

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, 7a, 7b,
7 and 7c to read:

8 * * * Enforcement * * *

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

10 § 2. DEPARTMENT POWERS

11 * * *

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

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

19 § 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

20 * * *

21 (h) The Department may issue a notice of alleged violation to a person the
22 Department believes violated section 246, 248, 248a, or 8010 of this title, any

1 rule adopted pursuant to those sections, or any certificate of public good issued
2 pursuant to those sections. The Department shall file a copy of the notice with
3 the Board.

4 (1) The notice of alleged violation shall:

5 (A) state each provision of statute and rule and each condition of a
6 certificate of public good alleged to have been violated;

7 (B) include a concise statement of the facts giving rise to the alleged
8 violation and the evidence supporting the existence of those facts;

9 (C) request that the person take the remedial action specified in the
10 notice or pay a civil penalty of not more than \$3,000.00 for the violation, or
11 both; and

12 (D) if remedial action is requested, state the reasons for seeking the
13 action.

14 (2) Within 30 days of receipt of a notice of alleged violation, the person
15 shall respond in one of the following ways:

16 (A) Request a hearing before the Board on the existence of the
17 alleged violation, the proposed penalty, and the proposed remedial action.

18 (B) Pay any civil penalty set forth in the notice and agree to
19 undertake such remedial action as is set forth in the notice and submit to the
20 Department for its approval a plan for compliance.

21 (C) Decline to contest the existence of the violation and request a
22 hearing on either the proposed penalty or remedial action, or both. When

1 exercising this option, a person may agree to either the proposed penalty or
2 remedial action and seek a hearing only on the penalty or action with which the
3 person disagrees.

4 (3) When a person requests a hearing under subdivision (2) of this
5 subsection, the Board shall open a proceeding and conduct a hearing in
6 accordance with the provisions of this section on the alleged violation and such
7 remedial action and penalty as are set forth in the notice. If the Board
8 determines that the alleged violation may merit a penalty under this section
9 greater than \$3,000.00, it shall so notify the alleged violator and provide an
10 additional opportunity to be heard before rendering a final decision.

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

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

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

20 (i) Unless the Department has issued a notice of alleged violation under
21 subsection (h) of this section, the Board may request enforcement under
22 10 V.S.A. § 8003 by the Secretary of Natural Resources of section 246, 248,

1 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any
2 certificate of public good issued pursuant to those sections.

3 Sec. 7b. 10 V.S.A. § 8003 is amended to read:

4 § 8003. APPLICABILITY

5 * * *

6 (d) Upon the request of the Secretary of Agriculture, Food and Markets, the
7 Secretary may take action under this chapter to enforce the agricultural water
8 quality requirements of, rules adopted under, and permits and certifications
9 issued under 6 V.S.A. chapter 215. The Secretary of Natural Resources and
10 the Secretary of Agriculture, Food and Markets shall enter into a memorandum
11 of understanding to implement this subsection.

12 (e) Upon the request of the Public Service Board pursuant to 30 V.S.A.
13 § 30(i), the Secretary may take action under this chapter to enforce 30 V.S.A.
14 § 246, 248, 248a, or 8010, any rule adopted pursuant to those sections, or any
15 certificate of public good issued pursuant to those sections. The Secretary and
16 the Public Service Board shall enter into a memorandum of understanding to
17 implement this subsection.

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

19 § 8019. CIVIL CITATIONS

20 (a) The Secretary and the Natural Resources Board each shall have the
21 authority to adopt rules for the issuance of civil citations for violations of their
22 respective enabling statutes or rules adopted under those statutes that are

1 enforceable in the Environmental Division. The Secretary’s authority under
2 this section shall include violations of the statutes, rules, and certificates
3 identified in subsection 8003(e) of this title, when enforcement is requested by
4 the Public Service Board. Any proposed rule under this section shall include
5 the full, minimum, and waiver penalty amounts for each violation. The
6 maximum civil penalty for any violation brought under this section shall not
7 exceed \$3,000.00 exclusive of court fees.

8 * * *

9 (Committee vote: _____)

10 _____
11 Senator _____

12 FOR THE COMMITTEE