

**CONSENT CALENDAR**

**March 3, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Science, Technology and Energy to  
which was referred HB 1012,**

**AN ACT relative to notice for the cutting of trees by  
utilities. Having considered the same, report the same  
with the following resolution: RESOLVED, that it is  
INEXPEDIENT TO LEGISLATE.**

**Rep. Jose Cambrils**

**FOR THE COMMITTEE**

## **COMMITTEE REPORT**

Committee:	<b>Science, Technology and Energy</b>
Bill Number:	<b>HB 1012</b>
Title:	<b>relative to notice for the cutting of trees by utilities.</b>
Date:	<b>March 3, 2022</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### **STATEMENT OF INTENT**

This bill attempts to change the requirements for tree maintenance near utility poles, by requiring the licensee to notify landowners of any cutting activity either in person or by registered mail with the addition of monetary penalties for those in violation of giving such notices. During testimony on the bill, it was discovered that there are already robust provisions in place for notification of tree cutting to electricity customers. The incident that prompted the filing of this bill turned out to be a very rare circumstance that did not merit additional changes to existing law or utility company policies.

Vote 21-0.

Rep. Jose Cambrils  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Science, Technology and Energy

**HB 1012**, relative to notice for the cutting of trees by utilities. **INEXPEDIENT TO LEGISLATE.**

Rep. Jose Cambrils for Science, Technology and Energy. This bill attempts to change the requirements for tree maintenance near utility poles, by requiring the licensee to notify landowners of any cutting activity either in person or by registered mail with the addition of monetary penalties for those in violation of giving such notices. During testimony on the bill, it was discovered that there are already robust provisions in place for notification of tree cutting to electricity customers. The incident that prompted the filing of this bill turned out to be a very rare circumstance that did not merit additional changes to existing law or utility company policies. **Vote 21-0.**

Original: House Clerk

Cc: Committee Bill File

**HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY**

**EXECUTIVE SESSION on HB 1012**

**BILL TITLE:** relative to notice for the cutting of trees by utilities.

**DATE:** March 1, 2022

**LOB ROOM:** 304

**MOTIONS: INEXPEDIENT TO LEGISLATE**

Moved by Rep. Cambrils

Seconded by Rep. Notter

Vote: 21-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Fred Plett, Clerk



## 2022 SESSION

## Science, Technology and Energy

 Bill #: HB1012 Motion: ITL AM #: \_\_\_\_\_ Exec Session Date: 02/28/2022

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Vose, Michael Chairman	x		
Thomas, Douglas W. Vice Chairman	x		
Harrington, Michael D.	x		
Notter, Jeanine M.	x		
Merner, Troy E.	x		
Plett, Fred R. Clerk	x		
Berezhny, Lex	x		
Bernardy, JD	x		
Cambrils, Jose E.	x		
Ploszaj, Tom	x		
White, Nick D.	x		
<del>Lewicki, John</del>			x
<del>Somssich, Peter F. Massimilla, Linda</del>	x		
Cali-Pitts, Jacqueline A.	x		
Mann, John E.	x		
Oxenham, Lee Walker	*		
<del>Vincent, Kenneth S. Telerski, Laura</del>	*		
McGhee, Kat	x		
<del>McWilliams, Rebecca J. Sykes, George</del>	x		
Chretien, Jacqueline H.	x		
Pimentel, Roderick L.	x		



2022 SESSION

Science, Technology and Energy

Bill #: HB1012 Motion: ITL AM #: \_\_\_\_\_ Exec Session Date: 02/28/2022

Parshall, Lucius

TOTAL VOTE:

	x		
	21	0	1

HOUSE COMMITTEE ON SCIENCE, TECHNOLOGY AND ENERGY

PUBLIC HEARING ON HB 1012

**BILL TITLE:** relative to notice for the cutting of trees by utilities.

**DATE:** January 18, 2022

**LOB ROOM:** 306-308                      **Time Public Hearing Called to Order:** 12:35 p.m.

**Time Adjourned:** 1:28 p.m.

**Committee Members:** Reps. Vose, Thomas, Plett, Harrington, Notter, Merner, Berezhny, Bernardy, Cambrils, Ploszaj, Cali-Pitts, Mann, Oxenham, McGhee, McWilliams, Chretien, Pimentel and Parshall

**Bill Sponsors:**

Rep. Marsh

Rep. Allard

Rep. Merchant

Rep. McGhee

Rep. Massimilla

Rep. Crawford

**TESTIMONY**

\* Use asterisk if written testimony and/or amendments are submitted.

\*Rep. William Marsh, \*Paul Weckesser. Notice for utility cutting trees. No notice from subcontractor for NHEC – suffered significant damage. Notice in bill not sufficient and violates RSAs. Mr. Weckesser – small ornamental bushes, nothing that could fall on lines. Towns need to provide notice, utilities should too. A bill stuffer was the only notice but no notice of cutting, only that which is acceptable. Vose – any notice at all, even in person? No notice. Home on Lake Winnepesaukee. Notter – Contact Coop? Yes. Executive Chair, got nowhere – have the right they said, have tight to cut within 11 feet of either side. Thomas – in their right of way? I asked for their records of easement. They did not supply. Spent \$200,000 to put utilities underground. Cali-Pitts – had this discussion before. Agreed between stakeholders and utilities that notification would occur. Co-op they said they don't have to fall under the utility rules of the state? Cali-Pitts – should this apply only to the Coop? No objection. McWilliams – who is licensee? Need to understand. Who decides 2 times, 10 times? Answer – courts. Vose - Section 231 has 191 different subsections – would take a while to figure out what a licensee is. Bernardy - Flowers small ornamentals shouldn't have been cut. Should be on their list of acceptable? Seems strange. Answer - didn't cut anything higher than the power line. Cambrils – Power lines – distribution lines? Yes. Parshall – Did not easement for pole they placed in 2015? Trespass suit? Rather pay to fix it. Vose - Member of Coop? Part owner? Yes. Cali-Pitts – would you be happy if Coop had to follow same rules as other utilities? Yes.

Rep. McGhee – cosponsor. Most points have been covered. Significant financial loss. Request for clearly defined due process.

Michael Licata, VP NHEC. NHEC practices and policies. Cali-Pitts question, statute does apply. Not rate regulated, but otherwise utility rules apply. Requirement 45 day notification to mail address where we send utility bills. We have a large number of seasonal members. Phone call 2-3 weeks before, with contact information on file. Concerned with legislation as drafted – happy to talk with landowner. Vose – licensee? Don't know. Planning Board in Epping, they hire subcontractors for Coop or Eversource – need to come to planning board. Is that your understanding? Plett – what you say happened and what landowner says are two different things – please research and meet with the landowner. Thomas – status of pole in question as well – research? Cali-Pitts - - would like to know whether any reach to NHEC above arborist on site? Don't know. Bernardy – cutting down flowers and ornamentals? Will find out. Harrington – does NHEC have policy – someone says get off my land – what do you do? Will need to research.

Donna Gamache, Eversource – Concerned about bill as currently written. Will let you know how these rules came out. PSNH would slow down tree cutting due to financial difficulty. Had to speed up due to outages. They are graded. After every storm report to NHPUC on progress. After 2008 storm allowed utilities to give notice rather than permission. Not by registered mail, but we go door to door and get signatures. If won't answer, leave door hangers. Thomas – rights of way nature determine how much needs to be trimmed.

Jason Stock – NH Timberlands – Doomage is the term for valuing standing trees. Timber trespass, 3 to ten times value for dooamage. Dooamage was started to be applied to ornamentals. Attorneys got cost of a brand new small tree, grew to 8-10" trunk tree, then 10 times that, could grow quickly to value of land. Applying dooamage to ornamental tree not appropriate.

Respectfully Submitted,

Rep Fred Plett





# House Remote Testify

## Science, Technology and Energy Committee Testify List for Bill HB1012 on 2022-01-18

Support: 1 Oppose: 5 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	1/16/2022 9:32 PM
Rosenberger, Teresa	Manchester, NH trosenberger@bssn.com	A Lobbyist	NH Telephone Association	Oppose	No	No	1/17/2022 6:11 PM
Petrusewicz, Carol	rochester, NH clmcc2befree@yahoo.com	A Member of the Public	Myself	Oppose	No	No	1/17/2022 8:48 PM
Cembalisty, Clara	Rochester, NH Cqsc43@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/17/2022 11:39 PM
Cembalisty, Richard	Rochester, NH taxmanrick@gmail.com	A Member of the Public	Myself	Oppose	No	No	1/17/2022 11:40 PM
Reardon, Donna	Concord, NH bugs42953@aol.com	A Member of the Public	Myself	Support	No	No	1/18/2022 8:19 AM

**Archived:** Tuesday, May 24, 2022 10:40:46 AM  
**From:** [Licata, Michael](#)  
**Sent:** Friday, January 21, 2022 2:32:57 PM  
**To:** [~House Science Technology and Energy](#)  
**Subject:** HB 1012 Testimony  
**Importance:** Normal

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Members of the House Science, Technology and Energy Committee,

Attached please find a copy of New Hampshire Electric Cooperative's testimony in opposition to HB 1012.

Please do not hesitate to contact me with any additional questions.

Thank you,

Michael

Michael Licata  
VP Member Services and Public Affairs  
New Hampshire Electric Cooperative  
579 Tenney Mountain Highway  
Plymouth, NH 03264  
603-536-8704



579 Tenney Mountain Highway  
Plymouth, NH 03264-3154  
www.nhec.com  
603-536-1800

January 18, 2022

The Honorable Chair, Representative Michael Vose  
House Science, Technology and Energy Committee  
Legislative Office Building Room 304  
Concord, NH 03301

**HB 1012 – An act relative to notice for the cutting of trees by utilities**

Dear Chairman Vose and Members of the Committee,

New Hampshire Electric Cooperative (NHEC) appreciates this opportunity to provide comments on HB 1012, an act relative to notice for the cutting of trees by utilities. NHEC is a non-profit, member-owned rural electric cooperative that provides electricity distribution service to 85,000 homes, businesses and municipalities in 118 communities throughout New Hampshire. To serve our members, NHEC maintains approximately 6,000 miles of energized lines and 100,000 utility poles.

As a member-owned non-profit, every dollar NHEC spends on its operations comes from the rates we charge our members. NHEC operates at cost, so the price the Co-op pays for materials or services is the price that our members pay. We always strive to provide our members with safe and reliable service at the lowest cost. Because HB 1012 would add unnecessary additional cost to NHEC's reliability program, NHEC is opposed this legislation as introduced.

Maintaining rights-of-way is a critical process that is the biggest driver of system reliability. NHEC's arborists and contractors work hard to identify, trim and remove vegetation that could result in power outages. Tree damage is the leading cause of power outages, as heavy snow, ice and strong winds can lead to trees and branches damaging our distribution system.

NHEC takes numerous steps to notify and work with property owners when trimming trees and managing vegetation in our rights-of-way. In accordance with RSA 231:172, NHEC sends letters to property owners at least 45 days in advance of work being performed in their area. For NHEC members, we utilize the mailing addresses we have on file, which are the same addresses we use to send our monthly bills. For non-members, we utilize mailing addresses that are publicly available through municipal tax records. NHEC also contacts members by phone at least two weeks before starting work. NHEC uses the member contact information we have on file.

NHEC maintains records of both the 45-day mail notification and the outbound calls to property owners. These contacts are automatically recorded on the member's account and can be verified after the fact.

NHEC works hard to educate property owners and address their concerns. We have a team of arborists who work every day with property owners and municipal officials. This team works to avoid confusion and make sure all parties understand the scope of work.

If a property owner requests NHEC or our contractors stop work, the Co-op's policy is to cease trimming and move to the next property. The property owner is given the contact information of an NHEC arborist, and then we follow up to discuss timing options. If property owners are unhappy with vegetation management work on their property, NHEC will meet with the owner, conduct a site visit to determine if the statute and the Co-op's policies were followed and attempt to address their concerns and resolve the issue. This could entail lawn restoration, new plantings or additional site clean-up.

HB 1012 would impose additional costs to this process which NHEC's members would have to bear through increased electric rates. Certified mail with electronic receipt (\$5.13 per letter) is significantly more expensive than metered mail (\$0.53). NHEC believes there is limited value to this requirement, which does not justify the additional expense to our members.

The bill also imposes significant penalties if an entity does not comply with the notification requirements of the statute. The bill also leaves open to interpretation how the value of the damages incurred are determined. It is unclear if the utility, the property owner or a third party would determine what constitutes damages, how the costs should be calculated, and which multiplier would be used. This has the potential to create confusion among parties and result in legal challenges. Again, NHEC's members would shoulder the burden for this punitive new compliance requirement.

Thank you for the opportunity to discuss NHEC's concerns with HB 1012.

Respectfully,

*Michael Licata*

Michael Licata  
Vice President Member Services and Public Affairs  
New Hampshire Electric Cooperative  
579 Tenney Mountain Highway  
Plymouth, NH 03264

**Archived:** Tuesday, May 24, 2022 10:40:47 AM  
**From:** Marguerite  
**Sent:** Thursday, January 20, 2022 8:37:22 PM  
**To:** ~House Science Technology and Energy  
**Cc:** Karen Ebel; William Marsh  
**Subject:** HB 1012  
**Importance:** Normal

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Good morning.

My name is Marguerite Francis and I, along with my sister-in-law Sarah McCann, have had a residence in New London for over 30 years. Karen Ebel has kept me informed of the important work your committee is doing regarding legislation that would embed in state statute a requirement that Eversource notify private property owners prior to work being completed on their land. Several property owners in New London, and in other towns, endured a communication and permitting breakdown with Eversource regarding major construction work that occurred in July, 2020 as part of the M-127 power line rebuild.

I arrived home from a golf outing to see my side yard inundated with heavy road construction equipment. We were never notified that any work was going to be done, let alone that land excavation was going to occur in order to build a new, non-permitted, industrial road on our property. Within days, our Town Administrative team, a large Eversource team, and myself met on site to discuss this rebuild project. The first words from Eversource were—"Unlike all of the other New England states, New Hampshire does not have a statutory requirement that property owners be notified about planned work. Any communication we do do is out of courtesy". That mantra has been re-stated by numerous Eversource employees/sub-contractors over the past year.

I have spent considerable time and energy since July, 2020 trying to understand where things went wrong—within Eversource, within DES, and within the Town of New London. While there are many process flaws associated with permitting, each entity has confirmed that they have no statutory requirement to communicate to property owners when they become aware that major construction projects will occur on private property. At a municipal level, the town of New London is requiring Eversource to permit their work going forward, consistent with how any other commercial entity conducts business within our borders. Interestingly, Eversource is fighting the process, specifically as it relates to including property owners up front in permit approvals. The Utility enjoys great freedom in NH, unique within the New England pool, to complete small and large projects on private property without owner notification. I believe that closing that loophole and aligning New Hampshire Statute with our regional electric grid partners will ensure that a proper balance between owner rights and utility rights exists.

Another quick story from that same work in New London. Anne and Michael McDonald own a large parcel of land adjacent to their home. This land includes walking trails that are part of our town trail system, a recreational asset that we all enjoy. The first time the McMichael's learned about the road building that was occurring on their property was when the helicopter company hired by Eversource rang their doorbell and stated that they wanted to use their property to land and re-fuel their helicopter fleet. That request was denied. More importantly, the Utility construction teams were unaware and perhaps uninterested in how their work was impacting the trail system. They left construction debris behind including a 20-foot tall mound that blocked a trailhead. It took over a year and the threat of legal action for that debris to be removed. None of this would have happened had Eversource just sat down up front with property owners and the Conservation Committee to understand how their work might negatively impact hikers, and to agree on property clean-up/restoration plans and timeframes.

I applaud your efforts on this and look forward to the day when HB 1012 becomes statute.

Thank you for your time.

Marguerite Francis  
605 Wilmot Center Road

New London, NH. 03257  
860.573.6670

Sent from my iPad

**Archived:** Tuesday, May 24, 2022 10:40:57 AM  
**From:** [William Marsh](#)  
**Sent:** Wednesday, January 12, 2022 1:17:07 PM  
**To:** [~House Science Technology and Energy](#); [P Weckesser](#)  
**Subject:** HB1012 relative to the cutting of trees.  
**Importance:** Normal

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Good afternoon Science Technology and Energy Committee!

Next Tuesday you will be hearing HB1012, with the intent of requiring that utilities provide the same notice before cutting trees on private property in non-emergent situations as towns are required to provide.

I filed this bill at the request of my constituent Paul Weckesser who suffered considerable damage at his home on Moultonborough Neck when trees were cut without prior notice.

I attach the information he provided to me when he asked I file this bill. I hope he will be able to testify in person.

Sincerely,

Rep. Marsh, Carroll 8



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Rep. Marsh, Carroll 8

HB 1012 - AS INTRODUCED

2022 SESSION

22-2036

12/08

HOUSE BILL            **1012**

AN ACT                relative to notice for the cutting of trees by utilities.

SPONSORS:            Rep. Marsh, Carr. 8; Rep. Allard, Merr. 21; Rep. Merchant, Sull. 4; Rep. McGhee, Hills. 27; Rep. Massimilla, Graf. 1; Rep. Crawford, Carr. 4

COMMITTEE:          Science, Technology and Energy

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ANALYSIS

This bill amends the RSA section relative to tree maintenance near utility poles to require a licensee provide notice to a landowner by registered mail if not provided in person. This bill also establishes penalties for those in violation of notice requirements.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to notice for the cutting of trees by utilities.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Notice Prior to Tree Cutting. Amend RSA 231:172, II to read as follows:

2 II. A licensee shall provide notice in writing at least 45 days in advance of any non-  
3 emergency cutting, pruning, or removal of shade or ornamental trees that is scheduled to take place  
4 on a landowner's property. The notice shall, at the option of the licensee, be given in person, or sent  
5 separately by ~~ordinary~~ **registered** mail **to the billing address of record**, and not included in or  
6 as a part of a utility bill or other regular communication, to owners of affected land using the name  
7 and address that appears on municipal tax records for the property, or sent separately by electronic  
8 mail, and not included in or a part of a utility bill or other regular communication, if the landowner  
9 has established regular electronic mail communication with the licensee.

10 (a) The notice shall provide the name and contact information of a representative of the  
11 licensee who may be contacted to schedule personal consultation regarding the activities.

12 (b) For the purposes of this section, the owner shall be deemed to have consented to the  
13 activities if he or she fails to affirmatively request personal consultation within 45 days of the  
14 mailing of such notice.

15 (c) If, after personal consultation with the licensee, the owner refuses to consent to the  
16 activities, the selectmen, upon petition, after notice to the owner and licensee, and hearing, shall  
17 determine whether the cutting, pruning, or removal is necessary and, if determined to be necessary,  
18 assess the damage to the owner.

19 ***(d) A licensee who fails to abide by this paragraph shall be liable for no less***  
20 ***than 2 times the damages incurred and no more than 10 times the damages incurred by the***  
21 ***property owner.***

22 2 Effective Date. This act shall take effect 60 days after its passage.