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S.230

Representative Lefebvre of Newark moves that the House propose to the Senate that the bill be amended by striking out Secs. 2 through 13 and inserting in lieu thereof new Secs. 2 through 13 to read:

Sec. 2. 24 V.S.A. § 4302(c)(7) is amended to read:

(7) To encourage the efficient use of energy and the development of renewable energy resources, consistent with the following:

(A) Vermont’s greenhouse gas reduction goals under 10 V.S.A. § 578(a);

(B) Vermont’s 25 by 25 goal for renewable energy under 10 V.S.A. § 580;

(C) Vermont’s building efficiency goals under 10 V.S.A. § 581;

(D) State energy policy under 30 V.S.A. § 202a and the ~~specific recommendations identified~~ guidance contained in the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b pertaining to the efficient use of energy and the siting and development of renewable energy resources; and

(E) the distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005.

1 Sec. 3. 24 V.S.A. § 4345 is amended to read:

2 § 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING
3 COMMISSIONS

4 Any regional planning commission created under this chapter may:

5 * * *

6 (6) Undertake studies and make recommendations on land development,
7 urban renewal, transportation, economic, industrial, commercial, and social
8 development, urban beautification and design improvements, historic and
9 scenic preservation, ~~the conservation of energy and the development of~~
10 ~~renewable energy resources~~, State capital investment plans, and wetland
11 protection.

12 * * *

13 Sec. 4. 24 V.S.A. § 4345a is amended to read:

14 § 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

15 A regional planning commission created under this chapter shall:

16 * * *

17 (14) With respect to proceedings under 30 V.S.A. § 248:

18 (A) have the right to appear and participate; and

19 (B) Appear appear before the Public Service Board to aid ~~the Board~~
20 in making determinations under ~~30 V.S.A. § 248~~ that statute when requested
21 by the Board.

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* * *

(19) Undertake studies and make recommendations on the conservation of energy and the development of renewable energy resources.

Sec. 5. ~~[Deleted.]~~

Sec. 5. 24 V.S.A. § 4348 is amended to read:

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

(a) A regional planning commission shall adopt a regional plan. Any plan for a region, and any amendment thereof, shall be prepared by the regional planning commission. At the outset of the planning process and throughout the process, regional planning commissions shall solicit the participation of local citizens and organizations by holding informal working sessions that suit the needs of local people and shall solicit the participation of State agencies and departments.

* * *

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

1 (1) the chair of the legislative body of each municipality within the
2 region;

3 (2) the executive director of each abutting regional planning
4 commission;

5 (3) the Department of Housing and Community Development within
6 the Agency of Commerce and Community Development;

7 (4) business, conservation, low-income advocacy, and other
8 community or interest groups or organizations that have requested notice
9 in writing prior to the date the hearing is warned; and

10 (5) the Agency of Natural Resources and the Agency of Agriculture,
11 Food and Markets, and the Department of Public Service.

12 (d) Any of the ~~foregoing~~ bodies identified in subsection (c) of this
13 section, or their representatives, may submit comments on the proposed
14 regional plan or amendment to the regional planning commission, and
15 may appear and be heard in any proceeding with respect to the adoption
16 of the proposed plan or amendment.

17 * * *

18 (h) In proceedings under 10 V.S.A. chapter 151, 10 V.S.A. chapter 159,
19 and 30 V.S.A. § 248, in which the provisions of a regional plan or a
20 municipal plan are relevant to the determination of any issue in those
21 proceedings:

1 **(1) the provisions of the regional plan shall be given effect to the**
2 **extent that they are not in conflict with the provisions of a duly adopted**
3 **municipal plan;**

4 **(2) to the extent that such a conflict exists, the regional plan shall be**
5 **given effect if it is demonstrated that the project under consideration in**
6 **the proceedings would have a substantial regional impact.**

7 Sec. 6. 24 V.S.A. § 4348a(a)(3) is amended to read:

8 (3) An energy element, which may include ~~an~~ a comprehensive analysis
9 of ~~energy~~ resources, needs, scarcities, costs, and problems within the region,
10 across all energy sectors, including electric, thermal, and transportation; a
11 statement of policy on the conservation and efficient use of energy and the
12 development and siting of distributed and utility-scale renewable energy
13 resources, ~~and~~; a statement of policy on patterns and densities of land use ~~and~~
14 ~~control devices~~ likely to result in conservation of energy; and a statement of
15 policy on and an identification of potential areas for the development and
16 siting of renewable energy resources and areas that are inappropriate for siting
17 those resources or particular categories or sizes of those resources.

1 ~~Sec. 7. 24 V.S.A. § 4352 is added to read:~~

2 ~~§ 4352. CERTIFICATION OF ENERGY COMPLIANCE; REGIONAL~~
3 ~~AND MUNICIPAL PLANS~~

4 ~~(a) Regional plan certification. A regional planning commission may~~
5 ~~submit its adopted regional plan to the Commissioner of Public Service~~
6 ~~appointed under 30 V.S.A. § 1 for a certification of energy compliance.~~
7 ~~The Commissioner shall issue such a certification on finding that the~~
8 ~~regional plan is consistent with the statutes, goals, and policies listed in~~
9 ~~subdivision 4302(c)(7) of this title.~~

10 ~~(b) Municipal plan certification. If the Commissioner of Public Service~~
11 ~~has certified a regional plan that is in effect, a municipal legislative body~~
12 ~~within the region may submit its adopted municipal plan to the regional~~
13 ~~planning commission for a certification of energy compliance. Such a~~
14 ~~submission may be made separately from or at the same time as a request~~
15 ~~for review and approval of the municipal plan under section 4350 of this~~
16 ~~title. The regional planning commission shall issue such a certification on~~
17 ~~finding that the municipal plan is consistent with the statutes, goals, and~~
18 ~~policies listed in subdivision 4302(c)(7) of this title and the portions of the~~
19 ~~regional plan that implement those statutes, goals, and policies.~~

20 ~~(c) Standards. In determining whether to issue a certification of~~
21 ~~energy compliance under this section, the Commissioner or regional~~

1 ~~planning commission shall employ the standards for issuing such a~~
2 ~~certification developed pursuant to 30 V.S.A. §§ 202(b)(6) and 202b(a)(3).~~

3 ~~(d) Process. Review of whether to issue a certification under this~~
4 ~~section shall include a public hearing noticed at least 15 days in advance~~
5 ~~by direct mail to the requesting regional planning commission or~~
6 ~~municipal legislative body, posting on the website of the entity from which~~
7 ~~the certification is requested, and publication in a newspaper of general~~
8 ~~publication in the region or municipality affected. The Commissioner or~~
9 ~~regional planning commission shall grant or deny certification within two~~
10 ~~months of the receipt of a request for certification. If certification is~~
11 ~~denied, the Commissioner or regional planning commission shall state the~~
12 ~~reasons for denial in writing and, if appropriate, suggest acceptable~~
13 ~~modifications. Submissions for certification that follow a denial shall~~
14 ~~receive a grant or denial of certification within 45 days.~~

15 ~~(e) Appeal. A regional planning commission aggrieved by an act or~~
16 ~~decision of the Commissioner of Public Service under this section or a~~
17 ~~municipality aggrieved by an act or decision of a regional planning~~
18 ~~commission under this section may appeal to a hearing officer within 30~~
19 ~~days of the act or decision. The hearing officer shall be one of five~~
20 ~~attorneys retained by the Commissioner for this purpose, none of whom~~
21 ~~shall be an employee of the Department of Public Service. Within 15 days~~

1 ~~of the filing of the appeal, the parties shall jointly select the hearing officer~~
2 ~~from among these retained attorneys. The hearing officer shall conduct a~~
3 ~~de novo hearing on the act or decision under appeal and shall proceed in~~
4 ~~accordance with the contested case requirements of the Vermont~~
5 ~~Administrative Procedure Act. The hearing officer shall have authority to~~
6 ~~decide the appeal and shall issue a final decision within 90 days of the~~
7 ~~filing of the appeal. A hearing officer shall not conduct an appeal if the~~
8 ~~officer has a personal or pecuniary interest in the act or decision on~~
9 ~~appeal.~~

10 ~~Sec. 8.~~ Sec. 7. 24 V.S.A. § 4382(a)(9) is amended to read:

11 (9) An energy plan, including ~~an~~ a comprehensive analysis of energy
12 resources, needs, scarcities, costs, and problems within the municipality; across
13 all energy sectors, including electric, thermal, and transportation; a statement
14 of policy on the conservation and efficient use of energy, including programs,
15 such as thermal integrity standards for buildings, to implement that policy; a
16 statement of policy on the development and siting of distributed and
17 utility-scale renewable energy resources; a statement of policy on patterns and
18 densities of land use likely to result in conservation of energy and a statement
19 of policy on and an identification of potential areas for the development and
20 siting of renewable energy resources and areas that are inappropriate for siting
21 those resources or particular categories or sizes of those resources.

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Sec. 8. 24 V.S.A. § 4384 is amended to read:

**§ 4384. PREPARATION OF PLAN; HEARINGS BY PLANNING
COMMISSION**

(a) A municipality may have a plan. Any plan for a municipality shall be prepared by the planning commission of that municipality. At the outset of the planning process and throughout the process, planning commissions shall solicit the participation of local citizens and organizations by holding informal working sessions that suit the needs of local people and shall solicit the participation of State agencies and departments. An amendment or repeal of a plan may be prepared by or at the direction of the planning commission or by any other person or body.

* * *

(e) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered with proof of receipt, or mailed by certified mail, return receipt requested, to each of the following:

(1) the ~~chairperson~~ chair of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that municipality;

1 (2) the executive director of the regional planning commission of the
2 area in which the municipality is located;

3 (3) the ~~department of housing and community affairs within the~~
4 ~~agency of commerce and community development~~ Department of Housing
5 and Community Development within the Agency of Commerce and
6 Community Development and the Department of Public Service; and

7 (4) business, conservation, ~~low-income~~ low-income advocacy, and
8 other community or interest groups or organizations that have requested
9 notice in writing prior to the date the hearing is warned.

10 (f) Any of the ~~foregoing~~ bodies identified in subsection (e) of this
11 section, or their representatives, may thereafter submit comments on the
12 proposed plan or amendment to the planning commission, and may
13 appear and be heard in any further proceeding with respect to the
14 adoption of the proposed plan or amendment. The planning commission
15 shall demonstrate that it has solicited comment from planning
16 commissions of abutting municipalities and from the regional planning
17 commission with respect to the compatibility of their respective plans with
18 its own plan.

19 (f)(g) The planning commission may make revisions to the proposed
20 plan or amendment and to any written report, and shall thereafter submit
21 the proposed plan or amendment and any written report to the legislative

1 **body of the municipality. However, if requested by the legislative body, or**
2 **if a proposed amendment was supported by a petition signed by not less**
3 **than five percent of the voters of the municipality, the planning**
4 **commission shall promptly submit the amendment, with changes only to**
5 **correct technical deficiencies, to the legislative body of the municipality,**
6 **together with any recommendation or opinion it considers appropriate.**
7 **Simultaneously with the submission, the planning commission shall file**
8 **with the clerk of the municipality a copy of the proposed plan or**
9 **amendment, and any written report, for public review.**

10 Sec. 9. 30 V.S.A. § 202 is amended to read:

11 § 202. ELECTRICAL ENERGY PLANNING

12 (a) The Department of Public Service, through the Director for Regulated
13 Utility Planning, shall constitute the responsible utility planning agency of the
14 State for the purpose of obtaining for all consumers in the State proper utility
15 service at minimum cost under efficient and economical management
16 consistent with other public policy of the State. The Director shall be
17 responsible for the provision of plans for meeting emerging trends related to
18 electrical energy demand, supply, safety, and conservation.

19 (b) The Department, through the Director, shall prepare an electrical energy
20 plan for the State. The Plan shall be for a 20-year period and shall serve as a
21 basis for State electrical energy policy. The Electric Energy Plan shall be

1 based on the principles of “least cost integrated planning” set out in and
2 developed under section 218c of this title. The Plan shall include at a
3 minimum:

4 (1) an overview, looking 20 years ahead, of statewide growth and
5 development as they relate to future requirements for electrical energy,
6 including patterns of urban expansion, statewide and service area economic
7 growth, shifts in transportation modes, modifications in housing types, and
8 design, conservation, and other trends and factors which, as determined by the
9 Director, will significantly affect State electrical energy policy and programs;

10 (2) an assessment of all energy resources available to the State for
11 electrical generation or to supply electrical power, including, among others,
12 fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy
13 and strategies for minimizing the economic and environmental costs of energy
14 supply, including the production of pollutants, by means of efficiency and
15 emission improvements, fuel shifting, and other appropriate means;

16 (3) estimates of the projected level of electrical energy demand;

17 (4) a detailed exposition, including capital requirements and the
18 estimated cost to consumers, of how such demand shall be met based on the
19 assumptions made in subdivision (1) of this subsection and the policies set out
20 in subsection (c) of this section; ~~and~~

1 (5) specific strategies for reducing electric rates to the greatest extent
2 possible in Vermont over the most immediate six-year period, for the next
3 succeeding six-year period, and long-term sustainable strategies for achieving
4 and maintaining the lowest possible electric rates over the full 20-year
5 planning horizon consistent with the goal of maintaining a financially stable
6 electric utility industry in Vermont; and

7 ~~(6) the following for use as guidance to municipal and regional~~
8 ~~planning commissions in preparing municipal and regional plans under~~
9 ~~24 V.S.A. chapter 117 that are consistent with the statutes listed in~~
10 ~~24 V.S.A. § 4302(c)(7) and with the Plan and in obtaining a certification of~~
11 ~~energy compliance under that chapter;~~

12 ~~(A) specific recommendations on the conservation and efficient~~
13 ~~use of electric energy and the development and siting of renewable electric~~
14 ~~generation, developed in accordance with 24 V.S.A. § 4302(c)(7); and~~

15 ~~(B) based on 24 V.S.A. § 4302(c)(7) and the recommendations~~
16 ~~developed under subdivision (A) of this subdivision (6), a list of standards~~
17 ~~for use in determining whether municipal and regional plans should~~
18 ~~receive a certificate of energy compliance under 24 V.S.A. § 4352.~~

19 ~~(6) guidance on the conservation and efficient use of electric energy~~
20 ~~and the development and siting of renewable electric generation,~~
21 ~~developed in accordance with the statutes cited in 24 V.S.A. § 4302(c)(7),~~

1 **for use by municipal and regional planning commissions in preparing**
2 **municipal and regional plans under 24 V.S.A. chapter 117.**

3 (c) In developing the Plan, the Department shall take into account the
4 protection of public health and safety; preservation of environmental quality;
5 the goals of 24 V.S.A. § 4302; the potential for reduction of rates paid by all
6 retail electricity customers; the potential for reduction of electrical demand
7 through conservation, including alternative utility rate structures; use of load
8 management technologies; efficiency of electrical usage; utilization of waste
9 heat from generation; and utility assistance to consumers in energy
10 conservation.

11 (d) In establishing plans, the Director shall:

12 (1) Consult with:

13 (A) the public;

14 (B) Vermont municipal utilities and planning commissions;

15 (C) Vermont cooperative utilities;

16 (D) Vermont investor-owned utilities;

17 (E) Vermont electric transmission companies;

18 (F) environmental and residential consumer advocacy groups active
19 in electricity issues;

20 (G) industrial customer representatives;

21 (H) commercial customer representatives;

1 (I) the Public Service Board;

2 (J) an entity designated to meet the public's need for energy

3 efficiency services under subdivision 218c(a)(2) of this title;

4 (K) other interested State agencies; ~~and~~

5 (L) other energy providers; and

6 (M) the regional planning commissions.

7 * * *

8 (h) The Plans adopted under this section shall become the electrical energy

9 portion of the State Energy Plan.

10 * * *

11 (j) For the purpose of assisting in the development of land use plans under

12 24 V.S.A. chapter 117, the Director shall, on request, provide municipal and

13 regional planning commissions with publically available information detailing

14 the location of electric transmission and distribution infrastructure in the

15 relevant municipality or region and the capacity of that infrastructure to accept

16 additional electric generation facilities without modification. In providing this

17 information, the Director shall be entitled to the assistance of the electric

18 utilities that own electric transmission or distribution systems, or both, located

19 in Vermont, including the ability to obtain from those utilities such data as the

20 Director considers necessary to discharge his or her duties under this

21 subsection.

1 Sec. 10. 30 V.S.A. § 202b is amended to read:

2 § 202b. STATE COMPREHENSIVE ENERGY PLAN

3 (a) The Department of Public Service, in conjunction with other State
4 agencies designated by the Governor, shall prepare a State Comprehensive
5 Energy Plan covering at least a 20-year period. The Plan shall seek to
6 implement the State energy policy set forth in section 202a of this title and
7 shall be consistent with the goals of 24 V.S.A. § 4302. The Plan shall include:

8 (1) a comprehensive analysis and projections regarding the use, cost,
9 supply, and environmental effects of all forms of energy resources used within
10 Vermont; ~~and~~

11 (2) recommendations for State implementation actions, regulation,
12 legislation, and other public and private action to carry out the comprehensive
13 energy plan; and

14 ~~(3) the following for use as guidance to municipal and regional~~
15 ~~planning commissions in preparing municipal and regional plans under~~
16 ~~24 V.S.A. chapter 117 that are consistent with the statutes listed in~~
17 ~~24 V.S.A. § 4302(c)(7) and with the Plan and in obtaining a certification of~~
18 ~~energy compliance under that chapter;~~

19 ~~(A) specific recommendations on the conservation and efficient~~
20 ~~use of energy and the development and siting of energy facilities,~~
21 ~~developed in accordance with 24 V.S.A. § 4302(c)(7); and~~

1 ~~(B) based on 24 V.S.A. § 4302(c)(7) and the policies developed~~
2 ~~under subdivision (A) of this subdivision (3), a list of standards for use in~~
3 ~~determining whether municipal and regional plans should receive a~~
4 ~~certificate of energy compliance under 24 V.S.A. § 4352.~~

5 (3) guidance on the conservation and efficient use of energy and the
6 development and siting of energy facilities, developed in accordance with
7 the statutes cited in 24 V.S.A. § 4302(c)(7), for use by municipal and
8 regional planning commissions in preparing municipal and regional plans
9 under 24 V.S.A. chapter 117.

10 * * *

11 Sec. 11. INITIAL IMPLEMENTATION; ~~CERTIFICATION~~

12 **STANDARDS**

13 (a) On or before October 1, 2016, the Department of Public Service shall
14 publish ~~specific recommendations and standards~~ guidance in accordance
15 with 30 V.S.A. §§ 202(b)(6) and 202b(a)(3) as enacted by Secs. 9 and 10 of
16 this act. Prior to issuing ~~these recommendations and standards~~ this
17 guidance, the Department shall post on its website a draft ~~set of initial~~
18 ~~recommendations and standards~~ of its proposed guidance and provide
19 notice and an opportunity to comment and request a public hearing to all
20 persons listed in 30 V.S.A. § 202(d)(1). The Commissioner may elect to hold
21 one or more public hearings on the Commissioner’s own initiative.

1 (b) On publication under subsection (a) of this section, the ~~specific~~
2 ~~recommendations and standards guidance~~ shall be considered an appendix
3 to the currently adopted plans under 30 V.S.A. §§ 202 and 202b. After this
4 publication, the Department may revise ~~these recommendations and~~
5 ~~standards guidance~~ in accordance with the procedures for adopting and
6 revising plans under those statutes.

7 Sec. 11a. TRAINING

8 Following publication of the ~~recommendations and standards guidance~~
9 under Sec. 11(a) of this act, the Department of Public Service shall conduct a
10 series of training sessions in locations across the State for municipal and
11 regional planning commissions to assist them in the development of land use
12 plans that are ~~eligible for certification under Sec. 7 of this act, 24 V.S.A.~~
13 ~~§ 4352 consistent with this act.~~ The Department shall develop and present
14 these workshops in collaboration with the Vermont League of Cities and
15 Towns and the Vermont Association of Planning and Development Agencies.
16 The Department shall ensure that all municipal and regional planning
17 commissions receive prior notice of the workshops.

18 Sec. 11b. PLANNING SUPPORT; ALLOCATION OF COSTS

19 (a) During fiscal year 2017, the Commissioner of Public Service, in
20 consultation with the Commissioner of Housing and Community
21 Development, shall disburse an amount not to exceed \$300,000.00 to regional

1 planning commissions established under 24 V.S.A. chapter 117 and to
2 municipalities for one or more of the following purposes:

3 (1) implementation of Secs. 2 (purpose; goals); 6 (elements of a regional
4 plan), ~~7 (certification of energy compliance),~~ and 8 (the plan for a
5 municipality) of this act;

6 (2) the implementation by a regional planning commission of 24 V.S.A.
7 § 4345a (studies and recommendations on energy);

8 (3) participation in the development of ~~recommendations and~~
9 ~~standards guidance~~ pursuant to Secs. 9 (electrical energy plan), 10
10 (comprehensive energy plan), and 11 (initial implementation; ~~certification~~
11 ~~standards~~) of this act; and

12 (4) assistance by a regional planning commission to the Department of
13 Public Service (the Department) in providing training under Sec. 11a (training)
14 of this act or to municipalities in the implementation of this act.

15 (b) In disbursing funds under this section, the Commissioners shall
16 consider the need and size of a municipality or region and the availability, if
17 any, of other assistance, expertise, or funds to a municipality or region to
18 implement this act.

19 (c) The Commissioner of Public Service shall allocate costs under
20 subsection (a) of this section to the electric distribution utilities subject to its
21 supervision under Title 30 of the Vermont Statutes Annotated based on their

1 pro rata share of total Vermont retail kilowatt-hour sales for the previous fiscal
2 year. Each of these utilities shall pay its allocation into the State Treasury at
3 such time and in such manner as the Commissioner may direct.

4 Sec. 12. 30 V.S.A. § 248(b) is amended to read:

5 (b) Before the Public Service Board issues a certificate of public good as
6 required under subsection (a) of this section, it shall find that the purchase,
7 investment, or construction:

8 (1) With respect to an in-state facility, will not unduly interfere with the
9 orderly development of the region with due consideration having been given to
10 the recommendations of the municipal and regional planning commissions, the
11 recommendations of the municipal legislative bodies, and the land
12 conservation measures contained in the plan of any affected municipality.

13 However:

14 (A) ~~with~~ With respect to a natural gas transmission line subject to
15 Board review, the line shall be in conformance with any applicable provisions
16 concerning such lines contained in the duly adopted regional plan; and, in
17 addition, upon application of any party, the Board shall condition any
18 certificate of public good for a natural gas transmission line issued under this
19 section so as to prohibit service connections that would not be in conformance
20 with the adopted municipal plan in any municipality in which the line is
21 located; ~~and~~.

1 (B) ~~with~~ With respect to a ground-mounted solar electric generation
2 facility, the facility shall comply with the screening requirements of a
3 municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance
4 adopted under 24 V.S.A. § 2291(28), and the recommendation of a
5 municipality applying such a bylaw or ordinance, unless the Board finds that
6 requiring such compliance would prohibit or have the effect of prohibiting the
7 installation of such a facility or have the effect of interfering with the facility's
8 intended functional use.

9 ~~(C) The Board shall apply the land conservation measures and~~
10 ~~specific policies contained in a duly adopted municipal or regional plan to~~
11 ~~an application for an in-state electric generation facility as follows:~~

12 ~~(i) For an application filed before March 1, 2017, the Board~~
13 ~~shall defer to such a measure or policy and apply it in accordance with its~~
14 ~~terms unless a preponderance of the evidence demonstrates that other~~
15 ~~factors affecting the general good of the State outweigh the application of~~
16 ~~the measure or policy.~~

17 ~~(ii) For an application filed on or after March 1, 2017:~~

18 ~~(I) If the plan has received a certificate of energy~~
19 ~~compliance under 24 V.S.A. § 4352, the Board shall defer to such a~~
20 ~~measure or policy and apply it in accordance with its terms unless there is~~
21 ~~a clear and convincing demonstration that other factors affecting the~~

1 ~~**general good of the State outweigh the application of the measure or**~~
2 ~~**policy.**~~

3 ~~**(II) If the plan has not received a certificate of energy**~~
4 ~~**compliance under 24 V.S.A. § 4352, the Board shall give due consideration**~~
5 ~~**to such a measure or policy.**~~

6 ~~**(C)(i) With respect to an in-state electric generation facility, the**~~
7 ~~**Board shall give substantial deference to the land conservation measures**~~
8 ~~**and specific policies contained in:**~~

9 ~~**(I) a duly adopted regional plan that has been amended**~~
10 ~~**pursuant to 24 V.S.A. §§ 4302, 4348, and 4348a as amended, effective on**~~
11 ~~**July 1, 2016; or**~~

12 ~~**(II) a duly adopted municipal plan that has been adopted or**~~
13 ~~**amended pursuant to 24 V.S.A. §§ 4302, 4382, and 4384 as amended,**~~
14 ~~**effective on July 1, 2016, if the plan has been confirmed pursuant to**~~
15 ~~**24 V.S.A. § 4350.**~~

16 ~~**(ii) In this subdivision (C), “substantial deference” means that**~~
17 ~~**a land conservation measure or specific policy shall be applied in**~~
18 ~~**accordance with its terms unless there is a clear and convincing**~~
19 ~~**demonstration that other factors affecting the general good of the State**~~
20 ~~**outweigh the application of the measure or policy.**~~

21 * * *

1 (5) With respect to an in-state facility, will not have an undue adverse
2 effect on esthetics, historic sites, air and water purity, the natural environment,
3 the use of natural resources, and the public health and safety, with due
4 consideration having been given to the criteria specified in 10 V.S.A.
5 §§ 1424a(d) and 6086(a)(1) through (8) and (9)(B), (9)(C), and (9)(K), impacts
6 to forest health and integrity, and greenhouse gas impacts.

7 * * *

8 * * * Regulatory and Financial Incentives; Preferred Locations * * *

9 Sec. 13. 30 V.S.A. § 8002(30) is added to read:

10 (30) “Preferred location” means a site within the State on which a
11 renewable energy plant will be located that is one of the following:

12 (A) A new or existing structure, including a commercial or
13 residential building, a parking lot, or parking lot canopy, whose primary use is
14 not the generation of electricity or providing support for the placement of
15 equipment that generates electricity.

16 (B) A tract previously developed for a use other than siting a plant on
17 which a structure or impervious surface was lawfully in existence and use prior
18 to January 1 of the year in which an application for a certificate of public good
19 under section 248 of this title for the plant is filed or in which the plant seeks
20 an award of a contract under the standard offer program under section 8005a of
21 this title, whichever is earlier. To qualify under this subdivision (B), the limits

1 of disturbance of a proposed renewable energy plant must include either the
2 existing structure or impervious surface and shall not include any headwaters,
3 streams, shorelines, floodways, rare and irreplaceable natural areas, necessary
4 wildlife habitat, wetlands, endangered species, productive forestlands, and
5 primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

6 (C) Land certified by the Secretary of Natural Resources to be a
7 brownfield site as defined under 10 V.S.A. § 6642.

8 (D) A sanitary landfill as defined in 10 V.S.A. § 6602, provided that
9 the Secretary of Natural Resources certifies that the land constitutes such a
10 landfill and is suitable for the development of the plant.

11 (E) The disturbed portion of a gravel pit, quarry, or similar site for
12 the extraction of a mineral resource, provided that all activities pertaining to
13 site reclamation required by applicable law or permit condition are satisfied
14 prior to the installation of the plant.

15 (F) A specific location designated in a duly adopted municipal plan
16 under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or
17 specific type or size of renewable energy plant, provided that the plant meets
18 any siting criteria recommended in the plan for the location. ~~On or after~~
19 ~~January 1, 2019, to qualify under this subdivision (F), the plan must be~~
20 ~~certified under 24 V.S.A. § 4352.~~

1 (G) A site listed on the National Priorities List (NPL) established
2 under the Comprehensive Environmental Response, Compensation, and
3 Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection
4 Agency or the Agency of Natural Resources confirms each of the following:

5 (i) The site is listed on the NPL.

6 (ii) Development of the plant on the site will not compromise or
7 interfere with remedial action on the site.

8 (iii) The site is suitable for development of the plant.

9 (H) A new hydroelectric generation facility at a dam in existence as
10 of January 1, 2016 or a hydroelectric generation facility that was in existence
11 but not in service for a period of at least 10 years prior to January 1, 2016 and
12 that will be redeveloped for electric generation, if the facility has received
13 approval or a grant of exemption from the U.S. Federal Energy Regulatory
14 Commission.

15 (I) If the plant constitutes a net metering system, then in addition to
16 subdivisions (A) through (H) of this subdivision (30), a site designated by
17 Board rule as a preferred location.