

S.230: Energy Development Improvement Act
Comparison, Reports of Senate Committees on Natural Resources and Energy and on Finance
Office of Legislative Council March 23, 2016

§	SENATE NATURAL RESOURCES AND ENERGY	SENATE FINANCE
<i>Designation</i>		
1	Designates the act as the Energy Development Improvement Act	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"> • 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 • Require consistency with State energy plans 	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
4	<p>24 V.S.A. § 4345a. Duties of regional planning commissions</p> <ul style="list-style-type: none"> • 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 	<p><u>First amendment:</u></p> <p>Revises language proposed by NR&E to clarify that regional commissions have the right to appear and participate, and the duty to do so when requested by</p>

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	<ul style="list-style-type: none"> • Inserts, as mandatory duties, the optional powers deleted in Sec. 3 	the Board
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>
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 efficiency 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
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"> • 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 • If a regional plan is certified, then municipal plan is certified by RPC on finding that the municipal plan meets those statutes, goals, and policies and the implementing provisions of the regional plan • In certifying a plan, the Commissioner or RPC must use standards to be developed by the Commissioner under Secs. 9 and 10 • Sets out procedures for approving or denying certifications 	<p><u>Third amendment:</u></p> <p>Technical correction</p>

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8	<p>24 V.S.A. § 4382. The plan for a municipality</p> <p>Requires the municipal plan to be consistent with the goals of 24 V.S.A. § 4302, which is amended in Sec. 2</p> <p>Amends the energy plan provision to enable a comprehensive analysis across all energy sectors, a statement of policy on conservation and efficiency 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
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"> • Include specific recommendations on energy efficiency and renewable generation siting to guide municipal and regional planning commissions in preparing land use plans • Include standards for use in determining whether to certify land use plans under Sec. 7 • Take into the account the planning goals at 24 V.S.A. § 4302 <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>
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"> • Include specific recommendations on energy efficiency and renewable generation siting to guide municipal and regional planning commissions in preparing land use plans 	No change

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	<ul style="list-style-type: none"> • Include standards for use in determining whether to certify land use plans under Sec. 7 • Be consistent with the municipal and regional planning goals at 24 V.S.A. § 4302 	
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>
11a	<p><i>n.a. (added by Finance)</i></p>	<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>
11b	<p><i>n.a. (added by Finance)</i></p>	<p><u>Seventh amendment:</u> Planning Support; Allocation of Costs (session law)</p> <p>Requires DPS to disburse, for each of three fiscal years, \$300,000.00 to regional planning commissions and municipalities to support implementation of this act; DPS to allocate costs to electric utilities</p>
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,</p>	<p><u>Eighth amendment:</u></p> <p>Adds amendment to the Section 248 criteria to</p>

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	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	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
<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"> • new or existing structures, such as a commercial building or parking lot • previously developed tracts on which a structure or impervious surface exists • brownfields • landfills • disturbed portion of gravel pit or quarry or similar extraction site • specific location designated in a municipal plan • for net metering systems, additional locations as the PSB may adopt by rule 	No change
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>
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>	<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>

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	<ul style="list-style-type: none"> • Facilities to be located on a preferred location other than a parking lot or parking lot canopy • Facilities to be located on a parking lot or parking lot canopy 	<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>
16	<p>Standard offer pilot; report (session law)</p> <p>By 1/15/18, PSB to report to standing committees on the progress of the standard offer pilot authorized by Sec. 15</p>	No change
17	<p>30 V.S.A. § 8010. Self-generation and net metering</p> <ul style="list-style-type: none"> • Directs the PSB to promote the siting of net metering systems in preferred locations • 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"> ○ Notice to AAFM, ANR, DPS, DHP, the municipal legislative body; and the municipal and regional planning commissions ○ 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 	No change
<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 information and assistance to the public about siting cases</p>	No change

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19	<p>Appropriation (session law)</p> <p>For FY 17, authorizes \$100,000 for the PAO from the special fund that supports the PSB and DPS</p>	No change
20	<p>30 V.S.A. § 248(a)(4). Hearings; notice; parties</p> <p>Amends the subdivision of Section 248 that addresses notice, hearings, and parties to the PSB energy siting process to:</p> <ul style="list-style-type: none"> • Grant the Agency of Agriculture, Food and Markets (AAFM) the right to appear and participate • Clarify that RPCs have the right to appear and participate • Grant adjacent RPCs and municipalities the right to participate if the facility will be within 500 feet of their border • Allows a person who has the right to appear and participate to activate that right by filing a letter • 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 	<p><u>Twelfth amendment:</u></p> <p>Revises language proposed by NR&E to require AAFM to participate if the proceeding concerns an electric generation facility greater than 150 kW to 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>	No change
<i>CPG Conditions: Aesthetics Mitigation and Decommissioning</i>		
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>	<p><u>Thirteenth amendment (first part):</u></p> <p>Revises language proposed by NR&E to require PSB to address the following through rulemaking:</p> <ul style="list-style-type: none"> • ensuring that aesthetic mitigation is

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	<ul style="list-style-type: none"> • Conditions to ensure that all aesthetic mitigation is undertaken and maintained • 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 	<p>undertaken and maintained</p> <ul style="list-style-type: none"> • 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
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>
<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>
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>

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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> <p>Requires wind generation for which the Federal Aviation Administration (FAA) requires obstruction lighting to use radar-controlled lighting if allowed by the FAA</p>
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>
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>
<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 September 1, 2016 in its pending, non-contested case proceeding on the potential establishment of sound standards for energy facilities.</p>	No change

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<i>Agency of Agriculture, Food and Markets; Fees; 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"> • Fee applies if project tract contains primary agricultural soils • 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 • 	<p><u>Eighteenth amendment (first part):</u></p> <p>Strikes Sec. 25</p>
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>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>	<p><u>Eighteenth amendment (second part):</u></p> <p>Renumbers to Sec. 25.</p>
<i>Regulated Energy Utility Expansion Funds</i>		
26	<p><i>(new Sec. 26 added by Finance)</i></p>	<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>

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<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>
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>
<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"> • 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. • Delays the effective date of a requirement, in Sec. 18, to post PSB documents online until July 1, 2017