

SENATE, No. 1787

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED FEBRUARY 28, 2022

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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) Sections 1 through 4, 10, and 11 of this act
9 shall be known and may be cited as the “Vegetation Management
10 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 (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.

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

43
44 3. (New section) As used in sections 1 through 4, 10, and 11 of
45 P.L. , c. (C.) (pending before the Legislature as this bill):

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.

1 “ANSI” means the American National Standards Institute.

2 “Board” means the Board of Public Utilities or any successor
3 agency.

4 “Distribution line” means a wire, line, pole, and other structure
5 and facility which carries electric light, heat, or power from an
6 electric public utility substation to customers, but not including a
7 service line to an individual customer.

8 “Electric public utility” or “utility” means a public utility, as that
9 term is defined in R.S.48:2-13, that is under the jurisdiction of the
10 Board of Public Utilities, is investor-owned, and transmits and
11 distributes electric light, heat, or power to end users within this
12 State.

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

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

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

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

31 “Transmission line” means a line or cable, including the
32 supporting structures and appurtenant facilities, which carries
33 electric light, heat, or power from a generating plant to an electric
34 substation.

35 “Vegetation management” means to prune, trim, clear, move,
36 replace as reasonable and necessary, or cut any hazard vegetation to
37 protect or maintain any structures or fixtures, necessary for the
38 supply of electric light, heat, or power.

39

40 4. (New section) a. Notwithstanding the provisions of the
41 “New Jersey Shade Tree and Community Forestry Assistance Act,”
42 P.L.1996, c.135 (C.13:1L-17.1 et al.) or any other provision of law,
43 rule, regulation, or order to the contrary, to ensure the continued
44 reliable supply of electric light, heat, or power in this State, an
45 electric public utility is authorized to:

46 (1) utilize all reasonably available methods according to ANSI
47 A300 tree care standards and pursuant to board rules and
48 regulations, which may include, but not be limited to, clearing,

1 moving, cutting, trimming, or pruning to remove, replace as
2 reasonable and necessary, or maintain hazard vegetation for the
3 purpose of the safe and reliable transmission and distribution of
4 electric light, heat, or power; and

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

8 b. In addition to the notification requirements provided in
9 section 2 of P.L.1969, c.182 (C.48:3-17.10), an electric public
10 utility shall make a diligent attempt to notify all customers, property
11 owners, and local and other government entities that may be
12 affected by planned vegetation management activity along the
13 utility's distribution or transmission system. This requirement shall
14 be satisfied if the utility provides written notice to customers and
15 property owners pursuant to paragraphs (1) and (2) of this
16 subsection, at least seven days, but not more than 45 days, prior to
17 performing any vegetation management activity, and provides
18 notice to local and other government entities pursuant to paragraph
19 (3) of this subsection.

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

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

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

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

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

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

40 For the purposes of subparagraph (a) of this paragraph, a United
41 States Post Office receipt of mailing shall constitute proof of
42 compliance.

43 (3) (a) An electric public utility shall notify all local and other
44 government entities that may be affected by vegetation management
45 activity. For local and other government entities, a utility shall
46 provide written notice of any pending vegetation management
47 activity to a primary contact at that entity. For a municipality, the
48 mayor, municipal clerk, or other person or position mutually agreed

1 upon by the utility and the municipality shall be the primary
2 contact. For other government entities, the primary contact shall be
3 selected by mutual agreement in writing between the utility and the
4 other government entity.

5 (b) The electric public utility shall provide written notice to the
6 primary contact, designated pursuant to subparagraph (a) of this
7 paragraph, at least 60 days in advance of the planned vegetation
8 management activity. The notice shall include the planned dates
9 and locations of the vegetation management activity, and shall be
10 written in a manner sufficient to explain the utility's procedures and
11 easement rights. The utility shall provide a telephone number of its
12 vegetation manager to provide answers to any questions from the
13 primary contact relating to the notice. If a utility provides notice,
14 pursuant to this paragraph, through a contractor or agent, the notice
15 shall bear the name and logo of the utility only and not of the
16 contractor or agent. The utility shall maintain a record of the dates,
17 locations, and activities contained in notice provided to municipal
18 and other government entities, pursuant to this paragraph, for a
19 period of five years after notice is sent.

20 c. (1) An electric public utility shall conduct an annual public
21 education program to inform its customers and local and other
22 government entities in the utility's service territory of the
23 importance of vegetation management and of the utility's role and
24 responsibility in performing vegetation management near
25 distribution and transmission lines. The public education program
26 required pursuant to this paragraph shall be implemented by direct
27 mail or another method approved by the board.

28 (2) An electric public utility shall post materials of its public
29 education program, developed pursuant to paragraph (1) of this
30 subsection, on its website. The posted materials shall include
31 illustrations of typical configurations of transmission lines and
32 easements, as necessary to comply with the requirements of this
33 section, to inform the public regarding the utility's responsibilities
34 in performing vegetation management pursuant to this section.

35 (3) (a) In the event of an objection or disagreement by a
36 customer, property owner, or governmental entity that may be
37 affected by the planned vegetation management activity of an
38 electric public utility, the utility shall first attempt to resolve the
39 dispute. In the event that the dispute cannot be resolved, then any
40 party to the dispute may appeal the dispute to the board. Upon
41 receiving the appeal, the board shall randomly select a licensed tree
42 expert with demonstrable understanding of utility vegetation
43 management from a list of tree experts that the board shall maintain
44 and update on a continuing basis. The board shall divide the list of
45 tree experts into eight geographic districts based upon the location
46 of the address of the tree experts. The board shall randomly select a
47 tree expert from the geographic district where the property that is
48 the subject of the dispute is located. The tree expert shall then

1 review the issue in dispute and make a determination as to what
2 action, if any, should be taken. The board shall adopt procedural
3 rules, pursuant to section 11 of P.L. , c. (C.) (pending
4 before the Legislature as this bill), as the board deems appropriate
5 in order to implement the provisions of this paragraph.

6 (b) Vegetation management activity of an electric public utility
7 shall not be performed on any property of the New Jersey Turnpike
8 Authority or the South Jersey Transportation Authority without the
9 approval of those authorities.

10
11 5. Section 5 of P.L.1996, c.135 (C.13:1L-17.5) is amended to
12 read as follows:

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

33 b. A majority of the membership of the council shall constitute
34 a quorum for the transaction of council business. Action may be
35 taken and motions and resolutions adopted by the council at any
36 meeting thereof by the affirmative vote of a majority of the full
37 membership of the council.

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

41 d. The State Forester shall appoint a chairperson and vice-
42 chairperson and the council may elect such other officers as may be
43 necessary. The council may appoint such staff or hire such experts
44 as it may require within the limits of appropriations made for these
45 purposes.

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

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

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

11 h. Except as provided in section 10 of P.L. c. (C.)
12 (pending before the Legislature as this bill), the council, a shade
13 tree commission, and any entity empowered pursuant to this
14 chapter, shall not interfere with or restrict an electric public utility's
15 removal, replacement, or maintenance of hazard vegetation
16 pursuant to the provisions of P.L. , c. (C.) (pending before
17 the Legislature as this bill).

18 (cf: P.L.1996, c.135, s.5)

19
20 6. R.S.40:37-5 is amended to read as follows:

21 40:37-5. Except as hereinafter provided and as provided in
22 subsection h. of section 5 of P.L. c. (C.) (pending before
23 the Legislature as this bill), the shade tree commission may exercise
24 exclusive control over the regulation, planting, and care of shade
25 and ornamental trees and shrubbery now situate or which may
26 hereafter be planted [in] along any public road, street, highway,
27 [park] or parkway , or upon, or in any public park or other property
28 owned, controlled, or managed by or of the county, including:

29 a. The planting, trimming, spraying, care, and protection
30 thereof;

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

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

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

37 e. The encouragement of arboriculture.

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

39
40 7. R.S.40:37-6 is amended to read as follows:

41 40:37-6. **[The]** a. Except as provided in subsection b. of this
42 section, the shade tree commission, with the consent of the board of
43 chosen freeholders, may make rules and regulations for the
44 protection and care of the trees, shrubbery, or ornamental material
45 planted or growing naturally within the highways and parks under
46 its jurisdiction, as provided in this article, and with the consent of
47 the board may prescribe a suitable fine for the violation of each rule

1 or regulation, in an amount not exceeding **【\$200.00】** \$3,000 for
2 each violation.

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

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

35 As used in this subsection, "vegetation management" means to
36 prune, clear, move, cut, replace as reasonable and necessary, or trim
37 any hazard vegetation to protect or maintain any structures or
38 fixtures, necessary for the supply of electric light, heat, or power.
39 (cf: P.L.1958, c.41, s.3)
40

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

42 40:64-5. **【A】** Except as provided in subsection h. of section 5
43 of P.L. c. (C.) (pending before the Legislature as this bill)
44 a shade tree commission organized under this chapter shall have
45 power to:

46 a. Exercise full and exclusive control over the regulation,
47 planting, and care of shade and ornamental trees and shrubbery now
48 located, or which may hereafter be planted **【in】** along any public

1 road, street, highway, [park] or parkway, or upon or in any public
2 park or other property owned, controlled, or managed by or of the
3 municipality, except such as are excluded pursuant to section 40:64-
4 1 of this Title in the municipality for which it was created,
5 including the planting, trimming, spraying, care, and protection
6 thereof;

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

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

12 d. Care for and control such parks and parkways; encourage
13 arboriculture; make, alter, amend, and repeal, in the manner
14 prescribed for the passage, alteration, amendment, and repeal of
15 ordinances by the governing body of the municipality, any and all
16 ordinances necessary or proper for carrying out the provisions
17 hereof; and

18 e. Administer treatment to, or remove, any tree situate upon
19 private property which is believed to [harbour] harbor a disease or
20 insects readily communicable to neighboring healthy trees in the
21 care of the municipality and enter upon private property for that
22 purpose, with the consent of the owner thereof, provided the
23 suspected condition is first confirmed by certificate issued by or on
24 behalf of the Department of Agriculture.

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

26
27 9. R.S.40:64-12 is amended to read as follows:

28 40:64-12. a. The commission may prescribe a fine for the
29 violation of each of its ordinances in an amount not exceeding
30 ~~[\$1500.00]~~ \$3,000 for each violation, and the courts which now or
31 hereafter shall have jurisdiction over actions for the violation of
32 ordinances of the municipality in which the commission has been or
33 shall be appointed shall have jurisdiction in actions for the violation
34 of such ordinances as the commission shall enact. The ordinances
35 shall be enforced by like proceedings and process and the practice
36 for the enforcement thereof shall be the same as that provided by
37 law for the enforcement of the ordinances of the municipality in
38 which the commission exists. The officers authorized by law to
39 serve and execute process in the aforementioned courts shall be the
40 officers to serve and execute any process issued out of any court
41 under this chapter. A copy of any ordinance of the commission,
42 certified to under the hand of its secretary [,] or chairman shall be
43 received in any court of this State as full and legal proof of the
44 existence of the ordinance, and that all requirements of law in
45 relation to the ordaining, publishing, and making of the same, so as
46 to make it legal and binding, have been complied with, unless the
47 contrary be shown.

1 b. In addition to the penalties authorized by subsection a. of
2 this section, the commission may require a person who removes or
3 otherwise destroys a tree in violation of a municipal ordinance to
4 pay a replacement assessment to the municipality. The replacement
5 assessment shall be the value of the tree as determined by the
6 appraisal of a trained forester **【or Certified Tree Expert】**, licensed
7 tree expert, or licensed landscape architect who is trained and
8 experienced in the appraisal of the value of vegetation and retained
9 by the commission for that purpose. In lieu of an appraisal, the
10 commission may adopt a formula and schedule based upon the
11 number of square inches contained in a cross section of the trunk of
12 the tree multiplied by a predetermined value per square inch, not to
13 exceed **【\$27.00】** \$27 per square inch. The square inch cross
14 section shall be calculated from the diameter at breast height and, if
15 there is a multiple stem tree, then each trunk shall be measured and
16 an average shall be determined for the tree. For the purposes of this
17 section, "diameter at breast height" shall mean the diameter of the
18 tree taken at a point 4-1/2 feet above ground level. The commission
19 shall modify the value of the tree based upon its species variety,
20 location, and its condition at the time of removal or destruction.

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

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

9 As used in this subsection, "vegetation management" means to
10 prune, clear, move, cut, replace as reasonable and necessary, or trim
11 any hazard vegetation to protect or maintain any structures or
12 fixtures, necessary for the supply of electric light, heat, or power.

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

14
15 10. Sections 1 through 4 and section 11 of
16 P.L. , c. (C.) (pending before the Legislature as this bill)
17 shall not apply to any municipality having enacted an ordinance
18 pursuant to law, before or after the effective date of
19 P.L. , c. (C.) (pending before the Legislature as this bill),
20 concerning the performance of vegetation management on hazard
21 vegetation or the enforcement of such an ordinance by that
22 municipality.

23
24 11. The board shall adopt, pursuant to the "Administrative
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
26 regulations necessary to effectuate the provisions of sections 1
27 through 4 of P.L. , c. (C.) (pending before the Legislature
28 as this bill).

29
30 12. This act shall take effect immediately, but shall remain
31 inoperative for 90 days following the date of enactment.

32 33 34 STATEMENT

35
36 This bill broadens the authority of electric public utilities to
37 engage in vegetation management relative to electric public utility
38 (utility) infrastructure. Specifically, the bill authorizes a utility to
39 utilize all available methods per ANSI A300 tree care standards, in
40 accordance with Board of Public Utilities (board) rules and
41 regulations, which may include, but not be limited to, clearing,
42 moving, cutting, trimming, pruning, or maintaining to remove,
43 replace as reasonable and necessary, or maintain hazard vegetation
44 for the purpose of the safe and reliable transmission and distribution
45 of electric light, heat, or power. The bill permits a utility, upon
46 receipt of board approval, to establish a program to develop
47 effective strategies to effectuate the broadened authority provided
48 under the bill. In addition to existing statutory notification

1 requirements, a utility is required to make a diligent attempt to
2 notify all customers, property owners, and government entities that
3 may be affected by planned vegetation management activity,
4 including, for government entities, providing notice at least 60 days
5 of the planned dates and locations of the vegetation management
6 activity and written in a manner sufficient to explain the utility's
7 procedures and easement rights. Lastly, a utility is required to
8 conduct an annual public education program to inform its customers
9 and government entities of the importance of vegetation
10 management and of its role and responsibility in performing
11 vegetation management.

12 The bill provides that the term "hazard vegetation" means a tree,
13 shrub, plant, or any other vegetation growing in the utility's right-
14 of-way and the electric transmission and distribution system, but
15 not including a service line to an individual customer, which is
16 deemed, upon on-site inspection, to pose a high likelihood of failure
17 or in growth within a normal return inspection cycle or maintenance
18 return interval, that the vegetation may fall onto or otherwise affect
19 service with a transmission or distribution line, as determined by
20 the utility forester or the local government entity having control of
21 the right-of-way and as confirmed by a licensed tree care operator,
22 licensed tree expert, or licensed landscape architect who is trained
23 and experienced in the evaluation of hazard vegetation.

24 The bill provides that the Community Forestry Council (council),
25 as well as a county or municipal shade tree commission, cannot
26 restrict a utility's removal, replacement, or maintenance of hazard
27 vegetation when the utility is doing so in an acquired easement or
28 right-of-way and shall not be required to receive permission or be
29 subject to penalty as long as the work is done by the utility to
30 comply with any federal law, rule, regulation, any vegetation
31 management rule, regulation, or order of the board, or any national
32 or federal standard applicable to a utility in this State and the utility
33 is acting in good faith, with due diligence and reasonable
34 judgement. In the event of a vacancy on the council occurring after
35 the date the bill is enacted into law, the State Forester is to appoint
36 a utility employee who is a utility-approved forester to represent the
37 utility on the council until such time as there are at least two
38 members serving on the council who meet that criteria.

39 A utility is not exempt from any penalty or replacement
40 assessment imposed as a result of damage to a tree, shrub, or plant
41 caused by non-compliance with any rule or regulation of a county
42 or municipal shade tree commission, provided that the rule or
43 regulation does not interfere with or restrict any vegetation
44 management work conducted by the utility to comply with any
45 federal rule, regulation, or law, any vegetation management rule,
46 regulation, or order of the board, or any national or federal standard
47 applicable to a utility. A utility, acting in good faith with due
48 diligence and reasonable judgment in its performance of vegetation

1 management pursuant to the bill's provisions and the board's rules
2 and regulations, cannot be held liable, penalized, or otherwise
3 subject to undue hardship by a governing body of a county or
4 municipality or a shade tree commission

5 The bill also increases the maximum size of penalties and fines
6 that a shade tree commission may impose to \$3,000 for violations
7 of commission rules, regulations, or ordinances. The bill also
8 provides the ability for a municipality to opt out of allowing a
9 utility to perform vegetation management by clarifying that the
10 protections provided to utilities in this bill for vegetation
11 management are not to alter or supersede the provisions of an
12 ordinance enacted pursuant to law by a municipality concerning the
13 performance of vegetation management on hazard vegetation by
14 that municipality.

15 The bill also provides for a process to resolve any dispute
16 between a public utility and a customer, property owners, or
17 government entity over planned vegetation management activity. In
18 the event of an objection or disagreement by a customer, property
19 owner, or governmental entity that may be affected by the planned
20 vegetation management activity of a utility, the utility is to first
21 attempt to resolve the dispute. In the event that the dispute cannot
22 be resolved, then any party to the dispute may appeal the dispute to
23 the board.

24 The bill prohibits a utility from performing vegetation
25 management on any property of the New Jersey Turnpike Authority
26 or the South Jersey Transportation Authority without the approval
27 of those authorities.