

AMENDED IN SENATE MAY 6, 1999

AMENDED IN SENATE APRIL 7, 1999

SENATE BILL

No. 427

Introduced by Senator Peace

February 16, 1999

An act to add Section 8037.5 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 427, as amended, Peace. Electrical corporations: tree trimming programs.

Existing law, except as specified, requires any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous, forest-covered, brush-covered, or grass-covered land, to maintain a clearance in all directions between all vegetation and all conductors that are carrying electric current, as prescribed.

This bill would require the Public Utilities Commission to allow full cost recovery by an electrical corporation, *as specified*, for a tree trimming program in compliance with prescribed requirements. The bill would ~~authorize an electrical corporation to trim or remove any tree that grows naturally in the rights-of-way or easements of the electrical corporation after documenting all trees and other major vegetation growing in its rights-of-way, and in its easements, as specified~~ *require the commission and the Department of Forestry and Fire Protection to issue notices of*

noncompliance to owners of electric lines and would require an owner to take corrective action, as prescribed. The bill would require the Department of Fish and Game to assist electrical corporations in developing a plan to minimize the impact on nesting birds of those electrical corporation tree trimming programs and to review the plan every 5 years. The bill would require the commission to create a state advisory committee working group to select and list trees appropriate for each region of the state, as prescribed. The bill would require an electrical corporation to consult with the Department of Forestry and Fire Protection to develop and implement a program to minimize the risk of plant disease transmission in the conduct of tree trimming or removal specified activities by an electrical corporation. The bill would make a related statement of legislative intent.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8037.5 is added to the Public
- 2 Utilities Code, to read:
- 3 8037.5. (a) *(1) It is the intent of the Legislature to*
- 4 *consider the enactment of laws to deal with the public*
- 5 *safety issue of trees and other vegetation growing into*
- 6 *electric lines.*
- 7 (2) It is the intent of the Legislature to provide energy
- 8 safely and reliably and reduce the long-term tree
- 9 trimming and removal costs for electrical corporations,
- 10 thereby reducing energy costs to consumers, improving
- 11 energy efficiency by promoting shade tree planting, and
- 12 improving the quality of life in cities through tree
- 13 planting and maintenance.
- 14 (b) *An electrical corporation may implement this*
- 15 *section in all or part of its service territory. If an electrical*
- 16 *corporation implements this section, the corporation, the*
- 17 *commission, and the Department of Forestry and Fire*
- 18 *Protection shall comply fully with all the requirements of*
- 19 *the section in this area affected.*



(c) The Department of Fish and Game shall assist electrical corporations in developing a plan to minimize the impact on nesting birds of electrical corporation tree trimming programs in accordance with subdivision (e). ~~The Department of Fish and Game shall review the plan every five years. The commission or the Department of Forestry and Fire Protection shall deem an electrical corporation that delays any tree trimming as a result of the plan to be in compliance with any regulation of the commission or the Department of Forestry and Fire Protection that would otherwise be violated by the delay. An electrical corporation may conduct tree trimming that affects nesting birds if the corporation determines that emergency conditions exist. this section.~~

~~(e) The commission shall create a state advisory committee~~

(d) (1) *The commission shall create a working group comprised of a representative of the Department of Fish and Game, who shall chair the committee, urban forestry experts, native plant experts, a representative of the Department of Food and Agriculture, representatives of local government, and interested citizens. The committee On or before July 1, 2000, the working group shall select and list trees appropriate for planting in each region of the state. The committee Species on the list shall be species that will not interfere with power lines or the maintenance of those lines. The working group shall not list non-native tree species that the committee determines to be noxious due to proliferation or the production of pollen, nectar, seeds, leaves, or fruit. The commission shall maintain adopt the list and shall make the list available to the public via the Internet.*

~~(d) The Department of Forestry and Fire Protection shall develop and implement a program to minimize the risk of plant disease transmission in the conduct of tree trimming or removal by an electrical corporation in accordance with subdivision (e).~~

~~(e)~~
(2) *The list shall take into account the various climatic and habitat conditions throughout the state and may*

1 *specify different tree species for different areas of the*
 2 *state.*

3 *(3) The working group shall review the list three years*
 4 *and six years after the date that the list is adopted, and*
 5 *shall change or modify the list as the working group*
 6 *determines to be appropriate.*

7 *(e) An electrical corporation shall consult with the*
 8 *Department of Forestry and Fire Protection to minimize*
 9 *the risk of plant disease transmission in the conduct of*
 10 *tree and greenwaste disposal, and the pruning or removal*
 11 *of trees in accordance with this section.*

12 *(f) The commission shall allow full cost recovery by an*
 13 *electrical corporation pursuant to subdivision (g) for a*
 14 *tree trimming program in accordance with this*
 15 *subdivision, after the competition transition charge and*
 16 *the rate freeze imposed pursuant to Chapter 2.3*
 17 *(commencing with Section 330) of Part 1 of Division 1*
 18 *have ended. The commission shall determine the costs*
 19 *attributable to a program in accordance with this section.*
 20 *To be eligible for full cost recovery, an electrical*
 21 *corporation tree trimming shall comply with all of the*
 22 *following:*

23 *(1) (A) For each tree removed by an electrical*
 24 *corporation, the electrical corporation shall plant not less*
 25 *than three five-gallon trees for each inch of diameter at*
 26 *breast height of the tree removed. An electrical* *Number*
 27 *5 container trees or the equivalent, as defined by*
 28 *American National Standards Institute standard Z600, as*
 29 *determined to be appropriate to the setting where the*
 30 *trees are being planted, for each tree removed, according*
 31 *to the following schedule:*

32		
33	<i>Size of tree removed in inches in</i>	
34	<i>diameter at breast height</i>	<i>Number of trees planted</i>
35		
36	<i>0–5.0</i>	<i>0</i>
37	<i>5.1–12.0</i>	<i>1</i>
38	<i>12.1–18.0</i>	<i>2</i>
39	<i>18.1 or larger</i>	<i>3</i>
40		

1 (B) Notwithstanding any other provision of this
2 paragraph, one palm tree shall be planted for each palm
3 tree removed that exceeds five inches in diameter at
4 breast height.

5 (C) An electrical corporation is not required to plant
6 a tree to mitigate the removal of a tree by a person who
7 was not authorized to do so by the electrical corporation.
8 ~~An electrical corporation shall maintain a tree planted in~~
9 ~~accordance with this section for not less than three years~~
10 ~~from the date of planting at the expense of the electrical~~
11 ~~corporation.~~

12 ~~(2) Replacement trees shall be selected from the list~~
13 ~~created pursuant to subdivision (c). In selecting trees~~
14 ~~from the list, the electrical corporation shall give first~~
15 ~~preference to native species found in the local area that~~
16 ~~are appropriate for the tree planting site. Trees planted~~
17 ~~in an electrical corporation right-of-way that, in the~~
18 ~~determination of the electrical corporation, have the~~
19 ~~potential to impact power lines shall be a species that will~~
20 ~~not interfere with the power lines or the maintenance of~~
21 ~~those lines. electrical corporation.~~

22 (2) Trees planted by an electrical corporation shall be
23 selected from the list created pursuant to subdivision (d)
24 if, in the determination of the electrical corporation, the
25 trees have the potential to affect power lines.

26 (3) The electrical corporation shall give first priority
27 to planting replacement trees on or near the site of tree
28 removal, but may maintain a right-of-way free of trees,
29 and may plant replacement trees elsewhere.

30 (4) The electrical corporation ~~shall~~ may use volunteer
31 labor or not-for-profit corporations, to the extent
32 available, to plant trees. Otherwise, the electrical
33 corporation shall use local conservation corps or the
34 California Conservation Corps. ~~If local or state corps~~
35 ~~members are not present in the area, the electrical~~
36 ~~corporation shall employ disadvantaged youth or~~
37 ~~neighborhood organizations to plant trees.~~

38 (5) ~~An electrical corporation shall conduct all tree~~
39 ~~trimming and planting under the supervision of a~~
40 ~~certified arborist. A work crew that performs tree~~

~~1 trimming or planting shall be trained by an arborist in
2 proper tree trimming. Any tree in excess of 24 inches
3 diameter at breast height shall be trimmed under the
4 direct supervision of an arborist. An electrical
5 corporation shall provide the services of an arborist for
6 the trimming of a tree on private property, at the request
7 of the property owner.~~

~~8 (6) An electrical corporation, with regard to a tree
9 considered by a city or county to be a heritage tree or a
10 tree of special interest or concern, or a tree greater than
11 11 inches in diameter at breast height, shall, to the
12 maximum extent possible, trim the tree in such a manner
13 to preserve the life and beauty of the tree while
14 preventing damage to the property of the electrical
15 corporation.~~

~~16 (7) All equipment used to trim or remove a tree,
17 whether owned by the electrical corporation or an entity
18 under contract to the electrical corporation, shall comply
19 with the plant disease transmission program developed
20 pursuant to subdivision (d).~~

~~21 (8)~~

~~22 (5) A property owner, at his or her expense, may retain
23 an arborist to work with the electrical corporation in
24 developing a tree pruning plan for the property that is
25 acceptable to both the property owner and the electrical
26 corporation.~~

~~27 (6) An electrical corporation shall offer wood and
28 shredded tree material made available as a result of tree
29 trimming to the easement property owner, or property
30 owners adjacent to the electrical corporation
31 right-of-way. If the property owner does not want the
32 wood or material, the electrical corporation shall remove
33 and offer it to charities for provision to low-income
34 persons able to use the wood or material for heating or
35 compost. Wood and tree trimmings that cannot be used
36 for fuel shall be composted and made available to the
37 public at no cost. Material otherwise unusable may be
38 disposed of at a landfill. The electrical corporation shall
39 right-of-way. The electrical corporation shall remove any
40 flammable materials resulting from tree trimming or tree~~

1 removal to a safe place, if local officials with fire
2 management and suppression responsibilities or the
3 Department of Forestry and Fire Protection determine
4 the removal is necessary for fire protection.

5 ~~(9)~~

6 (7) Before implementing a program in accordance
7 with this subdivision, an electrical corporation shall
8 provide ~~three months~~ notice to the public and to the cities
9 and counties in which any easements or rights-of-way of
10 the electric corporation are located. That notice shall
11 describe the intent of the electrical corporation to
12 implement a tree trimming program in accordance with
13 this subdivision. The electrical corporation may use bill
14 inserts to inform the public pursuant to this paragraph:

15 ~~(f) (1) An electrical corporation may document all~~
16 ~~trees and other major vegetation growing in its~~
17 ~~rights-of-way, and in its easements, and shall make that~~
18 ~~documentation available to any person who wishes to~~
19 ~~inspect it. The electrical corporation shall provide the~~
20 ~~documentation to any person who requests it, at no cost.~~
21 ~~On and after January 1, 2001, or after the date of~~
22 ~~completion of documentation pursuant to this~~
23 ~~subdivision, whichever is later, the electrical corporation~~
24 ~~may trim or remove any tree that grows naturally in the~~
25 ~~rights-of-way or easements of the electrical corporation~~
26 ~~after that date. Subdivision (e) applies to tree trimming~~
27 ~~or removal pursuant to this subdivision, except that the~~
28 ~~electrical corporation shall also plant three five-gallon or~~
29 ~~greater trees for a tree of less than one inch in diameter~~
30 ~~at breast height, unless the tree is less than one foot in~~
31 ~~height. An electrical corporation shall report to the~~
32 ~~commission all tree trimming, removal, and planting, and~~
33 ~~the commission shall make that information available to~~
34 ~~the public in written form and via the Internet.~~

35 ~~(2) An electrical corporation may implement this~~
36 ~~subdivision in all or part of its service territory. If an~~
37 ~~electrical corporation implements this subdivision it shall~~
38 ~~comply fully with all the requirements of the subdivision~~
39 ~~in the area affected. The notice required by this section~~
40 ~~does not substitute for any other requirement imposed on~~

1 *the commission or another entity to notify a property*
2 *owner about tree trimming to be done on the property.*

3 *(g) (1) The costs incurred by an electrical*
4 *corporation as a result of the implementation of this*
5 *section shall be tracked by the electrical corporation in a*
6 *memorandum account and the electrical corporation*
7 *shall select one of the following methods of cost recovery:*

8 *(A) Capitalize costs for recovery in rates as an*
9 *exclusion to performance based ratemaking, to be*
10 *amortized by the electrical corporation over a 10-year*
11 *period. The commission shall include these costs within*
12 *the electrical corporation's deferred asset account and*
13 *shall include the regulatory asset and related deferred tax*
14 *account in working capital for ratemaking purposes.*

15 *(B) Include costs in rates as an exclusion to*
16 *performance based ratemaking for recovery within one*
17 *year after the costs were incurred.*

18 *(2) The electrical corporation shall provide the*
19 *commission with the actual costs incurred as a result of*
20 *this section, and the commission shall review those costs*
21 *to ensure their accuracy.*

22 *(h) Nothing in this section affects the authority of a*
23 *local government to regulate the planting, removal, or*
24 *pruning of trees within its jurisdiction.*

25 *(i) Tree pruning done by electrical corporations shall*
26 *comply with the pruning standards described in Section*
27 *53067 of the Government Code with regard to tree*
28 *pruning, the American National Standards Institute A300*
29 *pruning standards, and the International Society of*
30 *Arboriculture pruning guidelines.*

31 *(j) Nothing in this section affects the rights of*
32 *electrical corporations or any other entity to prune, trim,*
33 *remove, or otherwise alter trees on their own, public, or*
34 *other private property.*

35 *(k) Nothing in this section prohibits an electrical*
36 *corporation from offering to plant trees in mitigation of*
37 *the removal of a tree or trees.*

38 *(l) (1) If, as a result of a field inspection by the*
39 *commission, the commission identifies instances of*
40 *noncompliance with General Order 95, Rule 35, the*

1 commission shall issue a specific notice of noncompliance
2 to the owner of the electric line. The owner of the electric
3 line shall correct noncompliant conditions within 20
4 working days of the date of receipt of notice from the
5 commission, and shall provide the commission with
6 written verification of the corrective action taken to
7 correct the noncompliant conditions within 30 calendar
8 days of the date of corrective action.

9 (2) Once corrective action has been taken, and if the
10 noncompliance has not resulted in any damage to any
11 person or property, the commission shall not use the
12 records documenting any noncompliant conditions
13 corrected in accordance with this section as the basis for
14 any penalty or fine imposed by the commission or
15 introduce in evidence or use the records in any other way
16 in any administrative, civil, or criminal proceeding,
17 except to enforce reasonable compliance with General
18 Order 95, or any subsequent general order that affects
19 tree trimming or removal.

20 (3) Nothing in this subdivision shall affect any
21 commission decision pending before the commission on
22 January 1, 2000.

23 (m) (1) If, as a result of a field inspection by the
24 Department of Forestry and Fire Protection, the
25 Department of Forestry and Fire Protection identifies
26 instances of noncompliance with Sections 4292 and 4293
27 of the Public Resources Code, the Department of
28 Forestry and Fire Protection shall issue a specific notice
29 of noncompliance to the owner of the electric line. The
30 owner of the electric line shall correct noncompliant
31 conditions within 20 working days of the date of receipt
32 of notice from the Department of Forestry and Fire
33 Protection, and shall provide the Department of Forestry
34 and Fire Protection with written verification of the
35 corrective action taken to correct the noncompliant
36 conditions within 30 calendar days of the date of
37 corrective action.

38 (2) Once corrective action has been taken, and if the
39 noncompliance has not resulted in any damage to any
40 person or property, the Department of Forestry and Fire

1 *Protection shall not use the records documenting any*
2 *noncompliant conditions corrected in accordance with*
3 *this section as the basis for any penalty or fine imposed by*
4 *the Department of Forestry and Fire Protection or*
5 *introduce in evidence or use the records in any other way*
6 *in any administrative, civil, or criminal proceeding,*
7 *except to enforce reasonable compliance with Sections*
8 *4292 and 4293 of the Public Resources Code.*

