

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES COMMITTEE

STATEMENT TO ASSEMBLY, No. 2558

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 20, 2018

The Assembly Telecommunications and Utilities Committee reports favorably and with committee amendments Assembly Bill No. 2558.

As amended and reported, this bill authorizes an electric public utility to utilize all reasonably available methods according to ANSI A300 tree care standards and pursuant to Board of Public Utilities (BPU) rules and regulations, which may include, but not be limited to, clearing, moving, cutting, or destroying to remove, replace, or maintain dangerous vegetation and to establish a program to develop effective strategies to implement the bill's provisions. Under the bill, "dangerous vegetation" is defined as a tree, shrub, plant, or any other vegetation growing in, near, or adjacent to the electric public utility's right of way, and the electric distribution and transmission system, but not including a service line to an individual customer, which may fall into, touch, affect, or otherwise interfere with an electrical distribution line, as determined by the electric public utility or local government entity having control of the right-of-way.

The bill prohibits the Community Forestry Council (council) and a county or municipal shade tree commission (commission) from interfering with or restricting an electric public utility's removal, replacement, or maintenance of dangerous vegetation. The bill provides that, upon there being a vacancy on the council after the effective date of the bill, the State Forester is to appoint a New Jersey electric public utility employee who is an electric public utility approved forester to represent the electric public utility on the council until such time as there are at least two members serving on the council meeting that description.

The bill also provides that, in order to allow any public utility or cable television company to clear, move, cut, or destroy dangerous vegetation upon any lands in which it has acquired an easement or right-of-way or upon any public right-of-way, a public utility or cable television company is not required to receive the permission of any commission to undertake that work and is not subject to any penalty imposed by any commission as provided by law. Under the bill, a

public utility or cable television company is not exempt from any penalty or replacement assessment imposed as a result of damage to a tree, shrub, or plant caused by non-compliance with any rule or regulation of a commission, provided that the rule or regulation does not interfere with or restrict any vegetation management work conducted by the public utility or cable television company from complying with any federal rule, regulation, or law, any vegetation management rule, regulation, or order of the board, or any national or federal standard applicable to a public utility or cable television company. The bill provides that a public utility or cable television company, that is acting in good faith, with due diligence and reasonable judgement, in its performance of vegetation management pursuant to the bill's provisions and any board rules or regulations, is not to be held liable, penalized, or otherwise subject to undue hardship by a governing body of a county or municipality or a commission.

COMMITTEE AMENDMENTS:

The committee amended the bill to: (1) mention in the bill's findings and declarations the March 2018 nor'easters and their impact on residents and businesses; (2) authorize electric public utilities to use reasonably available methods according to ANSI A300 tree care standards and pursuant to BPU rules and regulations to address dangerous vegetation and to establish their own program to develop effective strategies to implement the bill's provisions; (3) provide for the addition of two electric public utility employees who are electric public utility approved foresters to serve on the council; and (4) provide that a public utility or cable television company, acting in good faith, with due diligence and reasonable judgement, in its performance of vegetation management pursuant to the bill's provisions and any BPU rules or regulations, is not to be held liable, penalized, or otherwise subject to undue hardship by a governing body of a county or municipality or a commission.