

CHAMBER ACTION

1 The Commerce Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

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

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

68

69 Be It Enacted by the Legislature of the State of Florida:

70

71 Section 1. Section 163.3208, Florida Statutes, is created
 72 to read:

73 163.3208 Substation approval process.--

74 (1) It is the intent of the Legislature to maintain,
 75 encourage, and ensure adequate and reliable electric
 76 infrastructure in the state. It is essential that electric
 77 infrastructure be constructed and maintained in various
 78 locations in order to ensure the efficient and reliable delivery
 79 of electric service. Electric infrastructure should be

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80 constructed, to the maximum extent practicable, to achieve
81 compatibility with adjacent and surrounding land uses and the
82 criteria included in this section are intended to balance the
83 need for electricity with land use compatibility.

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

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

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

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

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

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

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

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

130 (6) (a) This paragraph may apply to the proposed placement
131 or construction of a new distribution electric substation within
132 a residential area. Prior to submitting an application for the
133 location of a new distribution electric substation in
134 residential areas, the utility shall consult with the local

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

162 (b) A local government's land development and construction
163 regulations for new distribution electric substations and the
164 local government's review of an application for the placement or
165 construction of a new distribution electric substation shall
166 only address land development, zoning, or aesthetic
167 compatibility-based issues. In such local government regulations
168 or review, a local government may not require information or
169 evaluate a utility's business decisions about its service,
170 customer demand for its service, or quality of its service to or
171 from a particular area or site, unless the utility voluntarily
172 offers this information to the local government.

173 (7) Substation siting standards adopted after the
174 effective date of this section shall not apply to new
175 distribution electric utility substation applications that were
176 submitted prior to the notice of the local government's adoption
177 hearing.

178 (8) (a) If a local government has adopted standards for the
179 siting of new distribution electric substations within any of
180 the local government's land use categories or zoning districts,
181 the local government shall grant or deny a properly completed
182 application for a permit to locate a new distribution electric
183 substation within the land use category or zoning district
184 within 90 days after the date the properly completed application
185 is declared complete in accordance with the applicable local
186 government application procedures. If the local government fails
187 to approve or deny a properly completed application for a new
188 distribution electric substation within the timeframes set
189 forth, the application shall be deemed automatically approved

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190 and the applicant may proceed with construction consistent with
191 its application without interference or penalty. Issuance of
192 such local permit does not relieve the applicant from complying
193 with applicable federal or state laws or regulations and other
194 applicable local land development or building regulations, if
195 any.

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

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

213 (d) The local government may establish reasonable
214 timeframes within which the required information to cure the
215 application deficiency is to be provided or the application will
216 be considered withdrawn or closed.

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217 Section 2. Section 163.3209, Florida Statutes, is created
218 to read:

219 163.3209 Electric transmission and distribution line
220 right-of-way maintenance.--After a right-of-way for any electric
221 transmission or distribution line has been established and
222 constructed, no local government shall require or apply any
223 permits or other approvals or code provisions for or related to
224 vegetation maintenance and tree pruning or trimming within the
225 established right-of-way. The term "vegetation maintenance and
226 tree pruning or trimming" means the mowing of vegetation within
227 the right-of-way, removal of trees or brush within the right-of-
228 way, and selective removal of tree branches that extend within
229 the right-of-way. The provisions of this section do not include
230 the removal of trees outside the right-of-way, which may be
231 allowed in compliance with applicable local ordinances. Prior to
232 conducting scheduled routine vegetation maintenance and tree
233 pruning or trimming activities within an established right-of-
234 way, the utility shall provide the official designated by the
235 local government with a minimum of 5 business days' advance
236 notice. Such advance notice is not required for vegetation
237 maintenance and tree pruning or trimming required to restore
238 electric service or to avoid an imminent vegetation-caused
239 outage or when performed at the request of the property owner
240 adjacent to the right-of-way, provided that the owner has
241 approval of the local government, if needed. Upon the request of
242 the local government, the electric utility shall meet with the
243 local government to discuss and submit the utility's vegetation
244 maintenance plan, including the utility's trimming

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245 specifications and maintenance practices. Vegetation maintenance
246 and tree pruning or trimming conducted by utilities shall
247 conform to ANSI A300 (Part I)--2001 pruning standards and ANSI
248 Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees,
249 and Cutting Brush--Safety Requirements. Vegetation maintenance
250 and tree pruning or trimming conducted by utilities must be
251 supervised by qualified electric utility personnel or licensed
252 contractors trained to conduct vegetation maintenance and tree
253 trimming or pruning consistent with this section or by Certified
254 Arborists certified by the Certification Program of the
255 International Society of Arboriculture. A local government shall
256 not adopt an ordinance or land development regulation that
257 requires the planting of a tree or other vegetation that will
258 achieve a height greater than 14 feet in an established electric
259 utility right-of-way or intrude from the side closer than the
260 clearance distance specified in Table 2 of ANSI Z133.1-2000 for
261 lines affected by the North American Electric Reliability
262 Council Standard, FAC 003.1 requirement R1.2. This section does
263 not supersede or nullify the terms of specific franchise
264 agreements between an electric utility and a local government
265 and shall not be construed to limit a local government's
266 franchising authority. This section does not supersede local
267 government ordinances or regulations governing planting,
268 pruning, trimming, or removal of specimen trees or historical
269 trees, as defined in a local government's ordinances or
270 regulations, or trees within designated canopied protection
271 areas. This section shall not apply if a local government
272 develops, with input from the utility, and the local government

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273 adopts, a written plan specifically for vegetation maintenance,
274 tree pruning, tree removal, and tree trimming by the utility
275 within the local government's established rights-of-way and the
276 plan is not inconsistent with the minimum requirements of the
277 National Electrical Safety Code as adopted by the Public Service
278 Commission. Provided, however, such a plan shall not require the
279 planting of a tree or other vegetation that will achieve a
280 height greater than 14 feet in an established electric right-of-
281 way. Vegetation maintenance costs shall be considered
282 recoverable costs.

283 Section 3. Section 186.0201, Florida Statutes, is created
284 to read:

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

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301 shall be supplied directly to local governments requesting the
302 information.

303 Section 4. Section 186.513, Florida Statutes, is amended
304 to read:

305 186.513 Reports.--Each regional planning council shall
306 prepare and furnish an annual report on its activities to the
307 state land planning agency as defined in s. 163.3164(20)
308 ~~department~~ and the local general-purpose governments within its
309 boundaries and, upon payment as may be established by the
310 council, to any interested person. The regional planning
311 councils shall make a joint report and recommendations to
312 appropriate legislative committees.

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

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