

1 H.677

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Energy; public service; conservation and development; natural
6 resources; energy facility siting; application fee

7 Statement of purpose of bill as introduced: This bill proposes to establish an
8 application fee for in-state energy facilities that undergo siting review by the
9 Public Service Board. The fee would support the costs of the Board, the
10 Department of Public Service, and the Agency of Natural Resources in
11 conducting or participating in the review process.

12 An act relating to application fees for energy siting review

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

14 Sec. 1. 30 V.S.A. § 248 is amended to read:

15 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
16 FACILITIES; CERTIFICATE OF PUBLIC GOOD

17 (a)(1) No company, as defined in section 201 of this title, may:

18 (A) in any way purchase electric capacity or energy from outside the
19 State:

1 (i) for a period exceeding five years, that represents more than
2 three percent of its historic peak demand, unless the purchase is from a plant as
3 defined in subdivision 8002(14) of this title that produces electricity from
4 renewable energy as defined under subdivision 8002(17); or

5 (ii) for a period exceeding ten years, that represents more than ten
6 percent of its historic peak demand, if the purchase is from a plant as defined
7 in subdivision 8002(14) of this title that produces electricity from renewable
8 energy as defined under subdivision 8002(17); or

9 (B) invest in an electric generation or transmission facility located
10 outside this ~~state~~ State unless the Public Service Board first finds that the same
11 will promote the general good of the State and issues a certificate to that effect.

12 (2) Except for the replacement of existing facilities with equivalent
13 facilities in the usual course of business, and except for electric generation
14 facilities that are operated solely for on-site electricity consumption by the
15 owner of those facilities:

16 (A) no company, as defined in section 201 of this title, and no person,
17 as defined in 10 V.S.A. § 6001(14), may begin site preparation for or
18 construction of an electric generation facility or electric transmission facility
19 within the ~~state~~ State which is designed for immediate or eventual operation at
20 any voltage; and

1 (B) no such company may exercise the right of eminent domain in
2 connection with site preparation for or construction of any such transmission or
3 generation facility, unless the Public Service Board first finds that the same
4 will promote the general good of the State and issues a certificate to that effect.

5 (3) No company, as defined in section 201 of this title, and no person, as
6 defined in 10 V.S.A. § 6001(14), may in any way begin site preparation for or
7 commence construction of any natural gas facility, except for the replacement
8 of existing facilities with equivalent facilities in the usual course of business,
9 unless the Public Service Board first finds that the same will promote the
10 general good of the State and issues a certificate to that effect pursuant to this
11 section.

12 (A) ~~For the purposes of~~ In this section, the term “natural gas facility”
13 shall mean any natural gas transmission line, storage facility, manufactured-gas
14 facility, or other structure incident to any of the above. ~~For purposes of~~ In this
15 section, a “natural gas transmission line” shall include any feeder main or any
16 pipeline facility constructed to deliver natural gas in Vermont directly from a
17 natural gas pipeline facility that has been certified pursuant to the Natural Gas
18 Act, 15 U.S.C. § 717 et seq.

19 * * *

20 (5) On filing an application under this section, an applicant for an
21 in-state facility shall pay a fee for the purpose of compensating the State of

1 Vermont for the direct and indirect costs incurred with respect to the review of
2 the application and the administration of the State programs involved in this
3 review.

4 (A) The fee shall be \$5.40 for each \$1,000.00 of the first
5 \$15,000,000.00 of construction costs and \$2.50 for each \$1,000.00 of
6 construction costs above \$15,000,000.00. In no event shall the fee exceed
7 \$750,000.00. The Board shall adjust the amounts contained in this subdivision
8 (A) annually commencing in 2015 for inflation since January 1, 2014 using the
9 Consumer Price Index for all urban consumers, designated as "CPI-U," in the
10 northeast region, as published by the U.S. Department of Labor, Bureau of
11 Labor Statistics.

12 (B) Eighty percent of the fee shall be deposited into the special fund
13 described in section 22 of this title and allocated between the Board and the
14 Department of Public Service in accordance with that section. Twenty percent
15 of the fee shall be transferred to the Agency of Natural Resources for
16 allocation in accordance with 3 V.S.A. § 2810.

17 (C) The Board shall not require a fee for an application under this
18 section for a net metering system, a facility that will pay expenses allocated
19 pursuant to subsection 8005a(1) of this title, a facility to be undertaken and
20 owned by an agency of the State or a political subdivision of the State, or a
21 facility to be undertaken and owned by a Vermont retail electricity provider as

1 defined in section 8002 of this title or by a natural gas distribution company
2 subject to jurisdiction under section 203 of this title.

3 (D) Nothing in this subdivision (5) shall affect the authority of the
4 Board, the Department of Public Service, or the Agency of Natural Resources
5 to retain personnel and allocate costs under sections 20 and 21 of this title,
6 except that, if the costs of regular employees are allocated under section 21 of
7 this title to an applicant paying a fee under this subdivision, the allocated
8 amount shall be offset by the portion of the fee available to the allocating
9 agency.

10 * * *

11 Sec. 2. 3 V.S.A. § 2810 is added to read:

12 § 2810. ALLOCATION; ENERGY SITING APPLICATION FEES

13 The Secretary shall allocate fee monies received pursuant to 30 V.S.A.
14 § 248 among the Departments of Environmental Conservation, of Fish and
15 Wildlife, and of Forests, Parks and Recreation in accordance with each
16 department's participation in the review of in-state facilities under that statute.

17 The Secretary shall deposit these fee monies as follows:

18 (1) when allocated to the Department of Environmental Conservation, in
19 the Environmental Permit Fund under section 2805 of this title;

20 (2) when allocated to the Department of Fish and Wildlife, in the Fish
21 and Wildlife Fund under 10 V.S.A. § 4047; and

1 (3) when allocated to the Department of Forests, Parks and Recreation,
2 in the General Fund to be used for support of that Department's participation in
3 proceedings under 30 V.S.A. § 248.

4 Sec. 3. 3 V.S.A. § 2805 is amended to read:

5 § 2805. ENVIRONMENTAL PERMIT FUND

6 (a) There is ~~hereby~~ established a special fund to be known as the
7 Environmental Permit Fund. Within the ~~fund~~ Fund, there shall be two
8 accounts: the Environmental Permit Account and the Air Pollution Control
9 Account. Unless otherwise specified, fees collected in accordance with
10 subsections 2822(i) and (j) of this title, and 10 V.S.A. § 2625 and gifts and
11 appropriations shall be deposited in the Environmental Permit Account. Fees
12 collected in accordance with subsections 2822(j)(1), (k), (l), and (m) of this
13 title shall be deposited in the ~~air-pollution-control account~~ Air Pollution
14 Control Account. The Environmental Permit Fund shall be used to implement
15 the programs specified under section 2822 of this title. The Secretary of
16 Natural Resources shall be responsible for the Fund and shall account for the
17 revenues and expenditures of the Agency ~~of Natural Resources~~. The
18 Environmental Permit Fund shall be subject to the provisions of 32 V.S.A.
19 chapter 7, subchapter 5. The Environmental Permit Fund shall be used to
20 cover a portion of the costs of administering the Environmental Division
21 established under 4 V.S.A. chapter 27. The amount of \$143,000.00 per fiscal

1 year shall be disbursed for this purpose. The Agency shall deposit fees
2 transferred to the Fund under section 2810 of this title in the Environmental
3 Permit Account to be used to support the participation of the Department of
4 Environmental Conservation in proceedings under 30 V.S.A. § 248.

5 * * *

6 Sec. 4. 10 V.S.A. § 4047 is amended to read:

7 § 4047. FISH AND WILDLIFE DEPARTMENT FUNDS

8 (a) The receipts of the Fish and Wildlife Department shall not become a
9 part of the General Fund of the State but shall be used solely for the Fish and
10 Wildlife Department. Interest on the cash balance of Department receipts shall
11 likewise accrue to the Department.

12 * * *

13 (c) Receipts for each fiscal year in excess of the amount appropriated for
14 each fiscal year shall remain in the Fish and Wildlife Fund and be carried
15 forward to the following year. If appropriations exceed receipts, the
16 Commissioner of Finance and Management may anticipate receipts and issue
17 warrants based thereon. With the approval of the Emergency Board, funds not
18 to exceed \$100,000.00 each fiscal year may be appropriated to the Department
19 if needed for any emergency under the jurisdiction of the Board or Department
20 that may occur during any fiscal year.

21 * * *

1 (g) The Department shall use fees transferred to the Fish and Wildlife Fund
2 under 3 V.S.A. § 2810 to support its participation in proceedings under
3 30 V.S.A. § 248.

4 Sec. 5. EFFECTIVE DATE

5 This act shall take effect on July 1, 2014.