

1 H.940

2 Introduced by Committee on Energy and Digital Infrastructure

3 Date:

4 Subject: Public service; utilities; energy; energy efficiency; enhanced energy
5 planning; telecommunications

6 Statement of purpose of bill as introduced: This bill proposes to allow an
7 energy efficiency utility that is also a retail electric provider to use thermal
8 energy and process fuel funds on additional projects, to require regional
9 planning commissions to apply to the Department of Public Service for an
10 enhanced energy determination concurrently with their submission of draft
11 regional plans to the Land Use Review Board, to require the adoption of a new
12 Telecommunications Plan every five years instead of three, and to abolish the
13 Telecommunications and Connectivity Advisory Board.

14 An act relating to miscellaneous public utility subjects

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

16 * * * Use of Thermal Funds * * *

17 Sec. 1. USE OF THERMAL ENERGY AND PROCESS FUEL FUNDS FOR
18 GREENHOUSE GAS EMISSIONS REDUCTION PROGRAMS

1 (a) Notwithstanding any provision of law or order of the Public Utility
2 Commission (PUC) to the contrary, the entity appointed under 30 V.S.A. §
3 209(d)(2)(A) that is also a retail electricity provider for the calendar years
4 2027–2029 may spend any amounts the entity has available to it through
5 annually budgeted thermal energy and process fuel funds and carryforward
6 thermal energy and process fuel funds from prior periods on programs,
7 measures, and services that reduce fossil fuel use and greenhouse gas
8 emissions in the thermal energy or transportation sector regardless of the
9 preexisting fuel source of the customer. The entity may also use thermal
10 energy and process fuel funds under this section to deliver thermal and
11 transportation measures or programs that enable fossil fuel and greenhouse gas
12 emissions reductions, such as geothermal test well funding, regardless of the
13 preexisting fuel source of the customer.

14 (b) Under this section, the entity shall also prioritize weatherization and
15 thermal sector efficiency programs within its offerings pursuant to this section,
16 and shall budget at least 60 percent of the funds for programs under this
17 section for weatherization and thermal sector efficiency programs, to be
18 offered to customers regardless of their preexisting fuel source, with a
19 minimum of 60 percent of those weatherization and thermal sector efficiency
20 program funds allocated for customers with low income and low-to-moderate
21 income and projects requiring electric panel or wiring upgrades or abatement

1 of other health- or building-related items to facilitate weatherization and
2 thermal efficiency.

3 (c) The entity shall seek approval from the PUC for all planned
4 expenditures throughout the three-year performance period as part of the
5 triennial energy efficiency utility planning process in the Demand Resources
6 Plan proceeding, and report, to the PUC, annually on program participation,
7 including any customer survey data obtained that discuss how impactful
8 incentives offered under this section were for customer adoption.

9 (d) Any funds spent on programs, measures, and services pursuant to this
10 section shall not be counted towards the calculation of funds used by the entity
11 for energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) and the
12 calculation of project costs pursuant to 30 V.S.A. § 8005(a)(3)(C)(iv).

13 * * * Energy Planning * * *

14 Sec. 2. 24 V.S.A. § 4348 is amended to read:

15 § 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

16 * * *

17 (b) ~~60~~ Sixty days prior to holding the first public hearing on a regional
18 plan, a regional planning commission shall submit a draft regional plan to the
19 Land Use Review Board for review and comments related to conformance of
20 the draft with sections 4302 and 4348a of this title and chapter 139 of this title
21 and, if it is seeking an optional determination of energy compliance, to the

1 Department of Public Service for review and comments related to
2 conformance of the draft plan with section 4352 of this title. The Board shall
3 coordinate with other State agencies and respond within 60 days unless more
4 time is granted by the regional planning commission.

5 * * *

6 (d)(1) At least 30 days prior to the first hearing, a copy of the proposed
7 plan or amendment, a report documenting conformance with the goals
8 established in section 4302 of this chapter and the plan elements established in
9 section 4348a of this chapter, and a description of any changes to the Regional
10 Future Land Use Map with a request for general comments and for specific
11 comments with respect to the extent to which the plan or amendment is
12 consistent with the goals established in section 4302 of this title, shall be
13 delivered physically or electronically with proof of receipt or sent by certified
14 mail, return receipt requested, to each of the following:

15 * * *

16 (2) At least 30 days prior to the first hearing, the regional planning
17 commission shall provide each of its member municipalities with a written
18 description of map changes within the municipality, a municipality-wide map
19 showing old versus new areas with labels, and information about the new Tier
20 structure under 10 V.S.A. chapter 151, including how to obtain Tier 1A or 1B
21 status, and the process for updating designated area boundaries. The regional

1 planning commission shall, if it is seeking an optional determination of energy
2 compliance, solicit feedback on its enhanced energy plan, including
3 consistency with section 4352 of this chapter and the enhanced energy
4 planning standards.

5 * * *

6 (h)(1) Within 15 days following adoption, a regional planning commission
7 shall submit its regionally adopted regional plan to the Land Use Review
8 Board for a determination of regional plan compliance with a report
9 documenting conformance with the goals established in section 4302 of this
10 chapter and the plan elements established in section 4348a of this chapter and a
11 description of any changes to the regional plan future land use map. The
12 regional planning commission shall also at this time, if it is seeking an optional
13 determination of energy compliance pursuant to section 4352 of this chapter,
14 submit the plan to the Department of Public Service for review with a
15 description of conformance with the enhanced energy planning standards and
16 with a summary of any comments received during the public hearings.

17 * * *

18 Sec. 3. 24 V.S.A. § 4350 is amended to read:

19 § 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL
20 PLANNING EFFORT

21 * * *

1 (b)(1) As part of the consultation process, the commission shall consider
2 whether a municipality has adopted a plan. In order to obtain or retain
3 confirmation of the planning process, a municipality must have an approved
4 plan. A regional planning commission shall review and approve plans of its
5 member municipalities, when approval is requested and warranted. Each
6 review shall include a public hearing ~~which~~ that is noticed at least 15 days in
7 advance by posting in the office of the municipal clerk and at least one public
8 place within the municipality and by publication in a newspaper or newspapers
9 of general publication in the region affected. The commission shall approve a
10 plan if it finds that the plan:

11 (A) is consistent with the goals established in section 4302 of this
12 title;

13 (B) is compatible with its regional plan;

14 (C) is compatible with approved plans of other municipalities in the
15 region; ~~and~~

16 (D) contains all the elements included in subdivisions 4382(a)(1)–
17 (12) of this title; and

18 (E) if the municipality is seeking an optional determination of energy
19 compliance, is consistent with section 4352 of this title and the enhanced
20 energy planning standards.

21 * * *

1 Sec. 4. 24 V.S.A. § 4352 is amended to read:

2 § 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE;

3 ENHANCED ENERGY PLANNING

4 * * *

5 (c) Enhanced energy planning; requirements. To obtain an affirmative
6 determination of energy compliance under this section, a plan must:

7 (1) in the case of a regional plan, include the energy element as
8 described in subdivision 4348a(a)(3) of this title;

9 (2) in the case of a municipal plan, include an energy element that has
10 the same components as described in subdivision 4348a(a)(3) of this title for a
11 regional plan and be confirmed under section 4350 of this title;

12 (3) be consistent with the following, with consistency determined in the
13 manner described under subdivision 4302(f)(1) of this title:

14 (A) Vermont's greenhouse gas reduction ~~goals~~ requirements under
15 10 V.S.A. § 578(a);

16 (B) Vermont's ~~25 by 25 goal for renewable energy under 10 V.S.A. §~~
17 ~~580~~ Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005;

18 (C) Vermont's building efficiency goals under 10 V.S.A. § 581; and

19 (D) State energy policy under 30 V.S.A. § 202a and the
20 recommendations for regional and municipal energy planning pertaining to the
21 efficient use of energy and the siting and development of renewable energy

1 resources contained in the State energy plans adopted pursuant to 30 V.S.A.
2 §§ 202 and 202b; and

3 (E) the distributed renewable generation and energy transformation
4 categories of resources to meet the requirements of the Renewable Energy
5 Standard under 30 V.S.A. §§ 8004 and 8005; and

6 * * *

7 (d) State energy plans; recommendations; standards.

8 (1) The State energy plans Commissioner of Public Service shall
9 include the issue recommendations for regional and municipal energy planning
10 and the standards for issuing a determination of energy compliance described
11 in subdivision (c)(3) of this section within one year after adopting or
12 readopting the State Comprehensive Energy Plan adopted pursuant to 30
13 V.S.A. § 202b. These recommendations and standards shall be consistent with
14 the State Comprehensive Energy Plan.

15 * * *

16 (e) Process for issuing determinations of energy compliance. Review of
17 whether to issue a determination of energy compliance under this section shall
18 include a public hearing noticed at least 15 days in advance by direct mail or
19 electronically with proof of receipt to the requesting regional planning
20 commission or municipal legislative body, posting on the website of the entity
21 from which the determination is requested, and publication in a newspaper of

1 ~~general publication in the region or municipality affected~~ consideration of
2 comments received by the regional planning commission or municipality
3 during the plan adoption process on consistency with this section, and with the
4 enhanced energy planning standards. The Commissioner or regional planning
5 commission shall issue the determination in writing within ~~two months~~ 60
6 days after the receipt of a request for a determination. If the determination is
7 negative, the Commissioner or regional planning commission shall state the
8 reasons for denial in writing and, if appropriate, suggest acceptable
9 modifications. Submissions for a new determination that follow a negative
10 determination shall receive a new determination within 45 days.

11 * * *

12 ~~(g) Municipality; determination from DPS; time-limited option. Until July~~
13 ~~1, 2018, a municipality whose plan has been confirmed under section 4350 of~~
14 ~~this title may seek issuance of a determination of energy compliance from the~~
15 ~~Commissioner of Public Service if it is a member of a regional planning~~
16 ~~commission whose regional plan has not received such a determination.~~

17 ~~(1) The Commissioner shall issue an affirmative determination of energy~~
18 ~~compliance for the municipal plan on finding that the plan meets the~~
19 ~~requirements of subsection (c) of this section. The Commissioner's review of~~
20 ~~the municipal plan shall be for the purpose only of determining whether a~~

1 ~~determination of energy compliance should be issued because those~~
2 ~~requirements are met.~~

3 ~~(2) A municipality aggrieved by an act or decision of the Commissioner~~
4 ~~under this subsection may appeal in accordance with the procedures of~~
5 ~~subsection (f) of this section.~~

6 (h) Determination; time period. An affirmative determination of energy
7 compliance issued pursuant to this section shall remain in effect until the end
8 of the period for expiration or readoption of the plan to which it applies, with
9 the following exceptions:

10 (1) The regional planning commission or municipal legislative body has
11 adopted a plan with an updated energy element and notified the appropriate
12 body of its intent to request a determination of energy compliance at least 30
13 days prior to the first public hearing on that plan. In this case, the
14 Commissioner of Public Service or regional planning commission may choose
15 to offer the requesting body a provisional affirmative determination of energy
16 compliance that shall remain in effect for two months following the adoption
17 of the new plan.

18 (2) In the event a regional or municipal plan is readopted without
19 updates to the energy element or chapter that impact the plan's existing
20 affirmative determination, the affirmative determination shall be extended to
21 the expiration date of the readopted plan. The regional planning commission

1 or municipality shall seek an opinion from the Department or regional
2 planning commission that a new determination of energy compliance is not
3 required, and shall seek a new determination of energy compliance if
4 determined necessary by the Department or regional planning commission.
5 Notwithstanding the opinion, a new determination of energy compliance shall
6 be required if the standards for issuing a determination of energy compliance
7 have been revised since the last affirmative determination of energy
8 compliance was issued.

9 (i)(h) Commissioner; consultation. In the discharge of the duties assigned
10 under this section, the Commissioner shall may consult with and solicit the
11 recommendations of the Secretaries of Agriculture, Food and Markets, of
12 Commerce and Community Development, of Natural Resources, and of
13 Transportation.

14 Sec. 5. REPEAL

15 30 V.S.A. § 202f (establishing the Telecommunications and Connectivity
16 Advisory Board) is repealed.

17 * * * Effective Date * * *

18 Sec. 6. EFFECTIVE DATE

19 This act shall take effect on passage.