$5,000,000), into component parts, each valued  
7 at less than five million dollars (\$5,000,000). Every sale, lease,  
8 assignment, mortgage, disposition, encumbrance, merger, or  
9 consolidation made other than in accordance with the advice letter  
10 and approval from the commission authorizing it is void. The  
11 permission and approval of the commission to the exercise of a  
12 franchise or permit under Article 1 (commencing with Section  
13 1001) of Chapter 5, or the sale, lease, assignment, mortgage, or  
14 other disposition or encumbrance of a franchise or permit under  
15 this article shall not revive or validate any lapsed or invalid  
16 franchise or permit, or enlarge or add to the powers or privileges  
17 contained in the grant of any franchise or permit, or waive any  
18 forfeiture.

19 *(b) (1) Subdivision (a) shall apply to any transaction described*  
20 *in subparagraph (F) of paragraph (1) of subdivision (b) of Section*  
21 *854.2.*

22 *(2) For any transaction described in subparagraph (F) of*  
23 *paragraph (1) of subdivision (b) of Section 854.2, as part of its*  
24 *review under subdivision (a), the commission shall determine*  
25 *whether the transaction is fair and reasonable to affected public*  
26 *utility employees, including both union and nonunion employees.*

27 **This**

28 *(c) This section does not prevent the sale, lease, encumbrance,*  
29 *or other disposition by any public utility of property that is not*  
30 *necessary or useful in the performance of its duties to the public,*  
31 *and any disposition of property by a public utility shall be*  
32 *conclusively presumed to be of property that is not useful or*  
33 *necessary in the performance of its duties to the public, as to any*  
34 *purchaser, lessee, or encumbrancer dealing with that property in*  
35 *good faith for value, provided that this section does not apply to*  
36 *the interchange of equipment in the regular course of transportation*  
37 *between connecting common carriers.*

38 ~~SECTION 1.— Section 854 of the Public Utilities Code, as~~  
39 ~~amended by Section 11 of Chapter 79 of the Statutes of 2019, is~~  
40 ~~amended to read:~~

1 SEC. 2. Section 854 of the Public Utilities Code is amended  
2 to read:

3 854. (a) No person or corporation, whether or not organized  
4 under the laws of this state, shall merge, acquire, or control,  
5 including pursuant to a change in control as described in  
6 subparagraphs (D) to ~~(F)~~, (E), inclusive, of paragraph (1) of  
7 subdivision (b) of Section 854.2, either directly or indirectly, any  
8 public utility organized and doing business in this state without  
9 first securing authorization to do so from the commission. The

10 commission may establish by order or rule the definitions of what  
11 constitute merger, acquisition, or control activities which are  
12 subject to this section. Any merger, acquisition, or control without  
13 that prior authorization shall be void and of no effect. No public  
14 utility organized and doing business under the laws of this state,  
15 and no subsidiary or affiliate of, or corporation holding a  
16 controlling interest in a public utility, shall aid or abet any violation  
17 of this section.

18 (b) Before authorizing the merger, acquisition, or control of any  
19 electrical, gas, or telephone corporation organized and doing  
20 business in this state, where any of the utilities that are parties to  
21 the proposed transaction has gross annual California revenues  
22 exceeding five hundred million dollars (\$500,000,000), the  
23 commission shall find that the proposal does all of the following:

24 (1) Provide short-term and long-term economic benefits to  
25 ratepayers.

26 (2) Equitably allocate, where the commission has ratemaking  
27 authority, the total short-term and long-term forecasted economic  
28 benefits, as determined by the commission, of the proposed merger,  
29 acquisition, or control, between shareholders and ratepayers.  
30 Ratepayers shall receive not less than 50 percent of those benefits.

31 (3) Not adversely affect competition. In making this finding,  
32 the commission shall request an advisory opinion from the Attorney  
33 General regarding whether competition will be adversely affected  
34 and what mitigation measures could be adopted to avoid this result.

35 (4) For an electric or gas utility, ensure the utility will have an  
36 adequate workforce to maintain the safe and reliable operation of  
37 the utility assets.

38 (c) Before authorizing the merger, acquisition, or control of any  
39 electrical, gas, or telephone corporation organized and doing  
40 business in this state, where any of the entities that are parties to

1 the proposed transaction has gross annual California revenues  
2 exceeding five hundred million dollars (\$500,000,000), the  
3 commission shall consider each of the criteria listed in paragraphs  
4 (1) to (8), inclusive, and find, on balance, that the merger,  
5 acquisition, or control proposal is in the public interest.

6 (1) Maintain or improve the financial condition of the resulting  
7 public utility doing business in the state.

8 (2) Maintain or improve the quality of service to public utility  
9 ratepayers in the state.

10 (3) Maintain or improve the quality of management of the  
11 resulting public utility doing business in the state.

12 (4) Be fair and reasonable to affected public utility employees,  
13 including both union and nonunion employees.

14 (5) Be fair and reasonable to the majority of all affected public  
15 utility shareholders.

16 (6) Be beneficial on an overall basis to state and local  
17 economies, and to the communities in the area served by the  
18 resulting public utility.

19 (7) Preserve the jurisdiction of the commission and the capacity  
20 of the commission to effectively regulate and audit public utility  
21 operations in the state.

22 (8) Provide mitigation measures to prevent significant adverse  
23 consequences that may result.

24 (d) (1) Before authorizing the merger, acquisition, or change  
25 in control of any electrical or gas corporation organized and doing  
26 business in this state, *where any of the entities that are parties to*  
27 *the proposed transaction has gross annual California revenues*  
28 *exceeding four hundred million dollars (\$400,000,000), the*  
29 *commission shall consider the elements in subparagraphs (A) to*  
30 *(G), inclusive, and find, on balance, that the proposal is in the*  
31 *public interest.*

32 (A) A safety management system.

33 (B) A comprehensive safety plan that includes a systemwide  
34 strategic approach for the safety of both employees and the public.

35 (C) Plans to maintain or improve the records of the electrical  
36 corporation's electric plant or gas corporation's gas plant, including  
37 necessary audits to update incorrect or incomplete records of the  
38 electrical or gas corporation. For purposes of this paragraph,  
39 "records" shall include, but not be limited to, locations, depth, age,  
40 maintenance and testing history, maps, surveys, patrols, and

1 violation history of the electrical corporation’s electric plant or  
2 gas corporation’s gas plant.

3 (D) Metrics to measure safety that are complete and drive  
4 appropriate behavior.

5 (E) An appropriate evaluation of safety expertise in the list of  
6 qualifications used in selecting corporate leadership.

7 (F) Active audits for safety controls.

8 (G) A nonpunitive system for reporting potential safety incidents  
9 to the commission to facilitate the identification of accident  
10 precursors by persons familiar with the operations of the electrical  
11 or gas corporation, including, but not limited to, employees and  
12 contractors of the electrical or gas corporation, and the collection,  
13 analysis, and dissemination of unbiased safety information. An  
14 employee of, or the employee of a contractor performing work  
15 for, the electrical or gas corporation shall not be subject to  
16 demotion, discharge, or any other form of retaliation or  
17 discrimination for participating in the potential safety incident  
18 reporting system established pursuant to this subdivision.

19 (2) The commission may delay the implementation of this  
20 subdivision until July 1, 2021, or until the commission adopts rules  
21 implementing the requirements of this subdivision, whichever is  
22 earlier.

23 (e) When reviewing a merger, acquisition, or control proposal,  
24 the commission shall consider reasonable options to the proposal  
25 recommended by other parties, including no new merger,  
26 acquisition, or control, to determine whether comparable short-term  
27 and long-term economic savings can be achieved through other  
28 means while avoiding the possible adverse consequences of the  
29 proposal.

30 (f) The person or corporation seeking acquisition or control of  
31 a public utility organized and doing business in this state shall  
32 have, before the commission, the burden of proving by a  
33 preponderance of the evidence that the requirements of subdivisions  
34 (b), (c), and (d) are met.

35 (g) In determining whether an acquiring utility has gross annual  
36 revenues exceeding the amount specified in subdivisions (b) and  
37 (c), the revenues of that utility’s affiliates shall not be considered  
38 unless the affiliate was utilized for the purpose of effecting the  
39 merger, acquisition, or control.

1 (h) Paragraphs (1) and (2) of subdivision (b) shall not apply to  
2 the formation of a holding company.

3 (i) For purposes of paragraphs (1) and (2) of subdivision (b),  
4 the Legislature does not intend to include acquisitions or changes  
5 in control that are mandated by either the commission or the  
6 Legislature as a result of, or in response to any electric industry  
7 restructuring. However, the value of an acquisition or change in  
8 control may be used by the commission in determining the costs  
9 or benefits attributable to any electric industry restructuring and  
10 for allocating those costs or benefits for collection in rates.

11 ~~SEC. 2.~~

12 *SEC. 3.* No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.



# EXHIBIT F

SENATE THIRD READING  
SB 550 (Hill)  
As Amended September 6, 2019  
Majority vote

### SUMMARY:

Requires the California Public Utilities Commission (CPUC) to review specified safety elements for any proposed merger, acquisition or change in control of an electrical or gas corporation (IOU) and conditions approval on a finding that, on balance, the transaction is in the public interest relative to those safety elements. The bill also clarifies the reviews required by the CPUC for any other asset transactions between a public utility and any other person or entity whether public or private.

### Major Provisions

- 1) Clarify that the CPUC is required to review the sale of any utility assets to any person or entity, whether public or private consistent with current and historical CPUC policies.
- 2) Specifically require that the CPUC review the sale of an asset by a public utility to a public entity, which is intended to include locally owned public utilities (POUs), whether the asset is being sold voluntarily or involuntarily (eminent domain) thus clarifying provisions of AB 1054 (Holden, Chapter 95, Statutes of 2019).
- 3) Clarify that, for any transaction by a public entity, which is intended to include POUs, whether voluntary or involuntary, the CPUC shall determine whether the transaction is fair and reasonable to affected public utility employees, including both union and nonunion employees, thus clarifying provisions of AB 1054 (Holden, Chapter 95, Statutes of 2019).
- 4) Eliminate the requirement the CPUC review any merger, acquisition, or change of control of a public utility by a public entity, which is intended to include POUs, to determine whether that transaction is in the public interest, thus clarifying provisions of AB 1054 (Holden, Chapter 95, Statutes of 2019).
- 5) Specify eight safety elements that must be considered by the CPUC and result in a finding that the transaction is, on balance, in the public interest.
- 6) Limit the requirement that the CPUC review mergers, acquisitions or changes in control of a public utility, for impacts on different safety policies and programs, to those transactions with an entity with annual gross revenues exceeding \$400 million.

### COMMENTS:

Current law requires the CPUC to review all mergers, acquisitions, or changes in control of any electric, gas or telephone corporation where the party seeking the assets has gross annual revenues exceeding \$500,000 and ensure that the proposal is in the public and/or ratepayer interest based on specified considerations. Safety management and practices are not among the elements the CPUC is required to consider before the proposal is approved. This bill adds a number of safety-related elements the CPUC must consider before authorizing the merger, acquisition or change in control of a gas or electric corporation with an entity that has more than \$400,000 in gross annual revenues.

More broadly, this bill clarifies the considerations required of the CPUC in any asset sale or change of control between a public utility and a public entity, which is intended to include POUs. Several changes were made to the CPUC's review requirements in AB 1054 (Holden, Chapter 95, Statutes of 2019) which broadened the considerations required was deemed by some to be more far-reaching than necessary. The growing interest of municipalities to purchase the distribution infrastructure of electrical corporations was the primary transaction of concern which prompted these changes.

**According to the Author:**

SB 550 requires the CPUC to ensure safe utility service results from any merger, acquisition, or change of control of an electrical or gas corporation. These times of corporate change provide an important opportunity to evaluate the safety processes at a corporation, and ensure the successor entity has the proper safeguards in place for both their employee safety and public safety. The change of ownership at the Gill Ranch Storage facility located in Fresno and Madera Counties provides an example of a successful safety review during such corporate change. Gill Ranch agreed to designating a Chief Safety Officer, creating a Pipeline Safety Management System, and creating a Safety Council to propose risk mitigation as part of their change in ownership. SB 550 seeks to expand the important changes at Gill Ranch to any gas or electric utility undergoing a merger, acquisition, or change of control.

**Arguments in Support:**

The Utility Reform Network (TURN), "this bill requires specified safety-related actions before the CPUC authorizes a merger or sale of an investor owned utility. TURN strongly believes that any merger or sale of an investor owned utility should not compromise safe utility service. During these kinds of critical junctures for a utility, it is important that safety processes are evaluated and that the successor entity has proper safeguards in place. By setting out safety criteria and laying out protections for whistleblowers, SB 550 takes a crucial step towards ensuring public safety."

**Arguments in Opposition:**

There is no registered opposition to this bill.

**FISCAL COMMENTS:**

According to Assembly Appropriations Committee, this bill would have negligible costs to the CPUC as existing law already requires the CPUC to extensively review and approve the merger, acquisition or change in control of any IOU. This bill adds elements the CPUC is to consider when reviewing an IOU change in ownership or control, but it does not create the requirement the CPUC conduct such a review.

**VOTES:****SENATE FLOOR: 34-3-1**

**YES:** Allen, Archuleta, Atkins, Beall, Borgeas, Bradford, Caballero, Chang, Dodd, Durazo, Galgiani, Glazer, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Stern, Stone, Umberg, Wieckowski, Wiener, Wilk

**NO:** Jones, Moorlach, Morrell

**ABS, ABST OR NV:** Bates

**ASM UTILITIES AND ENERGY: 14-0-1**

**YES:** Holden, Patterson, Burke, Carrillo, Chen, Eggman, Cristina Garcia, Eduardo Garcia, Mayes, Muratsuchi, Quirk, Reyes, Santiago, Ting

**ABS, ABST OR NV:** Cunningham

**ASM APPROPRIATIONS: 17-0-1**

**YES:** Gonzalez, Bigelow, Bloom, Bonta, Brough, Calderon, Carrillo, Chau, Diep, Eggman, Fong, Gabriel, Maienschein, Obernolte, Petrie-Norris, Quirk, Robert Rivas

**ABS, ABST OR NV:** Eduardo Garcia

**UPDATED:**

VERSION: September 6, 2019

CONSULTANT: Mary McDonald / U. & E. / (916) 319-2083

FN: 0002082

# EXHIBIT G

---

**SENATE COMMITTEE ON ENERGY, UTILITIES AND  
COMMUNICATIONS**  
**Senator Ben Hueso, Chair**  
**2019 - 2020 Regular**

---

**Bill No:** SB 550 **Hearing Date:** 9/12/2019  
**Author:** Hill  
**Version:** 9/6/2019 As Amended  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Nidia Bautista

**SUBJECT:** Public utilities: merger, acquisition, or control of electrical or gas corporations

**DIGEST:** This bill would require the California Public Utilities Commission (CPUC) to review specified safety elements for any proposed merger, acquisition or change in control of an electrical or gas investor owned utility (IOU) and conditions approval on a finding that, on balance, the transaction is in the public interest relative to those safety elements. This bill also clarifies the reviews required by the CPUC for any other asset transactions between a public utility and any other person or entity whether public or private.

**ANALYSIS:**

Existing law:

- 1) Establishes the CPUC has regulatory authority over public utilities, including electrical corporations and gas corporations. (California Constitution Article 12)
- 2) Existing law prohibits a public utility, other than certain common carriers, from selling, leasing, assigning, mortgaging, or otherwise disposing of, or encumbering its assets that are necessary or useful in the performance of its duties to the public by any means with any other public utility, unless the public utility has secured an order from the CPUC to do so for a qualified transaction above \$5,000,000 or an approval from the CPUC through the filing of an advice letter for a qualified transaction at or below \$5,000,000. (Public Utilities Code §851)
- 3) Existing law prohibits a person or corporation, including a public entity, from merging, acquiring, or controlling, as described, either directly or indirectly, any public utility organized and doing business in this state without first securing authorization to do so from the CPUC. Before authorizing the merger, acquisition, or control of any electrical, gas, or telephone corporation organized and doing business in this state, where any of the entities that are parties to the

proposed transaction has gross annual California revenues exceeding \$500,000,000, existing law requires the CPUC to consider specified criteria and to find that the merger, acquisition, or control proposal meets certain requirements and is in the public interest, as specified. (Public Utilities Code §854)

- 4) Defines a change of control to include the voluntary or involuntary change in ownership of assets from an electrical or gas corporation to a public entity. Requires specified workforce protections when a change of control occurs. (Public Utilities Code §854.2)

This bill:

- 1) Eliminates the requirements sales, leases, assignments, mortgages, or other transactions be with another public utility to be subject to those conditions on approval.
- 2) Explicitly requires the CPUC to approve or reject any voluntary or involuntary change in ownership of assets from an electrical or gas corporation to ownership by a public entity and would require the CPUC to determine whether that transaction is fair and reasonable to the affected public utility employees as part of that review.
- 3) Requires the CPUC, before authorizing a merger, acquisition, or change in control of an electrical or gas corporation, where an entity to the proposed transaction has gross annual California revenues exceeding \$400,000,000, to additionally consider specified elements relating to the safety activities of an electrical or gas corporation, including a nonpunitive system for reporting potential safety incidents to the CPUC, and find, on balance, that the proposal is in the public interest.
- 4) Authorizes the CPUC to delay the requirement that the CPUC consider these specified elements and find, on balance, that the proposal is in the public interest, until July 1, 2021, or until the CPUC adopts rules implementing this requirement, whichever is earlier.
- 5) Prohibits subjecting an employee of, or the employee of a contractor performing work for, the electrical or gas corporation to demotion, discharge, or any other form of retaliation or discrimination for participating in the nonpunitive system for reporting potential safety incidents.

- 6) Eliminates the requirements for these reviews for a change in ownership in the assets of an electrical or gas corporation to ownership by a public entity.

## Background

*Pacific Gas & Electric (PG&E) files for Chapter 11 Bankruptcy protection.* On January 29, 2019, PG&E Corp., the holding company of the state's largest utility, voluntarily filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code. PG&E filed their case in the Northern California District Court San Francisco Division (Case No. 19-30088-DM). The case has been assigned to the same judge, Honorable Dennis Montali, who handled PG&E's previous reorganization bankruptcy case in connection with the 2001 energy crisis. According to PG&E's first day filings, in a declaration filed by PG&E's Senior Vice President and Chief Financial Officer Jason Wells, PG&E's decision to seek relief under Chapter 11 "were necessitated by a confluence of factors resulting from the catastrophic and tragic wildfires that occurred in Northern California in 2017 and 2018, and PG&E's potential liabilities arising therefrom." The declaration specifically cites PG&E's potential liability related to the fires could exceed \$30 billion. PG&E's decision to voluntarily file for bankruptcy protection has raised numerous questions about the process entailed under a Chapter 11 reorganization and the potential implications for the numerous stakeholders that could be affected, including wildfire victims, ratepayers, the utility workforce, energy and other suppliers, local governments, and many others. The bankruptcy filing and wildfire incidents have also increased interest by some local governments, including the City and County of San Francisco, as a possible opportunity to purchase part of the existing PG&E distribution system in an effort to municipalize a portion of the service territory.

*CPUC approval needed.* CPUC must review any transactions involving the selling, buying, merging, or otherwise changing control of a public utility's assets. Section 854 of the Public Utilities Code establishes the criteria by which the CPUC must review any IOU merger, acquisition, or sale. Among the criteria are a CPUC determination that the merger or acquisition will provide long-term economic benefits to ratepayers, does not adversely affect competition, be beneficial on an overall basis to the state and local economies, and others. Interestingly, the criteria in Section 854 (b) and (c) were added in 1989 by the State Legislature (Statutes of 1989, Chapter 390). According to a CPUC staff analysis for a bill, SB 1389 (Padilla) dated April 24, 2008, at that time, Southern California Edison (SCE) was attempting to purchase San Diego Gas & Electric (SDG&E), and several other utility-related mergers were being contemplated. The Senate Committee on Energy, Utilities and Communications (SEUC) and the Assembly Committee on Utilities and Commerce (U&C) held a joint hearing titled "Utility Merger Mania: Benefits and Risks to Ratepayers and Shareholders" (October 24, 1988). Then-



CPUC President Mitch Wilk testified at the hearing. When he was asked by Committee members what criteria the CPUC might use in reviewing a merger, he ran through a list of criteria. Those criteria were subsequently put into proposed legislation by members of the Legislature.

*Need for safety.* This bill expands on the list of items the CPUC must review as part of any merger, acquisition, or change in control of any electrical or gas corporation, including PG&E. The need to ensure safety has continued to remain very high on the list of concerns related to PG&E dating back to the 2010 San Bruno natural gas pipeline explosion through the recent fires ignited by their electrical lines. Earlier this year, former- CPUC President Picker suggested the CPUC could revoke PG&E's license to operate in the state – its certificate of public convenience and necessity – if the selection of PG&E's board does not demonstrate the company's commitment to safety. As such, the provisions included in the Section 854 by this bill seem largely consistent with the calls for increased safety.

*AB 1054 (Holden, Chapter 79, Statutes of 2019).* AB 1054 made numerous changes related to electric utilities and wildfires liability and mitigation. With respect to mergers, acquisitions, and change of control, the bill expanded the definition of change of control to include the voluntary or involuntary transfer of an IOU's assets to a public entity and made changes to the definition for change of control that included specified criteria and thresholds related to the treatment of the workforce. These changes were deemed concerning and too expansive by those interested in the municipalizing some of the PG&E distribution network, including the City and County of San Francisco, and others.

*SB 550.* This bill would require the CPUC to review specified safety elements for any proposed merger, acquisition or change in control of an electrical or gas IOU and conditions approval on a finding that, on balance, the transaction is in the public interest relative to those safety elements. This bill also clarifies the reviews required by the CPUC for any other asset transactions between a public utility and any other person or entity whether public or private. **This bill further clarifies the considerations required of the CPUC in any asset sale or change of control between a public utility and a public entity, which is intended to include any transfer that may be entailed in a transaction to municipalize a portion of an IOU's service territory. The growing interest of municipalities to purchase the distribution infrastructure of electrical corporations was the primary transaction of concern which prompted the additional changes in this bill. Those changes largely preserve the additional protections added by AB 1054, while exempting voluntary or involuntary transfer of assets of an IOU to ownership by a public entity from the change of control while more broadly requiring the CPUC's review of these**

transactions determines whether the transaction is fair and reasonable to affected IOU employees. As this bill is drafted the provisions related to safety authorize the CPUC to delay implementation until July 1, 2021 or until the CPUC adopts rules implementing the requirements, whichever is earlier. As such, it is possible that the safety criteria added by this bill for a review of a merger, acquisition, or control proposal may not be applied to the a potential reorganization of PG&E who is likely aiming to exit bankruptcy by June 2020, in light of the passage of AB 1054 and the opportunity to participate in the corresponding Wildfire Fund.

### **Prior/Related Legislation**

SB 549 (Hill, 2019) requires the Legislature to approve a capital change structure or increase in rates for the energy utility, PG&E Company. The bill was held in the Senate Committee on Appropriations.

SB 52 (Rosenthal, Chapter 484, Statutes of 1989) established criteria that the CPUC must consider in reviewing a merger, acquisition, or change of control related to an IOU.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

### **SUPPORT:**

City and County of San Francisco Mayor, London N. Breed  
The Utility Reform Network

### **OPPOSITION:**

None received

**ARGUMENTS IN SUPPORT:** According to the author:

SB 550 requires the CPUC to ensure safe utility service results from any merger, acquisition, or change of control of an electrical or gas corporation. These times of corporate change provide an important opportunity to evaluate the safety processes at a corporation, and ensure the successor entity has the proper safeguards in place for both their employee safety and public safety. The change of ownership at the Gill Ranch Storage facility located in Fresno and Madera Counties provides an example of a successful safety review during such corporate change. Gill Ranch agreed to designating a Chief Safety Officer, creating a Pipeline Safety Management System, and creating a Safety Council to propose risk mitigation as part of their change in ownership. SB 550 seeks to expand the important changes at

Gill Ranch to any gas or electric utility undergoing a merger, acquisition, or change of control.

**-- END --**