

AMENDED IN SENATE MAY 17, 1999

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~~ *to implement* a tree trimming program in compliance with prescribed requirements. ~~The bill would 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. The bill would require the commission to create a 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 minimize the risk of plant disease transmission in the conduct of 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~~ *shall* implement this
15 ~~section in all or part of its service territory. If an electrical~~
16 ~~corporation implements this section, the corporation, the~~
17 ~~section in all of its service territory.~~ *The* commission, and
18 the Department of Forestry and Fire Protection shall
19 comply fully with all the requirements of ~~the section in~~
20 ~~this area affected.~~ *this section.*
21 (c) The Department of Fish and Game shall assist
22 electrical corporations in developing a plan to minimize
23 the impact on nesting birds of electrical corporation tree
24 trimming programs in accordance with this section.



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

16 (2) The list shall take into account the various climatic
17 and habitat conditions throughout the state and may
18 specify different tree species for different areas of the
19 state.

20 (3) The working group shall review the list three years
21 and six years after the date that the list is adopted, and
22 shall change or modify the list as the working group
23 determines to be appropriate.

24 (e) An electrical corporation shall consult with the
25 Department of Forestry and Fire Protection to minimize
26 the risk of plant disease transmission in the conduct of
27 tree and greenwaste disposal, and the pruning or removal
28 of trees in accordance with this section.

29 ~~(f) The commission shall allow full cost recovery by an~~
30 ~~electrical corporation pursuant to subdivision (g) for a~~
31 ~~tree trimming program in accordance with this~~
32 ~~subdivision, after the competition transition charge and~~
33 ~~the rate freeze imposed pursuant to Chapter 2.3~~
34 ~~(commencing with Section 330) of Part 1 of Division 1~~
35 ~~have ended. The commission shall determine the costs~~
36 ~~attributable to a program in accordance with this section.~~
37 ~~To be eligible for full cost recovery, an electrical~~
38 ~~corporation tree trimming shall comply with all of the~~
39 ~~following:~~

40 ~~(1) (A)~~



1 (f) (1) For each tree removed by an electrical
 2 corporation, the electrical corporation shall ~~plant~~
 3 *mitigate the lost value of the tree by planting an*
 4 *appropriate number of* Number 5 container trees or the
 5 equivalent, as defined by American National Standards
 6 Institute standard Z600, as determined to be appropriate
 7 to the setting where the ~~trees are being planted, for each~~
 8 ~~tree removed, according to the following schedule:~~

9

10 Size of tree removed in inches in	
11 diameter at breast height	Number of trees planted
12	
13 0-5.0	0
14 5.1-12.0	1
15 12.1-18.0	2
16 18.1 or larger	3

17

18 ~~(B) Notwithstanding any other provision of this~~
 19 ~~paragraph, one palm tree shall be planted for each palm~~
 20 ~~tree removed that exceeds five inches in diameter at~~
 21 ~~breast height.~~

22 ~~(C) trees are being planted.~~

23 (2) An electrical corporation is not required to plant
 24 a tree to mitigate the removal of a tree by a person who
 25 was not authorized to do so by the electrical corporation.

26 ~~(2)-~~

27 (3) Trees planted by an electrical corporation shall be
 28 selected from the list created pursuant to subdivision (d)
 29 if, in the determination of the electrical corporation, the
 30 trees have the potential to affect power lines.

31 ~~(3)-~~

32 (4) The electrical corporation shall give first priority
 33 to planting replacement trees on or near the site of tree
 34 removal, but may maintain a right-of-way free of trees,
 35 and may plant replacement trees elsewhere.

36 ~~(4)-~~

37 (5) The electrical corporation may use volunteer labor
 38 or not-for-profit corporations, to the extent available, to
 39 plant trees. Otherwise, the electrical corporation shall use



1 local conservation corps or the California Conservation
2 Corps.

3 ~~(5)~~

4 (6) A property owner, at his or her expense, may retain
5 an arborist to work with the electrical corporation in
6 developing a tree pruning plan for the property that is
7 acceptable to both the property owner and the electrical
8 corporation.

9 ~~(6)~~

10 (7) An electrical corporation shall offer wood and
11 shredded tree material made available as a result of tree
12 trimming to the easement property owner, or property
13 owners adjacent to the electrical corporation
14 right-of-way. The electrical corporation shall remove any
15 flammable materials resulting from tree trimming or tree
16 removal to a safe place, if local officials with fire
17 management and suppression responsibilities or the
18 Department of Forestry and Fire Protection determine
19 the removal is necessary for fire protection.

20 ~~(7)~~

21 (8) Before implementing a program in accordance
22 with this subdivision, an electrical corporation shall
23 provide notice to the public and to the cities and counties
24 in which any easements or rights-of-way of the ~~electric-~~
25 *electrical* corporation are located. That notice shall
26 describe the intent of the electrical corporation to
27 implement a tree trimming program in accordance with
28 this subdivision. The electrical corporation may use bill
29 inserts to inform the public pursuant to this paragraph.
30 The notice required by this section does not substitute for
31 any other requirement imposed on the commission or
32 another entity to notify a property owner about tree
33 trimming to be done on the property.

34 ~~(g) (1) The costs incurred by an electrical~~
35 ~~corporation as a result of the implementation of this~~
36 ~~section shall be tracked by the electrical corporation in a~~
37 ~~memorandum account and the electrical corporation~~
38 ~~shall select one of the following methods of cost recovery:~~

39 ~~(A) Capitalize costs for recovery in rates as an~~
40 ~~exclusion to performance based ratemaking, to be~~



1 ~~amortized by the electrical corporation over a 10-year~~
2 ~~period. The commission shall include these costs within~~
3 ~~the electrical corporation's deferred asset account and~~
4 ~~shall include the regulatory asset and related deferred tax~~
5 ~~account in working capital for ratemaking purposes.~~

6 ~~(B) Include costs in rates as an exclusion to~~
7 ~~performance based ratemaking for recovery within one~~
8 ~~year after the costs were incurred.~~

9 ~~(2) The electrical corporation shall provide the~~
10 ~~commission with the actual costs incurred as a result of~~
11 ~~this section, and the commission shall review those costs~~
12 ~~to ensure their accuracy.~~

13 ~~(h)~~

14 ~~(g) Nothing in this section affects the authority of a~~
15 ~~local government to regulate the planting, removal, or~~
16 ~~pruning of trees within its jurisdiction.~~

17 ~~(i)~~

18 ~~(h) Tree pruning done by electrical corporations shall~~
19 ~~comply with the pruning standards described in Section~~
20 ~~53067 of the Government Code with regard to tree~~
21 ~~pruning, the American National Standards Institute A300~~
22 ~~pruning standards, and the International Society of~~
23 ~~Arboriculture pruning guidelines.~~

24 ~~(j)~~

25 ~~(i) Nothing in this section affects the rights of~~
26 ~~electrical corporations or any other entity to prune, trim,~~
27 ~~remove, or otherwise alter trees on their own, public, or~~
28 ~~other private property.~~

29 ~~(k)~~

30 ~~(j) Nothing in this section prohibits an electrical~~
31 ~~corporation from offering to plant trees in mitigation of~~
32 ~~the removal of a tree or trees.~~

33 ~~(l) (1) If, as a result of a field inspection by the~~
34 ~~commission, the commission identifies instances of~~
35 ~~noncompliance with General Order 95, Rule 35, the~~
36 ~~commission shall issue a specific notice of noncompliance~~
37 ~~to the owner of the electric line. The owner of the electric~~
38 ~~line shall correct noncompliant conditions within 20~~
39 ~~working days of the date of receipt of notice from the~~
40 ~~commission, and shall provide the commission with~~



1 ~~written verification of the corrective action taken to~~
2 ~~correct the noncompliant conditions within 30 calendar~~
3 ~~days of the date of corrective action.~~

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

15 ~~(3) Nothing in this subdivision shall affect any~~
16 ~~commission decision pending before the commission on~~
17 ~~January 1, 2000.~~

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

33 ~~(2) Once corrective action has been taken, and if the~~
34 ~~noncompliance has not resulted in any damage to any~~
35 ~~person or property, the Department of Forestry and Fire~~
36 ~~Protection shall not use the records documenting any~~
37 ~~noncompliant conditions corrected in accordance with~~
38 ~~this section as the basis for any penalty or fine imposed by~~
39 ~~the Department of Forestry and Fire Protection or~~
40 ~~introduce in evidence or use the records in any other way~~



1 ~~in any administrative, civil, or criminal proceeding;~~
2 ~~except to enforce reasonable compliance with Sections~~
3 ~~4292 and 4293 of the Public Resources Code.~~

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