

1 H.742

2 Introduced by Representative Olsen of Londonderry

3 Referred to Committee on

4 Date:

5 Subject: Energy; natural resources; land use; public service; local zoning;

6 Clean Energy Development Fund

7 Statement of purpose of bill as introduced: This bill proposes to allow a  
8 municipality to regulate fully the siting of solar and wind electric generation  
9 under its land use bylaws if the municipality makes a payment into the Clean  
10 Energy Development Fund based on its proportionate share of the electrical  
11 energy to be obtained from distributed renewable generation under the  
12 Renewable Energy Standard. These funds will be used to support installation  
13 of distributed renewable generation in the municipality, with any remaining  
14 uncommitted balance after three years available to support such installation at  
15 any location in the State.

16 An act relating to allowing a town to regulate solar and wind generation if  
17 the town contributes to a fund to support renewable energy

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

2 \* \* \* Local Land Use Regulation; Enabling Legislation \* \* \*

3 Sec. 1. 24 V.S.A. § 4414 is amended to read:

4 § 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

5 Any of the following types of regulations may be adopted by a municipality  
6 in its bylaws in conformance with the plan and for the purposes established in  
7 section 4302 of this title.

8 \* \* \*

9 (6) Access to renewable energy resources. Any municipality may adopt  
10 zoning and subdivision bylaws to encourage energy conservation and to  
11 protect and provide access to, among others, the collection or conversion of  
12 direct sunlight, wind, running water, organically derived fuels, including wood  
13 and agricultural sources, waste heat, and geothermal sources, including those  
14 recommendations contained in the adopted municipal plan, or regional plan, or  
15 both. The bylaw shall establish a standard of review in conformance with the  
16 municipal plan provisions required pursuant to subdivision 4382(a)(9) of this  
17 title.

18 \* \* \*

19 (15) Solar plants; screening. Notwithstanding any contrary provision of  
20 ~~sections 2291a and 4413 of this title or~~ 30 V.S.A. chapter 5 or 89, a  
21 municipality may adopt a freestanding bylaw to establish screening

1 requirements that shall apply to a ground-mounted plant that generates  
2 electricity from solar energy. In a proceeding under 30 V.S.A. § 248, the  
3 municipality may make recommendations to the Public Service Board applying  
4 the bylaw to such a plant. The bylaw may designate the municipal body to  
5 make this recommendation. Screening requirements and recommendations  
6 adopted under this subdivision shall be a condition of a certificate of public  
7 good issued for the plant under 30 V.S.A. § 248, provided that they do not  
8 prohibit or have the effect of prohibiting the installation of such a plant and do  
9 not have the effect of interfering with its intended functional use.

10 \* \* \*

11 (16) Solar and wind plants; full regulation on municipal contribution.  
12 Notwithstanding any contrary provision of 30 V.S.A. chapter 5 or 89, a  
13 municipality may regulate fully under this chapter a plant as defined under  
14 30 V.S.A. § 8002 that generates electricity from solar or wind energy, or both,  
15 if the municipality, on vote of the legislative body, makes a monetary  
16 contribution in accordance with this subdivision (16) to the Clean Energy  
17 Development Fund established under 30 V.S.A. § 8015. The municipality's  
18 authority to regulate under this subdivision shall commence on full payment of  
19 this municipal contribution to the Fund, except as provided in subdivision (B)  
20 of this subdivision (16).

1           (A) Using megawatt hours, the Fund shall determine the amount of  
2           the municipal contribution at the time of contribution by applying each of the  
3           following:

4                   (i) The Fund shall multiply the total consumption for all electric  
5                   meters in the municipality for the most recent calendar year by a number  
6                   reached by subtracting the year of the contribution from 2032. However, if the  
7                   contribution is made prior to January 1, 2017, the number of years under this  
8                   subdivision (i) shall be 15.

9                   (ii) The Fund shall multiply the result of subdivision (i) of this  
10                  subdivision (16)(A) by the average of the annual percentages, expressed as  
11                  decimals, of distributed renewable generation required to be achieved under  
12                  the Renewable Energy Standard pursuant to 30 V.S.A. § 8005(a)(2) during the  
13                  year of the contribution through 2032. However, if the contribution is made  
14                  prior to January 1, 2017, no year prior to 2017 shall be included in determining  
15                  this average.

16                  (iii) The Fund shall multiply the result of subdivision (ii) of this  
17                  subdivision (16)(A) by the alternative compliance payment for the distributed  
18                  renewable generation category pursuant to 30 V.S.A. § 8005(a) or the average  
19                  price of renewable energy credits for the distributed renewable generation  
20                  category during the preceding calendar year, whichever is lower.

1           (B) On vote of the legislative body, a municipality may elect to make  
2           a municipal contribution under this subdivision (16) over three years in equal  
3           annual installments. If a municipality elects this option, each of the following  
4           shall apply:

5                   (i) For the purpose of calculating the contribution under  
6                   subdivision (A) of this subdivision (16), the year of the contribution shall be  
7                   the first year in which the municipality is to make a payment.

8                   (ii) The municipality's authority to regulate under this subdivision  
9                   shall commence on timely payment of the first annual installment and shall  
10                  lapse if the municipality fails to make timely payment of a remaining annual  
11                  installment. In the event of such a lapse, the Fund shall return any monies paid  
12                  under this subdivision (16) to the municipality.

13           \* \* \* Local Land Use; Conforming Amendments; Disabling Statutes \* \* \*

14           Sec. 2. 24 V.S.A. § 2291a is amended to read:

15           § 2291a. RENEWABLE ENERGY DEVICES

16           Notwithstanding any provision of law to the contrary, no municipality, by  
17           ordinance, resolution, or other enactment, shall prohibit or have the effect of  
18           prohibiting the installation of solar collectors, clotheslines, or other energy  
19           devices based on renewable resources. This section shall not apply to patio  
20           railings in condominiums, cooperatives, or apartments and shall not govern

1 municipal authority to regulate solar electric generation under chapter 117 of  
2 this title.

3 Sec. 3. 24 V.S.A. § 4413 is amended to read:

4 § 4413. LIMITATIONS ON MUNICIPAL BYLAWS

5 \* \* \*

6 (b) A bylaw under this chapter shall not regulate public utility power  
7 generating plants and transmission facilities regulated under 30 V.S.A. § 248,  
8 except as provided in subdivisions 4414(15) and (16) of this title.

9 \* \* \*

10 (g) Notwithstanding any provision of law to the contrary, a bylaw adopted  
11 under this chapter shall not:

12 (1) Regulate the installation, operation, and maintenance, on a flat roof  
13 of an otherwise complying structure, of a solar energy device that heats water  
14 or space or generates electricity. ~~For the purpose of~~ As used in this  
15 subdivision, “flat roof” means a roof having a slope less than or equal to five  
16 degrees.

17 (2) Prohibit or have the effect of prohibiting the installation of solar  
18 collectors ~~not exempted~~ that are not exempt from regulation under subdivision  
19 (1) of this subsection or that are not subject to regulation pursuant to  
20 subdivision 4414(16) of this title, clotheslines, or other energy devices based  
21 on renewable resources.

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\* \* \*

\* \* \* Clean Energy Development Fund \* \* \*

Sec. 4. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

\* \* \*

(d) Expenditures authorized.

\* \* \*

(4) The Clean Energy Development Fund shall use each municipal contribution under 24 V.S.A. § 4414(16) only to support the installation of renewable energy that meets the definition of distributed renewable generation set forth in subdivision 8005(a)(2) of this title. Until the end of the third year after a municipality has fully paid this contribution, the Fund shall use the monies paid by the municipality solely to support the installation of distributed renewable generation in that municipality. The Fund actively shall solicit such installation through requests for proposals, with awards granted on a competitive basis. At the end of this three-year period, the Fund may use any remaining uncommitted balance from the contribution to support the installation of distributed renewable generation at any location in the State.

1 (e) Management of Fund.

2 \* \* \*

3 (9) On request of the legislative body of a municipality, the Fund shall  
4 provide assistance to a municipality considering making a contribution to the  
5 Fund pursuant to 24 V.S.A. § 4414(16), including calculating the likely  
6 contribution amount in accordance with that section. The Fund shall have the  
7 assistance of the Vermont retail electricity providers in obtaining the  
8 information required to calculate such contributions.

9 Sec. 5. EFFECTIVE DATE

10 This act shall take effect on July 1, 2016.