CHAPTER 279
HB 542 – FINAL VERSION

20Mar2013... 0634h
06/06/13  1617s
06/06/13  2012s
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26June2013... 2149CofC
26June2013... 2191EBA

2013 SESSION

13-0590
09/10

HOUSE BILL  542

AN ACT relative to the renewable energy fund and regulation of telephone, Voice Over Internet Protocol, and IP-enabled service providers and relative to electric renewable portfolio standards.


COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill:

I. Makes certain changes to renewable energy fund payments and clarifies state regulation of telephone, Voice over Internet Protocol (VoIP), and IP-enabled service providers.

II. Makes adjustments in the purchase percentage requirements and the alternative compliance payment amount and mechanism under the electric renewable portfolio standards law.

III. Establishes a renewable portfolio standards study committee.

Explanation: Matter added to current law appears in **bold italics.**
Matter removed from current law appears [in brackets and struckthrough.]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the renewable energy fund and regulation of telephone, Voice Over Internet Protocol, and IP-enabled service providers and relative to electric renewable portfolio standards.

Be it Enacted by the Senate and House of Representatives in General Court convened:

279:1 Renewable Energy Fund. Amend RSA 362-F:10, I to read as follows:

I. There is hereby established a renewable energy fund. This nonlapsing, special fund shall be continually appropriated to the commission to be expended in accordance with this section. The state treasurer shall invest the moneys deposited therein as provided by law. Income received on investments made by the state treasurer shall also be credited to the fund. All payments to be made under this section shall be deposited in the fund. The moneys paid into the fund under paragraph II of this section, excluding class II moneys, shall be used by the commission to support thermal and electrical renewable energy initiatives. Class II moneys shall [only] primarily be used to support solar energy technologies in New Hampshire. All initiatives supported out of these funds shall be subject to audit by the commission as deemed necessary. All fund moneys including those from class II may be used to administer this chapter, but all new employee positions shall be approved by the fiscal committee of the general court. No new employees shall be hired by the commission due to the inclusion of useful thermal energy in class I production.

279:2 Renewable Energy Fund. Amend RSA 362-F:10, V to read as follows:

V. The public utilities commission shall make and administer a one-time incentive payment of $3 per watt of nominal generation capacity up to a maximum payment of $6,000, or 50 percent of system costs, whichever is less, per facility to any residential owner of a small renewable generation facility, that would qualify as a Class I or Class II source of electricity, has a total peak generation capacity of less than 10 kilowatts or fewer, begins operation on or after July 1, 2008, and is located on or at the owner's residence.

279:3 IP-enabled Service; Definition. Amend RSA 362:7, I(e) to read as follows:

(e) “IP-enabled service” means any service, capability, functionality, or application provided using Internet Protocol, or any successor protocol, that enables a user to send or receive a communication in Internet Protocol format or any successor format, regardless of
technology; provided, however, that no service included within the definition of “Voice over Internet Protocol service” shall be included within this definition.

279:4 Providers of VoIP and IP-enabled Service. Amend RSA 362:7, II to read as follows:

II. Except as set forth in paragraph III, notwithstanding any other provision of law to the contrary, no department, agency, commission, or political subdivision of the state, shall enact, adopt, or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law that regulates or has the effect of regulating the market entry, market exit, transfer of control, rates, terms, or conditions of any VoIP service or IP enabled service or any provider of VoIP service or IP-enabled service. **VoIP services and IP-enabled services are not public utility services and a provider of VoIP service or IP-enabled service is not a public utility under RSA 362:2, or an excepted local exchange carrier under RSA 362:7, I(c) and shall not be regulated as a public utility in any manner other than as set forth in paragraph III.**

279:5 Users; Exceptions. Amend RSA 365:1-a to read as follows:

365:1-a Exceptions. Except for complaints about RSA 371:17 through RSA 371:24, RSA 374:2-a, RSA 374:22-p, I (b), RSA 374:28-a, RSA 374:34-a, RSA 374:48 through RSA 374:56, RSA 374:59, and RSA 387:44 through RSA 387:48, the provisions of this chapter shall not apply to any end user of an excepted local exchange carrier, nor to any service provided to such end user. Such end users may[ howev[er]] make complaints to the commission regarding [the provision of] basic service, as defined by **RSA 374:22-p, I (b)** by excepted local exchange carriers.

279:6 Affordable Telephone Service; Rulemaking. Amend RSA 374:22-p, I(c) to read as follows:

(c) Any combination of basic service along with any other service **or feature** offered by the telecommunications service provider is nonbasic service and shall not be regulated by the commission.

279:7 Minimum Electric Renewable Portfolio Standards. Amend RSA 362-F:3 to read as follows:

362-F:3 Minimum Electric Renewable Portfolio Standards. For each year specified in the table below, each provider of electricity shall obtain and retire certificates sufficient in number and class type to meet or exceed the following percentages of total megawatt-hours of electricity supplied by the provider to its end-use customers that year, except to the extent that the provider makes payments to the renewable energy fund under RSA 362-F:10, II:

<table>
<thead>
<tr>
<th>Class</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2025 and thereafter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I</td>
<td>0.0%</td>
<td>0.5%</td>
<td>1%</td>
<td>2%</td>
<td>3%</td>
<td>2.8%</td>
<td>5%</td>
<td>6%</td>
<td>15% (*)</td>
</tr>
<tr>
<td>Class II</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.04%</td>
<td>0.08%</td>
<td>0.15%</td>
<td>0.2%</td>
<td>0.3%</td>
<td>0.3%</td>
<td>0.3%</td>
</tr>
<tr>
<td>Class III</td>
<td>3.5%</td>
<td>4.5%</td>
<td>5.5%</td>
<td>6.5%</td>
<td>6.5%</td>
<td>1.4%</td>
<td>[6.5%]</td>
<td>1.5%</td>
<td>[7.0%] 3.0%</td>
</tr>
<tr>
<td>Class IV</td>
<td>0.5%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
<td>1.3%</td>
<td>1.4%</td>
<td>1.5%</td>
<td>1.5%</td>
</tr>
</tbody>
</table>

*Class I increases an additional 0.9 percent per year from 2015 through 2025. A set percentage
of the class I totals shall be satisfied annually by the acquisition of renewable energy certificates from qualifying renewable energy technologies producing useful thermal energy as defined in RSA 362-F:2, XV-a. The set percentage shall be [0.2 percent in 2013, 0.4 percent in 2014, 0.6 percent in 2015, 1.3 percent in 2016, and increased annually by 0.1 percent per year from 2015 through 2025] 2017 through 2023, after which it shall remain unchanged. Classes II-IV remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, V-VI.

279:8 Electric Renewable Energy Classes; Class 1 (New). Amend RSA 362-F:4, I(l) to read as follows:

(l) Biomass renewable energy technologies producing useful thermal energy that began operation after January 1, 2013 provided that:

(1) If the unit is a biomass unit rated between 3 and 30 Mmbtu/hr design gross heat input, [and has] it shall have an average particulate emission rate of less than or equal to 0.10 lbs/Mmbtu as measured and verified by conducting and reporting the results of a one-time initial stack test in accordance with methods approved by the department;

(2) If the unit is a biomass unit rated equal to or greater than 30 Mmbtu/hr design gross heat input, [and has] it shall have an average particulate emission rate of less than or equal to 0.02 lbs/Mmbtu as measured and verified under RSA 362-F:12;

(3) If the unit is a biomass unit rated less than 100 Mmbtu/hr design gross heat input, [and it implements] best management practices as determined by the department shall be implemented; and

(4) If the unit is a biomass unit rated equal to or greater than 100 Mmbtu/hr design gross heat input, [and it has] it shall have a quarterly average NOx emission rate of less than or equal to 0.075 Mmbtu/hr as measured and verified under RSA 362-F:12[.] and

(5) If the unit is an upgrade or replacement to an existing source of thermal energy that used biomass as its primary fuel source in its normal operation prior to January 1, 2013, then the unit shall be a combined heat and power unit that provides district heating, and at least 80 percent of the resulting tax basis of the unit’s plant and equipment, but not its property and intangible assets, shall be derived from capital investments directly related to the upgrade or replacement and made on or after January 1, 2013.

279:9 Renewable Energy Fund; Rates. RSA 362-F:10, III is repealed and reenacted to read as follows:

III.(a) Beginning in 2013, the commission shall adjust these rates by January 31 of each year using the Consumer Price Index as published by the Bureau of Labor Statistics of the United States Department of Labor for classes III and IV and 1/2 of such Index for classes I and II.

(b) In lieu of the adjustments under subparagraph (a) for class III in 2015, 2016 and
2017, the class rate in each of those years shall be $45.

(c) By January 31, 2018 the commission shall compute the 2018 class III rate to equal the rate that would have resulted in 2018 by the application of subparagraph (a) to the 2013 rate and each subsequent year’s rate to 2018.

(d) In 2019 and thereafter, the class III rate shall be determined by application of subparagraph (a) to the prior year’s rate.

279:10 Renewable Portfolio Standards Study Committee.

I.(a) There is established a renewable portfolio standards study committee to study:

1. Whether to alter the class III alternative compliance payment rates for 2018 and any subsequent years;
2. Whether to alter the class I, II, and IV alternative compliance payment rate in 2015 and any subsequent years;
3. The impact that alternative compliance payments in New Hampshire and other New England states have upon the production of renewable energy;
4. Methods to protect electric customers from increasing energy prices;
5. The shortfall potential, if any, and reasons for the shortfall potential in the purchase percentage requirements of RSA 362-F:3; and
6. Whether to create a cap and rebate program for the renewable energy fund to protect electric customers from higher electric rates; and

(b) The members of the committee shall be as follows:

1. Two members of the senate who are members of the energy and natural resources committee, appointed by the president of the senate.
2. Three members of the house of representatives who are members of the science, technology and energy committee, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study:

(a) Whether to alter the class III alternative compliance payment rate for 2018 and any subsequent years, and, if so shall propose any such changes or formula for change;
(b) Whether to alter the class I, II, and IV alternative compliance payment rates in 2015 and any subsequent years, and, if so shall propose any such changes or formula for change;
(c) The impact that alternative compliance payments in New Hampshire and other New England states have upon the production of renewable energy;
(d) Methods to protect electric customers from increasing energy prices and impacts of
the renewable portfolio standard on the competitive market for electricity;

(e) The shortfall potential, if any, and reasons for the shortfall potential in the purchase percentage requirements of RSA 362-F:3, and may propose a mechanism to provide a credit or other after the fact adjustment device against potential alternative compliance payments when the purchase percentage requirement has not been met due to eligible facilities selling into another jurisdiction’s renewable portfolio standards market;

(f) Whether to create a cap and rebate program for the renewable energy fund to protect electric customers from higher electric rates;

(g) The impact of renewable portfolio standards in other New England states on New Hampshire;

(h) The impact of any proposed changes to the renewable portfolio standard on pre-existing retail and wholesale supply contracts; and

(i) The need to better coordinate and standardize renewable portfolio standards among the New England states within the ISO-NE.

IV. The committee shall solicit input from any individual or organization with relevant information or expertise.

V. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

VI. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2013.

279:11 Effective Date. This act shall take effect upon its passage.


Effective Date: July 27, 2013