



542450

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/15/2018	.	
	.	
	.	
	.	

The Committee on Community Affairs (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 163.3209, Florida Statutes, is amended
to read:

163.3209 Electric transmission and distribution line right-
of-way maintenance.—

(1) The Legislature finds that the uncontrolled growth of
trees and vegetation within electric transmission and



542450

11 distribution rights-of-way may compromise the function of
12 electric facilities, leading to extended electrical outages and
13 adversely impacting public health and safety.

14 (2) After a right-of-way for any electric transmission or
15 distribution line has been established and constructed, a ~~ne~~
16 local government ~~may not shall~~ require or apply any permits or
17 other approvals or code provisions for or related to vegetation
18 maintenance and tree pruning or trimming within the established
19 right-of-way. The term "vegetation maintenance and tree pruning
20 or trimming" means the mowing of vegetation within the right-of-
21 way, removal of trees or brush within the right-of-way, and
22 selective removal of tree branches that extend within the right-
23 of-way. The ~~requirements provisions~~ of this section do not apply
24 to ~~include~~ the removal of trees outside the right-of-way, which
25 may be allowed in compliance with applicable local vegetation
26 plans, ordinances, or practices. However, if an electric utility
27 provides written notice to a local government that its local
28 vegetation management plan, ordinances, or practices may
29 adversely impact electric reliability by allowing trees or other
30 vegetation to be planted where, at mature height or width, the
31 trees or other vegetation may conflict with electric facilities
32 in either normal or inclement weather, the local government is
33 liable to the electric utility for all reasonable restoration
34 costs thereafter incurred by the electric utility attributable
35 to damages or electrical outages caused by such trees or other
36 vegetation. An electric utility must invoice the local
37 government for all such restoration costs within 120 days after
38 any event of loss. In any civil action by an electric utility
39 against a local government to recover such damages, the burden



542450

40 of proof shifts to the local government to demonstrate that the
41 damages are not attributable to the trees or other vegetation or
42 that the damages are otherwise in amounts less than those
43 claimed by the electric utility ordinances.

44 (3) Before ~~Prior to~~ conducting scheduled routine vegetation
45 maintenance and tree pruning or trimming activities within an
46 established right-of-way, the electric utility must ~~shall~~
47 provide the official designated by the local government with a
48 minimum of 5 business days' advance notice. Such advance notice
49 is not required for vegetation maintenance and tree pruning or
50 trimming required to restore electric service or to avoid an
51 imminent vegetation-caused outage or when performed at the
52 request of the property owner adjacent to the right-of-way,
53 provided that the owner has approval of the local government, if
54 needed. ~~Upon the request of the local government, the electric~~
55 ~~utility shall meet with the local government to discuss and~~
56 ~~submit the utility's vegetation maintenance plan, including the~~
57 ~~utility's trimming specifications and maintenance practices.~~

58 (4) Vegetation maintenance and tree pruning or trimming
59 conducted by utilities must ~~shall~~ conform to ANSI A300 (Part I)-
60 2001 pruning standards and ANSI Z133.1-2000 Pruning, Repairing,
61 Maintaining, and Removing Trees, and Cutting Brush-Safety
62 Requirements. Vegetation maintenance and tree pruning or
63 trimming conducted by utilities must be supervised by qualified
64 electric utility personnel or licensed contractors trained to
65 conduct vegetation maintenance and tree trimming or pruning
66 consistent with this section or by Certified Arborists certified
67 by the Certification Program of the International Society of
68 Arboriculture. A local government may ~~shall~~ not adopt an



542450

69 ordinance or land development regulation that requires the
70 planting of a tree or other vegetation that will achieve a
71 height greater than 14 feet in an established electric utility
72 right-of-way or intrude from the side closer than the clearance
73 distance specified in Table 2 of ANSI Z133.1-2000 for lines
74 affected by the North American Electric Reliability Council
75 Standard, FAC 003.1 requirement R1.2.

76 (5) This section does not supersede or nullify the terms of
77 specific franchise agreements between an electric utility and a
78 local government and may ~~shall~~ not be construed to limit a local
79 government's franchising authority. ~~This section does not~~
80 ~~supersede local government ordinances or regulations governing~~
81 ~~planting, pruning, trimming, or removal of specimen trees or~~
82 ~~historical trees, as defined in a local government's ordinances~~
83 ~~or regulations, or trees within designated canopied protection~~
84 ~~areas.~~

85 (6) This section does ~~shall~~ not apply if a local government
86 and an electric develops, with input from the utility agree on,
87 ~~and the local government adopts,~~ a written plan specifically for
88 vegetation maintenance, tree pruning, tree removal, and tree
89 trimming by the utility within the local government's
90 established rights-of-way and the plan is not inconsistent with
91 the minimum requirements of the National Electrical Safety Code
92 as adopted by the Public Service Commission; provided, however,
93 such a plan shall not require the planting of a tree or other
94 vegetation that will achieve a height greater than 14 feet in an
95 established electric right-of-way. Vegetation maintenance costs
96 shall be considered recoverable costs.

97 Section 2. Section 589.37, Florida Statutes, is created to



542450

98 read:

99 589.37 Tree and vegetation maintenance within established
100 flood and drainage rights-of-way.—

101 (1) The legislature finds that water management districts,
102 water control districts, and special districts authorized to
103 exercise powers under chapter 298 establish and manage public
104 rights-of-way for the purpose of flood protection and drainage
105 control. Uncontrolled growth of trees and vegetation within
106 rights-of-way established for these purposes may compromise the
107 function of such rights-of-way and, left unaddressed, may
108 adversely impact public health and safety and may adversely
109 affect other adjacent jurisdictions.

110 (2) After a right-of-way for flood protection or drainage
111 control has been established and constructed by a water
112 management district, a water control district, or a special
113 district authorized to exercise powers under chapter 298, a
114 local government may not require any permits or other approvals
115 for vegetation maintenance and tree pruning or trimming within
116 the established right-of-way. The term "vegetation maintenance
117 and tree pruning or trimming" means the mowing of vegetation
118 within the right-of-way, removal of trees or brush within the
119 right-of-way, and selective removal of tree branches that extend
120 within the right-of-way. The provisions of this section do not
121 include the removal of trees or vegetation outside the right-of-
122 way, which may be authorized in accordance with applicable local
123 ordinances.

124 (3) Before conducting scheduled routine vegetation and tree
125 maintenance activities within an established right-of-way, a
126 water management district, water control district, or special



542450

127 district authorized to exercise powers under chapter 298 must
128 provide the official designated by the local government with a
129 minimum of 5 business days' advance notice. Such advance notice
130 is not required when maintenance is necessary to avoid imminent
131 threat to public safety.

132 (4) This section does not limit the licensing and
133 regulation by local governments of persons engaged in vegetation
134 maintenance and tree pruning or trimming.

135 (5) This section does not prohibit a water management
136 district, water control district, or special district authorized
137 to exercise powers under chapter 298 from entering into
138 agreements with local governments to perform maintenance
139 services for the water management district, water control
140 district, or special district authorized to exercise powers
141 under chapter 298.

142 (6) This section does not prohibit a local government with
143 delegated authority from the Department of Environmental
144 Protection from implementing a mangrove regulatory program
145 pursuant to s. 403.9324.

146 (7) This section does not apply to the exercise of
147 specifically delegated authority for mangrove protection
148 pursuant to ss. 403.9321-403.9333.

149 (8) Local government regulations regarding the maintenance,
150 pruning, or removal of trees or vegetation may not apply to such
151 activities conducted at a single-family home, in an area zoned
152 for residential use, during an emergency declared pursuant to s.
153 252.36.

154 Section 3. This act shall take effect July 1, 2018.

155



542450

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

157 And the title is amended as follows:

158 Delete everything before the enacting clause

159 and insert:

160 A bill to be entitled

161 An act relating to tree and vegetation trimming and
162 removal; amending s. 163.3209, F.S.; providing
163 legislative findings; providing that local governments
164 are liable for electric utility restoration costs
165 under certain conditions; specifying a time limit for
166 an electric utility to invoice a local government for
167 such costs; specifying a burden of proof; deleting a
168 requirement that an electric utility must meet with a
169 local government upon request to discuss and submit
170 the utility's vegetation maintenance plan; deleting a
171 provision regarding applicability to specimen trees,
172 historical trees, or canopy protection areas;
173 providing applicability when a local government and an
174 electric utility agree on a written plan for certain
175 specified purposes; creating s. 589.37, F.S.;

176 providing legislative findings; prohibiting local
177 governments from requiring permits or other approvals
178 for vegetation maintenance and tree pruning or
179 trimming within an established right-of-way managed by
180 a water management district, water control district,
181 or special district exercising chapter 298 powers;
182 defining the term "vegetation maintenance and tree
183 pruning or trimming"; specifying an exception;
184 requiring water management districts, water control



542450

185 districts, and special districts exercising chapter
186 298 powers to provide certain advance notice before
187 conducting vegetation maintenance under certain
188 conditions; providing applicability; prohibiting the
189 application of certain tree-related local regulations
190 during emergencies; providing an effective date.