

Position Paper:

Oppose AB 1054: Stop Newsom's Gruesome Utility Bailout!



The California Alliance for Community Energy calls on the Senate Energy Committee to delay action on Governor Newsom's Wildfire Bill, AB 1054¹, until the public can properly understand and weigh in on the large number of questionable provisions in the bill.

Governor Newsom, is attempting to ram AB 1054 (Holden) through the California Senate Energy Committee in just one week without adequate scrutiny or accountability.

AB 1054 is a complex, surprise, gut-and-amend bill, that determines who is going to be liable for tens of billions of dollars of wildfire liability costs over the next several decades. By all appearances, it is a shameless bailout of the monopoly utilities' current and future wildfire liabilities, placing these costs on the backs of California electricity ratepayers and taxpayers.

An issue of such magnitude and profound implications for all Californians deserves close scrutiny. Governor Newsom's effort to ram it through the legislature without such scrutiny is itself reason enough to slam on the brakes and insist on an open, democratic, legislative process.

Questionable Provisions of AB 1054

AB 1054 contains a complex set of provisions. The bill appears to do the following:

1. Shores up the entities most responsible for wildfire catastrophes

PG&E is a criminal corporation guilty of felony negligence and obstruction of justice. These practices have been enabled by the California Public Utilities Commission (CPUC), which has allowed PG&E to get away with using funds earmarked for safety as executive bonuses and shareholder dividends. AB 1054 rescues PG&E from culpability for its criminal failures and rewards the CPUC for its negligent and ineffective oversight.

2. Bails out monopoly utility shareholders, not wildfire victims

AB 1054 creates an insurance fund, the Wildfire Fund, that the utilities would access to recover liability costs from fires that *they are responsible for causing*. It does not insure victims of wildfires at all. But who pays for this utility insurance? The language of the bill obscures the fact that electricity ratepayers, and to some extent California taxpayers, are the main source of payments into the Wildfire Fund. According to the bill, these payments would come in the form of utility contributions (that is, from ratepayer revenues), a state loan to capitalize the Fund, and a Department of Water Resources bond (repaid by an irrevocable non-bypassable charge on electricity bills). The bill also provides for the utilities to issue bonds to be repaid by ratepayers. All this, while—despite Newsom's assertions reported in the press to the contrary—utility shareholder dividends are certain to be protected to bolster utility credit ratings. In short, AB 1054 is a public bailout of the private utilities.

¹ For bill text and information go to:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1054

3. Abrogates transparency and public accountability

AB 1054 explicitly removes provisions of the State Constitution and state law (Bagley-Keene Open Meeting Act) from wildfire regulation and procedures. The bill creates a Wildfire Fund administrator with broad discretionary power over a multi-billion dollar fund, a special Wildfire Safety Division of the CPUC, and a Governor-appointed Wildfire Safety Advisory Board to “advise” this new division. The new wildfire division is allowed expedited procedures and exempted from the CPUC’s requirements for evidentiary hearings and open process. The Governor’s advisory board is also allowed to circumvent normal transparency requirements, so it can confer with the CPUC’s Wildfire Safety Division in secret. AB 1054 thus removes public accountability for tens of billions of dollars of ratepayer-provided funds, avoiding public scrutiny and accountability, and circumventing democratic process.

4. Encourages utility negligence

The Wildfire Fund provides for utilities to be able to recover liability costs, such as wildfire victims’ claims, even when their equipment is responsible for starting the fires! Based on the past practices of the CPUC, AB 1054’s presumption of “reasonable” behavior of the utilities, the bill’s abrogation of due process—which protects both the utilities and the CPUC from public challenges, the Wildfire Fund essentially removes any incentive for the utilities to avoid starting fires. The bill lets utility shareholders off the hook for utility negligence.

5. Creates a utility “blank check” Safety Certification rather than actual enforcement of wildfire mitigation

Whether a utility is able to recover liability costs from a wildfire event will be determined by the CPUC, based on whether it deems the utility’s actions to have been “reasonable.” If a utility has obtained a valid Safety Certification from the CPUC, that certification alone would count as demonstrating that the utility has acted reasonably. This is the fox guarding the chicken coop. Due to the abrogation of public accountability and due process provided for in AB 1054, there is little, if any, redress for ratepayer advocates or other public entities to challenge utility safety practices, wildfire mitigation practices, or utility recovery of liability costs from the Wildfire Fund.

A Call to Action

AB 1054 is being pushed through as an “urgent issue statute.” This designation allows it to bypass committees and be rushed through the legislature with essentially no time to understand the 55-page bill nor to weigh in on its provisions. The legislative process reflects the lack of public accountability and transparency advocated by the bill itself. Governor Newsom is attempting to circumvent democratic processes, apparently to protect utility interests, their credit ratings, and their shareholders. This is an affront to all Californians.

We call on members of our communities, their local elected representatives, and their representatives in the state legislature to strongly reject Newsom’s gruesome utility bailout.

Write the Senate Energy Committee to demand it take no action on Governor Newsom’s Wildfire Bill, AB 1054, until the public can properly understand and weigh in on the significant number of questionable provisions it contains.