



House of Representatives

General Assembly

File No. 406

February Session, 2014

Substitute House Bill No. 5408

House of Representatives, April 7, 2014

The Committee on Energy and Technology reported through REP. REED of the 102nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING TREE TRIMMING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-234 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) As used in this section:

5 (1) "Utility" means a telephone, telecommunications, electric or
6 electric distribution company, each as defined in section 16-1;

7 (2) "Utility protection zone" means any rectangular area extending
8 horizontally for a distance of eight feet from any outermost electrical
9 conductor or wire installed from pole to pole and vertically from the
10 ground to the sky;

11 (3) "Hazardous tree" means any tree or part of a tree that is (A)
12 dead, (B) extensively decayed, or (C) structurally weak, which, if it

13 falls, would endanger utility infrastructure, facilities or equipment;

14 (4) "Vegetation management" means pruning or removal of trees,
15 shrubs or other vegetation that pose a risk to the reliability of the
16 utility infrastructure, and the retention of trees and shrubs that are
17 compatible with the utility infrastructure. Until such time as the
18 Department of Energy and Environmental Protection issues standards
19 for identifying such compatible trees and shrubs, the standards and
20 identification of such compatible trees and shrubs shall be as set forth
21 in the 2012 final report of the State Vegetation Management Task
22 Force; and

23 (5) "Pruning" means the selective removal of plant parts to meet
24 specific goals and objectives, when performed according to current
25 professional tree care standards.

26 (b) A utility may perform vegetation management within the utility
27 protection zone to secure the reliability of utility services by protecting
28 overhead wires, poles, conductors or other utility infrastructure from
29 trees and shrubs, parts of trees and shrubs or other vegetation located
30 within the utility protection zone.

31 (c) (1) In conducting vegetation management, no utility shall prune
32 or remove any tree or shrub within the utility protection zone, or on or
33 overhanging any highway or public ground, without delivering notice
34 to the abutting property owner. Such notice shall include the option for
35 the abutting property owner to, in writing, consent to such proposed
36 pruning or removal, object to such proposed pruning or removal or
37 modify such proposed pruning or removal. If the tree is on private
38 property, such notice shall include a statement that if such owner
39 objects to the proposed pruning or removal, and such tree falls on any
40 utility infrastructure, the owner shall not be billed by the utility for any
41 resulting damage. Notice shall be considered delivered when it is (A)
42 mailed to the abutting property owner via first class mail, (B)
43 delivered, in writing, at the location of the abutting property, or (C)
44 simultaneously conveyed verbally and provided in writing to the
45 abutting property owner. A utility shall deliver such notice to the

46 abutting property owner if (i) pursuant to subparagraph (A) or (B) of
47 this subdivision, at least fifteen business days before the starting date
48 of any such pruning or removal, and (ii) pursuant to subparagraph (C)
49 of this subdivision, at any time before any such pruning or removal,
50 provided no utility may start such pruning or removal unless (I) if on
51 state property, the objection period pursuant to subdivision (2) of this
52 subsection has been met, or (II) if on state property or private property,
53 such property owner affirmatively waives, in writing, the right to
54 object. If requested by an owner of private property, the utility or the
55 Commissioner of Transportation, as appropriate, shall provide such
56 owner with information regarding whether a tree or shrub to be
57 pruned or removed is in the public right-of-way or whether such tree
58 or shrub is on such owner's private property.

59 (2) The notice shall indicate that (A) objection to pruning or removal
60 shall be filed in writing with the utility and either the tree warden of
61 the municipality or the Commissioner of Transportation, as
62 appropriate, not later than ten business days after delivery of the
63 notice, and (B) the objection may include a request for consultation
64 with the tree warden or the Commissioner of Transportation, as
65 appropriate.

66 (3) If no objection is filed by the abutting property owner in
67 accordance with subdivision (2) of this subsection for pruning or
68 removal of trees or shrubs on such owner's state property, the utility
69 may prune or remove [the] such trees or shrubs for which notice of
70 pruning or removal has been delivered.

71 (4) If the abutting property owner files an objection pursuant to
72 subdivision (2) of this subsection or if the utility does not accept the
73 modification to the original notice, as described in subdivision (1) of
74 this subsection, the tree warden of the municipality or the
75 Commissioner of Transportation, as appropriate, shall issue a written
76 decision as to the disposition of the tree or shrub not later than ten
77 business days after the filing date of such objection. This decision shall
78 not be issued before a consultation with the abutting property owner if

79 such a consultation has been requested. The abutting property owner
80 or the utility may appeal the tree warden's decision to the Public
81 Utilities Regulatory Authority within ten business days after the tree
82 warden's decision. The authority shall hold a hearing within sixty
83 business days of receipt of the abutting property owner's or utility's
84 written appeal of the tree warden's decision and shall provide notice of
85 such hearing to the abutting property owner, the tree warden and the
86 utility. The authority may authorize the pruning or removal of any tree
87 or shrub whose pruning or removal has been at issue in the hearing if
88 it finds that public convenience and necessity require such action. The
89 burden of proving that public convenience and necessity require such
90 action shall be on the utility.

91 (5) When an objection has been filed pursuant to subdivision (2) of
92 this subsection, no tree or shrub subject to the objection shall be
93 pruned or removed until a final decision has been reached pursuant to
94 subdivision (4) of this subsection.

95 (d) Each utility shall operate an electronic mail account to receive
96 inquiries and complaints pursuant to subsections (a) to (g), inclusive,
97 of this section.

98 (e) In conducting vegetation management, no utility shall remove
99 any tree within the utility protection zone on private property without
100 grinding the stump of such tree and planting a replacement tree on
101 such property, as directed by the owner of the property. The authority
102 shall allow, in a general rate case, a utility to recover the reasonable
103 costs incurred by such utility pursuant to this subsection.

104 ~~[(d)]~~ (f) No utility shall be required to provide notice pursuant to
105 subsection (c) of this section if the tree warden of the municipality or
106 the Commissioner of Transportation, as appropriate, authorizes, in
107 writing, pruning or removal by the utility of a hazardous tree within
108 the utility protection zone or on or overhanging any public highway or
109 public ground. Nothing in this subsection shall be construed to require
110 a utility to prune or remove a tree.

111 [(e)] (g) No utility shall be required to obtain a permit pursuant to
 112 subsection (f) of section 23-65 or provide notice under subsection (c) of
 113 this section to prune or remove a tree, as necessary, if any part of a tree
 114 is in direct contact with an energized electrical conductor or has visible
 115 signs of burning. Nothing in this subsection shall be construed to
 116 require a utility to prune or remove a tree.

117 [(f)] (h) No utility shall exercise any powers which may have been
 118 conferred upon it to change the location of, or to erect or place, wires,
 119 conductors, fixtures, structures or apparatus of any kind over, on or
 120 under any highway or public ground, without the consent of the
 121 adjoining proprietors or, if such company is unable to obtain such
 122 consent, without the approval of the Public Utilities Regulatory
 123 Authority, which shall be given only after a hearing upon notice to
 124 such proprietors. The authority may, if it finds that public convenience
 125 and necessity require, authorize the changing of the location of, or the
 126 erection or placing of, such wires, conductors, fixtures, structures or
 127 apparatus over, on or under such highway or public ground.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-234

ET Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Various State Agencies	All Funds - Cost	See Below	See Below

Municipal Impact:

Municipalities	Effect	FY 15 \$	FY 16 \$
Various Municipalities	Cost	See Below	See Below

Explanation

The bill requires utility companies to grind the stumps of any trees removed on private property and plant replacement trees at the property owner's direction. Reasonable costs¹ associated with this process are allowed to be recovered through the utility company's next general rate case. This will result in increased rates for ratepayers, including the state and municipalities.

The bill also makes several changes to the process of vegetation management that has no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of trees removed and number of replacement trees planted.

¹ CL&P and UI anticipate approximately \$39 million to grind stumps and replace trees in 2014.

OLR Bill Analysis**sHB 5408*****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. eliminates the deadline for certain private property owners to object to a utility’s proposed vegetation management on the owner’s property, effectively allowing them to delay the utility’s proposal indefinitely;
2. expands the information a utility must include in its notice to a property owner about proposed vegetation management to include that a property owner may suggest modifications to the utility’s proposal;
3. places the burden of proof on a utility if a property owner objects to its proposed vegetation management and the case is appealed to the Public Utilities Regulatory Authority (PURA);
4. requires utilities to grind the stumps of any trees removed on private property and plant replacement trees at the property owner’s direction (PURA must allow a utility to recover the reasonable costs for these actions at its next general rate case); and
5. requires each utility to operate an e-mail account to receive questions and complaints about the vegetation management

process.

EFFECTIVE DATE: Upon passage

DEADLINES TO OBJECT

Subject to certain restrictions, current law generally allows utilities to conduct vegetation management anywhere (1) within eight feet of either side of their wires and (2) vertically above or below them. Among other things, a utility conducting vegetation management must notify any abutting property owners 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.

Under the bill, a utility that gives notice under the last option for vegetation management on private property can no longer proceed if there is no objection within 10 days. Instead, it can only do so if the property owner waives, his or her right to object in writing. This change allows property owner to delay the proposed vegetation management on his or her property indefinitely if he or she does not waive his or her right to object.

The bill also limits the 10-day objection deadline to instances where the state is the abutting property owner and the proposed the vegetation management is on state property. Limiting the deadline in this manner, however, makes it unclear when a utility can proceed with vegetation management on municipal property (where most subject trees are located) if an abutting property owner fails to object. (It appears that an abutting property owner who chooses not to object could delay the proposed vegetation management indefinitely.)

NOTICE REQUIREMENTS

The bill requires a utility's notice to abutting property owners to inform them that they can, in writing, consent, object, or offer

modifications to the utility's proposed vegetation management. For trees on private property, the notice must also state that an owner who objects will not be billed for any damage caused by trees falling on any utility infrastructure.

By law, unchanged by the bill, the notice must still 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. (The bill sets no deadline for a property owner to file a proposed modification to the utility's vegetation management.)

APPEALS TO PURA

The bill requires the utility to prove that its proposed vegetation management is required for public convenience and necessity when a property owner or utility appeals a tree warden's or transportation commissioner's decision to PURA. It also 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.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 16 Nay 7 (03/18/2014)