

By Senator Lee

20-00438-18

2018494__

1 A bill to be entitled
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
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

20-00438-18

2018494__

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 for
39 the purpose of this act to involve "development":

40 1. Work by a highway or road agency or railroad company for
41 the maintenance or improvement of a road or railroad track, if
42 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.

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,

20-00438-18

2018494__

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 a
62 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 for
74 the purpose of this chapter to involve "development" as defined
75 in this section:

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

20-00438-18

2018494__

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
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 shall
106 be granted from a state statute or rule for the protection of
107 endangered or threatened species, aquatic preserves, Outstanding
108 National Resource Waters, or Outstanding Florida Waters or for
109 the disposal of hazardous waste, except to the extent authorized
110 by the applicable statute or rule or except upon a finding in
111 the certification order that the public interests set forth in
112 s. 403.509(3) in certifying the electrical power plant at the
113 site proposed by the applicant overrides the public interest
114 protected by the statute or rule from which relief is sought.

115 (4) This act shall not affect in any way the Public Service
116 Commission's ratemaking powers or its exclusive jurisdiction to

20-00438-18

2018494__

117 require transmission lines to be located underground ~~of the~~
118 ~~Public Service Commission~~ under chapter 366; nor shall this act
119 in any way affect the right of any local government to charge
120 appropriate fees or require that construction be in compliance
121 with applicable building construction codes.

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

124 403.531 Effect of certification.—

125 (2)

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

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

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