



Bill Text: CA AB1054 | 2019-2020 | Regular Session | Chaptered California Assembly Bill 1054 (***Prior Session Legislation***)

Bill Title: Public utilities: wildfires and employee protection.

Spectrum: Moderate Partisan Bill (Democrat 4-1)

Status: (*Passed*) 2019-07-12 - Chaptered by Secretary of State - Chapter 79, Statutes of 2019. [AB1054 Detail]

Download: California-2019-AB1054-Chaptered.html

Assembly Bill No. 1054

CHAPTER 79

An act to amend Sections 311, 850, 850.1, 854, 854.2, 1701.1, 1701.3, 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 451.1 of, to add Sections 326.1, 326.2, 451.3, 1701.8, 8386.3, 8386.4, and 8389 to, to add Part 6 (commencing with Section 3280) to Division 1 of, and to repeal Sections 3291 and 3292 of, the Public Utilities Code, and to add Division 28 (commencing with Section 80500) to the Water Code, relating to public utilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 2019. Filed with Secretary of State July 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1054, Holden. Public utilities: wildfires and employee protection.

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 establish the California Wildfire Safety Advisory Board consisting of 7 members appointed by the Governor, Speaker of the Assembly, and 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 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 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 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 certain electrical corporations to collect a nonbypassable charge from its ratepayers to support the Wildfire Fund, and would require the commission to direct each electrical corporation to collect that charge if the commission determines that the imposition 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.

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.

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

This bill would require, after January 1, 2020, that each local publicly owned electric utility or electrical cooperative submit, by July 1 of each year, its plan to the California Wildfire Safety Advisory Board for review and commission. The bill would require the California Wildfire Safety Advisory Board to provide comments and an advisory opinion to 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, or its holding company, or any merger, consolidation, or acquisition of the electrical corporation or gas corporation, its parent company, or its holding company with, by, or into another corporation, entity, or person, (2) the voluntary or involuntary change in ownership in assets of an electrical or gas corporation to ownership by a public entity, or (3) in the case of a combined electrical and gas corporation, the change in ownership of all or a substantial portion of either the gas or electric line of business of the combined corporation. The bill would require the posting of the required notice in a conspicuous place in a manner that is readily viewed by covered employees. The bill would require the successor employer, for 3 years after the 180-days covered employee retention period, to provide to employees who would have qualified as covered employees during the 90-day period immediately before a change of control no less than the wages, hours, and other terms and conditions of employment provided before the change of control, including any previously negotiated increase in wages, and to maintain no less than the total number of employees who would have qualified as covered employees during that 90-day period, except with commission approval based on proof of certain criteria. The bill would prohibit a person or corporation from merging, acquiring, or controlling,

including a change in control as revised by this bill, either directly or indirectly, any public utility organized and doing business in this state without first securing authorization from the commission.

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

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

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

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

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

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

The bill would transfer \$9,000,000 from the General Fund to the Department of Water Resources Charge Fund, thereby making an appropriation.

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.

Digest Key

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: yes

Bill Text

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

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. 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. 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 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 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) (1) The commission or board may assert the deliberative process privilege for a communication between the board and the commission 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. 5. Section 326.2 is added to the Public Utilities Code, to read:

326.2. The 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" has the same meaning as defined in Section 1701.8.

(2) "Wildfire 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 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 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. 7. 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. 8. 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. 9. 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 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 and the commission finds that some or all of the costs and expenses identified in the electrical corporation's application are 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 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) "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.

(3) "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.

(4) "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) "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 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) (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) "Service territory" means the geographical area that the electrical corporation provides with electric distribution service.

(13) "True-up adjustment" means a formulaic 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. 10. Section 850.1 of the Public Utilities Code is amended to read:

850.1. (a) If an electrical corporation files for recovery of recovery costs and the commission finds some or all of those costs and expenses to be just and reasonable pursuant to Section 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, 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 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 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.

(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 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 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) 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 the applicable division.

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, 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 of the following:

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

(B) A material change in ownership of the electric corporation or gas corporation, its parent company or its holding 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.
- (d) (1) No later than 15 days before the effective date of a change of control, the predecessor employer shall 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.
- (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 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.
- (e) This part shall not be construed to limit the right of covered employees 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 three years after the transition period and subject to the provisions of any existing collective bargaining agreement, a successor employer 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 authorized by the commission in a final, nonappealable decision. The commission shall not provide this authorization except on proof by a preponderance of the evidence in an application proceeding of all of the following:
- (1) Neither the nature nor scope of the work performed by those employees proposed to be eliminated 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.
- (3) There will be no reduction in the ability of 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.
- (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, 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 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. 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 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 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. 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 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 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 or 451.1, as applicable, at any time after it has paid, or entered into binding commitments to pay, 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, 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 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. 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

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

(a) "Administrator" means the Wildfire Fund Administrator appointed pursuant to Section 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 1701.8.

(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

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 shall 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 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.

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) 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 declining 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 imposition of the revenue requirement 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 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 in the amounts agreed upon in any pre-insolvency proceeding settlement agreements or any post-insolvency settlement agreements, authorized by the court through an estimation process or otherwise allowed 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, 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 (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.

(2) For a regional electrical corporation, it 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. 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. 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 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 in the amounts agreed upon in any pre-insolvency proceeding settlement agreements or any post-insolvency settlement agreements, authorized by the court through an estimation process or otherwise allowed 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 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 (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.

(2) 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.

(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 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, provided that the fund shall not pay more than 40 percent of the allowed amount of a claim arising between the effective date and the date the electrical corporation exits 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. 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. 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 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, 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 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 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 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 reasonable insurance coverage. The administrator shall 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. (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 annually prepare and submit a wildfire mitigation plan to the division for review and 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. 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. 18. Section 8386.3 is added to the Public Utilities Code, to read:

8386.3. (a) The Wildfire Safety Division shall approve or deny each wildfire mitigation plan and update submitted by an electrical corporation within three months of its submission, unless the division makes a written determination, 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 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) The commission shall not allow a large electrical corporation to include in its equity rate base its share, as determined pursuant to the Wildfire Fund allocation metric specified in Section 3280, of the first five billion dollars (\$5,000,000,000) expended in aggregate by large electrical corporations on fire risk mitigation capital expenditures included in the electrical corporations' approved wildfire mitigation plans. An electrical corporation's share of the fire risk mitigation capital expenditures and the debt financing costs of these fire risk mitigation capital expenditures may be financed through a financing order pursuant to Section 851, subject to the requirements of that financing order.

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

8386.4. (a) At the time of approval of an electrical corporation's wildfire mitigation plan, the commission shall authorize the 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.

(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. 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, 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 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 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.

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.

(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) The executive director of the commission shall issue a safety certification to an electrical corporation if the electrical corporation provides documentation of the following:

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

(2) The electrical corporation is in 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.

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

(4) The electrical corporation has established an executive incentive compensation 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.

(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 the 12 consecutive months following the issuance of the certification.

(2) Before the expiration of a certification, an electrical corporation shall submit to the division a request for certification for the following 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.

(4) Notwithstanding paragraph (1), a safety certification shall remain valid until the division acts on the electrical corporation's pending 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. 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.

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 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 a large electrical corporation, as defined in Section 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 3280 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 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) If, pursuant to 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 3289 of the Public Utilities Code with respect to the revenue requirement, and that agreement shall have the force and effect of an 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. 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 undercollected amount due to any electrical corporation or to any entity to which the amount has been assigned.

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. 25. 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.

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.