

1 A bill to be entitled
2 An act relating to linear facilities; amending ss.
3 163.3221 and 380.04, F.S.; revising the definition of
4 the term "development" to exclude work by certain
5 utility providers on utility infrastructure on certain
6 rights-of-way or corridors; revising the definition to
7 exclude the creation or termination of distribution
8 and transmission corridors; amending s. 403.511, F.S.;
9 requiring the consideration of a certain variance
10 standard when including conditions for the
11 certification of an electrical power plant; clarifying
12 that the Public Service Commission has exclusive
13 jurisdiction to require underground transmission
14 lines; amending s. 403.531, F.S.; requiring the
15 consideration of a certain variance standard when
16 including conditions for the certification of a
17 proposed transmission line corridor; clarifying that
18 the Public Service Commission has exclusive
19 jurisdiction to require underground transmission
20 lines; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Paragraph (b) of subsection (4) of section
25 163.3221, Florida Statutes, is amended to read:

26 163.3221 Florida Local Government Development Agreement
 27 Act; definitions.—As used in ss. 163.3220–163.3243:

28 (4) "Development" means the carrying out of any building
 29 activity or mining operation, the making of any material change
 30 in the use or appearance of any structure or land, or the
 31 dividing of land into three or more parcels.

32 (b) The following operations or uses shall not be taken
 33 for the purpose of this act to involve "development":

34 1. Work by a highway or road agency or railroad company
 35 for the maintenance or improvement of a road or railroad track,
 36 if the work is carried out on land within the boundaries of the
 37 right-of-way.

38 2. Work by any utility and other persons engaged in the
 39 distribution or transmission of gas, electricity, or water, for
 40 the purpose of inspecting, repairing, or renewing on established
 41 rights-of-way or corridors, or constructing on established or to
 42 be established rights-of-way or corridors, any sewers, mains,
 43 pipes, cables, utility tunnels, power lines, towers, poles,
 44 tracks, or the like.

45 3. Work for the maintenance, renewal, improvement, or
 46 alteration of any structure, if the work affects only the
 47 interior or the color of the structure or the decoration of the
 48 exterior of the structure.

49 4. The use of any structure or land devoted to dwelling
 50 uses for any purpose customarily incidental to enjoyment of the

51 dwelling.

52 5. The use of any land for the purpose of growing plants,
 53 crops, trees, and other agricultural or forestry products;
 54 raising livestock; or for other agricultural purposes.

55 6. A change in use of land or structure from a use within
 56 a class specified in an ordinance or rule to another use in the
 57 same class.

58 7. A change in the ownership or form of ownership of any
 59 parcel or structure.

60 8. The creation or termination of rights of access,
 61 riparian rights, easements, distribution and transmission
 62 corridors, covenants concerning development of land, or other
 63 rights in land.

64 Section 2. Paragraphs (b) and (h) of subsection (3) of
 65 section 380.04, Florida Statutes, are amended to read:

66 380.04 Definition of development.—

67 (3) The following operations or uses shall not be taken
 68 for the purpose of this chapter to involve "development" as
 69 defined in this section:

70 (b) Work by any utility and other persons engaged in the
 71 distribution or transmission of gas, electricity, or water, for
 72 the purpose of inspecting, repairing, or renewing on established
 73 rights-of-way or corridors, or constructing on established or to
 74 be established rights-of-way or corridors, any sewers, mains,
 75 pipes, cables, utility tunnels, power lines, towers, poles,

76 | tracks, or the like. This provision conveys no property interest
77 | and does not eliminate any applicable notice requirements to
78 | affected land owners.

79 | (h) The creation or termination of rights of access,
80 | riparian rights, easements, distribution and transmission
81 | corridors, covenants concerning development of land, or other
82 | rights in land.

83 | Section 3. Paragraph (b) of subsection (2) and subsection
84 | (4) of section 403.511, Florida Statutes, are amended to read:

85 | 403.511 Effect of certification.—

86 | (2)

87 | (b)1. Except as provided in subsection (4), and in
88 | consideration of the standard for granting variances pursuant to
89 | s. 403.201, the certification may include conditions which
90 | constitute variances, exemptions, or exceptions from
91 | nonprocedural requirements of the department or any agency which
92 | were expressly considered during the proceeding, including, but
93 | not limited to, any site specific criteria, standards, or
94 | limitations under local land use and zoning approvals which
95 | affect the proposed electrical power plant or its site, unless
96 | waived by the agency and which otherwise would be applicable to
97 | the construction and operation of the proposed electrical power
98 | plant.

99 | 2. No variance, exemption, exception, or other relief
100 | shall be granted from a state statute or rule for the protection

101 of endangered or threatened species, aquatic preserves,
102 Outstanding National Resource Waters, or Outstanding Florida
103 Waters or for the disposal of hazardous waste, except to the
104 extent authorized by the applicable statute or rule or except
105 upon a finding in the certification order that the public
106 interests set forth in s. 403.509(3) in certifying the
107 electrical power plant at the site proposed by the applicant
108 overrides the public interest protected by the statute or rule
109 from which relief is sought.

110 (4) This act shall not affect in any way the Public
111 Service Commission's ratemaking powers or its exclusive
112 jurisdiction to require transmission lines to be located
113 underground ~~of the Public Service Commission~~ under chapter 366;
114 nor shall this act in any way affect the right of any local
115 government to charge appropriate fees or require that
116 construction be in compliance with applicable building
117 construction codes.

118 Section 4. Paragraph (b) of subsection (2) and subsection
119 (4) of section 403.531, Florida Statutes, are amended to read:

120 403.531 Effect of certification.—

121 (2)

122 (b) In consideration of the standard for granting
123 variances pursuant to s. 403.201, the certification may include
124 conditions that constitute variances and exemptions from
125 nonprocedural standards or rules of the department or any other

HB 1055

2017

126 | agency which were expressly considered during the certification
127 | review unless waived by the agency as provided in s. 403.526 and
128 | which otherwise would be applicable to the location of the
129 | proposed transmission line corridor or the construction,
130 | operation, and maintenance of the transmission lines.

131 | (4) This act does not in any way affect the commission's
132 | ratemaking powers or its exclusive jurisdiction to require
133 | transmission lines to be located underground ~~of the commission~~
134 | under chapter 366. This act does not in any way affect the right
135 | of any local government to charge appropriate fees or require
136 | that construction be in compliance with the National Electrical
137 | Safety Code, as prescribed by the commission.

138 | Section 5. This act shall take effect upon becoming a law.