

**S.230: Energy Development Improvement Act**  
**Comparison, Reports of Senate Committees on Natural Resources and Energy, on Finance, and on Appropriations; Floor Amendments**  
Office of Legislative Council April 4, 2016

§	SENATE NATURAL RESOURCES AND ENERGY	SENATE FINANCE	SEN. APPROPRIATIONS; FLOOR AMENDMENTS THAT PASSED
<i>Designation</i>			
1	Designates the act as the Energy Development Improvement Act	No change	No change
<i>Integration of Energy and Land Use Planning</i>			
2	<p>24 V.S.A. § 4302. Purpose; goals</p> <p>Amends the goals of 24 V.S.A. chapter 117 (municipal and regional planning and development) to:</p> <ul style="list-style-type: none"> <li>• Incorporate the existing statutes on greenhouse gas reduction goals, building efficiency goals, renewable energy goals, state energy policy, and the distributed renewable generation and energy transformation categories of the Renewable Energy Standard</li> <li>• Require consistency with State energy plans</li> </ul>	No change	No change
3	<p>24 V.S.A. § 4345. Optional powers and duties of regional planning commissions</p> <p>Strikes optional powers related to making studies and recommendations on energy conservation and development of renewable energy resources</p> <p>These optional powers are moved to Sec. 4 as mandatory duties</p>	No change	No change

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4	<p>24 V.S.A. § 4345a. Duties of regional planning commissions</p> <ul style="list-style-type: none"> <li>Clarifies that regional planning commissions (RPC) have the right to appear and participate in proceedings before the Public Service Board (PSB or Board) under 30 V.S.A. § 248</li> <li>Inserts, as mandatory duties, the optional powers deleted in Sec. 3</li> </ul>	<p><u>First amendment:</u></p> <p>Revises language proposed by NR&amp;E to clarify that regional commissions have the right to appear and participate, and the duty to do so when requested by the Board</p>	No change
5	<p>Clarification of existing law (session law)</p> <p>States that the revision in Sec. 4 on participation of RPCs is a clarification of existing law</p>	<p><u>Second amendment:</u></p> <p>Deletes Sec. 5</p>	No change
6	<p>24 V.S.A. § 4348a. Elements of a regional plan</p> <p>Amends the energy plan element to enable a comprehensive analysis across all energy sectors, a statement of policy on conservation and efficient use of energy and the development and siting of distributed and utility-scale renewable energy resources, and a statement of policy on and identification of potential areas for renewable energy resources and areas inappropriate for siting those resources or categories or sizes of those resources</p>	No change	No change
7	<p>24 V.S.A. § 4352. Certification of energy compliance</p> <p>Adds a statute under which regional and municipal plans may obtain a certification of energy compliance</p> <ul style="list-style-type: none"> <li>Regional plan is certified by the Commissioner of Public Service on finding that the regional plan meets the statutes, goals, and policies in Sec. 2</li> <li>If a regional plan is certified, then municipal plan is certified by</li> </ul>	<p><u>Third amendment:</u></p> <p>Technical correction</p>	<p><u>Bray et al., as amended by Riehle:</u></p> <p>Allows for appeal of certification decisions to hearing officer under the contested case provisions of the Administrative Procedure Act, with timelines</p>

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	<p>RPC on finding that the municipal plan meets those statutes, goals, and policies and the implementing provisions of the regional plan</p> <ul style="list-style-type: none"> <li>• In certifying a plan, the Commissioner or RPC must use standards to be developed by the Commissioner under Secs. 9 and 10</li> <li>• Sets out procedures for approving or denying certifications</li> </ul>		
8	<p>24 V.S.A. § 4382. The plan for a municipality</p> <p>Requires all municipal plans to be consistent with the goals of 24 V.S.A. § 4302 (amended in Sec. 2), regardless of energy certification is sought</p> <p>Amends the energy plan provision to enable a comprehensive analysis across all energy sectors, a statement of policy on conservation and efficient use of energy and the development and siting of distributed and utility-scale renewable energy resources, and a statement of policy on and identification of potential areas for renewable energy resources and areas inappropriate for siting those resources or categories or sizes of those resources</p>	No change	<p><u>Bray et al.:</u></p> <p>Removed amendment that would have required all municipal plans to be consistent with the goals of 24 V.S.A. § 4302</p>
9	<p>30 V.S.A. § 202. Electrical energy planning</p> <p>Requires the 20-year electric plan by the Dept. of Public Service (DPS) to:</p> <ul style="list-style-type: none"> <li>• Include specific recommendations on energy efficiency and renewable generation siting to guide municipal and regional planning commissions in preparing land use plans</li> <li>• Include standards for use in determining whether to certify land use plans under Sec. 7</li> <li>• Take into the account the planning goals at 24 V.S.A. § 4302</li> </ul> <p>In developing the plan, DPS to consult with municipal and regional planning commissions</p>	<p><u>Fourth amendment:</u></p> <p>Adds requirement for DPS to provide municipalities and regions with information on the location and capacity of grid infrastructure</p>	No change

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10	<p>30 V.S.A. § 202b. State comprehensive energy plan</p> <p>Requires the Comprehensive Energy Plan issued by DPS to:</p> <ul style="list-style-type: none"> <li>• Include specific recommendations on energy efficiency and renewable generation siting to guide municipal and regional planning commissions in preparing land use plans</li> <li>• Include standards for use in determining whether to certify land use plans under Sec. 7</li> <li>• Be consistent with the municipal and regional planning goals at 24 V.S.A. § 4302</li> </ul>	No change	No change
11	<p>Initial implementation, certification standards (session law)</p> <p>Directs DPS to adopt the recommendations and standards called for in Secs. 9 and 10 by 10/1/16, after a public process; on adoption, considered an appendix to the currently adopted plans</p>	<p><u>Fifth amendment:</u></p> <p>Technical correction</p>	No change
11a	<i>n.a. (added by Finance)</i>	<p><u>Sixth amendment:</u> Training (session law)</p> <p>Requires DPS, in collaboration with the Vermont League of Cities and Towns and Vermont Association of Planning and Development Agencies, to conduct a series of training sessions across the state for municipal and regional planning commissions</p>	No change
11b	<i>n.a. (added by Finance)</i>	<p><u>Seventh amendment:</u> Planning Support; Allocation of Costs (session law)</p> <p>Requires DPS to disburse, for each of three fiscal</p>	<p><u>Appropriations:</u></p> <p>Limited to one fiscal year (fy 2017)</p>

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		years, \$300,000.00 to regional planning commissions and municipalities to support implementation of this act; DPS to allocate costs to electric utilities	
12	<p>30 V.S.A. § 248(b). Criteria</p> <p>Would amend criteria used by the PSB under 30 V.S.A. § 248 to require, for electric generation, giving substantial deference to municipal and regional plan provisions if the plan has received a certificate of energy compliance under Sec. 7</p>	<p><u>Eighth amendment:</u></p> <p>Adds amendment to the Section 248 criteria to require the PSB to give due consideration to the Act 250 criteria related to primary agricultural soils and productive forest soils and to impacts on forest health and integrity</p>	<p><u>Bray et al.:</u></p> <p>PSB to apply the land conservation measures and specific policies in municipal or regional plans as follows:</p> <ul style="list-style-type: none"> <li>• For applications before March 1, 2017, deference unless a preponderance of the evidence shows they are outweighed by a factor affecting the general good of the state</li> <li>• For applications on or after March 1, 2017:               <ul style="list-style-type: none"> <li>○ If certified, deference unless there is a clear and convincing demonstration that they are outweighed by a factor affecting the general food of the state</li> <li>○ If not certified, due consideration</li> </ul> </li> </ul>
<i>Regulatory and Financial Incentives; Preferred Locations</i>			
13	<p>30 V.S.A. § 8002(30). Definition, “preferred locations”</p> <p>This section would add a definition of the term “preferred locations” to the renewable energy chapter, to include:</p> <ul style="list-style-type: none"> <li>• new or existing structures, such as a commercial building or</li> </ul>	No change	<p><u>Bray, Campion:</u></p> <p>Adds two categories to the “preferred location” definition:</p> <ul style="list-style-type: none"> <li>• Site on the National Priorities List</li> </ul>

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	<p>parking lot</p> <ul style="list-style-type: none"> <li>• previously developed tracts on which a structure or impervious surface exists</li> <li>• brownfields</li> <li>• landfills</li> <li>• disturbed portion of gravel pit or quarry or similar extraction site</li> <li>• specific location designated in a municipal plan</li> <li>• for net metering systems, additional locations as the PSB may adopt by rule</li> </ul>		<p>pursuant to CERCLA (Superfund)</p> <ul style="list-style-type: none"> <li>• Hydroelectric facility – either a new hydroelectric facility at an existing dam or the redevelopment of an existing hydroelectric facility that is out of service</li> </ul>
14	<p>30 V.S.A. § 8004(g). Renewable energy standard; preferred locations</p> <p>With respect to in-state facilities to be used to meet the Renewable Energy Standard (RES), directs the PSB to use its statutory authority over the RES to promote siting such facilities in preferred locations</p>	<p><u>Ninth amendment:</u></p> <p>Deletes Sec. 14</p>	No change
15	<p>30 V.S.A. § 8005a. Standard offer program</p> <p>Creates a pilot project within the Standard Offer Program to encourage siting renewable generation facilities in preferred locations, allocating the pilot project to sets of facilities:</p> <ul style="list-style-type: none"> <li>• Facilities to be located on a preferred location other than a parking lot or parking lot canopy</li> <li>• Facilities to be located on a parking lot or parking lot canopy</li> </ul>	<p><u>Tenth amendment:</u></p> <p>Requires that, for a facility in the pilot project that is to be located on a parking lot or parking lot canopy, the site must remain in use as a parking lot</p> <p><u>Eleventh amendment:</u></p> <p>If there is only one bid for the parking lot allocation, or if all bids are owned or controlled by the same person, the PSB must investigate and may reduce the price to be paid</p>	No change
16	Standard offer pilot; report (session law)	No change	No change

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	By 1/15/18, PSB to report to standing committees on the progress of the standard offer pilot authorized by Sec. 15		
17	<p>30 V.S.A. § 8010. Self-generation and net metering</p> <ul style="list-style-type: none"> <li>• PSB to promote siting net metering systems in preferred locations</li> <li>• With respect to Section 248 applications for net metering systems exceeding 15 kW in capacity, directs the PSB not to waive:               <ul style="list-style-type: none"> <li>○ Notice to AAFM, ANR, DPS, DHP, the municipal legislative body; and the municipal and regional planning commissions</li> <li>○ Requirements in Secs. 20–22 on information to be included in the application, preapplication submittals to local and regional bodies, and permit conditions regarding aesthetic mitigation and, for systems greater than 150 kW, decommissioning</li> </ul> </li> </ul>	No change	<p><u>Bray, Campion:</u></p> <p>Clarifies that this section does not confer authority to require a certificate of public good (CPG) for a hydroelectric generation plant that is subject to the licensing jurisdiction of the Federal Energy Regulatory Commission (FERC)</p>
17a	<i>n.a. (added on floor)</i>	<i>n.a. (added on floor)</i>	<p><u>Bray, Campion:</u></p> <p>30 V.S.A. § 248(a). New gas and electric purchases, investments and facilities; certificate of public good</p> <p>Provides an exception to the CPG requirement for a hydroelectric generation facility that is subject to FERC licensing jurisdiction</p>
<i>Regulatory Process; Public Assistance Officer</i>			
18	<p>30 V.S.A. § 3. Public Service Board</p> <p>Establishes a Public Assistance Officer (PAO) at the PSB to provide</p>	No change	<p><u>Sirotkin et al.:</u></p> <p>Adds that the PAO will facilitate citizen</p>

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	information and assistance to the public about siting cases		participation in siting cases, including: <ul style="list-style-type: none"> <li>• providing citizens representing themselves with procedural advice and assistance</li> <li>• helping citizens representing themselves obtain files, records, and data</li> <li>• conducting educational programs and produce education materials</li> </ul>
18a	<i>n.a. (added on floor)</i>	<i>n.a. (added on floor)</i>	<u>Sirotkin et al.:</u>  Public Assistance Officer; Report (session law)  By 1/1/18, PAO to file report on the implementation of Sec. 18, with an evaluation of its impact on the ability of citizens to participate and recommendations for future action
19	Appropriation (session law)  For FY 17, authorizes \$100,000 for the PAO from the special fund that supports the PSB and DPS	No change	<u>Sirotkin et al.:</u>  Limits PAO position to two years.
20	30 V.S.A. § 248(a)(4). Hearings; notice; parties  Amends the subdivision of Section 248 that addresses notice, hearings, and parties to the PSB energy siting process to: <ul style="list-style-type: none"> <li>• Grant the Agency of Agriculture, Food and Markets (AAFM) the</li> </ul>	<u>Twelfth amendment:</u>  Revises language proposed by NR&E to require AAFM to participate if the proceeding concerns an electric generation facility greater than 150 kW to	No change

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	<p>right to appear and participate</p> <ul style="list-style-type: none"> <li>• Clarify that RPCs have the right to appear and participate</li> <li>• Grant adjacent RPCs and municipalities the right to participate if the facility will be within 500 feet of their border</li> <li>• Allows a person who has the right to appear and participate to activate that right by filing a letter</li> <li>• For generation facilities greater than 15 kW, requires that the application include certain information, including the full limits of physical disturbance, the presence and disturbance of primary agricultural soils, and all visible infrastructure</li> </ul>	<p>be located on a tract with primary agricultural soils; otherwise, AAFM has the right to appear and participate</p>	
21	<p>30 V.S.A. § 248(f). 45-day preapplication submittal</p> <p>Requires that the petitioner’s application address comments made during the 45-day preapplication process</p>	<p>No change</p>	<p>No change</p>
<p><i>CPG Conditions: Aesthetics Mitigation and Decommissioning</i></p>			
22	<p>30 V.S.A. § 248(t) and (u). Conditions on aesthetics mitigation and decommissioning</p> <p>Requires that a certificate of public good (CPG) for an in-state facility under Section 248 include:</p> <ul style="list-style-type: none"> <li>• Conditions to ensure that all aesthetic mitigation is undertaken and maintained</li> <li>• For in-state generation greater than 150 kW, requirements to decommission or dismantle the facility at the end of its useful life and post a bond or other security</li> </ul>	<p><u>Thirteenth amendment (first part):</u></p> <p>Revises language proposed by NR&amp;E to require PSB to address the following through rulemaking:</p> <ul style="list-style-type: none"> <li>• ensuring that aesthetic mitigation is undertaken and maintained</li> <li>• decommissioning plans for in-state generation greater than 150 kW, and the determination of the minimum size facility for which there must be financial assurance for decommissioning</li> </ul>	<p>No change</p>

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22a	<i>n.a. (added by Finance)</i>	<p><u>Thirteenth amendment (second part):</u> Rules; Petition (session law)</p> <p>DPS to file petition for rulemaking to implement Sec. 22 by 8/1/16, and PSB to finally adopt these rules by 6/15/17</p>	No change
<i>Greenhouse Gases; Life Cycle Analysis</i>			
23	<p>30 V.S.A. § 248(v). Greenhouse gas impacts; life cycle analysis</p> <p>Requires that a petition for a CPG under Section 248 include a life cycle analysis of greenhouse gas impacts that the PSB shall consider in making findings. Would not apply to net metering systems.</p>	<p><u>Fourteenth amendment:</u></p> <p>Technical correction; reletters subsection as (u)</p>	No change
23a	<i>n.a. (added by Finance)</i>	<p><u>Fifteenth amendment:</u></p> <p>30 V.S.A. 248(v). Primary agricultural soils; solar</p> <p>If a solar generation facility is built on primary agricultural soils, requires soils to remain classified as primary agricultural, with review of any change of use to be as if facility was never built</p>	No change
23b	<i>n.a. (added by Finance)</i>	<p><u>Sixteenth amendment (first part):</u></p> <p>30 V.S.A. § 248(w). Wind generation; lighting</p>	No change

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		Requires wind generation for which the Federal Aviation Administration (FAA) requires obstruction lighting to use radar-controlled lighting if allowed by the FAA	
23c	<i>n.a. (added by Finance)</i>	<p><u>Sixteenth amendment (second part):</u> Existing wind facilities; radar-controlled lighting (session law)</p> <p>Requires DPS to work with the owner and operator of each existing in-state wind generation facility to encourage the installation of radar-controlled obstruction lights</p>	No change
23d	<i>n.a. (added by Finance)</i>	<p><u>Seventeenth amendment:</u></p> <p>30 V.S.A. § 248(x). Certificates; recording</p> <p>For in-state electric generation facility, certificate holder to record notice of the certificate of public good on the land records, using a one-page form prescribed by the PSB</p>	No change
<i>Sounds Standards Docket; Energy Facilities</i>			
24	<p>Sound standards docket; completion date</p> <p>Directs the PSB to issue a final order by Sep. 1, 2016 in its pending, non-contested case proceeding on the potential establishment of sound standards for energy facilities</p>	No change	<p><u>Bray et al.:</u></p> <p>Directs PSB to issue a final order in its sound standards docket by Oct. 1, 2016</p>

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			<p>For wind generation, expands scope of docket to include PSB’s recommendations and implementation plan on:</p> <ul style="list-style-type: none"> <li>• maximum instantaneous and average audible sound levels</li> <li>• release of sound monitoring data to public</li> <li>• minimum setback for wind turbines</li> <li>• whether to require maximum sound levels for infra sound</li> </ul> <p>PSB to provide opportunity to submit information and request a workshop before issuing final decision</p>
<i>Agency of Agriculture, Food and Markets; Billback</i>			
25	<p>30 V.S.A. § 248c. Fees; Agency of Agriculture Food and Markets; participation in energy siting proceedings</p> <p>Establishes a fee to support the participation of AAFM in PSB energy siting proceedings</p> <ul style="list-style-type: none"> <li>• Fee applies if project tract contains primary agricultural soils</li> <li>• Amount is 10 percent of the fee under 30 V.S.A. § 248b, which supports participation by the Agency of Natural Resources in those proceedings</li> <li>•</li> </ul>	<p><u>Eighteenth amendment (first part):</u></p> <p>Strikes Sec. 25</p>	No change
26	<p>30 V.S.A. § 20. Particular proceedings; personnel</p> <p>Authorizes AAFM to retain additional experts, legal counsel, and other personnel to assist its participation in Section 248 proceedings</p>	<p><u>Eighteenth amendment (second part):</u></p> <p>Renumbers to Sec. 25.</p>	No change

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	<p>30 V.S.A. § 21. Particular proceedings; assessment of costs</p> <p>Authorizes AAFM to allocate the costs of these additional personnel in a Section 248 to the applicant, with an annual report to standing committees on the total amount allocated</p>		
<i>Regulated Energy Utility Expansion Funds</i>			
26	<i>(new Sec. 26 added by Finance)</i>	<p><u>Nineteenth amendment:</u></p> <p>30 V.S.A. § 218d(d). Alternative regulation</p> <p>Limits the authority of the PSB to allow ratepayer funds to be set aside for a future expansion or upgrade of the transmission or distribution network of an electric or natural gas utility.</p>	No change
<i>Municipal Electric Utilities; Hydro Facilities; Renewable Energy Standard</i>			
26a	<i>n.a. (added by Finance)</i>	<p><u>Twentieth amendment:</u></p> <p>30 V.S.A. § 8005(a)(1). Total renewable energy</p> <p>Allows a municipal electric utility to petition for reduction in the “total renewable energy” requirement of the Renewable Energy Standard for one period of up to three years if an environmental permit or certification requires reduction in the electric energy generated by a hydroelectric facility owned by the utility</p>	No change

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26b	<i>n.a. (added by Finance)</i>	<p><u>Twenty-first amendment</u>: Access to Public Service Board Working Group; report</p> <p>Creates a working group to report by Dec. 15, 2016 on recommendations to increase the ease of citizen participation in PSB proceedings.</p>	No change
<i>Effective Dates</i>			
27	The act takes effect on July 1, 2016, except that the effective dates section and Sec. 11 (initial implementation; certification standards) take effect on passage and Sec. 17 (net metering systems) takes effect in January 2017	<p><u>Twenty-second amendment</u>: Adds the following:</p> <ul style="list-style-type: none"> <li>• Secs. 22a (rules; petition), 23b (wind generation; obstruction lighting), 23c (existing facilities; obstruction lighting), and 26b (Access to Public Service Board Working Group) take effect on passage.</li> <li>• Delays the effective date of a requirement, in Sec. 18, to post PSB documents online until July 1, 2017</li> </ul>	<p><u>Bray et al.</u>:</p> <p>Secs. 12 (PSB application; municipal and regional plans) and 24 (sound standards docket) to take effect on passage</p>