

AMENDED IN ASSEMBLY JUNE 14, 2022

AMENDED IN ASSEMBLY MAY 12, 2022

AMENDED IN ASSEMBLY SEPTEMBER 3, 2021

AMENDED IN ASSEMBLY JULY 12, 2021

AMENDED IN ASSEMBLY JUNE 30, 2021

SENATE BILL

No. 396

Introduced by Senator Dahle

(Principal coauthor: Assembly Member Mayes)

February 11, 2021

An act to *amend Section 4295.5 of, and to add and repeal Section 4295.6 of of, the Public Resources Code, and to add and repeal Section 8386.7 of the Public Utilities Code, relating to forestry, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 396, as amended, Dahle. Forestry: electrical transmission or distribution lines: clearances: notice and opportunity to be heard.

Existing law authorizes any person who owns, controls, operates, or maintains any electrical transmission or distribution line to traverse land as necessary, regardless of land ownership or express permission to traverse land from the landowner, after providing notice and an opportunity to be heard to the landowner, to prune trees to maintain clearances, as provided, and to abate, by pruning or removal, any hazardous, dead, rotten, diseased, or structurally defective live trees. Existing law authorizes this abatement at the full discretion of the person that owns, controls, operates, or maintains the electrical transmission

or distribution lines, except for certain applicable minimum clearance requirements for those lines.

Under existing law, the Public Utilities Commission, which has regulatory authority over public utilities, including electrical corporations, has established additional vegetation management requirements.

~~This bill would, regarding those provisions related to electrical lines and abatement activities for~~ *would subject property access by an electrical corporation who owns, controls, operates, or maintains an for felling, cutting, or trimming trees to provisions similar to those applicable to pruning trees, maintaining clearances, and abating trees around electrical transmission or distribution line, specify that covered abatement activities include felling, cutting, or trimming trees. lines, including provisions requiring notice to the landowner and an opportunity to be heard. The bill would explicitly require all these line clearance and tree pruning and abatement tree felling, cutting, and trimming activities to comply with the commission's certain commission vegetation management rules, if applicable. applicable, and with the California Coastal Act of 1976 and the forest practice rules and regulations adopted by the State Board of Forestry and Fire Protection. The bill would require any trees that are felled, cut, or trimmed, as provided, to remain on the property of the landowner, unless the landowner timely requests the electrical corporation to treat or remove the wood, as specified, at no cost to the landowner. The bill would require woody material that was trimmed, cut, or felled to be treated to achieve a maximum postactivity depth of 9 inches when operating within 150 feet of a structure, public road, or other infrastructure, except where the landowner has requested that material to be kept intact. The bill would exempt electrical cooperatives, as defined, from these provisions. The bill would repeal these provisions on January 1, 2026.*

This bill would require the commission, on or before January 1, 2025, to develop, through a public process, standardized content *and methods of delivery* to be used to satisfy the landowner notice requirement for *both* vegetation abatement *and felling, cutting, and trimming activities, including including, among other things,* a description of the process that the electrical corporation ~~who owns, controls, operates, or maintains an electrical transmission or distribution line~~ must provide for a landowner to exercise the opportunity to be heard, ~~as specified, when challenging~~ *heard regarding the proposed pruning, maintaining*

clearances, abating, felling, cutting, or trimming of trees on property where the electrical corporation does not have existing rights or the express landowner permission to traverse land from the landowner. The to do so. Until the standardized content of the notice is developed, the bill would require the an electrical corporation who owns, controls, operates, or maintains an electrical transmission or distribution line to make a good faith effort to communicate the processes of vegetation abatement associated with the felling, cutting, and trimming activities, as provided, of trees under these provisions to the landowner before the development of the standardized content, and before felling, cutting, or trimming trees on property where the electrical corporation does not have existing rights or the express permission to do so from the landowner. The bill would repeal these provisions on January 1, 2026.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 4295.5 of the Public Resources Code is*
 2 *amended to read:*
 3 4295.5. (a) Notwithstanding any other law, state or local law
 4 or regulation that would otherwise impose liability for trespass
 5 or damages for pruning trees or vegetation as described in this
 6 section, including Section 4295, a person who owns, controls,
 7 operates, or maintains an electrical transmission or distribution
 8 line may traverse land as necessary, regardless of land ownership
 9 or express permission to traverse land from the landowner, after
 10 providing notice and an opportunity to be heard to the landowner,
 11 to prune trees to maintain clearances pursuant to Section 4293,
 12 and to abate, by pruning or removal, any hazardous, dead, rotten,
 13 diseased, or structurally defective live trees. The clearances
 14 obtained when the pruning is performed shall be at the full
 15 discretion of the person that owns, controls, operates, or maintains
 16 any electrical transmission or distribution line, but shall be no less
 17 than what is required in Section 4293. This section shall apply to
 18 both high fire threat districts, as determined by the California
 19 Public Utilities Commission pursuant to its rulemaking authority,
 20 and to state responsibility areas.

(b) Subdivision (a) does not exempt a person who owns, controls, operates, or maintains an electrical transmission or distribution line from liability for damages for the removal of vegetation that is not covered by an easement granted to the person for the electrical transmission or distribution line.

(c) *On and after January 1, 2025, an electrical corporation, as defined in Section 218 of the Public Utilities Code, shall provide notice to landowners and an opportunity to be heard as required by subdivision (a) in compliance with Section 8386.7 of the Public Utilities Code. This subdivision shall become inoperative on January 1, 2026.*

~~SECTION 1.~~

SEC. 2. Section 4295.6 is added to the Public Resources Code, to read:

4295.6. (a) ~~Notwithstanding any other law, including Section 4295,~~ *state or local law or regulation that would impose liability for trespass or damages for felling, cutting, or trimming trees or vegetation as described in this section,* an electrical corporation who owns, controls, operates, or maintains an electrical transmission or distribution line may traverse land as necessary, regardless of land ownership or express permission to traverse land from the landowner, after providing notice and an opportunity to be heard to the landowner, to fell, cut, or trim trees to maintain clearances pursuant to Section 4293, or, if applicable, Rule 35 of the Public Utilities Commission's General Order 95, and to abate, by felling, cutting, or trimming, any hazardous, dead, rotten, diseased, leaning, or structurally defective live trees. The felling, cutting, and trimming of these trees, and the clearances obtained when felling, cutting, or trimming of trees, shall be ~~at the full discretion of~~ *performed by* the electrical corporation that owns, controls, operates, or maintains an electrical transmission or distribution line, but shall not be less than what is required in Section 4293, and, if applicable, Rule 35 of the Public Utilities Commission's General Order 95. This section shall apply to both high fire threat districts, as determined by the Public Utilities Commission pursuant to its rulemaking authority, and to state responsibility areas.

(b) (1) Trees that are felled, cut, or trimmed pursuant to this section on property where the electrical corporation does not have existing rights or the express permission to do so from the

landowner shall remain on the property of the landowner unless, in advance of a date specified in the landowner notice requirement developed pursuant to Section 8386.7 of the Public Utilities Code, the landowner makes a timely request to the electrical corporation to perform a treatment of the wood, including, but not limited to, onsite-chipping, chipping or to remove the removal of the wood from the property.

(2) In response to a timely request from a landowner and at no cost to the landowner, the electrical corporation shall treat the wood as in the manner requested, unless the wood is not safely accessible by its vehicles and equipment or other regulations would otherwise prohibit the treatment.

(3) *Except where the landowner has requested the woody material to be kept intact, when operating within 150 feet of a structure, public road, or other infrastructure, woody materials trimmed, cut, or felled pursuant to this section shall be treated to achieve a maximum postactivity depth of nine inches. Nothing in this paragraph shall supersede Section 4291. For purposes of this paragraph, the following definitions apply:*

(A) *“Infrastructure” includes electrical distribution and transmission facilities, water reservoirs or other conveyances, wastewater facilities or conveyances, communication and data transmission and distribution facilities, or other critical assets or infrastructure at risk.*

(B) *“Structure” includes buildings that are designed for human occupancy, or garages, barns, stables, and structures used to enclose fuel tanks.*

(c) *All actions pursuant to this section that are undertaken by an electrical corporation who owns, controls, operates, or maintains an electrical transmission or distribution line shall be done in compliance with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000)) and the forest practice rules and regulations adopted by the board pursuant to the Z’berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511)).*

(d) *Electrical cooperatives, as defined in Section 2776 of the Public Utilities Code, are exempt from this section.*

(e)

(e) This section shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2026, deletes or extends that date.

~~SEC. 2.~~

SEC. 3. Section 8386.7 is added to the Public Utilities Code, to read:

8386.7. (a) On or before January 1, 2025, the commission shall develop, through a public process, standardized content *and methods of delivery* for a letter, door hanger, or other means of notification *reasonably expected to make the landowner aware of the entry and work to be performed* that the electrical corporation who owns, controls, operates, or maintains an electrical transmission or distribution line shall use to satisfy the landowner notice requirement described in ~~Section~~ *Sections 4295.5 and 4295.6* of the Public Resources Code when *pruning, maintaining clearances, abating*, felling, cutting, or trimming trees on property where the electrical corporation does not have existing rights or the express permission to do so. The content shall include a description of the notice that the electrical corporation who owns, controls, operates, or maintains an electrical transmission or distribution line must provide the landowner to exercise the opportunity to be heard, established in Section 4295.6 of the Public Resources Code, related to the proposed *pruning, maintaining clearances, abating*, felling, cutting, or trimming of trees on property where the electrical corporation does not have existing rights or the express permission to traverse land from the landowner. *The content shall include a definition of a landowner's opportunity to be heard and provide the timeline for which a timely request must be made by a landowner pursuant to paragraph (2) of subdivision (b) of Section 4295.6 of the Public Resources Code.*

(b) Before the development of the standardized ~~content~~, *content pursuant to subdivision (a)*, the electrical corporation who owns, controls, operates, or maintains an electrical transmission or distribution line shall make a good faith effort to communicate the processes established in Section 4295.6 of the Public Resources Code to a landowner before felling, cutting, or trimming trees on property where the electrical corporation does not have existing rights or the express permission to do so from the landowner.

1 (c) This section shall remain in effect only until January 1, 2026,
2 and as of that date is repealed, unless a later enacted statute that
3 is enacted before January 1, 2026, deletes or extends that date.

4 ~~SEC. 3.~~

5 *SEC. 4.* This act is an urgency statute necessary for the
6 immediate preservation of the public peace, health, or safety within
7 the meaning of Article IV of the California Constitution and shall
8 go into immediate effect. The facts constituting the necessity are:

9 In order to establish clear forest management practices for the
10 prevention of, and protection against, wildfires, it is necessary that
11 this act take effect immediately.