

ENROLLED

HB 405

2018 Legislature

1  
2 An act relating to linear facilities; amending s.  
3 163.3221, F.S.; revising the definition of the term  
4 "development" to exclude work by certain utility  
5 providers on utility infrastructure on certain rights-  
6 of-way or corridors; revising the definition to  
7 exclude the creation or termination of distribution  
8 and transmission corridors; amending s. 380.04, F.S.;  
9 revising the definition of the term "development" to  
10 exclude work by certain utility providers on utility  
11 infrastructure on certain rights-of-way or corridors;  
12 revising the definition to exclude the creation or  
13 termination of distribution and transmission  
14 corridors; amending s. 403.511, F.S.; requiring the  
15 consideration of a certain variance standard when  
16 including conditions for the certification of an  
17 electrical power plant; clarifying that the Public  
18 Service Commission has exclusive jurisdiction to  
19 require underground transmission lines; amending s.  
20 403.531, F.S.; requiring the consideration of a  
21 certain variance standard when including conditions  
22 for the certification of a proposed transmission line  
23 corridor; clarifying that the Public Service  
24 Commission has exclusive jurisdiction to require  
25 underground transmission lines; providing an effective

ENROLLED

HB 405

2018 Legislature

26 |           date.

27 |

28 | Be It Enacted by the Legislature of the State of Florida:

29 |

30 |           Section 1. Paragraph (b) of subsection (4) of section  
31 | 163.3221, Florida Statutes, is amended to read:

32 |           163.3221 Florida Local Government Development Agreement  
33 | Act; definitions.—As used in ss. 163.3220-163.3243:

34 |           (4) "Development" means the carrying out of any building  
35 | activity or mining operation, the making of any material change  
36 | in the use or appearance of any structure or land, or the  
37 | dividing of land into three or more parcels.

38 |           (b) The following operations or uses shall not be taken  
39 | for the purpose of this act to involve "development":

40 |           1. Work by a highway or road agency or railroad company  
41 | for the maintenance or improvement of a road or railroad track,  
42 | if the work is carried out on land within the boundaries of the  
43 | right-of-way.

44 |           2. Work by any utility and other persons engaged in the  
45 | distribution or transmission of gas, electricity, or water, for  
46 | the purpose of inspecting, repairing, or renewing on established  
47 | rights-of-way or corridors, or constructing on established or to  
48 | be established rights-of-way or corridors, any sewers, mains,  
49 | pipes, cables, utility tunnels, power lines, towers, poles,  
50 | tracks, or the like.

ENROLLED

HB 405

2018 Legislature

51           3. Work for the maintenance, renewal, improvement, or  
52 alteration of any structure, if the work affects only the  
53 interior or the color of the structure or the decoration of the  
54 exterior of the structure.

55           4. The use of any structure or land devoted to dwelling  
56 uses for any purpose customarily incidental to enjoyment of the  
57 dwelling.

58           5. The use of any land for the purpose of growing plants,  
59 crops, trees, and other agricultural or forestry products;  
60 raising livestock; or for other agricultural purposes.

61           6. A change in use of land or structure from a use within  
62 a class specified in an ordinance or rule to another use in the  
63 same class.

64           7. A change in the ownership or form of ownership of any  
65 parcel or structure.

66           8. The creation or termination of rights of access,  
67 riparian rights, easements, distribution and transmission  
68 corridors, covenants concerning development of land, or other  
69 rights in land.

70           Section 2. Paragraphs (b) and (h) of subsection (3) of  
71 section 380.04, Florida Statutes, are amended to read:

72           380.04 Definition of development.—

73           (3) The following operations or uses shall not be taken  
74 for the purpose of this chapter to involve "development" as  
75 defined in this section:

ENROLLED

HB 405

2018 Legislature

76 (b) Work by any utility and other persons engaged in the  
77 distribution or transmission of gas, electricity, or water, for  
78 the purpose of inspecting, repairing, or renewing on established  
79 rights-of-way or corridors, or constructing on established or to  
80 be established rights-of-way or corridors, any sewers, mains,  
81 pipes, cables, utility tunnels, power lines, towers, poles,  
82 tracks, or the like. This provision conveys no property interest  
83 and does not eliminate any applicable notice requirements to  
84 affected land owners.

85 (h) The creation or termination of rights of access,  
86 riparian rights, easements, distribution and transmission  
87 corridors, covenants concerning development of land, or other  
88 rights in land.

89 Section 3. Paragraph (b) of subsection (2) and subsection  
90 (4) of section 403.511, Florida Statutes, are amended to read:

91 403.511 Effect of certification.—

92 (2)

93 (b)1. Except as provided in subsection (4), and in  
94 consideration of the standard for granting variances pursuant to  
95 s. 403.201, the certification may include conditions which  
96 constitute variances, exemptions, or exceptions from  
97 nonprocedural requirements of the department or any agency which  
98 were expressly considered during the proceeding, including, but  
99 not limited to, any site specific criteria, standards, or  
100 limitations under local land use and zoning approvals which

ENROLLED

HB 405

2018 Legislature

101 affect the proposed electrical power plant or its site, unless  
 102 waived by the agency and which otherwise would be applicable to  
 103 the construction and operation of the proposed electrical power  
 104 plant.

105         2. No variance, exemption, exception, or other relief  
 106 shall be granted from a state statute or rule for the protection  
 107 of endangered or threatened species, aquatic preserves,  
 108 Outstanding National Resource Waters, or Outstanding Florida  
 109 Waters or for the disposal of hazardous waste, except to the  
 110 extent authorized by the applicable statute or rule or except  
 111 upon a finding in the certification order that the public  
 112 interests set forth in s. 403.509(3) in certifying the  
 113 electrical power plant at the site proposed by the applicant  
 114 overrides the public interest protected by the statute or rule  
 115 from which relief is sought.

116         (4) This act shall not affect in any way the Public  
 117 Service Commission's ratemaking powers or its exclusive  
 118 jurisdiction to require transmission lines to be located  
 119 underground ~~of the Public Service Commission~~ under chapter 366;  
 120 nor shall this act in any way affect the right of any local  
 121 government to charge appropriate fees or require that  
 122 construction be in compliance with applicable building  
 123 construction codes.

124         Section 4. Paragraph (b) of subsection (2) and subsection  
 125 (4) of section 403.531, Florida Statutes, are amended to read:

ENROLLED

HB 405

2018 Legislature

126 403.531 Effect of certification.—

127 (2)

128 (b) In consideration of the standard for granting  
 129 variances pursuant to s. 403.201, the certification may include  
 130 conditions that constitute variances and exemptions from  
 131 nonprocedural standards or rules of the department or any other  
 132 agency which were expressly considered during the certification  
 133 review unless waived by the agency as provided in s. 403.526 and  
 134 which otherwise would be applicable to the location of the  
 135 proposed transmission line corridor or the construction,  
 136 operation, and maintenance of the transmission lines.

137 (4) This act does not in any way affect the commission's  
 138 ratemaking powers or its exclusive jurisdiction to require  
 139 transmission lines to be located underground ~~of the commission~~  
 140 under chapter 366. This act does not in any way affect the right  
 141 of any local government to charge appropriate fees or require  
 142 that construction be in compliance with the National Electrical  
 143 Safety Code, as prescribed by the commission.

144 Section 5. This act shall take effect upon becoming a law.