

1 H.653

2 Introduced by Representative Klein of East Montpelier

3 Referred to Committee on

4 Date:

5 Subject: Energy; public service; renewable generation; clean energy

6 investment program; clean energy development board

7 Statement of purpose: This bill proposes a clean energy investment program
8 for new renewable energy plants in Vermont, to be owned and operated by the
9 state's retail electric utilities, for the purpose of providing electric power to
10 Vermonters. The program would include measures to avoid or reduce the need
11 for placing long-term costs related to the plants in rates and to limit the
12 long-term costs of the plants in rates to operation and maintenance costs. The
13 program would be funded by a charge on electric bills that would be used up
14 front to pay the capital costs of new renewable energy plants. The bill
15 proposes a default renewable investment contribution charge that a customer
16 may elect to adjust up or down, including adjusting the charge to zero. The bill
17 also proposes a revolving loan fund to support the continued deployment of
18 small-scale renewable energy projects.

1 An act relating to a program to invest in clean energy to serve Vermont's
2 electricity needs

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

4 Sec. 1. 30 V.S.A. § 8007 is added to read:

5 § 8007. CLEAN ENERGY INVESTMENT PROGRAM

6 (a) Establishment. The Vermont clean energy investment program is
7 established. The purposes of this program are:

8 (1) Build renewable energy plants in Vermont at lower long-term cost
9 by avoiding or substantially reducing financing costs.

10 (2) Build renewable energy plants that will provide electric energy to
11 Vermont consumers for the life of the plant.

12 (3) Facilitate utility ownership of renewable energy plants and combined
13 heat and power projects to benefit ratepayers and economic development in the
14 state.

15 (4) Support, over the long term, stability in electric energy prices for
16 Vermont consumers.

17 (5) Lower long-term rate impacts by reducing the inclusion of fuel costs
18 in rates.

1 (b) Definitions. In this section:

2 (1) “Account” means the renewable energy customer contribution
3 account created within the CEDF under this section.

4 (2) “Capital costs” means costs necessary to install a renewable energy
5 plant and bring the plant to the point of commissioning, excluding feasibility
6 studies and permitting costs. The term “capital costs” includes the cost of land
7 acquisition, construction costs, and the cost of plant components. The term
8 “capital costs” excludes financing, carrying, operation, and maintenance costs.

9 (3) “CEDB” means the clean energy development board established
10 under 10 V.S.A. § 6523. The CEDB is authorized to manage and expend
11 monies from the account in accordance with this section.

12 (4) “CEDF” or “fund” means the clean energy development fund
13 established under 10 V.S.A. § 6523.

14 (5) “CEIP” or “program” means the Vermont clean energy investment
15 program established under this section.

16 (6) “Renewable energy” is as defined in subdivision 8002(2) of this title
17 and includes a plant that sequentially produces both electric power and thermal
18 energy (combined heat and power) from a resource that meets the definition in
19 subdivision 8002(2).

20 (c) Creation of account. The renewable energy customer contribution
21 account is created as an account within the fund that shall be separate from all

1 other monies placed in the fund. Balances in the account shall be held for the
2 benefit of ratepayers, shall be expended solely for the purposes set forth in this
3 section, and shall not be used for the general obligations of government. All
4 balances in the account at the end of any fiscal year shall be carried forward
5 and remain part of the account. Interest earned by the account shall be
6 deposited into the account.

7 (d) Renewable investment contribution. A renewable investment
8 contribution charge to the customers of each Vermont retail electricity provider
9 is established. Each of the following shall apply to this contribution charge:

10 (1) The charge shall be shown separately on each customer's bill.

11 (2) The default rate of the contribution charge shall be \$0.03 per each
12 kilowatt-hour (kWh) of electrical energy consumed by the customer. This
13 charge shall be assessed unless the customer instructs otherwise pursuant to
14 subdivision (3) of this subsection.

15 (3) At any time, a customer may instruct the retail electricity provider to
16 revise the rate of the charge to the customer, which the provider shall
17 implement for the next monthly billing cycle following the instruction. The
18 rates for the charge available to a customer shall range from zero through five
19 cents per kWh in one-cent increments. A customer may elect not to be
20 charged.

1 (4) During the monthly billing cycle that commences in November 2010
2 and every 12th monthly billing cycle thereafter, each retail electricity provider
3 shall send with its bills to customers an information sheet that the CEDB shall
4 develop and provide. The information sheet shall summarize the purpose of
5 the CEIP and the benefits of participation. The sheet also shall inform the
6 customer of the default rate and the options available under subdivisions (2)
7 and (3) of this subsection and state that the customer may exercise these
8 options by contacting the customer's retail electricity provider at the telephone
9 number or mailing address on the provider's bill. The first time such a sheet is
10 sent to customers, the sheet shall provide notice of the inception of the CEIP.

11 (5) A customer shall not be eligible to participate in the CEIP and shall
12 not be assessed a charge under this section if the customer is a low income
13 electric utility customer as defined in subsection 218(e) of this title who is
14 receiving reduced rates to assure affordability as provided under subsection
15 218(e).

16 (6) At the end of each monthly billing cycle, a Vermont retail electricity
17 provider shall transmit to the CEDB for placement in the account the total
18 amount of the renewable investment contribution charge assessed to the
19 provider's customers during the immediately preceding monthly billing cycle.
20 With respect to a customer's nonpayment of a charge properly assessed in
21 accordance with this subsection, the public service board and a Vermont retail

1 electricity provider shall apply the same rules as are applied to a customer's
2 nonpayment of the energy efficiency charge under subdivision 209(d)(3) of
3 this title.

4 (e) Use of funds from account. Funds from the account shall be used
5 exclusively as stated in this subsection.

6 (1) Funds from the account shall be used for the capital costs of
7 developing and constructing renewable energy plants in Vermont to be owned
8 and operated by a Vermont retail electricity provider.

9 (2) Five percent of funds from the account annually shall be used to
10 support a revolving loan fund to provide below-market financing of the capital
11 costs of developing and constructing renewable energy plants of 250 kW plant
12 capacity or less each. Any such plant shall be owned by a customer of a
13 Vermont retail electricity provider and connected to the provider's
14 transmission or distribution system. The contribution of funds from the
15 account to the revolving loan fund described in this subdivision (2) shall cease
16 once the total cumulative contribution from the account reaches \$10 million.

17 (3) Funds expended pursuant to subdivisions (1) and (2) of this
18 subsection may only be used for a renewable energy plant for which an
19 application for a certificate of public good under section 248 of this title is or
20 will be filed on or after January 1, 2011, provided that the plant was not in
21 service prior to that date or, if the plant was in service prior to that date, the

1 application under section 248 of this title proposes or will propose a
2 modernization of the plant and either an increase in its plant capacity or an
3 increase in anticipated energy production.

4 (4) Up to five percent of the funds in the account annually may be used
5 by the CEDB to administer the CEIP, including contracting for necessary
6 assistance and expertise and purchasing any necessary insurance.

7 (f) Plant selection. The following shall apply to the CEDB's selection of
8 plants to be funded under subdivision (e)(1) of this section:

9 (1) The CEDB shall assess proposed plants based on criteria that include
10 cost-effectiveness, acquisition costs, diversification of renewable energy
11 technologies, potential environmental and land use impacts, avoidance of
12 transmission costs, and other relevant factors.

13 (2) Funded plants shall not result in the placement in a provider's rates
14 of financing or carrying costs except as may be approved by the public service
15 board under applicable utility ratemaking law with respect to:

16 (A) Those capital costs of a plant not funded by the account.

17 (B) Operations and maintenance costs of a plant after commissioning.

18 (3) The CEDB shall consult with the agency of natural resources and the
19 department of public service when reviewing a plant proposed for funding and
20 consider the comments of that agency and department.

1 (4) The CEDB periodically shall issue requests for proposals from
2 Vermont retail electricity providers for plants to be funded from the account.
3 A Vermont retail electricity provider may apply for funding from the account
4 regardless of whether such a request has been issued. The CEDB shall
5 determine the information and documents to be submitted with a proposal or
6 application under this subdivision (4).

7 (5) The CEDB shall provide for reallocation of an award and return of
8 any funds transferred in the event that a plant for which an award is made is
9 not commissioned within a reasonable period as determined by the CEDB.

10 (g) Ownership and allocation of electricity products.

11 (1) If funds from the account are used to support 100 percent of the
12 capital costs of a renewable energy plant, then the Vermont retail electricity
13 providers shall receive and have ownership of 100 percent of the electricity
14 and other products of the plant over its life, including electrical energy,
15 capacity, and tradeable renewable energy credits. If funds from the account
16 are used to support less than 100 percent of the capital costs of a renewable
17 energy plant, then the percentage of the plant's electricity products received
18 and owned by the Vermont retail electricity providers for the life of the plant
19 shall be equal at least to the percentage of the plant's capital costs funded from
20 the account.

1 (2) Electricity products from a renewable energy plant funded by the
2 account shall be allocated by the SPEED facilitator among the Vermont retail
3 electricity providers in the following manner:

4 (A) 10 percent shall be allocated to the retail electricity provider or
5 providers that own and operate the plant.

6 (B) 90 percent shall be aggregated by the SPEED facilitator and
7 allocated among all Vermont retail electricity providers based on their pro rata
8 share of total Vermont kWh sales for the previous calendar year.

9 (3) The public service board shall have jurisdiction to resolve any
10 disputes regarding ownership and allocations under this subsection.

11 (g) Electricity provider rate recovery. A retail electricity provider shall not
12 recover in rates the capital costs of or a rate of return on a plant funded under
13 this section or, if less than 100 percent of a plant is funded under this section,
14 that portion of the plant funded under this section, determined by percentage of
15 capital costs.

16 (h) Tradeable renewable energy credits. Tradeable renewable energy
17 credits owned by a Vermont retail electricity provider pursuant to this section
18 shall be retained by the provider for use in the event that the renewable
19 portfolio standard under section 8004 of this title or other renewable portfolio
20 standard mandated by the federal government or state of Vermont comes into
21 effect.

1 (i) Applicability of CEDF statute; reporting; audit.

2 (1) The provisions of subsections 6523(d) (CEDF expenditures
3 authorized), (g) (CEDB exploration of bonding), (h) (ARRA funds), and (j)
4 (governor disapproval of ARRA-funded projects) of Title 10 shall not apply to
5 the account. The provisions of subdivision 6523(a)(2) (establishment of CEDF
6 in the state treasury) and subsection (e) (management of CEDF) of Title 10
7 shall apply to the account. The remaining provisions of section 6523 of Title
8 10 shall apply to the account to the extent not inconsistent with this section.

9 (2) The CEDB shall report on the account as part of its regular reporting
10 under subdivision 6523(e)(8) of Title 10. For the reporting period, the CEDB
11 shall include in that report: a complete operating and financial statement
12 covering its activities related to the account; the account's revenues and
13 expenditures; an identification of each plant funded by the account, including
14 the energy generation type, plant capacity, location, and ownership; a summary
15 of requests for proposals issued, responses, and dispositions; a summary of
16 applications for CEIP funding received independently of a request for
17 proposals and the disposition of those applications; and a summary of
18 revolving loan fund activities under subdivision (e)(2) of this section, including
19 the amount of funds committed to the loan fund, and the number, generation
20 type, plant capacity range, and description of plants funded.

1 (3) The CEDB shall keep an accurate account of all its activities and of
2 all its receipts and expenditures under this section. The CEDB shall cause an
3 audit of the account and its books related to the account to be made at least
4 once in each year by a certified public accountant, and the audit's cost shall be
5 considered an administrative expense of the account and a copy shall be filed
6 with the state treasurer. The auditor of accounts of the state and his or her
7 authorized representatives may at any time examine the account and related
8 books, including its receipts, disbursements, contracts, funds, investments, and
9 any other matters relating to its financial statements.

10 (j) Limitation of liability.

11 (1) With respect to a plant funded by the account, the construction,
12 operation, and maintenance of such a plant, and any actions or omissions
13 associated with the plant, neither the CEDB nor the account shall have any
14 liability, except that the account shall be responsible to a plant owner to
15 provide funds awarded by the CEDB to the plant owner in accordance with the
16 terms and conditions of that award and in no event in excess of the amount of
17 funds awarded for the plant.

18 (2) The state shall not be liable with respect to any matter related to this
19 section or a plant funded or financed under this section.

20 (k) By December 15, 2014, and every third December 15 thereafter, the
21 department of public service shall:

1 (1) Review the account and associated activities to determine if either or
2 both of the following circumstances have occurred:

3 (A) More than one-third of the funds collected to date for the account
4 have not been awarded.

5 (B) More than one-third of the plants for which funds from the
6 account have been awarded have not filed petitions for approval under section
7 248 of this title.

8 (2) Report in writing the results of this review. Each of the following
9 shall apply to this report:

10 (A) The report shall be submitted to the CEDB, the public service
11 board, and the house and senate committees on natural resources and energy.

12 (B) In the event that one or both of the circumstances described in
13 subdivision (1) of this subsection have occurred, the report shall include the
14 department's recommended statutory, administrative, or other proposals to
15 promote the prompt use of funds from the account to achieve commissioned
16 new renewable energy plants in Vermont to deliver stably priced electric
17 energy to Vermonters, including whether funds from the account should be
18 made available to persons or entities that are not Vermont retail electricity
19 providers to install such plants for the purpose of serving Vermont electric
20 consumers.

1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on passage except that, in Sec. 1, 30 V.S.A.
3 § 8007(d)(1), (2), (3), (5), and (6) shall take effect on December 31, 2010, and
4 the assessment by a Vermont retail electricity provider of the renewable energy
5 contribution charge under that subsection shall commence with the provider's
6 first monthly billing cycle after December 31, 2010.