

# HB5233



## 96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5233

Introduced 2/3/2010, by Rep. Patricia R. Bellock

### SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-505.1

Amends the Public Utilities Act. Provides that an electric public utility shall follow the sensible growth vegetation standards as developed by the Illinois Commerce Commission to replant trees removed by utilities along State, county, and municipally owned recreational trails. Effective immediately.

LRB096 17377 MJR 32729 b

A BILL FOR

1 AN ACT concerning utilities.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing  
5 Section 8-505.1 as follows:

6 (220 ILCS 5/8-505.1)

7 Sec. 8-505.1. Non-emergency vegetation management  
8 activities.

9 (a) Except as provided in subsections (b), (c), and (d), in  
10 conducting its non-emergency vegetation management activities,  
11 an electric public utility shall:

12 (1) Follow the most current tree care and maintenance  
13 standard practices set forth in ANSI A300 published by the  
14 American National Standards Institute and the most current  
15 applicable Occupational Safety and Health Administration  
16 regulations regarding worker safety.

17 (2) Provide direct notice of vegetation management  
18 activities no less than 21 days nor more than 90 days  
19 before the activities begin.

20 (A) If the vegetation management activities will  
21 occur in an incorporated municipality, the notice must  
22 be given to the mayor or his or her designee.

23 (B) If the vegetation management activities will

1 occur in an unincorporated area, the notice must be  
2 given to the chairman of the county board or his or her  
3 designee.

4 (C) Affected customers shall be notified directly.

5 (D) Affected property owners shall be notified by a  
6 published notice in a newspaper or newspapers in  
7 general circulation and widely distributed within the  
8 entire area in which the vegetation management  
9 activities notice will occur.

10 (E) Circuit maps or a description by common address  
11 of the area to be affected by vegetation management  
12 activities must accompany any notice to a mayor or his  
13 or her designee or to a chairman of a county board or  
14 his or her designee.

15 ~~(3)~~ The electric public utility giving the direct and  
16 published notices required in this subsection (a) (2) shall  
17 provide notified customers and property owners with (i) a  
18 statement of the vegetation management activities planned,  
19 (ii) the address of a website and a toll-free telephone  
20 number at which a written disclosure of all dispute  
21 resolution opportunities and processes, rights, and  
22 remedies provided by the electric public utility may be  
23 obtained, (iii) a statement that the customer and the  
24 property owner may appeal the planned vegetation  
25 management activities through the electric public utility  
26 and the Illinois Commerce Commission, (iv) a toll-free

1 telephone number through which communication may be had  
2 with a representative of the electric public utility  
3 regarding the vegetation management activities, and (v)  
4 the telephone number of the Consumer Affairs Officer of the  
5 Illinois Commerce Commission. The notice shall also  
6 include a statement that circuit maps and common addresses  
7 of the area to be affected by the vegetation management  
8 activities are on file with the office of the mayor of an  
9 affected municipality or his or her designee and the office  
10 of the county board chairman of an affected county or his  
11 or her designee.

12 (3) Follow the sensible growth vegetation standards as  
13 developed by the Commission to replant trees removed by  
14 utilities along State, county, and municipally owned  
15 recreational trails.

16 The Commission shall have sole authority to investigate,  
17 issue, and hear complaints against the utility under this  
18 subsection (a).

19 (b) A public utility shall not be required to comply with  
20 the requirements of subsection (d) or of ~~paragraph paragraphs~~  
21 ~~(2) and (3)~~ of subsection (a) when it is taking actions  
22 directly related to an emergency to restore reliable service  
23 after interruptions of service.

24 (c) A public utility shall not be required to comply with  
25 the requirements of subsection (a) or (d) if there is a  
26 franchise, contract, or written agreement between the public

1 utility and the municipality or county mandating specific  
2 vegetation management practices. If the franchise, contract,  
3 or written agreement between the public utility and the  
4 municipality or county establishes requirements for notice to  
5 the municipality, county, customers, and property owners,  
6 those notice requirements shall control over the notice  
7 requirements of paragraph ~~paragraphs~~ (2) ~~and (3)~~ of subsection  
8 (a). If the franchise, contract, or written agreement between  
9 the public utility and the municipality or county does not  
10 establish notice requirements, the notice requirements  
11 contained in paragraph ~~paragraphs~~ (2) ~~and (3)~~ of subsection (a)  
12 shall control.

13 (d) If no franchise, contract, or written agreement between  
14 a utility and a municipality mandates a specific vegetation  
15 management practice and the municipality enacts an ordinance  
16 establishing standards for non-emergency vegetation management  
17 practices that are contrary to the standards established by  
18 this Section and the vegetation management activities of the  
19 electric public utility cost substantially more, as a direct  
20 consequence, then the electric public utility may, before  
21 vegetation management activities begin, apply to the  
22 municipality for an agreement to pay the additional cost. When  
23 an application for an agreement is made to the municipality, no  
24 vegetation management activities shall begin until the  
25 municipality responds to the application by agreement or  
26 rejection or dispute resolution proceedings are completed. The

1 application shall be supported by a detailed specification of  
2 the difference between the standards established by this  
3 Section and the contrary standards established by the municipal  
4 ordinances and by a good faith bid or proposal obtained from a  
5 utility contractor or contractors quantifying the additional  
6 cost for performing the specification. When the municipality  
7 receives the specification and the utility contractor's bid or  
8 proposal, the municipality shall agree, reject, or initiate  
9 dispute resolution proceedings regarding the application  
10 within 90 days after the application's receipt. If the  
11 municipality does not act within 90 days or informs the utility  
12 that it will not agree, the electric public utility may proceed  
13 and need not comply with the contrary ordinance standard. When  
14 there is a dispute regarding (i) the accuracy of the  
15 specification, (ii) whether there is a conflict with the  
16 standards established by this Section, or (iii) any aspect of  
17 the bid or proposal process, the Illinois Commerce Commission  
18 shall hear and resolve the disputed matter or matters, with the  
19 electric public utility having the burden of proof. A  
20 municipality may have a person trained in tree care and  
21 maintenance generally monitor and discuss with the vegetation  
22 management supervisory personnel of the electric public  
23 utility the performance of the public utility's vegetation  
24 management activities without any claim for costs hereunder by  
25 the public utility arising therefrom.

26 The provisions of this Section shall not in any way

1 diminish or replace other civil or administrative remedies  
2 available to a customer or class of customers or a property  
3 owner or class of property owners under this Act. This Section  
4 does not alter the jurisdiction of the Illinois Commerce  
5 Commission in any manner except to obligate the Commission to  
6 investigate, issue, and hear complaints against an electric  
7 public utility as provided in paragraph (2) of subsection (a)  
8 ~~(a)(3)~~ and to hear and resolve disputed matters brought to it  
9 as provided in this subsection. Vegetation management  
10 activities by an electric public utility shall not alter,  
11 trespass upon, or limit the rights of any property owner.  
12 (Source: P.A. 91-902, eff. 7-6-00; 92-214, eff. 8-2-01.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.