

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

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

1 (j) For the purpose of assisting in the development of land use plans under
2 24 V.S.A. chapter 117, the Director shall, **on request**, provide municipal and
3 regional planning commissions with **publically available** information
4 detailing the location of electric transmission and distribution infrastructure in
5 the relevant municipality or region and the capacity of that infrastructure to
6 accept additional electric generation facilities without modification. In
7 providing this information, the Director shall be entitled to the assistance of the
8 electric utilities that own electric transmission or distribution systems, or both,
9 located in Vermont, including the ability to obtain from those utilities such
10 data as the Director considers necessary to discharge his or her duties under
11 this subsection.

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

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

16 Sec. 11a. TRAINING

17 Following publication of the recommendations and standards under
18 Sec. 11(a) of this act, the Department of Public Service shall conduct a series
19 of training sessions in locations across the State for municipal and regional
20 planning commissions to assist them in the development of land use plans that
21 are eligible for certification under Sec. 7 of this act, 24 V.S.A. § 4352. The

1 Department shall develop and present these workshops in collaboration with
2 the Vermont League of Cities and Towns and the Vermont Association of
3 Planning and Development Agencies. The Department shall ensure that all
4 municipal and regional planning commissions receive prior notice of the
5 workshops.

6 *Seventh amend. requested by Sen. Lyons:*

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

8 Sec. 11b. REGIONAL PLANNING SUPPORT; ALLOCATION OF COSTS

9 (a) For three fiscal years commencing on July 1, 2016, the Department of
10 Public Service (Department) annually shall disburse \$330,000.00 on a pro rata
11 basis to each regional planning commission established under 24 V.S.A.
12 chapter 117 to be used to adopt or amend an energy element of the regional
13 plan that is consistent with the goals of 24 V.S.A. § 4302(c)(7) and that
14 implements 24 V.S.A. § 4348a(a)(3) and to seek certification of energy
15 compliance under 24 V.S.A. § 4352.

16 (b) The Department shall allocate its costs under subsection (a) of this
17 section to the electric and natural gas distribution utilities subject to its
18 supervision under Title 30 of the Vermont Statutes Annotated in proportion to
19 the British thermal units consumed by the retail customers of each such utility
20 during the prior fiscal year. Each of these utilities shall pay its allocation into

1 the State Treasury at such time and in such manner as the Department may
2 direct.

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

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

11 * * *

12 *Ninth amend. requested by Sen. Lyons (new language in bold):*

13 Ninth: In Sec. 14, 30 V.S.A. § 8004(g), by striking out subsection (g) in its
14 entirety and by inserting in lieu thereof a new subsection (g) to read:

15 (g) Preferred locations. With respect to a renewable energy plant to be
16 located in the State whose energy or environmental attributes may be used to
17 satisfy the requirements of the RES, the Board shall exercise its authority
18 under this section and sections 8005 and 8006 of this title to promote siting
19 such a plant in a preferred location, **including for this purpose authority to**
20 **create a subcategory within a category of the RES established in section**
21 **8005 of this title or to adjust the value of a tradeable renewable energy**

1 **credit or the structure of the system of such credits to be established**
2 **under section 8006 of this title.**

3 *10th amend. requested by Sen. Lyons:*

4 Tenth: By striking out Secs. 18 and 19 in their entirety and inserting in lieu
5 thereof new Secs. 18 and 19 to read:

6 Sec. 18. 30 V.S.A. § 3 is amended to read:

7 § 3. PUBLIC SERVICE BOARD

8 (a) The ~~public service board~~ Public Service Board shall consist of a
9 ~~chairperson~~ chair and two members. The ~~chairperson~~ Chair and each member
10 shall not be required to be admitted to the practice of law in this ~~state~~ State.

11 * * *

12 (g) The ~~chairperson~~ Chair shall have general charge of the offices and
13 employees of the ~~board~~ Board.

14 (h) The Board shall create forms and templates for motions to intervene,
15 prefiled testimony, and other types of documents commonly filed with the
16 Board, which the Board shall provide to a person on request and post on its
17 website.

18 (i) For each proceeding before it, the Board shall post, on its website,
19 electronic copies of all filings and submissions to the Board and all orders of
20 the Board.

21 Sec. 19. [Deleted.]

1 11th amend. requested by Sen. Sirotkin:

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

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

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

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

16 12th and 13th amend. requested by Sen. Lyons:

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

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

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

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

3 (A) ensure that there is postconstruction inspection and monitoring to
4 determine whether all required mitigation measures have been undertaken and
5 required plantings have been installed, including such inspection and
6 monitoring of facilities approved prior to the effective date of this subsection;

7 *[Note: above highlighted language based on request from Sen.*
8 *Westman]*

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

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

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

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

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

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

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

11 Sec. 22a. RULES; PETITION

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

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

20 Thirteenth: In Sec. 23, in the catchline, by striking out “248(v)” and
21 inserting in lieu thereof: 248(u)

1 14th amend. requested by Sen. MacDonald:

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

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

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

12 15th amend. requested by Sen. Lyons:

13 Fifteenth: After Sec. 26, by inserting a reader guide and a Sec. 26a 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 16 amend. requested by Sen. Westman:

16 Sixteenth: After Sec. 26a, by inserting a reader guide and a Sec. 26b to read
17 as follows:

18 * * * Municipal Electric Utilities; Hydro Facilities;

19 Renewable Energy Standard * * *

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

21 (1) Total renewable energy.

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

8 (B) Required amounts. The amounts of total renewable energy
9 required by this subsection shall be 55 percent of each retail electricity
10 provider's annual retail electric sales during the year beginning on January 1,
11 2017, increasing by an additional four percent each third January 1 thereafter,
12 until reaching 75 percent on and after January 1, 2032.

13 * * *

14 (D) Municipal providers; petition. On petition by a provider that is a
15 municipal electric utility serving not more than 6,000 customers, the Board
16 may reduce the provider's required amount under this subdivision (1) for up to
17 three years if it finds that:

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

1 (ii) this purchase will:
2 (I) cause the provider to increase significantly its retail rates; or
3 (II) materially impair the provider’s ability to meet the public’s
4 need for energy services after safety concerns are addressed, in the manner set
5 forth in subdivision 218c(a)(1)(least-cost integrated planning) of this title;

6 Seventeenth: In Sec. 27 (effective dates), by inserting subdivisions (3) and
7 (4) to read:

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

10 (4) In Sec. 18, 30 V.S.A. § 3(i) (posting online; filings and orders) shall
11 take effect on July 1, 2017.

12

13 (Committee vote: _____)

14

15

Senator _____

16

FOR THE COMMITTEE