

**S.166 – Comparison of Proposals**

*Prepared by Maria Royle, Legislative Counsel – March 9, 2022*

As Introduced	Senate Judiciary Amendment	Possible Third Option
	Statement of purpose	Statement of purpose
PUC Rulemaking	Statutory Requirement	PUC Bulletin (in consultation with DFR)
Construction/maintenance projects (Rule 3.500) <ul style="list-style-type: none"> <li>• Electric, telephone, telegraph, and cable television systems and facilities in all locations in VT</li> </ul>	Pole attachments (Rule 3.700) <ul style="list-style-type: none"> <li>• Lines, wires, cables, or other facilities on <u>distribution</u> poles owned by a company subject to PUC regulation</li> </ul>	Pole attachments under Rule 3.700
Standards and responsibility for worksite cleanup in construction contracts	Attaching entity must ensure all construction contracts contain terms and conditions specifying standards and responsibility for the safe disposal of any debris on construction worksites	Bulletin establishes: <ul style="list-style-type: none"> <li>• Best practices for safe removal and disposal of construction debris</li> <li>• Minimum commercial general liability insurance requirements for construction projects               <ul style="list-style-type: none"> <li>○ Minimum amount(s)</li> <li>○ Evidence of insurance</li> <li>○ Notification requirements</li> <li>○ Additional insureds</li> <li>○ Extended coverage requirements</li> <li>○ Anything else deemed appropriate</li> </ul> </li> </ul>
Unless contract specifies otherwise, “utility” is liable . . .	Unless a contract specifies otherwise, the “attaching entity” is liable . . .	
Violation of rules or contract provision related to worksite cleanup is subject to enforcement under the Consumer Protection Act <ul style="list-style-type: none"> <li>• AG (or State’s Attorney) may seek injunctive relief on behalf of State; civil</li> </ul>	In addition to any other applicable penalties or remedies, a person who violates a safety standard commits an unfair and deceptive act in trade or commerce under the Consumer Protection Act <ul style="list-style-type: none"> <li>• (same enforcement as bill as introduced)</li> </ul>	A person harmed or injured as a result of debris left on a construction worksite in violation of best practices may sue and recover from the violator compensatory damages, reasonable attorney’s fees and litigation costs, and punitive (treble) damages

<p>penalty; restitution on behalf of a consumer; reimbursement of expenses</p> <ul style="list-style-type: none"> <li>• AG (or State’s Attorney) may conduct civil investigation</li> <li>• Civil penalty for injunction violations</li> <li>• Consumer has private right of action (attorney’s fees and treble damages)</li> </ul>		<p>PUC has <i>existing</i> general supervisory jurisdiction to regulate the conduct of companies in order to protect the public under 30 VSA § 209(a)(3)</p> <p>PUC has <i>existing</i> authority to impose civil penalties under 30 VSA § 30</p> <p>DPS has <i>existing</i> authority to seek injunctive relief in Superior Court under 30 VSA § 32</p>
Effective on passage	Effective on passage; applies to all construction contracts in effect on or after the effective date	Effective on passage