

1 A bill to be entitled
2 An act relating to electric transmission and distribution;
3 creating s. 163.3208, F.S.; providing legislative intent;
4 defining the term "distribution electric substation";
5 providing criteria for adoption and enforcement by a local
6 government of land development regulations for new
7 electric substations; providing that new distribution
8 electric substations are a permitted use in all land use
9 categories and zoning districts within a utility's service
10 territory; providing for exceptions; providing standards
11 which apply if a local government does not adopt
12 reasonable standards for substation siting; providing for
13 approval of an application for development of a proposed
14 distribution electric substation when the application
15 demonstrates that the design is consistent with the local
16 government's applicable standards; providing alternative
17 procedures for site approval; providing for application of
18 certain local siting standards to applications received
19 after public notice of the adoption hearing on those
20 standards; providing a timeframe and procedures for a
21 local government to approve or deny an application for a
22 permit to locate a new distribution electric substation
23 within any of the local government's land use categories
24 or zoning districts; providing that the application is
25 deemed approved if not acted on within the timeframe;
26 providing for waiver of timeframes; authorizing the local
27 government to establish timeframes for certain required

28 information to be furnished; creating s. 163.3209, F.S.;

29 prohibiting local governments from requiring any permits

30 or approvals for certain vegetation maintenance in an

31 established electric transmission or distribution line

32 right-of-way; defining the term "vegetation maintenance

33 and tree pruning or trimming"; providing for a utility to

34 give notice to the local government before conducting such

35 vegetation-maintenance activities; providing for

36 exceptions; requiring the utility to provide its

37 vegetation-maintenance plan to the local government and

38 discuss it with the local government; specifying standards

39 for vegetation maintenance and tree pruning or trimming

40 conducted by utilities; providing for supervision of

41 vegetation maintenance and tree pruning or trimming

42 activities; limiting the height and clearance distance of

43 vegetation that may be required by a local government in

44 an established right-of-way of certain lines; providing

45 for application and construction with respect to local

46 franchise authority and ordinances or regulations

47 governing planting, pruning, trimming, or removal of

48 certain trees; providing for application when a local

49 government adopts a described plan for vegetation

50 maintenance, tree pruning, tree removal, and tree trimming

51 within established rights-of-way; providing that

52 vegetation maintenance costs be considered recoverable;

53 creating s. 186.0201, F.S.; requiring electric utilities

54 to notify the regional planning council of plans to site

55 electric substations; providing for content of the
56 notification; requiring that the information be included
57 in the regional planning council's annual report and
58 supplied to local governments under certain conditions;
59 amending s. 186.513, F.S.; correcting a reference to a
60 specified agency; providing for application to the Florida
61 Electrical Power Plant Siting Act; providing an effective
62 date.

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

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

68 163.3208 Substation approval process.--

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

79 (2) The term "distribution electric substation" means an
80 electric substation which takes electricity from the
81 transmission grid and converts it to a lower voltage so it can

82 be distributed to customers in the local area on the local
83 distribution grid through one or more distribution lines less
84 than 69 kilovolts in size.

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

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

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

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

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

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

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

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

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

157 (b) A local government's land development and construction
158 regulations for new distribution electric substations and the
159 local government's review of an application for the placement or
160 construction of a new distribution electric substation shall
161 only address land development, zoning, or aesthetic
162 compatibility-based issues. In such local government regulations

163 or review, a local government may not require information or
164 evaluate a utility's business decisions about its service,
165 customer demand for its service, or quality of its service to or
166 from a particular area or site, unless the utility voluntarily
167 offers this information to the local government.

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

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

189 applicable local land development or building regulations, if
190 any.

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
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
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
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)
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.