

House Bill 4150
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
SECTION 1. This Act may be cited as the William Thomas Heath Power Line Safety Act.	SECTION 1. Same as House version.	
SECTION 2. Subchapter E, Chapter 36, Utilities Code, is amended by adding Section 36.214 to read as follows: <u>Sec. 36.214. ADJUSTMENT FOR COSTS RELATED TO REPORTING ON SAFETY PROCESSES AND INSPECTIONS FOR CERTAIN UTILITIES.</u> The commission, on its own motion or on the petition of an electric utility, shall allow the electric utility to recover reasonable and necessary costs incurred in complying with reporting requirements under Section 38.102.	No equivalent provision. <i>(But see SECTIONS 2 and 3 below.)</i>	
No equivalent provision. <i>(But see SECTION 2 above.)</i>	SECTION 2. Subchapter A, Chapter 35, Utilities Code, is amended by adding Section 35.010 to read as follows: <u>Sec. 35.010. COSTS RELATED TO REPORTING ON SAFETY PROCESSES AND INSPECTIONS FOR CERTAIN UTILITIES.</u> (a) This section applies only to a municipally owned utility or electric cooperative that has wholesale transmission rates established by the commission. (b) Costs incurred by a municipally owned utility or electric cooperative to comply with Section 38.102 shall be recorded as a regulatory asset for timely recovery in wholesale transmission rates established by the commission. (c) The commission may adopt rules relating to the recording of regulatory assets under this section.	
No equivalent provision. <i>(But see SECTION 2 above.)</i>	SECTION 3. Subchapter B, Chapter 36, Utilities Code, is amended by adding Section 36.066 to read as follows:	

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Sec. 36.066. COSTS RELATED TO REPORTING ON SAFETY PROCESSES AND INSPECTIONS FOR CERTAIN UTILITIES. (a) Costs incurred by an electric utility to comply with Section 38.102 shall be recorded as a regulatory asset for timely recovery in rates established by the commission.
(b) The commission may adopt rules relating to the recording of regulatory assets under this section.

SECTION 3. Section 38.004, Utilities Code, is amended to read as follows:
Sec. 38.004. MINIMUM CLEARANCE STANDARD. (a)
Notwithstanding any other law, a transmission or distribution line owned by an electric utility or an electric cooperative must be constructed, operated, and maintained, as to clearances, in the manner described by the National Electrical Safety Code Standard ANSI (c)(2), as adopted by the American National Safety Institute and in effect at the time of construction.
(b) An electric utility, municipally owned utility, or electric cooperative shall meet the minimum clearance requirements specified in Rule 232 of the National Electrical Safety Code Standard ANSI (c)(2) in the construction of any transmission or distribution line over the following lakes:
(1) Abilene;
(2) Alan Henry;
(3) Alvarado Park;
(4) Amistad;
(5) Amon G. Carter;
(6) Aquilla;
(7) Arlington;

SECTION 4. Same as House version.

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- (8) Arrowhead;
- (9) Athens;
- (10) Austin;
- (11) Averhoff;
- (12) B. A. Steinhagen;
- (13) Bachman;
- (14) Balmorhea;
- (15) Bardwell;
- (16) Bastrop;
- (17) Baylor Creek;
- (18) Belton;
- (19) Benbrook;
- (20) Big Creek;
- (21) Bob Sandlin;
- (22) Bonham;
- (23) Bonham State Park;
- (24) Brady Creek;
- (25) Brandy Branch;
- (26) Braunig;
- (27) Brazos;
- (28) Bridgeport;
- (29) Brownwood;
- (30) Bryan;
- (31) Bryson;
- (32) Buchanan;
- (33) Buffalo Creek;
- (34) Buffalo Springs;
- (35) Caddo;
- (36) Calaveras;
- (37) Canyon;
- (38) Casa Blanca;
- (39) Cedar Creek;

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<u>(40) Champion Creek;</u>		
<u>(41) Choke Canyon;</u>		
<u>(42) Cisco;</u>		
<u>(43) Cleburne State Park;</u>		
<u>(44) Clyde;</u>		
<u>(45) Coffee Mill;</u>		
<u>(46) Coleman;</u>		
<u>(47) Coleta Creek;</u>		
<u>(48) Colorado City;</u>		
<u>(49) Conroe;</u>		
<u>(50) Cooper;</u>		
<u>(51) Corpus Christi;</u>		
<u>(52) Crook;</u>		
<u>(53) Cypress Springs;</u>		
<u>(54) Daniel;</u>		
<u>(55) Davy Crockett;</u>		
<u>(56) Diversion;</u>		
<u>(57) Dunlap;</u>		
<u>(58) Eagle Mountain;</u>		
<u>(59) E. V. Spence;</u>		
<u>(60) Fairfield;</u>		
<u>(61) Falcon;</u>		
<u>(62) Fayette County;</u>		
<u>(63) Findley;</u>		
<u>(64) Fork;</u>		
<u>(65) Fort Parker State Park;</u>		
<u>(66) Fort Phantom Hill;</u>		
<u>(67) Fryer;</u>		
<u>(68) Georgetown;</u>		
<u>(69) Gibbons Creek;</u>		
<u>(70) Gilmer;</u>		
<u>(71) Gladewater;</u>		

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<u>(72) Gonzales;</u>		
<u>(73) Graham;</u>		
<u>(74) Granbury;</u>		
<u>(75) Granger;</u>		
<u>(76) Grapevine;</u>		
<u>(77) Greenbelt;</u>		
<u>(78) Halbert;</u>		
<u>(79) Hawkins;</u>		
<u>(80) Holbrook;</u>		
<u>(81) Hords Creek;</u>		
<u>(82) Houston;</u>		
<u>(83) Houston County;</u>		
<u>(84) Hubbard Creek;</u>		
<u>(85) Inks;</u>		
<u>(86) Jacksboro;</u>		
<u>(87) Jacksonville;</u>		
<u>(88) J. B. Thomas;</u>		
<u>(89) Joe Pool;</u>		
<u>(90) Kemp;</u>		
<u>(91) Kickapoo;</u>		
<u>(92) Kirby;</u>		
<u>(93) Kurth;</u>		
<u>(94) Lady Bird;</u>		
<u>(95) Lake O' The Pines;</u>		
<u>(96) Lavon;</u>		
<u>(97) Leon;</u>		
<u>(98) Lewisville;</u>		
<u>(99) Limestone;</u>		
<u>(100) Livingston;</u>		
<u>(101) Lone Star;</u>		
<u>(102) Lost Creek;</u>		
<u>(103) Lyndon B. Johnson;</u>		

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<u>(104) Mackenzie;</u>		
<u>(105) Marble Falls;</u>		
<u>(106) Marine Creek;</u>		
<u>(107) Martin Creek;</u>		
<u>(108) McClellan;</u>		
<u>(109) Medina;</u>		
<u>(110) Meredith;</u>		
<u>(111) Meridian State Park;</u>		
<u>(112) Mexia;</u>		
<u>(113) Mill Creek;</u>		
<u>(114) Millers Creek;</u>		
<u>(115) Mineral Wells;</u>		
<u>(116) Monticello;</u>		
<u>(117) Moss;</u>		
<u>(118) Mountain Creek;</u>		
<u>(119) Muenster;</u>		
<u>(120) Murvaul;</u>		
<u>(121) Nacogdoches;</u>		
<u>(122) Naconiche;</u>		
<u>(123) Nasworthy;</u>		
<u>(124) Navarro Mills;</u>		
<u>(125) New Ballinger;</u>		
<u>(126) Nocona;</u>		
<u>(127) Oak Creek;</u>		
<u>(128) O. C. Fisher;</u>		
<u>(129) O. H. Ivie;</u>		
<u>(130) Palestine;</u>		
<u>(131) Palo Duro;</u>		
<u>(132) Palo Pinto;</u>		
<u>(133) Pat Cleburne;</u>		
<u>(134) Pat Mayse;</u>		
<u>(135) Pinkston;</u>		

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<u>(136) Placid;</u>		
<u>(137) Possum Kingdom;</u>		
<u>(138) Proctor;</u>		
<u>(139) Purdis Creek;</u>		
<u>(140) Quitman;</u>		
<u>(141) Raven;</u>		
<u>(142) Ray Hubbard;</u>		
<u>(143) Ray Roberts;</u>		
<u>(144) Red Bluff;</u>		
<u>(145) Richland-Chambers;</u>		
<u>(146) Sam Rayburn;</u>		
<u>(147) Sheldon;</u>		
<u>(148) Somerville;</u>		
<u>(149) Squaw Creek;</u>		
<u>(150) Stamford;</u>		
<u>(151) Stillhouse Hollow;</u>		
<u>(152) Striker;</u>		
<u>(153) Sulphur Springs;</u>		
<u>(154) Sweetwater;</u>		
<u>(155) Tawakoni;</u>		
<u>(156) Texana;</u>		
<u>(157) Texoma;</u>		
<u>(158) Timpson;</u>		
<u>(159) Toledo Bend;</u>		
<u>(160) Tradinghouse Creek;</u>		
<u>(161) Travis;</u>		
<u>(162) Twin Buttes;</u>		
<u>(163) Tyler;</u>		
<u>(164) Waco;</u>		
<u>(165) Walter E. Long;</u>		
<u>(166) Waxahachie;</u>		
<u>(167) Weatherford;</u>		

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(168) Welsh;
(169) Wheeler Branch;
(170) White River;
(171) White Rock;
(172) Whitney;
(173) Wichita;
(174) Winnsboro;
(175) Winters-Elm Creek;
(176) Wood;
(177) Worth; and
(178) Wright Patman.

SECTION 4. Subchapter E, Chapter 38, Utilities Code, is amended by adding Section 38.102 to read as follows:
Sec. 38.102. REPORTS ON SAFETY PROCESSES AND INSPECTIONS. (a) Each electric utility, municipally owned utility, and electric cooperative that owns or operates overhead transmission or distribution assets shall submit to the commission a report that includes:
(1) a summary description of hazard recognition training documents provided by the utility or electric cooperative to its employees related to overhead transmission and distribution facilities; and
(2) a summary description of training programs provided to employees by the utility or electric cooperative related to the National Electrical Safety Code for the construction of electric transmission and distribution lines.
(b) An electric utility, municipally owned utility, or electric cooperative shall submit an updated report not later than the 30th day after the date the utility or electric cooperative

SECTION 5. Subchapter E, Chapter 38, Utilities Code, is amended by adding Section 38.102 to read as follows:
Sec. 38.102. REPORTS ON SAFETY PROCESSES AND INSPECTIONS. (a) Each electric utility, municipally owned utility, and electric cooperative that owns or operates overhead transmission or distribution assets shall submit to the commission a report that includes:
(1) a summary description of hazard recognition training documents provided by the utility or electric cooperative to its employees related to overhead transmission and distribution facilities; and
(2) a summary description of training programs provided to employees by the utility or electric cooperative related to the National Electrical Safety Code for the construction of electric transmission and distribution lines.
(b) An electric utility, municipally owned utility, or electric cooperative shall submit an updated report not later than the 30th day after the date the utility or electric cooperative

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finalizes a material change to a document or program included in a report submitted under Subsection (a).

(c) Not later than May 1 every five years, each electric utility, municipally owned utility, and electric cooperative that owns or operates overhead transmission facilities shall submit to the commission a report for the preceding five-year period ending on December 31 of the preceding calendar year that includes:

(1) the percentage of overhead transmission facilities inspected for compliance with the National Electrical Safety Code relating to vertical clearance in the reporting period; and

(2) the percentage of the overhead transmission facilities anticipated to be inspected for compliance with the National Electrical Safety Code relating to vertical clearance during the five-year period beginning on January 1 of the year in which the report is submitted.

(d) Subject to Subsection (f), not later than May 1 of each year, each electric utility, municipally owned utility, or electric cooperative that owns or operates overhead transmission facilities greater than 60 kilovolts shall submit to the commission a report on the facilities for the preceding calendar year that includes information regarding:

(1) the number of identified occurrences of noncompliance with Section 38.004 regarding the vertical clearance requirements of the National Electrical Safety Code;

(2) whether the utility or electric cooperative has actual knowledge that any portion of the utility's or electric cooperative's transmission system is not in compliance with

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finalizes a material change to a document or program included in a report submitted under Subsection (a).

(c) Not later than May 1 every five years, each electric utility, municipally owned utility, and electric cooperative that owns or operates overhead transmission facilities greater than 60 kilovolts shall submit to the commission a report for the preceding five-year period ending on December 31 of the preceding calendar year that includes:

(1) the percentage of overhead transmission facilities greater than 60 kilovolts inspected for compliance with the National Electrical Safety Code relating to vertical clearance in the reporting period; and

(2) the percentage of the overhead transmission facilities greater than 60 kilovolts anticipated to be inspected for compliance with the National Electrical Safety Code relating to vertical clearance during the five-year period beginning on January 1 of the year in which the report is submitted.

(d) Subject to Subsection (f), not later than May 1 of each year, each electric utility, municipally owned utility, or electric cooperative that owns or operates overhead transmission facilities greater than 60 kilovolts shall submit to the commission a report on the overhead transmission facilities for the preceding calendar year that includes information regarding:

(1) the number of identified occurrences of noncompliance with Section 38.004 regarding the vertical clearance requirements of the National Electrical Safety Code for overhead transmission facilities;

(2) whether the utility or electric cooperative has actual knowledge that any portion of the utility's or electric cooperative's transmission system is not in compliance with

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Section 38.004 regarding the vertical clearance requirements of the National Electrical Safety Code; and

(3) whether the utility or electric cooperative has actual knowledge of any violations of easement agreements with the United States Army Corps of Engineers relating to Section 38.004 regarding the vertical clearance requirements of the National Electrical Safety Code.

(e) Subject to Subsection (f), not later than May 1 of each year, each electric utility, municipally owned utility, or electric cooperative that owns or operates overhead transmission facilities greater than 60 kilovolts or distribution facilities greater than 1 kilovolt shall submit to the commission a report for the preceding calendar year that includes:

(1) the number of fatalities or injuries of individuals other than employees, contractors, or other persons qualified to work in proximity to overhead high voltage lines involving transmission or distribution assets related to noncompliance with the requirements of Section 38.004; and

(2) a description of corrective actions taken or planned to prevent the reoccurrence of fatalities or injuries described by Subdivision (1).

(f) Violations resulting from, and incidents, fatalities, or injuries attributable to a violation resulting from, a natural disaster, weather event, or man-made act or force outside of a utility's or electric cooperative's control are not required to be included in the portions of the reports required under Subsections (d) and (e).

(g) Not later than September 1, each year the commission shall make the reports publicly available on the commission's Internet website.

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Section 38.004 regarding the vertical clearance requirements of the National Electrical Safety Code; and

(3) whether the utility or electric cooperative has actual knowledge of any violations of easement agreements with the United States Army Corps of Engineers relating to Section 38.004 regarding the vertical clearance requirements of the National Electrical Safety Code for overhead transmission facilities.

(e) Subject to Subsection (f), not later than May 1 of each year, each electric utility, municipally owned utility, or electric cooperative that owns or operates overhead transmission facilities greater than 60 kilovolts or distribution facilities greater than 1 kilovolt shall submit to the commission a report for the preceding calendar year that includes:

(1) the number of fatalities or injuries of individuals other than employees, contractors, or other persons qualified to work in proximity to overhead high voltage lines involving transmission or distribution assets related to noncompliance with the requirements of Section 38.004; and

(2) a description of corrective actions taken or planned to prevent the reoccurrence of fatalities or injuries described by Subdivision (1).

(f) Violations resulting from, and incidents, fatalities, or injuries attributable to a violation resulting from, a natural disaster, weather event, or man-made act or force outside of a utility's or electric cooperative's control are not required to be included in the portions of the reports required under Subsections (d) and (e).

(g) Not later than September 1, each year the commission shall make the reports publicly available on the commission's Internet website.

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<p><u>(h) A report, and any required information contained in a report, made on an incident or violation under this section is not admissible in a civil or criminal proceeding against the electric utility, municipally owned utility, or electric cooperative, or the utility's or electric cooperative's employees, directors, or officers. The commission may otherwise take enforcement actions under the commission's authority.</u></p>	<p><u>(h) A report, and any required information contained in a report, made on an incident or violation under this section is not admissible in a civil or criminal proceeding against the electric utility, municipally owned utility, or electric cooperative, or the utility's or electric cooperative's employees, directors, or officers. The commission may otherwise take enforcement actions under the commission's authority.</u></p>	
<p>SECTION 5. Any electric utility, municipally owned utility, or electric cooperative that owns a transmission or distribution line over a lake listed in Section 38.004(b), Utilities Code, as added by this Act, that is not in compliance on the effective date of this Act with the clearance standards of Rule 232 of the National Electrical Safety Code Standard ANSI (c)(2) in effect at the time the line was constructed shall bring the line into compliance not later than December 31, 2021. Any line over a lake listed in Section 38.004(b), Utilities Code, as added by this Act, that must be rebuilt to comply with this section must be constructed in accordance with the clearance standards of Rule 232 of the National Electrical Safety Code Standard ANSI (c)(2) in effect on the effective date of this Act.</p>	<p>SECTION 6. Same as House version.</p>	
<p>SECTION 6. An electric utility, a municipally owned utility, or an electric cooperative required to submit a report under Section 38.102, Utilities Code, as added by this Act, is not required to submit the report until May 1, 2020.</p>	<p>SECTION 7. Same as House version.</p>	

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SECTION 7. This Act takes effect September 1, 2019.

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SECTION 8. Same as House version.

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