

**From:** Andrew Savage [asavage@allearthrenewables.com]  
**Sent:** Friday, May 01, 2015 8:13 AM  
**To:** Springer, Darren  
**CC:** Gabrielle Stebbins  
**Subject:** Fwd: Proposed Changes for Solar Siting Amendment  
**Attachments:** Amendment 5-1LAC.docx; ATT00002.htm

Darren,

See below. Generally looks good but we need your help with this specific language in Aaron's drafting to get there.

I'm headed to DC later this am. Text if need me.

Andrew

Sent from my iPhone

Begin forwarded message:

**From:** Leslie Cadwell <[lac@lac-lca.com](mailto:lac@lac-lca.com)>  
**Date:** May 1, 2015 at 7:12:27 AM EDT  
**To:** Andrew Savage <[asavage@allearthrenewables.com](mailto:asavage@allearthrenewables.com)>, Gabrielle Stebbins <[gabrielle@vermont.org](mailto:gabrielle@vermont.org)>, Andy Raubvogel <[arubvogel@dunkielsaunders.com](mailto:arubvogel@dunkielsaunders.com)>, Geoff Hand <[ghand@dunkielsaunders.com](mailto:ghand@dunkielsaunders.com)>, Bridgette Remington <[Bridgette@lac-lca.com](mailto:Bridgette@lac-lca.com)>  
**Cc:** Adam Necrason <[adam@necrasongroup.com](mailto:adam@necrasongroup.com)>, James Moore <[james@suncommon.com](mailto:james@suncommon.com)>  
**Subject:** RE: Proposed Changes for Solar Siting Amendment

I still do not like the language on screening being “more restrictive” because it does not make sense. I’ve suggested an alternative in the attached. Rather than “Are not more restrictive that screening requirements applied to other land development . . . .” How about: “Are not comparable to screening requirements applied to other land development . . . .”.

It is easier for the PSB to compare requirements than determine what a “more restrictive” requirement is when it comes to harmonizing the facility to its surroundings. Perhaps no one else is puzzled by “more restrictive screening” – and if so, please educate me on what this means and how the PSB goes about analyzing the term. I can be persuaded, but this language has me completely stumped.

Leslie A. Cadwell  
Legal Counselors & Advocates, PLC  
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**From:** Andrew Savage [<mailto:asavage@allearthrenewables.com>]  
**Sent:** Friday, May 01, 2015 6:50 AM  
**To:** Gabrielle Stebbins; Andy Raubvogel; Geoff Hand; Leslie Cadwell; Bridgette Remington  
**Cc:** Adam Necrason; James Moore  
**Subject:** Fwd: Proposed Changes for Solar Siting Amendment  
Take a look--  
Andrew

Sent from my iPhone

Begin forwarded message:

**From:** "Springer, Darren" <[Darren.Springer@state.vt.us](mailto:Darren.Springer@state.vt.us)>  
**Date:** April 30, 2015 at 10:18:42 PM EDT  
**To:** Aaron Adler <[AA Adler@leg.state.vt.us](mailto:AA Adler@leg.state.vt.us)>, John Campbell <[JCampbell@leg.state.vt.us](mailto:JCampbell@leg.state.vt.us)>  
**Cc:** Erika Wolfing <[EWolfing@leg.state.vt.us](mailto:EWolfing@leg.state.vt.us)>, "Conor T. Kennedy" <[ckennedy@leg.state.vt.us](mailto:ckennedy@leg.state.vt.us)>, Warren Coleman <[warren@mrvt.com](mailto:warren@mrvt.com)>, "[asavage@allearthrenewables.com](mailto:asavage@allearthrenewables.com)" <[asavage@allearthrenewables.com](mailto:asavage@allearthrenewables.com)>  
**Subject: Proposed Changes for Solar Siting Amendment**

Senator Campbell,

Following our discussion earlier today, I have worked with Andrew and Warren on the attached track changes edits for the siting amendment. To sum up, the changes do the following:

- Clarify that a municipal legislative body and planning commission can both participate as party in Board process, but must speak with one voice so Board does not have to resolve conflicts between the body and the commission;
- Propose the distinct property boundary setbacks mentioned today, as well as using highway center line and solar panel structure to judge road setback distance;
- Allow towns to support a shorter setback requirement for a given project if they would like to; and
- Modifies the screening provision to say that municipalities can adopt solar screening measures in their town plans, and that the Board must apply those measures as a condition of a CPG, unless one of the three safeguards in your original draft is triggered;

I highlighted in yellow the section at the very end of the bill that covers effective dates, and I believe Andrew can follow-up to discuss that. Provided these changes look reasonable to you we would be happy to work with Aaron Adler to incorporate them into a revised amendment.

Thank you very much for your time and attention to this as a part of H. 40, we look forward to continuing to work with you on this.  
Darren

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**From:** Aaron Adler [[AAdler@leg.state.vt.us](mailto: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

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.
  - o 100 feet for 150 kW and above
  - o 40 feet if less than/equal to 150 kw but more than 15 kW.
  - o No setback for 15 kW or less.
  - o In a given case, Board may require larger setbacks.
- Allow towns to adopt a freestanding land use bylaw for screening requirements for solar.
  - o Cannot prohibit or have effect of prohibiting solar or interfere with intended functional use.
  - o 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  
Aaron Adler, Legislative Counsel  
Vermont Legislative Council  
115 State Street – State House  
Montpelier, VT 05633-5201  
p: 802-828-2236  
[Vermont Legislature](http://www.vermontlegislature.com)

1 (Draft No. 1.2 – H.40) Page 1 of 4

2 4/29/2015 - ADA - 12:39 PM

3 VT LEG #308682 v.1

4

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

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

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

13 (2) what legislation, if any, the Committee recommends that the General Assembly enact to  
14 clarify or alter the relationship of energy efficiency entities and charges under 30 V.S.A.  
15 § 209(d) with the energy transformation category adopted under Sec. 3 of this act, 30 V.S.A.  
16 § 8005(a).

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

19

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

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

23

24

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

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

4 (1) The minimum setback from the center of a State or municipal highway ~~and from each~~  
5 ~~property boundary~~ shall be:

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

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

9 ~~(2) The minimum setback from each property boundary shall be: (A) 50 feet for a facility with a~~  
10 ~~plant capacity exceeding 150 kW; and (B) 25 feet for a facility with a plant capacity less than or~~  
11 ~~equal to 150 kW but greater than 15 kW.~~

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

14 ~~(4) On review of an application, the Board may require a larger setback than this subsection~~  
15 ~~requires, or with the agreement of a municipality a smaller setback.~~

16 ~~(5) In this subsection:~~

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

19 (B) “Setback” means the shortest distance between the nearest portion of a ~~structure~~  
20 ~~solar panel or a support structure for a solar panel, at its point of attachment to the~~  
21 ~~ground,~~ and the ~~edge of a highway right-of-way~~ or property boundary.

22

23 Sec. 26c. ~~24 V.S.A. § 4414(15) is added~~ 30 VSA 248(b)(1) is amended to read:

1

2 Solar plants; screening. ~~Notwithstanding any contrary provision of section 4413 of this title or~~  
3 ~~30 V.S.A. chapter 5 or 89, a~~ municipality may ~~adopt a freestanding bylaw to~~ its town plan  
4 establish screening requirements that the Public Service Board shall apply to a ground-mounted  
5 plant greater than 15 kW that generates electricity from solar energy, ~~and such.~~ ~~These~~  
6 requirements shall be a condition of an applicant's Certificate of Public Good under this section  
7 unless these requirements:

- 8 ~~(A) not~~ prohibit or have the effect of prohibiting the installation of such a plant;
- 9 ~~(B) and shall not have~~ have the effect of interfering with its intended functional use, ~~;~~ or
- 10 ~~(C) These requirements shall not be~~ Are ~~more restrictive than~~ not comparable to screening

11 requirements applied to other land development in the municipality under this chapter or 10  
12 V.S.A. chapter 151.

13 In this section, "plant" shall have the same meaning as in 30 V.S.A. § 8002 and "screening" shall  
14 mean aesthetics mitigation measures that are necessary to harmonize the facility with its  
15 surroundings, ~~including but not limited to~~ landscaping, vegetation, fencing, and topographic  
16 features.

17

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

19

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

23

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

3 (2) summarizes these adopted screening requirements; and

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

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

9

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

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

