

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred Senate Bill No. 230
3 entitled “An act relating to improving the siting of energy projects”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended as follows:

6 First: In Sec. 4, 24 V.S.A. § 4345a, by striking out subdivision (14) in its
7 entirety and inserting in lieu thereof a new subdivision (14) to read:

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

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

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

13 Second: By striking out Sec. 5 (clarification of existing law) and inserting
14 in lieu thereof:

15 Sec. 5. [Deleted.]

16 Third: In Sec. 7, 24 V.S.A. § 4352, in subsection (b) (municipal plan
17 certification), in the third sentence, by striking out the second occurrence of
18 “regional” and inserting in lieu thereof municipal

1 Fourth: In Sec. 9, 30 V.S.A. § 202, after the last ellipsis, by inserting a
2 subsection (j) to read:

3 (j) For the purpose of assisting in the development of land use plans under
4 24 V.S.A. chapter 117, the Director shall, on request, provide municipal and
5 regional planning commissions with publically available information detailing
6 the location of electric transmission and distribution infrastructure in the
7 relevant municipality or region and the capacity of that infrastructure to accept
8 additional electric generation facilities without modification. In providing this
9 information, the Director shall be entitled to the assistance of the electric
10 utilities that own electric transmission or distribution systems, or both, located
11 in Vermont, including the ability to obtain from those utilities such data as the
12 Director considers necessary to discharge his or her duties under this
13 subsection.

14 Fifth: In Sec. 11, initial implementation; certification standards, in
15 subsection (b), in the second sentence, after “these” by striking out “policies
16 and procedures” and inserting in lieu thereof recommendations and standards

17 Sixth: After Sec. 11, by inserting a Sec. 11a to read:

18 Sec. 11a. TRAINING

19 Following publication of the recommendations and standards under
20 Sec. 11(a) of this act, the Department of Public Service shall conduct a series
21 of training sessions in locations across the State for municipal and regional

1 planning commissions to assist them in the development of land use plans that
2 are eligible for certification under Sec. 7 of this act, 24 V.S.A. § 4352. The
3 Department shall develop and present these workshops in collaboration with
4 the Vermont League of Cities and Towns and the Vermont Association of
5 Planning and Development Agencies. The Department shall ensure that all
6 municipal and regional planning commissions receive prior notice of the
7 workshops.

8 Seventh: After Sec. 11a, by inserting a Sec. 11b to read:

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

10 (a) For three fiscal years commencing on July 1, 2016, the Commissioner
11 of Public Service, in consultation with the Commissioner of Housing and
12 Community Development, annually shall disburse an amount not to exceed
13 \$300,000.00 to regional planning commissions established under 24 V.S.A.
14 chapter 117 and to municipalities for one or more of the following purposes:

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

18 (2) the implementation by a regional planning commission of 24 V.S.A.
19 § 4345a (studies and recommendations on energy);

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

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

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

11 (c) The Commissioner of Public Service shall allocate costs under
12 subsection (a) of this section to the electric distribution utilities subject to its
13 supervision under Title 30 of the Vermont Statutes Annotated based on their
14 pro rata share of total Vermont retail kilowatt-hour sales for the previous fiscal
15 year. Each of these utilities shall pay its allocation into the State Treasury at
16 such time and in such manner as the Commissioner may direct.

17 Eighth: In Sec. 12, 30 V.S.A. § 248(b), after the ellipsis, by inserting
18 subdivision (5) to read:

19 (5) With respect to an in-state facility, will not have an undue adverse
20 effect on esthetics, historic sites, air and water purity, the natural environment,
21 the use of natural resources, and the public health and safety, with due

1 consideration having been given to the criteria specified in 10 V.S.A.

2 §§ 1424a(d) and 6086(a)(1) through (8) and (9)(B), (9)(C), and (9)(K), impacts
3 to forest health and integrity, and greenhouse gas impacts.

4 * * *

5 Ninth: By striking out Sec. 14 in its entirety and inserting in lieu thereof:

6 Sec. 14. [Deleted.]

7 Tenth: In Sec. 15, 30 V.S.A. § 8005a, in subsection (c) (cumulative
8 capacity), in subdivision (1) (pace), in subdivision (D) (pilot project; preferred
9 locations), by striking out subdivision (iii) and inserting in lieu thereof a new
10 subdivision (iii) to read:

11 (iii) To qualify for these allocations, the plant shall not require the
12 construction of a new substation by the interconnecting retail electricity
13 provider or by increasing the capacity of one or more of the provider's existing
14 facilities. To qualify for the allocation to plants wholly located on parking lots
15 or parking lot canopies, the location shall remain in use as a parking lot.

16 Eleventh: In Sec. 15, 30 V.S.A. § 8005a, in subsection (f) (price), in
17 subdivision (5) (price; preferred location pilots), after subdivision (B), by
18 inserting a subdivision (C) to read:

19 (C) With respect to the allocation to the new standard offer plants
20 that will be wholly located on parking lots or parking lot canopies, if in a given
21 year the Board receives only one application or multiple applications for plants

1 owned or controlled by the same person as defined in 10 V.S.A. § 6001, the
2 Board shall investigate each application and shall have discretion to reduce the
3 price to be consistent with the standard offer price for plants outside the pilot
4 project using the same generation technology.

5 Twelfth: In Sec. 20, 30 V.S.A. § 248(a)(4), by striking out subdivision (F)
6 in its entirety and inserting in lieu thereof a new subdivision (F) to read:

7 (F) The following shall apply to the participation of the Agency of
8 Agriculture, Food and Markets in proceedings held under this subsection:

9 (i) In any proceeding regarding an electric generation facility that
10 will have a capacity greater than 150 kilowatts and will be sited on a tract
11 containing primary agricultural soils as defined in 10 V.S.A. § 6001, the
12 Agency shall appear as a party and provide evidence and recommendations
13 concerning any findings to be made under subdivision (b)(5) of this section on
14 those soils, and may provide evidence and recommendations concerning any
15 other matters to be determined by the Board in such a proceeding.

16 (ii) In a proceeding other than one described in subdivision (i) of
17 this subsection (4)(F), the Agency shall have the right to appear and
18 participate.

1 Thirteenth: By striking out Sec. 22 in its entirety and inserting in lieu
2 thereof two new Secs. to be Secs. 22 and 22a to read:

3 Sec. 22. 30 V.S.A. § 248(t) is added to read:

4 (t) The Board shall adopt rules applicable to in-state facilities approved
5 under this section.

6 (1) With respect to all measures required to be undertaken to mitigate
7 the impacts of such a facility on aesthetics and scenic beauty, the rules shall:

8 (A) ensure that there is postconstruction inspection to determine
9 whether all required mitigation measures have been undertaken and required
10 plantings have been installed, including such inspection of facilities approved
11 prior to the effective date of this subsection;

12 (B) ensure that the holder of a certificate for such a facility has an
13 enforceable right to install and maintain all required plantings and manage all
14 vegetation used to demonstrate the facility will not have an undue adverse
15 effect on aesthetics;

16 (C) after installation of all required plantings, require annual
17 submission for a period to be determined by the Board of documentation that
18 the plantings have been maintained in accordance with the approved plans; and

19 (D) ensure that the holder of a certificate for such a facility has an
20 ongoing duty to maintain the plantings in accordance with the approved plans
21 and replace dead or diseased plantings as soon as seasonably possible.

1 (2) With respect to decommissioning of electric generation facilities, the
2 rules:

3 (A) shall ensure that all such facilities with a plant capacity as
4 defined in section 8002 of this title greater than 150 kilowatts are subject to a
5 decommissioning plan approved by the Board;

6 (B) shall ensure that all such facilities above a plant capacity to be
7 determined by the Board post a bond or offer other security or financial
8 assurance acceptable to the Board that is sufficient to finance the
9 decommissioning activities in full; and

10 (C) may allow net metering systems as defined in this title to pool or
11 otherwise aggregate the provision of security or other financial assurance to
12 finance those decommissioning activities.

13 Sec. 22a. RULES; PETITION

14 (a) On or before August 1, 2016, the Department of Public Service shall
15 file a petition for rulemaking with the Public Service Board containing
16 proposed rules to implement Sec. 22 of this act, 30 V.S.A. § 248(t).

17 (b) On or before October 15, 2016, the Public Service Board shall file
18 proposed rules to implement Sec. 22 of this act with the Secretary of State
19 under 3 V.S.A. § 838. The Board shall finally adopt such rules on or before
20 June 15, 2017, unless such deadline is extended by the Legislative Committee
21 on Administrative Rules pursuant to 3 V.S.A. § 843(c).

1 Fourteenth: In Sec. 23, in the catchline, by striking out “248(v)” and
2 inserting in lieu thereof: 248(u), and in subsection (v), by redesignating the
3 subsection to be subsection (u).

4 Fifteenth: After Sec. 23, by inserting a Sec. 23a to read:
5 Sec. 23a. 30 V.S.A. § 248(v) is added to read:

6 (v) Notwithstanding any contrary provision of the law, primary agricultural
7 soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric
8 generation facility approved under this section shall remain classified as such
9 soils, and the review of any change in use of the site subsequent to the
10 construction of the facility shall treat the soils as if the facility had never been
11 constructed. Each certificate of public good issued by the Board for a
12 ground-mounted solar generation facility shall state the contents of this
13 subsection.

14 Sixteenth: After Sec. 23a, by inserting a Secs. 23b and 23c to read:
15 Sec. 23b. 30 V.S.A. § 248(w) is added to read:

16 (w)(1) The Board shall require any in-state wind electric generation facility
17 receiving a certificate of public good to install radar-controlled obstruction
18 lights on all wind turbines for which the Federal Aviation Administration
19 (FAA) requires obstruction lights, provided the FAA allows the use of
20 radar-controlled lighting technology. Nothing in this subdivision shall allow
21 the Board to approve obstruction lights that do not meet FAA standards.

1 (2) The purpose of this subsection is to reduce the visual impact of wind
2 turbine obstruction lights on the environment and nearby properties. The
3 General Assembly finds that wind turbine obstruction lights that remain
4 illuminated through the night create light pollution, and may attract birds and
5 bats. Radar-controlled obstruction lights are only illuminated when aircraft are
6 detected in the area, and therefore the use of these lights will reduce the
7 negative environmental impacts of obstruction lights.

8 Sec. 23c. EXISTING WIND FACILITIES; RADAR-CONTROLLED

9 LIGHTING

10 The Department of Public Service shall actively encourage the installation
11 of radar-controlled obstruction lights that meet the standards of the Federal
12 Aviation Administration (FAA) at each wind generation facility in existence as
13 of the effective date of this section for which the FAA requires obstruction
14 lighting. The Department shall work directly with the owner and operator of
15 each such facility to encourage this installation.

16 Seventeenth: After Sec. 23c, by inserting a Sec. 23d to read:

17 Sec. 23d. 30 V.S.A. § 248(x) is added to read:

18 (x) When a certificate of public good under this section or amendment to
19 such a certificate is issued for an in-state electric generation facility, the
20 certificate holder within 45 days shall record a notice of the certificate or
21 amended certificate, on a form prescribed by the Board, in the land records of

1 each municipality in which a facility subject to the certificate is located and
2 shall submit proof of this recording to the Board. The recording under this
3 subsection shall be indexed as though the certificate holder were the grantor of
4 a deed. The prescribed form shall not exceed one page and shall require
5 identification of the land on which the facility is to be located by reference to
6 the conveyance to the current landowner, the number of the certificate, and the
7 name of each person to which the certificate was issued, and shall include
8 information on how to contact the Board to view the certificate and supporting
9 documents.

10 Eighteenth: After Sec. 24, by striking out the reader guide preceding Sec.
11 25 (fees) and Sec. 25 (fees) in its entirety and by renumbering Sec. 26 to be
12 Sec. 25

13 Nineteenth: After Sec. 25, by inserting a reader guide and a Sec. 26 to read:

14 * * * Regulated Energy Utility Expansion Funds * * *

15 Sec. 26a. 30 V.S.A. § 218d(d) is amended to read:

16 (d) Alternative regulation may include such changes or additions to,
17 waivers of, or alternatives to, traditional rate-making procedures, standards,
18 and mechanisms, including substantive changes to rate base-rate of return rate
19 setting, as the ~~board~~ Board finds will promote the public good and will support
20 the required findings in subsection (a) of this section. In addition, the Board
21 shall not allow a company to set aside funds collected from ratepayers for the

1 purpose of supporting a future expansion or upgrade of its transmission or
2 distribution network except after notice and opportunity for hearing and only if
3 all of the following apply:

4 (1) There is a cost estimate for the expansion or upgrade that the
5 company demonstrates is consistent with the principles of least cost integrated
6 planning as defined in section 218c of this title.

7 (2) The amount of such funds does not exceed 10 percent of the
8 estimated cost of the expansion or upgrade.

9 (3) Interest earned on the funds is credited to the ratepayers.

10 (4) The funds are not disbursed to the company until after expansion or
11 upgrade is in service.

12 (5) The funds are not used to defray any portion of the costs of
13 expansion or upgrade in excess of the cost estimate described in subdivision
14 (1) of this subsection.

15 Twentieth: After Sec. 26, by inserting a reader guide and a Sec. 26a to read
16 as follows:

17 * * * Municipal Electric Utilities; Hydro Facilities;

18 Renewable Energy Standard * * *

19 Sec. 26a. 30 V.S.A. § 8005(a)(1) is amended to read:

20 (1) Total renewable energy.

1 state hydroelectric facility that the provider owns and that this reduction will
2 require the provider to purchase other renewable energy with environmental
3 attributes attached or tradeable renewable energy credits in order to meet this
4 required amount; and

5 (ii) this purchase will:

6 (I) cause the provider to increase significantly its retail rates; or

7 (II) materially impair the provider's ability to meet the public's
8 need for energy services after safety concerns are addressed, in the manner set
9 forth in subdivision 218c(a)(1)(least-cost integrated planning) of this title;

10 Twenty-first: After Sec. 26a, by inserting a reader guide and a Sec. 26b to
11 read as follows:

12 * * * Access to Public Service Board Process * * *

13 Sec. 26b. ACCESS TO PUBLIC SERVICE BOARD WORKING

14 GROUP: REPORT

15 (a) Creation. There is created an Access to Public Service Board Working
16 Group (the Working Group) to be composed of the following five members:

17 (1) One member of the Public Service Board (PSB), appointed by the
18 Chair of the PSB.

19 (2) The Commissioner of Public Service or designee.

20 (3) A judicial officer of the State, appointed by the Chief Justice of the
21 Supreme Court.

1 (4) A House member of the Joint Energy Committee established under
2 2 V.S.A. 17, appointed by the Speaker of the House; and

3 (5) A Senate member of the Joint Energy Committee established under
4 2 V.S.A. 17, appointed by the Committee on Committees.

5 (c) Powers and duties; term.

6 (1) The Working Group shall review the current processes for citizen
7 participation in PSB proceedings and shall make recommendations to promote
8 increased ease of citizen participation in those proceedings.

9 (2) On or before December 15, 2016, the Working Group shall submit
10 its written recommendations to the House and Senate Committees on Energy
11 and Natural Resources, the Senate Committee on Finance, and the Joint Energy
12 Committee.

13 (3) The Working Group shall have the administrative, technical, and
14 legal assistance of the staff of the PSB.

15 (4) The appointed member of the PSB shall call the first meeting of the
16 Working Group to occur on or before July 1, 2016. At the first meeting, the
17 Working Group shall elect a chair from among its members.

18 (5) The Working Group shall cease to exist on February 1, 2017.

1 Twenty-second: In Sec. 27 (effective dates), by inserting subdivisions (3),
2 (4), and (5) to read:

3 (3) Sec. 22a (rules; petition) shall take effect on passage and Sec. 22
4 (rules) shall apply to the implementation of Sec. 22a.

5 (4) Secs. 23b (wind generation; obstruction lighting), 23c (existing
6 facilities; obstruction lighting), and 26b (Access to Public Service Board
7 Working Group) shall take effect on passage.

8 (5) In Sec. 18, 30 V.S.A. § 3(h)(3) (posting online; filings and orders)
9 shall take effect on July 1, 2017.

10

11

12 (Committee vote: _____)

13

14

Senator _____

15

FOR THE COMMITTEE