

From: Christopher Bray [cbray@sover.net]
Sent: Tuesday, June 07, 2016 8:49 AM
To: Springer, Darren
Subject: Fwd: S.230 VETOED -- A Solution for your consideration

Darren,

Claire asks the critical vetting question (see below) -- and cc'd all members.

Before I say yes the administration has vetted this with the interested parties, I need to get your confirmation on this -- because there's no walking this one back and we need to be confident that the fix is supported unequivocally.

Can you give me that assurance?

Thanks
C

Sen. Chris Bray
Addison Senate District
Chair, Natural Resources and Energy

Begin forwarded message:

From: Claire Ayer <CAyer@leg.state.vt.us>
Date: June 7, 2016 at 7:15:53 AM EDT
To: Christopher Bray <CBray@leg.state.vt.us>
Cc: ALL_MEMBERS <ALL_MEMBERS@leg.state.vt.us>
Subject: Re: S.230 VETOED -- A Solution for your consideration

Thank you, Chris. Is it safe to assume that the administration and other experts agree w the more precise language? All vetted, etc?

Senator Claire Ayer
Addison County, Huntington, Buels Gore
Chairwoman, Senate Health & Welfare
Majority Whip

On Jun 6, 2016, at 9:22 PM, Christopher Bray <CBray@leg.state.vt.us> wrote:

Dear Senate and House Colleagues,

This year we, together, passed an essential bill —S.230— which recognized that Vermonters both strongly support the move to renewable energy AND want a greater voice in how these projects are sited.

Today, we're learning from the Administration that there are some technical problems with the bill that we inadvertently introduced in the committee of conference. We have the opportunity to fix this and prevent the bill from being lost through a veto—and our regular legislative rules give us the ability to do this easily.

If this problem were discovered during the regular session on a Thursday, we'd have a fix in place by Friday. No question. Let's not allow "veto day" politics drag us away from our legislative duty to deliver the highest quality work we can.

Please find inserted two things:

1. a copy of the Governor's veto message; and
2. a PDF with a complete draft replacement bill for S.230 that fixes the items cited by the governor.

The achievability of this "fix" is reflected in the draft bill itself: in a 43 page bill there are only 14 changed lines, and one section inserted (Section 10A was left out of the final bill due to a drafting error).

The changes are highlighted in yellow to make it easier to find them.

In short, the changes are very narrow, maintain all the original provisions, and precisely correct the ambiguities which caused the veto.

In the coming days, we can outline the process for making this fix—but for now, what we all need is good information, so that you can evaluate the situation for yourself.

This Thursday, I hope to see the Senate and House come together one more time to get our best work—a “replacement” S.230—passed into law.

Respectfully,

—Chris Bray

Chair, Senate Natural Resources and Energy

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For Immediate Release

June 6, 2016

Gov. Shumlin Statement on Veto of S.230

Montpelier - Gov. Peter Shumlin has vetoed S.230, An act relating to improving the siting of energy projects. The veto message is copied below. Gov. Shumlin issued the following statement.

"In partnership with the Legislature, we have made incredible progress charting a cleaner energy future that is growing jobs, putting money in Vermonters' pockets, and helping to preserve a livable planet for future generations. Vermont has the highest number of per capita clean energy jobs of any U.S. state. Currently, one in every 17 Vermonters work in the clean energy industry, which employs over 17,700 people in this state.

"Last-minute provisions added to S.230 would have the effect of putting the brakes on this progress and costing Vermonters jobs, two things I will not do. I very much support giving communities more say as we plan for our renewable energy future together. That is the core of S.230 that I would like to see become law. I stand ready to work with the Legislature on a modified bill in the coming days to make that happen."

The veto message from the Governor is copied below.

I have carefully reviewed S. 230, which is a bill designed to give communities more say as we plan for our renewable energy future together. The core of this bill is something I strongly support and desire to see move forward. S. 230 was finalized very late in the legislative session, and unintended changes were made at the last minute. After consulting with legal experts at the Public Service Department and the Public Service Board, I have determined that in a few critical instances the language in the bill does not match what I understand to be the intent of the Legislature.

There are four issues with the bill that need to be fixed. First, in seeking temporary rules for new wind sound standards the bill unintentionally invokes a provision in 3 V.S.A. 844(a) that would make Vermont the first state in the country to declare a public

health emergency around wind energy, without peer-reviewed science backing that assertion up. Second, in setting a ceiling for new temporary wind sound standards, the bill unintentionally relies on a standard used in a small 150 kilowatt project as the standard for all wind, large and small, going forward. That standard, a complex and variable formula that would require no sound higher than 10 decibels above ambient background, could have the clearly unintended effect of pushing wind projects closer to homes where the background noise is higher. In addition to these two problems, a third concern is a provision in the bill requiring notice of certificates of public good to be filed with land records, which could create problems for residential solar customers when they go to sell their home. Finally, \$300,000 in planning funds for communities was unintentionally left out of the bill.

I believe that taken together, the emergency declaration and the restrictive sound standards will make it impossible to continue to sensibly site renewable wind power in Vermont. Through the policies passed by this Legislature, we have made great progress on building renewable energy. We have created 17,700 clean energy jobs which represents 6 percent of the Vermont workforce and makes us the highest per capita on clean energy jobs in the nation. Signing S. 230 as drafted would take us backwards and take an important renewable energy technology off the table. I cannot support that action, and therefore I am vetoing S. 230. I believe, however, the limited number of issues identified in the bill can and should be remedied by the Legislature during a veto session scheduled for June 9. My Administration will do whatever we can to assist the Legislature to make the fixes necessary to produce a bill that I can sign.

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<S230 replacement bill -- GENERAL-#318211-v3-16-1051;_Bray;_energy;_public_service;_siting;_S_230_with_changes.pdf>