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LEGISLATIVE ACTION

Senate

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House

The Committee on Community Affairs (Steube) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

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

(1) The Legislature finds that the uncontrolled growth of  
trees and vegetation within electric transmission and



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11 distribution rights-of-way may compromise the function of  
12 electric facilities, leading to extended electrical outages and  
13 adversely impacting public health and safety.

14       (2) After a right-of-way for any electric transmission or  
15 distribution line has been established and constructed, a ~~no~~  
16 local government ~~may not shall~~ require or apply any permits or  
17 other approvals or code provisions for or related to vegetation  
18 maintenance and tree pruning or trimming within the established  
19 right-of-way. The term "vegetation maintenance and tree pruning  
20 or trimming" means the mowing of vegetation within the right-of-  
21 way, removal of trees or brush within the right-of-way, and  
22 selective removal of tree branches that extend within the right-  
23 of-way. The ~~requirements~~ ~~provisions~~ of this section do not ~~apply~~  
24 to ~~include~~ the removal of trees outside the right-of-way, which  
25 may be allowed in compliance with applicable local vegetation  
26 plans, ordinances, or practices. However, if an electric utility  
27 provides written notice to a local government that its local  
28 vegetation management plan, ordinances, or practices may  
29 adversely impact electric reliability by allowing trees or other  
30 vegetation to be planted where, at mature height or width, the  
31 trees or other vegetation may conflict with electric facilities  
32 in either normal or inclement weather, the local government is  
33 liable to the electric utility for all reasonable restoration  
34 costs thereafter incurred by the electric utility attributable  
35 to damages or electrical outages caused by such trees or other  
36 vegetation. An electric utility must invoice the local  
37 government for all such restoration costs within 120 days after  
38 any event of loss. In any civil action by an electric utility  
39 against a local government to recover such damages, the burden



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40 of proof shifts to the local government to demonstrate that the  
41 damages are not attributable to the trees or other vegetation or  
42 that the damages are otherwise in amounts less than those  
43 claimed by the electric utility ordinances.

44 (3) Before ~~Prior to~~ conducting scheduled routine vegetation  
45 maintenance and tree pruning or trimming activities within an  
46 established right-of-way, the electric utility must ~~shall~~  
47 provide the official designated by the local government with a  
48 minimum of 5 business days' advance notice. Such advance notice  
49 is not required for vegetation maintenance and tree pruning or  
50 trimming required to restore electric service or to avoid an  
51 imminent vegetation-caused outage or when performed at the  
52 request of the property owner adjacent to the right-of-way,  
53 provided that the owner has approval of the local government, if  
54 needed. ~~Upon the request of the local government, the electric~~  
55 ~~utility shall meet with the local government to discuss and~~  
56 ~~submit the utility's vegetation maintenance plan, including the~~  
57 ~~utility's trimming specifications and maintenance practices.~~

58 (4) Vegetation maintenance and tree pruning or trimming  
59 conducted by utilities must ~~shall~~ conform to ANSI A300 (Part I)-  
60 2001 pruning standards and ANSI Z133.1-2000 Pruning, Repairing,  
61 Maintaining, and Removing Trees, and Cutting Brush-Safety  
62 Requirements. Vegetation maintenance and tree pruning or  
63 trimming conducted by utilities must be supervised by qualified  
64 electric utility personnel or licensed contractors trained to  
65 conduct vegetation maintenance and tree trimming or pruning  
66 consistent with this section or by Certified Arborists certified  
67 by the Certification Program of the International Society of  
68 Arboriculture. A local government may ~~shall~~ not adopt an



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69 ordinance or land development regulation that requires the  
70 planting of a tree or other vegetation that will achieve a  
71 height greater than 14 feet in an established electric utility  
72 right-of-way or intrude from the side closer than the clearance  
73 distance specified in Table 2 of ANSI Z133.1-2000 for lines  
74 affected by the North American Electric Reliability Council  
75 Standard, FAC 003.1 requirement R1.2.

76       (5) This section does not supersede or nullify the terms of  
77 specific franchise agreements between an electric utility and a  
78 local government and may ~~shall~~ not be construed to limit a local  
79 government's franchising authority. ~~This section does not~~  
80 ~~supersede local government ordinances or regulations governing~~  
81 ~~planting, pruning, trimming, or removal of specimen trees or~~  
82 ~~historical trees, as defined in a local government's ordinances~~  
83 ~~or regulations, or trees within designated canopied protection~~  
84 ~~areas.~~

85       (6) This section does ~~shall~~ not apply if a local government  
86 and an electric develops, with input from the utility agree on,  
87 ~~and the local government adopts,~~ a written plan specifically for  
88 vegetation maintenance, tree pruning, tree removal, and tree  
89 trimming by the utility within the local government's  
90 established rights-of-way and the plan is not inconsistent with  
91 the minimum requirements of the National Electrical Safety Code  
92 as adopted by the Public Service Commission; provided, however,  
93 such a plan shall not require the planting of a tree or other  
94 vegetation that will achieve a height greater than 14 feet in an  
95 established electric right-of-way. Vegetation maintenance costs  
96 shall be considered recoverable costs.

97       Section 2. Section 589.37, Florida Statutes, is created to



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read:

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

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

(2) After a right-of-way for flood protection or drainage control has been established and constructed by a water management district, a water control district, or a special district authorized to exercise powers under chapter 298, a local government may not require any permits or other approvals for vegetation maintenance and tree pruning or trimming within the established right-of-way. The term "vegetation maintenance and tree pruning or trimming" means the mowing of vegetation within the right-of-way, removal of trees or brush within the right-of-way, and selective removal of tree branches that extend within the right-of-way. The provisions of this section do not include the removal of trees or vegetation outside the right-of-way, which may be authorized in accordance with applicable local ordinances.

(3) Before conducting scheduled routine vegetation and tree maintenance activities within an established right-of-way, a water management district, water control district, or special



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district authorized to exercise powers under chapter 298 must  
provide the official designated by the local government with a  
minimum of 5 business days' advance notice. Such advance notice  
is not required when maintenance is necessary to avoid imminent  
threat to public safety.

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

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

(6) This section does not prohibit a local government with  
delegated authority from the Department of Environmental  
Protection from implementing a mangrove regulatory program  
pursuant to s. 403.9324.

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

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

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



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156 ===== T I T L E   A M E N D M E N T =====

157 And the title is amended as follows:

158       Delete everything before the enacting clause  
159 and insert:

160                       A bill to be entitled

161       An act relating to tree and vegetation trimming and  
162       removal; amending s. 163.3209, F.S.; providing  
163       legislative findings; providing that local governments  
164       are liable for electric utility restoration costs  
165       under certain conditions; specifying a time limit for  
166       an electric utility to invoice a local government for  
167       such costs; specifying a burden of proof; deleting a  
168       requirement that an electric utility must meet with a  
169       local government upon request to discuss and submit  
170       the utility's vegetation maintenance plan; deleting a  
171       provision regarding applicability to specimen trees,  
172       historical trees, or canopy protection areas;  
173       providing applicability when a local government and an  
174       electric utility agree on a written plan for certain  
175       specified purposes; creating s. 589.37, F.S.;  
176       providing legislative findings; prohibiting local  
177       governments from requiring permits or other approvals  
178       for vegetation maintenance and tree pruning or  
179       trimming within an established right-of-way managed by  
180       a water management district, water control district,  
181       or special district exercising chapter 298 powers;  
182       defining the term "vegetation maintenance and tree  
183       pruning or trimming"; specifying an exception;  
184       requiring water management districts, water control



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185 districts, and special districts exercising chapter  
186 298 powers to provide certain advance notice before  
187 conducting vegetation maintenance under certain  
188 conditions; providing applicability; prohibiting the  
189 application of certain tree-related local regulations  
190 during emergencies; providing an effective date.