

**From:** Aaron Adler [AAdler@leg.state.vt.us]  
**Sent:** Wednesday, April 29, 2015 1:15 PM  
**To:** Springer, Darren  
**CC:** Erika Wolffing; Conor T. Kennedy; John Campbell  
**Subject:** H.40 amendment  
**Attachments:** GENERAL-#308682-v1-H\_40;\_amendment;\_solar;\_setbacks;\_screening.pdf

Darren – Sen. Campbell authorized my sending you the attached draft amendment on the solar setback and screening issues.

The draft would amend the Sen. Natural report to:

- Remove the solar setback/screening issue from the Joint Energy Committee study.
- Make towns automatic parties.
- Instead of studying setbacks, adopt minimum setbacks now for ground-mounted solar.
  - 100 feet for 150 kW and above
  - 40 feet if less than/equal to 150 kw but more than 15 kW.
  - No setback for 15 kW or less.
  - In a given case, Board may require larger setbacks.
- Allow towns to adopt a freestanding land use bylaw for screening requirements for solar.
  - Cannot prohibit or have effect of prohibiting solar or interfere with intended functional use.
  - Cannot be more restrictive than what is applied in the town to other development through zoning or Act 250.
- Require DHCD to report back by 1/15/17 on town implementation of solar screening requirements.

Best, Aaron

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1 H. 40

2 Senator \_\_\_\_ moves that the report of the Committee on Natural Resources  
3 and Energy be amended as follows:

4 First: In the fourteenth instance of amendment, in Sec. 14b (Joint Energy  
5 Committee; recommendation), in subsection (a), by striking out subdivisions  
6 (1) through (3) and inserting in lieu thereof new subdivisions (1) and (2) to  
7 read:

8 (1) what revisions, if any, the Committee recommends that the General  
9 Assembly enact with respect to the statutes applicable to energy efficiency  
10 entities appointed and charges imposed under 30 V.S.A. § 209(d); and

11 (2) what legislation, if any, the Committee recommends that the General  
12 Assembly enact to clarify or alter the relationship of energy efficiency entities  
13 and charges under 30 V.S.A. § 209(d) with the energy transformation category  
14 adopted under Sec. 3 of this act, 30 V.S.A. § 8005(a).

15 Second: In the seventeenth instance of amendment, by striking out Secs.  
16 26a and 26b and inserting in lieu thereof new Secs. 26a, 26b, 26c, and 26d to  
17 read:

18 Sec. 26a. 30 V.S.A. § 248(a)(4)(F) is added to read:

19 (F) The legislative body and the planning commission for the  
20 municipality in which a facility is located shall have the right to appear as a  
21 party in any proceedings held under this subsection.

1      Sec. 26b. 30 V.S.A. § 248(s) is added read:

2            (s) This subsection sets minimum setback requirements that shall apply to  
3            in-state ground-mounted solar electric generation facilities approved under this  
4            section.

5            (1) The minimum setback from a State or municipal highway and from  
6            each property boundary shall be:

7                    (A) 100 feet for a facility with a plant capacity exceeding  
8                    150 kW; and

9                    (B) 40 feet for a facility with a plant capacity less than or equal to  
10                  150 kW but greater than 15 kW.

11                  (2) This subsection does not require a setback for a facility with a plant  
12                  capacity equal to or less than 15 kW.

13                  (3) On review of an application, the Board may require a larger setback  
14                  than this subsection requires.

15                  (4) In this subsection:

16                    (A) “kW” and “plant capacity” shall have the same meaning as in  
17                    section 8002 of this title.

18                    (B) “Setback” means the shortest distance between the nearest  
19                    portion of a structure and the edge of a highway right-of-way or property  
20                    boundary.

21      Sec. 26c. 24 V.S.A. § 4414(15) is added to read:

1           (15) Solar plants; screening. Notwithstanding any contrary provision of  
2           section 4413 of this title or 30 V.S.A. chapter 5 or 89, a municipality may  
3           adopt a freestanding bylaw to establish screening requirements that shall apply  
4           to a plant that generates electricity from solar energy. These requirements  
5           shall not prohibit or have the effect of prohibiting the installation of such a  
6           plant and shall not have the effect of interfering with its intended functional  
7           use. These requirements shall not be more restrictive than screening  
8           requirements applied to other land development in the municipality under this  
9           chapter or 10 V.S.A. chapter 151. In this section, “plant” shall have the same  
10           meaning as in 30 V.S.A. § 8002 and “screening” includes landscaping,  
11           vegetation, fencing, and topographic features.

12           Sec. 26d. REPORT; TOWN ADOPTION OF SOLAR SCREENING

13           (a) On or before January 15, 2017, the Commissioner of Housing and  
14           Community Development (Commissioner) shall submit a report to the House  
15           and Senate Committees on Natural Resources and Energy that:

16                   (1) identifies the municipalities that have adopted screening  
17                   requirements pursuant to Sec. 26c of this act, 24 V.S.A § 4414(15);

18                   (2) summarizes these adopted screening requirements; and

19                   (3) provides the number of applications made under 24 V.S.A.  
20                   § 4414(15) and itemizes their disposition and status.

1        (b) Each municipality adopting a bylaw under 24 V.S.A. § 4414(15) shall  
2        provide the Commissioner, on request, with information needed to complete  
3        the report required by this section.

4        Second: In the eighteenth instance of amendment, in Sec. 28 (effective  
5        dates), by striking out subsection (c) and inserting in lieu thereof a new  
6        subsection (c) to read:

7        (c) Secs. 26a (municipal party status), 26b (setbacks), 26c, (solar  
8        screening), and 26d (report) shall take effect on passage. Notwithstanding  
9        1 V.S.A. §§ 213 and 214, Sec. 26a shall apply to each application for a  
10       certificate of public for solar electric generation facility that is pending as of  
11       the section's effective date.