

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**
15 **fiscal year.** Each of these utilities shall pay its allocation into the State
16 Treasury at 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 (f) (price), in
8 subdivision (5) (price; preferred location pilots), after subdivision (B), by
9 inserting a subdivision (C) to read:

10 (C) With respect to the allocation to the new standard offer
11 plants that will be wholly located on parking lots or parking lot canopies,
12 if in a given year the Board receives only one application or multiple
13 applications for plants owned or controlled by the same person as defined
14 in 10 V.S.A. § 6001, the Board shall investigate each application and shall
15 have discretion to reduce the price to be consistent with the standard offer
16 price for plants outside the pilot project using the same generation
17 technology.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Sec. 22a. RULES; PETITION

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

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

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

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

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

18 (v) Notwithstanding any contrary provision of the law, primary agricultural
19 soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric
20 generation facility approved under this section shall remain classified as such
21 soils, and the review of any change in use of the site subsequent to the

1 construction of the facility shall treat the soils as if the facility had never been
2 constructed. Each certificate of public good issued by the Board for a
3 ground-mounted solar generation facility shall state the contents of this
4 subsection.

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

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

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

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

1 Sec. 23c. EXISTING WIND FACILITIES; RADAR-CONTROLLED
2 LIGHTING

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

9 **Sixteenth:** After Sec. 23c, by inserting a Sec. 23d to read:

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

11 **(x) When a certificate of public good under this section or amendment**
12 **to such a certificate is issued for an in-state electric generation facility, the**
13 **certificate holder within 45 days shall record a notice of the certificate or**
14 **amended certificate, on a form prescribed by the Board, in the land**
15 **records of each municipality in which a facility subject to the certificate is**
16 **located and shall submit proof of this recording to the Board. The**
17 **recording under this subsection shall be indexed as though the certificate**
18 **holder were the grantor of a deed. The prescribed form shall not exceed**
19 **one page and shall require identification of the land on which the facility**
20 **is to be located by reference to the conveyance to the current landowner,**
21 **the number of the certificate, and the name of each person to which the**

1 **certificate was issued, and shall include information on how to contact the**
2 **Board to view the certificate and supporting documents.**

3 **Seventeenth:** After Sec. 24, by striking out the reader guide preceding
4 **Sec. 25 (fees) and Sec. 25 (fees) in its entirety and by renumbering Sec. 26**
5 **to be Sec. 25**

6 **Eighteenth:** After Sec. 25, by inserting a reader guide and a Sec. 26 to read:

7 * * * Regulated Energy Utility Expansion Funds * * *

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

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

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

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

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

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

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

9 Nineteenth: After Sec. 26, by inserting a reader guide and a Sec. 26a to
10 read as follows:

11 * * * Municipal Electric Utilities; Hydro Facilities;
12 Renewable Energy Standard * * *

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

14 (1) Total renewable energy.

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

1 (B) Required amounts. The amounts of total renewable energy
2 required by this subsection shall be 55 percent of each retail electricity
3 provider's annual retail electric sales during the year beginning on January 1,
4 2017, increasing by an additional four percent each third January 1 thereafter,
5 until reaching 75 percent on and after January 1, 2032.

6 * * *

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

13 (i) the terms or conditions of an environmental permit or
14 certification necessitate a reduction in the electrical energy generated by
15 an in-state hydroelectric facility that the provider owns and that this
16 reduction will require the provider to purchase other renewable energy with
17 environmental attributes attached or tradeable renewable energy credits in
18 order to meet this required amount; and

19 (ii) this purchase will:

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

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

4 **Twentieth: After Sec. 26a, by inserting a reader guide and a Sec. 26b to**
5 **read as follows:**

6 * * * **Access to Public Service Board Process** * * *

7 **Sec. 26b. ACCESS TO PUBLIC SERVICE BOARD WORKING**
8 **GROUP: REPORT**

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

12 **(1) One member of the Public Service Board (PSB), appointed by**
13 **the Chair of the PSB.**

14 **(2) The Commissioner of Public Service or designee.**

15 **(3) A judicial officer of the State, appointed by the Chief Justice of**
16 **the Supreme Court.**

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

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

21 **(c) Powers and duties; term.**

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

4 **(2) On or before December 15, 2016, the Working Group shall**
5 **submit its written recommendations to the House and Senate Committees**
6 **on Energy and Natural Resources, the Senate Committee on Finance, and**
7 **the Joint Energy Committee.**

8 **(3) The Working Group shall have the administrative, technical,**
9 **and legal assistance of the staff of the PSB.**

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

13 **(4) The Working Group shall cease to exist on February 1, 2017.**

14 Twenty-first: In Sec. 27 (effective dates), by inserting subdivisions (3), (4),
15 and (5) to read:

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

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

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

3

4

5 (Committee vote: _____)

6

7

Senator _____

8

FOR THE COMMITTEE

DRAFT