

11132

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:

1 Section 1. The public service law is amended by adding a new section
2 77-a to read as follows:

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

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

15 2. LOCAL LAWS AUTHORIZED. NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
16 RULE OR REGULATION TO THE CONTRARY, THE COUNTY OF WESTCHESTER, AND/OR
17 THE MUNICIPAL CORPORATIONS AND SUBDIVISIONS OF THE COUNTY OF WESTCHES-
18 TER, SHALL BE AUTHORIZED TO ADOPT LOCAL LAWS, WHICH ARE MORE STRINGENT
19 OR RESTRICTIVE THAN STATE LAW, RULE OR REGULATION, TO REGULATE TREE
20 CUTTING, TOPPING, AND REMOVAL ALONG ELECTRICITY DISTRIBUTION, SERVICE OR
21 TRANSMISSION LINES. SUCH RULES AND REGULATIONS, TO THE EXTENT PRACTICA-
22 BLE, SHALL REFLECT THE MOST RECENT EDITION OF PART ONE OF THE AMERICAN
23 NATIONAL STANDARDS INSTITUTE A-300 STANDARDS FOR TREE CARE OPERATIONS,
24 "TREE, SHRUB, AND OTHER WOODY PLANT MAINTENANCE - STANDARD PRACTICES
25 (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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1 PROHIBIT ANY ELECTRIC CORPORATION OR MUNICIPALITY FROM CUTTING, PRUNING,
2 TOPPING OR REMOVING ANY TREE THAT HAS FALLEN ON A SERVICE OR DISTRIB-
3 UTION LINE, OR IS IN IMMINENT DANGER OF DOING SO.

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

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

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

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

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

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

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

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

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

37 (C) IN ANY INSTANCE IN WHICH THE OWNER OF A RIGHT OF WAY, OR HIS OR
38 HER SUCCESSOR IN INTEREST, FAILS TO REQUEST THE PLANTING OF A REPLACE-
39 MENT TREE, THE COMMISSION SHALL REQUIRE THE ELECTRIC CORPORATION OR
40 MUNICIPALITY TO:

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

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

46 S 2. This act shall take effect immediately.