

Senator Gray 2/20/18

TO THE HONORABLE SENATE

The Committee on Agriculture to which was referred Senate Bill No. S. 205, entitled "An act relating to renewable energy development and protecting agricultural and forest soils"

respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

*** * * Energy Siting; Agricultural Soils; Forest Health * * ***

Sec. 1. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

*** * ***

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility within the State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the Public Service Board first finds that the same will promote the general good of the State and issues a certificate to that effect.

*** * ***

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

(B) The Public Service Board shall hold technical hearings at locations which it selects.

(C) At the time of filing its application with the Board, copies shall be given by the petitioner to the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to

the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

(D) Notice of the public hearing shall be published and maintained on the Board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

(E) The Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

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

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

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

~~(F)~~(G) The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection.

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

* * *

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

* * *

* * * Allocation of AAFM Costs * * *

Sec. 2. 30 V.S.A. §§ 20 and 21 are amended to read:

§ 20. PARTICULAR PROCEEDINGS; PERSONNEL

(a)(1) The Board or Department may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research services:

* * *

(2) The Agency of Natural Resources may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, other research, scientific, or engineering services to:

(A) Assist the Agency of Natural Resources in any proceeding under section 248 of this title.

(B) Monitor compliance with an order issued under section 248 of this title.

(C) Assist the Board or Department in any proceedings described in subdivisions (b)(9) (Federal Energy Regulatory Commission) and (11) (Nuclear Regulatory Commission) of this section. Allocation of Agency of Natural Resources costs under this subdivision (C) shall be in the same manner as provided under subdivisions (b)(9) and (11) of this section. The Agency of Natural Resources shall report annually to the Joint Fiscal Committee all costs incurred and expenditures charged under the authority of this subsection with respect to proceedings under subdivision (b)(9) of this section and the purpose for which such costs were incurred and expenditures made.

(3) The Agency of Agriculture, Food and Markets may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, other research, scientific, or engineering services to:

(A) assist the Agency of Agriculture, Food and Markets in any proceeding under section 248 of this title; or

(B) monitor compliance with an order issued under section 248 of this title.

(4) The personnel authorized by this section shall be in addition to the regular personnel of the Board or Department or other State agencies; and in the case of the Department or other State agencies may be retained only with the approval of the Governor and after notice to the applicant or the public service company or companies. The Board or Department shall fix the amount of compensation and expenses to be paid such additional personnel, except that the Agency of Natural Resources or of Agriculture, Food and Markets, respectively, shall fix the amount of compensation and expenses to be paid to additional personnel that it retains under subdivision (2) of this subsection.

* * *

§ 21. PARTICULAR PROCEEDINGS; ASSESSMENT OF COSTS

(a) ~~The Board, the Department, or the Agency of Natural Resources~~ An agency may allocate the portion of the expense incurred or authorized by it in retaining additional personnel ~~for the particular proceedings authorized in pursuant to section 20 of this title to the applicant or the public service company or companies involved in these proceedings.~~ As used in this section, "agency" means an agency, board, or department of the State enabled to authorize or retain personnel under section 20 of this title.

(1) The Board shall upon petition of an applicant or public service company to which costs are proposed to be allocated, review and determine, after opportunity for hearing, having due regard for the size and complexity of the project, the necessity and reasonableness of such costs, and may amend or revise such allocations. Nothing in this section shall confer authority on the Board to select or decide the personnel, the expenses of whom are being allocated, unless such personnel are retained by the Board. Prior to allocating costs, the Board shall make a determination of the purpose and use of the funds to be raised hereunder, identify the recipient of the funds, provide for allocation of costs among companies to be assessed, indicate an estimated duration of the proceedings, and estimate the total costs to be imposed. With the approval of the Board, such estimates may be revised as necessary. From time to time during the progress of the work of such additional personnel, ~~the Board, the Department, or the Agency of Natural Resources~~ agency retaining the personnel shall render to the company detailed statements showing the amount of money expended or contracted for in the work of such personnel, which statements shall be paid by the applicant or the public service company into the State Treasury at such time and in such manner as ~~the Board, the Department, or the Agency of Natural Resources~~ agency may reasonably direct.

(2) In any proceeding under section 248 of this title, the Agency of Natural Resources may allocate the portion of the expense incurred in retaining additional staff authorized in subsection 21(a) of this title only if the following apply:

(A) the Agency does not have the expertise and the retention of such expertise is required to fulfill the Agency's statutory obligations in the proceeding; and

(B) the Agency allocates only that portion of the cost for such expertise that exceeds the fee paid by the applicant under section 248b of this title.

(b) When regular employees of ~~the Board, the Department, or the Agency of Natural Resources~~ an agency are employed in the particular proceedings

described in section 20 of this title, the ~~Board, the Department, or the Agency of Natural Resources~~ agency may also allocate the portion of their costs and expenses to the applicant or the public service company or companies involved in the proceedings. The costs of regular employees shall be computed on the basis of working days within the salary period. The manner of assessment and of making payments shall otherwise be as provided for additional personnel in subsection (a) of this section. However, with respect to proceedings under section 248 of this title, the Agency of Natural Resources shall not allocate the costs of regular employees.

* * *

(d) The Agency of Natural Resources may allocate expenses under this section only for costs in excess of the amount specified in 3 V.S.A. § 2809(d)(1)(A).

(e) ~~On Annually on~~ or before January 15, 2011, ~~and annually thereafter,~~ the Agency of Natural Resources and of Agriculture, Food and Markets each shall report to the Senate and House Committees on Natural Resources and Energy, the Senate Committee on Agriculture, and the House Committee on Agriculture and Forests Products the total amount of expenses allocated under this section during the previous fiscal year. The report shall include the name of each applicant or public service company to whom expenses were allocated and the amount allocated to each applicant or company.

* * *

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)



Senator Starr
FOR THE COMMITTEE

1 S.205

2 Introduced by Senators Rodgers and Starr

3 Referred to Committee on

4 Date:

5 Subject: Energy; conservation and development; public service; land use;

6 siting; agricultural and forest soils

7 Statement of purpose of bill as introduced: This bill proposes to incorporate
8 the Act 250 criteria for primary agricultural and productive forest soils into the
9 Public Service Board siting process for energy facilities.

10 An act relating to renewable energy development and protecting agricultural
11 and forest soils

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 30 V.S.A. § 248 is amended to read:

14 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
15 FACILITIES; CERTIFICATE OF PUBLIC GOOD

16 * * *

17 (b) Before the Public Service Board issues a certificate of public good as
18 required under subsection (a) of this section, it shall find that the purchase,
19 investment, or construction:

20 * * *