

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.

SPONSORS: Rep. Kaen, Straf 5; Rep. Watrous, Merr 16; Rep. Pastor, Graf 12

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 struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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:

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

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

14 279:2 Renewable Energy Fund. Amend RSA 362-F:10, V to read as follows:

15 V. The public utilities commission shall make and administer a one-time incentive payment
16 of \$3 per watt of nominal generation capacity up to a maximum payment of \$6,000, or 50 percent of
17 system costs, whichever is less, per facility to any residential owner of a small renewable generation
18 facility, that would qualify as a Class I or Class II source of electricity, has a total peak generation
19 capacity of [~~less than 5~~] **10 kilowatts or fewer**, begins operation on or after July 1, 2008, and is
20 located on or at the owner's residence.

21 279:3 IP-enabled Service; Definition. Amend RSA 362:7, I(e) to read as follows:

22 (e) "IP-enabled service" means any service, capability, functionality, or application
23 provided using Internet Protocol, or any successor protocol, that enables [~~an end~~] **a** user to send or
24 receive a communication in Internet Protocol format or any successor format, regardless of

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1 technology; provided, however, that no service included within the definition of “Voice over Internet
2 Protocol service” shall be included within this definition.

3 279:4 Providers of VoIP and IP-enabled Service. Amend RSA 362:7, II to read as follows:

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

14 279:5 Users; Exceptions. Amend RSA 365:1-a to read as follows:

15 365:1-a Exceptions. Except for complaints about RSA 371:17 through RSA 371:24, RSA 374:2-a,
16 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
17 RSA 378:44 through RSA 378:48, the provisions of this chapter shall not apply to any end user of an
18 excepted local exchange carrier, nor to any service provided to such end user. Such end users may[,
19 however,] make complaints to the commission regarding [the provision of] basic service, ***as defined***
20 ***by RSA 374:22-p, I (b)*** by excepted local exchange carriers.

21 279:6 Affordable Telephone Service; Rulemaking. Amend RSA 374:22-p, I(c) to read as follows:

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

25 279:7 Minimum Electric Renewable Portfolio Standards. Amend RSA 362-F:3 to read as follows:

26 362-F:3 Minimum Electric Renewable Portfolio Standards. For each year specified in the table
27 below, each provider of electricity shall obtain and retire certificates sufficient in number and class
28 type to meet or exceed the following percentages of total megawatt-hours of electricity supplied by
29 the provider to its end-use customers that year, except to the extent that the provider makes
30 payments to the renewable energy fund under RSA 362-F:10, II:

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2025</u> <i>and thereafter</i>
31 Class I	0.0%	0.5%	1%	2%	3%	[4%] 3.8%	5%	6%	15% (*)
32 Class II	0.0%	0.0%	0.04%	0.08%	0.15%	0.2%	0.3%	0.3%	0.3%
33 Class III	3.5%	4.5%	5.5%	6.5%	[6.5] 1.4%	[6.5% 1.5%	[7.0% 3.0%	8.0%	8.0%
34 Class IV	0.5%	1%	1%	1%	1%	1.3%	1.4%	1.5%	1.5%

35 *Class I increases an additional 0.9 percent per year from 2015 through 2025. A set percentage
36
37

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1 of the class I totals shall be satisfied annually by the acquisition of renewable energy certificates
2 from qualifying renewable energy technologies producing useful thermal energy as defined in
3 RSA 362-F:2, XV-a. The set percentage shall be [~~0.2 percent in 2013,~~] 0.4 percent in 2014, **0.6**
4 **percent in 2015, 1.3 percent in 2016**, and increased annually by [~~0.2~~] **0.1** percent per year from
5 [~~2015 through 2025~~] **2017 through 2023, after which it shall remain unchanged**. Classes II-IV
6 remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, V-VI.

7 279:8 Electric Renewable Energy Classes; Class 1 (New). Amend RSA 362-F:4, I(l) to read as
8 follows:

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

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

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

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

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

24 (5) **If the unit is an upgrade or replacement to an existing source of thermal**
25 **energy that used biomass as its primary fuel source in its normal operation prior to**
26 **January 1, 2013, then the unit shall be a combined heat and power unit that provides**
27 **district heating, and at least 80 percent of the resulting tax basis of the unit's plant and**
28 **equipment, but not its property and intangible assets, shall be derived from capital**
29 **investments directly related to the upgrade or replacement and made on or after January**
30 **1, 2013.**

31 279:9 Renewable Energy Fund; Rates. RSA 362-F:10, III is repealed and reenacted to read as
32 follows:

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

36 (b) In lieu of the adjustments under subparagraph (a) for class III in 2015, 2016 and

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1 2017, the class rate in each of those years shall be \$45.

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

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

7 279:10 Renewable Portfolio Standards Study Committee.

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

9 (1) Whether to alter the class III alternative compliance payment rates for 2018 and
10 any subsequent years;

11 (2) Whether to alter the class I, II, and IV alternative compliance payment rate in
12 2015 and any subsequent years;

13 (3) The impact that alternative compliance payments in New Hampshire and other
14 New England states have upon the production of renewable energy;

15 (4) Methods to protect electric customers from increasing energy prices;

16 (5) The shortfall potential, if any, and reasons for the shortfall potential in the
17 purchase percentage requirements of RSA 362-F:3; and

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

20 (7) The impact of renewable portfolio standards in other New England states on
21 New Hampshire.

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

23 (1) Two members of the senate who are members of the energy and natural resources
24 committee, appointed by the president of the senate.

25 (2) Three members of the house of representatives who are members of the science,
26 technology and energy committee, appointed by the speaker of the house of representatives.

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

29 III. The committee shall study:

30 (a) Whether to alter the class III alternative compliance payment rate for 2018 and any
31 subsequent years, and, if so shall propose any such changes or formula for change;

32 (b) Whether to alter the class I, II, and IV alternative compliance payment rates in 2015
33 and any subsequent years, and, if so shall propose any such changes or formula for change;

34 (c) The impact that alternative compliance payments in New Hampshire and other
35 New England states have upon the production of renewable energy;

36 (d) Methods to protect electric customers from increasing energy prices and impacts of

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1 the renewable portfolio standard on the competitive market for electricity;

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

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

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

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

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

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

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

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

24 279:11 Effective Date. This act shall take effect upon its passage.

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26 Approved: Enacted in accordance with Article 44, Part II of N.H. Constitution, without signature of
27 the governor, July 27, 2013.

28
29 Effective Date: July 27, 2013