

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2505**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: OCTOBER 22, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2505, with committee amendments.

As amended, this bill broadens the authority of public utilities, as well as cable television providers, to engage in vegetation management relative to public utility infrastructure.

Specifically, the bill authorizes an electric public utility to utilize all available methods per ANSI A300 tree care standards, in accordance with Board of Public Utility rules and regulations, which may include, but not be limited to, clearing, moving, cutting, or destroying to remove, replace, or maintain dangerous vegetation. The bill permits an electric public utility to establish a program to develop effective strategies to effectuate the broadened authority provided under the bill. The term “dangerous vegetation” means 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 Community Forestry Council (the “Council”), as well as a county or municipal shade tree commission, cannot restrict an electric public utility’s removal, replacement, or maintenance of dangerous vegetation. In the event of a vacancy on the Council occurring after the date the bill is enacted into law, 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 who meet that criteria.

The bill also provides that, in order to allow a 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 county or municipal shade tree commission to undertake that work and is not subject to any penalty imposed by any commission as provided by law. 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 county or municipal shade tree 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 to comply 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. A public utility or cable television company, acting in good faith with due diligence and reasonable judgment in its performance of vegetation management pursuant to the bill's provisions and BPU's rules and regulations, cannot be held liable, penalized, or otherwise subject to undue hardship by a governing body of a county or municipality or a shade tree commission.

#### COMMITTEE AMENDMENTS:

The committee amendments:

(1) add the March 2018 nor'easters' impact on residents and businesses to the bill's findings and declarations;

(2) authorize electric public utilities to use reasonably available methods, according to ANSI A300 tree care standards and BPU rules and regulations, to address dangerous vegetation;

(3) permit electric public utilities to, on their own, establish a program to implement vegetation remediation standards, as opposed to working with municipalities therewith;

(4) provide for the addition of two electric public utility employees, who are electric public utility-approved foresters, to serve on the Community Forestry Council;

(5) provide that a public utility or cable television company, acting in good faith with due diligence and reasonable judgment in its performance of vegetation management, per the bill's provisions and BPU rules or regulations, cannot to be held liable, penalized, or otherwise subject to undue hardship by a governing body of a county or municipality or a shade tree commission; and

(6) make technical corrections to include inadvertently omitted pre-existing sections of law, as well as to correct errors in numbering and formatting.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill would result in an indeterminate, likely marginal, decrease in recurring local revenues associated with the reduced collection of fines by county and municipal shade tree commissions.

County shade tree commissions would experience a loss in revenue equal to: (1) the number of instances in which a public utility or cable television company cuts or removes certain vegetation, as authorized

in the bill, when those actions would have otherwise violated commission rules and regulations; multiplied by (2) the amount of the fine, not to exceed \$200, that would have been imposed for each action.

The reduction in municipal shade tree commission fine and replacement assessment revenues would be equal to: (1) the number of instances in which a public utility or cable television company cuts or removes certain vegetation located upon a public right-of-way, as authorized in the bill, when those actions would have otherwise violated commission rules and regulations; multiplied by (2) the amount of the fine, not to exceed \$1,500, and replacement assessment, as determined by the commission, that would have been imposed for each action.

The OLS is unable to predict: (1) the number of instances in which a public utility or cable television company will undertake the actions authorized in the bill, and (2) whether those actions would have otherwise violated the rules and regulations of a county or municipal shade tree commission, and thereby would have been subject to a fine or replacement assessment. Therefore, the OLS is unable to quantify the decrease in local revenues that is expected to result from the enactment of the bill.