

Memorandum

Vermont Public Service Department

To: Senate Committee on Natural Resources & Energy

From: Anne Margolis, Deputy Director, Regulated Utility Planning, Department of Public Service

Subject: H. 940

Date: April 14, 2026

Thank you for the opportunity to provide testimony on H. 940 Secs. 2-4. This memo summarizes the reasons the Public Service Department supports this section of the bill.

Summary

The Department supports Secs. 2-4 of H. 940, which modifies several procedural aspects of Act 174 to better align Department and LURB review of Regional Plans and to generally improve and streamline the process for all stakeholders. The proposed changes:

- Enable the Department to publish Enhanced Energy Planning Standards within one year of the publication of the Comprehensive Energy Plan (CEP), capturing changes made toward the end of that process and additional process to translate CEP recommendations to regional & municipal plans.
- Align submissions of draft and final plans to the Department and Land Use Review Board (LURB) for clarity and consistency.
- Use existing RPC hearings on draft plan, rather than Department hearing on final plan, to solicit public input, to ensure input can translate to plan revisions and more efficiently use stakeholder time and resources.
- Allows provisional determinations of adopted plans, to cover the period of exposure when the new plan is adopted (but will not have a determination for 60 days) but the previous plan (and determination) is expired.
- Allows extension of determinations if plan revisions do not affect energy elements.

Act 174 Background

Act 174 of 2016 created a new, voluntary municipal and regional energy planning paradigm, in which:

- The Department creates recommendations and standards for ensuring regional and municipal enhanced energy plans are consistent with state energy goals and policies (e.g., RES, GWSA).
 - Inaugural standards issued in 2016 after Act 174 passed, updated with the 2022 CEP; next update due in 2028. It can be challenging to issue standards concurrently with a CEP that is changing up until the last minute.
 - Standards encompass data (total energy use, projections), policies (across all sectors, focus on siting), and mapping (potential, suitable, unsuitable, and preferred areas).

- Regional plans are submitted to the Department for review; municipal plans are reviewed by the regions.
 - Drafts are encouraged, not required, but are essential to ensure stakeholder input can be incorporated and negative determinations avoided.
 - Department has two months to review and issue a determination. This includes holding a public hearing in the region and soliciting comments from several agencies.
 - Department issues a formal determination. Determinations expire when a plan expires, which can leave it exposed in the period after a new plan is adopted and before it is given a new affirmative determination.
- Plans with affirmative determinations receive substantial deference (rather than due consideration) for their land conservation measures and specific policies from the Public Utility Commission in Section 248 proceedings, under the orderly development criterion.
- Outside of formal reviews, the Department provides extensive guidance, tools, and technical assistance to the RPCs with support from the Vermont Center for Geographic Information. No funding support is provided to the Department for this work.

Impact of Act 181

- More frequent review of plans: the Department expects to have to review all 11 regional plans before the end of this year once. This can create situations where the Department is reviewing plans it hasn't seen in 8 years, plans it just reviewed in the last year or two where the energy chapter hasn't significantly changed, and plans it will have to review again within a year or two that intend to (but aren't quite ready to pursue) updates to their energy chapters.
- Additional review of plans: in addition to draft and final plan review for Act 174, the Department has a new role in LURB review of regional plans, leading to inefficient use of time and resources.
- Some redundancy in plan review: LURB has two energy-related standards, one of which (energy element) is also required for Act 174 compliance. This can lead to confusion if reviewed differently.

Overview of Changes in H. 940, Secs. 2-4

- Page 3 (24 V.S.A. § 4348(b))
 - Aligns timing of draft Department Act 174 reviews with draft Act 181 LURB reviews
 - Informally already requesting RPCs do this. Notify the Department of intent to seek determination of compliance, allows Department to streamline participation in both processes (Act 181 and 174)
- Page 4 (24 V.S.A. § 4348(d)(2))
 - RPC soliciting feedback on EEP and consistency with standards in one of their public hearings
 - Here looking for both process efficiencies and way to receive feedback in a way it can be meaningfully heard and acted upon as warranted
 - Currently Department holds public hearing during formal determination review. At this point the regional plan is final, no changes can be made
 - Public hearing is one of the more costly (time and money) parts of the formal determination review, very limited attendance.
 - Aligning with existing RPC hearings would be responsive to public engagement fatigue/burden and allow RPCs to receive feedback at a time when they can still

be responsive while reducing process time to conduct formal determination reviews

- Pages 4-5 ((24 V.S.A. § 4348(h)(1))
 - Aligns formal Act 174 determination request with Act 181 submission
- Page 6 (24 V.S.A. § 4350(b)(1)(E))
 - Ensures municipal plan hearings consider EEP feedback (consistency with RPC hearings; in practice already done)
- Page 7 (24 V.S.A. § 4352(c))
 - Largely technical corrections to align with current policy and allows up to 1 yr post CEP to update (earlier version included this language in 30 V.S.A. § 202b(a)(3) as well).
- Page 8 (24 V.S.A. § 4352(d) and (e))
 - Consistent with previous language re: hearings, requires Department to consider public feedback received by RPC on their EEP/consistency with the standards in determination review
 - Technical fixes: 60 days vs. two months, LURB vs. NRB, removing expired provision that temporarily allowed department to review municipal plans
- Pages 9-10 (24 V.S.A. § 4352(g))
 - Dealing with two issues related to the fact that in the current Act 174 process affirmative determinations of energy compliance are granted for the life of the regional plan, and expire when they plan expires or is replaced:
 - Exposure period between adopting a new regional plan (when old determination expires) and Department issuing a determination on the new plan (60+ days later)
 - Updates to regional plans that do not change energy elements (but would otherwise require the Department to review and issue a new determination) – allows the Commissioner with extend the existing determination