



House of Representatives

General Assembly

File No. 398

February Session, 2016

Substitute House Bill No. 5150

House of Representatives, April 4, 2016

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING TREE WARDENS' NOTICES ON TREES AND SHRUBS PRIOR TO REMOVAL, TREE REMOVAL ALONG STATE HIGHWAYS AND CLEAN-UP BY PUBLIC UTILITY CORPORATIONS FOLLOWING CERTAIN TREE REMOVAL.

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

1 Section 1. Section 23-59 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 The town or borough tree warden shall have the care and control of
4 all trees and shrubs in whole or in part within the limits of any public
5 road or grounds and within the limits of his town or borough, except
6 those along state highways under the control of the Commissioner of
7 Transportation and except those in public parks or grounds which are
8 under the jurisdiction of park commissioners, and of these the tree
9 warden shall take the care and control if so requested in writing by the
10 park commissioners. Such care and control shall extend to such limbs,
11 roots or parts of trees and shrubs as extend or overhang the limits of
12 any such public road or grounds. The tree warden shall expend all

13 funds appropriated for the setting out, care and maintenance of such
14 trees and shrubs. The tree warden shall enforce all provisions of law
15 for the preservation of such trees and shrubs and of roadside beauty.
16 The tree warden shall remove or cause to be removed all illegally
17 erected signs or advertisements, placed upon poles, trees or other
18 objects within any public road or place under the tree warden's
19 jurisdiction. The tree warden may prescribe such regulations for the
20 care and preservation of such trees and shrubs as the tree warden
21 deems expedient and may provide therein for a reasonable fine for the
22 violation of such regulations; and such regulations, when approved by
23 the selectmen or borough warden and posted on a public signpost in
24 the town or borough, if any, or at some other exterior place near the
25 office of the town or borough clerk, shall have the force and effect of
26 town or borough ordinances. Whenever, in the opinion of the tree
27 warden, the public safety demands the removal or pruning of any tree
28 or shrub under the tree warden's control, the tree warden may cause
29 such tree, [or] shrub or group of shrubs to be removed or pruned at the
30 expense of the town or borough and the selectmen or borough warden
31 shall order paid to the person performing such work such reasonable
32 compensation therefor as may be determined and approved in writing
33 by the tree warden. Unless the condition of such tree, [or] shrub or
34 group of shrubs constitutes an immediate public hazard, the tree
35 warden shall, at least ten days before such removal or pruning, post
36 [thereon] on each tree or shrub and may post on each group of shrubs
37 a suitable notice stating the tree warden's intention to remove or prune
38 such tree, [or] shrub or group of shrubs. If any person, firm or
39 corporation objects to such removal or pruning, such person, firm or
40 corporation may appeal to the tree warden in writing, who shall hold a
41 public hearing at some suitable time and place after giving reasonable
42 notice of such hearing to all persons known to be interested therein
43 and posting a notice thereof on such tree, [or] shrub or group of
44 shrubs. Within three days after such hearing, the tree warden shall
45 render a decision granting or denying the application, and the party
46 aggrieved by such decision may, within ten days, appeal therefrom to
47 the superior court for the judicial district within which such town or

48 borough is located. The tree warden may, with the approval of the
49 selectmen or borough warden, remove any trees or other plants within
50 the limits of public highways or grounds under the tree warden's
51 jurisdiction that are particularly obnoxious as hosts of insect or fungus
52 pests.

53 Sec. 2. Subsection (f) of section 23-65 of the general statutes is
54 repealed and the following is substituted in lieu thereof (*Effective*
55 *October 1, 2016*):

56 (f) Any person, firm or corporation, other than a tree warden or his
57 deputy, who desires the cutting or removal, in whole or in part, of any
58 tree or shrub or part thereof within the limits of any public road or
59 grounds, may apply in writing to the town tree warden, the borough
60 tree warden or the Commissioner of Transportation or other authority
61 having jurisdiction thereof for a permit so to do. Upon receipt of such
62 permit, but not before, the applicant may proceed with such cutting or
63 removal, provided doing so is also consistent with section 16-234, as
64 amended by this act, if applicable. Before granting or denying such
65 permit, [such authority] the town tree warden may hold a public
66 hearing as provided in section 23-59, as amended by this act. When the
67 applicant is a public utility corporation, the party aggrieved by [such]
68 the tree warden's or commissioner's decision may, within ten days,
69 appeal therefrom to the Public Utilities Regulatory Authority, which
70 shall have the power to review, confirm, change or set aside [the] such
71 decision appealed from and [its] the decision of the Public Utilities
72 Regulatory Authority shall be final. The burden of proving that public
73 convenience and necessity requires the proposed cutting or removal
74 shall be on the utility. This appeals process shall be in addition to the
75 powers granted to the Public Utilities Regulatory Authority under
76 section 16-234, as amended by this act, provided, if an application for
77 such permit has been made to either a tree warden or the
78 Commissioner of Transportation or other authority and denied by him,
79 an application for a permit for the same relief shall not be made to any
80 other such authority. Upon any approval of such a permit by the
81 Commissioner of Transportation, [he] the commissioner shall notify

82 the tree warden for the town in which the tree is located. Upon any
83 approval of such a permit by the Commissioner of Transportation, the
84 permittee shall notify the tree warden for the town in which the tree is
85 located prior to cutting any such tree.

86 Sec. 3. (NEW) (*Effective October 1, 2016*) Notwithstanding any
87 provision of the general statutes, sixty days prior to undertaking any
88 tree removal along any state highway, the Department of
89 Transportation shall submit the plan for such removal to the joint
90 standing committee of the General Assembly having cognizance of
91 matters relating to the environment and to the Department of Energy
92 and Environmental Protection. Such plan shall detail the proposed
93 areas scheduled for tree removal, the time frame for such work, the
94 amount of funds allocated by the Department of Transportation for
95 such work and the distance such department intends to clear in such
96 proposed areas. The plan submitted by the Department of
97 Transportation pursuant to this section shall be reviewed and signed
98 by a licensed arborist. The provisions of this section shall not be
99 construed to apply to the removal of any tree or group of trees when
100 such tree or group of trees constitutes an immediate public hazard.

101 Sec. 4. Section 16-234 of the general statutes is amended by adding
102 subsections (h) and (i) as follows (*Effective October 1, 2016*):

103 (NEW) (h) When conducting vegetation management within a
104 utility protection zone pursuant to this section, the utility shall provide
105 for the removal of any debris generated as a result of such pruning or
106 removal. The provisions of this subsection shall apply only to
107 vegetation management requested by the utility and approved
108 pursuant to this section and, if applicable, section 23-65, as amended
109 by this act.

110 (NEW) (i) Not later than January 31, 2017, and each year thereafter,
111 each utility intending to conduct vegetation management in a town or
112 borough in this state shall provide the following to the tree warden of
113 such town or borough, or to the chief elected official of each such town
114 or borough: (1) A plan detailing the proposed roads or areas in said

115 town or borough where such vegetation management will take place
116 in the forthcoming calendar year, and (2) the estimated time schedule
117 for such proposed vegetation management. Each town or borough
118 provided with a utility vegetation management plan in accordance
119 with this subsection shall make such plan publicly available, by
120 electronic means or otherwise, not later than fourteen days after
121 receipt, and keep such plan publicly available for the remainder of the
122 forthcoming calendar year.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	23-59
Sec. 2	<i>October 1, 2016</i>	23-65(f)
Sec. 3	<i>October 1, 2016</i>	New section
Sec. 4	<i>October 1, 2016</i>	16-234

ENV *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:*** None***Municipal Impact:*** None***Explanation***

This bill requires the Department of Transportation (DOT) sixty days prior to any tree removal along a state highway to submit a plan to the Department of Energy and Environmental Protection. As DOT currently has staff with expertise in this area, there is no fiscal impact anticipated.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 5150*****AN ACT CONCERNING TREE WARDENS' NOTICES ON TREES AND SHRUBS PRIOR TO REMOVAL, TREE REMOVAL ALONG STATE HIGHWAYS AND CLEAN-UP BY PUBLIC UTILITY CORPORATIONS FOLLOWING CERTAIN TREE REMOVAL.*****SUMMARY:**

This bill imposes several requirements related to tree trimming and utility vegetation management (pruning or removing trees or shrubs around utility poles and wires). Among other things, it requires:

1. the Department of Transportation (DOT) to submit a plan to remove any tree along a state highway to the Department of Energy and Environmental Protection (DEEP) and the Environment Committee sixty days before removal occurs, and
2. utilities that conduct certain vegetation management (a) in "utility protection zones" to remove any debris from the activity and (b) to annually provide towns or boroughs with their plans.

The bill gives town tree wardens exclusive authority to hold public hearings on permit requests to cut or remove trees or shrubs within the limits of public roads or grounds.

Lastly, it allows tree wardens to post notices of proposed shrub removal or pruning on groups of shrubs, instead of each individual shrub. By law, a warden must do this at least 10 days before removing or pruning a shrub under his or her control unless its condition requires immediate removal or pruning.

EFFECTIVE DATE: October 1, 2016

DOT TREE REMOVAL PLAN

Under the bill, the tree removal plan DOT submits to DEEP and the Environment Committee must be reviewed and signed by a licensed arborist and provide the:

1. proposed areas scheduled for tree removal,
2. timeframe for the work,
3. amount of funding DOT allocated for the work, and
4. distance DOT intends to clear.

The bill specifies that a plan is not needed when DOT is removing a tree or group of trees to remedy an immediate public hazard.

UTILITY VEGETATION MANAGEMENT

Debris Removal

Under the bill, utilities must remove any debris from vegetation management conducted in “utility protection zones” (within eight feet of either side of their wires and anywhere above or below them). This requirement applies only to projects that a utility requests and receives approval for by the tree warden or other applicable authority.

Annual Plans

The bill requires utilities that intend to conduct vegetation management in a town or borough to annually provide certain information to the tree warden or the chief elected official of the town or borough. They must provide (1) a plan with the proposed areas or roads where the vegetation management will occur in the coming year and (2) the estimated schedule for the work.

The town or borough must make the plan available to the public within 14 days after receiving it. It may do so by electronic or other methods, but the plan must be available for the entire year. Utilities must start providing these plans by January 31, 2017.

CUTTING OR REMOVAL HEARINGS

By law, anyone other than a tree warden or deputy warden seeking

to cut or remove a tree or shrub within the limits of a public road or grounds must obtain a permit. They may apply to the town or borough tree warden, the DOT commissioner, or other applicable authority.

The bill limits the authorities who may hold a public hearing on a permit application. Current law allows town or borough tree wardens, the commissioner, or other authority to hold a hearing. The bill limits this authority to town tree wardens. Existing law requires a tree warden to hold a hearing if he or she receives a written objection to a proposed removal or pruning.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 26 Nay 3 (03/16/2016)