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SENATE, No. 434

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 24 (Morris, Sussex and Warren)

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SYNOPSIS

“Vegetation Management Response Act”; concerns vegetation management related to electric public utility infrastructure.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on September 17, 2020, with amendments.



1 AN ACT concerning vegetation management related to electric
 2 utility infrastructure, supplementing Title 48 of the Revised
 3 Statutes, and amending various parts of the statutory law.

4
 5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:

7
 8 1. (New section) ¹**[This]** Sections 1 through 4, 10, and 11 of
 9 this¹ act shall be known and may be cited as the “Vegetation
 10 Management Response Act.”

11
 12 2. (New section) a. The Legislature finds and declares that:

13 (1) Unprecedented damage was inflicted on the State and its
 14 citizens by Superstorm Sandy, Hurricane Irene, the June 2012
 15 Derecho, and the October 2011 snow storm.

16 (2) Estimated damage from these storms includes approximately
 17 11,400 downed or damaged utility poles, 155,000 downed trees, 60
 18 flooded substations, and six million customer outages.

19 (3) Superstorm Sandy alone led to the loss of approximately 116
 20 overhead electric transmission lines and 117,000 trees and damage
 21 to over 71 percent of all electric distribution circuits and
 22 approximately 5,000 overhead and pad mounted electric
 23 transformers. The destruction caused by Superstorm Sandy
 24 required assistance from more than 20,000 out-of-State electric
 25 public utility workers.

26 (4) The March 2018 nor’easters left hundreds of thousands of
 27 New Jersey residents and businesses without power and, as a result,
 28 the Board of Public Utilities ordered the State’s four electric public
 29 utilities to undertake additional efforts to better prepare electric
 30 public utilities for any major weather event in the future.

31 ¹(5) On August 4, 2020, the effects of Tropical Storm Isaias left
 32 more than 1.4 million homes and businesses without power and
 33 some power restorations took up to a week after the tropical storm
 34 quickly moved across the State. Two of New Jersey’s three electric
 35 public utilities ranked the tropical storm as one of the top five
 36 storms of all time in the State in terms of destruction and power
 37 outages.¹

38 b. The Legislature therefore determines that it is necessary to
 39 authorize electric public utilities to maintain, remove, and replace
 40 ¹**[dangerous]** hazard¹ vegetation to prevent power disruptions and
 41 preserve the uninterrupted transmission and distribution of ¹electric
 42 light, heat, and¹ power in this State.

43
 44 3. (New section) As used in ¹**[section]** sections¹ 1 through 4

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted September 17, 2020.

1 ¹**“and section 10, and 11”** of P.L. , c. (C.) (pending
2 before the Legislature as this bill):

3 “ANSI” means the American National Standards Institute.

4 “Board” means the Board of Public Utilities ¹or any successor
5 agency¹.

6 ¹**“Dangerous vegetation”** means a tree, shrub, plant, or any
7 other vegetation growing in, near, or adjacent to the electric public
8 utility’s right of way, and the electric distribution and transmission
9 system, but not including a service line to an individual customer,
10 which may fall into, touch, affect, or otherwise interfere with an
11 electric distribution line, as determined by the electric public utility
12 or local government entity having control of the right of way.¹

13 “Distribution line” means a wire, line, pole, and other structure
14 and facility which carries ¹**“electricity”** electric light, heat, or
15 power¹ from an electric public utility substation to customers, but
16 not including a service line to an individual customer.

17 “Electric public utility” or “utility” means a public utility, as that
18 term is defined in R.S.48:2-13, that is under the jurisdiction of the
19 Board of Public Utilities, is investor-owned, and transmits and
20 distributes ¹**“electricity”** electric light, heat, or power¹ to end users
21 within this State.

22 ¹**“Hazard vegetation”** means a tree, shrub, plant, or any other
23 vegetation growing in the electric public utility’s right of way and
24 the electric transmission and distribution system, but not including a
25 service line to an individual customer, which is deemed, upon on-
26 site inspection, to pose a high likelihood of failure or in growth
27 within a normal return inspection cycle or maintenance return
28 interval, that the vegetation may fall onto or otherwise affect
29 service with a transmission or distribution line, as determined by
30 the electric public utility forester or local government entity having
31 control of the right of way and as confirmed by a licensed tree care
32 operator, licensed tree expert, or licensed landscape architect who is
33 trained and experienced in the evaluation of hazard vegetation.

34 “Licensed landscape architect” shall have the same meaning as
35 provided in section 5 of P.L.1983, c.337 (C.45:3A-2).

36 “Licensed tree care operator” shall have the same meaning as
37 provided in section 2 of P.L.2009, c.237 (C.45:15C-12).

38 “Licensed tree expert” or “tree expert” means a tree expert
39 licensed pursuant to section 7 of P.L.2009, c.237 (C.45:15C-17).¹

40 “Transmission line” means a line or cable, including the
41 supporting structures and appurtenant facilities, which carries
42 ¹**“electricity”** electric light, heat, or power¹ from a generating plant
43 to an electric substation.

44 “Vegetation management” means ¹**“the clearing, moving,**
45 **cutting, or destroying to remove, replace as reasonable and**
46 **necessary, or maintain dangerous vegetation”** to prune, trim, clear,
47 move, replace as reasonable and necessary, or cut any hazard

1 vegetation to protect or maintain any structures or fixtures,
2 necessary for the supply of electric light, heat, or power¹.

3
4 4. (New section) a. Notwithstanding the provisions of the
5 “New Jersey Shade Tree and Community Forestry Assistance Act,”
6 P.L.1996, c.135 (C.13:1L-17.1 et al.) or any other provision of law,
7 rule, regulation, or order to the contrary, to ensure the continued
8 reliable supply of ¹**【electricity】** electric light, heat, or power¹ in this
9 State, an electric public utility is authorized to:

10 (1) utilize all reasonably available methods according to ANSI
11 A300 tree care standards and pursuant to board rules and
12 regulations, which may include, but not be limited to, clearing,
13 moving, cutting, ¹trimming,¹ or ¹**【destroying】** pruning¹ to remove,
14 replace as reasonable and necessary, or maintain ¹**【dangerous】**
15 hazard¹ vegetation ¹for the purpose of the safe and reliable
16 transmission and distribution of electric light, heat, or power¹; and

17 (2) establish, upon receipt of board approval, a program to
18 develop effective strategies to implement the provisions of this
19 section, as appropriate.

20 b. ¹**【An】** In addition to the notification requirements provided
21 in section 2 of P.L.1969, c.182 (C.48:3-17.10), an¹ electric public
22 utility shall make a diligent attempt to notify all customers, property
23 owners, and local and other government entities that may be
24 affected by planned vegetation management activity along the
25 utility's distribution or transmission system. This requirement shall
26 be satisfied if the utility provides written notice to customers and
27 property owners pursuant to paragraphs (1) and (2) of this
28 subsection, at least seven days, but not more than 45 days, prior to
29 performing any vegetation management activity, and provides
30 notice to local and other government entities pursuant to paragraph
31 (3) of this subsection.

32 (1) For a distribution line, the electric public utility shall
33 provide notice to the following customers and property owners by
34 separate direct mailing, door hanger, or any other method approved
35 by the board:

36 (a) a customer of the utility upon whose property runs any
37 portion of the right-of-way or easement that will be maintained by
38 the utility; and

39 (b) a property owner where there is no customer of the utility
40 located on the property and the property includes a portion of the
41 right-of-way or easement that will be maintained by the utility.

42 (2) For a transmission line, the electric public utility shall
43 provide notice as follows:

44 (a) for persons described in subparagraphs (a) and (b) of
45 paragraph (1) of this subsection, through a direct mailing by
46 certified mail, return receipt requested, or by another method
47 approved by the board; and

1 (b) by publishing at least seven days, but not more than 45 days,
2 prior to performing any vegetation management activity, a notice in
3 two newspapers that serve the area where the vegetation
4 management activity is to be performed.

5 For the purposes of subparagraph (a) of this paragraph, a United
6 States Post Office receipt of mailing shall constitute proof of
7 compliance.

8 (3) (a) An electric public utility shall notify all local and other
9 government entities that may be affected by vegetation management
10 activity. For local and other government entities, a utility shall
11 provide written notice of any pending vegetation management
12 activity to a primary contact at that entity. For a municipality, the
13 mayor, municipal clerk, or other person or position mutually agreed
14 upon by the utility and the municipality shall be the primary
15 contact. For other government entities, the primary contact shall be
16 selected by mutual agreement in writing between the utility and the
17 other government entity.

18 (b) The electric public utility shall provide written notice to the
19 primary contact, designated pursuant to subparagraph (a) of this
20 paragraph, at least **'[two months] 60 days'** in advance of the
21 planned vegetation management activity. The notice shall include
22 the planned dates and locations of the vegetation management
23 activity, and shall be written in a manner sufficient to explain the
24 utility's procedures and easement rights. The utility shall provide a
25 telephone number of its vegetation manager to provide answers to
26 any questions from the primary contact relating to the notice. If a
27 utility provides notice, pursuant to this paragraph, through a
28 contractor or agent, the notice shall bear the name and logo of the
29 utility only and not of the contractor or agent. The utility shall
30 maintain a record of the dates, locations, and activities contained in
31 notice provided to municipal and other government entities,
32 pursuant to this paragraph, for a period of five years after notice is
33 sent.

34 c. (1) An electric public utility shall conduct an annual public
35 education program to inform its customers and local and other
36 government entities in the utility's service territory of the
37 importance of vegetation management and of the utility's role and
38 responsibility in performing vegetation management near
39 distribution and transmission lines. The public education program
40 required pursuant to this paragraph shall be implemented by direct
41 mail or another method approved by the board.

42 (2) An electric public utility shall post materials of its public
43 education program, developed pursuant to paragraph (1) of this
44 subsection, on its website. The posted materials shall include
45 illustrations of typical configurations of transmission lines and
46 easements, as necessary to comply with the requirements of this
47 section, to inform the public regarding the utility's responsibilities
48 in performing vegetation management pursuant to this section.

1 ¹(3) (a) In the event of an objection or disagreement by a
2 customer, property owner, or governmental entity that may be
3 affected by the planned vegetation management activity of an
4 electric public utility, the utility shall first attempt to resolve the
5 dispute. In the event that the dispute cannot be resolved, then any
6 party to the dispute may appeal the dispute to the board. Upon
7 receiving the appeal, the board shall randomly select a licensed tree
8 expert with demonstrable understanding of utility vegetation
9 management from a list of tree experts that the board shall maintain
10 and update on a continuing basis. The board shall divide the list of
11 tree experts into eight geographic districts based upon the location
12 of the address of the tree experts. The board shall randomly select a
13 tree expert from the geographic district where the property that is
14 the subject of the dispute is located. The tree expert shall then
15 review the issue in dispute and make a determination as to what
16 action, if any, should be taken. The board shall adopt procedural
17 rules, pursuant to section 11 of P.L. , c. (C.) (pending
18 before the Legislature as this bill), as the board deems appropriate
19 in order to implement the provisions of this paragraph.

20 (b) Vegetation management activity of an electric public utility
21 shall not be performed on any property of the New Jersey Turnpike
22 Authority or the South Jersey Transportation Authority without the
23 approval of those authorities.¹

24
25 5. Section 5 of P.L.1996, c.135 (C.13:1L-17.5) is amended to
26 read as follows:

27 5. a. There is established in the department a Community
28 Forestry Council, which shall consist of 20 members, appointed by
29 the State Forester, all of whom shall be citizens with expertise or
30 interest in trees, forestry, or tree or forest management,
31 maintenance, or care. Upon the occurrence of a vacancy on the
32 council after the effective date of P.L. , c. (C.) (pending
33 before the Legislature as this bill), the State Forester shall appoint a
34 New Jersey electric public utility employee who is an electric
35 public utility approved forester to represent the electric public
36 utility on the council until such time as there are at least two
37 members serving on the council meeting that description. Each of
38 the members appointed shall serve for a term of three years and
39 until a successor is appointed and qualified, except that of the
40 members first appointed, seven shall serve terms of one year and
41 seven shall serve terms of two years. All vacancies, except those
42 created through the expiration of term, shall be filled for the
43 unexpired term only, and in the same manner as the original
44 appointment. Each member shall be eligible for reappointment, but
45 may be removed by the commissioner or the State Forester for
46 cause.

47 b. A majority of the membership of the council shall constitute
48 a quorum for the transaction of council business. Action may be

1 taken and motions and resolutions adopted by the council at any
 2 meeting thereof by the affirmative vote of a majority of the full
 3 membership of the council.

4 c. Members of the council shall serve without compensation,
 5 but may be reimbursed for expenses necessarily incurred in the
 6 discharge of their official duties.

7 d. The State Forester shall appoint a chairperson and vice-
 8 chairperson and the council may elect such other officers as may be
 9 necessary. The council may appoint such staff or hire such experts
 10 as it may require within the limits of appropriations made for these
 11 purposes.

12 e. The council may call to its assistance such employees as are
 13 necessary and made available to it from any agency or department
 14 of the State or its political subdivisions.

15 f. The council may adopt, pursuant to the "Administrative
 16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in
 17 consultation with the department, any rules and regulations
 18 necessary to carry out its responsibilities pursuant to P.L.1996,
 19 c.135 (C.13:1L-17.1 et al.).

20 g. The council shall advise the State Forester, the Division of
 21 Parks and Forestry, and the department on issues concerning
 22 community forestry and assist with such other functions as may be
 23 authorized pursuant to P.L.1996, c.135 (C.13:1L-17.1 et al.) or any
 24 other law.

25 h. ¹["The"] Except as provided in section 10 of
 26 P.L. c. (C.) (pending before the Legislature as this bill),
 27 the¹ council, a shade tree commission, and any entity empowered
 28 pursuant to this chapter, shall not interfere with or restrict an
 29 electric public utility's removal, replacement, or maintenance of
 30 ¹["dangerous"] hazard¹ vegetation pursuant to the provisions of
 31 P.L. , c. (C.) (pending before the Legislature as this bill).
 32 (cf: P.L.1996, c.135, s.5)

33

34 6. R.S.40:37-5 is amended to read as follows:

35 40:37-5. Except as hereinafter provided and as provided in
 36 subsection h. of section 5 of P.L. c. (C.) (pending before
 37 the Legislature as this bill), the shade tree commission may exercise
 38 exclusive control over the regulation, planting, and care of shade
 39 and ornamental trees and shrubbery now situate or which may
 40 hereafter be planted **["in"]** along any public road, street, highway,
 41 **["park"]** or parkway ¹, ¹ or ¹upon, or¹ in any public park ¹or other
 42 property owned, controlled, or managed by or¹ of the county,
 43 including:

44 a. The planting, trimming, spraying, care, and protection
 45 thereof;

1 b. The regulation and control of the use of the ground
2 surrounding the same so far as may be necessary for their proper
3 growth, care, and protection;

4 c. The moving or requiring the removal of any tree or part
5 thereof, dangerous to public safety;

6 d. The care and control of the parks and parkways; and

7 e. The encouragement of arboriculture.

8 (cf: P.L.1958, c.41, s.2)

9
10 7. R.S.40:37-6 is amended to read as follows:

11 40:37-6. ~~【The】~~ a. Except as provided in subsection b. of this
12 section, the shade tree commission, with the consent of the board of
13 chosen freeholders, may make rules and regulations for the
14 protection and care of the trees, shrubbery, or ornamental material
15 planted or growing naturally within the highways and parks under
16 its jurisdiction, as provided in this article '【;】' and with the
17 consent of the board may prescribe a suitable fine for the violation
18 of each rule or regulation, in an amount not exceeding 【\$200.00】
19 '【\$200】 \$3,000' for each violation.

20 b. Any public utility, as defined pursuant to R.S.48:2-13, '【or a
21 cable television company, as defined pursuant to section 3 of
22 P.L.1972, c.186 (C.48:5A-3),】' that clears, moves, cuts, trims, or
23 prunes any trees, shrubs, or plants for the purpose of protecting or
24 maintaining any structures or fixtures, necessary for the supply of
25 electric light, heat, or power, '【communication, or cable television
26 services】' upon any lands in which it has acquired an easement or
27 right-of-way or upon a public right-of-way, shall not be required to
28 receive the permission of a commission to undertake such work or
29 be subject to any penalty imposed by a shade tree commission
30 pursuant to subsection a. of this section. This subsection shall not
31 exempt any such public utility '【or cable television company】'
32 from any penalty or replacement assessment imposed as a result of
33 damage to a tree, shrub, or plant caused by the public utility's '【or
34 cable television company's】' non-compliance with any such rule or
35 regulation of the shade tree commission, provided that such rule or
36 regulation does not interfere with or restrict any vegetation
37 management work conducted by the public utility '【or cable
38 television company】' to comply with any federal law, rule,
39 regulation, any vegetation management rule, regulation, or order of
40 the board, or any national or federal standard applicable to a public
41 utility '【or cable television company】' in this State. A public
42 utility '【or cable television company ,】' that is acting in good faith,
43 with due diligence and reasonable judgement, in its performance of
44 vegetation management pursuant to the provisions of P.L. , c.
45 (C.) (pending before the Legislature as this bill) and any board
46 rules or regulations, shall not be held liable, penalized, or otherwise

1 subject to undue hardship by a governing body of a county or a
 2 commission.

3 ¹A shade tree commission may require a permit for vegetation
 4 management work by a public utility but shall not prohibit a public
 5 utility from performing vegetation management within a public
 6 utility right-of-way. A permit may be waived by a shade tree
 7 commission in the case of a declared state of emergency by the
 8 Governor or the federal government, pursuant to law, to expedite
 9 the restoration of electric light, heat, or power and to restore
 10 conditions protecting the public health, safety, and welfare.¹

11 As used in this subsection, “vegetation management” means to
 12 ¹prune,¹ clear, move, cut, replace as reasonable and necessary, or
 13 ¹‘[destroy] trim¹ any ¹‘[dangerous] hazard¹ vegetation to protect or
 14 maintain any structures or fixtures, necessary for the supply of
 15 electric light, heat, ¹or¹ power ¹‘[, or communication, or cable
 16 television service]¹.

17 (cf: P.L.1958, c.41, s.3)

18

19 8. R.S.40:64-5 is amended to read as follows:

20 40:64-5. **[A]** Except as provided in subsection h. of section 5 of
 21 P.L. c. (C.) (pending before the Legislature as this bill) a
 22 shade tree commission organized under this chapter shall have
 23 power to:

24 a. Exercise full and exclusive control over the regulation,
 25 planting, and care of shade and ornamental trees and shrubbery now
 26 located, or which may hereafter be planted **[in]** along any public
 27 road, street, highway, [park] or parkway ¹,¹ or ¹upon or¹ in any
 28 public park ¹or other property owned, controlled, or managed by or¹
 29 of the municipality, except such as are excluded pursuant to section
 30 40:64-1 of this Title in the municipality for which it was created,
 31 including the planting, trimming, spraying, care, and protection
 32 thereof;

33 b. Regulate and control the use of the ground surrounding the
 34 same, so far as may be necessary for their proper growth, care, and
 35 protection;

36 c. Move or require the removal of any tree, or part thereof,
 37 dangerous to public safety;

38 d. Care for and control such parks and parkways; encourage
 39 arboriculture; make, alter, amend, and repeal, in the manner
 40 prescribed for the passage, alteration, amendment, and repeal of
 41 ordinances by the governing body of the municipality, any and all
 42 ordinances necessary or proper for carrying out the provisions
 43 hereof; and

44 e. Administer treatment to, or remove, any tree situate upon
 45 private property which is believed to ¹**[harbour]** harbor¹ a disease
 46 or insects readily communicable to neighboring healthy trees in the
 47 care of the municipality and enter upon private property for that

1 purpose, with the consent of the owner thereof, provided the
2 suspected condition is first confirmed by certificate issued by or on
3 behalf of the Department of Agriculture.

4 (cf: P.L.1958, c.42, s.4)

5
6 9. R.S.40:64-12 is amended to read as follows:

7 40:64-12. a. The commission may prescribe a fine for the
8 violation of each of its ordinances in an amount not exceeding
9 ~~[\$1500.00]~~ ~~'[\$1,500]~~ \$3,000¹ for each violation, and the courts
10 which now or hereafter shall have jurisdiction over actions for the
11 violation of ordinances of the municipality in which the commission
12 has been or shall be appointed shall have jurisdiction in actions for
13 the violation of such ordinances as the commission shall enact. The
14 ordinances shall be enforced by like proceedings and process and
15 the practice for the enforcement thereof shall be the same as that
16 provided by law for the enforcement of the ordinances of the
17 municipality in which the commission exists. The officers
18 authorized by law to serve and execute process in the
19 aforementioned courts shall be the officers to serve and execute any
20 process issued out of any court under this chapter. A copy of any
21 ordinance of the commission, certified to under the hand of its
22 secretary ~~[,]~~ or chairman shall be received in any court of this State
23 as full and legal proof of the existence of the ordinance, and that all
24 requirements of law in relation to the ordaining, publishing, and
25 making of the same, so as to make it legal and binding, have been
26 complied with, unless the contrary be shown.

27 b. In addition to the penalties authorized by subsection a. of
28 this section, the commission may require a person who removes or
29 otherwise destroys a tree in violation of a municipal ordinance to
30 pay a replacement assessment to the municipality. The replacement
31 assessment shall be the value of the tree as determined by the
32 appraisal of a trained forester ¹~~['Or Certified Tree Expert]~~, licensed
33 tree expert, or licensed landscape architect who is trained and
34 experienced in the appraisal of the value of vegetation and¹ retained
35 by the commission for that purpose. In lieu of an appraisal, the
36 commission may adopt a formula and schedule based upon the
37 number of square inches contained in a cross section of the trunk of
38 the tree multiplied by a predetermined value per square inch, not to
39 exceed ~~[\$27.00]~~ \$27 per square inch. The square inch cross
40 section shall be calculated from the diameter at breast height and, if
41 there is a multiple stem tree, then each trunk shall be measured and
42 an average shall be determined for the tree. For the purposes of this
43 section, "diameter at breast height" shall mean the diameter of the
44 tree taken at a point 4-1/2 feet above ground level. The commission
45 shall modify the value of the tree based upon its species variety,
46 location, and its condition at the time of removal or destruction.

1 c. Any public utility ¹, ¹ as defined pursuant to R.S.48:2-13
 2 ¹["or cable television company as defined pursuant to section 3 of
 3 P.L.1972, c.186 (C.48:5A-3)], providing electric light, heat, or
 4 power¹ that clears, moves, cuts, ¹prunes,¹ or ¹["destroys"] trims¹ any
 5 trees, shrubs, or plants for the purpose of ¹["erecting, installing,
 6 moving, removing, altering,¹ protecting ¹["],¹ or maintaining any
 7 structures or fixtures, necessary for the supply of electric light, heat,
 8 or power ¹["], communication, or cable television services]¹ upon
 9 any lands in which it has acquired an easement or right-of-way or
 10 upon a public right-of-way, shall not be required to receive the
 11 permission of a commission to undertake such work or be subject to
 12 any penalty imposed by a commission pursuant to subsections a. or
 13 b. of this section. This subsection shall not exempt any such public
 14 utility ¹["or cable television company"]¹ from any penalty or
 15 replacement assessment imposed ["for negligent actions"] as result of
 16 damage to a tree, shrub, or plant caused by the public utility's ¹["or
 17 cable television company's"]¹ non-compliance with any such rule or
 18 regulation of the commission, provided that such rule or regulation
 19 does not interfere with or restrict any vegetation management work
 20 conducted by the public utility ¹["or cable television company"]¹ to
 21 comply with any federal law, rule, regulation, any vegetation
 22 management rule, regulation, or order of the board, or any national
 23 or federal standard applicable to a public utility ¹["or cable
 24 television company"]¹ in this State. A public utility ¹["or cable
 25 television company"]¹ , that is acting in good faith, with due
 26 diligence and reasonable judgement, in its performance of
 27 vegetation management pursuant to the provisions of P.L. _____,
 28 c. (C. _____) (pending before the Legislature as this bill) and any
 29 board rules or regulations, shall not be held liable, penalized, or
 30 otherwise subject to undue hardship by a governing body of a
 31 municipality or a commission.

32 ¹A shade tree commission may require a permit for vegetation
 33 management work by a public utility but shall not prohibit a public
 34 utility from performing vegetation management within a public
 35 utility right-of-way. A permit may be waived by a shade tree
 36 commission in the case of a declared state of emergency by the
 37 Governor or the federal government, pursuant to law, to expedite
 38 the restoration of electric light, heat, or power and to restore
 39 conditions protecting the public health, safety, and welfare.¹

40 As used in this subsection, "vegetation management" means to
 41 ¹prune,¹ clear, move, cut, replace as reasonable and necessary, or
 42 ¹["destroy"] trim¹ any ¹["dangerous"] hazard¹ vegetation to ¹["erect,
 43 install, move, remove, alter,¹ protect ¹["],¹ or maintain any
 44 structures or fixtures, necessary for the supply of electric light, heat,
 45 ¹or¹ power ¹["], or communication, or cable television service]¹ .

46 (cf: P.L.1991, c.396, s.1)

1 ¹10. Sections 1 through 4 and section 11 of P.L. _____,
2 c. (C. _____) (pending before the Legislature as this bill) shall not
3 apply to any municipality having enacted an ordinance pursuant to
4 law, before or after the effective date of P.L. _____, c. (C. _____)
5 (pending before the Legislature as this bill), concerning the
6 performance of vegetation management on hazard vegetation or the
7 enforcement of such an ordinance by that municipality.¹

8
9 ¹**【10.】** 11.¹ The board shall adopt ¹₂¹ pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), rules and regulations necessary to effectuate the provisions of
12 ¹sections 1 through 4 of¹ P.L. _____, c. (C. _____) (pending before the
13 Legislature as this bill).

14
15 ¹**【11.】** 12.¹ This act shall take effect immediately ¹, but shall
16 remain inoperative for 90 days following the date of enactment¹ .