

**S.52; an Act Related to the Public Service Board and Its Proceedings**  
**Comparison: As Passed Senate, House Proposal of Amendment, Senate Further Proposal of Amendment**  
Office of Legislative Council May 5, 2017

§	AS PASSED SENATE	HOUSE PROPOSAL OF AMENDMENT	SEN. FURTHER PROPOSAL
<i>Preapplication Submittals; Energy Facilities</i>			
1	<p>30 V.S.A. § 248(f). 45-day pre-application submittal</p> <p>Amends an existing statute that requires applicants for electric generation and transmission facilities and natural gas facilities (collectively, energy facilities) to make a submittal to the local and regional planning commissions 45 days before filing with the Public Service Board (PSB). The statute also allows the commissions to hold a public hearing. The changes would:</p> <ul style="list-style-type: none"> <li>• State that the applicant and the Dept. of Public Service (DPS) must attend the commission’s public hearing if requested. This is similar to the existing telecommunications siting law.</li> <li>• Enable the planning commission to request, during this 45-day preapplication period, the DPS to retain experts to review the proposed facility and allocate the costs to the applicant in the same manner as DPS may retain experts under current law. States that neither the DPS nor the retained experts are required to agree with the planning commission’s position. This is similar to the telecommunications siting law.</li> <li>• Amend the deadline by which planning commissions may make recommendations to the PSB so that it occurs after the application is filed and is the same as the one set forth</li> </ul>	<p>Retains Senate proposal with one modification:</p> <p>The planning commissions may make recommendations to the petitioner within 40 days of the petitioner’s submittal to the commissions, instead of seven days before the petition is filed with the Board.</p>	No change proposed.

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	for all parties under the applicable provisions of statute, rule, or PSB order.		
<i>Energy and Telecommunication Facilities; Service of Application When Determined Complete</i>			
2-5	<p>Secs. 2-5 apply to the various PSB statutes on certificates of public good (CPG) for meteorological stations, energy facilities, and telecommunications facilities. They would standardize the start date and length for the periods for commenting or requesting a hearing.</p> <ul style="list-style-type: none"> <li>• The PSB would first determine whether the application is complete.</li> <li>• The applicant would then serve all required parties within two days of notice from the PSB that the application is complete.</li> <li>• The period for submitting a comment or requesting a hearing would start from the date of service.</li> <li>• This period would be standardized at 30 days. Currently it is 30, 28, or 21 days depending on the statute.</li> </ul> <p>The affected statutes are:</p> <p>Sec. 2: 30 V.S.A. § 246. Temporary Siting of Meteorological Stations</p> <p>Sec. 3: 30 V.S.A. § 248(a)(4). Electric Generation and Transmission and Natural Gas Facilities; procedures for in-state facility siting</p> <ul style="list-style-type: none"> <li>• This section also requires the PSB to derive areas inquiry from comments made at the public hearing and address each area in its decision.</li> </ul>	<p>Retains Senate proposals with the following modifications:</p> <ul style="list-style-type: none"> <li>• In Sec. 3, on energy facilities, adds clarifying language to the Senate’s proposal to require the PSB to derive areas of inquiry from public comments. The clarification would require that any evidence on these areas be submitted before the Board makes findings.</li> <li>• In Sec. 5, on communications facilities, adds the same language from H.50 – which has now passed both chambers – that would: <ul style="list-style-type: none"> <li>○ Extend, to 7/1/2020, the sunset of the PSB’s siting authority over communications facilities.</li> <li>○ Require the applicant to notify the municipalities of rights they have under existing law.</li> </ul> </li> </ul>	<p>Accepts modification to Sec. 3.</p> <p>In Sec. 5, removes redundant language from H.50, which has passed both chambers. This is done by restoring the language to Sec. 5 as passed the Senate.</p> <p>No other change proposed.</p>

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	<p>Sec. 4. 30 V.S.A. § 248(j)(2). Electric Generation and Transmission and Natural Gas Facilities; facilities of limited size and scope</p> <p>Sec. 5. 30 V.S.A. § 248a. Certificate of Public Good for Communication Facilities</p> <ul style="list-style-type: none"> <li>For telecommunications facilities of limited size and scope, this section also increases the period for issuing a decision from 45 to 60 days in order to accommodate the standardized 30-day comment period.</li> </ul>		
<i>Notice of Petitions for a CPG to Do Business</i>			
6	<p>30 V.S.A. § 231. Certificate of Public Good; Abandonment of Service; Hearing</p> <p>This section would amend a statute under which the PSB may issue a CPG for the conduct of a business subject to its jurisdiction, such as the ownership or operation of an electric distribution utility.</p> <ul style="list-style-type: none"> <li>Instead of requiring notice of the hearing in the newspaper two weeks successively, the PSB would, 12 days before the hearing, publish notice on its website and once in the newspaper.</li> <li>The same change was made in 2010 to the notice requirements under 30 V.S.A. § 248, the energy facility siting statute.</li> </ul>	No change proposed.	No change proposed.

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<i>Enforcement</i>			
7	<p>30 V.S.A. § 2(h). Department Powers</p> <p>Requires the Department of Public Service (DPS) to investigate when it receives a complaint that there has been noncompliance with the energy and telecommunications facility siting statutes or a CPG issued under those statutes.</p>	No change proposed.	No change proposed.
8	<p>30 V.S.A. § 30(h). Penalties; Affidavit of Compliance – administrative citations</p> <p>Amends an existing statute under which the PSB may impose civil penalties for violations. Specifically, the amendment would add a subsection that authorizes the DPS to issue administrative citations for violations of the energy and telecommunications facility siting statutes or a CPG issued under those statutes.</p> <ul style="list-style-type: none"> <li>• The administrative citation would state the violation and the underlying facts and request that the alleged violator take remedial action or pay a civil penalty of not more than \$5,000, or both.</li> <li>• The DPS would first issue a draft administrative citation subject to a 30-day comment period. The citation would be submitted to the PSB and sent to the alleged violator, the complainant if any, and other potentially affected parties.</li> <li>• At the close of the comment period, the DPS would provide the PSB with the public comments. The PSB would have a 15-day opportunity to open its own investigation should it wish to do so.</li> </ul>	<p>Retains Senate proposal with modifications to the requirements that apply once the comment period closes:</p> <ul style="list-style-type: none"> <li>• The DPS must provide the alleged violator with a copy of each comment received.</li> <li>• Within 15 days, the DPS may submit a revised draft citation to the PSB.</li> <li>• Within 25 days, the PSB may open its own investigation.</li> </ul>	No change proposed.

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	<ul style="list-style-type: none"> <li>• If the PSB does not open an investigation, the DPS would then be able to issue a final administrative citation. The alleged violator would have a 30-day opportunity to request a hearing before the PSB on the final citation, contesting one or more of the following: whether a violation exists, the proposed remedial action, or the proposed penalty.</li> <li>• If the alleged violator does not request a hearing, the final administrative citation would become enforceable in the same manner as a PSB order and the alleged violator would be required to undertake the remedial action and pay the civil penalty in the citation.</li> </ul>		
<i>Name Change to Public Utility Commission</i>			
9	<p>30 V.S.A. § 3. <del>Public Service Board</del> <u>Public Utility Commission</u>.</p> <p>Amends the statute creating the PSB to change the name to the Vermont Public Utility Commission.</p>	No change proposed.	No change proposed.
10	<p>30 V.S.A. 7001(1). Definition of “Board”</p> <p>Amends the definitions statute within the chapter on preventing damage to underground utilities to replace the definition of the Public Service Board with Public Utility Commission.</p>	No change proposed.	No change proposed.
11	<p>30 V.S.A. 8002(1). Definition of “Board”</p> <p>Amends the definitions statute within the chapter on renewable energy to replace the definition of the Public Service Board with Public Utility Commission.</p>	No change proposed.	No change proposed.

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12	<p>Session Law: Revision Authority.</p> <p>Directs the Office of Legislative Council, when preparing the Vermont Statutes Annotated for publication, to replace “Public Service Board” with “Public Utility Commission” and to replace “Board” with “Commission” when the existing term “Board” refers to the PSB.</p>	No change proposed.	No change proposed.
13	<p>Session Law: Rules; Name Change</p> <p>States that the current rules of the PSB shall become rules of the Public Utility Commission and authorizes the Commission to change rule references to the PSB so that they refer to the Commission. Allows the Commission to do so without going through the rulemaking process under the Administrative Procedure Act if this change is the only change.</p>	No change proposed.	No change proposed.
<i>In-person Citizens' Access to Public Service Board Hearings</i>			
13 a	N/A – added by House	<p>30 V.S.A. § 11. Pleadings; Rules of Practice; <u>Hearings</u>; Findings of Fact</p> <p>Requires the PSB to allow all members of the public to attend its hearings unless the hearing is only for considering information to be treated as confidential under a duly adopted protective order. PSB is to make all reasonable efforts to ensure that hearing location is sufficient to accommodate all members of the public.</p>	No change proposed.

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<i>Remote Location Access by Citizens to PSB Hearings</i>			
14	<p>Session Law: Plan; Citizens' Access to PSB Hearings from Remote Locations</p> <p>Directs the Division for Telecommunications and Connectivity within the DPS to submit to the standing committees, by Dec. 15, 2017, a plan to achieve citizen access to hearings and workshops of the PSB from remote locations across the State. Directs DPS to consult with relevant organizations such as the Vermont Access Network. Allows DPS to expend not more than \$10,000 from its approved budget for this purpose.</p>	Removes the spending authority and otherwise retains the provision as proposed by the Senate.	No change proposed.
<i>Citizen Access to Public Service Board; Implementation</i>			
15	<p>Session Law: Report; Implementation of Working Group Recommendations</p> <p>Directs the PSB to file with the standing committees, by Dec. 15, 2017, a report on the progress made in implementing the recommendations of the Access to Public Service Board Working Group created by 2016 Acts and Resolves No. 174, Sec. 15, including recommendations not requiring statutory change.</p>	No change proposed.	No change proposed.
<i>Appliance Efficiency</i>			
16	N/A – added by House	<p>Session Law: Purpose</p> <p>The purpose is to adopt the federal appliance and lighting efficiency standards in effect on Jan. 17, 2019 so the same standards will be in place in this State if the federal standards are repealed or</p>	Deleted as redundant with H.411, which has passed both chambers.

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		voided. For the same reason, the bill also adopts the federal standards for general service lighting that go into effect on Jan. 20, 2020.	
17	N/A – added by House	<p>9 V.S.A. § 2793(15). Definition of “general service lamp”</p> <p>Amends the definitions statute within the chapter on efficiency standards for appliances and equipment by adding the definition of “general service lamp” as that term is defined in the federal register.</p>	Deleted as redundant with H.411, which has passed both chambers.
18	N/A – added by House	<p>9 V.S.A. § 2794. Scope</p> <p>Amends the scope of the chapter to include general service lamps and all products for which the Commissioner of Public Service (Commissioner) is required to adopt efficiency and water conservation standards under 9 V.S.A. § 2795 (a statutory section amended in Sec. 19 below).</p>	Deleted as redundant with H.411, which has passed both chambers.
19	N/A – added by House	<p>9 V.S.A. § 2795. <u>Efficiency and Water Conservation Standards</u></p> <p>Amends the statute to require the Commissioner to adopt the following water conservation and efficiency standards:</p> <ul style="list-style-type: none"> <li>• Minimum efficiency and water conservation standards for the products listed in the federal</li> </ul>	Deleted as redundant with H.411, which has passed both chambers.



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		<p>regulations at 10 C.F.R. §§ 430, 431. The federal efficiency standards apply to products including refrigerators and freezers, air conditioners, water heaters, furnaces and boilers, washers and dryers, etc., and the water conservation standards apply to faucets, showerheads, water closets, and urinals.</p> <ul style="list-style-type: none"> <li>• A minimum efficacy standard for general service lamps of 45 lumens per watt, when tested as set forth in the federal regulations at 10 C.F.R. § 430.23(gg).</li> </ul>	
20	N/A – added by House	<p>9 V.S.A. § 2796. Implementation</p> <p>Amends statute to add that when federal law preempts Vermont from adopting energy and water conservation standards, the federal energy and water conservation standards shall become enforceable in Vermont: (1) if the federal standards are withdrawn, repealed, or otherwise voided; or (2) if Vermont receives a waiver under federal law to establish such standards— whichever is first.</p> <p>Adds that the federal standards for general service lamps are considered withdrawn, repealed, or voided if they do not go into effect on Jan. 20, 2020.</p> <p>When a standard becomes enforceable, the bill prohibits the sale or offer for sale in Vermont of</p>	Deleted as redundant with H.411, which has passed both chambers.

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		any product that does not meet or exceed the Vermont standard.	
21	N/A – added by House	Session Law: Rule Adoption; Schedule; Report  Requires the Commissioner to: <ul style="list-style-type: none"> <li>• File proposed rules by Aug. 1, 2017.</li> <li>• Adopt final rules by April 1, 2018, LCAR may extend.</li> <li>• File two progress reports on the rulemaking, one on or before Dec.15, 2017, and the second on or before Dec. 15, 2018.</li> </ul>	Deleted as redundant with H.411, which has passed both chambers.
<i>Energy Storage</i>			
22	N/A – added by House	Session Law: Energy Storage; Report  Requires the Commissioner of Public Service to submit a report, by Nov. 15, 2017, on the issue of deploying energy storage on the Vermont electric transmission and distribution system. Among other items, the report would identify the opportunities for, the benefits of, and the barriers to deploying energy storage.	No change proposed.
23	N/A – added by House	30 V.S.A. § 8015. Vermont Clean Energy Development Fund  Authorizes the Clean Energy Development Fund to support energy storage projects.	No change proposed.

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<i>Telecommunications Plan</i>			
24	N/A – added by House	<p>30 V.S.A. § 202d. Telecommunications Plan</p> <p>This section would add to the survey and assessment requirements for preparation of the State Telecommunications Plan by requiring surveys with respect to the following sectors: education, health care, human services, public safety, and workforce training and development.</p>	Deleted as redundant with H.347, which has passed both chambers.
<i>Standard Offer Program; Exemption</i>			
25	N/A – added by House	<p>Session Law: Standard Offer Program; Exemption; Report</p> <p>This section would require the Public Service Board to submit recommendations by Dec. 15, 2018 on an existing exemption related to the Standard Offer Program under which a utility that is 100 percent renewable is exempted from bearing program costs. The section also would limit, during 2018 and 2019, this exemption only to utilities exempted during prior years.</p>	No change proposed.
<i>Open Meeting Law; Public Service Board</i>			
25 a	N/A – added by House	<p>Session Law: Report; Open Meeting Law; Public Service Board</p> <p>By Dec. 15, 2018, the Attorney General would submit a report and recommendations on whether the PSB should continue to have a complete exemption from the Open Meeting Law or</p>	Changes entity preparing report from the Attorney General to the Secretary of State.

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		whether its exemption should be limited, as with other administrative boards, to the PSB’s deliberations in connection with quasi-judicial proceedings.	
<i>Effective Dates</i>			
<p><b>16</b> S. <b>26</b> H.</p>	<p>Session Law: Effective Dates.  Secs. 14-16 take effect on passage. The remaining secs. take effect on July 1, 2017.</p>	<p>Secs. 14-26 take effect on passage. The remaining secs. take effect on July 1, 2017.  After passage, the name would change to “An act relating to the Public Service Board, energy, and telecommunications”</p>	<p>Removes effective dates for deleted sections.</p>