

1 S.106

2 Introduced by Senator Lyons

3 Referred to Committee on

4 Date:

5 Subject: Utilities; hazardous financial condition; Public Service Board;  
6 supervisor

7 Statement of purpose of bill as introduced: This bill proposes to authorize the  
8 Public Service Board to appoint a supervisor to oversee a utility deemed to be  
9 in a hazardous financial condition.

10 An act relating to supervision of public utilities

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

12 Sec. 1. 30 V.S.A. § 209d is added to read:

13 § 209d. SUPERVISION; PUBLIC SERVICE BOARD

14 (a) Whenever the Public Service Board has reasonable cause to believe,  
15 and determines after a hearing held under subsection (e) of this section, that  
16 any company subject to its jurisdiction under section 203 of this chapter has  
17 committed or engaged in, or is about to commit or engage in, any act, practice,  
18 or transaction that would subject it to delinquency proceedings, it may make  
19 and serve upon the company and any other persons involved such orders as are

1 reasonably necessary to correct, eliminate, or remedy such conduct, condition,  
2 or ground.

3 (b) If upon examination or at any other time the Board has reasonable  
4 cause to believe and determines that a company is in such condition as to  
5 render the continuance of its business hazardous to the public or to its  
6 consumers, or if the company gives its consent, the Board shall:

7 (1) notify the company of the determination; and

8 (2) furnish to the company a written list of the Board's requirements to  
9 abate the determination.

10 (c) If the Board makes a determination to supervise a company subject to  
11 an order under subsection (a) or (b) of this section, it shall notify the company  
12 that it is under the supervision of the Board. During the period of supervision,  
13 the Board may appoint a supervisor to supervise the company. The order  
14 appointing a supervisor shall direct the supervisor to enforce orders issued  
15 under subsections (a) and (b) of this section and may also require that the  
16 company may not do any of the following things during the period of  
17 supervision, without the prior approval of the Board:

18 (1) dispose of, convey, or encumber any of the company's assets or its  
19 business in force;

20 (2) withdraw from any of the company's bank accounts;

21 (3) lend any of the company's funds;

1           (4) invest any of the company's funds;

2           (5) transfer any of the company's property;

3           (6) incur any debt, obligation, or liability;

4           (7) merge or consolidate with another company;

5           (8) enter into any new contracts; or

6           (9) restrict availability of service to new or existing customers.

7           (d) A company subject to an order under this section shall comply with the  
8 lawful requirements of the Board and, if placed under supervision, shall have  
9 60 days from the date the supervision order is served within which to comply  
10 with the requirements of the Board. In the event of the company's failure to  
11 comply with the supervision order, the Board may institute proceedings to  
12 have a rehabilitator or liquidator appointed or extend the period of supervision.

13           (e) The notice of hearing held under subsection (a) of this section and any  
14 order issued pursuant to subsection (a) shall be served upon the company  
15 pursuant to the provisions of 3 V.S.A. chapter 25. The notice of hearing shall  
16 state the time and place of hearing, and the conduct, condition, or ground upon  
17 which the Board may base its order. Unless mutually agreed between the  
18 Board and the company, the hearing shall occur not less than ten days nor more  
19 than 30 days after notice is served. Hearings under subsection (a) of this  
20 section shall be private and shall not be subject to the provisions of 1 V.S.A.

1 chapter 5, subchapters 2 and 3 (public information and access to public  
2 records), unless the company requests a public hearing.

3 (f)(1) A company subject to an order under subsection (b) of this section  
4 may request a hearing to review that order. The hearing shall be held as  
5 provided in subsection (e) of this section. The request for a hearing shall not  
6 stay the effect of the order.

7 (2) If the Board issues an order under subsection (b) of this section, the  
8 company may, at any time, waive the opportunity for a hearing before the  
9 Board and apply for immediate relief by means of any remedy afforded by law  
10 without first exhausting administrative remedies. Subsequent to a hearing  
11 before the Board, a party to the proceedings whose interests are substantially  
12 affected shall be entitled to judicial review of an order issued by the Board.

13 (g) During the period of supervision, the company may request the Board  
14 to review an action taken or proposed to be taken by the supervisor, specifying  
15 the reasons why the action complained of is believed not to be in the best  
16 interest of the company and its consumers or the general good of the State.

17 (h) If a person has violated a supervision order issued under this section  
18 which as to him or her was then still in effect, he or she shall be liable to pay a  
19 civil penalty imposed by the Board not to exceed \$10,000.00.

1        (i) The supervisor may apply for, and the Board may grant, restraining  
2        orders, preliminary and permanent injunctions, and other orders as may be  
3        deemed necessary and proper to enforce a supervision order.

4        (j) In the event that a person, subject to the provisions of this chapter, shall  
5        knowingly violate a valid order of the Board issued under the provisions of this  
6        section and, as a result of the violation, the net worth of the company is  
7        reduced or the company suffers loss it would not otherwise have suffered, such  
8        person shall become personally liable to the company for the amount of the  
9        reduction or loss. The Board or supervisor is authorized to bring an action on  
10       behalf of the company in the Superior Court of Washington County to recover  
11       the amount of the reduction or loss together with costs.

12       Sec. 2. EFFECTIVE DATE

13       This act shall take effect on passage.