

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred Senate Bill No. 52
3 entitled “An act relating to Public Service Board and its proceedings”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended after Sec. 6, by striking out the reader guide and Sec. 7 in its
6 entirety and inserting in lieu thereof a new reader guide and Secs. 7 and 7a to
7 read:

8 * * * Enforcement * * *

9 **OPTION 1: CIVIL CITATION BY DPS**

10 Sec. 7. 30 V.S.A. § 2 is amended to read:

11 § 2. DEPARTMENT POWERS

12 * * *

13 (h) The Department shall investigate when it receives a complaint that there
14 has been noncompliance with section 246, 248, 248a, or 8010 of this title, any
15 rule adopted pursuant to those sections, or any certificate of public good issued
16 pursuant to those sections, including a complaint of such noncompliance
17 received pursuant to section 208 of this title or the complaint protocol
18 established under 2016 Acts and Resolves No. 30, Sec. 5c.

19 Sec. 7a. 30 V.S.A. § 30a is added to read:

20 § 30a. CIVIL CITATIONS

21 (a) The Public Service Board (Board) shall adopt rules for the issuance of
22 civil citations by the Commissioner of Public Service (Commissioner) for

1 violations of section 246, 248, 248a, or 8010 of this title, any rule adopted
2 pursuant to those sections, or any certificate of public good issued pursuant to
3 those sections. Any proposed rule under this section shall include the full,
4 minimum, and waiver penalty amounts for each violation. The maximum civil
5 penalty for any violation brought under this section shall not exceed \$3,000.00.

6 (b) A civil citation issued under this section shall preclude the
7 Commissioner from seeking or the Board from imposing an additional
8 monetary penalty for the violation specified in the citation when any one of the
9 following occurs: the waiver penalty is paid, judgment is entered after hearing
10 or appeal, or a default judgment is entered. Notwithstanding this preclusion,
11 the Commissioner may issue additional citations or initiate an action under
12 section 30 of this title, including a monetary penalty when a violation is
13 continuing or is repeated, and may also bring an enforcement action to obtain
14 injunctive relief or remediation and, in such additional action, may recover the
15 costs of bringing the additional action and the amount of any economic benefit
16 the respondent obtained as a result of the underlying violation in accordance
17 with subsection 30(c) of this title.

18 (c) The Secretary or Board Chair and his or her duly authorized
19 representative shall have the authority to amend or dismiss a citation by so
20 marking the citation and returning it to the Board or by notifying the hearing
21 officer or Board at the hearing.

1 the Secretary of Agriculture, Food and Markets shall enter into a memorandum
2 of understanding to implement this subsection.

3 (e) Upon the request of the Commissioner of Public Service or the Public
4 Service Board, or on the Secretary’s own initiative, the Secretary may take
5 action under this chapter to enforce 30 V.S.A. § 246, 248, 248a, or 8010, any
6 rule adopted pursuant to those sections, or any certificate of public good issued
7 pursuant to those sections. The Secretary, the Commissioner, and the Public
8 Service Board shall enter into a memorandum of understanding to implement
9 this subsection.

10 Sec. 7a. 10 V.S.A. § 8019 is amended to read:

11 § 8019. CIVIL CITATIONS

12 (a) The Secretary and the Board each shall have the authority to adopt rules
13 for the issuance of civil citations for violations of their respective enabling
14 statutes or rules adopted under those statutes that are enforceable in the
15 Environmental Division. The Secretary’s authority under this section shall
16 include violations of the statutes, rules, and certificates identified in subsection
17 8003(e) of this title. Any proposed rule under this section shall include the
18 full, minimum, and waiver penalty amounts for each violation. The maximum
19 civil penalty for any violation brought under this section shall not exceed
20 \$3,000.00 exclusive of court fees.

21 * * *

22 *Please note that, in § 8019, the “Board” is the Natural Resources Board.*

1 **OPTION 3: NOTICE OF VIOLATION BY DPS**

2 *Include same Sec. 7 as for option 1*

3 Sec. 7a. 30 V.S.A. § 30 is amended to read:

4 § 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

5 * * *

6 (h) The Department may issue a notice of violation to a person the
7 Department believes violated section 246, 248, 248a, or 8010 of this title, any
8 rule adopted pursuant to those sections, or any certificate of public good issued
9 pursuant to those sections. The Department shall file a copy of the notice with
10 the Board.

11 (1) The notice of violation shall identify the alleged violation, state the
12 facts giving rise to the allegation, and request that the person take remedial
13 action or pay a civil penalty of not more than \$3,000.00 for the violation, or
14 both.

15 (2) Within 30 days of receipt of a notice of violation, the person shall:

16 (A) pay any civil penalty set forth in the notice and agree to
17 undertake such remedial action as is set forth in the notice and submit to the
18 Department for its approval a plan for compliance; or

19 (B) request a hearing before the Board.

20 (3) When a person requests a hearing under subdivision (2) of this
21 subsection, the Board shall open a proceeding and conduct a hearing in
22 accordance with the provisions of this section on the alleged violation and such

1 remedial action and penalty as are set forth in the notice. If the Board
2 determines that the alleged violation may merit a penalty under this section
3 greater than \$3,000.00, it shall so notify the alleged violator and provide an
4 additional opportunity to be heard before rendering a final decision.

5 (4) If a person pays the civil penalty set forth in a notice of violation,
6 then the Department shall be precluded from seeking and the Board from
7 imposing additional civil penalties for the same violation unless the violation is
8 continuing or is repeated.

9 (5) If a person agrees to undertake the remedial action set forth in a
10 notice violation, failure to undertake the action or comply with a compliance
11 plan approved by the Department shall constitute a separate violation.

12 (6) Penalties assessed under this subsection shall be deposited in the
13 General Fund.

14 (Committee vote: _____)

15

16

Senator _____

17

FOR THE COMMITTEE