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.

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

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August 23, 2022
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.)

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.)

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.)
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). 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). 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). 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.


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

1 SECTION 1. Section 307.6 of the Public Utilities Code is amended to read:
2 307.6. (a) The commission shall appoint a chief internal auditor, with expertise in accounting, risk management, and information technology, and familiarity with industry best practices, who shall hold office at the pleasure of the commission.
(b) The chief internal auditor shall be responsible for the oversight of the internal audit unit and shall plan, initiate, and perform audits of key financial, management, operational, and information technology functions within the commission to improve accountability and transparency to executive and state management.

c) The chief internal auditor shall report his or her findings and recommendations directly to an audit subcommittee of the commission.

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


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.


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

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

CHAPTER 16. CALIFORNIA CATASTROPHE COUNCIL

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

(b) The council shall be composed of the following five members.

(1) The Governor or their designee.

(2) The Treasurer or their designee.

(3) The Insurance Commissioner or their designee.

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

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

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

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

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

10089.6. (a) There is hereby created the California Earthquake Authority, which shall be administered under the authority of the commissioner and overseen by the California Catastrophe Council. The authority shall have the powers conferred by this chapter. The authority shall be authorized to transact insurance in this state as
necessary to sell policies of basic residential earthquake insurance
in the manner set forth in Sections 10089.26, 10089.27, and
10089.28. The authority shall have no authority to transact any
other type of insurance business.
(b) (1) The investments of the authority shall be limited to those
securities eligible under Section 16430 of the Government Code.
(2) The rights, obligations, and duties owed by the authority to
its insureds, beneficiaries of insureds, and applicants for insurance
shall be the same as the rights, obligations, and duties owed by
insurers to its insureds, beneficiaries of insureds, and applicants
for insurance under common law, regulations, and statutes. The
authority shall be liable to its insureds, beneficiaries of insureds,
and applicants for insurance as an insurer is liable to its insureds,
beneficiaries of insureds, and applicants for insurance under
common law, regulations, and statutes.
(c) The operating expenses of the authority shall be capped at
not more than 6 percent of the premium income received by the
authority. The funds shall be available to pay any advocacy fees
awarded in a proceeding under subdivision (c) of Section 10089.11.
(d) For purposes of this section, the term “operating expenses
of the authority” excludes solely the following:
(1) The costs of and transaction expenses associated with
risk-transfer purchases, including the purchase of reinsurance and
with capital-market contracts.
(2) The expense of securing and repaying bonds.
(3) The cost of repayment of bonds guaranteed, insured, or
otherwise backed by any department or agency of the United States
or of this state, or by any private entity.
(4) Payments to third parties for all of the following services
provided to the authority:
(A) Investment.
(B) Loss-modeling.
(C) Legal services.
(5) Costs associated with the authority’s efforts to acquaint the
public with and market authority products, promote earthquake
preparedness, and earthquake-loss mitigation under the authority’s
duly adopted strategic plan.
(6) Producer compensation.
(7) Participating insurer fees and reimbursement amounts arising
under written contracts.
(8) Amounts paid by the authority to support research in seismic
cience and seismic engineering.
(9) Loans, grants, and expenses to support and maintain the
authority’s earthquake loss-mitigation goals and programs, whether
conducted by the authority alone or in collaboration with or by
other persons.
(10) The costs of and loss-adjustment expenses associated with
adjusting and paying policyholder claims for earthquake losses
that are incurred by the authority under its earthquake insurance
policies, including all costs and expenses associated with
claim-related litigation, provided that all of those costs and
expenses shall be reported to the Legislature in the manner required
by subdivision (e) of Section 10089.13.
SEC. 3. Section 10089.55 is added to the Insurance Code, to
read:
10089.55. The board shall conduct the affairs of the authority
with respect to transacting earthquake insurance, including
administering the California Earthquake Authority Fund. The
board has no authority to administer the Wildfire Fund. At every
meeting of the board, the board shall post an agenda that clearly
identifies the meeting as relating to the business of earthquake
insurance.
SEC. 4. Section 311 of the Public Utilities Code is amended
to read:
311. (a) The commission, each commissioner, the executive
director, and the assistant executive directors may administer oaths,
certify to all official acts, and issue subpoenas for the attendance
of witnesses and the production of papers, waybills, books,
accounts, documents, and testimony in any inquiry, investigation,
hearing, or proceeding in any part of the state.
(b) The administrative law judges may administer oaths,
examine witnesses, issue subpoenas, and receive evidence, under
rules that the commission adopts.
(c) The evidence in any hearing shall be taken by the
commissioner or the administrative law judge designated for that
purpose. The commissioner or the administrative law judge may
receive and exclude evidence offered in the hearing in accordance
with the rules of practice and procedure of the commission.
(d) Consistent with the procedures contained in Sections 1701.1,
1701.2, 1701.3, 1701.4, and—1701.4; 1701.8, the assigned
commissioner or the administrative law judge shall prepare and file an opinion setting forth recommendations, findings, and conclusions. The opinion of the assigned commissioner or the administrative law judge is the proposed decision and a part of the public record in the proceeding. The proposed decision of the assigned commissioner or the administrative law judge shall be filed with the commission and served upon all parties to the action or proceeding without undue delay, not later than 90 days after the matter has been submitted for decision. The commission shall issue its decision not sooner than 30 days following filing and service of the proposed decision by the assigned commissioner or the administrative law judge, except that the 30-day period may be reduced or waived by the commission in an unforeseen emergency situation or upon the stipulation of all parties to the proceeding or as otherwise provided by law. The commission may, in issuing its decision, adopt, modify, or set aside the proposed decision or any part of the decision. Where the modification is of a decision in an adjudicatory hearing it shall be based upon the evidence in the record. Every finding, opinion, and order made in the proposed decision and approved or confirmed by the commission shall, upon that approval or confirmation, be the finding, opinion, and order of the commission.

(e) Any item appearing on the commission’s public agenda as an alternate item to a proposed decision or to a decision subject to subdivision (g) shall be served upon all parties to the proceeding without undue delay and shall be subject to public review and comment before it may be voted upon. For purposes of this subdivision, “alternate” means either a substantive revision to a proposed decision that materially changes the resolution of a contested issue or any substantive addition to the findings of fact, conclusions of law, or ordering paragraphs. The commission shall adopt rules that provide for the time and manner of review and comment and the rescheduling of the item on a subsequent public agenda, except that the item may not be rescheduled for consideration sooner than 30 days following service of the alternative item upon all parties. The alternate item shall be accompanied by a digest that clearly explains the substantive revisions to the proposed decision. The commission’s rules may provide that the time and manner of review and comment on an
alternate item may be reduced or waived by the commission in an unforeseen emergency situation.

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

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

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

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

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

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

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

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

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

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

(c) Consult with the Office of Emergency Services in the office’s management and response to utility public safety power shutoff
events and utility actions for compliance with public safety power
shutoff program rules and regulations.
(d) Support efforts to assess and analyze fire weather data and
other atmospheric conditions that could lead to catastrophic
wildfires and to reduce the likelihood and severity of wildfire
incidents that could endanger the safety of persons, properties,
and the environment within the state.
(e) Retain appropriate staff that includes experts in wildfire,
weather, climate change, emergency response, and other relevant
subject matters.
(f) Review, as necessary, in coordination with the California
Wildfire Safety Advisory Board and necessary commission staff,
safety requirements for infrastructure operated by telephone
corporations, water corporations, local publicly owned water
utilities, and water districts, and provide recommendations to the
commission to address the dynamic risk of climate change and to
mitigate wildfire risk.
SEC. 6. Section 326.1 is added to the Public Utilities Code, to
read:
326.1. (a) There is hereby established the California Wildfire
Safety Advisory Board. The board shall advise the Wildfire Safety
Division established pursuant to Section 326.
(b) The board shall consist of seven members. Five members
shall be appointed by the Governor; one member shall be appointed
by the Speaker of the Assembly, and one member shall be appointed
by the President pro Tempore of the Senate. The members of the
board shall serve four-year staggered terms. The initial members
of the board shall be appointed by January 1, 2020. The Governor
shall designate three of the initial members who shall serve
two-year terms. Members of the board shall be selected from
industry experts, academics, and persons with labor and workforce
safety experience or other relevant qualifications.
(c) The board shall meet no less often than quarterly and
alternate meeting locations between northern, central, and
southern California, when feasible.
(d) Members of the board who are not salaried state service
employees shall be eligible for reasonable compensation, not to
exceed a per diem four hundred dollars ($400), for attendance at
board meetings.
(e) All reasonable costs incurred by the board, including
staffing, travel at state travel reimbursement rates, and
administrative costs, shall be reimbursed through the public
utilities reimbursement account and shall be part of the budget of
the commission. The commission shall consult with the board in
the preparation of this portion of the commission’s proposed
annual budget.

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

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

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

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

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

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

326.2. The board shall do all of the following:

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

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

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

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

451.1. (a) For purposes of this section, the following terms
have the following meanings:
(1) “Covered wildfire” means any wildfire ignited on or after the effective date of Part 6 (commencing with Section 3279), that the Department of Forestry and Fire Protection has determined was caused by the electrical corporation.

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

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

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

(2) Whether the electrical corporation disregarded indicators of wildfire risk:

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

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

(5) Whether the electrical corporation failed to maintain its assets in a reasonable manner.
(6) Whether An electrical corporation bears the burden to demonstrate, based on a preponderance of the evidence, that its conduct was reasonable pursuant to subdivision (b) unless it has a valid safety certification pursuant to Section 8389 for the time period in which the covered wildfire that is the subject of the application ignited. If the electrical corporation has received a valid safety certification for the time period in which the covered wildfire ignited, an electrical corporation’s practices conduct shall be deemed to monitor, predict, and anticipate wildfires, and have been reasonable pursuant to operate its facilities in subdivision (b) unless a reasonable party to the proceeding demonstrates, based on information gained from its monitoring and predicting of wildfires, were a preponderance of the evidence, that the electrical corporation’s conduct was not reasonable.

(7) The extent to which the costs and expenses were in part caused by circumstances beyond the electrical corporation’s control.

(8) Whether extreme climate conditions at If an electrical corporation has drawn amounts from the location of the wildfire’s ignition, including humidity, temperature, or winds occurring during the Wildfire Fund for eligible claims for a covered wildfire, contributed to then the fire’s ignition or exacerbated the extent of the damages. The electrical corporation shall—provide—the commission with specific evidence file an application to recover costs and data demonstrating the impact of climate conditions on the severity of the expenses pursuant to Section 1701.8 after it has paid substantially all third-party liability claims arising from the covered wildfire.

(9) The electrical corporation’s compliance with regulations, laws, commission orders, and its wildfire mitigation plans prepared pursuant to Section 8386, including its history of compliance.

(10) Official findings of state, local, or federal government offices summarizing statutory, regulatory, or ordinance violations by any actor that contributed to the extent of the damages.

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

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

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

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

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

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

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

(D) The electrical corporation’s overall rate structure will not
be harmed by including the fixed recovery charges in its rates in
the amount that likely would result from any proposed recovery
bonds.
(E) The electrical corporation’s cost of capital will be appropriately adjusted to reflect the lower cost of finance via a recovery bond.

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

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

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

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

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

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

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

(B) A payment required under an ancillary agreement.

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

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

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

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

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

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

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

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

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

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

(10) “Recovery costs” means any of the following:
(A) The catastrophic wildfire amounts or appropriate costs authorized by the commission in a financing order for recovery.
(B) Federal and State of California income and franchise taxes associated with recovery of the amounts pursuant to subparagraph (A).
(C) Financing costs.
(D) Professional fees, consultant fees, redemption premiums, tender premiums and other costs incurred by the electrical corporation in using proceeds of recovery bonds to acquire outstanding securities of the electrical corporation, as authorized by the commission in a financing order.

(12) (A) “Recovery property” means the property right created pursuant to this article, including, without limitation, the right, title, and interest of the electrical corporation or its transferee:
(i) In and to the fixed recovery charges established pursuant to a financing order, including all rights to obtain adjustments to the fixed recovery charges in accordance with Section 850.1 and the financing order.
(ii) To be paid the amount that is determined in a financing order to be the amount that the electrical corporation or its transferee is lawfully entitled to receive pursuant to the provisions of this article and the proceeds thereof, and in and to all revenues, collections, claims, payments, moneys, or proceeds of or arising from the fixed recovery charges that are the subject of a financing order.
(B) “Recovery property” shall not include a right to be paid fixed recovery tax amounts.
(C) “Recovery property” shall constitute a current property right, notwithstanding the fact that the value of the property right will depend on consumers using electricity or, in those instances
where consumers are customers of the electrical corporation, the
electrical corporation performing certain services.

(12)

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

(13)

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

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

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

(A) (1) If an electrical corporation files for recovery of the amount of costs and expenses pursuant to
Section 451.1 or subdivision (c) of Section 451.2 and the
commission finds some or all of those costs and expenses to be
just and reasonable pursuant to Section 451.1 or the commission
allocates to the ratepayers some or all of those costs and expenses
pursuant to subdivision (c) of Section 451.2.

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

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

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

(i) The recovery cost to be reimbursed from the recovery bonds
have been found to be just and reasonable pursuant to Section
451.1 or are allocated to the ratepayers pursuant to subdivision (c)
of Section 451.2.
(ii) The issuance of the recovery bonds, including all material
terms and conditions of the recovery bonds, including, without
limitation, interest rates, rating, amortization redemption, and
maturity, and the imposition and collection of fixed recovery
charges as set forth in an application satisfy all of the following
conditions: conditions, as applicable:
(I) They are just and reasonable.
(II) They are consistent with the public interest.
(III) The recovery of recovery costs for catastrophic wildfire
amounts through the designation of the fixed recovery charges and
any associated fixed recovery tax amounts, and the issuance of
recovery bonds in connection with the fixed recovery charges,
would reduce, to the maximum extent possible, the rates on a
present value basis that consumers within the electrical
corporation’s service territory would pay as compared to the use
of traditional utility financing mechanisms, which shall be
calculated using the electrical corporation’s corporate debt and
equity in the ratio approved by the commission at the time of the
financing order.
(IV) The recovery of recovery costs for appropriate costs
through the designation of the fixed recovery charges and any
associated fixed recovery tax amounts, and the issuance of recovery
bonds in connection with the fixed recovery charges, would meet
the requirements set forth in subparagraphs (A) to (H), inclusive,
of paragraph (2) of subdivision (b) of Section 850.
(B) The electrical corporation may request the determination
specified in subparagraph (A) by the commission in a separate
proceeding or in an existing proceeding or both. If the commission
makes the determination specified in subparagraph (A), the
commission shall establish, as part of the financing order, a
procedure for the electrical corporation to submit applications from
time to time to request the issuance of additional financing orders
designating fixed recovery charges and any associated fixed
recovery tax amounts as recoverable. The electrical corporation
may submit an application with respect to recovery costs that an
electrical corporation (i) has paid, (ii) has an existing legal
obligation to pay, or (iii) would be obligated to pay pursuant to an
executed settlement agreement. The commission shall, within 180
days of the filing of that application, issue a financing order, which may take the form of a resolution, if the commission determines that the amounts identified in the application are recovery costs.

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

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

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

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

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

(e) Notwithstanding Section 455.5 or 1708, or any other law, and except as otherwise provided in subdivision (g), with respect
to recovery property that has been made the basis for the issuance
of recovery bonds and with respect to any associated fixed recovery
tax amounts, the financing order, the fixed recovery charges, and
any associated fixed recovery tax amounts shall be irrevocable.
The commission shall not, either by rescinding, altering, or
amending the financing order or otherwise, revalue or revise for
ratemaking purposes the recovery costs or the costs of recovering,
financing, or refinancing the recovery costs, in any way reduce or
impair the value of recovery property or of the right to receive any
associated fixed recovery tax amounts either directly or indirectly
by taking fixed recovery charges or any associated fixed recovery
tax amounts into account when setting other rates for the electrical
corporation or when setting charges for the Department of Water
Resources. The amount of revenues shall not be subject to
reduction, impairment, postponement, or termination. The State
of California does hereby pledge and agree with the electrical
corporation, owners of recovery property, financing entities, and
holders of recovery bonds that the state shall neither limit nor alter,
except as otherwise provided with respect to the true-up adjustment
of the fixed recovery charges pursuant to subdivision (i), the fixed
recovery charges, any associated fixed recovery tax amounts,
recovery property, financing orders, or any rights under a financing
order until the recovery bonds, together with the interest on the
recovery bonds and associated financing costs, are fully paid and
discharged, and any associated fixed recovery tax amounts have
been satisfied or, in the alternative, have been refinanced through
an additional issue of recovery bonds, provided that nothing
contained in this section shall preclude the limitation or alteration
if and when adequate provision shall be made by law for the
protection of the electrical corporation and of owners and holders
of the recovery bonds. The financing entity is authorized to include
this pledge and undertaking for the state in these recovery bonds.
When setting other rates for the electrical corporation, nothing in
this subdivision shall prevent the commission from taking into
account either of the following:

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

2. Any collection of fixed recovery tax amounts in excess of
   amounts actually required to pay federal and State of California
income and franchise taxes associated with fixed recovery charges,
provided that this would not result in a recharacterization of the
tax, accounting, and other intended characteristics of the financing,
including, but not limited to, either of the following:
(A) Treating the recovery bonds as debt of the electrical
corporation or its affiliates for federal income tax purposes.
(B) Treating the transfer of the recovery property by the
electrical corporation as a true sale for bankruptcy purposes.
(f) (1) Neither financing orders nor recovery bonds issued under
this article shall constitute a debt or liability of the state or of any
political subdivision thereof, nor shall they constitute a pledge of
the full faith and credit of the state or any of its political
subdivisions, but are payable solely from the funds provided
therefor under this article and shall be consistent with Sections 1
and 18 of Article XVI of the California Constitution. All recovery
bonds shall contain on the face thereof a statement to the following
effect: “Neither the full faith and credit nor the taxing power of
the State of California is pledged to the payment of the principal
of, or interest on, this bond.”
(2) The issuance of recovery bonds under this article shall not
directly, indirectly, or contingently obligate the state or any
political subdivision thereof to levy or to pledge any form of
taxation therefor or to make any appropriation for their payment.
(g) The commission shall establish procedures for the
expeditious processing of an application for a financing order,
which shall provide for the approval or disapproval of the
application within 120 days of the application. Any fixed recovery
charge authorized by a financing order shall appear on consumer
bills. The commission shall, in any financing order, provide for a
procedure for periodic true-up adjustments to fixed recovery
charges, which shall be made at least annually and may be made
more frequently. The electrical corporation shall file an application
with the commission to implement any true-up adjustment.
(h) Fixed recovery charges are recovery property when, and to
the extent that, a financing order authorizing the fixed recovery
charges has become effective in accordance with this article, and
the recovery property shall thereafter continuously exist as property
for all purposes, and all of the rights and privileges relating to that
property accorded by this article shall continuously exist for the
period and to the extent provided in the financing order, but in any
event until the recovery bonds are paid in full, including all
principal, premiums, if any, and interest with respect to the
recovery bonds, and all associated financing costs are paid in full.
A financing order may provide that the creation of recovery
property shall be simultaneous with the sale of the recovery
property to a transferee or assignee as provided in the application
of the pledge of the recovery property to secure the recovery bonds.
(i) Recovery costs shall not be imposed upon customers
participating in the California Alternative Rates for Energy or
Family Electric Rate Assistance programs discount pursuant to
Section 739.1.
(j) This article and any financing order made pursuant to this
article do not amend, reduce, modify, or otherwise affect the right
of the Department of Water Resources to recover its revenue
requirements and to receive the charges that it is to recover and
receive pursuant to Division 27 (commencing with Section 80000)
of the Water Code, or pursuant to any agreement entered into by
the commission and the Department of Water Resources pursuant
to that division.
SEC. 13. Section 1701 of the Public Utilities Code is amended
to read:
1701. (a) All hearings, investigations, and proceedings shall
be governed by this part and by rules of practice and procedure
adopted by the commission, and in the conduct thereof the technical
rules of evidence need not be applied. No informality in any
hearing, investigation, or proceeding or in the manner of taking
testimony shall invalidate any order, decision, or rule made,
approved, or confirmed by the commission.
(b) In quasi-legislative, ratesetting, or catastrophic wildfire
proceedings that do not include hearings, the commission may
receive as evidence, and use as proof of any fact, both of the
following types of information without requiring a sponsoring
witness subject to cross-examination:
(1) Reports of other state or federal agencies.
(2) Reports of commission staff or interagency and stakeholder
groups provided to all parties for notice and comment.
(c) Notwithstanding Section 11425.10 of the Government Code,
Articles 1 to 15, inclusive, of Chapter 4.5 (commencing with
Section 11400) of Part 1 of Division 3 of Title 2 of the Government
Code do not apply to a hearing by the commission under this code.
The Administrative Adjudication Code of Ethics (Article 16 (commencing with Section 11475) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) shall apply to administrative law judges of the commission.

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

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

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

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

(2) The administrative law judge shall either preside over and conduct, or assist the assigned commissioner or commissioners in presiding over and conducting, any evidentiary or adjudication hearing that may be required.
(3) The commission may develop procedures to expedite ratesetting and catastrophic wildfire proceedings that do not require an evidentiary hearing.

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

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

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

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

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

(e) (1) (A) "Ex parte communication," for purposes of this article, means any oral or written communication between a decisionmaker and an interested person concerning any matter before the commission that the commission has not specified in its Rules of Practice and Procedure as being a procedural matter and that does not occur in a public hearing, workshop, or other
public proceeding, or on the official record of the proceeding on
the matter. The commission shall specify in its Rules of Practice
and Procedure, enacted by rulemaking, the types of issues
considered procedural matters under this article.
(B) “Interested person,” for purposes of this article, means any
of the following:
(i) Any applicant, an agent or an employee of the applicant, or
a person receiving consideration for representing the applicant, or
a participant in the proceeding on any matter before the
commission.
(ii) Any person with a financial interest, as described in Article
1 (commencing with Section 87100) of Chapter 7 of Title 9 of the
Government Code, in a matter before the commission, an agent
or employee of the person with a financial interest, or a person
receiving consideration for representing the person with a financial
interest. A person involved in issuing credit ratings or advising
entities or persons who invest in the shares or operations of any
party to a proceeding is a person with a financial interest.
(iii) A representative acting on behalf of any civic,
environmental, neighborhood, business, labor, trade, or similar
organization who intends to influence the decision of a commission
member on a matter before the commission.
(iv) Other categories of individuals deemed by the commission,
by rule, to be an interested person.
(2) The commission shall by rule adopt and publish a definition
of decisionmakers and interested persons for purposes of this
article, along with any requirements for written reporting of ex
parte communications and appropriate sanctions for noncompliance
with any rule proscribing ex parte communications. The definition
of decisionmakers shall include, but is not limited to: each
commissioner; the personal staff of a commissioner if the staff is
acting in a policy or legal advisory capacity; the chief
administrative law judge of the commission; and the administrative
law judge assigned to the proceeding. The commission shall, by
rule, explicitly ban both of the following:
(A) The practice of one-way ex parte communications from a
decisionmaker to an interested person.
(B) Any communication between an interested person and a
decisionmaker regarding which commissioner or administrative
law judge may be assigned to a matter before the commission.
(3) For adjudication cases, the rules shall provide that ex parte communications shall be prohibited, as required by this article. The rules shall provide that if an ex parte communication occurs that is prohibited by this article, or if an ex parte communication occurs in a ratesetting case, case or catastrophic wildfire proceeding, whether initiated by a decisionmaker or an interested person, all of the following shall be required:

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

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

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

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

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

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

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

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

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

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

(iv) A brief description of the communication.

(C) If the interested person who participated in the communication has not timely submitted the notice required by subparagraph (A), the decisionmaker shall refer the matter to the attorney for the commission, and an assigned commissioner, by ruling, shall order the interested person to submit the required notice. The interested person shall be subject to any applicable
penalties for the initial violation and, if the interested person does not submit the required notice within the time period specified in the assigned commissioner’s ruling, the interested person shall be subject to continuing violations pursuant to Section 2108.

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

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

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

(7) (A) Ex parte communications that occur at conferences and that are within the scope of an adjudication, rate-setting, or catastrophic wildfire proceeding shall be subject to the requirements of this article.

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

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

(8) The commission shall render its decisions based on the law and on the evidence in the record. Ex parte communications shall not be a part of the evidentiary record of the proceedings.
(f) The commission may meet in a closed session to discuss administrative matters so long as no collective consensus is reached or vote taken on any matter requiring a vote of the commissioners. The commission shall, by rule, adopt and publish a definition of “administrative matters” for purposes of this section.

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

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

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

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

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

(c) An alternate decision may be issued by the assigned any commissioner or other than the assigned administrative law judge who is not the principal hearing officer commissioner. Any alternate decision may be filed with the commission and served upon all parties to the proceeding any time prior to before issuance of a final decision by the commission, consistent with the requirements of Section 311.
(d) The commission shall establish a procedure for any party to request the presence of a commissioner at a hearing. The assigned commissioner shall be present at any closing arguments in the case.

(e) The principal hearing officer assigned commissioner, or the commissioner’s designee, shall present the proposed decision to the full commission in a public meeting. The alternate decision, if any, shall also be presented to the full commission at that public meeting.

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

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

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

(3) (A) If an ex parte communication meeting is granted to any party, all other parties, upon request, shall also be granted individual ex parte meetings of a substantially equal period of time and shall be sent a notice of that opportunity at the time the request is granted.
(B) Subparagraph (A) shall not apply if the decisionmaker participating in the ex parte communication meeting is a member of the personal staff of a commissioner acting in a policy or legal advisory capacity and no other decisionmaker to whom subparagraph (A) applies is a participant.

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

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

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

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

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

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

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

(D) (i) Any meeting of the commission during the quiet period shall require a minimum of three days’ advance public notice.

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

(h) Any party has the right to present a final oral argument of its case before the commission. Upon request to present a final oral argument before the commission, the argument
shall be scheduled in a timely manner. A quorum of the commission shall be present for the final oral arguments.

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

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

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

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

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

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

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

(d) Any party has the right to present a final oral argument of its case before the commission. Upon request, the party has the right to present a final oral argument before the commission, the argument
shall be scheduled in a timely manner. A quorum of the
commission shall be present for the final oral arguments.
(e) The commission may, in issuing its rule or order, adopt,
modify, or set aside the proposed decision or any part of the rule
or order. The final rule or order of the commission shall be issued
not later than 60 days after the issuance of the proposed rule or
order. Under extraordinary circumstances the commission may
extend this date for a reasonable period. The 60-day period shall
be extended for 30 days if any alternate rule or order is proposed
pursuant to Section 311.
(f) No informality in the manner of taking testimony or evidence
shall invalidate any order, decision, or rule made, approved, or
confirmed by the commission in quasi-legislative cases.
SEC. 17. Section 1701.8 is added to the Public Utilities Code,
to read:
1701.8. (a) For purposes of this section, the following
definitions apply:
(1) “Covered wildfire” means a wildfire described in Section
451.1.
(2) “Wildfire Fund” means the wildfire fund created pursuant
to Section 3284.
(b) The following procedures and standards apply to a
catastrophic wildfire proceeding:
(1) (A) An electrical corporation may file an application
pursuant to Section 451.1 at any time after it has paid all or, if
authorized by the commission for good cause, substantially all
third party damage claims, including payments made pursuant to
judgments or settlement agreements related to a covered wildfire.
Except as authorized by the commission for good cause, before
filing the application, the electrical corporation shall exhaust all
rights to indemnification or other claims, contractual or otherwise,
against any third parties, including collecting insurance proceeds,
related to the covered wildfire.
(B) If an electrical corporation has received payments from the
Wildfire Fund for a third party damage claim for the covered
wildfire, the electrical corporation shall file an application to
recover the costs pursuant to subparagraph (A) no later than the
earlier of the following:
(i) The date when it has resolved all third party damage claims
and exhausted all right to indemnification or other claims,
contractual or otherwise, against any third parties, including
collecting insurance proceeds, related to the covered wildfire.

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

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

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

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

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

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

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

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

1702.5. (a) The commission shall, in an existing or new
proceeding, develop and implement a safety enforcement program
applicable to gas corporations and electrical corporations which
that includes procedures for monitoring, data tracking and analysis,
and investigations, as well as issuance of citations by commission
staff, under the direction of the executive director. The enforcement
program shall be designed to improve gas and electrical system
safety through the enforcement of applicable law, or order or rule
of the commission related to safety using a variety of enforcement
mechanisms, including the issuance of corrective actions, orders, and citations by designated commission staff, and recommendations for action made to the commission by designated commission staff.

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

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

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

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

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

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

(e) This section does not apply to an exempt wholesale generator, a qualifying small power producer, or qualifying cogenerator, as defined in Section 796 of Title 16 of the United States Code and the regulations enacted pursuant thereto. Nothing in this section affects the commission’s authority pursuant to Section 761.3.
SEC. 19. Section 1711 of the Public Utilities Code is amended to read:

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

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

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

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

PART 6. WILDFIRE FUND

CHAPTER 1. DEFINITIONS

3279. For purposes of this part, the following definitions apply:
(a) “Administrator” means the Wildfire Fund Administrator
appointed pursuant to Section 3280.
(b) “Annual contribution” means either of the following:
(1) For an electrical corporation that qualifies as a large
electrical corporation at the end of the prior calendar year, an
amount equal to three hundred million dollars ($300,000,000)
multiplied by the Wildfire Fund allocation metric.
(2) For an electrical corporation that qualifies as a regional
electrical corporation at the end of the prior calendar year, an
amount equal to twenty-five dollars ($25) multiplied by the number
of customer accounts serviced by the electrical corporation within
the state at the end of that calendar year.
(c) “Council” means the California Catastrophe Council
created pursuant to Section 8899.70 of the Government Code.
(d) “Covered wildfire” has the same meaning as set forth in Section 451.1.
(e) “Electrical corporation” has the same meaning as set forth in Section 218.
(f) “Eligible claims” means claims for third-party damages against an electrical corporation resulting from covered wildfires exceeding the greater of (1) one billion dollars ($1,000,000,000) in any calendar year, or (2) the amount of the insurance coverage required to be in place for the electrical corporation pursuant to Section 3293, measured by the amount of that excess.
(g) “Fund” means the Wildfire Fund created pursuant to Section 3284.
(h) “High fire-threat district” means areas identified as tier 2 (elevated) or tier 3 (extreme) fire risk on the fire-threat map maintained by the commission.
(i) “Initial contribution” means either of the following:
   (1) For a large electrical corporation, an amount equal to seven billion five hundred million dollars ($7,500,000,000) multiplied by the Wildfire Fund allocation metric.
   (2) For a regional electrical corporation, an amount equal to six hundred twenty-five dollars ($625) multiplied by the number of customer accounts serviced by the electrical corporation within the state as of the effective date of this part.
(j) “Insolvency proceeding” means a bankruptcy, insolvency, liquidation, reorganization, or similar proceeding brought pursuant to Title 11 of the United States Code.
(k) “Large electrical corporation” means an electrical corporation with 250,000 or more customer accounts within the state.
(l) “Participating electrical corporation” means an electrical corporation that satisfies the conditions to participate in the fund pursuant to Section 3291 or 3292, as applicable.
(m) “Regional electrical corporation” means an electrical corporation with less than 250,000 customer accounts within the state.
(n) “Wildfire Fund allocation metric” means ______.
(o) “Wildfire Fund assets” means the sum of all moneys and invested assets held in the fund which shall include, without limitation, any loans or other investments made by the state to the fund, all interest or other income from the investment of money
held in the fund, any other funds specifically designated for the fund by applicable law, the proceeds of any special charge (or continuation of existing charge) allocated to and deposited into the fund, and the proceeds of any bonds issue for the benefit of the fund.

Chapter 2. The Wildfire Fund

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

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

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

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

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

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

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

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

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

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

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

3284. (a) There is hereby created the Wildfire Fund, which is not a fund in the State Treasury.
(b) Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated without regard to fiscal years for the purposes of this part.

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

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

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

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

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

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

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

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

(1) Initial contributions from electrical corporations.

(2) Annual contributions from electrical corporations.

(3) Revenue generated from the ratepayers of a regional electrical corporation by a charge authorized by the commission pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 3289 and remitted to the fund pursuant to Section 3291 or 3292, as applicable.
(4) Revenues generated from the ratepayers of each large
electrical corporation by a charge authorized by the commission
pursuant to subparagraph (A) of paragraph (1) of subdivision (a)
of Section 3289.

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

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

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

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

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

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

(b) In the event Section 3292 is operative, the Director of
Finance, in consultation with the administrator, shall determine
a schedule to provide ten billion five hundred million dollars
($10,500,000,000) to the fund and shall provide that schedule to
the Controller within 60 days. The Controller shall transfer the
moneys from the Surplus Money Investment Fund and other funds
that accrue interest to the General Fund pursuant to the schedule
provided by the Director of Finance as a loan to support the
purposes of this part. The loan shall be repaid by the proceeds of
the charges authorized pursuant to subparagraph (A) of paragraph
(1) of subdivision (a) of Section 3289 or the proceeds of any bonds
as set forth in Division 28 (commencing with Section 80500) of
the Water Code.
(c) In the case of subdivision (a) or (b), interest payments on
outstanding loan amounts shall be calculated at the greater of the
quarter-to-date yield at the one-year constant maturity United
States Treasury rate for the calendar quarter concluded directly
before the calculation or the Surplus Money Investment Fund rate
at the time of the cash transfer. The interest payments shall be
paid on a quarterly basis following the cash transfer and shall
continue until the loan has been fully repaid. The interest payments
are interest earnings of the Surplus Money Investment Fund and
shall be apportioned pursuant to Sections 16475 and 16480.6 of
the Government Code.
(d) Whether Section 3291 or 3292 is operative, an initial transfer
to the fund of no less than two billion dollars ($2,000,000) shall
be made in the 2019–20 fiscal year:
(1) Within 14 days of the effective date of this part,
the commission shall initiate a rulemaking proceeding to consider
using its authority pursuant to Section 701 to require each
electrical corporation to collect a nonbypassable charge from
ratepayers of the electrical corporation to support the Wildfire
Fund established pursuant to Section 3284, including the payment
of any bonds issued pursuant to Division 28 (commencing with
Section 80500) of the Water Code, as follows:
(A) For a large electrical corporation, a charge in an amount
sufficient to fund the revenue requirement, as established pursuant
to Section 80524 of the Water Code.
(B) For a regional electrical corporation, the amount equal to
one-half cent per kilowatt-hour ($0.005/kWh).
(2) If the commission determines that the imposition of the
charge described in paragraph (1) is just and reasonable, and that
it is appropriate to exercise its authority pursuant to Section 701
to so, the commission shall direct each electrical corporation
to collect that charge commencing in the month immediately
following the month in which the final collection of the revenue
requirement established by the Department of Water Resources
pursuant to Division 27 (commencing with Section 80000) of the
Water Code is made. The charge shall be collected in the same
manner as that for the payments made to reimburse the Department
of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code.

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

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

Chapter 3. Operation of the Fund

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

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

1. The electrical corporation holds a valid safety certification pursuant to Section 8389.

2. The electrical corporation is not the subject of an insolvency proceeding unless the electrical corporation meets the following conditions:

   A. The electrical corporation’s insolvency proceeding has been resolved pursuant to a plan or similar document not subject to a stay.

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

   C. The commission has approved the reorganization plan and other documents resolving the insolvency proceeding, including the electrical corporation’s resulting governance structure, which shall include the governance structure of any direct or indirect
owners of the electrical corporation following the resolution of
the insolvency proceedings.

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

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

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

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

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

(f) The fund shall terminate when the administrator determines
that the fund is no longer necessary to serve the purposes of this
part. Upon the determination of the administrator that the fund
shall be terminated, the administrator shall pay all remaining
eligible claims and fund expenses, liquidate any remaining assets,
and refund the remaining funds to ratepayers.

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

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

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

1. The electrical corporation holds a valid safety certification
   pursuant to Section 8389.

2. The electrical corporation is not the subject of an insolvency
   proceeding, unless the electrical corporation meets the following
   conditions:

   A. The electrical corporation’s insolvency proceeding has been
      resolved pursuant to a plan or similar document not subject to a
      stay.

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

   C. The commission has approved the reorganization plan and
      other documents resolving the insolvency proceeding, including
      the electrical corporation’s resulting governance structure, which
shall include the governance structure of any direct or indirect
owners of the electrical corporation following the resolution of
the insolvency proceedings.
(D) The commission has determined that the reorganization
plan and other documents resolving the insolvency proceeding are
consistent with the climate goals of the state and are neutral, on
average, to the ratepayers of the electrical corporation.
(3) For a regional electrical corporation, it has established a
charge required by the commission pursuant to Section 3289. This
charge shall be included on monthly bills for customers.
Collections on that charge shall be remitted, on a monthly basis,
to the administrator for deposit into the fund.
(4) Except as provided in subdivision (e), the electrical
corporation has provided its initial contribution to the fund within
60 days of the effective date of this part. Initial contributions shall
not be recovered from the ratepayers of an electrical corporation.
(c) Each participating electrical corporation shall make its
annual contribution by January 1 of each calendar year, including,
without limitation, any annual contributions for calendar years in
which the electrical corporation was not a participating electrical
corporation. Annual contributions shall not be recovered from the
ratepayers of an electrical corporation.
(d) The administrator may authorize an electrical corporation
that is formed after the effective date of this part to participate in
the fund if the administrator determines that the electrical
corporation meets the requirements of this section. Authorization
of an electrical corporation that is formed after the effective date
of this part shall be effective as of a date determined by the
administrator and shall apply to covered wildfires after the date
of authorization.
(e) An electrical corporation that is the subject of an insolvency
proceeding on the effective date of this part that wishes to
participate in the fund shall (1) within 15 days of the effective date
of this part, provide written notification to the commission of its
election to participate in the fund, and (2) within 60 days of the
effective date of this part, obtain approval from the bankruptcy
court or a court of competent jurisdiction of its irrevocable
determination and approval of its payment of the initial
contribution and, as they become due, annual contributions to the
fund, provided, that the contributions shall not be due to the fund
until the date the electrical corporation exits the insolvency proceeding. The electrical corporation shall not be entitled to seek payments from the fund pursuant to subdivision (f) until it has funded its initial contribution and has met the other conditions provided in subdivision (b). Participation of an electrical corporation that is the subject of an insolvency proceeding that satisfies the requirements of this subdivision shall be effective as of the effective date of this part and shall apply to covered wildfires after the effective date, provided that the fund shall not pay more than 40 percent of the allowed amount of any claim arising between the effective date and the date the electrical corporation exits bankruptcy.

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

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

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

(2) The obligation of an electrical corporation to reimburse the fund for amounts received from the fund shall be limited to 20 percent of the electrical corporation’s transmission and distribution equity rate base for any rolling three-calendar-year period as determined by the administrator. Except as provided in
paragraph (3), the electrical corporation shall not be required to reimburse the fund for any additional amounts in any three-calendar-year period.

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

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

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

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

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

3293. A participating electrical corporation shall maintain commercially reasonable insurance coverage as determined annually by the administrator. The administrator shall determine the appropriate amount of insurance coverage required, taking into account the availability of insurance, the electrical corporation’s service territory, including the fire risk of the territory, the size of the territory, and the value of the real estate in the territory, the safety record of the electrical corporation, the wildfire mitigation measures implemented by the electrical corporation, the impact to the ratepayers, and other factors deemed appropriate by the administrator.
3294. Costs and expenses of administration of the fund shall be paid from Wildfire Fund assets.

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

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

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

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

(b) Each electrical corporation shall annually triennially prepare and submit a comprehensive wildfire mitigation plan to the commission for review and approval, according to a schedule established by the commission, which may allow for the staggering of compliance periods for each electrical corporation. Until its next comprehensive wildfire mitigation plan, an electrical corporation shall consult with annually submit to the commission on the review of each wildfire mitigation plan. Prior to approval, the commission may require modifications of the plans. Following approval, the commission shall oversee compliance with the plans pursuant to subdivision (h). Wildfire Safety Division for review and approval
an update to the last approved comprehensive wildfire mitigation plan.

(c) The wildfire mitigation plan shall include: include all of the following:

(1) An accounting of the responsibilities of persons responsible for executing the plan.
(2) The objectives of the plan.
(3) A description of the preventive strategies and programs to be adopted by the electrical corporation to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.
(4) A description of the metrics the electrical corporation plans to use to evaluate the plan’s performance and the assumptions that underlie the use of those metrics.
(5) A discussion of how the application of previously identified metrics to previous plan performances has informed the plan.
(6) Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure.
(7) Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, and operators of telecommunications infrastructure.
(8) Plans for vegetation management.
(9) Plans for inspections of the electrical corporation’s electrical infrastructure.
(10) A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the electrical corporation’s service territory, including all relevant wildfire risk and risk mitigation information that is part of Safety Model Assessment Proceeding and Risk Assessment Mitigation Phase filings. The list shall include, but not be limited to, both of the following:
(A) Risks and risk drivers associated with design, construction, operations, and maintenance of the electrical corporation’s equipment and facilities.
(B) Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the electrical corporation’s service territory.

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

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

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

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

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

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

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

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

(17) A statement of how the electrical corporation will restore service after a wildfire.
18. Protocols for compliance with requirements adopted by
the commission regarding activities to support customers during
and after a wildfire, outage reporting, support for low-income
customers, billing adjustments, deposit waivers, extended payment
plans, suspension of disconnection and nonpayment fees, repair
processing and timing, access to utility representatives, and
emergency communications.
19. A description of the processes and procedures the electrical
corporation will use to do all of the following:
(A) Monitor and audit the implementation of the plan.
(B) Identify any deficiencies in the plan or the plan’s
implementation and correct those deficiencies.
(C) Monitor and audit the effectiveness of electrical line and
equipment inspections, including inspections performed by
contractors, carried out under the plan and other applicable statutes
and commission rules.
20. Any other information that the commission Wildfire Safety
Division may require.
(d) The commission shall accept comments on each plan from
the public, other local and state agencies, and interested parties;
and verify that the plan complies with all applicable rules,
regulations, and standards, as appropriate.
(e) The commission shall approve each plan within three months
of its submission, unless the commission makes a written
determination, including reasons supporting the determination;
that the three-month deadline cannot be met and issues an order
extending the deadline. Each electrical corporation’s approved
plan shall remain in effect until the commission approves the
electrical corporation’s subsequent plan. At the time it approves
each plan, the commission shall authorize the utility to establish
a memorandum account to track costs incurred to implement the
plan.
(f) The commission’s approval of a plan does not establish a
defense to any enforcement action for a violation of a commission
decision, order, or rule:
(g) The commission shall consider whether the cost of
implementing each electrical corporation’s plan is just and
reasonable in its general rate case application. Nothing in this
section shall be interpreted as a restriction or limitation on Article
(h) The commission shall conduct an annual review of each electrical corporation’s compliance with its plan as follows:

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

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

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

(ii) The commission shall consider the independent evaluator’s findings, but the independent evaluator’s findings are not binding on the commission, except as otherwise specified.

(iii) The independent evaluator’s findings shall be used by the commission to carry out its obligations under Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 4.

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

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

(4) The commission shall complete its compliance review within 18 months after the submission of the electrical corporation’s compliance report.
(i) An electrical corporation shall not divert revenues authorized to implement the plan to any activities or investments outside of the plan.

(ii) Each electrical corporation shall establish a memorandum account to track costs incurred for fire risk mitigation that are not otherwise covered in the electrical corporation’s revenue requirements. The commission shall review the costs in the memorandum accounts and disallow recovery of those costs the commission deems unreasonable.

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

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

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

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

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

(2) (A) Before March 1, 2021, and before each March 1 thereafter, the Wildfire Safety Division, in consultation with the Department of Forestry and Fire Protection, shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure.
(B) (i) Each electrical corporation shall engage an independent
evaluator listed pursuant to subparagraph (A) to review and assess
the electrical corporation’s compliance with its plan. The engaged
independent evaluator shall consult with, and operate under the
direction of, the Safety and Enforcement Division of the
commission. The independent evaluator shall issue a report on
July 1 of each year in which a report required by paragraph (1)
is filed. As a part of the independent evaluator’s report, the
independent evaluator shall determine whether the electrical
corporation failed to fund any activities included in its plan.

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

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

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

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

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

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

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

(2) The commission shall not allow a large electrical
corporation to include in its equity rate base its share, as
determined pursuant to the wildfire allocation metric specified in
Section 3279, of the first five billion dollars ($5,000,000,000)
expended in aggregate by large electrical corporations over the
period of 2020 to 2024, inclusive, on fire risk mitigation capital
expenditures included in the electrical corporations’ approved
wildfire mitigation plans. Nothing in this paragraph shall prevent
an electrical corporation from recovering the debt financing costs
of these fire risk mitigation capital expenditures.

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

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

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

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

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

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

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

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

(b) (1) The local publicly owned electric utility or electrical
cooperative shall, before January 1, 2020, and annually thereafter,
prepare a wildfire mitigation plan.
(2) The wildfire mitigation plan shall consider as necessary, at minimum, all of the following:

(A) An accounting of the responsibilities of persons responsible for executing the plan.

(B) The objectives of the wildfire mitigation plan.

(C) A description of the preventive strategies and programs to be adopted by the local publicly owned electric utility or electrical cooperative to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.

(D) A description of the metrics the local publicly owned electric utility or electrical cooperative plans to use to evaluate the wildfire mitigation plan’s performance and the assumptions that underlie the use of those metrics.

(E) A discussion of how the application of previously identified metrics to previous wildfire mitigation plan performances has informed the wildfire mitigation plan.

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

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

(H) Plans for vegetation management.

(I) Plans for inspections of the local publicly owned electric utility’s or electrical cooperative’s electrical infrastructure.

(J) A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the local publicly owned electric utility’s or electrical cooperative’s service territory. The list shall include, but not be limited to, both of the following:

(i) Risks and risk drivers associated with design, construction, operation, and maintenance of the local publicly owned electric utility’s or electrical cooperative’s equipment and facilities.

(ii) Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of
the local publicly owned electric utility’s or electrical cooperative’s
service territory.
(K) Identification of any geographic area in the local publicly
owned electric utility’s or electrical cooperative’s service territory
that is a higher wildfire threat than is identified in a commission
fire threat map, and identification of where the commission should
expand a high fire threat district based on new information or
changes to the environment.
(L) A methodology for identifying and presenting enterprisewide
safety risk and wildfire-related risk.
(M) A statement of how the local publicly owned electric utility
or electrical cooperative will restore service after a wildfire.
(N) A description of the processes and procedures the local
publicly owned electric utility or electrical cooperative shall use
to do all of the following:
   (i) Monitor and audit the implementation of the wildfire
mitigation plan.
   (ii) Identify any deficiencies in the wildfire mitigation plan or
its implementation, and correct those deficiencies.
   (iii) Monitor and audit the effectiveness of electrical line and
equipment inspections, including inspections performed by
contractors, that are carried out under the plan, other applicable
statutes, or commission rules.
(3) The local publicly owned electric utility or electrical
cooperative shall present each wildfire mitigation plan in an
appropriately noticed public meeting. The local publicly owned
electric utility or electrical cooperative shall accept comments on
its wildfire mitigation plan from the public, other local and state
agencies, and interested parties, and shall verify that the wildfire
mitigation plan complies with all applicable rules, regulations, and
standards, as appropriate.
(c) The local publicly owned electric utility or electrical
cooperative shall contract with a qualified independent evaluator
with experience in assessing the safe operation of electrical
infrastructure to review and assess the comprehensiveness of its
wildfire mitigation plan. The independent evaluator shall issue a
report that shall be made available on the Internet Web site internet
website of the local publicly owned electric utility or electrical
cooperative, and shall present the report at a public meeting of the
local publicly owned electric utility’s or electrical cooperative’s
governing board.

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

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

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

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

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

(1) “Board” means the California Wildfire Safety Advisory
Board established pursuant to Section 326.1.

(2) “Division” means the Wildfire Safety Division established
pursuant to Section 326.

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

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

(1) Appropriate performance metrics and processes for
determining an electrical corporation’s compliance with its
approved wildfire mitigation plan.

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

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

(c) By October 31, 2020, and annually thereafter, the division
shall issue an analysis and recommendation to the commission on
the recommendations provided by the board pursuant to subdivision (b).

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

1. Performance metrics for electrical corporations.
2. Additional requirements for wildfire mitigation plans.
3. A wildfire mitigation plan compliance process.
4. A process for the division to conduct annual safety culture assessments for each electrical corporation.

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

1. The electrical corporation has an approved wildfire mitigation plan.
2. The division has not found that the electrical corporation is not in substantial compliance with its wildfire mitigation plan.
3. The electrical corporation is in substantial compliance with the findings of its most recent safety culture assessment, if applicable.
4. Establishment of a safety committee of its board of directors composed of members with relevant safety experience.
5. Establishment of an executive incentive compensation plan linked to safety performance metrics.
6. Establishment of board-of-director-level reporting to the commission on safety issues.

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

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

(g) If the division determines an electrical corporation is not in compliance with its approved wildfire mitigation plan, it may recommend that the commission pursue an enforcement action
against the electrical corporation for noncompliance with its approved plan.

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

DIVISION 28. WILDFIRE PREVENTION AND RECOVERY
ACT OF 2019

CHAPTER 1. GENERAL PROVISIONS

80500. The Legislature finds and declares _____.

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

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

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

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

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

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

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

(b) “Bonds” means bonds, notes, or other evidences of indebtedness issued solely for purposes of supporting the Wildfire Fund and other related expenses incurred by the department pursuant to this division, or for reimbursing expenditures from the fund or the Wildfire Fund for those purposes; repaying to the Surplus Money Investment Fund any loans made to the Wildfire Fund; establishing or maintaining reserves in connection with the
bonds; costs of issuance of bonds or incidental to their payment
or security; capitalized interest; or renewing or refunding any
bonds.
(c) “Commission” means the Public Utilities Commission.
(d) “Electrical corporation” means an electrical corporation,
as defined in Section 218 of the Public Utilities Code, that
participates in the Wildfire Fund.
(e) “Fund” means the Department of Water Resources Charge
Fund established by Section 80550.
(f) “Wildfire Fund” has the same meaning as defined in Section
3279 of the Public Utilities Code.
80508. (a) The department may prescribe, adopt, and enforce
emergency regulations relating to the administration and
enforcement of this division. Any emergency regulations
prescribed, adopted, or enforced pursuant to this division shall
be adopted in accordance with Chapter 3.5 (commencing with
Section 11340) of Part 1 of Division 3 of Title 2 of the Government
Code, and, for purposes of that chapter, including Section 11349.6
of the Government Code, the adoption of such regulations is an
emergency and shall be considered by the Office of Administrative
Law as necessary for the immediate preservation of the public
peace, health and safety, and general welfare.
(b) The provisions of the Government Code and Public Contract
Code applicable to state contracts, including, but not limited to,
advertising and competitive bidding requirements and prompt
payment requirements, apply to contracts entered into under this
division, unless the department determines that application of any
of those provisions to contracts entered into under this division is
detrimental to accomplishing the purposes of this division.
80510. All state agencies and other official state organizations,
and all persons connected with those agencies and organizations,
shall, at the request of the department, give the department
assistance or other cooperation in carrying out the purposes of
this division.

Chapter 2. Powers of the Department
80520. (a) The department may contract with an electrical
corporation or its successor in the performance of related service,
as an agent of the department, to provide billing, collection, and
other related services on terms and conditions that reasonably compensate the electrical corporation or its successor for its services, and adequately secure payment to the department.

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

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

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

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

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

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

80528. (a) The department may do any of the following as may be, in the determination of the department, necessary for the purposes of this division:
(1) Engage the services of private parties to render professional and technical assistance and advice and other services in carrying out the purposes of this division.

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

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

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

Chapter 3. Bonds

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

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

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

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

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

(3) Refunding bonds if any nationally recognized rating agency reduces or withdraws, or proposes to reduce or withdraw, the rating assigned to securities that are secured by bond insurance policies, credit or liquidity facilities issued by the provider of a bond insurance policy, or a credit or liquidity facility securing the bonds being refunded.
(d) Before the issuance of bonds in a public offering, the department shall establish a mechanism to ensure the bonds are sold at investment grade ratings and repaid on a timely basis from pledged revenues. This mechanism may include, but is not limited to, an agreement between the department and the commission as described in Section 80524.

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

1. The date on which the department shall have legally defeased all of its outstanding power supply revenue bonds issued pursuant to Section 80134 and provided written notice to the commission.
2. The date on which the department shall have paid in full, at maturity, all of its outstanding power supply revenue bonds issued pursuant to Section 80134 and provided written notice to the commission.

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

(b) In the discretion of the department, any bonds may be secured by a trust agreement by and between the department and a corporate trustee, which may be any trust company or bank having trust powers within or outside the state, or the Treasurer.
Notwithstanding any other law, the Treasurer shall not be deemed to have a conflict of interest by reason of acting as the trustee. The department may enter into such contracts or arrangements as it shall deem to be necessary or appropriate for the issuance and further security of the bonds.

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

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

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

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

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

(2) It is the intent of the Legislature that any pledge of moneys, revenues, or property made by the department shall be valid and binding from the time when the pledge is made; that the moneys, revenues, or property so pledged and thereafter collected from retail end use customers, or paid directly or indirectly to or for the account of the department, is hereby made, and shall immediately be, subject to the lien of that pledge without any
physical delivery thereof or further act; that the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the department irrespective of whether those parties have notice thereof, and that no resolution or instrument by which the pledge or lien created pursuant to this subdivision is expressed, confirmed, or approved need be filed or recorded in order to perfect the pledge or lien. These provisions shall in all respects govern the creation, perfection, priority, and enforcement of any lien created by or under this division.

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

1. The amounts necessary to pay the principal of, and premium, if any, and interest on, all bonds as and when the bonds shall become due.
2. The amounts necessary to make payments under any contracts, agreements, or obligations entered into by it pursuant hereto, in the amounts and at the times they shall become due.
3. Reserves in such amount as may be determined by the department from time to time to be necessary or desirable.
4. Consistent with Section 3288, repayment of loans made from the Surplus Money Investment Fund to the Wildfire Fund.
5. The administrative costs of the department incurred in administering this division.
6. After meeting the purposes in paragraphs (1) to (5), inclusive, the transfer of any remaining revenue requirement amount to the Wildfire Fund.

(b) The commission shall not revise the revenue requirement established pursuant to this division at any time prior to January 1, 2036. For avoidance of doubt, the revenue requirement established pursuant to this division shall not be imposed and collected until the department has legally defeased power supply revenue bonds issued pursuant to Section 80134 and provided written notice thereof to the commission.
CHAPTER 4. DEPARTMENT OF WATER RESOURCES CHARGE FUND

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

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

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

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

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

(4) The transfers to the Wildfire Fund.

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

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

SEC. 27. The revenues of the Department of Water Resources Charge Fund established pursuant to Section 80550 of the Water Code shall not be used to pay for any undercollected amount due
to any electrical corporation or to any entity to which the amount
has been assigned.
SEC. 28. No reimbursement is required by this act pursuant
to Section 6 of Article XIII B of the California Constitution because
a local agency or school district has the authority to levy service
charges, fees, or assessments sufficient to pay for the program or
level of service mandated by this act or because costs that may be
incurred by a local agency or school district will be incurred
because this act creates a new crime or infraction, eliminates a
crime or infraction, or changes the penalty for a crime or
infraction, within the meaning of Section 17556 of the Government
Code, or changes the definition of a crime within the meaning of
Section 6 of Article XIII B of the California Constitution.
SEC. 29. (a) The sum of ____ dollars ($____) is hereby
transferred from the General Fund to the Department of Water
Resources Charge Fund, established by Section 80550 of the Water
Code, for the purposes of Division 28 (commencing with Section
80500) of the Water Code. The amount transferred pursuant to
this subdivision shall be repaid from the Department of Water
Resources Charge Fund to the General Fund at the earliest
possible time.
(b) The sum of ____ dollars ($____) is hereby appropriated
from the General Fund to the Department of Water Resources for
the 2019–20 fiscal year for the administrative costs incurred by
the Department of Water Resources pursuant to Division 28
(commencing with Section 80500) of the Water Code.
SEC. 30. The Legislature finds and declares that Section 6 of
this act, which adds Section 326.1 to the Public Utilities Code,
imposes a limitation on the public’s right of access to the meetings
of public bodies or the writings of public officials and agencies
within the meaning of Section 3 of Article I of the California
Constitution. Pursuant to that constitutional provision, the
Legislature makes the following findings to demonstrate the interest
protected by this limitation and the need for protecting that
interest:
The need to encourage candid and timely advice by the
California Wildfire Safety Advisory Board to the Wildfire Safety
Division of the Public Utilities Commission to protect the public
health and safety and the environment outweighs the importance
of providing access in the circumstances of those communications
as to which that access is limited by the bill, and the bill provides an alternative requirement, as set forth in subdivision (g) of Section 326.1 of the Public Utilities Code, for public access to meetings of the California Wildfire Safety Advisory Board to ensure transparency in the operation of the board.

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

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

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

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

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

(c) The chief internal auditor shall report the auditor’s findings and recommendations directly to an audit subcommittee of the commission.

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


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, 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 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 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 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 prepare a wildfire mitigation plan by January 1, 2020, and annually thereafter.

This bill would require, after January 1, 2020, that each local publicly owned electric utility or electrical cooperative 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 submit, by July 1 of each year, its plan to the California Wildfire Safety Advisory Board for review and comment. The bill would require the California Wildfire Safety Advisory Board to provide comments and an advisory opinion to each local publicly owned electric utility or electrical cooperative 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, 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.

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

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

CHAPTER 16. CALIFORNIA CATASTROPHE COUNCIL

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

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

(1) The Governor or their designee.

(2) The Treasurer or their designee.

(3) The Insurance Commissioner or their designee.

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

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

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

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

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

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

(b) (1) The investments of the authority shall be limited to those securities eligible under Section 16430 of the Government Code.
(2) The rights, obligations, and duties owed by the authority to its insureds, beneficiaries of insureds, and applicants for insurance shall be the same as the rights, obligations, and duties owed by insurers to its insureds, beneficiaries of insureds, and applicants for insurance under common law, regulations, and statutes. The authority shall be liable to its insureds, beneficiaries of insureds, and applicants for insurance as an insurer is liable to its insureds, beneficiaries of insureds, and applicants for insurance under common law, regulations, and statutes.

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

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

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

(2) The expense of securing and repaying bonds:

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

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

(A) Investment.

(B) Loss-modeling.

(C) Legal services.

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

(6) Producer compensation.

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

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

(9) Loans, grants, and expenses to support and maintain the authority’s earthquake loss mitigation goals and programs, whether conducted by the authority alone or in collaboration with or by other persons.
(10) The costs of and loss adjustment expenses associated with adjusting and paying policyholder claims for earthquake losses that are incurred by the authority under its earthquake insurance policies, including all costs and expenses associated with claim-related litigation, provided that all of those costs and expenses shall be reported to the Legislature in the manner required by subdivision (e) of Section 10089.13.

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

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

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

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

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

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

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

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

(b) It is the intent of the Legislature to provide a mechanism that allows electrical corporations that are safe actors to guard against impairment of their ability to provide safe and reliable service because of the financial effects of wildfires in their service territories using mechanisms that are more cost effective than
traditional insurance, to the direct benefit of ratepayers and prudent electrical corporations.

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

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

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

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

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

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

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

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

SEC. 4.

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

311. (a) The commission, each commissioner, the executive director, and the assistant executive directors may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.
(b) The administrative law judges may administer oaths, examine witnesses, issue subpoenas, and receive evidence, under rules that the commission adopts.

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

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

e) Any item appearing on the commission’s public agenda as an alternate item to a proposed decision or to a decision subject to subdivision (g) shall be served upon all parties to the proceeding without undue delay and shall be subject to public review and comment before it may be voted upon. For purposes of this subdivision, “alternate” means either a substantive revision to a proposed decision that materially changes the resolution of a contested issue or any substantive addition to the findings of fact,
conclusions of law, or ordering paragraphs. The commission shall adopt rules that provide for the time and manner of review and comment and the rescheduling of the item on a subsequent public agenda, except that the item may not be rescheduled for consideration sooner than 30 days following service of the alternative item upon all parties. The alternate item shall be accompanied by a digest that clearly explains the substantive revisions to the proposed decision. The commission’s rules may provide that the time and manner of review and comment on an alternate item may be reduced or waived by the commission in an unforeseen emergency situation.

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

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

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

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

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

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

SEC. 5. Section 326 is added to the Public Utilities Code, to read:
326. By January 1, 2020, the commission shall establish the Wildfire Safety Division within the commission. The division shall do all of the following:

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

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

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

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

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

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

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

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

(b) The board shall consist of seven members. Five members shall be appointed by the Governor, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the President pro Tempore of the Senate. Senate Committee on Rules. The members of the board shall serve
four-year staggered terms. The initial members of the board shall
be appointed by January 1, 2020. The Governor shall designate
three of the initial members who shall serve two-year terms.
Members of the board shall be selected from industry experts,
academics, and persons with labor and workforce safety experience
or other relevant qualifications. qualifications and shall represent
a cross-section of relevant expertise including, at all times, at least
three members experienced in the safe operation, design, and
engineering of electrical infrastructure.
(c) The board shall meet no less often than quarterly and
alternate meeting locations between northern, central, and southern
California, when feasible.
(d) Members of the board who are not salaried state service
employees shall be eligible for reasonable compensation, not to
exceed a per diem four hundred dollars ($400), for attendance at
board meetings.
(e) All reasonable costs incurred by the board, including staffing,
travel at state travel reimbursement rates, and administrative costs,
shall be reimbursed through the public utilities reimbursement
account and shall be part of the budget of the commission. The
commission shall consult with the board in the preparation of this
portion of the commission’s proposed annual budget.
(f) The board is exempt from the requirements of the
Bagley-Keene Open Meeting Act (Chapter 9 (commencing with
Section 54950) of Part 1 of Division 2 of Title 5 of the Government
Code):
(g) (1) Notwithstanding subdivision (f), a congregation or
meeting of a majority of the board members at the same time and
place to hear or discuss an issue within its jurisdiction shall be
open to the public and a period of 20 minutes shall be set aside at
the congregation or meeting to receive public comment.
(2) Paragraph (1) does not apply to a congregation or meeting
that satisfies the requirements of Section 11126 of the Government
Code for closed meetings.
(h) (j) 1 Communications The commission or board may assert
the deliberative process privilege for a communication between
the board and the commission—privileged that satisfies the
criteria for privilege as a deliberative process communication.
(2) Communications by the board, its staff, and individual members of the board are not subject to the commission’s ex parte rules set forth in Article 1 (commencing with Section 1701) of Chapter 9 of Part 1.

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

326.2. The board California Wildfire Safety Advisory Board shall do all of the following:
(a) Develop and make recommendations to the Wildfire Safety Division related to wildfire safety and mitigation performance metrics.
(b) Develop and make recommendations related to the contents of wildfire mitigation plans pursuant to Chapter 6 (commencing with Section 8385) of Division 4.1.
(c) Review and provide comments and advisory opinions to each local publicly owned electric utility and electrical cooperative regarding the content and sufficiency of its wildfire mitigation plan and recommendations on how to mitigate wildfire risk.

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

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

451.1. (a) For purposes of this section, the following terms have the following meanings:
1. “Covered wildfire” means any wildfire ignited on or after the effective date of Part 6 (commencing with Section 3279), that the Department of Forestry and Fire Protection has determined was caused by the electrical corporation. has the same meaning as defined in Section 1701.8.
2. “Wildfire fund” Fund means the Wildfire Fund created pursuant to Section 3284.
(b) When determining an application by an electrical corporation to recover costs and expenses arising from a covered wildfire, the commission shall allow cost recovery if the costs and expenses are just and reasonable. Costs and expenses arising from a covered wildfire are just and reasonable if the conduct of the electrical corporation 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 at that time to the electrical
corporation at the relevant point of time. Reasonable conduct is
not limited to the optimum practice, method, or act to the exclusion
of others, but rather encompasses a spectrum of possible practices,
methods, or acts consistent with utility system needs, the interest
of the ratepayers, and the requirements of governmental agencies
of competent jurisdiction. Costs and expenses in the application
may be allocated for cost recovery in full or in part taking into
account factors both within and beyond the utility’s control that
may have exacerbated the costs and expenses, including
humidity, temperature, and winds.
(c) An electrical corporation bears the burden to demonstrate,
based on a preponderance of the evidence, that its conduct was
reasonable pursuant to subdivision (b) unless it has a valid safety
certification pursuant to Section 8389 for the time period in which
the covered wildfire that is the subject of the application ignited.
If the electrical corporation has received a valid safety certification
for the time period in which the covered wildfire ignited, an
electrical corporation’s conduct shall be deemed to have been
reasonable pursuant to subdivision (b) unless a party to the
proceeding demonstrates, based on a preponderance of the
evidence, that the electrical corporation’s conduct was not creates
a serious doubt as to the reasonableness of the electrical
corporation’s conduct. Once serious doubt has been raised, the
electrical corporation has the burden of dispelling that doubt and
proving the conduct to have been reasonable.
(d) If an electrical corporation has drawn amounts from the
Wildfire Fund for eligible claims for a covered wildfire, then the
electrical corporation shall file an application to recover costs and
expenses pursuant to Section 1701.8 after it has paid substantially
all third-party liability claims arising from the covered wildfire.
(e) Notwithstanding Section 451, this section shall direct the
commission’s evaluation of applications for recovery of costs and
expenses arising from a covered wildfire. This section shall not
apply to any other applications for cost recovery.
(f) This section shall not affect any civil action, appeal, or other
action or proceeding.
(g) This section shall become inoperative if Section 3292 becomes inoperative pursuant to subdivision (k) of that section and this section shall be repealed on the first January 1 more than three months after this section becomes inoperative. The commission shall notify the Secretary of State as to whether this section becomes inoperative and is repealed.

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:

(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.

(2) If an electrical corporation submits an application for cost recovery of costs and expenses related to catastrophic wildfires, including fire risk mitigation capital expenditures identified in
subdivision (e) of Section 8386.3, in a proceeding to recover costs
and expenses in rates, rates and the commission may, after finding
finds that some or all of the costs and expenses identified in the
electrical corporation’s application are appropriate costs, and that
recovery of those appropriate costs is just and reasonable pursuant
to Section 451, the electrical corporation may file an application
requesting the commission to issue a financing order to authorize
the recovery of those just and reasonable appropriate costs and
expenses by means of a financing order, with those costs and
expenses being recovered through a fixed charge pursuant to this
article. The paragraph does not apply for costs and expenses
incurred by the electrical corporation after December 31, 2035.
(b) For the purposes of this article, the following terms shall
have the following meanings:
(1) “Ancillary agreement” means a bond insurance policy, letter
of credit, reserve account, surety bond, swap arrangement, hedging
arrangement, liquidity or credit support arrangement, or other
similar agreement or arrangement entered into in connection with
the issuance of recovery bonds that is designed to promote the
credit quality and marketability of the bonds or to mitigate the risk
of an increase in interest rates.
(2) “Appropriate costs” means significant and unavoidable costs
and expenses in excess of one billion dollars ($1,000,000,000)
identified in an application for cost recovery in a commission rate
proceeding other than a general rate case, excepting the portion of
a general rate case addressing the recovery of costs to implement
a wildfire mitigation plan submitted pursuant to Section 8386.
Those costs shall be demonstrated in the cost recovery application
to be appropriate for recovery in a fixed recovery charge on
grounds, including, but not limited to, the following:
(A) The rates resulting from the adoption of a fixed recovery
charge will be lower than the rates resulting from the application
of traditional rate recovery mechanisms over the life of any
proposed recovery bonds.
(B) The costs are not incurred in the normal course of business.
(C) The costs are not typically incurred in the course of utility
maintenance and operations.
(D) The electrical corporation’s overall rate structure will not
be harmed by including the fixed recovery charges in its rates in
the amount that likely would result from any proposed recovery
bonds.
(E) The electrical corporation’s cost of capital will be
appropriately adjusted to reflect the lower cost of finance via a
recovery bond.
(F) Those costs could not have been foreseen and accounted for
by ordinary forecasting and cost recovery methods.
(G) The electrical corporation has taken all reasonable steps to
guard against the recurrence of any similar cost.
(H) The electrical corporation has not submitted a cost recovery
application pursuant to this paragraph in the preceding 18 months.

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

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

(5) “Financing costs” means the costs to issue, service, repay,
or refinance recovery bonds, whether incurred or paid upon
issuance of the recovery bonds or over the life of the recovery
bonds, if they are approved for recovery by the commission in a
financing order. “Financing costs” may include any of the
following:
(A) Principal, interest, and redemption premiums that are
payable on recovery bonds.
(B) A payment required under an ancillary agreement.
(C) An amount required to fund or replenish reserve accounts
or other accounts established under an indenture, ancillary
agreement, or other financing document relating to the recovery
bonds.
(D) Taxes, franchise fees, or license fees imposed on fixed
recovery charges.
(E) Costs related to issuing and servicing recovery bonds or the application for a financing order, including, without limitation, servicing fees and expenses, trustee fees and expenses, legal fees and expenses, accounting fees, administrative fees, underwriting and placement fees, financial advisory fees, original issue discount, capitalized interest, rating agency fees, and any other related costs that are approved for recovery in the financing order.

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

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

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

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

(A) Recovery costs specified in the financing order

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

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

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

(10) (10) “Recovery costs” means any of the following:
(A) The catastrophic wildfire amounts or—appropriate costs
pursuant to paragraph (2) of subdivision (a) authorized by the
commission in a financing order for recovery.
(B) Federal and State of California income and franchise taxes
associated with recovery of the amounts pursuant to subparagraph
(A).
(C) Financing costs.
(D) Professional fees, consultant fees, redemption premiums,
tender premiums and other costs incurred by the electrical
corporation in using proceeds of recovery bonds to acquire
outstanding securities of the electrical corporation, as authorized
by the commission in a financing order.

(11) (11) (A) “Recovery property” means the property right created
pursuant to this article, including, without limitation, the right,
title, and interest of the electrical corporation or its transferee:
(i) In and to the fixed recovery charges established pursuant to
a financing order, including all rights to obtain adjustments to the
fixed recovery charges in accordance with Section 850.1 and the
financing order.
(ii) To be paid the amount that is determined in a financing
order to be the amount that the electrical corporation or its
transferee is lawfully entitled to receive pursuant to the provisions
of this article and the proceeds thereof, and in and to all revenues,
collections, claims, payments, moneys, or proceeds of or arising
from the fixed recovery charges that are the subject of a financing
order.
(B) “Recovery property” shall not include a right to be paid fixed recovery tax amounts.

(C) “Recovery property” shall constitute a current property right, notwithstanding the fact that the value of the property right will depend on consumers using electricity or, in those instances where consumers are customers of the electrical corporation, the electrical corporation performing certain services.

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

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

SEC. 12.

SEC. 10. Section 850.1 of the Public Utilities Code is amended to read:

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

(A)

850.1. (a) If an electrical corporation files for recovery of the amount of costs and expenses pursuant to Section 451.1 or subdivision (c) of Section 451.2 recovery costs and the commission finds some or all of those costs and expenses to be just and reasonable pursuant to Section 451.4 451 or 451.1, as applicable, or the commission allocates to the ratepayers some or all of those costs and expenses pursuant to subdivision (c) of Section 451.2.

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

(2) The 451.2, the commission may issue a financing order to allow recovery through fixed recovery charges, which would therefore constitute recovery property under this article, and order that any portion of the electrical corporation’s federal and State of California income and franchise taxes associated with those fixed recovery charges and not financed from proceeds of recovery bonds may be recovered through fixed recovery tax amounts.
(3) (A) Following application by an electrical corporation, the
commission shall issue a financing order if the commission
determines that the following conditions are satisfied:
(i) The recovery cost to be reimbursed from the recovery bonds
have been found to be just and reasonable pursuant to Section
451.1 451 or 451.1, as applicable, or are allocated to the ratepayers
pursuant to subdivision (c) of Section 451.2.
(ii) The issuance of the recovery bonds, including all material
terms and conditions of the recovery bonds, including, without
limitation, interest rates, rating, amortization redemption, and
maturity, and the imposition and collection of fixed recovery
charges as set forth in an application satisfy all of the following
conditions, as applicable:
(I) They are just and reasonable.
(II) They are consistent with the public interest.
(III) The recovery of recovery costs for catastrophic wildfire
amounts through the designation of the fixed recovery charges and
any associated fixed recovery tax amounts, and the issuance of
recovery bonds in connection with the fixed recovery charges,
would reduce, to the maximum extent possible, the rates on a
present value basis that consumers within the electrical
corporation’s service territory would pay as compared to the use
of traditional utility financing mechanisms, which shall be
calculated using the electrical corporation’s corporate debt and
equity in the ratio approved by the commission at the time of the
financing order.
(IV) The recovery of recovery costs for appropriate costs
through the designation of the fixed recovery charges and any
associated fixed recovery tax amounts, and the issuance of recovery
bonds in connection with the fixed recovery charges, would meet
the requirements set forth in subparagraphs (A) to (H), inclusive,
of paragraph (2) of subdivision (b) of Section 850.
(B) The electrical corporation may request the determination
specified in subparagraph (A) by the commission in a separate
proceeding or in an existing proceeding or both. If the commission
makes the determination specified in subparagraph (A), the
commission shall establish, as part of the financing order, a
procedure for the electrical corporation to submit applications from
time to time to request the issuance of additional financing orders
designating fixed recovery charges and any associated fixed
recovery tax amounts as recoverable. The electrical corporation may submit an application with respect to recovery costs that an electrical corporation (i) has paid, (ii) has an existing legal obligation to pay, or (iii) would be obligated to pay pursuant to an executed settlement agreement. The commission shall, within 180 days of the filing of that application, issue a financing order, which may take the form of a resolution, if the commission determines that the amounts identified in the application are recovery costs.

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

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

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

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

(d) The commission—may shall issue financing orders in accordance with this article to facilitate the recovery, financing, or refinancing of recovery costs. A financing order may be adopted only upon the application of the electrical corporation and shall become effective in accordance with its terms only after the electrical corporation files with the commission the electrical corporation’s written consent to all terms and conditions of the
financing order. A financing order may specify how amounts
collected from a consumer shall be allocated between fixed
recovery charges, any associated fixed recovery tax amounts, and
other charges.
(e) Notwithstanding Section 455.5 or 1708, or any other law,
and except as otherwise provided in subdivision (g), with respect
to recovery property that has been made the basis for the issuance
of recovery bonds and with respect to any associated fixed recovery
tax amounts, the financing order, the fixed recovery charges, and
any associated fixed recovery tax amounts shall be irrevocable.
The commission shall not, either by rescinding, altering, or
amending the financing order or otherwise, revalue or revise for
ratemaking purposes the recovery costs or the costs of recovering,
financing, or refinancing the recovery costs, in any way reduce or
impair the value of recovery property or of the right to receive any
associated fixed recovery tax amounts either directly or indirectly
by taking fixed recovery charges or any associated fixed recovery
tax amounts into account when setting other rates for the electrical
corporation or when setting charges for the Department of Water
Resources. The amount of revenues shall not be subject to
reduction, impairment, postponement, or termination. The State
of California does hereby pledge and agree with the electrical
corporation, owners of recovery property, financing entities, and
holders of recovery bonds that the state shall neither limit nor alter,
except as otherwise provided with respect to the true-up adjustment
of the fixed recovery charges pursuant to subdivision (i), the fixed
recovery charges, any associated fixed recovery tax amounts,
recovery property, financing orders, or any rights under a financing
order until the recovery bonds, together with the interest on the
recovery bonds and associated financing costs, are fully paid and
discharged, and any associated fixed recovery tax amounts have
been satisfied or, in the alternative, have been refinanced through
an additional issue of recovery bonds, provided that nothing
contained in this section shall preclude the limitation or alteration
of and when adequate provision shall be made by law for the
protection of the electrical corporation and of owners and holders
of the recovery bonds. The financing entity is authorized to include
this pledge and undertaking for the state in these recovery bonds.
When setting other rates for the electrical corporation, nothing in
this subdivision shall prevent the commission from taking into account either of the following:

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

(2) Any collection of fixed recovery tax amounts in excess of amounts actually required to pay federal and State of California income and franchise taxes associated with fixed recovery charges, provided that this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, either of the following:

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

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

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

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

(g) The commission shall establish procedures for the expeditious processing of an application for a financing order, which shall provide for the approval or disapproval of the application within 120 days of the application. Any fixed recovery charge authorized by a financing order shall appear on consumer bills. The commission shall, in any financing order, provide for a procedure for periodic true-up adjustments to fixed recovery charges, which shall be made at least annually and may be made more frequently. The electrical corporation shall file an application with the commission to implement any true-up adjustment.
(h) Fixed recovery charges are recovery property when, and to the extent that, a financing order authorizing the fixed recovery charges has become effective in accordance with this article, and the recovery property shall thereafter continuously exist as property for all purposes, and all of the rights and privileges relating to that property accorded by this article shall continuously exist for the period and to the extent provided in the financing order, but in any event until the recovery bonds are paid in full, including all principal, premiums, if any, and interest with respect to the recovery bonds, and all associated financing costs are paid in full. A financing order may provide that the creation of recovery property shall be simultaneous with the sale of the recovery property to a transferee or assignee as provided in the application of the pledge of the recovery property to secure the recovery bonds.

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

(j) Any successor to a financing entity shall be bound by the requirements of this article and shall perform and satisfy all obligations of, and have the same rights under a financing order as and to the same extent as, the financing entity, including the obligation to collect and pay energy transition revenues to persons entitled to receive the revenues.

(k) This article and any financing order made pursuant to this article do not amend, reduce, modify, or otherwise affect the right of the Department of Water Resources to recover its revenue requirements and to receive the charges that it is to recover and receive pursuant to Division 27 (commencing with Section 80000) and Division 28 (commencing with Section 80500) of the Water Code, or pursuant to any agreement entered into by the commission and the Department of Water Resources pursuant to that the applicable division.

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

1701. (a) All hearings, investigations, and proceedings shall be governed by this part and by rules of practice and procedure adopted by the commission, and in the conduct thereof the technical rules of evidence need not be applied. No informality in any
hearing, investigation, or proceeding or in the manner of taking
testimony shall invalidate any order, decision, or rule made;
approved, or confirmed by the commission:
(b) In quasi-legislative, ratesetting, or catastrophic wildfire
proceedings that do not include hearings, the commission may
receive as evidence, and use as proof of any fact, both of the
following types of information without requiring a sponsoring
witness subject to cross-examination:
(1) Reports of other state or federal agencies;
(2) Reports of commission staff or interagency and stakeholder
groups provided to all parties for notice and comment;
(c) Notwithstanding Section 11425.10 of the Government Code,
Articles 1 to 15, inclusive, of Chapter 4.5 (commencing with
Section 11400) of Part 1 of Division 3 of Title 2 of the Government
Code do not apply to a hearing by the commission under this code:
The Administrative Adjudication Code of Ethics (Article 16
(commencing with Section 11475) of Chapter 4.5 of Part 1 of
Division 3 of Title 2 of the Government Code) shall apply to
administrative law judges of the commission:
SEC. 14. Section 1701.1 of the Public Utilities Code is
amended to read:
1701.1. (a) (1) The commission shall determine whether
each proceeding is a quasi-legislative, an adjudication, a ratesetting,
or a catastrophic wildfire proceeding.
(2) The commission shall adopt rules that provide for
discretionary expedited treatment of proceedings related to
emergencies, safety, and enforcement that would provide for the
completion of such a proceeding within 180 days. On or before
December 1, 2019, the commission shall propose these rules.
(b) (1) The commission, upon initiating an adjudication
proceeding or ratesetting proceeding, shall assign one or more
commissioners to oversee the case and an administrative law judge
when appropriate. The assigned commissioner may schedule a
prehearing conference and may prepare and issue by order or ruling
a scoping memo that describes the issues to be considered and the
applicable timetable for resolution and that, consistent with due
process, public policy, and statutory requirements, determines
whether the proceeding requires a hearing.
(2) The administrative law judge shall either preside over and
conduct, or assist the assigned commissioner or commissioners in
presiding over and conducting, any evidentiary or adjudication hearing that may be required.

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

(c) The commission, upon initiating a quasi-legislative proceeding, shall assign one or more commissioners to oversee the case and appropriate technical advisory staff, which may include an administrative law judge. The assigned commissioner shall prepare and issue by order or ruling a scoping memo that describes the issues to be considered and the applicable timetable for resolution.

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

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

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

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

(e) (1) (A) “Ex parte communication,” for purposes of this article, means any oral or written communication between a decisionmaker and an interested person concerning any matter before the commission that the commission has not specified in its Rules of Practice and Procedure as being a procedural matter and that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter. The commission shall specify in its Rules of Practice and Procedure, enacted by rulemaking, the types of issues considered procedural matters under this article.
(B) “Interested person,” for purposes of this article, means any of the following:

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

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

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

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

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

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

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

(3) For adjudication cases, the rules shall provide that ex parte communications shall be prohibited, as required by this article. The rules shall provide that if an ex parte communication occurs that is prohibited by this article, or if an ex parte communication
occurs in a ratesetting case or catastrophic wildfire proceeding,
whether initiated by a decisionmaker or an interested person, all
of the following shall be required:
(A) The interested person shall report the communication within
three working days of the communication by filing a notice with
the commission that includes all the following:
(i) The date, time, and location of the communication, whether
the communication was oral or written, or a combination of both,
and the communication medium used;
(ii) The identity of the decisionmaker, the identity of the person
initiating the communication, and the identities of any other persons
present;
(iii) The topic of the communication, including applicable
proceeding numbers;
(iv) A substantive description of the interested person’s
communication and its content;
(v) A copy of any written material or text used during the
communication;
(B) Any decisionmaker who participated in the communication
shall promptly log the ex parte communication by filing a notice
that includes all the following:
(i) The date, time, and location of the communication, whether
the communication was oral or written, or a combination of both,
and the communication medium used;
(ii) The identity of the interested person, the identity of the
person initiating the communication, and the identities of any other
persons present;
(iii) The topic of the communication, including any applicable
proceeding numbers;
(iv) A brief description of the communication;
(C) If the interested person who participated in the
communication has not timely submitted the notice required by
subparagraph (A), the decisionmaker shall refer the matter to the
attorney for the commission, and an assigned commissioner, by
ruling, shall order the interested person to submit the required
notice. The interested person shall be subject to any applicable
penalties for the initial violation and, if the interested person does
not submit the required notice within the time period specified in
the assigned commissioner’s ruling, the interested person shall be
subject to continuing violations pursuant to Section 2108.
(4) The requirements of paragraph (3) shall not apply to any oral ex parte communication occurring at a meeting if all parties are invited to participate and given not less than three working days’ notice.

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

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

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

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

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

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

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

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

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

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

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

(b) The assigned commissioner shall determine before the first hearing whether the commissioner or the assigned administrative law judge will preside over the hearing. The decision of the assigned commissioner shall be the proposed decision.

(c) An alternate decision may be issued by any commissioner other than the assigned commissioner. Any alternate decision may be filed with the commission and served upon all parties to the proceeding any time before issuance of a final decision by the commission, consistent with the requirements of Section 311.

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

(e) The assigned commissioner, or the commissioner’s designee, shall present the proposed decision to the full commission in a public meeting. The alternate decision, if any, shall also be presented to the full commission at that public meeting.
(f) The commission shall provide by rule for peremptory challenges and challenges for cause of the administrative law judge. Challenges for cause shall include, but not be limited to, challenges for financial interests and prejudice. All parties shall be entitled to unlimited peremptory challenges in any case in which the administrative law judge has within the previous 12 months served in any capacity in an advocacy position at the commission, been employed by a regulated public utility, or has represented a party or has been an interested person in the case.

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

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

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

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

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

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

(6) (A) The commission may meet in closed session on any proposed decision in a ratesetting case or catastrophic wildfire proceeding and may establish a “quiet period” during the three business days before the commission’s scheduled vote on the decision during which no oral ex parte communications may be permitted.
(B)—Any meeting of the commission during the quiet period shall require a minimum of three days’ advance public notice.

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

(b)—Any party has the right to present a final oral argument of its case before the commission. Upon request to present a final oral argument before the commission, the argument shall be scheduled in a timely manner. A quorum of the commission shall be present for the final oral arguments.

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

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

1701.4.—(a)—This section shall apply only to quasi legislative cases, except, if the commissioner assigned pursuant to Section 1101.1 has determined that a quasi legislative case does not require a hearing, the procedures prescribed by subdivisions (b), (d), and (e) shall not apply.

(b)—The assigned commissioner shall prepare the proposed rule or order with the assistance of any assigned technical advisory staff, which may include an administrative law judge. The assigned commissioner shall present the proposed rule or order to the full commission in a public meeting.

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

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

(2)—That ex parte communications are prohibited and subject to the disclosure requirements of this article.
(d) Any party has the right to present a final oral argument of its case before the commission. Upon request to present a final oral argument before the commission, the argument shall be scheduled in a timely manner. A quorum of the commission shall be present for the final oral arguments.

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

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

SEC. 11. Section 854 of the Public Utilities Code is amended to read:

854. (a) No person or corporation, whether or not organized under the laws of this state, shall merge, acquire, or control a public utility, including pursuant to a change in control as described in subparagraphs (D) to (F), inclusive, of paragraph (1) of subdivision (b) of Section 854.2, either directly or indirectly, any public utility organized and doing business in this state without first securing authorization to do so from the commission. The commission may establish by order or rule the definitions of what constitute merger, acquisition, or control activities which are subject to this section. Any merger, acquisition, or control without that prior authorization shall be void and of no effect. No public utility organized and doing business under the laws of this state, and no subsidiary or affiliate of, or corporation holding a controlling interest in a public utility, shall aid or abet any violation of this section.

(b) 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 utilities that are parties to the proposed transaction has gross annual California revenues exceeding five hundred million dollars ($500,000,000), the commission shall find that the proposal does all of the following:
(1) Provides short-term and long-term economic benefits to ratepayers.

(2) Equitably allocates, where the commission has ratemaking authority, the total short-term and long-term forecasted economic benefits, as determined by the commission, of the proposed merger, acquisition, or control, between shareholders and ratepayers. Ratepayers shall receive not less than 50 percent of those benefits.

(3) Not adversely affect competition. In making this finding, the commission shall request an advisory opinion from the Attorney General regarding whether competition will be adversely affected and what mitigation measures could be adopted to avoid this result.

(4) For an electric or gas utility, ensures the utility will have an adequate workforce to maintain the safe and reliable operation of the utility assets.

(c) 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 five hundred million dollars ($500,000,000), the commission shall consider each of the criteria listed in paragraphs (1) to (8), inclusive, and find, on balance, that the merger, acquisition, or control proposal is in the public interest.

(1) Maintain or improve the financial condition of the resulting public utility doing business in the state.

(2) Maintain or improve the quality of service to public utility ratepayers in the state.

(3) Maintain or improve the quality of management of the resulting public utility doing business in the state.

(4) Be fair and reasonable to affected public utility employees, including both union and nonunion employees.

(5) Be fair and reasonable to the majority of all affected public utility shareholders.

(6) Be beneficial on an overall basis to state and local economies, and to the communities in the area served by the resulting public utility.

(7) Preserve the jurisdiction of the commission and the capacity of the commission to effectively regulate and audit public utility operations in the state.

(8) Provide mitigation measures to prevent significant adverse consequences which may result.
(d) When reviewing a merger, acquisition, or control proposal, the commission shall consider reasonable options to the proposal recommended by other parties, including no new merger, acquisition, or control, to determine whether comparable short-term and long-term economic savings can be achieved through other means while avoiding the possible adverse consequences of the proposal.

(e) The person or corporation seeking acquisition or control of a public utility organized and doing business in this state shall have, before the commission, the burden of proving by a preponderance of the evidence that the requirements of subdivisions (b) and (c) are met.

(f) In determining whether an acquiring utility has gross annual revenues exceeding the amount specified in subdivisions (b) and (c), the revenues of that utility’s affiliates shall not be considered unless the affiliate was utilized for the purpose of effecting the merger, acquisition, or control.

(g) Paragraphs (1) and (2) of subdivision (b) shall not apply to the formation of a holding company.

(h) For purposes of paragraphs (1) and (2) of subdivision (b), the legislature does not intend to include acquisitions or changes in control that are mandated by either the commission or the Legislature as a result of, or in response to any electric industry restructuring. However, the value of an acquisition or change in control may be used by the commission in determining the costs or benefits attributable to any electric industry restructuring and for allocating those costs or benefits for collection in rates.

SEC. 12. Section 854.2 of the Public Utilities Code is amended to read:

854.2. (a) The Legislature finds and declares all of the following:

(1) California’s electric and gas utilities provide essential services to California residents and businesses, which are necessary to maintaining the vitality of California’s economy.

(2) Consistent with Sections 913.4, 961, and 977, an adequately sized workforce of experienced electric and gas utility employees with the appropriate training and skills, as well as the knowledge of an electric or gas utility’s facilities and equipment, is essential to the safe, efficient, and uninterrupted provision of electrical and gas services. Safe and reliable electric and gas utility service is
vital to public health, public safety, air quality, and reducing 
emissions of greenhouse gases.
(3) Changes in the ownership or control of an electrical 
corporation or gas corporation may create uncertainty regarding 
the safe, efficient, and continuous provision of safe and reliable 
electrical and gas service to California consumers, leading to 
economic instability.
(4) Mass displacement of electrical corporation or gas 
corporation workers as a result of a change in the ownership or 
control of an electrical corporation or gas corporation causes 
excessive reliance on the unemployment insurance system, and 
public social services and health programs, increasing costs to 
these vital governmental programs and placing a significant burden 
on the state and California taxpayers.
(5) The state has a compelling interest in ensuring that when 
there is a change in the ownership or control of an electrical 
corporation or gas corporation, the new employer maintains a 
qualified and knowledgeable workforce with the ability to ensure 
safe, efficient, reliable, and continuous service to California 
consumers and communities.
(6) Because of destructive and deadly wildfires and gas pipeline 
explosions, the electric and gas industries are in an unprecedented 
state of instability. One combined electrical and gas corporation 
has sought bankruptcy protection. All the major electrical 
corporations have had their credit ratings lowered to junk bond 
status or are at risk of downgrades to junk bond status. This 
jeopardizes the ability of these corporations to provide safe and 
reliable electric and gas service, to reduce the risk of future 
catastrophes, to provide service at just and reasonable rates, to 
meet the state’s mandates to reduce carbon emissions, and to 
address the risks of climate change.
(7) There is a nationwide shortage of the qualified utility line 
workers and qualified line clearance tree trimmers needed to 
prevent and respond to wildfires, storms, and other major events. 
Because this work is performed on and near high voltage lines 
and other energized electrical equipment, these jobs require 
substantial training and are highly dangerous. Current efforts to 
hire enough qualified people to perform these functions have fallen 
short even though exceptional compensation packages are being 
offered. Any reduction in the number or qualifications of these
employees would increase the risk to employees and the risk of future catastrophic wildfires, and would increase the frequency and duration of outages, particularly as a result of more common and more severe major storms. It is in the interest of the state and its citizens that utilities have the qualified workforce necessary to minimize the risk of future wildfires, to minimize future outages and to restore service as promptly as possible after storms.

(8) For the reasons provided in this subdivision, the Legislature must take action to stabilize the utility workforce so as to preserve the ability of utilities to provide safe and reliable electric and gas service. This requires that the size of the workforce be preserved or increased, and workers not be lost to other utilities offering more stable employment or better compensation.

(b) For purposes of this section, the following definitions shall apply:

(1) “Change of control” means any event of the following:

(A) An event that triggers the application of Section 851 or 854, any 854.

(B) A material change in ownership of the electric corporation or gas corporation, its parent company or its holding company, or any company.

(C) A filing seeking bankruptcy protection.

(D) 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.

(E) 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.

(F) A voluntary or involuntary change in ownership of assets from an electrical or gas corporation to ownership by a public entity.

(2) (A) “Covered employee” means an individual who has been employed by an electrical corporation or gas corporation for at least 90 days immediately before a change of control affecting that individual’s principal place of employment. A change of control affects a covered employee’s principal place of employment where the change of control results in the predecessor employer...
transferring control of the place of employment to the successor
employer.

(B) “Covered employee” does not include any of the following:

(i) A managerial, supervisory, or confidential employee.

(ii) A temporary employee.

(iii) A part-time employee who has worked less than 20 hours
per week for the predecessor employer for at least 90 days
immediately before the change of control.

(3) “Person” means a corporation as defined in Section 204, a
person as defined in Section 205, any other individual, corporation,
partnership, limited partnership, limited liability partnership,
limited liability company, business trust, estate, trust, association,
joint venture, agency, instrumentality, or any other legal or
commercial entity, whether domestic or foreign.

(4) “Predecessor employer” means the person who controls the
electric or gas utility before the change of control.

(5) “Principal place of employment” of an employee means the
office or other facility of the electrical corporation or gas
corporation where the employee is principally assigned to work
by the predecessor employer.

(6) “Successor employer” means the person who controls the
electrical corporation or gas corporation after the change of control.

(7) “Total compensation” means the combined value of the
covered employee’s wages and benefits immediately before the
change of control. Total compensation may be paid entirely as
wages or in any combination of wages and fringe benefits, to be
determined by the successor employer. Total compensation
includes, but is not necessarily limited to, both of the following
amounts:

(A) The covered employee’s hourly wage rate or the per diem
value of the covered employee’s monthly salary.

(B) Employer payments toward the covered employee’s health
and welfare and pension benefits. Employer payments toward
health and welfare and pension benefits shall include only those
payments that are recognized as employer payments under
paragraphs (1) and (2) of subdivision (b) of Section 1773.1 of the
Labor Code.

(8) “Transition period” means a period of 180 days immediately
following the effective date of a change of control.
(c) (1) Except as otherwise provided in this section, a successor employer shall retain all covered employees for at least the transition period following a change of control, unless the commission approves a reduction in the workforce pursuant to subdivision (i). During the transition period, the successor employer shall not reduce the total compensation of a covered employee.

(2) During the transition period, a successor employer shall not terminate a covered employee without cause.

(3) A successor employer and a labor organization representing covered employees may, in a collective bargaining agreement, provide that the agreement supersedes the requirements of this section.

(d) (1) No later than 15 days before the effective date of a change of control, the predecessor employer shall cause to be posted do both of the following:

(A) Cause to be posted, in a conspicuous place in a manner that is readily viewed by covered employees, a public notice of the change of control at each principal place of employment of any covered employee. The notice shall include the name of the predecessor employer and its contact information, the name of the successor employer and its contact information, and the effective date of the change of control. The notice shall be posted in a conspicuous place in a manner that is readily viewed by covered employees. No later than 15 days before the effective date of a change of control, the predecessor employer shall also cause the notice to be sent to any labor organization that represents covered employees.

(B) Cause the notice to be sent to any labor organization that represents covered employees.

(2) The notice shall include the name of the predecessor employer to bring legal action for wrongful termination.

(f) The rights and remedies provided pursuant to this section are in addition to, and are not intended to supplant, any existing rights or remedies.

(g) No later than 15 days before the effective date of a change of control, a predecessor employer shall provide to the successor employer the name, address, date of hire, total compensation, and classification of each covered employee.

(h) A successor employer shall retain the following written or electronic records for at least three years:
(1) The list provided to the successor employer pursuant to subdivision (g).
(2) Any offer of employment made to a covered employee.
(3) Any termination of a covered employee during a transition period, including the reasons for the termination.
(4) Any written evaluation of a covered employee.
   (i) For two three years after the transition period, period and subject to the provisions of any existing collective bargaining agreement, a successor employer may reduce shall provide to employees who would have qualified as covered employees had they been employed 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 shall maintain no less than the total number of employees who would have qualified as covered employees had they been employed during the 90-day period immediately before a change of control. The successor employer may reduce the wages, hours, and other terms and conditions of employment or the total number of employees in a manner inconsistent with collective bargaining agreements only if approved authorized by the commission in a final, nonappealable decision. The commission shall not authorize a successor employer to reduce the number of those employees provide this authorization except on a showing proof by a preponderance of the evidence in an application proceeding of all of the following:
   (1) The electrical corporation or gas corporation has conducted a study of the nature and scope of the work performed by those employees proposed to be eliminated and the study shows that neither the nature nor the scope of this work is necessary to providing safe and reliable utility service. The electrical corporation or gas corporation shall provide an independent third-party study to support its position. Other parties to the proceeding shall be provided with an opportunity to conduct their own studies.
   (2) The proposed new wages, hours, and other terms and conditions of employment shall be consistent with wages, hours, and other terms for California electrical corporations and gas corporations. The electrical corporation or gas corporation shall provide an independent third-party study to support its position.
Other parties to the proceeding shall be provided an opportunity
to conduct their own studies.

(2)

(3) There will be no reduction in the ability of those employees
of the electrical or gas corporation to prevent damage from or to
respond to an emergency such as a wildfire, storm, flood, mudslide,
or earthquake, or to gas leaks, electric outages, interconnection
requests, work requested by others, locate and mark requests, or
other utility services.

(3)

(4) There will be no reduction in the ability of the electrical
corporation or gas corporation to respond to mutual aid requests
of other utilities.

(j) A successor employer may terminate an employee with cause
consistent with any applicable selective bargaining agreement
during the period specified in subdivision (i).

(k) A successor employer and a labor organization representing
covered employees may, in a collective bargaining agreement,
provide that the agreement supersedes the requirements of this
section with respect to the represented employees.

(l) The provisions of this section are severable. If any provision
of this section or its application is held invalid, that invalidity shall
not affect other provisions or applications that can be given effect
without the invalid provision or application.

SEC. 13. Section 1701.1 of the Public Utilities Code is amended
to read:

1701.1. (a) The commission shall determine whether each
proceeding is a quasi-legislative, an adjudication, or a ratesetting
a ratesetting, or a catastrophic wildfire proceeding. The
commission’s decision as to the nature of the proceeding shall be
subject to a request for rehearing within 10 days of the date of that
decision or of any subsequent ruling that expands the scope of the
proceeding. Only those parties who have requested a rehearing
within that time period shall subsequently have standing for judicial
review and that review shall only be available at the conclusion
of the proceeding. The commission shall render its decision
regarding the rehearing within 30 days. The commission shall
establish rules regarding ex parte communication on case
categorization issues.
(b) (1) The commission, upon initiating an adjudication proceeding or ratesetting proceeding, shall assign one or more commissioners to oversee the case and an administrative law judge when appropriate. The assigned commissioner shall schedule a prehearing conference and shall prepare and issue by order or ruling a scoping memo that describes the issues to be considered and the applicable timetable for resolution and that, consistent with due process, public policy, and statutory requirements, determines whether the proceeding requires a hearing.

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

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

(d) (1) Quasi-legislative cases, for purposes of this article, are cases that establish policy, including, but not limited to, rulemakings and investigations that may establish rules affecting an entire industry.

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

(3) Ratesetting cases, for purposes of this article, are cases in which rates are established for a specific company, including, but not limited to, general rate cases, performance-based ratemaking, and other ratesetting mechanisms.

(4) Catastrophic wildfire proceedings, for purposes of this article, are proceedings in which an electrical corporation files an application to recover costs and expenses pursuant to Section 451 or 451.1, as applicable, related to a covered wildfire, as defined in Section 1701.8.
(e) (1) (A) “Ex parte communication,” for purposes of this article, means any oral or written communication between a decisionmaker and an interested person concerning any matter before the commission that the commission has not specified in its Rules of Practice and Procedure as being a procedural matter and that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter. The commission shall specify in its Rules of Practice and Procedure, enacted by rulemaking, the types of issues considered procedural matters under this article.

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

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

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

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

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

(2) The commission shall by rule adopt and publish a definition of decisionmakers and interested persons for purposes of this article, along with any requirements for written reporting of ex parte communications and appropriate sanctions for noncompliance with any rule proscribing ex parte communications. The definition of decisionmakers shall include, but is not limited to: each commissioner; the personal staff of a commissioner if the staff is acting in a policy or legal advisory capacity; the chief administrative law judge of the commission; and the administrative
law judge assigned to the proceeding. The commission shall, by
rule, explicitly ban both of the following:
(A) The practice of one-way ex parte communications from a
decisionmaker to an interested person.
(B) Any communication between an interested person and a
decisionmaker regarding which commissioner or administrative
law judge may be assigned to a matter before the commission.
(3) For adjudication cases, the rules shall provide that ex parte
communications shall be prohibited, as required by this article.
The rules shall provide that if an ex parte communication occurs
that is prohibited by this article, or if an ex parte communication
occurs in a ratesetting—case, case or catastrophic wildfire
proceeding, whether initiated by a decisionmaker or an interested
person, all of the following shall be required:
(A) The interested person shall report the communication within
three working days of the communication by filing a notice with
the commission that includes all the following:
(i) The date, time, and location of the communication, whether
the communication was oral or written, or a combination of both,
and the communication medium used.
(ii) The identity of the decisionmaker, the identity of the person
initiating the communication, and the identities of any other persons
present.
(iii) The topic of the communication, including applicable
proceeding numbers.
(iv) A substantive description of the interested person’s
communication and its content.
(v) A copy of any written material or text used during the
communication.
(B) Any decisionmaker who participated in the communication
shall promptly log the ex parte communication by filing a notice
that includes all the following:
(i) The date, time, and location of the communication, whether
the communication was oral or written, or a combination of both,
and the communication medium used.
(ii) The identity of the interested person, the identity of the
person initiating the communication, and the identities of any other
persons present.
(iii) The topic of the communication, including any applicable
proceeding numbers.
(iv) A brief description of the communication.
(C) If the interested person who participated in the
communication has not timely submitted the notice required by
subparagraph (A), the decisionmaker shall refer the matter to the
attorney for the commission, and an assigned commissioner, by
ruling, shall order the interested person to submit the required
notice. The interested person shall be subject to any applicable
penalties for the initial violation and, if the interested person does
not submit the required notice within the time period specified in
the assigned commissioner’s ruling, the interested person shall be
subject to continuing violations pursuant to Section 2108.
(4) The requirements of paragraph (3) shall not apply to any
oral ex parte communication occurring at a meeting if all parties
are invited to participate and given not less than three working
days’ notice.
(5) The commission shall not take any vote on a matter in which
a notice of a prohibited ex parte communication has been filed
pursuant to subparagraph (A) or (B) of paragraph (3) until all
parties to the proceeding have been provided a reasonable
opportunity to respond to the communication.
(6) If an ex parte communication is not disclosed as required
by this subdivision until after the commission has issued a decision
on the matter to which the communication pertained, a party not
participating in the communication may file a petition to rescind
or modify the decision. The party may seek a finding that the ex
parte communication significantly influenced the decision’s process
or outcome as part of any petition to rescind or modify the decision.
The commission shall process the petition in accordance with the
commission’s procedures for petitions for modification and shall
issue a decision on the petition no later than 180 days after the
filing of the petition.
(7) (A) Ex parte communications that occur at conferences and
that are within the scope of an adjudication or ratesetting
adjudication, ratesetting, or catastrophic wildfire proceeding shall
be subject to the requirements of this article.
(B) Ex parte communications that occur at conferences and that
are within the scope of a quasi-legislative proceeding shall be
governed by the ex parte communication disclosure requirements
developed by the commission.
(C) For purposes of this section, “ex parte communications that occur at conferences” includes, but is not limited to, communications in a private setting or during meals, entertainment events, and tours, and informal discussions among conference attendees.

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

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

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

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

SEC. 14. Section 1701.3 of the Public Utilities Code is amended to read:

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

(b) The assigned commissioner shall determine prior to the first hearing whether the commissioner or the assigned administrative law judge shall be designated as the principal hearing officer. The principal hearing officer shall be present for more than one-half of the hearing days. The decision of the principal hearing officer shall be the proposed decision.
(c) An alternate decision may be issued by the assigned commissioner or the assigned administrative law judge who is not the principal hearing officer. Any alternate decision may be filed with the commission and served upon all parties to the proceeding any time prior to issuance of a final decision by the commission, consistent with the requirements of Section 311.

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

(e) The principal hearing officer shall present the proposed decision to the full commission in a public meeting. The alternate decision, if any, shall also be presented to the full commission at that public meeting.

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

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

(h) (1) Ex parte communications in ratesetting cases and catastrophic wildfire proceedings are subject to the disclosure requirements of this article. The commission, by order or ruling, may prohibit ex parte communications in a ratesetting case. case or catastrophic wildfire proceeding.

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

(A) If an ex parte communication meeting is granted to any party, all other parties, upon request, shall also be granted individual ex parte meetings of a substantially equal period of time.
and shall be sent a notice of that opportunity at the time the request
is granted.
(B) Subparagraph (A) shall not apply if the decisionmaker
participating in the ex parte communication meeting is a member
of the personal staff of a commissioner acting in a policy or legal
advisory capacity and no other decisionmaker to whom
subparagraph (A) applies is a participant.
(4) Written ex parte communications by any interested person
may be permitted if copies of the communication are transmitted
to all parties on the same day as the original communication.
(5) Written and oral ex parte communications shall not be part
of the evidentiary record of the proceeding.
(6) (A) The commission may establish a “quiet period” during
which no oral or written ex parte communications may be permitted
and the commission may meet in closed session during that period.
(B) A quiet period may be established only during the following
periods:
(i) After a proposed decision or order is issued and is scheduled
for a vote.
(ii) After a proposed decision is scheduled for a vote, but is then
held and rescheduled for a vote.
(C) The commission shall establish a quiet period during the
three business days before the commission’s scheduled vote on a
decision.
(D) Notwithstanding subparagraphs (A), (B), and (C), the
commission may meet in closed session on any proposed decision
in a catastrophic wildfire proceeding and may establish a quiet
period during the three business days before the commission’s
scheduled vote on the decision, during which time no written or
oral ex parte communications may be permitted.
(E) (i) Any meeting of the commission during a quiet period
shall require a minimum of three days’ advance public notice.
(ii) The requirement specified in subparagraph (F) of paragraph
(1) of subdivision (b) of Section 11123 of the Government Code
shall not apply to a meeting of the commission during a quiet
period that is held by teleconference.
(i) Any party has the right to present a final oral argument of
its case before the commission. Upon request to
present a final oral argument before the commission, the argument
shall be scheduled in a timely manner. A quorum of the
commission shall be present for the final oral arguments.

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

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

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

(1) “Covered wildfire” means a wildfire described in Section
451.4, any wildfire ignited on or after the effective date of this
section, caused by an electrical corporation as determined by the
governmental agency responsible for determining causation.

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

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

(1) (A) An electrical corporation may file an application
pursuant to Section 451, 451 or 451.1, as applicable, at any time
after it has paid, entered into binding commitments to pay,
all or, if authorized by the commission for good cause, substantially
all third-party third-party damage claims, including payments made
pursuant to judgments or settlement agreements related to a covered
wildfire. Except as authorized by the commission for good cause,
before filing the application, the electrical corporation shall exhaust
all rights to indemnification or other claims, contractual or
otherwise, against any third parties, including collecting insurance
proceeds, related to the covered wildfire.

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


(i) The date when it has resolved all third-party damage claims and exhausted all right to indemnification or other claims, contractual or otherwise, against any third parties, including collecting insurance proceeds, related to the covered wildfire.

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

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

(3) Within 15 days of the filing date of the application, the commission shall notice a prehearing conference. conference, which shall be held within 25 days of the filing date.

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

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

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

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

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

1702.5. (a) The commission shall, in an existing or new proceeding, develop and implement a safety enforcement program applicable to gas corporations and electrical corporations that includes procedures for monitoring, data tracking and analysis, and investigations, as well as issuance of citations by commission staff, under the direction of the executive director. The enforcement
program shall be designed to improve gas and electrical system
safety through the enforcement of applicable law, or order or rule
of the commission related to safety using a variety of enforcement
mechanisms, including the issuance of corrective actions, orders;
and citations by designated commission staff, and recommendations
for action made to the commission by designated commission staff:
(1) When considering the issuance of citations and assessment
of penalties, the commission staff shall take into account voluntary
reporting of potential violations, voluntary removal or resolution
efforts undertaken, the prior history of violations, the gravity of
the violation, and the degree of culpability:
(2) The procedures shall include, but are not limited to,
providing notice of violation within a reasonable period of time
after the discovery of the violation:
(3) The commission shall adopt an administrative limit on the
amount of monetary penalty that may be set by commission staff:
(b) The commission shall develop and implement an appeals
process to govern the issuance and appeal of citations or resolution
of corrective action orders issued by the commission staff. The
appeals process shall provide the respondent a reasonable period
time, upon receiving a citation, to file a notice of appeal, shall
afford an opportunity for a hearing, and shall require the hearing
officer to expeditiously provide a draft disposition:
(c) The commission shall, within a reasonable time set by the
commission, conclude a safety enforcement action with a finding
of violation, a corrective action order, a citation, a determination
of no violation, approval of the corrective actions undertaken by
the gas corporation or electrical corporation, or other action. The
commission may institute a formal proceeding regarding the alleged
violation, potentially resulting in additional enforcement action;
regardless of any enforcement action taken at the commission staff
level:
(d) This section does not apply to an exempt wholesale
generator, a qualifying small power producer, or qualifying
generator, as defined in Section 796 of Title 16 of the United
States Code and the regulations enacted pursuant thereto. Nothing
in this section affects the commission’s authority pursuant to
Section 761.3.
SEC. 19. Section 1711 of the Public Utilities Code is amended
to read:
1711. (a) Where feasible and appropriate, except for adjudication cases, before determining the scope of the proceeding, the commission shall seek the participation of those who are likely to be affected, including those who are likely to benefit from, and those who are potentially subject to, a decision in that proceeding. The commission shall demonstrate its efforts to comply with this section in the text of the initial scoping memo of the proceeding.

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

(2) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

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

SEC. 16. Part 6 (commencing with Section 3280) is added to Division 1 of the Public Utilities Code, to read:

PART 6. WILDFIRE FUND

Chapter 1. Definitions

3279.

3280. For purposes of this part, the following definitions apply:

(a) “Administrator” means the Wildfire Fund Administrator appointed pursuant to Section 3280. 8899.72 of the Government Code.

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

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

(2) For an electrical corporation that qualifies as a regional electrical corporation at the end of the prior calendar year, an amount equal to twenty-five dollars ($25) multiplied by the number of customer accounts serviced by the electrical corporation within the state at the end of that calendar year.
(c) “Council” means the California Catastrophe Response Council created pursuant to Section 8899.70 of the Government Code.

(d) “Covered wildfire” has the same meaning as set forth in Section 451.4 of the Government Code.

(e) “Electrical corporation” has the same meaning as set forth in Section 218.

(f) “Eligible claims” means claims for third-party damages against an electrical corporation resulting from covered wildfires exceeding the greater of (1) one billion dollars ($1,000,000,000) in the aggregate in any calendar year, or (2) the amount of the insurance coverage required to be in place for the electrical corporation pursuant to Section 3293, measured by the amount of that excess.

(g) “Fund” means the Wildfire Fund created pursuant to Section 3284.

(h) “High fire-threat district” means areas identified as tier 2 (elevated) or tier 3 (extreme) fire risk on the fire-threat map maintained by the commission.

(i) “Initial contribution” means either of the following:

1. For a large electrical corporation, an amount equal to seven billion five hundred million dollars ($7,500,000,000) multiplied by the Wildfire Fund allocation metric.

2. For a regional electrical corporation, an amount equal to six hundred twenty-five dollars ($625) multiplied by the number of customer accounts serviced by the electrical corporation within the state as of the effective date of this part.

(j) “Insolvency proceeding” means a bankruptcy, insolvency, liquidation, reorganization, or similar proceeding brought pursuant to Title 11 of the United States Code.

(k) “Large electrical corporation” means an electrical corporation with 250,000 or more customer accounts within the state.

(l) “Participating electrical corporation” means an electrical corporation that satisfies the conditions to participate in the fund pursuant to Section 3291 or 3292, as applicable.

(m) “Regional electrical corporation” means an electrical corporation with less than 250,000 customer accounts within the state.
(n) “Wildfire Fund allocation metric” means— for each large electrical corporation the arithmetic average of (1) the land area of the electrical corporation’s territory, measured in square miles, in the high fire-threat districts as a proportion of all large electrical corporations’ territory in the high fire-threat districts and (2) the electrical corporation’s line miles of transmission and distribution lines in the high fire-threat districts as a proportion of all large electrical corporations’ line miles of transmission and distribution lines in the high fire-threat districts. The large electrical corporations’ averages shall then be adjusted to account for risk mitigation efforts. This adjustment shall reduce the allocation to electrical corporations that have invested historically in mitigation efforts and those allocations shall be reallocated to the other electrical corporations based on their proportionate share resulting from the initial calculation above. The Wildfire Fund allocation metric shall be determined by the Director of Finance no later than five days after the effective date of this part. It is the expectation of the Legislature that the Wildfire Fund allocation metric is 64.2 percent for Pacific Gas and Electric Company, 31.5 percent for Southern California Edison Company, and 4.3 percent for San Diego Gas and Electric Company. If a new electrical corporation that is a large electrical corporation is admitted to the Wildfire Fund, the administrator shall promptly determine and publish a revised Wildfire Fund allocation metric based on the factors set forth in this subdivision.

(o) “Wildfire Fund assets” means the sum of all moneys and invested assets held in the fund which shall include, without limitation, any loans or other investments made by the state to the fund, all interest or other income from the investment of money held in the fund, any other funds specifically designated for the fund by applicable law, the proceeds of any special charge (or continuation of existing charge) allocated to and deposited into the fund, reinsurance, and the proceeds of any bonds issue for the benefit of the fund.

Chapter 2. The Wildfire Fund

3280. The council shall appoint and oversee the administrator who shall be responsible for the operation, management, and administration of all matters related to the fund.
3281. The administrator shall carry out the duties of this part and may do all of the following, subject to the oversight of the council:

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

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

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

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

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

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

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

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

3282. There shall be a limited civil immunity and no criminal liability in a private capacity, on account of any act performed or omitted or obligation entered into in an official capacity, when done or omitted in good faith and without intent to defraud, on the part of the counsel, the administrator, or on the part of any officer, employee, or agent of the Wildfire Fund. The State of California shall have no liability for payment of claims in excess of funds available pursuant to this part. The State of California, and any of the funds of the State of California, shall have no obligations whatsoever for payment of claims or costs arising from this part, except as specifically provided in this part.

3283. The council may, in its sole discretion, direct the administrator to prepare and present for approval a plan of operations related to the operations, management, and administration of the fund, on an annual basis. At least annually, the council shall direct the administrator to present the
plan of operations to the appropriate policy committees of the
Legislature. The plan shall include, but not be limited to, reporting
on the Wildfire Fund assets, projections for the durability of the
Wildfire Fund, the success of the Wildfire Fund, whether or not
the Wildfire Fund is serving its purpose, and a plan for winding
up the Wildfire Fund if projections demonstrate that the Wildfire
Fund will be exhausted within the next three years.
3284. (a) There is hereby created the Wildfire Fund, which is
not a fund in the State Treasury.
(b) Notwithstanding Section 13340 of the Government Code,
the fund is continuously appropriated without regard to fiscal years
for the purposes of this part.
(c) (1) The fund shall be administered by the administrator,
subject to the direction of the council, in accordance with Chapter
3 (commencing with Section 3291) to provide funds to participating
electrical corporations to satisfy eligible claims arising from a
covered wildfire in accordance with this part.
(2) At the discretion of the administrator, segregated, dedicated
accounts within the fund may be established.
(d) The fund shall be continued in existence unless the
administrator winds down the fund in accordance with Section
3291 or 3292, as applicable.
(e) Uninvested moneys in the fund may be deposited from time
to time in financial institutions authorized by law to receive
deposits of public moneys or, with the approval of the Treasurer,
the Surplus Money Investment Fund as provided in Article 4
(commencing with Section 16470) of Chapter 3 of Part 2 of
Division 4 of Title 2 of the Government Code.
(f) A national bank shall be custodian of all securities belonging
to the fund, except as otherwise provided in the constituent
instruments that define the rights of the holders of the bonds as set
forth in Division 28 (commencing with Section 80500) of the
Water Code.
(g) With the approval of the council, the administrator shall
establish and approve procedures for the review, approval, and
timely funding of eligible claims. The procedures may be revised
from time to time by the administrator with the approval of the
council. The procedures may include processes to facilitate and
expedite the review and approval of settled eligible claims,
including guidelines for, or preapproval of, settlement levels. The
procedures shall provide for the reimbursement of eligible claims within 45 days of the date the administrator approves the settlement amount for any eligible claim unless that timing is not practicable.

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

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

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

(1) Initial contributions from electrical corporations.

(2) Annual contributions from electrical corporations.

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

(4) Revenues generated from the ratepayers of each large electrical corporation by a charge authorized by the commission pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 3289. 3289 as provided in paragraph (4) of subdivision (b) of Section 80550.

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

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

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

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

(b) A report submitted to the Legislature pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.
3288. (a) If Section 3291 is operative, the Director of Finance, in consultation with the Treasurer and the administrator, shall determine the amount and timing of moneys needed to support the purposes of this part. The Director of Finance shall request such moneys from the Controller. Upon such request, the Controller shall transfer up to ten billion five hundred million dollars ($10,500,000,000) to the fund from the Surplus Money Investment Fund and other funds that accrue interest to the General Fund as a cash loan. The loan principal and interest shall be fully repaid as provided in subdivision (b) of Section 80550 of the Water Code.

(b) In the event Section 3292 is operative, the Director of Finance, in consultation with the Treasurer and the administrator, shall determine a schedule to provide ten billion five hundred million dollars ($10,500,000,000) to the fund and shall provide that schedule to the Controller within 60 days. The Controller shall transfer the moneys from the Surplus Money Investment Fund and other funds that accrue interest to the General Fund pursuant to the schedule provided by the Director of Finance as a loan to support the purposes of this part. The loan from the Surplus Money Investment Fund is intended to provide necessary cash on a short-term basis for claims-paying resources. It is the intent that the loan be repaid as quickly as possible within a fiscal year. The loan shall be repaid by the proceeds of the charges authorized pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 3289 or the proceeds of any bonds as set forth in Division 28 (commencing with Section 80500) of the Water Code.

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

(d) Whether Section 3291 or 3292 is operative, an initial transfer to the fund of no less than two billion dollars ($2,000,000,000) ($2,000,000,000) shall be made in the 2019–20 fiscal year.
(e) Prior to a transfer being made from the Surplus Money
Investment Fund pursuant to subdivision (a) or (b), the Director
of Finance shall determine if the transfer would result in the
General Fund’s estimated cash and unused borrowable resources
decreasing below three billion dollars ($3,000,000,000) at any point
in time over the succeeding twenty-four month period. If the
Director of Finance determines that the transfer would result in
estimated cash and unused borrowable resources declining below
that level, the transfer of funds from the Surplus Money Investment
Fund shall not be made. This subdivision shall not apply to the
first two billion dollars ($2,000,000,000) of transfers made in the
2019-20 fiscal year.

3289. (a) (1) Within 14 days of the effective date of this part,
the commission shall initiate a rulemaking proceeding to consider
using its authority pursuant to Section 701 to require each electrical
corporation, except a regional electrical corporation
that chooses not to participate in any fund pursuant to Chapter 3,
to collect a nonbypassable charge from ratepayers of the electrical
corporation to support the Wildfire Fund established pursuant to
Section 3284, including the payment of any bonds issued pursuant
to Division 28 (commencing with Section 80500) of the Water
Code, as follows:
   (A) For a large electrical corporation, a charge in an amount
       sufficient to fund the revenue requirement, as established pursuant
to Section 80524 of the Water Code.
   (B) For a regional electrical corporation, the amount equal to
       one-half cent per kilowatt-hour ($0.005/kWh).

   (2) If the commission determines that the imposition of the
       charge described in paragraph (1) is just and reasonable, and that
       it is appropriate to exercise its authority pursuant to Section 701
to do so, the commission shall direct each electrical corporation
to impose and collect that charge commencing in the month
immediately following the month in which the final collection
imposition of the revenue requirement established by the
Department of Water Resources with respect to bonds previously
issued pursuant to Division 27 (commencing with Section 80000)
of the Water Code is made. The charge shall be collected in the
same manner as that for the payments made to reimburse the
Department of Water Resources pursuant to Division 27
(commencing with Section 80000) of the Water Code.
(b) Notwithstanding any other law, no later than 90 days after
the initiation of the rulemaking proceeding, the commission shall
adopt a decision regarding the imposition of the charge.
(c) Notwithstanding Section 455.5 or 1708, or any other law,
the commission shall not revise, amend, or otherwise modify a
decision to impose a charge made pursuant to this section at any
time prior to January 1, 2036.

Chapter 3. Operation of the Fund

3291. (a) The fund shall be established as a revolving liquidity
fund that will pay eligible claims as provided in subdivision (c)
and obtain reimbursement from electrical corporations as set forth
in subdivision (d).
(b) Except as provided in subdivision (e), to participate in the
fund established pursuant to subdivision (a), an electrical
corporation must meet the following conditions by no later than
June 30, 2020:
(1) The electrical corporation holds a valid safety certification
pursuant to Section 8389;
(2) The electrical corporation is not the subject of an insolvency
proceeding unless the electrical corporation meets the following
conditions:
   (1) The electrical corporation is not, and has not been since the
effective date of this part, the subject of an insolvency proceeding
or on criminal probation unless the electrical corporation meets
the following conditions:
   (A) The electrical corporation’s insolvency proceeding has been
resolved pursuant to a plan or similar document not subject to a
stay.
   (B) The bankruptcy court or a court of competent jurisdiction,
in the insolvency proceeding, has determined that the resolution
of the insolvency proceeding provides funding or establishes
reserves for, provides for assumption of, or otherwise provides for
satisfying any prepetition wildfire claims asserted against the
electrical corporation in the insolvency proceeding, including any
claims asserted pursuant to the proceeding in the amounts agreed upon
in any—pre-insolvency proceeding settlement agreements, in full in the amounts of the
post-insolvency settlement agreements, authorized by the court through an estimation process or otherwise allowed—claims approved by the court.

(C) The commission has approved the reorganization plan and other documents resolving the insolvency proceeding, including the electrical corporation’s resulting governance structure, which shall include the governance structure of any direct or indirect owners of the electrical corporation following the resolution of the insolvency proceedings. structure, as being acceptable in light of the electrical corporation’s safety history, criminal probation, recent financial condition, and other factors deemed relevant by the commission.

(D) The commission has determined that the reorganization plan and other documents resolving the insolvency proceeding are (i) consistent with the state’s climate goals as required pursuant to the California Renewables Portfolio Standard Program and related procurement requirements of the state and are (ii) neutral, on average, to the ratepayers of the electrical corporation.

(E) The commission has determined that the reorganization plan and other documents resolving the insolvency proceeding recognize the contributions of ratepayers, if any, and compensate them accordingly through mechanisms approved by the commission, which may include sharing of value appreciation.

(3) For a regional electrical corporation, it—has shall have requested to participate and have established a charge required by the commission pursuant to Section 3289. The charge shall be included on monthly bills for customers. Collections on that charge shall be remitted, on a monthly basis, to the administrator for deposit into the fund.

(c) A participating electrical corporation may seek payment from the fund to satisfy settled or finally adjudicated eligible claims. Only eligible claims shall be made against or paid by the fund. The In accordance with the procedures established by the administrator, the administrator shall review and approve any settlement of an eligible claim as being in the reasonable business judgment of the electrical corporation before releasing funds to the electrical corporation for payment. The administrator may establish processes to facilitate the review and approval of settled eligible claims, including guidelines or values of settlements. To
the extent approved by the administrator, the settlement shall not
be subject to further review by the commission.
(d) Within six months after the commission adopts a decision
in an application filed pursuant to Section 1701.8, the electrical
corporation shall reimburse the fund for the full amount of
payments received from the fund. The electrical corporation may
recover in rates those costs and expenses allowed by the
commission pursuant to Section 451 or 451.1, as applicable.
(e) The administrator may authorize an electrical corporation
that is formed after the effective date of this part to participate in
the fund if the administrator determines that the electrical
corporation meets the requirements of this Section 3291, other
than the requirement that the conditions be met by June 30, 2020.
The authorization shall be effective as of a date determined by the
administrator and shall apply to covered wildfires after the date
of authorization.
(f) The fund shall terminate when the administrator determines
that the fund is no longer necessary to serve the purposes of this
part. Upon the determination of the administrator that the fund
shall be terminated, the administrator shall pay all remaining
eligible claims and fund expenses, liquidate any remaining assets,
and refund the remaining funds to ratepayers.
(g) This section shall become inoperative upon timely payment
of the initial contribution pursuant to Section 3292 by each large
electrical corporation not subject to an insolvency proceeding on
the effective date of this section, and is repealed on January 1 of
the following year. The administrator shall notify the Secretary of
State as to whether those payments were timely made.
3292. (a) If, within 15 days of the effective date of this part,
each large electrical corporation not subject to an insolvency
proceeding on the effective date of this part notifies the commission
of its commitment to provide the initial contribution and the annual
contributions, and subsequently provides its initial contribution as
set forth in paragraph (4) of subdivision (b), the fund shall be
established to pay eligible claims as set forth in subdivision (f)
and obtain reimbursement from electrical corporations as set forth
in subdivision (g).
(b) Except as provided in subdivision (d), to participate in the
fund established pursuant to subdivision (a), an electrical
corporation shall satisfy the following conditions by no later than June 30, 2020:

(1) The electrical corporation holds a valid safety certification pursuant to Section 8289.

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

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

(B) The bankruptcy court or a court of competent jurisdiction, in the insolvency proceeding, has determined that the resolution of the insolvency proceeding provides funding or establishes reserves for, provides for assumption of, or otherwise provides for satisfying any prepetition wildfire claims asserted against the electrical corporation in the insolvency proceeding, including any claims asserted pursuant to proceeding in the amounts agreed upon in any pre-insolvency proceeding settlement agreements, in full in the amounts of the agreements or any post-insolvency settlement agreements, authorized by the court through an estimation process or otherwise allowed—claims approved by the court.

(C) The commission has approved the reorganization plan and other documents resolving the insolvency proceeding, including the electrical corporation’s resulting governance structure, which shall include the governance structure of any direct or indirect owners of the electrical corporation following the resolution of the insolvency proceedings, structure as being acceptable in light of the electrical corporation’s safety history, criminal probation, recent financial condition, and other factors deemed relevant by the commission.

(D) The commission has determined that the reorganization plan and other documents resolving the insolvency proceeding are (i) consistent with the state’s climate goals as required pursuant to the California Renewables Portfolio Standard Program and
related procurement requirements of the state and are (ii) neutral, on average, to the ratepayers of the electrical corporation.

(E) The commission has determined that the reorganization plan and other documents resolving the insolvency proceeding recognize the contributions of ratepayers, if any, and compensate them accordingly through mechanisms approved by the commission, which may include sharing of value appreciation.

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

(4)

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

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

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

(e) An electrical corporation that is the subject of an insolvency proceeding on the effective date of this part that wishes to participate in the fund shall (1) within 15 days of the effective date of this part, provide written notification to the commission of its election to participate in the fund, and (2) within 60 days of the effective date of this part, obtain approval from the bankruptcy court or a court of competent jurisdiction of its—irrevocable determination to pay, and approval of its payment of, the initial
contribution and, as they become due, annual contributions to the fund, provided, that the contributions shall not be due to the fund until the date the electrical corporation exits the insolvency proceeding. The electrical corporation shall not be entitled to seek payments from the fund pursuant to subdivision (f) until it has funded its initial contribution and has met the other conditions provided in subdivision (b). Participation of an electrical corporation that is the subject of an insolvency proceeding that satisfies the requirements of this subdivision shall be effective as of the effective date of this part and shall apply to covered wildfires after the effective date, wildfires, provided that the fund shall not pay more than 40 percent of the allowed amount of any a claim arising between the effective date and the date the electrical corporation exits bankruptcy, bankruptcy, with the balance of those claims being addressed through the insolvency proceeding.

(f) (1) An electrical corporation meeting the applicable requirements of subdivision (b) may seek payment from the fund to satisfy settled or finally adjudicated eligible claims. Only eligible claims shall be made against or paid by the fund. The In accordance with the procedures established by the administrator, the administrator shall review and approve any settlement of an eligible claim as being in the reasonable business judgment of the electrical corporation before releasing funds to the electrical corporation for payment. The administrator may establish processes to facilitate the review and approval of settled eligible claims, including establishing guidelines or values for settlements. Settlements of subrogation claims that are less than or equal to 40 percent of total asserted claim value as determined by the administrator shall be paid unless the administrator finds that the exceptional facts and circumstances surrounding the underlying claim do not justify the electrical corporation’s exercise of such business judgment. To the extent approved by the administrator, a settlement shall not be subject to further review by the commission.

(2) The administrator shall not approve a settlement of an eligible claim that is a subrogation claim if the settlement exceeds 40 percent of the total asserted claim value, as determined by the administrator, unless and includes a full release of the balance of the asserted claim so long as the administrator finds that the electrical corporation exercised its reasonable business judgment
in determining to settle for a higher percentage or on different terms based on a determination that the specific facts and circumstances surrounding the underlying claim justify a higher settlement percentage, percentage or different terms. A subrogation claim that is finally adjudicated shall be paid in the full judgment amount.

(g) All initial and annual contributions shall be excluded from the measurement of the authorized capital structure.

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

(2) (A) The obligation of an electrical corporation to reimburse the fund for amounts received from the fund shall be limited to 20 percent of the electrical corporation’s transmission and distribution equity rate base for any rolling three calendar year period as determined by the administrator. Except that amount shall be the lesser amount of subparagraph (B) or (C).

(B) The costs and expenses disallowed pursuant to Section 1701.8.

(C) The amount determined pursuant to clause (i) minus the amount determined pursuant to clause (ii).

(i) Twenty percent of the electrical corporation’s total transmission and distribution equity rate base, including, but not limited to, its Federal Energy Regulatory Commission (FERC) assets, as determined by the administrator for the calendar year in which the disallowance occurred.

(ii) The sum of (I) the amounts actually reimbursed to the Wildfire Fund for costs and expenses that were disallowed pursuant to Section 1701.8 during the measurement period, added to (II) the amount of any reimbursements to the Wildfire Fund owed by the electrical corporation for costs and expenses disallowed during the measurement period that have not yet been paid.

(iii) For purposes of this subparagraph, “measurement period” means the period of three consecutive calendar years ending on December 31 of the year in which the calculation is being performed.
(D) The administrator shall publish calculations of the amounts determined pursuant to subparagraphs (B) and (C) on or before January 1 of each calendar year for each electrical corporation.

(E) Except as provided in paragraph (3), the electrical corporation shall not be required to reimburse the fund for any additional amounts in any three-calendar-year period.

(F) The limitation set forth in this section shall apply only so long as the fund has not been terminated pursuant to subdivision (i).

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

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

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

(i) (1) The administrator shall, to the extent practicable, manage the fund to prioritize the use of contributions of the electrical corporations before the use of contributions by ratepayers.

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

(j) Notwithstanding subdivision (f), a regional electrical corporation’s access to the Wildfire Fund to pay eligible claims shall be limited to three times the sum of the regional electrical corporation’s initial contribution and any funded annual contributions per covered wildfire.

(k) This section shall become inoperative if timely payment of the initial contribution is not made pursuant to paragraph (4) of subdivision (b) by each large electrical corporation not subject to an insolvency proceeding
on the effective date of this section, and is repealed on the first January 1 more than three months after the initial contributions are due. due but not all paid. The administrator shall notify the Secretary of State as to whether those payments were timely made. 3293. A participating electrical corporation shall maintain commercially reasonable insurance coverage as determined annually by the administrator. coverage. The administrator shall determine periodically review and make a recommendation as to the appropriate amount of insurance coverage required, taking into account the availability of insurance, the electrical corporation’s service territory, including the fire risk of the territory, the size of the territory, and the value of the real estate in the territory, the safety record of the electrical corporation, the wildfire mitigation measures implemented by the electrical corporation, the impact to the ratepayers, and other factors deemed appropriate by the administrator. 3294. Costs and expenses of administration of the fund shall be paid from Wildfire Fund assets. 3295. The fund shall be granted a statutory lien on any revenues of an electrical corporation to secure the amount of any reimbursement obligations to the fund, which statutory lien shall be, in any subsequent insolvency proceeding, senior to the liens on the assets or property of the electrical corporation. The statutory lien shall be automatically perfected without further action of the fund. The foregoing lien shall apply regardless of whether the amounts are commingled with other cash or other property of the electrical corporation.

3295. (a) Except as provided in subdivision (b), within six months after the commission adopts a decision in an application filed pursuant to Section 1701.8, a governmental assessment shall be imposed in the full amount of, and the electrical corporation shall reimburse the fund for the full amount of, costs and expenses the commission determined were the amount of the obligation to reimburse the fund pursuant to subdivision (d) of Section 3291 or subdivision (h) of Section 3292 in a proceeding authorized pursuant to Section 1701.8.

(b) With respect to a governmental assessment pursuant to subdivision (a), the fund is granted a statutory lien on the revenues of an electrical corporation participating in the fund to secure the electrical corporation’s reimbursement obligations to the fund.
which statutory lien shall be subordinated and junior in lien
priority and right of payment to any lien, mortgage, or security
interest securing any debt, note, indenture, lease, contract, or other
obligation of the electrical corporation or a financing entity defined
in Section 850 in existence on the effective date of this part or
thereafter authorized by the commission, including pursuant to
subdivision (g) of Section 80540; provided that no such lien shall
be deemed to have been granted with respect to the revenues of
an electrical corporation to the extent that the terms of any debt,
note, indenture, lease, contract, or other obligation of the electrical
corporation existing on the effective date prohibits the granting
of the lien, or if a breach or default would occur thereunder as a
result of the granting of the lien whether or not the breach or
default is subject to the passage of time, notice requirements, or
otherwise, it being understood that the lien will be deemed to have
been automatically granted at the time that the prohibition no
longer applies or no breach or default would occur. Subject to the
immediately preceding sentence, the subordinated and junior
statutory lien shall be automatically perfected without further
action of the fund and shall apply regardless of whether the
amounts are commingled with other cash or other property of the
electrical corporation. The statutory lien granted pursuant to this
section shall not attach to any real property of an electrical
corporation.

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

3297. Fund earnings are tax exempt and fund contributions
are tax deductible for state tax purposes.

SEC. 17. Section 8386 of the Public Utilities Code is amended
to read:
8386. (a) Each electrical corporation shall construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment.

(b) Each electrical corporation shall triennially annually prepare and submit a comprehensive wildfire mitigation plan to the commission division for review and approval, according to a schedule established by the commission, approval. In calendar year 2020, and thereafter, the plan shall cover at least a three-year period. The division shall establish a schedule for the submission of subsequent comprehensive wildfire mitigation plans, which may allow for the staggering of compliance periods for each electrical corporation. Until its next comprehensive wildfire mitigation plan, an electrical corporation shall annually submit to the Wildfire Safety Division for review and approval an update. In its discretion, the division may allow the annual submissions to be updates to the last approved comprehensive wildfire mitigation plan; provided, that each electrical corporation shall submit a comprehensive wildfire mitigation plan at least once every three years.

(c) The wildfire mitigation plan shall include all of the following:

1. An accounting of the responsibilities of persons responsible for executing the plan.
2. The objectives of the plan.
3. A description of the preventive strategies and programs to be adopted by the electrical corporation to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.
4. A description of the metrics the electrical corporation plans to use to evaluate the plan’s performance and the assumptions that underlie the use of those metrics.
5. A discussion of how the application of previously identified metrics to previous plan performances has informed the plan.
6. Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure.
(7) Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, and operators of telecommunications infrastructure.

(8) Plans for vegetation management.

(9) Plans for inspections of the electrical corporation’s electrical infrastructure.

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

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

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

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

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

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

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

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

(16) A description of how the plan is consistent with the
electrical corporation’s disaster and emergency preparedness plan
prepared pursuant to Section 768.6, including both of the following:
(A) Plans to prepare for, and to restore service after, a wildfire,
including workforce mobilization and prepositioning equipment
and employees.
(B) Plans for community outreach and public awareness before,
during, and after a wildfire, including language notification in
English, Spanish, and the top three primary languages used in the
state other than English or Spanish, as determined by the
commission based on the United States Census data.

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

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

(19) A description of the processes and procedures the electrical
corporation will use to do all of the following:
(A) Monitor and audit the implementation of the plan.
(B) Identify any deficiencies in the plan or the plan’s
implementation and correct those deficiencies.
(C) Monitor and audit the effectiveness of electrical line and
equipment inspections, including inspections performed by
contractors, carried out under the plan and other applicable statutes
and commission rules.

(20) Any other information that the Wildfire Safety Division
may require.

(d) The Wildfire Safety Division shall post all wildfire mitigation
plans and annual updates on the commission’s internet website
for no less than two months before the Wildfire Safety Division’s
decision regarding approval of the plan. The Wildfire Safety Division shall accept comments on each plan from the public, other local and state agencies, and interested parties, and verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.

SEC. 22. SEC. 18. Section 8386.1. Section 8386.1 is added to the Public Utilities Code, to read:

8386.1. (a) The Wildfire Safety Division shall approve or deny each wildfire mitigation plan and update submitted by an electrical corporation within three months of its submission, unless the division makes a written determination, including reasons supporting the determination, that the three-month deadline cannot be met. Each electrical corporation’s approved plan shall remain in effect until the division approves the electrical corporation’s subsequent plan. The division shall consult with the Department of Forestry and Fire Protection on the review of each wildfire mitigation plan and update. In rendering its decision, the division shall consider comments submitted pursuant to subdivision (d) of Section 8386. Before approval, the division may require modifications of the plan. After approval by the division, the commission shall ratify the action of the division.

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

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

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

(2) (A) Before March 1, 2021, and before each March 1 thereafter, the Wildfire Safety Division, in consultation with the Department of Forestry and Fire Protection, shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure.
(B) (i) Each electrical corporation shall engage an independent
evaluator listed pursuant to subparagraph (A) to review and assess
the electrical corporation’s compliance with its plan. The engaged
independent evaluator shall consult with, and operate under the
direction of, the Safety and Enforcement Wildfire Safety Division
of the commission. The independent evaluator shall issue a report
on July 1 of each year in which a report required by paragraph (1)
is filed. As a part of the independent evaluator’s report, the
independent evaluator shall determine whether the electrical
corporation failed to fund any activities included in its plan.
(ii) The Wildfire Safety Division shall consider the independent
evaluator’s findings, but the independent evaluator’s findings are
not binding on the division, except as otherwise specified.
(iii) The independent evaluator’s findings shall be used by the
Wildfire Safety Division to carry out its obligations under Article
1 (commencing with Section 451) of Chapter 3 of Part 1 of
Division 1.
(iv) The independent evaluator’s findings shall not apply to
events that occurred before the initial plan is approved for the
electrical corporation.
(3) The commission shall authorize the electrical corporation
to recover in rates the costs of the independent evaluator.
(4) The Wildfire Safety Division shall complete its compliance
review within 18 months after the submission of the electrical
corporation’s compliance report.
(d) An electrical corporation shall not divert revenues authorized
to implement the plan to any activities or investments outside of
the plan.
(e) (1) Each electrical corporation shall establish a
memorandum account to track costs incurred for fire risk mitigation
that are not otherwise covered in the electrical corporation’s
revenue requirements. The commission shall review the costs in
the memorandum accounts and disallow recovery of those costs
the commission deems unreasonable.
(2)
(e) The commission shall not allow a large electrical corporation
to include in its equity rate base its share, as determined pursuant
to the Wildfire Fund allocation metric specified in Section
3279, 3280, of the first five billion dollars ($5,000,000,000)
period of 2020 to 2024, inclusive, on fire risk mitigation capital
expenditures included in the electrical corporations’ approved
wildfire mitigation plans. Nothing in this paragraph shall prevent
an electrical corporation from recovering An electrical
corporation’s share of the fire risk mitigation capital expenditures
and the debt financing costs of these fire risk mitigation capital
expenditures. Expenditures may be financed through a financing
order pursuant to Section 851, subject to the requirements of that
financing order.

SEC. 23.
SEC. 19. Section 8386.2 8386.4 is added to the Public Utilities
Code, to read:

8386.2.
8386.4. (a) At the time it approves each of approval of an
electrical corporation’s wildfire mitigation plan, the commission
shall authorize the utility electrical corporation to establish a
memorandum account to track costs incurred to implement the
plan.

(b) (1) The commission shall consider whether the cost of
implementing each electrical corporation’s plan is just and
reasonable in its general rate case application. Each electrical
corporation shall establish a memorandum account to track costs
incurred for fire risk mitigation that are not otherwise covered in
the electrical corporation’s revenue requirements. The commission
shall review the costs in the memorandum accounts and disallow
recovery of those costs the commission deems unreasonable.

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

(3) The chief executive officer of an electrical corporation shall
certify in each general rate case application that the electrical
corporation has not received authorization from the commission
to recover the costs in a previous proceeding, including wildfire
cost recovery applications.
(4) Nothing in this section shall be interpreted as a restriction
or limitation on Article 1 (commencing with Section 451) of
Chapter 3 of Part 1 of Division 1.
SEC. 24.
SEC. 20. Section 8387 of the Public Utilities Code is amended
to read:
8387. (a) Each local publicly owned electric utility and
electrical cooperative shall construct, maintain, and operate its
electrical lines and equipment in a manner that will minimize the
risk of wildfire posed by those electrical lines and equipment.
(b) (1) The local publicly owned electric utility or electrical
cooperative shall, before January 1, 2020, and annually thereafter,
prepare a wildfire mitigation plan. After January 1, 2020, a local
publicly owned electric utility or electrical cooperative shall
prepare a wildfire mitigation plan annually and shall submit the
plan to the California Wildfire Safety Advisory Board on or before
July 1 of that calendar year. Each local publicly owned electric
utility and electrical cooperative shall update its plan annually
and submit the update to the California Wildfire Safety Advisory
Board by July 1 of each year. At least once every three years, the
submission shall be a comprehensive revision of the plan.
(2) The wildfire mitigation plan shall consider as necessary, at
minimum, all of the following:
(A) An accounting of the responsibilities of persons responsible
for executing the plan.
(B) The objectives of the wildfire mitigation plan.
(C) A description of the preventive strategies and programs to
be adopted by the local publicly owned electric utility or electrical
cooperative to minimize the risk of its electrical lines and
equipment causing catastrophic wildfires, including consideration
of dynamic climate change risks.
(D) A description of the metrics the local publicly owned electric
utility or electrical cooperative plans to use to evaluate the wildfire
mitigation plan’s performance and the assumptions that underlie
the use of those metrics.
(E) A discussion of how the application of previously identified
metrics to previous wildfire mitigation plan performances has
informed the wildfire mitigation plan.
(F) Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure.

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

(H) Plans for vegetation management.

(I) Plans for inspections of the local publicly owned electric utility’s or electrical cooperative’s electrical infrastructure.

(J) A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the local publicly owned electric utility’s or electrical cooperative’s service territory. The list shall include, but not be limited to, both of the following:

(i) Risks and risk drivers associated with design, construction, operation, and maintenance of the local publicly owned electric utility’s or electrical cooperative’s equipment and facilities.

(ii) Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the local publicly owned electric utility’s or electrical cooperative’s service territory.

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

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

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

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

(i) Monitor and audit the implementation of the wildfire mitigation plan.
(ii) Identify any deficiencies in the wildfire mitigation plan or its implementation, and correct those deficiencies.

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

(3) The local publicly owned electric utility or electrical cooperative shall, on or before January 1, 2020, and not less than annually thereafter, present each its wildfire mitigation plan in an appropriately noticed public meeting. The local publicly owned electric utility or electrical cooperative shall accept comments on its wildfire mitigation plan from the public, other local and state agencies, and interested parties, and shall verify that the wildfire mitigation plan complies with all applicable rules, regulations, and standards, as appropriate.

(c) The local publicly owned electric utility or electrical cooperative shall contract with a qualified independent evaluator with experience in assessing the safe operation of electrical infrastructure to review and assess the comprehensiveness of its wildfire mitigation plan. The independent evaluator shall issue a report that shall be made available on the internet website of the local publicly owned electric utility or electrical cooperative, and shall present the report at a public meeting of the local publicly owned electric utility’s or electrical cooperative’s governing board.

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

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

(3) By December 1, 2020, and annually thereafter, the commission, after consultation with the Wildfire Safety Division, shall adopt and approve a process for division staff to review and provide comments and advisory opinions pursuant to paragraph (2).
SEC. 25.
SEC. 21. Section 8389 is added to the Public Utilities Code, to read:
8389. (a) For purposes of this section, the following definitions apply:
(1) “Board” means the California Wildfire Safety Advisory Board established pursuant to Section 326.1.
(2) “Division” means the Wildfire Safety Division established pursuant to Section 326.
(3) “Substantial compliance” means actual compliance in respect to the substance essential to every reasonable objective of a particular law, rule, regulation, metric, or requirement taking into account cure periods to the extent provided.
(b) By June 30, 2020, and annually thereafter, the board shall make recommendations to the division on all of the following:
(1) Appropriate performance metrics and processes for determining an electrical corporation’s compliance with its approved wildfire mitigation plan.
(2) Appropriate requirements in addition to the requirements set forth in Section 8386 for the wildfire mitigation plan.
(3) The appropriate scope and process for assessing the safety culture of an electrical corporation.
(c) By October 31, 2020, and annually thereafter, the division shall issue an analysis and recommendation to the commission on the recommendations provided by the board pursuant to subdivision (b).
(d) By December 1, 2020, and annually thereafter, the commission, after consultation with the division, shall adopt and approve all of the following:
(1) Performance metrics for electrical corporations.
(2) Additional requirements for wildfire mitigation plans.
(3) A wildfire mitigation plan compliance process.
(4) A process for the division to conduct annual safety culture assessments for each electrical corporation.
(e) Thirty days after the effective date of this section, and annually thereafter, the commission, after consultation with the division and the board, The executive director of the commission shall issue a safety certification to an electrical corporation if the electrical corporation shows, to the satisfaction of the commission, all of the following: provides documentation of the following:
(1) The electrical corporation has an approved wildfire mitigation plan.

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

(3) The electrical corporation is in substantial compliance with good standing, which can be satisfied by the electrical corporation having agreed to implement the findings of its most recent safety culture assessment, if applicable.

(4) Establishment of

(3) The electrical corporation has established a safety committee of its board of directors composed of members with relevant safety experience.

(5) Establishment of

(4) The electrical corporation has established an executive incentive compensation plan linked to safety performance metrics, structure approved by the division and structured to promote safety as a priority and to ensure public safety and utility financial stability with performance metrics, including incentive compensation based on meeting performance metrics that are measurable and enforceable, for all executive officers, as defined in Section 451.5. This may include tying 100 percent of incentive compensation to safety performance and denying all incentive compensation in the event the electrical corporation causes a catastrophic wildfire that results in one or more fatalities.

(6) Establishment of

(5) The electrical corporation has established board-of-director-level reporting to the commission on safety issues.

(6) (A) The electrical corporation has established a compensation structure for any new or amended contracts for executive officers, as defined in Section 451.5, that is based on the following principles:

(i) (I) Strict limits on guaranteed cash compensation, with the primary portion of the executive officers’ compensation based on achievement of objective performance metrics.

(II) No guaranteed monetary incentives in the compensation structure.

(ii) It satisfies the compensation principles identified in paragraph (4).
(iii) A long-term structure that provides a significant portion of compensation, which may take the form of grants of the electrical corporation’s stock, based on the electrical corporation’s long-term performance and value. This compensation shall be held or deferred for a period of at least three years.

(iv) Minimization or elimination of indirect or ancillary compensation that is not aligned with shareholder and taxpayer interest in the electrical corporation.

(B) The division shall approve the compensation structure of an electrical corporation if it determines the structure meets the principles set forth in subparagraph (A) and paragraph (4).

(C) It is the intent of the Legislature, in enacting this paragraph and paragraph (4), that any approved bankruptcy reorganization plan of an electrical corporation should, in regards to compensation for executive officers of the electrical corporation, comply with the requirements of those paragraphs.

(7) The electrical corporation is implementing its approved wildfire mitigation plan. The electrical corporation shall file a tier 1 advice letter on a quarterly basis that details the implementation of both its approved wildfire mitigation plan and recommendations of the most recent safety culture assessment, and a statement of the recommendations of the board of directors safety committee meetings that occurred during the quarter. The advice letter shall also summarize the implementation of the safety committee recommendations from the electrical corporation’s previous advice letter filing. If the division has reason to doubt the veracity of the statements contained in the advice letter filing, it shall perform an audit of the issue of concern.

(f) (1) The executive director shall issue an initial safety certification within 30 days of receipt of a request for that certification by an electrical corporation if the electrical corporation provides documentation that it is meeting the requirements set forth in paragraphs (1), (2), (3) and (5) of subdivision (e). A safety certification shall be valid for 12 consecutive months following the issuance of the certification.

Before

(2) Before the expiration of a certification, an electrical corporation shall file with the commission a request for certification for the following calendar year 12 months. The division shall issue a safety certification within 90
days of a request if the electrical corporation has provided
documentation that it has satisfied the requirements in subdivision
e).
(3) All documents submitted pursuant to this section shall be
publicly available on the commission’s internet website.
(2)
(4) Notwithstanding paragraph (1), a safety certification shall
remain valid until the commission issues a determination related
to an division acts on the electrical corporation’s pending
application request for safety certification.
(g) If the division determines an electrical corporation is not in
compliance with its approved wildfire mitigation plan, it may
recommend that the commission pursue an enforcement action
against the electrical corporation for noncompliance with its
approved plan.
SEC. 26.
SEC. 22. Division 28 (commencing with Section 80500) is
added to the Water Code, to read:

DIVISION 28. WILDFIRE PREVENTION AND RECOVERY
ACT OF 2019

Chapter 1. General Provisions

80500. The Legislature finds and declares .
80502. Nothing in this division shall be construed to reduce
or modify an electrical corporation’s obligation to serve. The
commission shall issue orders it determines are necessary to carry
out this section.
80503. (a) The development and operation of a program as
provided in this division is in all respects for the welfare and the
benefit of the people of the state, to protect the public peace, health,
and safety, and constitutes an essential governmental purpose.
(b) This division shall be liberally construed in a manner so as
to effectuate its purposes and objectives.
80504. (a) The powers and responsibilities of the department
established pursuant to this division are separate from, and not
governed by, the provisions relating to the State Water Resources
Development System.
(b) The Department of Water Resources Charge Fund established in Section 80550 and the moneys in that fund are separate and distinct from any other fund and moneys administered by the department.

8056. As used in this division, unless the context otherwise requires, the following terms have the following meanings:

(a) “Administrator” has the same meaning as defined in Section 3279 3280 of the Public Utilities Code.

(b) “Bonds” means bonds, notes, or other evidences of indebtedness issued solely for purposes of supporting the Wildfire Fund and other related expenses incurred by the department pursuant to this division, or for reimbursing expenditures from the fund or the Wildfire Fund for those purposes; repaying to the Surplus Money Investment Fund any loans made to the Wildfire Fund; establishing or maintaining reserves in connection with the bonds; costs of issuance of bonds or incidental to their payment or security; capitalized interest; or renewing or refunding any bonds.

(c) “Commission” means the Public Utilities Commission.

(d) “Electrical corporation” means an a large electrical corporation, as defined in Section 248 3280 of the Public Utilities Code, that participates in the Wildfire Fund.

(e) “Fund” means the Department of Water Resources Charge Fund established by Section 80550.

(f) “Wildfire Fund” has the same meaning as defined in Section 3279 3280 of the Public Utilities Code.

8058. (a) The department may prescribe, adopt, and enforce emergency regulations relating to the administration and enforcement of this division. Any emergency regulations prescribed, adopted, or enforced pursuant to this division shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of such regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

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

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

CHAPTER 2. POWERS OF THE DEPARTMENT

80520. (a) The department may contract with an electrical
corporation or its successor in the performance of related service,
as an agent of the department, to provide billing, collection, and
other related services on terms and conditions that reasonably
compensate the electrical corporation or its successor for its
services, and adequately secure payment to the department.

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

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

80524. (a) The revenue requirement shall be equal to the
revenue requirement under Section 80110 on January 1, 2019, for
each year or, with respect to the first year and last year, the pro
rata portion of the year, shall be equal to the average annual
amount of collections by the department with respect to charges
imposed pursuant to the revenue requirements established by the
department under Section 80110 of Division 27 for the period from
January 1, 2013, through December 31, 2018. The revenue
requirement shall remain in effect until January 1, 2036.

(b) For purposes of this division, the commission’s authority,
as set forth in Section 451 of the Public Utilities Code, shall apply;
except any just and reasonable review under Section 451 of the
Public Utilities Code with respect to the revenue requirement set
forth in this section shall be conducted and determined by the
commission no later than 120 days after the effective date of this
division.
(b) If, pursuant to subsection (b) above, Section 3289 of the Public Utilities Code, the commission makes a just and reasonable determination with respect to the revenue requirement, then the commission shall enter into an agreement with the department with respect to charges under Section 454 3289 of the Public Utilities Code with respect to the revenue requirement, and that agreement shall have the force and effect of a
irrevocable financing order adopted in accordance with Article 5 5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, as determined by the commission. The agreement and financing order shall provide for the administration of the revenue requirement, including provisions to the effect that (1) the department shall notify the commission each year of the annual collections received by the department with respect to the revenue requirement and the amount of any excess or deficiency in collections above or below the revenue requirement and that the commission shall adjust charges in the subsequent year to reflect any such excess or deficiency, and (2) during any revenue requirement period if the department forecasts that the revenue requirement for that period will not be met and that collections will not be sufficient to fund any of the amounts in paragraphs (1) to (5), inclusive, of Section 80544, then the department shall notify the commission in writing and the commission shall act within 30 days to increase charges so that the amounts collected during that period are sufficient to meet those obligations. For avoidance of doubt, no such adjustment to charges by the commission shall affect in any respect the commission’s just and reasonable determination with respect to the revenue requirement.

80526. To the extent any moneys are received by an electrical corporation pursuant to Section 80520 in the process of collection, and pending their transfer to the department, those moneys shall be segregated by the electrical corporation on terms and conditions established by the department and shall be held in trust for the department’s exercise of its obligations regarding those moneys until paid over to the department pursuant to the contract or order established pursuant to Section 80520.
80528. (a) The department may do any of the following as may be, in the determination of the department, necessary for the purposes of this division:

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

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

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

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

Chapter 3. Bonds

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

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

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

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

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

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

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

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

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

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

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

(b) In the discretion of the department, any bonds may be secured by a trust agreement by and between the department and
a corporate trustee, which may be any trust company or bank
having trust powers within or outside the state, or the Treasurer.
Notwithstanding any other law, the Treasurer shall not be deemed
to have a conflict of interest by reason of acting as the trustee. The
department may enter into such contracts or arrangements as it
shall deem to be necessary or appropriate for the issuance and
further security of the bonds.
(c) Bonds shall be legal investments for all trust funds, the funds
of all insurance companies, savings and commercial banks, trust
companies, executors, administrators, trustees, and other
fiduciaries, for state school funds, pension funds, and for any funds
that may be invested in county, school, or municipal bonds.
(d) Notwithstanding that bonds may be payable from a special
fund, the bonds shall be deemed to be negotiable instruments for
all purposes.
(e) Any bonds, and the transfer of and income derived from
those bonds, shall at all times be free from taxation of every kind
by the state and by the political subdivisions of the state.
(f) Bonds shall not be deemed to constitute a debt or liability
of the state or of any political subdivision thereof, other than the
department, or a pledge of the faith and credit of the state or of
any such political subdivision, but shall be payable solely from
the funds herein provided for. All bonds shall contain a statement
to the following effect: "Neither the faith and credit nor the taxing
power of the State of California is pledged to the payment of the
principal of or interest on this bond." The issuance of bonds shall
not directly or indirectly or contingently obligate the state or any
political subdivision thereof to levy or to pledge any form of
taxation whatever therefor or to make any appropriation for their
payment.
(g) (1) The department may pledge or assign any revenues
under any obligation entered into, and rights to receive the same,
and moneys on deposit in the fund and income or revenue derived
from the investment thereof, as security for the department’s
obligations pursuant to this division.
(2) It is the intent of the Legislature that any pledge of moneys,
revenues, or property made by the department shall be valid and
binding from the time when the pledge is made; that the moneys,
revenues, or property so pledged and thereafter collected from
retail end use customers, or paid directly or indirectly to or for the
account of the department, is hereby made, and shall immediately
be, subject to the lien of that pledge without any physical delivery
thereof or further act; that the lien of any such pledge shall be valid
and binding against all parties having claims of any kind in tort,
contract, or otherwise against the department irrespective of
whether those parties have notice thereof, and that no resolution
or instrument by which the pledge or lien created pursuant to this
subdivision is expressed, confirmed, or approved need be filed or
recorded in order to perfect the pledge or lien. These provisions
shall in all respects govern the creation, perfection, priority, and
enforcement of any lien created by or under this division.
80544. (a) If, pursuant to Section 80524, the commission
makes a just and reasonable determination with respect to that
revenue requirement, the department shall, and in any obligation
entered into pursuant to this division may covenant to, at least
annually, and more frequently as required, allocate or cause to be
allocated moneys collected pursuant to this division to provide
any of the following:
(1) The amounts necessary to pay the principal of, and premium,
if any, and interest on, all bonds as and when the bonds shall
become due.
(2) The amounts necessary to make payments under any
contracts, agreements, or obligations entered into by it pursuant
hereto, in the amounts and at the times they shall become due.
(3) Reserves in such amount as may be determined by the
department from time to time to be necessary or desirable.
(4) Consistent with Section 3288, repayment of loans made
from the Surplus Money Investment Fund to the Wildfire Fund.
(5) The administrative costs of the department incurred in
administering this division.
(6) After meeting the purposes in paragraphs (1) to (5), inclusive,
the transfer of any remaining revenue requirement amount to the
Wildfire Fund.
(b) The commission shall not revise the revenue requirement
established pursuant to this division at any time prior to January
1, 2036. For avoidance of doubt, the revenue requirement
established pursuant to this division shall not be imposed and
collected until the department has legally defeased or paid at
maturity the power supply revenue bonds issued pursuant to
Section 80134 and provided written notice thereof to the
commission.

CHAPTER 4. DEPARTMENT OF WATER RESOURCES CHARGE
FUND

80550. (a) There is hereby established in the State Treasury
the Department of Water Resources Charge Fund. Notwithstanding
Section 13340 of the Government Code, all moneys in the fund
are continuously appropriated, without regard to fiscal year, to the
department and shall be available for the purposes of this division.
(b) All revenues payable to the department under this division,
including proceeds of bonds issued pursuant to Chapter 3
(commencing with Section 80540), shall be deposited in the fund.
Notwithstanding any other law, interest accruing on the moneys
in the fund shall be deposited in the fund and shall be used for
purposes of this division. Payments from the fund may be made
only for the following purposes:
(1) Payment of any bonds or other contractual obligations
authorized by this division.
(2) The expenses incurred by the department in administering
this division.
(3) Consistent with Section 3288, repayment of principal of,
and interest on, loans made from the Surplus Money Investment
Fund to the Wildfire Fund. Repayment of loans made from the
Surplus Money Investment Fund shall be made as soon as
practicable.
(4) The transfers to the Wildfire Fund.
(c) Obligations authorized by this division shall be payable
solely from the fund. Neither the full faith and credit nor the taxing
power of the state are or may be pledged for any payment under
any obligation authorized by this division.
(d) While any obligations of the department incurred under this
division remain outstanding and not fully performed or discharged,
the rights, powers, duties, and existence of the department and the
commission shall not be diminished or impaired in any manner
that will affect adversely the interests and rights of the holders of
or parties to those obligations. The department may include this
pledge and undertaking of the state in the department’s obligations.
SEC. 27.
SEC. 23. The revenues of the Department of Water Resources Charge Fund established pursuant to Section 80550 of the Water Code shall not be used to pay for any uncollected amount due to any electrical corporation or to any entity to which the amount has been assigned.
SEC. 28. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
SEC. 24. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.
SEC. 29.
SEC. 25. (a) The sum of nine million dollars ($9,000,000) is hereby transferred from the General Fund to the Department of Water Resources Charge Fund, established by Section 80550 of the Water Code, for the purposes of Division 28 (commencing with Section 80500) of the Water Code. The amount transferred pursuant to this subdivision shall be repaid from the Department of Water Resources Charge Fund to the General Fund at the earliest possible time.
(b) The sum of dollars ($____) is hereby appropriated from the General Fund to the Department of Water Resources for the 2019-20 fiscal year for the administrative costs incurred by the Department of Water Resources pursuant to Division 28 (commencing with Section 80500) of the Water Code.
SEC. 30. The Legislature finds and declares that Section 6 of this act, which adds Section 326.1 to the Public Utilities Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The need to encourage candid and timely advice by the California Wildfire Safety Advisory Board to the Wildfire Safety Division of the Public Utilities Commission to protect the public health and safety and the environment outweighs the importance of providing access in the circumstances of those communications as to which that access is limited by the bill, and the bill provides an alternative requirement, as set forth in subdivision (g) of Section 326.1 of the Public Utilities Code, for public access to meetings of the California Wildfire Safety Advisory Board to ensure transparency in the operation of the board.

SEC. 26. This act shall become operative only if Assembly Bill 111 of, or Senate Bill 111 of, the 2019–20 Regular Session becomes effective before January 1, 2020.

SEC. 27. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address wildfire safety and wildfire liability of electrical utilities and ensure that the claims of wildfire victims may be paid expeditiously, it is necessary for this act to take effect immediately.
EXHIBIT D
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 adaptation 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 in 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
3rd Senate District
EXHIBIT E
An act to amend 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, 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.

(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.


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

SECTION 1. Section 851 of the Public Utilities Code is amended to read:

851. (a) A public utility, other than a common carrier by railroad subject to Part A of the Interstate Commerce Act (49 U.S.C. Sec. 10101 et seq.), shall not sell, lease, assign, mortgage, or otherwise dispose of, or encumber the whole or any part of its railroad, street railroad, line, plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, or by any means whatsoever, directly or indirectly, merge or consolidate its railroad, street railroad, line, plant, system, or other property, or franchises or permits or any part thereof, with any other public utility, without first having either secured an order from the commission authorizing it to do so for qualified transactions valued above five million dollars ($5,000,000), or for qualified transactions valued at five million dollars ($5,000,000) or less, filed an advice letter and obtained approval from the commission authorizing it to do so. If the advice letter is uncontested, approval may be given by the executive director or the director of the division of the commission having regulatory jurisdiction over the utility. The commission shall determine the types of transactions valued at five million dollars ($5,000,000) or less, that qualify for advice letter handling. For a qualified transaction valued at five million dollars ($5,000,000) or less, the commission may designate a procedure different than the advice letter procedure if it determines that the transaction warrants a more comprehensive review. Absent
protest or incomplete documentation, the commission shall approve
or deny the advice letter within 120 days of its filing by the
applicant public utility. The commission shall reject any advice
letter that seeks to circumvent the five million dollar ($5,000,000)
threshold by dividing a single asset with a value of more than five
million dollars ($5,000,000), into component parts, each valued
at less than five million dollars ($5,000,000). Every sale, lease,
assignment, mortgage, disposition, encumbrance, merger, or
consolidation made other than in accordance with the advice letter
and approval from the commission authorizing it is void. The
permission and approval of the commission to the exercise of a
franchise or permit under Article 1 (commencing with Section
1001) of Chapter 5, or the sale, lease, assignment, mortgage, or
other disposition or encumbrance of a franchise or permit under
this article shall not revive or validate any lapsed or invalid
franchise or permit, or enlarge or add to the powers or privileges
contained in the grant of any franchise or permit, or waive any
forfeiture.

(b) (1) Subdivision (a) shall apply to any transaction described
in subparagraph (F) of paragraph (1) of subdivision (b) of Section
854.2.

(2) For any transaction described in subparagraph (F) of
paragraph (1) of subdivision (b) of Section 854.2, as part of its
review under subdivision (a), the commission shall determine
whether the transaction is fair and reasonable to affected public
utility employees, including both union and nonunion employees.

This

(c) This section does not prevent the sale, lease, encumbrance,
or other disposition by any public utility of property that is not
necessary or useful in the performance of its duties to the public,
and any disposition of property by a public utility shall be
conclusively presumed to be of property that is not useful or
necessary in the performance of its duties to the public, as to any
purchaser, lessee, or encumbrancer dealing with that property in
good faith for value, provided that this section does not apply to
the interchange of equipment in the regular course of transportation
between connecting common carriers.

SECTION 1. Section 854 of the Public Utilities Code, as
amended by Section 11 of Chapter 79 of the Statutes of 2019, is
amended to read:
SEC. 2. Section 854 of the Public Utilities Code is amended
to read:

854. (a) No person or corporation, whether or not organized
under the laws of this state, shall merge, acquire, or control,
including pursuant to a change in control as described in
subparagraphs (D) to (F), inclusive, of paragraph (1) of
subdivision (b) of Section 854.2, either directly or indirectly, any
public utility organized and doing business in this state without
first securing authorization to do so from the commission. The
commission may establish by order or rule the definitions of what
constitute merger, acquisition, or control activities which are
subject to this section. Any merger, acquisition, or control without
that prior authorization shall be void and of no effect. No public
utility organized and doing business under the laws of this state,
and no subsidiary or affiliate of, or corporation holding a
controlling interest in a public utility, shall aid or abet any violation
of this section.

(b) 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 utilities that are parties to
the proposed transaction has gross annual California revenues
exceeding five hundred million dollars ($500,000,000), the
commission shall find that the proposal does all of the following:

1. Provide short-term and long-term economic benefits to
ratepayers.

2. Equitably allocate, where the commission has ratemaking
authority, the total short-term and long-term forecasted economic
benefits, as determined by the commission, of the proposed merger,
acquisition, or control, between shareholders and ratepayers.
Ratepayers shall receive not less than 50 percent of those benefits.

3. Not adversely affect competition. In making this finding,
the commission shall request an advisory opinion from the Attorney
General regarding whether competition will be adversely affected
and what mitigation measures could be adopted to avoid this result.

4. For an electric or gas utility, ensure the utility will have an
adequate workforce to maintain the safe and reliable operation of
the utility assets.

(c) 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 five hundred million dollars ($500,000,000), the commission shall consider each of the criteria listed in paragraphs (1) to (8), inclusive, and find, on balance, that the merger, acquisition, or control proposal is in the public interest.

(1) Maintain or improve the financial condition of the resulting public utility doing business in the state.

(2) Maintain or improve the quality of service to public utility ratepayers in the state.

(3) Maintain or improve the quality of management of the resulting public utility doing business in the state.

(4) Be fair and reasonable to affected public utility employees, including both union and nonunion employees.

(5) Be fair and reasonable to the majority of all affected public utility shareholders.

(6) Be beneficial on an overall basis to state and local economies, and to the communities in the area served by the resulting public utility.

(7) Preserve the jurisdiction of the commission and the capacity of the commission to effectively regulate and audit public utility operations in the state.

(8) Provide mitigation measures to prevent significant adverse consequences that may result.

(d) (1) Before authorizing the merger, acquisition, or change in control of any electrical or gas 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 four hundred million dollars ($400,000,000), the commission shall consider the elements in subparagraphs (A) to (G), inclusive, and find, on balance, that the proposal is in the public interest.

(A) A safety management system.

(B) A comprehensive safety plan that includes a systemwide strategic approach for the safety of both employees and the public.

(C) Plans to maintain or improve the records of the electrical corporation’s electric plant or gas corporation’s gas plant, including necessary audits to update incorrect or incomplete records of the electrical or gas corporation. For purposes of this paragraph, “records” shall include, but not be limited to, locations, depth, age, maintenance and testing history, maps, surveys, patrols, and
violation history of the electrical corporation’s electric plant or
gas corporation’s gas plant.
(D) Metrics to measure safety that are complete and drive
appropriate behavior.
(E) An appropriate evaluation of safety expertise in the list of
qualifications used in selecting corporate leadership.
(F) Active audits for safety controls.
(G) A nonpunitive system for reporting potential safety incidents
to the commission to facilitate the identification of accident
precursors by persons familiar with the operations of the electrical
or gas corporation, including, but not limited to, employees and
contractors of the electrical or gas corporation, and the collection,
analysis, and dissemination of unbiased safety information. An
employee of, or the employee of a contractor performing work
for, the electrical or gas corporation shall not be subject to
demotion, discharge, or any other form of retaliation or
discrimination for participating in the potential safety incident
reporting system established pursuant to this subdivision.
(2) The commission may delay the implementation of this
subdivision until July 1, 2021, or until the commission adopts rules
implementing the requirements of this subdivision, whichever is
earlier.
(e) When reviewing a merger, acquisition, or control proposal,
the commission shall consider reasonable options to the proposal
recommended by other parties, including no new merger,
acquisition, or control, to determine whether comparable short-term
and long-term economic savings can be achieved through other
means while avoiding the possible adverse consequences of the
proposal.
(f) The person or corporation seeking acquisition or control of
a public utility organized and doing business in this state shall
have, before the commission, the burden of proving by a
preponderance of the evidence that the requirements of subdivisions
(b), (c), and (d) are met.
(g) In determining whether an acquiring utility has gross annual
revenues exceeding the amount specified in subdivisions (b) and
(c), the revenues of that utility’s affiliates shall not be considered
unless the affiliate was utilized for the purpose of effecting the
merger, acquisition, or control.
(h) Paragraphs (1) and (2) of subdivision (b) shall not apply to
the formation of a holding company.

(i) For purposes of paragraphs (1) and (2) of subdivision (b),
the Legislature does not intend to include acquisitions or changes
in control that are mandated by either the commission or the
Legislature as a result of, or in response to any electric industry
restructuring. However, the value of an acquisition or change in
control may be used by the commission in determining the costs
or benefits attributable to any electric industry restructuring and
for allocating those costs or benefits for collection in rates.

SEC. 2.

SEC. 3. No reimbursement is required by this act pursuant to
Section 6 of Article XIII B of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIII B of the California
Constitution.
EXHIBIT F
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
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
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 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.

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