



TOWN OF FAIRFAX

STAFF REPORT

June 15, 2022

TO: Mayor and Council

FROM: Michele Gardner, Town Clerk

SUBJECT: Authorize the mayor to send a letter in opposition to Senate Bill (SB) 396 (Dahle) Forestry: electrical transmission or distribution lines: clearances: notice and opportunity to be heard

RECOMMENDATION

Authorize the mayor to send a letter in opposition to SB 396 (Dahle).

DISCUSSION

SB 396 would allow electrical utility companies to enter private property without permission of the landowner or homeowner; trim and cut down trees - including live trees; and then leave the downed trees, limbs, and debris for the owner to deal with. It would allow the companies to ignore environmental considerations, the rights of private landowners and homeowners, and the public interest, even when doing so would increase the fire risk for landowners and communities.

The draft letter is modelled on one sent by the Sierra Club. It provides additional details on the why the Council may wish to oppose this legislation.

FISCAL IMPACT

None.

ATTACHMENT

Draft letter

The Honorable Luz Rivas
Chair, Assembly Committee on Natural Resources
Via Position Letter Portal

Re: SB 396 (Dahle) Forestry: electrical transmission or distribution lines: clearances: notice and opportunity to be heard. – OPPOSE

Dear Chair Rivas:

The Town of Fairfax opposes SB 396 (Dahle), which would negatively impact California's forest ecosystems and communities by allowing electrical corporations to cut far outside of utility easements around powerlines without adhering to the Forest Practice Rules which exist to minimize damage to natural resources.

SB 396 would give electrical utility companies "full discretion" to enter private property without permission of the landowner or homeowner; trim and cut trees, including the felling of live trees, with no limit on the number or size of the trees cut; and then leave the downed trees, limbs, and debris for the owner to deal with. Under SB 396, electrical corporations and their contractors would have no incentive to minimize damage or to protect the property and interests of homeowners.

Under SB 396, if the landowner requests that the felled trees be removed, the electrical corporation is under no time constraint to do so and can ignore the request entirely if the electrical corporation considers it unsafe or impractical to clean up the downed trees, wood, and debris.

SB 396 gives this "full discretion" to any business entity that "owns, controls, operates, or maintains" an electrical transmission or distribution line, presumably defined extensively to include contractors who may have limited expertise in preserving tree health or minimizing damage to the property. SB 396 would require only that corporations make a "good faith" effort to notify landowners before trespassing on their property to cut their trees without their permission or against their wishes. The bill gives landowners no authority to protect their property interests except for "an opportunity to be heard."

By allowing electrical corporation contractors to leave behind downed trees, wood, and debris, the bill not only makes clean up the responsibility of the landowner, it also increases the fire risk for the landowner and the community by increasing the amount of flammable debris on the forest floor.

Under SB 396 electrical corporations would have strong incentive to contract the cheapest possible operation, regardless of impacts to private landowners, the environment, and the public interest. If it is cheaper to cut whole, live trees far beyond the utility easement and on private properties and leave the debris behind, rather than to selectively cut trees, protect surrounding trees, and clean up the logging debris, SB 396 gives private landowners and the public no real means for providing input on that decision.

In sum, SB 396 gives electrical corporations and their contractors unprecedented authority to ignore environmental considerations, the rights of private landowners and homeowners, and the public interest, to minimize the electrical corporation's costs of operation, even when doing so increases the fire risk for landowners and communities. For these reasons, we oppose SB 396.

Sincerely,

Stephanie Hellman, Mayor
Town of Fairfax

CC: Members and Staff of the Assembly Committee on Natural Resources