

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

Senate Bill 654 (Senator Frosh)
 Education, Health, and Environmental Affairs and Finance

Public Utility Tree Management Act

This bill requires a public utility to prepare a specified tree management plan before clearing or trimming vegetation on or adjacent to a public utility right-of-way. Public utilities also must enter into a specified two-year binding agreement with the Department of Natural Resources regarding the maintenance of planted areas. DNR may issue a stop work order for violations of the bill or provisions of other specified programs or plans. A public utility is subject to specified criminal penalties for failure to adhere to the bill's requirements or to the provisions of a tree management plan.

Fiscal Summary

State Effect: General fund expenditures could increase by \$66,900 in FY 2009 for DNR to hire a forestry manager to implement and enforce the bill. Future year expenditures reflect annualization, salary increases, and inflation. Revenues would not be affected.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	66,900	62,100	65,100	68,300	71,700
Net Effect	(\$66,900)	(\$62,100)	(\$65,100)	(\$68,300)	(\$71,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local governments with municipal-owned utilities could incur costs associated with preparing and implementing tree management plans. To the extent the bill's requirements limit a municipal-owned utility in responding to service outages, such utilities could be impacted operationally. The criminal penalty provisions applicable to violations of this bill are not expected to significantly affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: A tree management plan must include measures to minimize tree removal and specified adverse environmental impacts and must provide for planting of compatible species on areas adjacent to a right-of-way from which trees or other vegetation have been removed.

The plan must be submitted to DNR at least 30 days before it is implemented and must be accompanied by a specified map. Tree management plans and other specified vegetation management programs or plans must also be published and made available to the public at least 30 days before implementation.

Applicable misdemeanor penalties include a fine of up to \$500 for a first offense and a fine of up to \$1,000 and/or imprisonment for up to one year for a second or subsequent offense.

DNR is authorized to adopt regulations to implement the bill.

Current Law/Background: Cutting or clearing of public utility rights-of-way or land for licensed electric generating stations is exempt from the Forest Conservation Act, subject to specified conditions including conducting the cutting or clearing so as to minimize the loss of forest. Routine maintenance of public utility rights-of-way is also exempt. The Act, generally aimed at minimizing the loss of Maryland's forest resources during land development, requires the preparation and approval of a forest conservation plan, consistent with specified standards and requirements, for any activity requiring a subdivision plan or grading or sediment control permit on areas 40,000 square feet or greater.

The Public Service Commission is required to consider the need to minimize the loss of forest and the Forest Conservation Act's provisions for afforestation and reforestation, along with all applicable electrical safety codes, when reviewing applications for certificates of public convenience and necessity required for the construction of electric generation facilities and transmission lines.

DNR administers the Roadside Tree Law. The law and its associated regulations seek to ensure the proper care and protection of roadside trees and their compatibility with an efficient and dependable public utility system. A person generally must obtain a permit from DNR in order to cut down or trim a roadside tree. DNR issues two types of tree

care permits: (1) specific tree care operations on a specific tree or group of trees for a term of not more than one year (Roadside Tree Project Permit); and (2) comprehensive and continuing programs of general tree care such as those administered by government entities, corporations, or public utilities (Roadside Tree Blanket Permit).

The Secretary of Natural Resources is responsible for the enforcement of all natural resource laws of the State and rules and regulations adopted pursuant to the Natural Resources Article.

Background: PSC advises that, in recent years, trees have been the single largest cause of electric service interruptions during stormy weather as evidenced by outages during Hurricane Isabel in 2003 and other major storm events since that time. PSC indicates that since 2004, trees have caused about 63% of lost service hours.

The Maryland Electric Reliability Tree Trimming Council, which includes representatives of electric utilities, the Maryland Department of Planning, the State Highway Administration, PSC, and DNR, was formed in 2000 and meets quarterly. The council is geared toward cooperation and facilitation of communication between State government and electric utilities to address environmental and electric reliability concerns.

Three municipalities in Maryland (Hagerstown, Berlin, and Easton) have municipal-owned electric utilities.

State Expenditures: General fund expenditures could increase by an estimated \$66,872 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of hiring a forestry manager to • review the tree management plans; • negotiate, review, and approve the binding two-year agreements; • inspect work in progress; • conduct investigations related to allegations of noncompliance; and • provide technical expertise in the event of a stop work order or criminal prosecution. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	1
Salary and Fringe Benefits	\$43,594
Automobile and One-time Start-up Costs	21,200
Operating Expenses	<u>2,078</u>
Total FY 2009 State Expenditures	\$66,872

DNR indicates there are six primary utilities in the State performing ongoing vegetation management and that it would not be able to sufficiently review applicable tree management plans, inspect ongoing work, and conduct any necessary enforcement with existing staff as they do not currently conduct similar activities.

Future year expenditures reflect • a full salary with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

The criminal penalty provisions applicable to violations of this bill are not expected to significantly affect State finances or operations.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Public Service Commission, Office of the Attorney General, Town of Berlin, Department of Legislative Services

Fiscal Note History: First Reader - March 11, 2008
ncs/lgc

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510