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## SENATE BILL NO. 684

Offered January 20, 2016

A BILL to amend the Code of Virginia by adding in Article 5 of Chapter 10 of Title 56 a section numbered 56-260.2, relating to vegetation management by public service corporations; notices required; civil penalties; special fund established.

Patron—Black (By Request)

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 5 of Chapter 10 of Title 56 a section numbered 56-260.2 as follows:**

**§ 56-260.2. Vegetation management; notices; investigation of complaints; civil penalties.**

A. As used in this section, unless the context requires a different meaning:

"Notice of planned vegetation management activities" shall be in writing and include (i) a description of the planned vegetation management activities, including plans to remove trees within the affected area; (ii) a map depicting the parcels upon which such activities will occur; (iii) a schedule for the conduct of the activities; (iv) a description of the procedures by which the person to whom the notice is mailed may appeal the conduct of the planned vegetation management activities, including the deadline for filing such a challenge and the address of a website and a toll-free telephone number through which a written disclosure of all dispute resolution opportunities and processes, rights, and remedies provided by law may be obtained; and (v) a toll-free telephone number through which callers may communicate with a representative of the utility regarding the planned vegetation management activities.

"Tree" means a perennial woody plant with branches forming a distinct elevated crown and that has a main trunk that is at least six inches in diameter at a height of four feet.

"Utility" means any investor-owned electric utility or cooperative electric utility that transmits or distributes electric energy for use by retail customers in the Commonwealth and includes any affiliate thereof or person contracting therewith, directly or indirectly, who conducts or is authorized to conduct vegetation management activities for or on behalf of the electric utility.

"Vegetation" means trees and other plants.

"Vegetation management activities" means the removal of vegetation or the prevention of vegetative growth to maintain safe conditions around energized conductors and ensure reliable electric service. Vegetation management consists of biological, chemical, cultural, manual, and mechanical methods to control vegetation in order to prevent hazards caused by the encroachment of vegetation on energized conductors and to provide utility access to the conductor.

B. Except as provided in subsection C, a utility shall cause to be sent by first-class mail a notice of planned vegetation management activities, which mailing requirement shall be satisfied by mailing the notice to such persons as are at such addresses as are indicated in the land books maintained by the commissioner of revenue, director of finance, or treasurer of the county or municipality or, with respect to customers of the utility, in the utility's books and records. Notice of planned vegetation management activities shall be mailed both not less than 60 days before the activities commence and again approximately two weeks before the activities commence, to:

1. Each person who is (i) a customer of the utility and obtains service from the utility at a parcel upon which the utility intends to conduct vegetation management activities and (ii) if not the same as the person described in clause (i), the owner of the parcel upon which the utility intends to conduct vegetation management activities; and

2. The governing body of any locality within which the utility intends to conduct vegetation management activities.

C. This section shall not apply if there is a franchise, contract, or written agreement between the utility and the affected locality mandating specific vegetation management practices and the planned vegetation management practices comply with the requirements of the franchise, contract, or written agreement.

D. The Commission shall require each public service corporation that conducts vegetation management activities or uses an affiliate or contracts with a person to conduct vegetation management activities for it or on its behalf to establish (i) reasonable standards for the conduct of vegetation management activities and (ii) procedures by which a person may appeal planned vegetation management activities, including dispute resolution opportunities and processes, rights, and remedies

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59 relating to the conduct of vegetation management activities. Such standards shall be consistent with  
60 guidelines adopted by the Commission, by regulation, that establish standards for the conduct of  
61 vegetation management activities, which standards shall include trim limits and prohibit the excessive  
62 topping of trees.

63 E. Vegetation management activities by any utility shall not alter, trespass upon, or limit the rights  
64 of any property owner.

65 F. The Commission shall, upon receipt of a written complaint concerning the lack of compliance with  
66 the requirements of this section or the violation by a utility of standards for the conduct of vegetation  
67 management activities, investigate the situation and, if appropriate, exercise its powers granted under  
68 this section to impose civil penalties or otherwise enforce adherence to the standards.

69 G. The Commission may, by judgment entered after a hearing on notice duly served on any utility  
70 not less than 30 days before the date of the hearing, impose a civil penalty if it is proved that the utility  
71 violated any of the provisions of this section. Any proceeding or civil penalty undertaken pursuant to  
72 this section shall not prevent or preempt the right of any party to obtain civil damages for personal  
73 injury or property damage in private causes of action. The amount of any civil penalty imposed by the  
74 Commission under this section shall be calculated as follows:

75 1. \$500 for each person to whom the utility failed to provide a notice of planned vegetation  
76 management activities in violation of the requirements of subsection B;

77 2. \$1,000 for each trespass;

78 3. \$1,000 for each tree damaged outside of an area where the utility had an easement authorizing it  
79 to engage in vegetation management activities; and

80 4. \$3,000 for each tree with a height of 10 feet or more that is removed without the consent of the  
81 property owner.

82 H. The Vegetation Management Prevention Special Fund, referred to in this subsection as "the  
83 Special Fund," is hereby established as a revolving fund to be used by the Commission as provided in  
84 this subsection. The Special Fund shall be composed entirely of funds generated by the enforcement of  
85 this section. One-half of all civil penalties collected pursuant to this section shall be paid to the owners  
86 of property damaged by the violation that gave rise to the assessment of the specific civil penalty, and  
87 one-half of all civil penalties collected pursuant to this section shall be deposited into the Underground  
88 Utility Damage Prevention Special Fund (the Fund) to be used for administration and enforcement of  
89 the provisions of this section. Interest earned on the Fund shall be credited to the Special Fund. The  
90 Special Fund shall be established on the books of the Commission Comptroller, and any funds  
91 remaining in the Special Fund at the end of the fiscal year shall not revert to the general fund, but  
92 shall remain in the Special Fund.