

HOUSE BILL ANALYSIS

HB 1230

Title: An act relating to limiting the liability of electric utilities for efforts undertaken to protect their facilities from damage that might be caused by vegetation.

Brief Description: Limiting the liability of electric utilities.

Sponsors: Representatives Sheahan, Kessler, Poulsen, Benson, Kastama, Grant, Hurst, Crouse, McDonald, Lantz and McMorris.

Brief Summary of Bill

- Gives an electric utility company or entity immunity from a civil action for damages for cutting vegetation on another person's property under certain circumstances.

HOUSE COMMITTEE ON JUDICIARY

Staff: Trudes Hutcheson (786-7384).

Background:

When a person trespasses on another person's land and cuts, injures, or removes trees, timber, or shrubs, the owner of the land may bring an action for damages. Treble damages may be awarded if the trespass is willful— and not casual, involuntary, or based on a mistaken belief of ownership. In addition, treble damages may not be awarded when a tree or timber is removed from open woodlands in order to repair any public highway or bridge on adjoining land. Based on a 1997 state supreme court decision, damages for emotional distress may also be awarded if the interference with property was intentional.

Summary of Bill:

Electric utilities are granted immunity from actions for damages for cutting or removing vegetation on or originating from another person's land when the vegetation:

- (a) has come in contact with electric facilities;
- (b) has caused damage to electric facilities;
- (c) poses a hazard to the general public and the electric utility makes a reasonable effort as soon as practicable to notify and secure an agreement with the land

owner or resident of the property regarding the disposal of the vegetation that has been cut or removed; or

- (d) poses a potential threat to damage electric facilities and the electric utility notifies and secures agreement from the land owner for the cutting, removing, and disposal of the vegetation. However, if the land owner fails to respond to a notice from the electric utility within two weeks, the electric utility may secure an agreement from the resident of the property for the cutting, removal, and disposal of the vegetation.

Vegetation poses a hazard to the general public when it has encroached upon electric facilities by overhanging, leaning towards, or growing within 10 feet directly beneath electric facilities that are located above ground. Vegetation also poses a hazard to the general public when the vegetation is diseased, dead, or dying and is in such proximity to electric facilities that it poses an imminent threat to damage those facilities, as determined by a qualified forester or certified arborist employed or retained by the electric utility.

Vegetation poses a potential threat to damage electric facilities when vegetation is of a size, condition, and proximity to electric facilities that it is reasonable to expect that the vegetation will cause damage to the electric facilities, and has been determined by a qualified forester or certified arborist employed or retained by the electric utility to be a potential threat.

Electric facilities is defined, and includes such things as lines, conduits, ducts, poles, wires, pipes, cables, instrumentalities, and rights-of-way, and all devices and apparatus used, operated, owned, or controlled by an electric utility for the purposes of manufacturing, transforming, transmitting, distributing, selling, or furnishing electricity.

An electric utility means any person, corporation, or other entity owning, operating or managing any electric plant for hire within the state, including a municipal electric utility, a public utility district, a cooperative, and mutual corporation that is engaged in the business of distributing electricity in the state.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research