

Committee Substitute for
Committee Substitute for Senate Bill No. 980

An act relating to electric transmission and distribution; creating s. 163.3208, F.S.; providing legislative intent; defining the term “distribution electric substation”; providing criteria for adoption and enforcement by a local government of land development regulations for new electric substations; providing that new substations are a permitted use in all land use categories and zoning districts within a utility’s service territory; providing for exceptions; providing standards which apply if a local government does not adopt reasonable standards for substation siting; providing for approval of an application for development of a proposed distribution electric substation when the application demonstrates that the design is consistent with the local government’s applicable standards; providing alternative procedures for site approval; providing for application of certain local siting standards to applications received after public notice of the adoption hearing on those standards; providing a timeframe and procedures for a local government to approve or deny an application for an electric substation; providing that the application is deemed approved if not acted on within the timeframe; providing for waiver of timeframes; authorizing the local government to establish timeframes for certain required information to be furnished; creating s. 163.3209, F.S.; prohibiting local governments from requiring any permits or approvals for certain vegetation maintenance in an established electric transmission or distribution line right-of-way; defining the term “vegetation maintenance and tree pruning or trimming”; providing for a utility to give notice to the local government before conducting such vegetation-maintenance activities; providing for exceptions; requiring the utility to provide its vegetation-maintenance plan to the local government and discuss it with the local government; specifying standards for vegetation maintenance and tree pruning or trimming conducted by utilities; providing for supervision of vegetation maintenance and tree pruning or trimming activities; limiting the height and clearance distance of vegetation that may be required by a local government in an established right-of-way of certain lines; providing for application and construction with respect to local franchise authority and ordinances or regulations governing planting, pruning, trimming, or removal of certain trees; providing for application when a local government adopts a described plan for vegetation maintenance, tree pruning, tree removal, and tree trimming within established rights-of-way; providing that vegetation maintenance costs be considered recoverable; creating s. 186.0201, F.S.; requiring electric utilities to notify the regional planning council of plans to site electric substations; providing for content of the notification; requiring that the information be included in the regional planning council’s annual report and supplied to local governments under certain conditions; amending s. 186.513, F.S.; correcting a reference to a specified

agency; providing for application to the Florida Electrical Power Plant Siting Act; providing an effective date.

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

Section 1. Section 163.3208, Florida Statutes, is created to read:

163.3208 Substation approval process.—

(1) It is the intent of the Legislature to maintain, encourage, and ensure adequate and reliable electric infrastructure in the state. It is essential that electric infrastructure be constructed and maintained in various locations in order to ensure the efficient and reliable delivery of electric service. Electric infrastructure should be constructed, to the maximum extent practicable, to achieve compatibility with adjacent and surrounding land uses and the criteria included in this section are intended to balance the need for electricity with land use compatibility.

(2) The term “distribution electric substation” means an electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

(3) Electric substations are a critical component of electric transmission and distribution. Local governments may adopt and enforce reasonable land development regulations for new distribution electric substations addressing only setback, landscaping, buffering, screening, lighting, and other aesthetic compatibility-based standards. Vegetated buffers or screening beneath aerial access points to the substation equipment shall not be required to have a mature height in excess of 14 feet.

(4) New distribution electric substations shall be a permitted use in all land use categories in the applicable local government comprehensive plan and zoning districts within a utility’s service territory except those designated as preservation, conservation, or historic preservation on the future land use map or duly adopted ordinance. If a local government has not adopted reasonable standards for substation siting in accordance with subsection (3), the following standards shall apply to new distribution electric substations:

(a) In nonresidential areas, the substation must comply with the setback and landscaped buffer area criteria applicable to other similar uses in that district, if any.

(b) Unless the local government approves a lesser setback or landscape requirement, in residential areas, a setback of up to 100 feet between the substation property boundary and permanent equipment structures shall be maintained as follows:

1. For setbacks between 100 feet and 50 feet, an open green space shall be formed by installing native landscaping, including trees and shrub material, consistent with the relevant local government’s land development regu-

lations. Substation equipment shall be protected by a security fence consistent with the relevant local government's land development regulations.

2. For setbacks of less than 50 feet, a buffer wall 8 feet high or a fence 8 feet high with native landscaping consistent with the relevant local government's regulations shall be installed around the substation.

(5) If the application for a proposed distribution electric substation demonstrates that the substation design is consistent with the local government's applicable setback, landscaping, buffering, screening, and other aesthetic compatibility-based standards, the application for development approval for the substation shall be approved.

(6)(a) This paragraph may apply to the proposed placement or construction of a new distribution electric substation within a residential area. Prior to submitting an application for the location of a new distribution electric substation in residential areas, the utility shall consult with the local government regarding the selection of a site. The utility shall provide information regarding the utility's preferred site and as many as three alternative available sites, including sites within nonresidential areas, that are technically and electrically reasonable for the load to be served, if the local government deems that the siting of a new distribution electric substation warrants this additional review and consideration. The final determination on the site application as to the preferred and alternative sites shall be made solely by the local government within 90 days of presentation of all the necessary and required information on the preferred site and on the alternative sites. In the event the utility and the local government are unable to reach agreement on an appropriate location, the substation site selection shall be submitted to mediation conducted pursuant to ss. 44.401-44.406, unless otherwise agreed to in writing by the parties, and the mediation shall be concluded within 30 days unless extended by written agreement of the parties. The 90-day time period for the local government to render a final decision on the site application is tolled from the date a notice of intent to mediate the site selection issue is served on the utility or local government, until the mediation is concluded, terminated, or an impasse is declared. The local government and utility may agree to waive or extend this 90-day time period. Upon rendition of a final decision of the local government, a person may pursue available legal remedies in accordance with law and the matter shall be considered on an expedited basis.

(b) A local government's land development and construction regulations for new distribution electric substations and the local government's review of an application for the placement or construction of a new distribution electric substation shall only address land development, zoning, or aesthetic compatibility-based issues. In such local government regulations or review, a local government may not require information or evaluate a utility's business decisions about its service, customer demand for its service, or quality of its service to or from a particular area or site, unless the utility voluntarily offers this information to the local government.

(7) Substation siting standards adopted after the effective date of this act shall not apply to new distribution electric substation applications that were submitted prior to the notice of the local government's adoption hearing.

(8)(a) If a local government has adopted standards for the siting of new distribution electric substations within any of the local government's land use categories or zoning districts, the local government shall grant or deny a properly completed application for a permit to locate a new distribution electric substation within the land use category or zoning district within 90 days after the date the properly completed application is declared complete in accordance with the applicable local government application procedures. If the local government fails to approve or deny a properly completed application for a new distribution electric substation within the timeframes set forth, the application shall be deemed automatically approved and the applicant may proceed with construction consistent with its application without interference or penalty. Issuance of such local permit does not relieve the applicant from complying with applicable federal or state laws or regulations and other applicable local land development or building regulations, if any.

(b) The local government shall notify the permit applicant within 30 days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted. Further completeness determinations shall be provided within 15 days after the receipt of additional information. However, such determination shall not be not deemed an approval of the application.

(c) To be effective, a waiver of the timeframes set forth in this subsection must be voluntarily agreed to by the utility applicant and the local government. A local government may request, but not require, a waiver of the timeframes by the applicant, except that, with respect to a specific application, a one-time waiver may be required in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the local government.

(d) The local government may establish reasonable timeframes within which the required information to cure the application deficiency is to be provided or the application will be considered withdrawn or closed.

Section 2. Section 163.3209, Florida Statutes, is created to read:

163.3209 Electric transmission and distribution line right-of-way maintenance.—After a right-of-way for any electric transmission or distribution line has been established and constructed, no local government shall require or apply any permits or other approvals or code provisions for or related to 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 outside the right-of-way, which may be allowed in compliance with applicable local ordinances. Prior to conducting scheduled routine vegetation maintenance and tree pruning or trimming activities within an established right-of-way, the utility shall provide the official designated by the local government with a minimum of 5 business days' advance notice. Such advance notice is not required for vegetation

maintenance and tree pruning or trimming required to restore electric service or to avoid an imminent vegetation-caused outage or when performed at the request of the property owner adjacent to the right-of-way, provided that the owner has approval of the local government, if needed. Upon the request of the local government, the electric utility shall meet with the local government to discuss and submit the utility's vegetation maintenance plan, including the utility's trimming specifications and maintenance practices. Vegetation maintenance and tree pruning or trimming conducted by utilities shall conform to ANSI A300 (Part I)—2001 pruning standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements. Vegetation maintenance and tree pruning or trimming conducted by utilities must be supervised by qualified electric utility personnel or licensed contractors trained to conduct vegetation maintenance and tree trimming or pruning consistent with this section or by Certified Arborists certified by the Certification Program of the International Society of Arboriculture. A local government shall not adopt an ordinance or land development regulation that requires the planting of a tree or other vegetation that will achieve a height greater than 14 feet in an established electric utility right-of-way or intrude from the side closer than the clearance distance specified in Table 2 of ANSI Z133.1-2000 for lines affected by the North American Electric Reliability Council Standard, FAC 003.1 requirement R1.2. This section does not supersede or nullify the terms of specific franchise agreements between an electric utility and a local government and shall not be construed to limit a local government's franchising authority. This section does not supersede local government ordinances or regulations governing planting, pruning, trimming, or removal of specimen trees or historical trees, as defined in a local government's ordinances or regulations, or trees within designated canopied protection areas. This section shall not apply if a local government develops, with input from the utility, and the local government adopts, a written plan specifically for vegetation maintenance, tree pruning, tree removal, and tree trimming by the utility within the local government's established rights-of-way and the plan is not inconsistent with the minimum requirements of the National Electrical Safety Code as adopted by the Public Service Commission. Provided, however, such a plan shall not require the planting of a tree or other vegetation that will achieve a height greater than 14 feet in an established electric right-of-way. Vegetation maintenance costs shall be considered recoverable costs.

Section 3. Section 186.0201, Florida Statutes, is created to read:

186.0201 Electric substation planning.—Electric utility substations respond to development and, consequently, siting locations cannot be precisely planned years in advance. Nevertheless, on or before June 1 of every year after the effective date of this act, the electric utilities with service areas within each regional planning council shall notify the regional planning council of the utilities' current plans over a 5-year period to site electric substations within the local governments contained within each region, including an identification of whether each electric substation planned within a general area is a distribution or transmission electric substation, a listing of the proposed substations' site acreage needs and anticipated

capacity, and maps showing general locations of the planned electric substations. This information is advisory, shall be included in the regional planning council's annual report prepared pursuant to s. 186.513, and shall be supplied directly to local governments requesting the information.

Section 4. Section 186.513, Florida Statutes, is amended to read:

186.513 Reports.—Each regional planning council shall prepare and furnish an annual report on its activities to the state land planning agency as defined in s. 163.3164(20) ~~department~~ and the local general-purpose governments within its boundaries and, upon payment as may be established by the council, to any interested person. The regional planning councils shall make a joint report and recommendations to appropriate legislative committees.

Section 5. Nothing in this act is intended to supersede the provisions of part II of chapter 403, Florida Statutes.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor June 22, 2006.

Filed in Office Secretary of State June 22, 2006.