

## CHAMBER ACTION

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1 The Local Government Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to electric transmission and distribution;  
7 creating s. 163.3208, F.S.; providing legislative intent;  
8 defining the term "distribution electric substation";  
9 providing criteria for adoption and enforcement by a local  
10 government of land development regulations for new  
11 electric substations; providing that new substations are a  
12 permitted use in all land use categories and zoning  
13 districts within a utility's service territory; providing  
14 for exceptions; providing standards which apply if a local  
15 government does not adopt reasonable standards for  
16 substation siting; providing for approval of an  
17 application for development of a proposed distribution  
18 electric substation when the application demonstrates that  
19 the design is consistent with the local government's  
20 applicable standards; providing alternative procedures for  
21 site approval; providing for application of certain local  
22 siting standards to applications received after public  
23 notice of the adoption hearing on those standards;

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24 providing a timeframe and procedures for a local  
25 government to approve or deny an application for an  
26 electric substation; providing that the application is  
27 deemed approved if not acted on within the timeframe;  
28 providing for waiver of timeframes; authorizing the local  
29 government to establish timeframes for certain required  
30 information to be furnished; creating s. 163.3209, F.S.;  
31 prohibiting local governments from requiring any permits  
32 or approvals for certain vegetation maintenance in an  
33 established electric transmission or distribution line  
34 right-of-way; defining the term "vegetation maintenance  
35 and tree pruning or trimming"; providing for a utility to  
36 give notice to the local government before conducting such  
37 vegetation-maintenance activities; providing for  
38 exceptions; requiring the utility to provide its  
39 vegetation-maintenance plan to the local government and  
40 discuss it with the local government; specifying standards  
41 for vegetation maintenance and tree pruning or trimming  
42 conducted by utilities; providing for supervision of  
43 vegetation maintenance and tree pruning or trimming  
44 activities; limiting the height and clearance distance of  
45 vegetation that may be required by a local government in  
46 an established right-of-way of certain lines; providing  
47 for application and construction with respect to local  
48 franchise authority and ordinances or regulations  
49 governing planting, pruning, trimming, or removal of  
50 certain trees; providing for application when a local  
51 government adopts a described plan for vegetation

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52 maintenance, tree pruning, tree removal, and tree trimming  
 53 within established rights-of-way; providing that  
 54 vegetation maintenance costs be considered recoverable;  
 55 creating s. 186.0201, F.S.; requiring electric utilities  
 56 to notify the regional planning council of plans to site  
 57 electric substations; providing for content of the  
 58 notification; requiring that the information be included  
 59 in the regional planning council's annual report and  
 60 supplied to local governments under certain conditions;  
 61 amending s. 186.513, F.S.; correcting a reference to a  
 62 specified agency; providing for application to the Florida  
 63 Electrical Power Plant Siting Act; providing an effective  
 64 date.

65  
 66 Be It Enacted by the Legislature of the State of Florida:

67  
 68 Section 1. Section 163.3208, Florida Statutes, is created  
 69 to read:

70 163.3208 Substation approval process.--

71 (1) It is the intent of the Legislature to maintain,  
 72 encourage, and ensure adequate and reliable electric  
 73 infrastructure in the state. It is essential that electric  
 74 infrastructure be constructed and maintained in various  
 75 locations in order to ensure the efficient and reliable delivery  
 76 of electric service. Electric infrastructure should be  
 77 constructed, to the maximum extent practicable, to achieve  
 78 compatibility with adjacent and surrounding land uses and the

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79 | criteria included in this section are intended to balance the  
80 | need for electricity with land use compatibility.

81 | (2) The term "distribution electric substation" means an  
82 | electric substation which takes electricity from the  
83 | transmission grid and converts it to a lower voltage so it can  
84 | be distributed to customers in the local area on the local  
85 | distribution grid through one or more distribution lines less  
86 | than 69 kilovolts in size.

87 | (3) Electric substations are a critical component of  
88 | electric transmission and distribution. Local governments may  
89 | adopt and enforce reasonable land development regulations for  
90 | new distribution electric substations addressing only setback,  
91 | landscaping, buffering, screening, lighting, and other aesthetic  
92 | compatibility-based standards. Vegetated buffers or screening  
93 | beneath aerial access points to the substation equipment shall  
94 | not be required to have a mature height in excess of 14 feet.

95 | (4) New distribution electric substations shall be a  
96 | permitted use in all land use categories in the applicable local  
97 | government comprehensive plan and zoning districts within a  
98 | utility's service territory except those designated as  
99 | preservation, conservation, or historic preservation on the  
100 | future land use map or duly adopted ordinance. If a local  
101 | government has not adopted reasonable standards for substation  
102 | siting in accordance with subsection (3), the following  
103 | standards shall apply to new distribution electric substations:

104 | (a) In nonresidential areas, the substation must comply  
105 | with the setback and landscaped buffer area criteria applicable  
106 | to other similar uses in that district, if any.

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107 (b) Unless the local government approves a lesser setback  
108 or landscape requirement, in residential areas, a setback of up  
109 to 100 feet between the substation property boundary and  
110 permanent equipment structures shall be maintained as follows:

111 1. For setbacks between 100 feet and 50 feet, an open  
112 green space shall be formed by installing native landscaping,  
113 including trees and shrub material, consistent with the relevant  
114 local government's land development regulations. Substation  
115 equipment shall be protected by a security fence consistent with  
116 the relevant local government's land development regulations.

117 2. For setbacks of less than 50 feet, a buffer wall 8 feet  
118 high or a fence 8 feet high with native landscaping consistent  
119 with the relevant local government's regulations shall be  
120 installed around the substation.

121 (5) If the application for a proposed distribution  
122 electric substation demonstrates that the substation design is  
123 consistent with the local government's applicable setback,  
124 landscaping, buffering, screening, and other aesthetic  
125 compatibility-based standards, the application for development  
126 approval for the substation shall be approved.

127 (6) (a) This paragraph may apply to the proposed placement  
128 or construction of a new distribution electric substation within  
129 a residential area. Prior to submitting an application for the  
130 location of a new distribution electric substation in  
131 residential areas, the utility shall consult with the local  
132 government regarding the selection of a site. The utility shall  
133 provide information regarding the utility's preferred site and  
134 as many as three alternative available sites, including sites

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135 within nonresidential areas, that are technically and  
136 electrically reasonable for the load to be served, if the local  
137 government deems that the siting of a new distribution electric  
138 substation warrants this additional review and consideration.  
139 The final determination on the site application as to the  
140 preferred and alternative sites shall be made solely by the  
141 local government within 90 days of presentation of all the  
142 necessary and required information on the preferred site and on  
143 the alternative sites. In the event the utility and the local  
144 government are unable to reach agreement on an appropriate  
145 location, the substation site selection shall be submitted to  
146 mediation conducted pursuant to ss. 44.401-44.406, unless  
147 otherwise agreed to in writing by the parties, and the mediation  
148 shall be concluded within 30 days unless extended by written  
149 agreement of the parties. The 90-day time period for the local  
150 government to render a final decision on the site application is  
151 tolled from the date a notice of intent to mediate the site  
152 selection issue is served on the utility or local government,  
153 until the mediation is concluded, terminated, or an impasse is  
154 declared. The local government and utility may agree to waive or  
155 extend this 90-day time period. Upon rendition of a final  
156 decision of the local government, a person may pursue available  
157 legal remedies in accordance with law and the matter shall be  
158 considered on an expedited basis.

159 (b) A local government's land development and construction  
160 regulations for electrical distribution substations and the  
161 local government's review of an application for the placement or  
162 construction of a new electrical substation shall only address

163 land development, zoning, or aesthetic compatibility-based  
164 issues. In such local government regulations or review, a local  
165 government may not require information or evaluate a utility's  
166 business decisions about its service, customer demand for its  
167 service, or quality of its service to or from a particular area  
168 or site, unless the utility voluntarily offers this information  
169 to the local government.

170 (7) Substation siting standards adopted after the  
171 effective date of this act shall not apply to electric utility  
172 substation applications that were submitted prior to the notice  
173 of the local government's adoption hearing.

174 (8) (a) If a local government has adopted standards for the  
175 siting of electric substations within any of the local  
176 government's land use categories or zoning districts, the local  
177 government shall grant or deny a properly completed application  
178 for a permit to locate an electric substation within the land  
179 use category or zoning district within 90 days after the date  
180 the properly completed application is declared complete in  
181 accordance with the applicable local government application  
182 procedures. If the local government fails to approve or deny a  
183 properly completed application for an electric substation within  
184 the timeframes set forth, the application shall be deemed  
185 automatically approved and the applicant may proceed with  
186 construction consistent with its application without  
187 interference or penalty. Issuance of such local permit does not  
188 relieve the applicant from complying with applicable federal or  
189 state laws or regulations and other applicable local land  
190 development or building regulations, if any.

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191       (b) The local government shall notify the permit applicant  
 192 within 30 days after the date the application is submitted as to  
 193 whether the application is, for administrative purposes only,  
 194 properly completed and has been properly submitted. Further  
 195 completeness determinations shall be provided within 15 days  
 196 after the receipt of additional information. However, such  
 197 determination shall not be not deemed an approval of the  
 198 application.

199       (c) To be effective, a waiver of the timeframes set forth  
 200 in this subsection must be voluntarily agreed to by the utility  
 201 applicant and the local government. A local government may  
 202 request, but not require, a waiver of the timeframes by the  
 203 applicant, except that, with respect to a specific application,  
 204 a one-time waiver may be required in the case of a declared  
 205 local, state, or federal emergency that directly affects the  
 206 administration of all permitting activities of the local  
 207 government.

208       (d) The local government may establish reasonable  
 209 timeframes within which the required information to cure the  
 210 application deficiency is to be provided or the application will  
 211 be considered withdrawn or closed.

212       Section 2. Section 163.3209, Florida Statutes, is created  
 213 to read:

214       163.3209 Electric transmission and distribution line  
 215 right-of-way maintenance.--After a right-of-way for any electric  
 216 transmission or distribution line has been established and  
 217 constructed, no local government shall require or apply any  
 218 permits or other approvals or code provisions for or related to



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219 vegetation maintenance and tree pruning or trimming within the  
220 established right-of-way. The term "vegetation maintenance and  
221 tree pruning or trimming" means the mowing of vegetation within  
222 the right-of-way, removal of trees or brush within the right-of-  
223 way, and selective removal of tree branches that extend within  
224 the right-of-way. The provisions of this section do not include  
225 the removal of trees outside the right-of-way, which may be  
226 allowed in compliance with applicable local ordinances. Prior to  
227 conducting scheduled routine vegetation maintenance and tree  
228 pruning or trimming activities within an established right-of-  
229 way, the utility shall provide the official designated by the  
230 local government with a minimum of 5 business days' advance  
231 notice. Such advance notice is not required for vegetation  
232 maintenance and tree pruning or trimming required to restore  
233 electric service or to avoid an imminent vegetation-caused  
234 outage or when performed at the request of the property owner  
235 adjacent to the right-of-way, provided that the owner has  
236 approval of the local government, if needed. Upon the request of  
237 the local government, the electric utility shall meet with the  
238 local government to discuss and submit the utility's vegetation  
239 maintenance plan, including the utility's trimming  
240 specifications and maintenance practices. Vegetation maintenance  
241 and tree pruning or trimming conducted by utilities shall  
242 conform to ANSI A300 (Part I)--2001 pruning standards and ANSI  
243 Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees,  
244 and Cutting Brush--Safety Requirements. Vegetation maintenance  
245 and tree pruning or trimming conducted by utilities must be  
246 supervised by qualified electric utility personnel or licensed

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247 contractors trained to conduct vegetation maintenance and tree  
248 trimming or pruning consistent with this section or by Certified  
249 Arborists certified by the Certification Program of the  
250 International Society of Arboriculture. A local government shall  
251 not adopt an ordinance or land development regulation that  
252 requires the planting of a tree or other vegetation that will  
253 achieve a height greater than 14 feet in an established electric  
254 utility right-of-way or intrude from the side closer than the  
255 clearance distance specified in Table 2 of ANSI Z133.1-2000 for  
256 lines affected by the North American Electric Reliability  
257 Council Standard, FAC 003.1 requirement R1.2. This section does  
258 not supersede or nullify the terms of specific franchise  
259 agreements between an electric utility and a local government  
260 and shall not be construed to limit a local government's  
261 franchising authority. This section does not supersede local  
262 government ordinances or regulations governing planting,  
263 pruning, trimming, or removal of specimen trees or historical  
264 trees, as defined in a local government's ordinances or  
265 regulations, or trees within designated canopied protection  
266 areas. This section shall not apply if a local government  
267 develops, with input from the utility, and the local government  
268 adopts, a written plan specifically for vegetation maintenance,  
269 tree pruning, tree removal, and tree trimming by the utility  
270 within the local government's established rights-of-way and the  
271 plan is not inconsistent with the minimum requirements of the  
272 National Electrical Safety Code as adopted by the Public Service  
273 Commission. Provided, however, such a plan shall not require the  
274 planting of a tree or other vegetation that will achieve a

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275 | height greater than 14 feet in an established electric right-of-  
 276 | way. Vegetation maintenance costs shall be considered  
 277 | recoverable costs.

278 |       Section 3. Section 186.0201, Florida Statutes, is created  
 279 | to read:

280 |       186.0201 Electric substation planning.--Electric utility  
 281 | substations respond to development and, consequently, siting  
 282 | locations cannot be precisely planned years in advance.  
 283 | Nevertheless, on or before June 1 of every year after the  
 284 | effective date of this act, the electric utilities with service  
 285 | areas within each regional planning council shall notify the  
 286 | regional planning council of the utilities' current plans over a  
 287 | 5-year period to site electric substations within the local  
 288 | governments contained within each region, including an  
 289 | identification of whether each electric substation planned  
 290 | within a general area is a distribution or transmission electric  
 291 | substation, a listing of the proposed substations' site acreage  
 292 | needs and anticipated capacity, and maps showing general  
 293 | locations of the planned electric substations. This information  
 294 | is advisory, shall be included in the regional planning  
 295 | council's annual report prepared pursuant to s. 186.513, and  
 296 | shall be supplied directly to local governments requesting the  
 297 | information.

298 |       Section 4. Section 186.513, Florida Statutes, is amended  
 299 | to read:

300 |       186.513 Reports.--Each regional planning council shall  
 301 | prepare and furnish an annual report on its activities to the  
 302 | state land planning agency as defined in s. 163.3164(20)

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303 | ~~department~~ and the local general-purpose governments within its  
304 | boundaries and, upon payment as may be established by the  
305 | council, to any interested person. The regional planning  
306 | councils shall make a joint report and recommendations to  
307 | appropriate legislative committees.

308 |       Section 5. Nothing in this act is intended to supersede  
309 | the provisions of part II of chapter 403, Florida Statutes.

310 |       Section 6. This act shall take effect upon becoming a law.