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H.51

Introduced by Representatives Sullivan of Burlington, Bartholomew of
Hartland, Briglin of Thetford, Burke of Brattleboro, Campbell
of St. Johnsbury, Chesnut-Tangerman of Middletown Springs,
Cina of Burlington, Colburn of Burlington, Cordes of Lincoln,
Donovan of Burlington, Gardner of Richmond, Gonzalez of
Winooski, Hashim of Dummerston, Hooper of Randolph,
Jessup of Middlesex, Kitzmiller of Montpelier, McCarthy of St.
Albans City, McCullough of Williston, Mrowicki of Putney,
O’Sullivan of Burlington, Patt of Worcester, Ralph of Hartland,
Scheu of Middlebury, Sheldon of Middlebury, Squirrel of
Underhill, Szott of Barnard, Townsend of South Burlington,
Troiano of Stannard, White of Hartford, Wood of Waterbury,
Yacovone of Morristown, and Yantachka of Charlotte

Referred to Committee on

Date:

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

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

1 An act relating to fossil fuel infrastructure

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

3 Sec. 1. PURPOSE

4 This act bans the construction of fossil fuel infrastructure in Vermont in
5 order to:

6 (1) Reduce the State's consumption of fossil fuels and related emissions
7 of greenhouse gases. In 2008 Acts and Resolves No. 92, Sec. 2, the General
8 Assembly found that an energy policy that is largely dependent on fossil fuels
9 in part has caused climate change and associated risks to the public and the
10 environment. The State also has adopted greenhouse gas reduction goals at
11 10 V.S.A. § 580.

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

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

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

2 Subchapter 9. Fossil Fuel Infrastructure

3 § 581. FOSSIL FUEL INFRASTRUCTURE

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

6 (1) apply to the construction or extension of fossil fuel infrastructure
7 certified by the Federal Energy Regulatory Commission pursuant to 15 U.S.C.
8 § 717f; or

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

11 (b) As used in this section:

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

15 (2) “Fossil fuel infrastructure” means a structure and ancillary facilities
16 used to move fossil fuel from one location to another, such as a natural gas or
17 oil pipeline. The phrase includes natural gas facilities as defined in 30 V.S.A.
18 § 248(a)(3). The phrase does not include motor vehicles, underground tanks or
19 pipes located on the site of a motor vehicle service station, or pipes leading to a
20 residential or commercial building from a fuel tank to which fuel is delivered
21 by motor vehicle.

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

2 § 2829. PERMITS; FOSSIL FUEL INFRASTRUCTURE

3 Notwithstanding any contrary provision of this chapter or Title 10, the
4 Secretary shall not issue a permit or other approval pertaining to the
5 construction or reconstruction of fossil fuel infrastructure as defined in
6 29 V.S.A. § 581.

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

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

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

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

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

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

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

19 * * *

20 (3) No company, as defined in section 201 of this title, and no person, as
21 defined in 10 V.S.A. § 6001(14), may in any way begin site preparation for or

1 commence construction of any natural gas facility, except for the replacement
2 of existing facilities with equivalent facilities in the usual course of business,
3 unless the Public Utility Commission first finds that the same will promote the
4 general good of the State and issues a certificate to that effect pursuant to this
5 section. However, commencing with the effective date of 29 V.S.A. § 581, the
6 Commission shall not issue a certificate of public good for a natural gas
7 facility.

8 (A) ~~For the purposes of~~ As used in this section, ~~the term~~ “natural gas
9 facility” ~~shall mean~~ means any natural gas transmission line, storage facility,
10 manufactured-gas facility, or other structure incident to any such line or
11 facility. For purposes of this section, a “natural gas transmission line” shall
12 include any feeder main or any pipeline facility constructed to deliver natural
13 gas in Vermont directly from a natural gas pipeline facility that has been
14 certified pursuant to the Natural Gas Act, 15 U.S.C. § 717 et seq.

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

19 provided, however, that the term “company” shall include any “natural gas
20 company” to the extent it proposes to construct in Vermont a natural gas

1 facility that is not solely subject to federal jurisdiction under the Natural
2 Gas Act.

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

9 * * *

10 (h) The position of the State of Vermont in federal certification or other
11 approval proceedings for natural gas facilities shall be ~~developed in accordance~~
12 ~~with this subsection~~ that the facility is contrary to the general good and should
13 be denied.

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

20 (2) ~~If the Commission conducts proceedings under this subsection, the~~
21 ~~Department shall give due consideration to the Commission’s opinion as to~~

1 ~~facilities of a natural gas company, and that opinion~~ This subsection shall
2 ~~guide govern~~ the position taken before federal agencies by the State of
3 Vermont, acting through the Department of Public Service under section 215
4 of this title.

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

8 * * *

9 Sec. 7. EFFECTIVE DATE

10 This act shall take effect on passage.