

SB 200-FN-A – AS INTRODUCED

2014 SESSION

14-2592
06/04

SENATE BILL ***200-FN-A***

AN ACT relative to energy infrastructure development.

SPONSORS: Sen. Bradley, Dist 3; Sen. Forrester, Dist 2; Sen. Woodburn, Dist 1; Sen. Rausch, Dist 19; Sen. Fuller Clark, Dist 21; Rep. Suzanne Smith, Graf 8; Rep. Ladd, Graf 4; Rep. Vadney, Belk 2; Rep. Ford, Graf 3; Rep. G. Chandler, Carr 1

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill:

I. Requires the department of transportation to designate corridors on state-owned rights-of-way for the burial of transmission facilities.

II. Requires the site evaluation committee to develop a process for evaluating infrastructure proposals for the use of designated corridors.

III. Requires the department of transportation to negotiate lease agreements for the use of designated corridors.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to energy infrastructure development.

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

1 1 New Chapter; Energy Infrastructure Corridors. Amend RSA by inserting after chapter 162-Q
2 the following new chapter:

3 CHAPTER 162-R

4 ENERGY INFRASTRUCTURE CORRIDORS

5 162-R:1 Findings. The general court finds that it is in the public interest to protect
6 New Hampshire's natural resources, property values, and aesthetic resources. The burial of electric
7 transmission facilities is in the public interest and should be facilitated by state policies. Burial of
8 transmission facilities along designated corridors will also facilitate permitting by avoiding
9 contentious and protracted litigation.

10 162-R:2 Definitions. In this chapter:

11 I. "Commission" means the public utilities commission.

12 II. "Committee" means the site evaluation committee established under RSA 162-R:3.

13 III. "Department" means the department of transportation.

14 IV. "Designated corridor" means a geographic area within the state designated by the
15 department for the purposes of siting energy infrastructure.

16 V. "Energy infrastructure" includes electric transmission and distribution facilities, natural
17 gas transmission lines, carbon dioxide pipelines, and other energy transport pipelines or conduits.
18 "Energy infrastructure" shall not include:

19 (a) Energy generation facilities.

20 (b) Electric transmission and distribution facilities or energy transport pipelines that
21 cross an energy infrastructure corridor or are within an energy infrastructure corridor for a distance
22 of less than 5 miles.

23 VI. "Potential developer" means a person that can demonstrate to the committee the
24 financial and technical capability to engage in the development and construction of energy
25 infrastructure.

26 VII. "Project" means the development or construction of energy infrastructure within an
27 energy infrastructure corridor.

28 VIII. "State-owned" means owned by the state or by a state agency or state authority.

29 162-R:3 Designation of Corridors.

30 I. The department shall consult with the commission on the best routes for the corridors and
31 shall, with the approval of the governor and council, designate at least one north-south corridor and

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one east-west corridor on state-owned or state controlled rights-of-way or easements for the burial of electric transmission facilities, and seek to designate multiple corridors.

II. The department may include municipally owned rights-of-way in a designated corridor subject to the approval of the governing body of the municipality. Any municipality whose right-of-way is utilized as a corridor may negotiate with the applicant for a fair market lease. The municipality shall retain any funds generated by a municipally-owned right-of-way.

162-R:4 Use of Designated Corridors.

I. All new electric transmission facilities and all upgrades to an existing electric transmission facility that are not designated by ISO-New England as necessary for system reliability shall use designated corridors and shall be buried.

II. The committee shall approve above-ground facilities only when it determines that no feasible alternative exists.

162-R:5 Site Evaluation Committee; Duties.

I. The committee shall establish and implement a regular process for soliciting, accepting, and evaluating energy infrastructure proposals for use of a designated corridor. As part of this process, the committee shall provide public notice of the availability of the designated corridor for energy infrastructure development, a description of the type of development anticipated in the designated corridor, and the opportunity for potential developers to submit proposals for use of the designated corridor.

II. The committee shall consider any proposal for the use of a designated transmission corridor that is to be paid for with the developer's capital and shall give preference to collocation projects. The committee may require competitive bidding as necessary.

III. The committee shall evaluate and render decisions on energy infrastructure proposals for use of a designated corridor in accordance with RSA 162-R:6.

162-R:6 Energy Infrastructure Proposal; Decision Criteria. The committee may approve an energy infrastructure proposal only if the proposal:

I. Materially enhances or does not harm transmission opportunities for energy generation within the state.

II. Is in the long-term public interest of the state in that it would:

(a) Protect property values in the designated transmission corridors;

(b) Minimize the visual impact of proposed facilities;

(c) Promote responsible use of the environment;

(d) Promote energy infrastructure development; and

(e) Be consistent with the New Hampshire energy policy established in RSA 378:37.

162-R:7 Lease Agreements.

I. The department shall propose a lease agreement for the use of a designated corridor. The lease shall be reviewed by an independent neutral appraiser who meets the qualifications of

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1 paragraph III. Both the department and the potential developer shall agree to the appraiser. The
2 appraiser shall ascertain a fair market rate for the lease of the corridor.

3 II. Any lease agreement for the use of a designated corridor shall be subject to the approval
4 of the governor and council.

5 III. The department shall contract for the services of a professional appraiser or appraisers
6 to assist the panel in its duties. The professional appraiser contracted under this paragraph shall:

7 (a) Have demonstrated experience in the valuation and evaluation of utility corridors or
8 transportation corridors.

9 (b) Hold a professional designation from a nationally recognized organization of
10 appraisers.

11 (c) Be licensed by this state as a certified general real property appraiser in accordance
12 with RSA 310-B or hold a comparable license from another state.

13 The cost of the services of a professional appraiser who provides services in accordance with this
14 paragraph shall be paid by potential developers submitting proposals for use of the corridor under
15 this subsection in proportion to the amount of time spent by the appraiser on each potential
16 developer's proposal.

17 IV. Compensation to the state may be in the form of payments made on an annual basis or
18 the functional or financial equivalent, discounted prices for energy products or services, partial
19 ownership by the state of the energy infrastructure on the basis of the value of the statutory corridor
20 in proportion to the energy infrastructure as a whole, or other appropriate form. The terms of
21 compensation may include provisions for periodic adjustment of the compensation to the state over
22 time and reimbursement of costs to any state agency or authority that owns or controls land or
23 assets within the designated corridor.

24 V. Negotiation of compensation to the state shall be based on at least one independent
25 appraisal performed by a professional appraiser in accordance with paragraph III. Such
26 independent appraisal shall, at a minimum, consider the costs that will be avoided by the potential
27 developer, including but not limited to the costs of acquisition, lease or rental of private land, the
28 costs of property taxes on private land, the costs of surveying, appraisal, environmental, engineering,
29 and other work necessary for use of private land, the costs of time and potential conflict regarding
30 the use of private land, the unique and limited nature of the state-owned land or asset, and the
31 revenues estimated to be generated by the use of the state-owned land or asset.

32 162-R:8 Revenues. Revenues generated from the use of state-owned land and assets within
33 energy infrastructure corridors shall be deposited in the highway and bridge betterment account
34 established under RSA 235:23-a.

35 162-R:9 Exempted Projects. ISO-New England reliability upgrades, distribution lines, and
36 above-ground transmission facilities 50 feet in height or lower shall be exempt from the
37 requirements of this chapter.

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1 162-R:10 Applicability. The provisions of this chapter shall apply to any application for an
2 energy facility received as of September 1, 2013.

3 162-R:11 Rulemaking. The department shall adopt rules, pursuant to RSA 541-A, relative to:

4 I. The designation of corridors for siting energy infrastructure pursuant to RSA 162-R:3.

5 II. The decision criteria for approving energy infrastructure proposals pursuant to RSA 162-
6 R:6.

7 III. Lease agreements pursuant to RSA 162-R:7.

8 2 Effective Date. This act shall take effect 60 days after its passage.

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SB 200-FN-A - FISCAL NOTE

AN ACT relative to energy infrastructure development.

FISCAL IMPACT:

The Department of Transportation states this bill, as introduced, may increase state revenue and expenditures, and local revenues by an indeterminable amount in FY 2014 and each year thereafter. There will be no impact on county revenues and expenditures or local expenditures.

METHODOLOGY:

The Department of Transportation states this bill requires it to designate corridors on state-owned rights-of-way for the burial of transmission facilities and to negotiate lease agreements for their usage. The Department states energy infrastructure corridors have not been designated and is unable estimate this bill's impact on state expenditures, or on state or local revenues as this bill does permit municipalities to negotiate a lease if a municipal owned right-of-way it utilized as a corridor.