

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 62

(Senator Augustine)

Education, Energy, and the Environment

Economic Matters

Land Use - Public Service Companies - Pollinator-Friendly Vegetation
Management and Utility-Designated Pollinator Areas

This bill prohibits a local government from imposing any unreasonable limitation, including a land use restriction, on a utility-designated pollinator area maintained by a public service company if (1) the area is subject to a Candidate Conservation Agreement between the U.S. Fish and Wildlife Service and the public service company or (2) the public service company maintains and regularly tends to the area by performing or overseeing pollinator-friendly vegetation management, as specified. The bill also specifies related intent of the General Assembly regarding the application of other State and local laws and public service company activities.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: The bill does not appear to materially affect local government finances or operations, as discussed below.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Pollinator-friendly vegetation management” means landscape management that creates habitats for native pollinators and other native wildlife and native plants that together form an interdependent natural community and provides food, water, cover, or sites for nesting. It includes employing no-mow methods, employing rotational mowing cycles, using integrative vegetation management to maintain low-growing plant

communities, and using scientifically accepted approaches for the protection of the State’s rare, threatened, or endangered plant and wildlife species.

“Utility-designated pollinator area” means property, including any right-of-way or easement (1) that is maintained by a public service company; (2) for which the public service company has exclusive maintenance rights; and (3) that is voluntarily identified by the public service company as an area that will be maintained with pollinator-friendly vegetation management to support pollinators.

An “unreasonable limitation on pollinator-friendly vegetation management” includes a limitation that significantly increases the cost or decreases the efficacy of pollinator-friendly vegetation management or requires cultivated vegetation to consist wholly or partly of turf grass.

Exclusions

The bill does not apply to a limitation imposed by a local government on pollinator-friendly vegetation management performed or overseen by a public service company on its property, including a right-of-way or an easement, located on or below a trail overlap, a park overlap, or active farmland. Additionally, the bill may not be construed to (1) prohibit a local government from imposing a land use restriction on the type, number, or location of pollinator-friendly vegetation management features that pertain to the safe and dependable delivery of energy products or human health and safety or (2) limit or restrict mowing outside of a utility-designated pollinator area.

Current Law: The Public Service Commission (PSC) is required to adopt regulations implementing service quality and reliability standards for the delivery of electricity to retail customers by electric companies. The resulting regulations set minimum reliability standards for each electric company based on past performance, established a mandatory annual performance reporting system, and mandated vegetation management, among other requirements. A county or municipality is prohibited from adopting or enforcing a local law, rule, or regulation or taking any other action that interferes with or materially increases the cost of the work of an electric company toward compliance with the vegetation management standards adopted by PSC.

Electric company vegetation management programs must address several technical requirements such as tree pruning and removal; vegetation management around poles, substations, and overhead lines; vegetation management along rights-of-way; inspection of vegetation management; public education and notice; and debris management. Electric companies must determine the extent and priority of vegetation management at a site based on several factors, such as the relative importance of the affected conductor in maintaining reliable and safe power, the company’s legal rights to access the area where vegetation

management is to be performed, State and local laws and regulations that affect vegetation management at the site, and customer acceptance of vegetation management at the site.

Local Fiscal Effect: No local government that responded to the request for information for this fiscal and policy note indicated a fiscal effect due to the bill; while this is just a sample, given the bill's limited scope and various exclusions, it is likely to be the case for most or all local governments.

Additional Comments: A Candidate Conservation Agreement is a formal, voluntary agreement between the U.S. Fish and Wildlife Service and one or more parties to address the conservation needs of candidate species or species that may become candidates in the near future (for listing under the federal Endangered Species Act). Participants voluntarily commit to implement specific actions designed to remove or reduce threats to the covered species.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 62 (Delegate Charkoudian) - Economic Matters.

Information Source(s): Public Service Commission; Maryland Department of Agriculture; Carroll, Harford, Queen Anne's, and St. Mary's counties; City of Annapolis; U.S. Fish and Wildlife Service; Department of Legislative Services

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