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H.673

Introduced by Representatives Partridge of Windham, Bock of Chester, Fegard  
of Berkshire, Graham of Williamstown, and Strong of Albany

Referred to Committee on

Date:

Subject: Municipal and county government; municipal officers; tree wardens

Statement of purpose of bill as introduced: This bill proposes to grant local  
tree wardens the authority to manage all public trees within a public place or  
public way and establish notice and hearing procedures related to the cutting of  
public trees by a tree warden.

An act relating to tree wardens

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 24 V.S.A. § 871 is amended to read:

§ 871. ORGANIZATION OF SELECTBOARD; APPOINTMENTS

(a) Forthwith after its election and qualification, the selectboard shall  
organize and elect a chair and, if so voted, a clerk from among its number, and  
file a certificate of such election for record in the office of the town clerk.

(b) The selectboard shall ~~thereupon~~ appoint from among the registered  
voters a tree warden and may ~~thereupon~~ appoint from among the registered  
voters the following officers who shall serve until their successors are

1 appointed and qualified, and shall certify such appointments to the town clerk  
2 who shall record the same:

3 \* \* \*

4 (c) The selectboard may appoint a tree warden who is not a registered voter  
5 of the municipality, provided that the selectboard determines that the  
6 appointment is necessary and appropriate.

7 (d) After the appointment of a tree warden, the clerk of the municipality  
8 shall provide notice of the appointment to the Commissioner of Forest, Parks  
9 and Recreation. The notice shall include contact information for the appointed  
10 tree warden.

11 Sec. 2. 24 V.S.A. chapter 67 is amended to read:

12 CHAPTER 67. PARKS AND ~~SHADE~~ PUBLIC TREES

13 \* \* \*

14 § 2501a. DEFINITIONS

15 As used in this chapter:

16 (1) “Hazard tree” means a tree with a visible defect indicating the tree  
17 has a potential for failing and striking a person or property.

18 (2) “Public place” means improved municipal property, including a  
19 municipal park, a recreation area, or a municipal building. “Public place” shall  
20 not include a municipal forest or other undeveloped forestland.

1           (3) “Public tree” means a tree within, or on the boundary of, a public  
2 way or public place.

3           (4) “Public way” means a public right-of-way held in easement or in fee,  
4 including a town highway.

5       § 2502. TREE WARDENS AND PRESERVATION OF ~~SHADE~~ PUBLIC  
6           TREES

7           ~~(a) Shade and ornamental trees within the limits of public ways and places~~  
8 ~~shall be under the control of the~~ The tree warden shall have control of all  
9 public trees within a municipality, except as provided in subsection 2504(b) of  
10 this chapter.

11           ~~(b) The tree warden, with the approval of the selectboard, may plan and~~  
12 ~~implement a town or community shade public tree preservation program for~~  
13 ~~the purpose of shading and beautifying public ways and places by and~~  
14 ~~providing public health and safety benefits. The plan may include the planting~~  
15 ~~of new trees and shrubs; by maintaining practices to maintain the health,~~  
16 ~~appearance, and safety of existing trees, through feeding, pruning, and~~  
17 ~~protecting them including practices to protect trees from noxious insect and~~  
18 ~~disease pests; and by removing the removal of diseased, dying, or dead trees~~  
19 ~~which that create a hazard to public safety or threaten the effectiveness of~~  
20 ~~disease or insect control programs.~~

1           (c) When making a determination concerning the removal, protection, or  
2           maintenance of a tree, the tree warden shall consider the public interest and the  
3           interest of any landowner encumbered by or abutting the public way or place  
4           where the tree is located. The tree warden shall also consider the needs of any  
5           abutting working agriculture and forestlands.

6   \* \* \*

7           § 2504. REMOVAL OF PUBLIC TREES; EXCEPTION

8           (a) The tree warden may remove or cause to be removed from the public  
9           ways or places ~~at any public trees and other plants upon which noxious insects~~  
10          ~~or tree diseases naturally breed~~ that are infested with or infected by a tree pest  
11          or that constitute a public hazard. However, where an owner or lessee of  
12          abutting ~~real-estate~~ property shall annually, to the satisfaction of ~~such~~ the  
13          warden, control all insect pests or tree diseases upon the trees and other plants  
14          within the limits of a ~~highway~~ public way or place abutting ~~such real-estate~~ the  
15          property, such the trees and plants shall not be removed.

16          (b) The owner of land encumbered by a public right-of-way easement may  
17          remove, without approval of the tree warden or selectboard, any public tree  
18          that is less than six inches in diameter measured at one foot above the ground.  
19          This subsection shall not apply to any tree that was intentionally planted by the  
20          municipality. Removal of trees under this subsection shall not be subject to  
21          section 2509 of this chapter.

1 § 2505. DEPUTY TREE WARDENS

2 ~~A tree warden~~ The Selectboard may appoint a deputy tree warden and  
3 ~~dismiss them at pleasure~~ warden who shall serve under the direction of the tree  
4 warden and shall have the same duties and authority as the tree warden. The  
5 selectboard may dismiss the deputy tree warden at its pleasure.

6 § 2506. REGULATIONS FOR PROTECTION OF PUBLIC TREES

7 A tree warden shall enforce all laws relating to public ~~shade~~ trees and may  
8 ~~prescribe such~~ propose to the selectboard the rules and, ordinances, or  
9 regulations for the planting, protection, care, or removal of public ~~shade~~ trees  
10 as he or she deems expedient. ~~Such~~ The selectboard may adopt the rules,  
11 ordinances, or regulations shall become effective pursuant to the provisions of  
12 chapter 59 of this title.

13 § 2507. COOPERATION

14 The tree warden may enter into financial or other agreements with the  
15 owners of land adjoining or facing public ways and places for the purpose of  
16 encouraging and effecting a community-wide ~~shade~~ public tree planting and  
17 preservation program. He or she may cooperate with federal, State, county, or  
18 other municipal governments, agencies, or other public or private organizations  
19 or individuals and may accept ~~such~~ on behalf of the town any funds,  
20 equipment, supplies, or services from organizations and individuals, or others,  
21 as deemed appropriate for use in carrying out the purposes of this chapter.

1 § 2508. ~~CUTTING SHADE~~ PUBLIC TREES; REGULATIONS

2 ~~Unless otherwise provided~~ Notwithstanding any other provision of the law,  
3 a public ~~shade~~ tree shall not be cut or removed, in whole or in part, except by a  
4 tree warden or his or her deputy, ~~or~~ by a person having the written permission  
5 of a tree warden, or by an owner of land encumbered by a public right-of-way  
6 easement as set forth in subsection 2504(b) of this chapter.

7 § 2509. ~~CUTTING SHADE~~ PUBLIC TREES; HEARING

8 (a) ~~A public shade tree within the residential part of a municipality shall~~  
9 ~~not be felled without a public hearing by the tree warden, except that when it is~~  
10 ~~infested with or infected by a recognized tree pest, or when it constitutes a~~  
11 ~~hazard to public safety, no hearing shall be required. The tree warden shall post~~  
12 public notice of the intent to cut or remove, in its entirety, a public tree that is,  
13 or clearly delineated group of trees that are, six inches or greater in diameter  
14 measured one foot above the ground level. The notice shall be posted a  
15 minimum of 15 days prior to cutting or removing the tree or group of trees. If  
16 the cutting or removal is appealed pursuant to subsection (d) of this section, the  
17 tree warden shall hold a public hearing. This subsection shall not apply to the  
18 cutting or removal of a public tree or trees that are:

19 (1) infested with or infected by, or at risk to become infested with or  
20 infected by, a tree pest and are located in a designated infestation area by the

1 Agency of Agriculture, Food and Markets and Department of Forests, Parks  
2 and Recreation;

3 (2) a hazard to public safety; or

4 (3) less than six inches in diameter measured at one foot above ground  
5 level and are proposed to be cut or removed by a landowner pursuant to  
6 subsection 2504(b) of this chapter.

7 ~~(b) In all cases the decision of the tree warden shall be final, except that~~  
8 ~~when the tree warden is an interested party or when a party in interest so~~  
9 ~~requests in writing, such final decision shall be made by the legislative body of~~  
10 ~~the municipality. The tree warden shall post public notice of the intent to cut or~~  
11 ~~remove a public tree or group of trees pursuant to subsection (a) of this section~~  
12 ~~in at least two conspicuous locations within the town. The tree warden shall~~  
13 ~~post the public notice in or near the office of the town clerk and shall notify~~  
14 ~~any abutting landowner at the landowner's address of record.~~

15 (c) The tree warden and the owner of land encumbered by a public right-of-  
16 way easement with the tree warden may remove limbs or perform other partial  
17 removal associated with regular and proper maintenance of a tree without  
18 posting the notice required by this section.

19 (d)(1) Any person who is aggrieved by the intent of the tree warden to cut  
20 or remove in its entirety a public tree may appeal in writing to the selectboard

1 within 15 days after the posting of public notice. The selectboard shall give  
2 notice of the appeal to the tree warden.

3 (2) The selectboard shall hold a public hearing with the tree warden to  
4 receive public comment on the proposed cutting or removal of the public tree  
5 within 10 days after the appeal period. The tree warden shall stay action on the  
6 proposed removal until the selectboard renders a final decision on the appeal.

7 (e) In all cases, the decision of the selectboard shall be final.

8 § 2510. PENALTY

9 (a) Whoever shall, willfully, mar or deface a public ~~shade~~ tree without the  
10 written permission of a tree warden or legislative body of the municipality  
11 shall be fined not more than \$50.00 for the use of the municipality.

12 (b) Any person who, willfully, critically injures or cuts down a public  
13 ~~shade~~ tree without written permission of the tree warden or the legislative body  
14 of the municipality shall be fined ~~not more than \$500.00~~ pursuant to 13 V.S.A.  
15 § 3602 for each tree so injured or cut, for the use of the municipality.

16 § 2511. CONTROL OF INFESTATIONS

17 When an insect or disease pest infestation upon or in ~~public or private shade~~  
18 trees threatens other public or private trees, is considered detrimental to a  
19 community ~~shade~~ tree preservation program, or threatens the public safety, the  
20 tree warden may request surveys and recommendations for control action from  
21 the Secretary of Agriculture, Food and Markets and Commissioner of Forests,



1 Parks and Recreation. ~~On recommendation~~ Upon authorization of the  
2 Secretary of Agriculture, Food and Markets or Commissioner of Forests, Parks  
3 and Recreation, the tree warden may designate areas threatened or affected in  
4 which control measures are to be applied and shall publish notice of the  
5 proposal in one or more newspapers having a general circulation in the area in  
6 which control measures are to be undertaken. ~~On recommendation~~ Upon  
7 authorization of the Secretary of Agriculture, Food and Markets or  
8 Commissioner of Forests, Parks and Recreation, the tree warden may apply  
9 measures of infestation control on ~~public and~~ private land to any trees, shrubs,  
10 or plants thereon harboring or which may harbor the threatening insect or  
11 disease pest. He or she may enter into agreements with owners of ~~such~~ the  
12 lands covering the control work on their lands, but the failure of the tree  
13 warden to negotiate with any owner shall not impair his or her right to enter on  
14 the lands of ~~said~~ the owner to conduct recommended control measures, the cost  
15 of which shall be paid by the municipality.

16 \* \* \*

17 Sec. 3. 19 V.S.A. chapter 9, subchapter 1 is amended to read:

18 Subchapter 1. General Duties of Towns

19 § 901. REMOVAL OF ROADSIDE GROWTH

20 Except for work that is part of the Transportation Program under section  
21 10g of this title:

1           (1) Trees located in whole or in part within the limits of a town highway  
2           or right-of-way shall not be removed without the prior approval of the tree  
3           warden in accordance with 24 V.S.A. chapter 67.

4           (2) A person, other than the abutting landowner or municipality, shall  
5           not cut, trim, remove, or otherwise damage any grasses, shrubs, or vines, or  
6           trees growing within the limits of a state or town highway, without first having  
7           obtained the consent of the agency for state highways or the board of  
8           selectmen legislative body for town highways.

9           (3) A person, other than the Agency or the abutting landowner, shall not  
10           cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees  
11           growing within the limits of a State highway without first obtaining the  
12           consent of the Agency.

13       § 902. PENALTY FOR REMOVAL

14           A person who ~~wilfully~~ willfully or maliciously cuts, trims, removes, or  
15           otherwise damages trees within the limits of a State highway or municipal  
16           right-of-way shall be fined pursuant to 13 V.S.A. § 3602. A person who  
17           willfully or maliciously cuts, trims, removes, or otherwise damages grasses,  
18           shrubs, or vines, ~~or trees~~ within highway limits in violation of section 901 of  
19           this title shall be fined not more than \$100.00 nor less than \$10.00, for each  
20           offense.

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\* \* \*

1 § 904. BRUSH REMOVAL

2 The ~~selectmen~~ legislative body of a ~~town~~ municipality, ~~if necessary with the~~  
3 approval of the tree warden pursuant to 24 V.S.A. chapter 67, shall cause to be  
4 cut and burned, or removed from within the limits of the highways under their  
5 care, trees and bushes which obstruct the view of the highway ahead or that  
6 cause damage to the highway or that are objectionable from a material or  
7 scenic standpoint. ~~Shade and fruit~~ Public trees that have been set out or  
8 marked by the abutting landowners shall be preserved if the usefulness or  
9 safety of the highway is not impaired. Young trees standing at a proper  
10 distance from the roadbed and from each other, and banks and hedges of  
11 bushes that serve as a protection to the highway or add beauty to the roadside,  
12 shall be preserved. On ~~state~~ State highways, the ~~secretary~~ Secretary shall have  
13 the same authority as the ~~selectmen~~ legislative body.

14 \* \* \*

15 Sec. 4. 30 V.S.A. § 2506 is amended to read:

16 § 2506. TREES NOT TO BE INJURED; EXCEPTION; PENALTY

17 A tree within a street or highway right-of-way shall not be cut or injured in  
18 constructing, maintaining, or repairing a line of wires, without the written  
19 consent of the tree warden pursuant to 24 V.S.A. chapter 67 or the adjoining  
20 owner or occupant, unless the Transportation Board or the ~~selectboard~~  
21 legislative body of the ~~town~~ municipality in which the tree is situated, after due

1 notice to the parties and upon hearing, shall decide that ~~such~~ the cutting or  
2 injury is necessary. A person or corporation cutting or injuring ~~such~~ the trees  
3 shall pay the damages, if any, awarded on such hearing, before cutting or  
4 injuring the trees. A person or corporation that violates a provision of this  
5 section shall be fined ~~not more than \$50.00 nor less than \$5.00~~ pursuant to  
6 13 V.S.A. § 3602 for each tree so cut or injured.

7 Sec. 5. 30 V.S.A. § 2527 is amended to read:

8 § 2527. PENALTIES; INJURIES TO TREES

9 A person or corporation maintaining or operating a line of wires, that cuts  
10 down, mutilates, or injures the trees standing upon the lands of another, or a  
11 person or corporation that affixes or causes to be affixed to the property of  
12 another, a post, structure, fixture, wire, or other apparatus for telephonic,  
13 telegraphic, or other electrical communication, without first procuring the right  
14 to do so by application to and determination of the Transportation Board or the  
15 ~~selectboard~~ legislative body of the ~~town~~ municipality, agreeably to this  
16 chapter, or first obtaining the consent of the owner or lawful agent of the  
17 owner of such property, shall be fined ~~not more than \$100.00~~ pursuant to  
18 13 V.S.A. § 3602 for each tree so cut or injured.

19 Sec. 6. EFFECTIVE DATE

20 This act shall take effect on July 1, 2020.