

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

House Bill 480  
Economic Matters

(Delegate Levi, *et al.*)

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**Public Utility Tree Management Act of 2009**

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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 transmission right-of-way. Public utilities also must enter into a specified two-year binding agreement with the Department of Natural Resources (DNR) regarding the maintenance of planted areas, with a copy of the agreement forwarded to affected local governments. The bill, however, does not apply if a tree is uprooted or its branches are broken so as to contact wires, or a tree or its branches endanger persons or property. The bill includes sanctions for specified violations.

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**Fiscal Summary**

**State Effect:** General fund expenditures may increase by \$66,300 in FY 2010 for DNR to hire a forestry manager to implement and enforce the bill. Future year expenditures reflect annualization, salary increases, and inflation. Revenues are not materially affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	66,300	68,500	71,700	75,100	78,600
Net Effect	(\$66,300)	(\$68,500)	(\$71,700)	(\$75,100)	(\$78,600)

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

**Local Effect:** Any impact on local governments with municipal utilities is not expected to be significant.

**Small Business Effect:** Potential minimal.

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## 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 vegetation on areas adjacent to a transmission right-of-way from which trees or other vegetation have been removed.

The plan must be submitted to DNR and the local government within the boundaries of which the trimming or removal of vegetation is proposed to occur 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.

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. 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:** 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 forest management plan must include a binding two-year management agreement regarding maintenance of areas designated for afforestation or reforestation.

The Public Service Commission (PSC) 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. A permit is not required if a tree is uprooted or its branches broken so as to contact wires, or if the tree or its branches endanger persons or property. DNR issues two types of tree care permits: (1) Roadside Tree Project Permit – for specific tree care operations on a specific tree or group of trees for a term of not more than one year; and (2) Roadside Tree Blanket Permit – for comprehensive and continuing programs of general tree care such as those administered by government entities, corporations, or public utilities.

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:** In recent years, trees have been a significant 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 more than 2,000 miles of electric power transmission line right-of-ways are located throughout Maryland.

The Maryland Electric Reliability Tree Trimming Council, which includes representatives of electric utilities, 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.

Five municipalities in Maryland (Berlin, Easton, Hagerstown, Thurmont, and Williamsport) have municipal electric utilities.

**State Expenditures:** General fund expenditures may increase by an estimated \$66,277 in fiscal 2010, which accounts for the bill's October 1, 2009 effective date. This estimate reflects the cost of hiring a forestry manager to (1) receive and publish tree management plans; (2) negotiate, review, and approve the binding two-year agreements; (3) perform site audits; (4) conduct investigations related to allegations of noncompliance; and (5) provide technical expertise in the event of a stop work order or criminal prosecution. It includes a salary, fringe benefits, the cost of an automobile, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$46,985
Automobile	15,759
Operating Expenses	<u>3,533</u>
<b>Total FY 2010 State Expenditures</b>	<b>\$66,277</b>

Future year expenditures reflect a full salary with 4.4% annual increases and 3% employee turnover and 1% annual increases in ongoing operating expenses.

DNR indicates at least six plans would be in place at any given time (those of the six primary utilities in the State), but likely more. DNR is not able to sufficiently conduct the above-mentioned duties with existing staff.

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

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### Additional Information

**Prior Introductions:** SB 654 of 2008, a similar bill, received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

**Cross File:** SB 352 (Senator Peters, *et al.*) - Education, Health, and Environmental Affairs.

**Information Source(s):** Department of Natural Resources; Public Service Commission; Carroll, Harford, and Montgomery counties; Town of Williamsport; City of Havre de Grace; Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2009  
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