

Bill No. CS for SB 980

Barcode 340170

CHAMBER ACTION

Senate

House

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The Committee on Communications and Public Utilities
(Alexander) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

163.3208 Substation approval process.--

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

(2) The term "distribution electric substation" means

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1 an electric substation which takes electricity from the
 2 transmission grid and converts it to a lower voltage so it can
 3 be distributed to customers in the local area on the local
 4 distribution grid through one or more distribution lines less
 5 than 69 kilovolts in size.

6 (3) Electric substations are a critical component of
 7 electric transmission and distribution. Local governments may
 8 adopt and enforce reasonable land development regulations for
 9 new distribution electric substations addressing only setback,
 10 landscaping, buffering, screening, lighting, and other
 11 aesthetic compatibility-based standards. Vegetated buffers or
 12 screening beneath aerial access points to the substation
 13 equipment shall not be required to have a mature height in
 14 excess of 14 feet.

15 (4) New distribution electric substations shall be a
 16 permitted use in all land use categories in the applicable
 17 local government comprehensive plan and zoning districts
 18 within a utility's service territory except those designated
 19 as preservation, conservation, or historic preservation on the
 20 future land use map or duly adopted ordinance. If a local
 21 government has not adopted reasonable standards for substation
 22 siting in accordance with subsection (3), the following
 23 standards shall apply to new distribution electric
 24 substations:

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

28 (b) Unless the local government approves a lesser
 29 setback or landscape requirement, in residential areas, a
 30 setback of up to 100 feet between the substation property
 31 boundary and permanent equipment structures shall be

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1 maintained as follows:

2 1. For setbacks between 100 feet and 50 feet, an open
3 green space shall be formed by installing native landscaping,
4 including trees and shrub material, consistent with the
5 relevant local government's land development regulations.

6 Substation equipment shall be protected by a security fence
7 consistent with the relevant local government's land
8 development regulations.

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

13 (5) If the application for a proposed distribution
14 electric substation demonstrates that the substation design is
15 consistent with the local government's applicable setback,
16 landscaping, buffering, screening, and other aesthetic
17 compatibility-based standards, the application for development
18 approval for the substation shall be approved.

19 (6)(a) This paragraph may apply to the proposed
20 placement or construction of a new distribution electric
21 substation within a residential area. Prior to submitting an
22 application for the location of a new distribution electric
23 substation in residential areas, the utility shall consult
24 with the local government regarding the selection of a site.
25 The utility shall provide information regarding the utility's
26 preferred site and as many as three alternative available
27 sites, including sites within nonresidential areas, that are
28 technically and electrically reasonable for the load to be
29 served, if the local government deems that the siting of a new
30 distribution electric substation warrants this additional
31 review and consideration. The final determination on the site

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1 application as to the preferred and alternative sites shall be
2 made solely by the local government within 90 days of
3 presentation of all the necessary and required information on
4 the preferred site and on the alternative sites. In the event
5 the utility and the local government are unable to reach
6 agreement on an appropriate location, the substation site
7 selection shall be submitted to mediation conducted pursuant
8 to ss. 44.401-44.406, unless otherwise agreed to in writing by
9 the parties, and the mediation shall be concluded within 30
10 days unless extended by written agreement of the parties. The
11 90-day time period for the local government to render a final
12 decision on the site application is tolled from the date a
13 notice of intent to mediate the site selection issue is served
14 on the utility or local government, until the mediation is
15 concluded, terminated, or an impasse is declared. The local
16 government and utility may agree to waive or extend this
17 90-day time period. Upon rendition of a final decision of the
18 local government, a person may pursue available legal remedies
19 in accordance with law and the matter shall be considered on
20 an expedited basis.

21 (b) A local government's land development and
22 construction regulations for new distribution electric
23 substations and the local government's review of an
24 application for the placement or construction of a new
25 distribution electric substation shall only address land
26 development, zoning, or aesthetic compatibility-based issues.
27 In such local government regulations or review, a local
28 government may not require information or evaluate a utility's
29 business decisions about its service, customer demand for its
30 service, or quality of its service to or from a particular
31 area or site, unless the utility voluntarily offers this

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1 information to the local government.

2 (7) Substation siting standards adopted after the
3 effective date of this act shall not apply to new distribution
4 electric substation applications that were submitted prior to
5 the notice of the local government's adoption hearing.

6 (8)(a) If a local government has adopted standards for
7 the siting of new distribution electric substations within any
8 of the local government's land use categories or zoning
9 districts, the local government shall grant or deny a properly
10 completed application for a permit to locate a new
11 distribution electric substation within the land use category
12 or zoning district within 90 days after the date the properly
13 completed application is declared complete in accordance with
14 the applicable local government application procedures. If the
15 local government fails to approve or deny a properly completed
16 application for a new distribution electric substation within
17 the timeframes set forth, the application shall be deemed
18 automatically approved and the applicant may proceed with
19 construction consistent with its application without
20 interference or penalty. Issuance of such local permit does
21 not relieve the applicant from complying with applicable
22 federal or state laws or regulations and other applicable
23 local land development or building regulations, if any.

24 (b) The local government shall notify the permit
25 applicant within 30 days after the date the application is
26 submitted as to whether the application is, for administrative
27 purposes only, properly completed and has been properly
28 submitted. Further completeness determinations shall be
29 provided within 15 days after the receipt of additional
30 information. However, such determination shall not be not
31 deemed an approval of the application.

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1 (c) To be effective, a waiver of the timeframes set
2 forth in this subsection must be voluntarily agreed to by the
3 utility applicant and the local government. A local government
4 may request, but not require, a waiver of the timeframes by
5 the applicant, except that, with respect to a specific
6 application, a one-time waiver may be required in the case of
7 a declared local, state, or federal emergency that directly
8 affects the administration of all permitting activities of the
9 local government.

10 (d) The local government may establish reasonable
11 timeframes within which the required information to cure the
12 application deficiency is to be provided or the application
13 will be considered withdrawn or closed.

14 Section 2. Section 163.3209, Florida Statutes, is
15 created to read:

16 163.3209 Electric transmission and distribution line
17 right-of-way maintenance.--After a right-of-way for any
18 electric transmission or distribution line has been
19 established and constructed, no local government shall require
20 or apply any permits or other approvals or code provisions for
21 or related to vegetation maintenance and tree pruning or
22 trimming within the established right-of-way. The term
23 "vegetation maintenance and tree pruning or trimming" means
24 the mowing of vegetation within the right-of-way, removal of
25 trees or brush within the right-of-way, and selective removal
26 of tree branches that extend within the right-of-way. The
27 provisions of this section do not include the removal of trees
28 outside the right-of-way, which may be allowed in compliance
29 with applicable local ordinances. Prior to conducting
30 scheduled routine vegetation maintenance and tree pruning or
31 trimming activities within an established right-of-way, the

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1 utility shall provide the official designated by the local
2 government with a minimum of 5 business days' advance notice.
3 Such advance notice is not required for vegetation maintenance
4 and tree pruning or trimming required to restore electric
5 service or to avoid an imminent vegetation-caused outage or
6 when performed at the request of the property owner adjacent
7 to the right-of-way, provided that the owner has approval of
8 the local government, if needed. Upon the request of the local
9 government, the electric utility shall meet with the local
10 government to discuss and submit the utility's vegetation
11 maintenance plan, including the utility's trimming
12 specifications and maintenance practices. Vegetation
13 maintenance and tree pruning or trimming conducted by
14 utilities shall conform to ANSI A300 (Part I)--2001 pruning
15 standards and ANSI Z133.1-2000 Pruning, Repairing,
16 Maintaining, and Removing Trees, and Cutting Brush--Safety
17 Requirements. Vegetation maintenance and tree pruning or
18 trimming conducted by utilities must be supervised by
19 qualified electric utility personnel or licensed contractors
20 trained to conduct vegetation maintenance and tree trimming or
21 pruning consistent with this section or by Certified Arborists
22 certified by the Certification Program of the International
23 Society of Arboriculture. A local government shall not adopt
24 an ordinance or land development regulation that requires the
25 planting of a tree or other vegetation that will achieve a
26 height greater than 14 feet in an established electric utility
27 right-of-way or intrude from the side closer than the
28 clearance distance specified in Table 2 of ANSI Z133.1-2000
29 for lines affected by the North American Electric Reliability
30 Council Standard, FAC 003.1 requirement R1.2. This section
31 does not supersede or nullify the terms of specific franchise

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1 agreements between an electric utility and a local government
2 and shall not be construed to limit a local government's
3 franchising authority. This section does not supersede local
4 government ordinances or regulations governing planting,
5 pruning, trimming, or removal of specimen trees or historical
6 trees, as defined in a local government's ordinances or
7 regulations, or trees within designated canopied protection
8 areas. This section shall not apply if a local government
9 develops, with input from the utility, and the local
10 government adopts, a written plan specifically for vegetation
11 maintenance, tree pruning, tree removal, and tree trimming by
12 the utility within the local government's established
13 rights-of-way and the plan is not inconsistent with the
14 minimum requirements of the National Electrical Safety Code as
15 adopted by the Public Service Commission. Provided, however,
16 such a plan shall not require the planting of a tree or other
17 vegetation that will achieve a height greater than 14 feet in
18 an established electric right-of-way. Vegetation maintenance
19 costs shall be considered recoverable costs.

20 Section 3. Section 186.0201, Florida Statutes, is
21 created to read:

22 186.0201 Electric substation planning.--Electric
23 utility substations respond to development and, consequently,
24 siting locations cannot be precisely planned years in advance.
25 Nevertheless, on or before June 1 of every year after the
26 effective date of this act, the electric utilities with
27 service areas within each regional planning council shall
28 notify the regional planning council of the utilities' current
29 plans over a 5-year period to site electric substations within
30 the local governments contained within each region, including
31 an identification of whether each electric substation planned

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1 within a general area is a distribution or transmission
 2 electric substation, a listing of the proposed substations'
 3 site acreage needs and anticipated capacity, and maps showing
 4 general locations of the planned electric substations. This
 5 information is advisory, shall be included in the regional
 6 planning council's annual report prepared pursuant to s.
 7 186.513, and shall be supplied directly to local governments
 8 requesting the information.

9 Section 4. Section 186.513, Florida Statutes, is
 10 amended to read:

11 186.513 Reports.--Each regional planning council shall
 12 prepare and furnish an annual report on its activities to the
 13 state land planning agency as defined in s. 163.3164(20)
 14 ~~department~~ and the local general-purpose governments within
 15 its boundaries and, upon payment as may be established by the
 16 council, to any interested person. The regional planning
 17 councils shall make a joint report and recommendations to
 18 appropriate legislative committees.

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

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

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26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete everything before the enacting clause

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30 and insert:

31 A bill to be entitled

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

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1 furnished; creating s. 163.3209, F.S.;

2 prohibiting local governments from requiring

3 any permits or approvals for certain vegetation

4 maintenance in an established electric

5 transmission or distribution line right-of-way;

6 defining the term "vegetation maintenance and

7 tree pruning or trimming"; providing for a

8 utility to give notice to the local government

9 before conducting such vegetation-maintenance

10 activities; providing for exceptions; requiring

11 the utility to provide its

12 vegetation-maintenance plan to the local

13 government and discuss it with the local

14 government; specifying standards for vegetation

15 maintenance and tree pruning or trimming

16 conducted by utilities; providing for

17 supervision of vegetation maintenance and tree

18 pruning or trimming activities; limiting the

19 height and clearance distance of vegetation

20 that may be required by a local government in

21 an established right-of-way of certain lines;

22 providing for application and construction with

23 respect to local franchise authority and

24 ordinances or regulations governing planting,

25 pruning, trimming, or removal of certain trees;

26 providing for application when a local

27 government adopts a described plan for

28 vegetation maintenance, tree pruning, tree

29 removal, and tree trimming within established

30 rights-of-way; providing that vegetation

31 maintenance costs be considered recoverable;

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1 creating s. 186.0201, F.S.; requiring electric
2 utilities to notify the regional planning
3 council of plans to site electric substations;
4 providing for content of the notification;
5 requiring that the information be included in
6 the regional planning council's annual report
7 and supplied to local governments under certain
8 conditions; amending s. 186.513, F.S.;
9 correcting a reference to a specified agency;
10 providing for application to the Florida
11 Electrical Power Plant Siting Act; providing an
12 effective date.

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