
OLR Bill Analysis

sHB 5408 (as amended by House "A")*

AN ACT CONCERNING TREE TRIMMING.

SUMMARY:

This bill makes several changes to the process telephone, telecommunications, and electric distribution companies ("utilities") must follow before conducting vegetation management (pruning or removing any trees or shrubs around their poles and wires). Among other things, it:

1. requires a utility to obtain written affirmative consent from a private property owner before conducting vegetation management on the owner's property;
2. expands the information a utility must include in its notice to a property owner about proposed vegetation management to include (a) instructions on how to object and (b) that a property owner may suggest modifications to the utility's proposal;
3. standardizes the deadlines to object to proposed vegetation management;
4. requires the pruning performed as part of a utility's vegetation management to be done in a manner that retains the pruned vegetation's structural integrity and health;
5. places the burden of proof on a utility if an abutting property owner objects to its proposed vegetation management and the case is appealed to the Public Utilities Regulatory Authority (PURA);
6. requires PURA to study, and eventually allow, parties to mediate their disputes over proposed vegetation management before PURA hears appeals over the disputes; and

7. requires each utility to operate an e-mail account to receive objections, modification requests, questions, and complaints about the vegetation management process.

*House Amendment "A" replaces the original bill (File 406), which among other things, eliminated the deadline for certain property owners to object to a utility's proposed vegetation management and required utilities to grind the stumps of any trees removed on private property.

EFFECTIVE DATE: Upon passage

NOTICE REQUIREMENTS

Subject to certain restrictions, current law generally allows utilities to conduct vegetation management anywhere in the "utility protection zone" (within eight feet of either side of their wires and anywhere vertically above or below them). It also requires them to notify any abutting property owners.

The bill extends the notice requirement to private property owners. It defines an abutting property owner as the owner of property abutting or adjacent to the portion of a public road, highway, or grounds, where the proposed vegetation management will occur. It defines a private property owner as the owner of property, including municipalities, where the proposed vegetation management will occur. The bill also allows the notice to be sent by e-mail or text message as an alternative to first class mail.

The bill requires a utility's notice to either type of property owner to inform them that he or she can, in writing, consent, object, or offer modifications to the utility's proposed vegetation management. It must also state that an owner who objects will not be billed for any damage caused by trees falling on any utility infrastructure. If requested by a private property owner, the utility, municipality, or transportation commissioner, as appropriate, must inform the property owner if the proposed vegetation management is on his or her private property.

The notice must also include instructions on how the recipient can

object. The bill allows abutting property owners to object or request a modification by sending a written or e-mailed objection or modification request to the utility or tree warden at the address for each specified in the notice. By law, unchanged by the bill, the notice must also indicate that a property owner (1) must file a written objection within 10 business days and (2) can request a consultation with the local tree warden or transportation commissioner, as appropriate.

Hazardous Trees

Current law does not require any notice for utilities to perform vegetation management on trees that endanger their infrastructure because they are dead, decayed, or structurally weak (“hazardous trees”). When such a tree is outside of the public right-of-way, the bill requires a utility to make a reasonable effort to notify the proposed vegetation management’s property owner at least three days in advance. (Rights-of-way typically include the land up to, and including, the sidewalk.)

DEADLINES TO OBJECT

Current law requires a utility conducting vegetation management to notify abutting property owners at least 15 business days before the scheduled vegetation management and give them at least 10 business days to object before proceeding. The notice can be (1) delivered by first class mail, (2) deposited at the property, or (3) delivered orally and in writing. Under the last option, the utility can proceed any time after giving the notice, as so long as the owner has (1) not filed a written objection within 10 business days or (2) waived the right to object in writing.

The bill requires all notices to be delivered at least 15 business days before the scheduled vegetation management, regardless of how the notice is delivered. For vegetation management on private property, it requires the property owner’s written affirmative consent before the utility can proceed (in such instances, the property owner can withhold consent and will not have to object in order to stop the vegetation management).

As under current law, the utility can proceed with vegetation management on a public road, highway, or grounds if it does not receive an objection from an abutting property owner within 10 business days after delivering the required notice. The bill specifies that if an abutting property owner sends a written objection, it must be deemed received on the date it is postmarked.

Permits

The bill also specifies that before proceeding, the utility must obtain a permit, as already required by law, from the local tree warden, transportation commissioner, or other authority with jurisdiction over cutting or removing trees or shrubs on public road or grounds. If the permit is denied and the utility appeals to PURA (as allowed by law), the bill requires the utility to prove that public convenience and necessity requires its proposed vegetation management.

OBJECTIONS, MEDIATION, AND APPEALS

By law, if an abutting property owner objects to a utility's proposed vegetation management, the objection is decided by the local tree warden or transportation commissioner, as appropriate. Either party can then appeal that decision to PURA. The bill requires the utility to prove that its proposed vegetation management is required for public convenience and necessity in such appeals. It also (1) extends the entire appeals process to instances when the utility does not accept a private property owner's proposed modifications as allowed under the bill's notice requirement and (2) requires PURA's hearing on the appeal to be held within 60 calendar days, instead of 60 business days.

Mediation

The bill requires PURA to study, as part of a previously required proceeding, (1) using mediation to resolve objections to proposed vegetation management and (2) the circumstances under which stump grinding can be performed within the utility protection zone. Utilities must be able to recover all reasonable incremental costs incurred from any resulting PURA directives through the non-bypassable federally mandated congestion charge (the FMCC charge on electric bills).

Once PURA issues its final decision on this study, the bill requires the parties in an appeal to have a mediation session with a PURA-designated mediator before PURA hears the appeal, unless the abutting property owner chooses to opt-out of the mediation. The mediator must (1) notify the parties and the deciding tree warden or transportation commissioner, as applicable, and (2) hold the mediation within 30 calendar days after one of the parties appeals to PURA.

If the abutting property owner elects not to undergo mediation, or the mediation fails to resolve the appeal, the same PURA hearing and decision process applies, although the bill allows PURA to additionally authorize stump grinding.

DEEP Vegetation Management Review

Within one year after PURA issues its final decision on utility company tree trimming practices, including the above mediation study, the bill requires DEEP to review each electric company's vegetation management practices and issue a report on them to the Energy Committee. Thereafter, DEEP must review these practice and issue a report to the Energy Committee every two years.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 16 Nay 7 (03/18/2014)