

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2015**

Bill Number: H. 107 Name of Bill: Creation of the Office of Landowner Advocate

Agency/ Dept: Public Service Dept. Author of Bill Review: Geoff Commons

Date of Bill Review: 02/27/2015 Related Bills and Key Players ???

Status of Bill: (check one): ☒ Upon Introduction ☐ As passed by 1<sup>st</sup> body ☐ As passed by both

**Recommended Position:**

☐ Support ☒ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

**Analysis of Bill**

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*  
Bill would create an Office of Landowner Advocate to provide legal representation to landowners affected by energy projects reviewed under § 248, or involved in utility condemnation proceedings. The Office would not be a state agency, but a non-profit organization under contract to the Agency of Admin. The issue is the lack of legal representation (or funding for same) for owners of land adjoining energy projects, which hampers their ability to effectively participate in § 248 and/or condemnation proceedings or negotiations.
2. **Is there a need for this bill?** *Please explain why or why not.*  
The lack of publicly-funded (or utility-funded) representation for landowners who happen to be in the path of utility projects has been identified as a concern by a number of people in that situation, and they have received support from the Administration. While providing such representation may be an appropriate policy choice, this bill falls short of articulating a coherent scheme for doing so.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**  
This would facilitate neighbors' participation in § 248 proceedings, which could lead to more issues being raised. However, resolution of issues also may be facilitated by involvement of counsel o/b/o people who would otherwise appear pro se. Provision of counsel may result in fairer outcomes for neighbors and condemnees, but will also increase the cost of projects by virtue of bill-backs from the new Office. Passage of this bill would reduce the pressure on the PSD to represent the interests of individuals (which we cannot do). PSD (and PSB) might be drawn into the conflicts that are nearly certain to arise among clients of the Landowner Advocate.
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**  
ANR and other agencies involved in § 248 proceedings will have additional interests and issues to address; the PSB will have more issues to decide. However both may find the task easier dealing with counsel rather than with pro se litigants.

Please return this bill review as a Microsoft Word document to [laura.gray@state.vt.us](mailto:laura.gray@state.vt.us) and [jessica.mishaan@state.vt.us](mailto:jessica.mishaan@state.vt.us)

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** (for example, public, municipalities, organizations, business, regulated entities, etc)  
Regulated entities including merchant providers will oppose this bill since it will increase their costs and facilitate opposition. Utility customers will see increased costs. Opponents of projects will support the bill since it would enhance their efforts and relieve any need to pay for their own counsel and experts. Businesses and municipalities may also be eligible for free representation.

6. **Other Stakeholders:**

6.1 **Who else is likely to support the proposal and why?**

Project opponents since it will facilitate opposition, and landowners who may be indifferent to the project but seek to obtain a result that best serves their interests. People concerned about the challenges of participating pro se in PSB dockets would likely support.

6.2 **Who else is likely to oppose the proposal and why?**

Proponents of renewable and distributed generation (merchant and utility) would oppose to avoid increased costs and litigation. Advocates for low utility rates would oppose for the same reason.

7. **Rationale for recommendation:** *Justify recommendation stated above.*

Provision of legal and other services to landowners may be desirable, but the system proposed in this bill does not seem workable. Conflicts among the Advocate's multiple clients are nearly certain; the bill addresses these by simply declaring that representation of multiple clients in the same proceedings shall not be a conflict. This approach does not begin to address the practical problems with such representation. With bill-back authority and accountability only to the client the Advocate would be able to pursue complaints and appeals with little risk or outlay, resulting in additional litigation.

8. **Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*  
The goal may be desirable, but approach taken in this bill does not seem workable.

9. **Gubernatorial appointments to board or commission?** No

Secretary/Commissioner has reviewed this document:



Date: 3/6/15