

By the Committee on Community Affairs; and Senator Steube

578-03174-18

2018574c1

1 A bill to be entitled
2 An act relating to tree and vegetation trimming and
3 removal; amending s. 163.3209, F.S.; providing
4 legislative findings; providing that local governments
5 are liable for electric utility restoration costs
6 under certain conditions; specifying a time limit for
7 an electric utility to invoice a local government for
8 such costs; specifying a burden of proof; deleting a
9 requirement that an electric utility must meet with a
10 local government upon request to discuss and submit
11 the utility's vegetation maintenance plan; deleting a
12 provision regarding applicability to specimen trees,
13 historical trees, or canopy protection areas;
14 providing applicability when a local government and an
15 electric utility agree on a written plan for certain
16 specified purposes; creating s. 589.37, F.S.;
17 providing legislative findings; prohibiting local
18 governments from requiring permits or other approvals
19 for vegetation maintenance and tree pruning or
20 trimming within an established right-of-way managed by
21 a water management district, water control district,
22 or special district exercising chapter 298 powers;
23 defining the term "vegetation maintenance and tree
24 pruning or trimming"; specifying an exception;
25 requiring water management districts, water control
26 districts, and special districts exercising chapter
27 298 powers to provide certain advance notice before
28 conducting vegetation maintenance under certain
29 conditions; providing applicability; prohibiting the

578-03174-18

2018574c1

30 application of certain tree-related local regulations
31 during emergencies; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Section 163.3209, Florida Statutes, is amended
36 to read:

37 163.3209 Electric transmission and distribution line right-
38 of-way maintenance.—

39 (1) The Legislature finds that the uncontrolled growth of
40 trees and vegetation within electric transmission and
41 distribution rights-of-way may compromise the function of
42 electric facilities, leading to extended electrical outages and
43 adversely impacting public health and safety.

44 (2) After a right-of-way for any electric transmission or
45 distribution line has been established and constructed, ~~a~~ ~~no~~
46 local government ~~may not~~ ~~shall~~ require or apply any permits or
47 other approvals or code provisions for or related to vegetation
48 maintenance and tree pruning or trimming within the established
49 right-of-way. The term "vegetation maintenance and tree pruning
50 or trimming" means the mowing of vegetation within the right-of-
51 way, removal of trees or brush within the right-of-way, and
52 selective removal of tree branches that extend within the right-
53 of-way. The ~~requirements~~ ~~provisions~~ of this section do not apply
54 to ~~include~~ the removal of trees outside the right-of-way, which
55 may be allowed in compliance with applicable local vegetation
56 plans, ordinances, or practices. However, if an electric utility
57 provides written notice to a local government that its local
58 vegetation management plan, ordinances, or practices may

578-03174-18

2018574c1

59 adversely impact electric reliability by allowing trees or other
60 vegetation to be planted where, at mature height or width, the
61 trees or other vegetation may conflict with electric facilities
62 in either normal or inclement weather, the local government is
63 liable to the electric utility for all reasonable restoration
64 costs thereafter incurred by the electric utility attributable
65 to damages or electrical outages caused by such trees or other
66 vegetation. An electric utility must invoice the local
67 government for all such restoration costs within 120 days after
68 any event of loss. In any civil action by an electric utility
69 against a local government to recover such damages, the burden
70 of proof shifts to the local government to demonstrate that the
71 damages are not attributable to the trees or other vegetation or
72 that the damages are otherwise in amounts less than those
73 claimed by the electric utility ordinances.

74 (3) Before ~~Prior to~~ conducting scheduled routine vegetation
75 maintenance and tree pruning or trimming activities within an
76 established right-of-way, the electric utility must ~~shall~~
77 provide the official designated by the local government with a
78 minimum of 5 business days' advance notice. Such advance notice
79 is not required for vegetation maintenance and tree pruning or
80 trimming required to restore electric service or to avoid an
81 imminent vegetation-caused outage or when performed at the
82 request of the property owner adjacent to the right-of-way,
83 provided that the owner has approval of the local government, if
84 needed. ~~Upon the request of the local government, the electric~~
85 ~~utility shall meet with the local government to discuss and~~
86 ~~submit the utility's vegetation maintenance plan, including the~~
87 ~~utility's trimming specifications and maintenance practices.~~

578-03174-18

2018574c1

88 (4) Vegetation maintenance and tree pruning or trimming
89 conducted by utilities must ~~shall~~ conform to ANSI A300 (Part I)-
90 2001 pruning standards and ANSI Z133.1-2000 Pruning, Repairing,
91 Maintaining, and Removing Trees, and Cutting Brush-Safety
92 Requirements. Vegetation maintenance and tree pruning or
93 trimming conducted by utilities must be supervised by qualified
94 electric utility personnel or licensed contractors trained to
95 conduct vegetation maintenance and tree trimming or pruning
96 consistent with this section or by Certified Arborists certified
97 by the Certification Program of the International Society of
98 Arboriculture. A local government may ~~shall~~ not adopt an
99 ordinance or land development regulation that requires the
100 planting of a tree or other vegetation that will achieve a
101 height greater than 14 feet in an established electric utility
102 right-of-way or intrude from the side closer than the clearance
103 distance specified in Table 2 of ANSI Z133.1-2000 for lines
104 affected by the North American Electric Reliability Council
105 Standard, FAC 003.1 requirement R1.2.

106 (5) This section does not supersede or nullify the terms of
107 specific franchise agreements between an electric utility and a
108 local government and may ~~shall~~ not be construed to limit a local
109 government's franchising authority. ~~This section does not~~
110 ~~supersede local government ordinances or regulations governing~~
111 ~~planting, pruning, trimming, or removal of specimen trees or~~
112 ~~historical trees, as defined in a local government's ordinances~~
113 ~~or regulations, or trees within designated canopied protection~~
114 ~~areas.~~

115 (6) This section does ~~shall~~ not apply if a local government
116 and an electric develops, with input from the utility agree on,

578-03174-18

2018574c1

117 ~~and the local government adopts,~~ a written plan specifically for
118 vegetation maintenance, tree pruning, tree removal, and tree
119 trimming by the utility within the local government's
120 established rights-of-way and the plan is not inconsistent with
121 the minimum requirements of the National Electrical Safety Code
122 as adopted by the Public Service Commission; provided, however,
123 such a plan shall not require the planting of a tree or other
124 vegetation that will achieve a height greater than 14 feet in an
125 established electric right-of-way. Vegetation maintenance costs
126 shall be considered recoverable costs.

127 Section 2. Section 589.37, Florida Statutes, is created to
128 read:

129 589.37 Tree and vegetation maintenance within established
130 flood and drainage rights-of-way.-

131 (1) The legislature finds that water management districts,
132 water control districts, and special districts authorized to
133 exercise powers under chapter 298 establish and manage public
134 rights-of-way for the purpose of flood protection and drainage
135 control. Uncontrolled growth of trees and vegetation within
136 rights-of-way established for these purposes may compromise the
137 function of such rights-of-way and, left unaddressed, may
138 adversely impact public health and safety and may adversely
139 affect other adjacent jurisdictions.

140 (2) After a right-of-way for flood protection or drainage
141 control has been established and constructed by a water
142 management district, a water control district, or a special
143 district authorized to exercise powers under chapter 298, a
144 local government may not require any permits or other approvals
145 for vegetation maintenance and tree pruning or trimming within

578-03174-18

2018574c1

146 the established right-of-way. The term "vegetation maintenance
147 and tree pruning or trimming" means the mowing of vegetation
148 within the right-of-way, removal of trees or brush within the
149 right-of-way, and selective removal of tree branches that extend
150 within the right-of-way. The provisions of this section do not
151 include the removal of trees or vegetation outside the right-of-
152 way, which may be authorized in accordance with applicable local
153 ordinances.

154 (3) Before conducting scheduled routine vegetation and tree
155 maintenance activities within an established right-of-way, a
156 water management district, water control district, or special
157 district authorized to exercise powers under chapter 298 must
158 provide the official designated by the local government with a
159 minimum of 5 business days' advance notice. Such advance notice
160 is not required when maintenance is necessary to avoid imminent
161 threat to public safety.

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

165 (5) This section does not prohibit a water management
166 district, water control district, or special district authorized
167 to exercise powers under chapter 298 from entering into
168 agreements with local governments to perform maintenance
169 services for the water management district, water control
170 district, or special district authorized to exercise powers
171 under chapter 298.

172 (6) This section does not prohibit a local government with
173 delegated authority from the Department of Environmental
174 Protection from implementing a mangrove regulatory program

578-03174-18

2018574c1

175 pursuant to s. 403.9324.

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

179 (8) Local government regulations regarding the maintenance,
180 pruning, or removal of trees or vegetation may not apply to such
181 activities conducted at a single-family home, in an area zoned
182 for residential use, during an emergency declared pursuant to s.
183 252.36.

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