

1 H.746

2 Introduced by Representatives Sullivan of Burlington, Bartholomew of  
3 Hartland, and Cina of Burlington

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; energy; natural resources; public  
7 service; fossil fuel infrastructure

8 Statement of purpose of bill as introduced: This bill proposes to prohibit the  
9 construction of fossil fuel infrastructure in Vermont, except for infrastructure  
10 certified by the Federal Energy Regulatory Commission.

11 An act relating to fossil fuel infrastructure

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

13 Sec. 1. PURPOSE

14 This act bans the construction of fossil fuel infrastructure in Vermont in  
15 order to:

16 (1) Reduce the State's consumption of fossil fuels and related emissions  
17 of greenhouse gases. In 2008 Acts and Resolves No. 92, Sec. 2, the General  
18 Assembly found that an energy policy that is largely dependent on fossil fuels  
19 in part has caused climate change and associated risks to the public and the

1 environment. The State also has adopted greenhouse gas reduction goals at  
2 10 V.S.A. § 580.

3 (2) Avoid potentially significant land use and environmental impacts  
4 from the construction of this infrastructure, such as effects on wetlands and  
5 wildlife habitat.

6 (3) Minimize the potential for the exposure of utilities and ratepayers to  
7 the potentially substantial cost of this infrastructure, which may prove  
8 imprudent as Vermonters move to other energy devices, such as cold climate  
9 heat pumps or to renewable sources of energy.

10 Sec. 2. 29 V.S.A. chapter 14, subchapter 9 is added to read:

11 Subchapter 9. Fossil Fuel Infrastructure

12 § 581. FOSSIL FUEL INFRASTRUCTURE

13 (a) A person shall not construct or reconstruct fossil fuel infrastructure in  
14 the State. This prohibition does not:

15 (1) apply to the construction or extension of fossil fuel infrastructure  
16 certified by the Federal Energy Regulatory Commission pursuant to 15 U.S.C.  
17 § 717f; or

18 (2) include the repair or maintenance, or both, of fossil fuel  
19 infrastructure in existence as of the effective date of this section.

20 (b) As used in this section:

1           (1) “Fossil fuel” means an energy source formed in the Earth’s crust  
2           from decayed organic material. The common fossil fuels are petroleum, coal,  
3           and natural gas.

4           (2) “Fossil fuel infrastructure” means a structure and ancillary facilities  
5           used to move fossil fuel from one location to another, such as a natural gas or  
6           oil pipeline. The phrase includes natural gas facilities as defined in 30 V.S.A.  
7           § 248(a)(3). The phrase does not include motor vehicles, underground tanks or  
8           pipes located on the site of a motor vehicle service station, or pipes leading to a  
9           residential or commercial building from a fuel tank to which fuel is delivered  
10           by motor vehicle.

11       Sec 3. 3 V.S.A. § 2829 is added to read:

12       § 2829. PERMITS; FOSSIL FUEL INFRASTRUCTURE

13           Notwithstanding any contrary provision of this chapter or Title 10, the  
14           Secretary shall not issue a permit or other approval pertaining to the  
15           construction or reconstruction of fossil fuel infrastructure as defined in  
16           29 V.S.A. § 581.

17       Sec. 4. 10 V.S.A. § 6086(g) is added to read:

18           (g) Notwithstanding any contrary provision of this chapter, a District  
19           Commission shall not issue a permit for the construction or reconstruction of  
20           fossil fuel infrastructure as defined in 29 V.S.A. § 581.

1 Sec. 5. 24 V.S.A. § 4413(i) is added to read:

2 (i) Notwithstanding any contrary provision of this chapter, a municipal land  
3 use permit shall not be issued for the construction or reconstruction of fossil  
4 fuel infrastructure as defined in 29 V.S.A. § 581.

5 Sec. 6. 30 V.S.A. § 248 is amended to read:

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

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

9 \* \* \*

10 (3) No company, as defined in section 201 of this title, and no person, as  
11 defined in 10 V.S.A. § 6001(14), may in any way begin site preparation for or  
12 commence construction of any natural gas facility, except for the replacement  
13 of existing facilities with equivalent facilities in the usual course of business,  
14 unless the Public Utility Commission first finds that the same will promote the  
15 general good of the State and issues a certificate to that effect pursuant to this  
16 section. However, commencing with the effective date of 29 V.S.A. § 581, the  
17 Commission shall not issue a certificate of public good for a natural gas  
18 facility.

19 (A) ~~For the purposes of~~ As used in this section, ~~the term~~ “natural gas  
20 facility” ~~shall mean~~ means any natural gas transmission line, storage facility,  
21 manufactured-gas facility, or other structure incident to any such line or

1 facility. For purposes of this section, a “natural gas transmission line” shall  
2 include any feeder main or any pipeline facility constructed to deliver natural  
3 gas in Vermont directly from a natural gas pipeline facility that has been  
4 certified pursuant to the Natural Gas Act, 15 U.S.C. § 717 et seq.

5 (B) For the purposes of this section, the term “company” shall not  
6 include a “natural gas company” (including a “person which will be a natural  
7 gas company upon completion of any proposed construction or extension of  
8 facilities”), within the meaning of the Natural Gas Act, 15 U.S.C. § 717 et seq.;

9 provided, however, that the term “company” shall include any “natural gas  
10 company” to the extent it proposes to construct in Vermont a natural gas  
11 facility that is not solely subject to federal jurisdiction under the Natural  
12 Gas Act.

13 ~~(C) The Public Utility Commission shall have the authority to, and~~  
14 ~~may in its discretion, conduct a proceeding, as set forth in subsection (h) of this~~  
15 ~~section, with respect to a natural gas facility proposed to be constructed in~~  
16 ~~Vermont by a “natural gas company” for the purpose of developing an opinion~~  
17 ~~in connection with federal certification or other federal approval proceedings.~~

18 [Repealed.]

19 \* \* \*

20 (h) The position of the State of Vermont in federal certification or other  
21 approval proceedings for natural gas facilities shall be ~~developed in accordance~~

1 ~~with this subsection~~ that the facility is contrary to the general good and should  
2 be denied.

3 (1) ~~A natural gas facility requiring federal approval shall apply to the~~  
4 ~~Public Utility Commission for an opinion under this section (on or before the~~  
5 ~~date on which the facility applies for such federal approval in the case of a~~  
6 ~~facility that has not applied for federal approval before January 16, 1988) Any~~  
7 ~~opinion issued under this subsection shall be developed based upon the criteria~~  
8 ~~established in subsection (b) of this section.~~

9 (2) ~~If the Commission conducts proceedings under this subsection, the~~  
10 ~~Department shall give due consideration to the Commission's opinion as to~~  
11 ~~facilities of a natural gas company, and that opinion~~ This subsection shall  
12 guide govern the position taken before federal agencies by the State of  
13 Vermont, acting through the Department of Public Service under section 215  
14 of this title.

15 (3) ~~If the Commission conducts proceedings under this subsection, it~~  
16 ~~may consolidate them, solely for purposes of creating a common record, with~~  
17 ~~any related proceedings conducted under subdivision (a)(3) of this section.~~

18 \* \* \*

19 Sec. 7. EFFECTIVE DATE

20 This act shall take effect on passage.