S T A T E  O F  N E W  Y O R K

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I N  A S S E M B L Y

May 19, 2010

Introduced by M. of A. CASTELLI -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to authorizing the county of Westchester and its municipal subdivisions to enact local laws regulating tree cutting, topping and removal along electricity distribution lines which are more restrictive than state law or regulation

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public service law is amended by adding a new section 77-a to read as follows:

S 77-A. TREE CUTTING, TOPPING AND REMOVAL ALONG ELECTRICITY DISTRIBUTION LINES IN THE COUNTY OF WESTCHESTER. 1. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY RECOGNIZES THE NEED FOR THE RELIABLE DELIVERY OF ELECTRIC POWER TO THE RESIDENTS AND BUSINESSES OF WESTCHESTER COUNTY. TREES AND TREE LIMBS, IF NOT PROPERLY MAINTAINED, MAY ENDANGER SUCH RELIABLE DELIVERY OF ELECTRIC POWER, THUS MAKING THE CUTTING AND/OR REMOVAL OF TREES A NECESSITY.

HOWEVER, THE LEGISLATURE ALSO RECOGNIZES THAT TREES PROVIDE VARIOUS BENEFITS TO THE PEOPLE OF THE STATE, INCLUDING PREVENTION OF FLOODS, PURIFICATION OF WATER, REDUCTION OF SOIL EROSION, REMOVAL OF CARBON DIOXIDE FROM THE AIR, PROTECTION FROM THE ELEMENTS, AND ENHANCEMENT OF COMMUNITY CHARACTER AND INDIVIDUAL PROPERTY VALUES.

2. LOCAL LAWS AUTHORIZED. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, THE COUNTY OF WESTCHESTER, AND/OR THE MUNICIPAL CORPORATIONS AND SUBDIVISIONS OF THE COUNTY OF WESTCHESTER, SHALL BE AUTHORIZED TO ADOPT LOCAL LAWS, WHICH ARE MORE STRINGENT OR RESTRICTIVE THAN STATE LAW, RULE OR REGULATION, TO REGULATE TREE CUTTING, TOPPING, AND REMOVAL ALONG ELECTRICITY DISTRIBUTION, SERVICE OR TRANSMISSION LINES. SUCH RULES AND REGULATIONS, TO THE EXTENT PRACTICABLE, SHALL REFLECT THE MOST RECENT EDITION OF PART ONE OF THE AMERICAN NATIONAL STANDARDS INSTITUTE A-300 STANDARDS FOR TREE CARE OPERATIONS, "TREE, SHRUB, AND OTHER WOODY PLANT MAINTENANCE - STANDARD PRACTICES (PRUNING)". THE PROVISIONS OF THIS SECTION SHALL NOT BE DEEMED TO

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PROHIBIT ANY ELECTRIC CORPORATION OR MUNICIPALITY FROM CUTTING, PRUNING, TOPPING OR REMOVING ANY TREE THAT HAS FALLEN ON A SERVICE OR DISTRIBUTION LINE, OR IS IN IMMINENT DANGER OF DOING SO.

3. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION: (A) "DISTRIBUTION LINE" MEANS ANY ELECTRIC LINE WHICH DISTRIBUTES OR WHICH IS INTENDED TO DISTRIBUTE ELECTRIC POWER TO ONE OR MORE RESIDENTIAL AND/OR COMMERCIAL CUSTOMERS;

(B) "SERVICE OR TRANSMISSION LINE" MEANS AN ELECTRIC LINE USED TO CONNECT A DISTRIBUTION LINE TO AN INDIVIDUAL CUSTOMER'S METER OR OTHER POINT OF ATTACHMENT;

(C) "RIGHT OF WAY" MEANS AN EASEMENT OR OTHER RIGHT OF WAY GRANTED TO AN ELECTRIC CORPORATION OR MUNICIPALITY UPON WHICH A DISTRIBUTION LINE, SERVICE OR TRANSMISSION LINE IS SITUATE;

(D) "TREE" MEANS ANY SELF-SUPPORTING WOODY PLANT OF A SPECIES THAT GROWS AT MATURITY TO AN OVERALL HEIGHT OF NOT LESS THAN TEN FEET, AND HAS A SINGLE TRUNK OR MULTIPLE TRUNKS WHICH IN THE AGGREGATE ARE NOT LESS THAN SIX INCHES IN DIAMETER, AS MEASURED FOUR AND ONE-HALF FEET ABOVE THE GROUND;

(E) "CUT" OR "CUTTING" MEANS REMOVAL OF ANY PART OF A TREE;

(F) "TOPPING" MEANS THE CUTTING OF MOST OF THE CANOPY OF A TREE FOR THE PURPOSE OF PRODUCING BRANCH STUBS;

(G) "PRUNING" MEANS THE SELECTIVE CUTTING OF TREE PARTS TO MEET SPECIFIC GOALS AND OBJECTIVES.

4. TREE PLANTINGS. (A) IF REQUESTED BY THE GRANTOR OF A RIGHT OF WAY OR HIS OR HER SUCCESSOR IN INTEREST TO THE APPROPRIATE CITY, TOWN, OR VILLAGE IN THE COUNTY OF WESTCHESTER, AN ELECTRIC CORPORATION OR MUNICIPALITY SHALL PLANT A REPLACEMENT TREE FOR EACH TREE THAT IT REMOVED WITHIN A RIGHT OF WAY.

(B) EACH REPLACEMENT TREE SHALL BE PLANTED IN CLOSE PROXIMITY TO THE TREE IT REPLACES AND SHALL BE A NATIVE TREE TO THE COUNTY OF WESTCHESTER, AS DETERMINED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS. ALL OTHER TERMS AND CONDITIONS OF THE PLANTING OF A REPLACEMENT TREE SHALL BE AGREED UPON IN WRITING BY THE ELECTRIC CORPORATION OR MUNICIPALITY AND THE PERSON OR ENTITY REQUESTING SUCH PLANTINGS; PROVIDED, THAT IF NO SUCH AGREEMENT IS REACHED, UPON SUCH TERMS AND CONDITIONS AS SHALL BE DETERMINED BY THE COMMISSION.

(C) IN ANY INSTANCE IN WHICH THE OWNER OF A RIGHT OF WAY, OR HIS OR HER SUCCESSOR IN INTEREST, FAILS TO REQUEST THE PLANTING OF A REPLACEMENT TREE, THE COMMISSION SHALL REQUIRE THE ELECTRIC CORPORATION OR MUNICIPALITY TO:

(1) TAKE SUCH ACTION AS IS NECESSARY TO INSURE AGAINST ADVERSE ENVIRONMENTAL EFFECTS, INCLUDING SOIL EROSION AND DRAINAGE IN THE VICINITY OF THE REMOVED TREE; OR

(2) CONTRIBUTE A SUM OF MONEY FOR USE BY THE COUNTY OF WESTCHESTER OR THE APPROPRIATE CITY, TOWN, OR VILLAGE, FOR THE PLANTING OF TREES.

S 2. This act shall take effect immediately.