



**Public Service Board (PSB) Section 248 Permit Process
Municipal Planning
Monday April 11, 2016**

Proposal for Process to Amend S. 230 Planning Process

Retain sections of S. 230 as passed by Senate:

- Section 1 amending energy goals with the possible exception of (E). (p. 3, 4)
- Section 6, the expanded energy element for regional plans and section 8, the expanded energy element for municipal plans. (pp. 7, 8, 12, 13)
- Sections 9 and 10 directing the Department of Public Service to develop *guidance* for municipal and regional planning commissions, but deleting reference to *standards* and *certificates of energy compliance*. (p. 15, 18)
- Section 9 relating to location of electric transmission and distribution infrastructure. (p. 17)

The municipal plan approval process should be the same as it is now established in 24 V.S.A. §4350. Clarify that a municipal plan energy element may be approved separately from the entire plan.

Approved municipal plans should receive substantial deference in the PSB Certificate of Public Good process. Substantial deference should be defined. Language should be added to make clear that a municipal recommendation may be based on a duly adopted bylaw. Section 12 directing the PSB to “defer to” a municipal plan measure or policy both before and after March 1, 2017, should be amended (pp 24, 25) to read:

30 V.S.A. § (b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment or construction:

(1) With respect to an instate facility, will not unduly interfere with the orderly development of the region with ~~due consideration~~ substantial deference having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. In this subdivision (1), “substantial deference” means that a recommendation or land conservation measure shall be presumed valid, correct and reasonable and shall be applied in accordance with its terms unless there is a clear and convincing demonstration that it lacks a rational basis or that other factors affecting the general good of the State outweigh application of the recommendation or measure. In its decision, the Board shall

explain in detail the reasons for its determination that the general good of the State outweighs the recommendation or measure.

(A) Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on a bylaw adopted under 24 V.S.A. Chapter 117 by the municipality in which the facility is located.

Give the PSB specific direction regarding holding hearings in affected municipalities and how to incorporate the comments they receive.

The Public Service Board shall hold hearings in the municipality in which the facility is located. When a facility is located in or will affect more than one municipality, the Board shall hold hearings at one of more locations readily accessible to residents of each municipality. The Board shall formulate areas of inquiry with respect to the application based on concerns raised in the local hearing process.

Thank you for your consideration of this proposal, which incorporates current approval processes, expanded energy elements, and specific language around the meaning of substantial deference and the PSB treatment of approved plans.

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