

**Department of Legislative Services**  
 Maryland General Assembly  
 2008 Session

**FISCAL AND POLICY NOTE**

Senate Bill 746  
 Finance

(Senator Brochin)

**Electric Companies - Removal or Clearing of Trees - Notice and Cease and Desist Order**

This bill requires an electric company to send a notice to each owner of property it construes to be in a public right-of-way and on which the electric company intends to remove or clear one or more trees, with copies sent to the Public Service Commission and Consumer Protection Division (CPD) of the Office of the Attorney General. Specified exceptions to the notice requirement apply, including if the electric company only proposes to trim trees or if the proposed action is necessary to restore interrupted electric service. The bill specifies a process allowing the notified property owner to comment on the proposed action to CPD, request a cease and desist order, and participate in mediation (conducted by CPD) with the electric company.

**Fiscal Summary**

**State Effect:** General fund expenditures could increase by \$173,880 in FY 2009 for CPD to conduct investigation and mediation activities. Future year expenditures reflect annualization 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	173,900	227,000	237,500	248,600	260,300
Net Effect	(\$173,900)	(\$227,000)	(\$237,500)	(\$248,600)	(\$260,300)

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

**Local Effect:** Local governments with municipal-owned utilities could be impacted to the extent the bill's requirements increase costs associated with electric utility-related tree trimming or removal activities.

**Small Business Effect:** None.

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## **Analysis**

**Bill Summary:** The notice must be sent to a property owner by first-class mail 30 days before the date of the electric company's proposed action. PSC must adopt regulations governing the requirement.

CPD may issue a cease and desist order if it • determines a property owner's concerns are justified and • after consulting with PSC, finds that issuing the order will not impede the public interest. The cease and desist order lasts for up to 60 days and mediation must begin within 20 days of the order's issuance. If a specified mediation plan is not agreed on, CPD determines the plan. An electric company may appeal a plan determined by CPD to PSC.

**Current Law/Background:** The Department of Natural Resources 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).

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 necessary for construction of electric generation facilities and transmission lines.

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

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

**State Expenditures:** General fund expenditures could increase by \$173,880 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of hiring an investigator, a complaint supervisor, and a secretary in CPD to handle investigations of property owners' concerns and conduct mediation and/or determine mediation plans. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3
Salaries and Fringe Benefits	\$150,085
Equipment and Operating Expenses	<u>23,795</u>
<b>Total FY 2009 State Expenditures</b>	<b>\$173,880</b>

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

PSC advises it would require an additional public service engineer as a result of the bill. Legislative Service notes, however, that the bill places the primary responsibility of addressing property owners' concerns and facilitating mediation between property owners and electric companies with CPD. It is unclear whether PSC responsibilities of adopting regulations, consulting with CPD with regard to issuances of cease and desist orders, and addressing any electric company appeals of CPD-determined mediation plans would require an additional position within PSC. Therefore, the above estimate assumes PSC could handle the bill's requirements with existing resources. To the extent PSC is unable to handle the additional workload with existing staff, additional staff may be requested through the annual budget process.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Natural Resources, Public Service Commission, Office of People's Counsel, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2008  
ncs/hlb

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