

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

1 | for certain required information to be  
2 | furnished; creating s. 163.3209, F.S.;  
3 | prohibiting local governments from requiring  
4 | any permits or approvals for certain vegetation  
5 | maintenance in an established electric  
6 | transmission or distribution line right-of-way;  
7 | defining the term "vegetation maintenance and  
8 | tree pruning or trimming"; providing for a  
9 | utility to give notice to the local government  
10 | before conducting such vegetation-maintenance  
11 | activities; providing for exceptions; requiring  
12 | the utility to provide its  
13 | vegetation-maintenance plan to the local  
14 | government and discuss it with the local  
15 | government; specifying standards for vegetation  
16 | maintenance and tree pruning or trimming  
17 | conducted by utilities; providing for  
18 | supervision of vegetation maintenance and tree  
19 | pruning or trimming activities; limiting the  
20 | height and clearance distance of vegetation  
21 | that may be required by a local government in  
22 | an established right-of-way of certain lines;  
23 | providing for application and construction with  
24 | respect to local franchise authority and  
25 | ordinances or regulations governing planting,  
26 | pruning, trimming, or removal of certain trees;  
27 | providing for application when a local  
28 | government adopts a described plan for  
29 | vegetation maintenance, tree pruning, tree  
30 | removal, and tree trimming within established  
31 | rights-of-way; providing that vegetation

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

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Section 163.3208, Florida Statutes, is  
18 created to read:

19 163.3208 Substation approval process.--

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

30 (2) The term "distribution electric substation" means  
31 an electric substation which takes electricity from the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

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

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.