

1 H.748

2 Introduced by Representatives Keenan of St. Albans City and Gamache of
3 Swanton

4 Referred to Committee on

5 Date:

6 Subject: Energy; public service; electric generation; siting; municipalities and
7 adjoining landowners; retention of experts; allocation of costs

8 Statement of purpose of bill as introduced: This bill proposes to allow
9 municipalities and adjoining landowners participating before the Public
10 Service Board in a proceeding on siting an energy facility to retain expert and
11 professional assistance and allocate the costs to the applicant. The bill also
12 proposes to require air quality monitoring of facilities that use biogas to
13 generate electricity.

14 An act relating to funding participation by municipalities and adjoining
15 landowners in the energy facility siting process

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 Sec. 1. 30 V.S.A. § 21 is amended to read:

18 § 21. PARTICULAR PROCEEDINGS; ASSESSMENT OF COSTS

19 (a) The Board, the Department, or the Agency of Natural Resources (the
20 Agency) may allocate the portion of the expense incurred or authorized by it in

1 retaining additional personnel for the particular proceedings authorized in
2 section 20 of this title to the applicant or the public service company or
3 companies involved in those proceedings. With respect to a proceeding under
4 section 248 of this title, the legislative body and planning commission for the
5 municipality in which a proposed facility is located, and any adjoining
6 property owner as defined in 10 V.S.A. § 6001 who intervenes in the
7 proceeding, may retain legal counsel, expert witnesses, and other professional
8 assistance for the proceeding and allocate the expense incurred to the applicant
9 or the public service company or companies involved in the proceeding. As to
10 a municipal legislative body or planning commission, this authority shall also
11 include the ability to retain assistance and allocate costs in reviewing a
12 submission under subsections 248(f) and (g) of this title.

13 (1) The Board shall upon petition of an applicant or public service
14 company to which costs are proposed to be allocated, review and determine,
15 after opportunity for hearing, having due regard for the size and complexity of
16 the project, the necessity and reasonableness of such costs, and may amend or
17 revise such allocations. Nothing in this section shall confer authority on the
18 Board to select or decide the personnel, the expenses of whom are being
19 allocated, unless such personnel are retained by the Board. Prior to allocating
20 costs, the Board shall make a determination of the purpose and use of the funds
21 to be raised hereunder, identify the recipient of the funds, provide for

1 allocation of costs among companies to be assessed, indicate an estimated
2 duration of the proceedings, and estimate the total costs to be imposed. With
3 the approval of the Board, such estimates may be revised as necessary. From
4 time to time during the progress of the work of such additional personnel, the
5 Board, the Department, ~~or the Agency of Natural Resources,~~ the municipal
6 legislative body or planning commission, or adjoining property owner shall
7 render to the company or applicant detailed statements showing the amount of
8 money expended or contracted for in the work of such personnel, ~~which~~
9 ~~statements.~~ Statements from the Board, the Department, or the Agency shall
10 be paid by the applicant or the public service company into the State Treasury
11 at such time and in such manner as the Board, the Department, or the Agency
12 ~~of Natural Resources~~ may reasonably direct. Statements from a municipal
13 legislative body or planning commission shall be paid by the applicant or the
14 public service company to the treasurer of the municipality at such time and in
15 such manner as the legislative body or planning commission may direct.
16 Statements from an adjoining property owner shall be paid to that owner
17 within 30 days.

18 (2) In any proceeding under section 248 of this title, the Agency ~~of~~
19 ~~Natural Resources~~ may allocate the portion of the expense incurred in retaining
20 additional staff authorized in subsection 21(a) of this title only if the following
21 apply:

1 systems. The certificate shall not be required for the methane digester, the
2 digester influents and non-gas effluents, the buildings and equipment used to
3 handle such influents and non-gas effluents, or the on-farm use of heat and
4 exhaust produced by the generation of electricity, and these components shall
5 not be subject to jurisdiction under this section.

6 (B) With respect to a plant that does not constitute farming pursuant
7 to 10 V.S.A. § 6001(22)(F) but which receives feedstock from off-site farms,
8 for all on-site components of the plant, for the transportation of feedstock to
9 the plant from off-site contributing farms, and the transportation of effluent or
10 digestate back to those farms. The certificate shall not regulate any farming
11 activities conducted on the contributing farms that provide feedstock to a plant
12 or use of effluent or digestate returned to the contributing farms from the plant.

13 (2) Notwithstanding 1 V.S.A. § 214 and Board Rule 5.408, if the Board
14 issued a certificate to a plant using methane derived from an agricultural
15 operation prior to July 1, 2013, such certificate shall require an amendment
16 only when there is a substantial change, pursuant to Board Rule 5.408, to the
17 equipment used to generate electricity from biogas, the equipment used to
18 refine biogas into natural gas, the structures housing such equipment used to
19 generate electricity or refine biogas, or the interconnection to electric and
20 natural gas distribution and transmission systems. The Board's jurisdiction in

1 any future proceedings concerning such a certificate shall be limited pursuant
2 to subdivision (1) of this subsection.

3 (3) This subsection shall not affect the determination, under section
4 8005a of this title, of the price for a standard offer to a plant using methane
5 derived from an agricultural operation.

6 (4) As used in this section, "biogas" means a gas resulting from the
7 action of microorganisms on organic material such as manure or food
8 processing waste.

9 * * *

10 (t) With respect to an in-state facility that uses biogas as defined in
11 subsection (q) of this section to generate electricity:

12 (1) The application shall disclose and itemize the constituents and
13 annual volume of the feedstock that will be used to generate the biogas.

14 (2) The certificate of public good, if granted, shall require periodic air
15 quality monitoring of the facility.

16 Sec. 3. EFFECTIVE DATE

17 This act shall take effect on July 1, 2016.