

From: Springer, Darren [Darren.Springer@vermont.gov]
Sent: Tuesday, June 07, 2016 2:29 PM
To: GPS; Coriell, Scott; Allen, Susan
Subject: House GOP statement

PRESS STATEMENT

June 7, 2016

Contact: Rep. Don Turner 802-373-5960

House Republicans Call on Speaker Smith to Support House Unanimous Position on S.230 and Override Governor's Veto

In a press release issued Monday, Gov. Shumlin announced his decision to veto S.230 – a promising bill that addresses the growing problem of noise pollution, and provides Vermonters greater local control over the siting of renewable energy projects. Citing four reasons to justify the veto, Gov. Shumlin alleged that the unintended and last minute changes to the bill would impede the progress made by the state's green energy sector. Contrary to this assertion, the bill does not include restrictive language or measures as explained below.

First, the inadvertent omission of \$300,000 in funding for energy planning at the regional level can be corrected in the 2017 Budget Adjustment Act (BAA). In addition, the Department of Public Service may be able to award at least some of that money to municipalities and regional planning commissions prior to the passage of the 2017 BAA. Second, Gov. Shumlin falsely claims that recording notices of Certificates of Public Good (CPG) with land records – as required by S.230 – will alter the liability or marketability of the property. Under case law, only the failure to properly obtain or comply with a CPG will negatively affect sale of the property. Nonetheless, the CPG notice provision could be amended in the 2017 session to apply only to facilities larger than those employed by residential homeowners.

Third, the bill states that the temporary rules should meet the standard for the adoption of emergency rules as established in 3 V.S.A. § 844(a). Invoking this statute does not mean that S.230 declares sound from wind generation as an "imminent peril to public health, safety, or welfare." In fact, the Legislature commonly cites this statute to expedite the rule-making process, when the situation in question does not pose a public health hazard. For example, the following legislative enactments are precedents that employ similar language to Sec. 12(b) of S. 230:

- 2016 Acts and Resolves No. 58, Sec. E.306 (conform Vermont Health Benefit Exchange rules to federal guidance and regulations)
- 2014 Acts and Resolves No. 195, Sec. 2, enacting 13 V.S.A. § 7554c(d)(3) (control of confidential information regarding pretrial risk assessments)
- 2014 Acts and Resolves No. 179, Sec. E.306.1 (conform Vermont Health Benefit Exchange rules to federal guidance and regulations)
- 2013 Acts and Resolves No. 79, Sec. 51 (conform Vermont Health Benefit Exchange rules to federal guidance and regulations)

Fourth, Gov. Shumlin inaccurately asserts that the bill requires all wind projects to meet the "10 dBA above ambient" standard. S.230 clearly states that the General Assembly does not require a one-size-fits-all standard, and temporary rules may include: (a) standards that apply to all wind facilities; (b) a method for determining sound levels on a case-by-case basis; or (c) standards that apply to one or more categories of wind facilities with a methodology for determining sound levels for other such facilities case-by-case. Though

clarification could be written, it may not be necessary as the language relates to temporary rules alone. The long-term consequences of this language, if any, could be addressed through legislation in 2017.

This issue is being framed as a conflict between those who promote renewable energy and those who do not. This is simply not true. House Republicans support the remarkable progress made the clean energy sector and renewable energy projects. This is why we worked tirelessly to build bipartisan consensus, and implement the changes requested by Governor at the end of the session. We are proud that S.230 passed with unanimous support in the House. Unfortunately, Gov. Shumlin's decision does not serve the best interests of Vermonters. Therefore, the House Republican Caucus asks Vermonters to call on Speaker Smith at 802-828-2245 to encourage him to work with us to override Governor Shumlin's veto. Vermonters deserve better!