

LFC Requester:

Austin Davidson

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 1-28-2026

Check all that apply:

Bill Number: SB161Original Correction Amendment Substitute Sponsor: Pat Woods/Meredith DixonAgency Name
and CodeOffice of Superintendent of
Insurance -440WILDFIRE MITIGATION
AND LIABILITY ACT

Number:

Person Writing

Timothy VigilShort
Title:Email Timothy.vigil@osi.nmPhone: 505-690-0651 : .gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
\$0.00	\$0.00	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
\$0.00	\$0.00	\$0.00	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.00	\$0.00	\$0.00	\$0.00	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 171

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB161 creates the "Wildfire Utility Mitigation and Liability Act" that provides for a system by which electric utilities propose wildfire mitigation plans to be approved by the Public Regulation Commission (PRC). Mitigation plans describe measures the utility may take to reduce the likelihood that a utility's infrastructure might ignite a wildfire. Mitigation plans are voluntary and not required. The law creates a new "qualified wildfire civil action" defined as a civil action against an electric utility for damages resulting from a wildfire "originating" from the utility's operations, facilities or equipment pursuant that the utility has been issued a mitigation plan certificate of compliance from the PRC.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

The bill creates a wildfire mitigation plan filing process for electric utilities, which may be evidenced by a "certificate of compliance" after one year of substantial compliance with the plan. If the PRC does not act on a filed mitigation plan within 180 days, the mitigation is automatically deemed approved. If the electric utility demonstrates "substantial compliance" with the approved/deemed approved mitigation plan over the course of 1 year, the PRC must issue the utility a "certificate of compliance."

SB 161 limits electric utilities' exposure to the costs of wildfire damages but does not address the impact it will have on property insurance companies and policy homeowners, which would ultimately place the financial loss on the consumer, either through loss of property, increased insurance rates, and increased service rates. The traditional negligence legal standard for a court case is replaced by a rebuttable presumption legal standard -- that a PRC "certificate of compliance" that is issued by PRC to a regulated electric utility for its wildfire mitigation plan "is proof of reasonable and prudent preparation for, and mitigation of, wildfire risk." This rebuttable standard can be overcome only if a plaintiff can prove "by clear and convincing evidence through an origin and cause investigation conducted by a federal, state or tribal agency pursuant to the national wildfire coordinating group wildfire investigation standards" that the electric utility "intentionally or maliciously disregarded the risk of wildfire posed by its operations, facilities or equipment."

Approved mitigation plans last for five years or longer under the law, must be updated as necessary in a compliance report or if the PRC requests an update. The certificate may be revoked by the PRC under certain circumstances. However, geographic locations, land use requirements, and weather and climate considerations might require that mitigation plans be in place and updated or replaced frequently. In other words, five years might be too long a time span for the duration of a wildfire mitigation plan.

Noneconomic damages are limited in amount and type of injury. The law limits the award to \$500,000 per plaintiff but only if "competent testimony of a health care provider" establishes that the injury "resulted in death" or "creates a high probability of death, causes serious disfigurement or results in permanent or protracted loss or impairment of the function of any body part or organ."

Other types of noneconomic damages, such as pain and suffering, are not included as a type of injury for which damages may be paid.

The bill references mitigation standards in many areas, however, fails to explain if the methods are scientifically based and uniformly acceptable.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Lack of Recognized Science-Based Standards: SB 161 fails to set forth specific, science-based mitigation requirements. Because mitigation is a community wide effort, failure to include science-based mitigation standards can limit the effectiveness of other statewide mitigation efforts.

No Inspection or Enforcement: SB 161 also fails to implement mandatory inspections and enforcement mechanisms.

Approval “As a Matter of Law”: The bill also allows mitigation plans to be approved by operation of law. This could be extremely problematic in cases where the plan was significantly deficient in meeting mitigation standards, especially in a situation where no recognized standards are included in law.

Definition of “Confidential Information”: For (3), “sensitive information regarding facilities or operations of the electric utility, the protection of which is necessary for public safety or the security of the electric utility.” It may be clearer to mirror the language in the Inspection of Public Records Act, NMSA 1978 § 14-2-1(J): “information concerning information technology systems, the publication of which would reveal specific vulnerabilities that compromise or allow unlawful access to such systems.”

Permissive Participation in Mitigation Plans and Corrective Action: The bill only requires permissive submission of a mitigation plan and permissive implementation of corrective action. It is unclear if this is intentional.

Statute of Limitations: Subsection A of Section 7 states that a claim shall be filed one calendar year after the date of ignition of the fire or it shall be forever barred. This is significantly shorter than what is required for other civil actions. For example, the statute of limitations for personal injury and wrongful death is three years while the statute of limitations for property damage is four years.

OTHER SUBSTANTIVE ISSUES

It is unclear how this will affect insurance rates and how much of this may be passed along to consumers.

ALTERNATIVES

California uses a “California Wildfire Fund”, which is an insurance-like system that pools money

across participating utilities to pay for wildfire claims. This alternative system is meant to stabilize utility finances while not limiting liability or damages.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS