

House File 460 - Introduced

HOUSE FILE 460
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 149)

A BILL FOR

1 An Act relating to vegetation management by certain electric
2 suppliers.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 564.9 Electric suppliers —
2 vegetation management.

3 1. For purposes of this section:

4 a. "*Electric distribution facility*" means the facilities
5 and equipment owned and operated by an electric supplier that
6 are used to transmit electricity to ultimate usage points from
7 interchanges with higher voltage transmission networks which
8 transport bulk power over long distances.

9 b. "*Electric supplier*" means any of the following:

10 (1) A rural electric cooperative subject to chapter 499.

11 (2) A city utility as defined in section 362.2, subject to
12 regulation under section 476.1B.

13 (3) A joint facility or electric power agency subject to
14 chapter 390.

15 (4) A public utility with an assigned area of service
16 pursuant to section 476.25.

17 c. "*Vegetation*" means any natural growth or vegetation,
18 including but not limited to trees, brush, saplings, and
19 bushes.

20 d. "*Vegetation management*" means any act to manage
21 vegetation, including but not limited to trimming, removing,
22 spraying, or otherwise controlling the vegetation.

23 2. a. An electric supplier that maintains or operates
24 electric distribution facilities may engage in vegetation
25 management within the legal description of a recorded easement
26 to ensure the continued safe and reliable operation of the
27 electric distribution facilities. However, if the terms of
28 a recorded easement prescribe limitations on an electric
29 supplier's ability to engage in vegetation management within
30 the legal description of the recorded easement, the terms of
31 the recorded easement shall control.

32 b. In the absence of a recorded easement, an electric
33 supplier may engage in vegetation management as follows:

34 (1) For electric distribution lines capable of operating at
35 thirty-seven kilovolts or less and located within the limits

1 of a city, within ten feet, plus one-half of the length of any
2 attached cross arm, of either side of the centerline.

3 (2) For electric distribution lines capable of operating at
4 thirty-seven kilovolts or less and located outside the limits
5 of a city, within thirty feet, plus one-half of the length of
6 any attached cross arm, of either side of the centerline.

7 c. Vegetation management undertaken pursuant to paragraph
8 "b" shall be considered reasonable and necessary for the
9 continued safe and reliable operation of the electric
10 supplier's electric distribution lines and shall create a
11 rebuttable presumption, in claims for property damage, that
12 the electric supplier acted with reasonable care, operated
13 within its rights regarding the maintenance and operation of
14 the electric distribution lines, and did not commit trespass.

15 d. Prior to undertaking vegetation management pursuant to
16 this subsection, the electric supplier shall use reasonable
17 diligence to notify the owner and person in possession of the
18 real property on which vegetation management will occur of the
19 electric supplier's intent to undertake vegetation management
20 and the type of vegetation management activity the electric
21 supplier will undertake.

22 3. Notwithstanding subsection 2, an electric supplier
23 may engage in vegetation management beyond the activities
24 authorized under subsection 2 in the following circumstances:

25 a. The electric supplier is granted permission from the
26 owner of the real property on which the electric distribution
27 facilities are located to engage in vegetation management
28 beyond the activities authorized under subsection 2.

29 b. The electric supplier is granted a recorded easement
30 that prescribes greater rights regarding vegetation management
31 beyond those granted in subsection 2.

32 c. The electric supplier deems that vegetation threatens
33 the integrity and safety of the electric supplier's electric
34 distribution facilities and vegetation management beyond
35 the activities authorized under subsection 2 is necessary

1 to maintain the continued safe and reliable operation of
2 the electric distribution facilities. Prior to undertaking
3 vegetation management pursuant to this paragraph, the
4 electric supplier shall notify the owner of the real property
5 on which the vegetation is located at least fourteen days
6 before the vegetation management occurs, unless the electric
7 supplier deems that immediate action is necessary to ensure
8 the continued safe and reliable operation of the electric
9 distribution facilities, or the action is in response to a
10 major weather event or other emergency situation involving
11 electric service in the area that has been interrupted and
12 needs to be restored.

13 4. An electric supplier that engages in vegetation
14 management pursuant to this section shall not be liable for
15 treble damages under section 658.4.

16 5. This section shall not be interpreted to require an
17 electric supplier to exercise any rights provided in this
18 section.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill establishes new Code section 564.9, relating
23 to the ability of certain electric suppliers to engage in
24 vegetation management under specified circumstances.

25 "Electric distribution facility" is defined as the equipment
26 owned and operated by an electric supplier that is used to
27 transmit electricity to ultimate usage points from interchanges
28 with higher voltage transmission networks. "Electric supplier"
29 is defined as a rural electric cooperative, a city utility, a
30 joint facility or electric power agency, or a public utility
31 with an assigned area of service. "Vegetation" is defined as
32 any natural growth or vegetation, including but not limited to
33 trees, brush, saplings, and bushes. "Vegetation management"
34 is defined as any act to manage vegetation, including but not
35 limited to trimming, removing, spraying, and controlling the

1 vegetation.

2 The bill provides that an electric supplier that maintains
3 or operates electric distribution facilities may engage
4 in vegetation management within the legal description of a
5 recorded easement to ensure the continued safe operation of
6 the facilities. However, if the recorded easement limits the
7 electric supplier's ability to do so, the recorded easement
8 controls.

9 The bill allows an electric supplier to engage in vegetation
10 management in the absence of a recorded easement in certain
11 areas and locations, as specified in the bill. The bill
12 provides that such actions shall be considered reasonable and
13 necessary for the continued safe and reliable operation of
14 the electric distribution lines and shall create a rebuttable
15 presumption that the electric supplier acted with reasonable
16 care, operated within its rights, and did not commit trespass.

17 The bill requires that, prior to undertaking vegetation
18 management, the electric supplier shall use reasonable
19 diligence to notify the owner and person in possession of the
20 real property on which vegetation management will occur of the
21 electric supplier's intent to undertake vegetation management.

22 The bill provides that an electric supplier may engage in
23 vegetation management beyond the activities authorized under
24 the bill if the electric supplier is granted permission from
25 the landowner on which the electric distribution facilities are
26 located to do so, the electric supplier is granted a recorded
27 easement that prescribes greater rights, or the electric
28 supplier deems that such action is necessary to maintain
29 the continued safe and reliable operation of the electric
30 distribution facilities, provided that the electric supplier
31 notify the landowner at least 14 days in advance, unless the
32 electric supplier deems that immediate action is needed or if
33 the action is in response to a major weather event or other
34 emergency situation involving electric service in the area that
35 has been interrupted and needs to be restored.

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1 The bill provides that an electric supplier that engages in
2 vegetation management pursuant to the bill shall not be liable
3 for treble damages for injury to trees under Code section
4 658.4.

5 The bill provides that it shall not be interpreted to require
6 an electric supplier to exercise any rights provided in the
7 bill.