

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
11 Commissioner of Public Service, in consultation with the Commissioner of
12 Housing and Community Development, annually shall disburse a total of
13 \$ [TBD] to regional and municipal planning commissions established
14 under 24 V.S.A. chapter 117 for one or more of the following purposes:

15 (1) implementation of Secs. 2 (purpose; goals); 6 (elements of a
16 regional 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
19 24 V.S.A. § 4345a (studies and recommendations on energy);

20 (3) participation in the development of recommendations and
21 standards pursuant to Secs. 9 (electrical energy plan), 10 (comprehensive

1 **energy plan), and 11 (initial implementation; certification standards) of**
2 **this act; and**

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

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

10 **(c) The Commissioner of Public Service shall allocate costs under**
11 **subsection (a) of this section to the electric and natural gas distribution utilities**
12 **subject to its supervision under Title 30 of the Vermont Statutes Annotated in**
13 **proportion to the British thermal units consumed by the retail customers of**
14 **each such utility during the prior fiscal year. Each of these utilities shall pay**
15 **its allocation into the State Treasury at such time and in such manner as the**
16 **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
6 thereof:

7 Sec. 14. [Deleted.]

8 Tenth: In Sec. 18, 30 V.S.A. § 3, in subsection (h), in subdivision (2)(C),
9 after the second sentence, by inserting: **Each form and template shall**
10 **state: “Any individual may assist a participant in a Public Service Board**
11 **proceeding in preparing a document that will be submitted to the Board.**
12 **A participant who uses the assistance of an individual who is not a**
13 **licensed professional does so at the participant’s own risk.”**

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

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

18 (i) In any proceeding regarding an electric generation facility that
19 will have a capacity greater than 150 kilowatts and will be sited on a tract
20 containing primary agricultural soils as defined in 10 V.S.A. § 6001, the
21 Agency shall appear as a party and provide evidence and recommendations

1 concerning any findings to be made under subdivision (b)(5) of this section on
2 those soils, and may provide evidence and recommendations concerning any
3 other matters to be determined by the Board in such a proceeding.

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

7 Twelfth: By striking out Sec. 22 in its entirety and inserting in lieu thereof
8 two new Secs. to be Secs. 22 and 22a to read:

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

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

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

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

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

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

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

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

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

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

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

1 Sec. 22a. RULES; PETITION

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

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

10 Thirteenth: In Sec. 23, in the catchline, by striking out “248(v)” and
11 inserting in lieu thereof: 248(u), and in subsection (v), by redesignating the
12 subsection to be subsection (u).

13 Fourteenth: After Sec. 23, by inserting a Sec. 23a to read:

14 Sec. 23a. 30 V.S.A. § 248(v) is added to read:

15 (v) Notwithstanding any contrary provision of the law, primary agricultural
16 soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric
17 generation facility approved under this section shall remain classified as such
18 soils, and the review of any change in use of the site subsequent to the
19 construction of the facility shall treat the soils as if the facility had never been
20 constructed. Each certificate of public good issued by the Board for a

1 ground-mounted solar generation facility shall state the contents of this
2 subsection.

3 Fifteenth: After Sec. 23a, by inserting Secs. 23b and 23c to read:

4 Sec. 23b. 30 V.S.A. § 248(w) is added to read:

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

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

18 Sec. 23c. EXISTING WIND FACILITIES; RADAR-CONTROLLED
19 LIGHTING

20 The Department of Public Service shall actively encourage the installation
21 of radar-controlled obstruction lights that meet the standards of the Federal

1 Aviation Administration (FAA) at each wind generation facility in existence as
2 of the effective date of this section for which the FAA requires obstruction
3 lighting. The Department shall work directly with the owner and operator of
4 each such facility to encourage this installation.

5 Sixteenth: After Sec. 26, by inserting a reader guide and a Sec. 26a to read:

6 * * * Regulated Energy Utility Expansion Funds * * *

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

8 (d) Alternative regulation may include such changes or additions to,
9 waivers of, or alternatives to, traditional rate-making procedures, standards,
10 and mechanisms, including substantive changes to rate base-rate of return rate
11 setting, as the ~~board~~ Board finds will promote the public good and will support
12 the required findings in subsection (a) of this section. In addition, the Board
13 shall not allow a company to set aside funds collected from ratepayers for the
14 purpose of supporting a future expansion or upgrade of its transmission or
15 distribution network except after notice and opportunity for hearing and only if
16 all of the following apply:

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

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

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

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

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

7 Seventeenth: After Sec. 26a, by inserting a reader guide and a Sec. 26b to
8 read as follows:

9 * * * Municipal Electric Utilities; Hydro Facilities;

10 Renewable Energy Standard * * *

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

12 (1) Total renewable energy.

13 (A) Purpose; establishment. To encourage the economic and
14 environmental benefits of renewable energy, this subdivision establishes, for
15 the RES, minimum total amounts of renewable energy within the supply
16 portfolio of each retail electricity provider. To satisfy this requirement, a
17 provider may use renewable energy with environmental attributes attached or
18 any class of tradeable renewable energy credits generated by any renewable
19 energy plant whose energy is capable of delivery in New England.

20 (B) Required amounts. The amounts of total renewable energy
21 required by this subsection shall be 55 percent of each retail electricity

1 provider's annual retail electric sales during the year beginning on January 1,
2 2017, increasing by an additional four percent each third January 1 thereafter,
3 until reaching 75 percent on and after January 1, 2032.

4 * * *

5 (D) Municipal providers; petition. On petition by a provider that is a
6 municipal electric utility serving not more than 6,000 customers, the Board
7 may reduce the provider's required amount under this subdivision (1) for a
8 period of up to three years. The Board may approve one such period only
9 for a municipal provider. The Board may reduce this required amount if
10 it finds that:

11 (i) the provider must reduce the output of an in-state hydroelectric
12 facility that it owns and that such reduction will require the provider to
13 purchase other renewable energy with environmental attributes attached or
14 tradeable renewable energy credits in order to meet this required amount; and

15 (ii) this purchase will:

16 (I) cause the provider to increase significantly its retail rates; or
17 (II) materially impair the provider's ability to meet the public's
18 need for energy services after safety concerns are addressed, in the manner set
19 forth in subdivision 218c(a)(1)(least-cost integrated planning) of this title;

1 Eighteenth: In Sec. 27 (effective dates), by inserting subdivisions (3), (4),
2 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) and 23c
6 (existing facilities; obstruction lighting) shall take effect on passage.

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

9
10
11
12
13
14

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE