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LC002106

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO AGRICULTURE AND FORESTRY -- TREE WARDENS

Introduced By: Senators DiMario, LaMountain, Tikoian, Britto, Cano, Pearson,
Valverde, Lawson, Miller, and F. Lombardi

Date Introduced: March 07, 2023

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 2-14-5 of the General Laws in Chapter 2-14 entitled "Tree Wardens"
2 is hereby amended to read as follows:

3 **2-14-5. Trees under control of warden — Entry on private property.**

4 (a) The tree warden in a town or city has the care and control of all trees and shrubs, in
5 whole or in part within the limits of any public road or grounds and within the limits of his or her
6 town or city, except those on roads under the control of the department of transportation and those
7 in public parks or grounds which are under the jurisdiction and control of the department of
8 environmental management or the park commission of any town or city. The tree warden may
9 assume the care and control of trees or shrubs in any public park if requested, in writing, by the
10 department of environmental management or the park commission of any city or town. The care
11 and control extends to any limbs, roots or parts of trees and shrubs that extend or overhang the
12 limits or bounds of any public road or grounds, and the tree warden, or his or her agent, or an
13 authorized agent of the department of transportation, or an authorized agent of the department of
14 environmental management, or an authorized agent of the park commission of any town or city,
15 may enter upon private property when necessary to exercise care and control.

16 (b) Notwithstanding the provisions of subsection (a) of this section, an electric distribution
17 company acting pursuant to a vegetation management specifications and practices plan approved
18 by the division of public utilities and carriers under § 39-33-2 shall have the right to carry out the
19 vegetation management activities set forth in that approved vegetation management specifications

1 [and practice plan.](#)

2 SECTION 2. Section 2-15-8 of the General Laws in Chapter 2-15 entitled "Protection of
3 Trees and Plants Generally" is hereby amended to read as follows:

4 **2-15-8. Permits for cutting or removal of plants or debris — Replacement of damaged**
5 **or removed trees.**

6 (a) Whenever any person, firm or corporation other than a tree warden or his or her deputy,
7 or an authorized agent of the department of transportation, or an authorized agent of the department
8 of environmental management, or an authorized agent of the park commission of any town or city,
9 [or an electric distribution company that is effectuating a vegetation management specifications and](#)
10 [practices plan as approved by the division of public utilities and carriers pursuant to § 39-33-2,](#)
11 desires the cutting or removal, in whole or in part, of any public shrub or ornamental or shade tree,
12 or the burning of any rubbish or debris upon any public highway or in any park or public grounds,
13 that person, firm or corporation shall apply in writing to the tree warden or the department of
14 transportation, the department of environmental management, or the park commission of any town
15 or city, as the case may be, for permission to do the cutting, removing or burning and shall obtain
16 a written permit before the cutting, removing or burning shall commence.

17 (b) When the application is made for the cutting or removal of trees along any public
18 highway for the purpose of moving, constructing or demolishing any building, the permit shall
19 contain a provision that the applicant shall replace any trees that are removed or in the opinion of
20 the issuer are substantially damaged in the process at his or her own expense and file a bond in an
21 amount and with surety suitable to the issuer of the permit to assure performance of the same. The
22 sum of the diameter of the replacement trees shall be substantially equivalent to the sum of the
23 diameters of the trees which were cut or removed, and shall be planted within the immediate
24 community area.

25 (c) Any person, firm, corporation or governmental entity that removes or substantially
26 damages, in whole or in part, any tree on public grounds shall replace the tree with a substantially
27 equivalent tree or trees, the sum of the diameters of which are equal to twice that removed or
28 damaged, in the immediate vicinity of the tree removed or damaged. This subsection does not apply
29 to a public utility or its authorized agent when the work being performed is in accordance with a
30 written tree trimming and tree replacement program filed with and approved by the tree warden in
31 the municipality where the work is being done or by the state forester for work to be performed on
32 state land and in municipalities that do not have functioning tree wardens [or in accordance with a](#)
33 [vegetation management specifications and practices plan approved pursuant to § 39-33-2.](#)

34 SECTION 3. Section 11-35-1 of the General Laws in Chapter 11-35 entitled "Public

1 Utilities" is hereby amended to read as follows:

2 **11-35-1. Consent of property owner required for electric lines — Tree-trimming —**
3 **Removal on notice.**

4 ~~No~~ [Except as provided for in chapter 33 of title 39, no](#) person shall place any electric wire,
5 apparatus, pole, bracket, insulator, or other device or appliance for the purpose of conducting
6 currents of electricity upon any private property without the consent of the owners or of the agent
7 of the owners; nor shall any electric wire, apparatus, pole, bracket, insulator, or other device or
8 appliance for the purpose of conducting currents of electricity be passed through or affixed to any
9 tree useful for shade or ornamental purposes, nor shall a tree be cut, trimmed, or interfered with,
10 except under the direction and immediate supervision of the surveyor of highways in whose district
11 the tree is located; provided, that any owner or agent may give notice in writing to the person or
12 corporation owning any electric wire, apparatus, pole, bracket, insulator, or other device or
13 appliance for the purpose of conducting currents of electricity when it shall have been so placed
14 with the consent of the owner or agent, to remove it or any of them from any private property within
15 thirty (30) days after the delivery of the notice, and that, in default of the removal in accordance
16 with the terms of the notice, the owner or agent may remove them or any of them.

17 SECTION 4. Section 34-20-1 of the General Laws in Chapter 34-20 entitled "Trespass and
18 Actions for Possession" is hereby amended to read as follows:

19 **34-20-1. Liability for unauthorized cutting of trees or wood.**

20 ~~Every~~ [Except as provided for in chapter 33 of title 39, every](#) person who shall cut, destroy,
21 or carry away any tree, timber, wood or underwood whatsoever, lying or growing on the land of
22 any other person, without leave of the owner thereof, shall, for every such trespass, pay the party
23 injured twice the value of any tree so cut, destroyed, or carried away; and for the wood or
24 underwood, thrice the value thereof; to be recovered by civil action.

25 SECTION 5. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
26 CARRIERS" is hereby amended by adding thereto the following chapter:

27 **CHAPTER 33**

28 **VEGETATION MANAGEMENT FOR ELECTRIC SYSTEM RELIABILITY**

29 **39-33-1. Legislative findings.**

30 [The general assembly finds and declares:](#)

31 [\(1\) Global climate change is increasing the frequency and intensity of storm events, and is](#)
32 [increasing the number of harmful pests and fungi that threaten local trees and other vegetation;](#)

33 [\(2\) Tree-related damage is a leading cause of power outages, and these risks are amplified](#)
34 [during storm events;](#)

1 (3) Power restoration efforts are vital; however, these efforts are costly endeavors for local
2 ratepayers and our economy, and sound vegetation management practices can reduce the likelihood
3 of outages and mitigate risks to customers;

4 (4) Electric system reliability is paramount for a modern and vibrant economy, and is
5 critical to the safety and well-being of all citizens; and

6 (5) A uniform and streamlined process for authorizing the electric distribution company's
7 management of vegetation that encroaches upon or is likely to encroach upon electric distribution
8 system equipment will help drive system- and cost-efficiencies across the grid and ensure
9 communities and property owners are treated equitably across the state.

10 **39-33-2. Vegetation management specifications and practices plan.**

11 (a) Each electric distribution company as defined by §39-1-2(a) having greater than one
12 hundred thousand (100,000) customers shall file with the division of public utilities and carriers a
13 vegetation management specifications and practices plan for application across its service territory.

14 (b) The vegetation management specifications and practices plan shall, at a minimum,
15 include the following:

16 (1) Specifications, under various design scenarios, for vegetation clearing on and around
17 utility infrastructure along public and private rights of way;

18 (2) A notification process for municipalities, state agencies, and/or private property owners
19 that may be impacted by vegetation management activities. This process shall provide notification
20 to affected parties at least thirty (30) days in advance of any scheduled vegetation management
21 activity and allow for exclusions to preserve public safety and/or respond to storm or other
22 emergency events;

23 (3) Establishment of a "right tree, right place" program that details the types of trees and
24 other vegetation that can be safely planted near utility-owned power lines and other electric system
25 infrastructure, and under what conditions. The electric distribution company may partner with
26 community or nonprofit organizations in the development and/or communication of this program;
27 and

28 (4) A website hosted by the electric distribution utility that includes a copy of the proposed
29 or approved vegetation management specifications and practices plans, and related reference and
30 educational materials including those materials developed pursuant to § 39-33-2(b)(3).

31 (c) Upon receipt, the division of public utilities and carriers shall post the proposed
32 vegetation management specifications and practices plan on its website and conduct a review of
33 the proposed plan to ensure it complies with industry standards, accounts for the impacts of a
34 changing climate, and facilitates the operation of a safe and highly reliable electric distribution

1 system for all ratepayers.

2 (1) The division of public utilities and carriers shall accept public comment on the proposed
3 vegetation management specifications and practices plan for at least thirty (30) days prior to
4 rendering a decision to approve, approve with modifications, or deny the plan, which shall be issued
5 in writing within ninety (90) days of receipt.

6 (2) If modifications are specified in the division of public utilities and carriers' decision,
7 the electric distribution company may file a revised vegetation management specifications and
8 practices plan for review and approval within thirty (30) days of receipt of the written decision.

9 (d)(1) Notwithstanding any other provision of law or ordinance, upon approval by the
10 division of public utilities and carriers, the electric distribution company shall be authorized to
11 implement its vegetation management specifications and practices plan across its service territory.

12 (2) Notwithstanding the notice provisions described in subsection (b)(2) of this section,
13 state and local permits, licenses, assents, variances, or any other form of authorizations or approvals
14 shall not be required for vegetation management activities that are part of a vegetation management
15 specifications and practices plan that has been approved by the division of public utilities and
16 carriers pursuant to this chapter.

17 (e) The electric distribution company shall be permitted to seek recovery of all reasonable
18 costs incurred under this section, inclusive of those reasonable costs incurred by the division of
19 public utilities and carriers to purchase materials and to employ on a contract or other basis any
20 utility experts necessary to comply with this section, through filings made pursuant to § 39-1-
21 27.7.1.

22 (f) The electric distribution company shall file an updated vegetation management
23 specifications and practices plan with the division of public utilities and carriers at least once every
24 four (4) years.

25 **39-33-3. Existing rights of electric distribution companies.**

26 Nothing in this chapter shall be interpreted to limit or restrict the rights that electric
27 distribution companies currently have to conduct vegetation management activities provided by
28 existing statute or regulation, including, but not limited to, those rights conferred by 650 RICR 20-
29 00-9.6 and 250 RICR 150-15-3.6, as amended.

30 **39-33-4. Liberal construction of chapter required.**

31 This chapter shall be construed liberally in aid of its declared purposes.

32 **39-33-5. Severability.**

33 If any provision of this chapter or the application thereof to any person or circumstances is
34 held invalid, the invalidity shall not affect other provisions or applications of the chapter that can

1 [be given effect without the invalid provision or application, and to this end the provisions of this](#)
2 [chapter are declared to be severable.](#)

3 SECTION 6. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO AGRICULTURE AND FORESTRY -- TREE WARDENS

1 This act would require an electric distribution company to develop and act pursuant to a
2 vegetation management plan approved by the division of public utilities carriers (DPUC) to carry
3 out vegetation management activities for vegetation clearing on and around utility infrastructure
4 along public and private rights of way.

5 This act would take effect upon passage.

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