

HB 484-FN-LOCAL – AS INTRODUCED

2013 SESSION

13-0698  
09/04

HOUSE BILL            ***484-FN-LOCAL***

AN ACT                requiring public approval prior to issuance of certain site evaluation certificates.

SPONSORS:            Rep. Kurk, Hills 2; Rep. Rappaport, Coos 1; Sen. Forrester, Dist 2

COMMITTEE:          Science, Technology and Energy

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ANALYSIS

This bill requires public approval prior to issuance of certain site evaluation certificates.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 requiring public approval prior to issuance of certain site evaluation certificates.

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

1 1 New Paragraph; Definitions. Amend RSA 162-H:2 by inserting after paragraph XI the  
2 following new paragraph:

3 XI-a. “Public property” means any land or structure:

4 (a) Owned or otherwise possessed by any government or governmental entity, including  
5 without limitation, buildings, roads, and highways, and forests and parks, and

6 (b) Open to the general public on a regular basis.

7 2 New Paragraph; Definitions. Amend RSA 162-H:2 by inserting after paragraph XII the  
8 following new paragraph:

9 XIII. “Structure” means any man-made object, including without limitation, walls, roads,  
10 bridges, buildings including additions, towers, poles, turbines, and wires, that exceeds 50 feet in  
11 height or is placed more than 50 feet above the ground.

12 3 Prohibitions and Restrictions. Amend RSA 162-H:5, III to read as follows:

13 III. The applications shall be governed by the applicable laws, rules and regulations of the  
14 agencies and shall be subject to the provisions of RSA 162-F or RSA 162-H in effect on the date of  
15 filing, ***or, if required by RSA 162-H:10-a, prior to the date of issuance of the certificate.***  
16 Notwithstanding the foregoing, an applicant may request the site evaluation committee to assume  
17 jurisdiction and in the event that the site evaluation committee agrees to assert jurisdiction, the  
18 facility shall be subject to the provisions of this chapter.

19 4 New Subparagraph; Application for Certificate. Amend RSA 162-H:7, V by inserting after  
20 subparagraph (g) the following new subparagraph:

21 (h) Document in reasonable detail whether any part of any structure of the proposed  
22 facility is visible without amplification to the human eye at any season of the year from any public  
23 property.

24 5 New Paragraph; Public Hearing. Amend RSA 162-H:10 by inserting after paragraph VI the  
25 following new paragraph:

26 VII. At any public hearing on the proposed project, the site evaluation committee shall  
27 accept petitions asserting that a particular part of a particular structure of the proposed facility is  
28 visible without amplification to the human eye at all times or at a particular time from a particular  
29 public property or properties in a named city or town. Each petition shall be signed by 25 or more  
30 individuals who reside in such city or town, as certified by the city or town clerk.

31 6 New Section; Public Approval. Amend RSA 162-H by inserting after section 10 the following

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1 new section:

2 162-H:10-a Public Approval.

3 I. The site evaluation committee shall determine whether any part of any structure of any  
4 proposed project is visible without amplification to the human eye from public property in a  
5 particular city or town. Its determination shall be based on information provided in the application  
6 and any change in or amendment thereto, any petition filed under RSA 162-H:7, VII, at any public  
7 hearing, and in any other balanced way deemed appropriate by the committee.

8 II. For each city and town in which the committee finds in the affirmative and for which a  
9 petition under RSA 162-H:10, VII was submitted, a vote shall be taken in such city or town at the  
10 next regular meeting of its legislative body. The question before the voters shall be as follows: “Are  
11 you in favor of the state approving the energy facility project proposed by \_\_\_\_\_ for the  
12 city/town of \_\_\_\_\_, specifically a [insert “power plant,” “windmill farm,” etc.] off  
13 \_\_\_\_\_ road?”

14 III. The town or city clerk shall certify to the site evaluation committee the result of the vote  
15 in his or her community, and the committee shall total the votes for all participating communities  
16 taken together.

17 IV. No proposed project shall be granted a certificate where the total of the negative votes of  
18 all participating cities and towns taken together exceeds the total of the positive votes; provided,  
19 however, that such a certificate may be granted if subject to the condition that no part of any  
20 structure of the proposed facility is visible without amplification to the human eye at any time or  
21 season from any public property.

22 7 Findings and Certificate Issuance. Amend RSA 162-H:16, IV(c) to read as follows:

23 (c) Will not have an unreasonable adverse effect on aesthetics, ***including visual***  
24 ***impact in each city and town from which any part of a project structure may be seen***  
25 ***without amplification by the human eye at any time or season from any public property,***  
26 historic sites, air and water quality, the natural environment, and public health and safety.

27 8 Applicability. This act shall apply to all applications pending before the site evaluation  
28 committee on the effective date of this act.

29 9 Effective Date. This act shall take effect upon its passage.

**HB 484 FISCAL NOTE**

AN ACT                    requiring public approval prior to issuance of certain site evaluation certificates.

**FISCAL IMPACT:**

The New Hampshire Municipal Association states this bill, **as introduced**, will have no fiscal impact on state, county, or local revenue and expenditures in FY 2014 and each year thereafter.

**METHODOLOGY:**

The New Hampshire Municipal Association (NHMA) states this bill would require a site evaluation committee to determine whether a proposed project would be visible from public property. If the committee determines the project would be visible from public property, a vote would be taken at the next regular meeting of the city or town's legislative body as to whether it favors the state's approval of the project. NHMA states it is unlikely this bill will require additional expenditures by cities or towns because any action required would be taken by the legislative body at its next regularly scheduled meeting.