

**CHAPTER 219**  
**HB 614-FN – FINAL VERSION**

12Mar2015... 0452h  
05/21/2015 1736s  
05/21/2015 1855s  
24June2015... 2186CofC

2015 SESSION

15-0674  
09/10

HOUSE BILL            ***614-FN***

AN ACT                implementing goals of the state 10-year energy strategy, modifying uses of the site evaluation committee fund, establishing fees for energy facility evaluation, and relative to public information sessions on proposed energy siting.

SPONSORS:            Rep. Danielson, Hills 7; Rep. Murotake, Hills 32

COMMITTEE:          Science, Technology and Energy

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AMENDED ANALYSIS

      This bill implements goals of the state 10-year energy strategy prepared by the office of energy and planning. This bill modifies authorized uses of the site evaluation fund and establishes fees for energy facility evaluation.

      This bill also modifies requirements for public information sessions on proposed energy facilities.

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                              Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                    implementing goals of the state 10-year energy strategy, modifying uses of the site evaluation committee fund, establishing fees for energy facility evaluation, and relative to public information sessions on proposed energy siting.

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

1            219:1 State 10-Year Energy Strategy; Implementation of Goals. Consistent with the goals  
2 outlined in the state 10-year energy strategy prepared by the office of energy and planning in  
3 accordance with RSA 4-E:1, the public utilities commission and the office of energy and planning  
4 shall implement the following:

5            I. The public utilities commission shall open a docket on electric grid modernization on or  
6 before August 1, 2015.

7            II. The office of energy and planning, with input from the departments of transportation,  
8 environmental services, and resources and economic development shall develop and submit to the  
9 speaker of the house of representatives and the senate president a report on the status of and the  
10 preferred strategy to prioritize further development of public charging corridors, including Interstate  
11 93, Interstate 89, and Interstate 95. The report shall be submitted on or before December 31, 2015.

12            III. The public utilities commission shall establish an "electricity peak time reduction goal"  
13 on or before July 1, 2016.

14            219:2 Repeal. RSA 162-H:3, VIII, relative to compensation of public members of the site  
15 evaluation committee, is repealed.

16            219:3 Energy Facility Evaluation, Siting, Construction and Operation; Administrator and Other  
17 Committee Support. Amend RSA 162-H:3-a to read as follows:

18            162-H:3-a Administrator and Other Committee Support. There is hereby established within the  
19 site evaluation committee the position of administrator who shall be an unclassified state employee.  
20 In the alternative, the position may be filled by an independent contractor. The administrator shall  
21 be hired by and under the supervision of the chairperson. The administrator, or chairperson in the  
22 absence of an administrator, with committee approval, may engage additional technical, legal, or  
23 administrative support to fulfill the functions of the committee as necessary. Any person to be hired  
24 by the administrator shall be approved by the chairperson. ~~[All costs incurred under this section~~  
25 ~~shall be paid from the site evaluation committee fund established in RSA 162-H:21.]~~

26            219:4 New Paragraph; Definitions. Amend RSA 162-H:2 by inserting after paragraph VII the

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1 following new paragraph:

2 VII-a. "Energy facility proceeding time and expenses" means time spent in hearings,  
3 meetings, preparation, and travel related to any application or other proceeding before the  
4 committee concerning an energy facility, either existing or proposed, and related reasonable out-of-  
5 pocket expenses.

6 219:5 New Section; Site Evaluation Committee; Compensation and Reimbursement. Amend  
7 RSA 162-H by inserting after section 21 the following new section:

8 162-H:22 Compensation and Reimbursement.

9 I. The public members of the committee shall be compensated for all time spent on  
10 committee business, including compensation and reimbursement for energy facility proceeding time  
11 and expenses. Compensation shall be provided on a pro rata basis, based upon the daily salary rate  
12 of an unclassified position at the initial step in grade FF under RSA 94:1-a, I(a).

13 II. State agencies represented on the committee shall be reimbursed for energy facility  
14 proceeding time and expenses incurred by their respective members or designees, except that time  
15 spent for the first 3 full days of their participation with respect to any application or other  
16 proceeding concerning an energy facility shall not be subject to reimbursement. The rate of  
17 reimbursement to each respective agency shall be based on a pro rata share of the employee's salary,  
18 benefits, and related costs.

19 III. The department of justice shall be reimbursed in the same manner as described in  
20 paragraph II for energy facility proceeding time and expenses that are incurred by the counsel for  
21 the public.

22 IV. All persons or agencies seeking compensation or reimbursement under this section shall  
23 keep detailed time and expense records which shall be submitted to the chairperson or administrator  
24 and used to determine the amount of compensation or reimbursement. The chairperson or  
25 administrator shall develop a recordkeeping system and accounting and payment procedures.

26 V. Funding for all compensation and reimbursement under this section shall be as provided  
27 in RSA 162-H:21.

28 219:6 New Paragraph; Energy Facility Evaluation; Enforcement. Amend RSA 162-H:12 by  
29 inserting after paragraph IV the following new paragraph:

30 V. The full amount of costs and expenses incurred by the committee in connection with any  
31 enforcement action against a person holding a certificate, including any action under this section and  
32 any action under RSA 162-H:19, in which the person is determined to have violated any provision of  
33 this chapter, any rule adopted by the committee, or any of the terms and conditions of the issued  
34 certificate, shall be assessed to the person and shall be paid by the person to the committee. Any  
35 amounts paid by a person to the committee pursuant to this paragraph shall be deposited in the site  
36 evaluation committee fund established in RSA 162-H:21.

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1           219:7 Fund Established; Funding Plan. RSA 162-H:21 is repealed and reenacted to read as  
2 follows:

3           162-H:21 Fund Established; Funding Plan.

4           I. There is hereby established in the office of the state treasurer a nonlapsing, special fund  
5 to be known as the site evaluation committee fund. All application fees and other filing fees received  
6 by the committee under 162-H:8-a shall be deposited in the fund. All moneys in the fund shall be  
7 continually appropriated to the site evaluation committee and shall only be used, except as provided  
8 in paragraph III, to pay for compensation and reimbursements made under RSA 162-H:22 for energy  
9 facility proceeding time and expenses.

10           II. All other operating costs of the committee, including, but not limited to, administrator  
11 and other committee support costs under RSA 162-H:3-a and public member compensation and  
12 reimbursements that are not paid from the site evaluation committee fund pursuant to paragraph I,  
13 except those costs paid by applicants under RSA 162-H:10, shall be funded through appropriations  
14 from the general fund.

15           III. In the fiscal biennium ending June 30, 2019, if the funds available to the committee to  
16 pay the operating costs specified in paragraph I or II are insufficient to permit the committee to pay  
17 all such operating costs, then upon request of the committee and approval of the fiscal committee of  
18 the general court, the shortfall shall be funded through a transfer from the renewable energy fund  
19 established in RSA 362-F:10 to the site evaluation committee fund in an amount not to exceed  
20 \$480,000. Any amount transferred but not expended for such shortfall during the 2018-2019  
21 biennium shall lapse back to the renewable energy fund at the end of the biennium.

22           219:8 New Section; Application and Filing Fees. Amend RSA 162-H by inserting after section 8  
23 the following new section:

24           162-H:8-a Application and Filing Fees.

25           I. Except as provided in paragraph IV, a person filing with the committee an application for  
26 a certificate for an energy facility, a petition for jurisdiction, a request for exemption, or any other  
27 petition or request for the committee to take action, shall pay to the committee at the time of filing a  
28 fee determined in accordance with the fee schedule described in paragraph II. If an application for a  
29 certificate for an energy facility is deemed incomplete pursuant to RSA 162-H:7, VI, and a new  
30 application is submitted thereunder, the unearned portion of the initial application fee shall be  
31 refunded to the applicant or credited to the filing of the new application. The committee may in its  
32 discretion provide for a credit or refund in other circumstances that are unforeseen by the applicant.

33           II. The fees under paragraph I shall be determined in accordance with a fee schedule posted  
34 by the committee on its website, which shall include the following amounts, subject to subsequent  
35 modification under paragraph III:

36           (a) Application fee for electric generation facilities: \$50,000 base charge, plus:

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1                   (1) \$1,000 per megawatt for the first 40 megawatts, and \$1,500 per megawatt for  
2 each megawatt in excess of 40 megawatts, for any wind energy system.

3                   (2) \$100 per megawatt, for any natural gas or biomass fueled facility.

4                   (3) \$150 per megawatt, for any coal or oil fueled facility.

5                   (4) \$200 per megawatt, for any nuclear generation facility.

6                   (b) Application fee for transmission facilities: \$50,000 base charge, plus:

7                   (1) \$3,000 per mile, for any electric transmission facility.

8                   (2) \$1,500 per mile, for any natural gas pipeline.

9                   (c) Application fee for other energy facilities: \$50,000 fee.

10                  (d) Filing fees for administrative proceedings:

11                  (1) Petition for committee jurisdiction: \$10,500.

12                  (2) Petition for declaratory ruling: \$10,500, or \$3,000 if heard by a 3-member  
13 subcommittee.

14                  (3) Certificate transfer of ownership: \$10,500, or \$3,000 if heard by a 3-member  
15 subcommittee.

16                  (4) Request for exemption: \$10,500, or \$3,000 if heard by a 3-member subcommittee.

17                  (5) Request to modify a certificate: \$10,500, or \$3,000 if heard by a 3-member  
18 subcommittee.

19                  III. The committee shall review and evaluate the application fees and filing fees in the fee  
20 schedule in paragraph II at least once each year. The committee may increase or decrease any  
21 amount in the fee schedule by up to 20 percent with prior approval of the fiscal committee of the  
22 general court, provided that any such increase or decrease shall occur not more frequently than once  
23 during any 12-month period. Modifications to the fee schedule shall be posted on the committee  
24 website, with a link prominently displayed on the home page.

25                  IV. Notwithstanding paragraph I, a petition for committee jurisdiction filed by a petitioner  
26 as defined in RSA 162-H:2, XI(a), (b), or (c) for a certificate for an energy facility shall not be subject  
27 to a filing fee. If the committee determines that it has jurisdiction over a proposed energy facility  
28 subject to any such petition, then the owner of the proposed energy facility shall be required to pay to  
29 the committee the petition for jurisdiction fee, in addition to the application fee determined in  
30 accordance with paragraph II for the type and size of the proposed energy facility.

31                  219:9 Subcommittees. Amend RSA 162-H:4-a, I to read as follows:

32                  I. The chairperson may establish subcommittees to consider and make decisions on  
33 applications, including the issuance of certificates, or to exercise any other authority or perform any  
34 other duty of the committee under this chapter, except that no subcommittee may approve the  
35 budgetary requirements of the committee, ~~or~~ **approve** any support staff positions ~~paid for through~~  
36 ~~the site evaluation committee fund, propose the funding plan under RSA 162-H:21], or adopt initial~~

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1 or final rulemaking proposals. For purposes of statutory interpretation and executing the regulatory  
2 functions of this chapter, the subcommittee shall assume the role of and be considered the  
3 committee, with all of its associated powers and duties in order to execute the charge given it by the  
4 chairperson.

5 219:10 Funding; Transfers. The remainder of the \$500,000 referred to in RSA 162-H:21, II, as  
6 enacted by 2014, 217:23, and prior to amendment by section 7 of this act, that was not transferred  
7 from the renewable energy fund to the site evaluation committee fund during fiscal year 2015 is  
8 hereby transferred. This newly transferred money plus the money that was transferred during fiscal  
9 year 2015 but not expended by the site evaluation committee may be budgeted and expended by the  
10 committee for any operating cost of the committee, notwithstanding the allowed uses of the fund in  
11 RSA 162-H:21, I.

12 219:11 Energy Facility Siting; Public Hearings. Amend RSA 162-H:10, I through II to read as  
13 follows:

14 I. At least 30 days prior to filing an application for a certificate, an applicant shall hold at  
15 least one public information session in each county where the proposed facility is to be located and  
16 shall, at a minimum, publish a public notice not less than 14 days before such session in one or more  
17 newspapers having a regular circulation in the county in which the session is to be held, describing  
18 the nature and location of the proposed facility. At such session, the applicant shall present  
19 information regarding the project and ~~[receive]~~ **provide an opportunity for comments and**  
20 **questions** from the public **to be addressed by the applicant**. Not less than 10 days before such  
21 session, the applicant shall provide a copy of the public notice to the chairperson of the committee.  
22 The applicant shall arrange for a transcript of such session to be prepared and shall include the  
23 transcript in its application for a certificate.

24 I-a. Within 45 days after acceptance of an application for a certificate, pursuant to RSA 162-  
25 H:7, the applicant shall hold at least one public information session **as described in paragraph I**  
26 in each county in which the proposed facility is to be located and shall, at a minimum, publish a  
27 public notice not less than 14 days before said session in one or more newspapers having a regular  
28 circulation in the county in which the session is to be held, describing the nature and location of the  
29 proposed facility. Not less than 10 days before such session, the applicant shall provide a copy of the  
30 public notice to the presiding officer of the committee. The administrator, or a designee of the  
31 presiding officer of the committee, shall act as presiding officer of the information session. The  
32 session shall be for public information on the proposed facility with the applicant presenting the  
33 information to the public. The presiding officer shall also explain to the public the process the  
34 committee will use to review the application for the proposed facility.

35 I-b. Upon request of the governing body of a municipality or unincorporated place in which  
36 the proposed facility is to be located, or on the committee's own motion, the committee may order the

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1 applicant to provide such additional *public* information sessions *as described in paragraph I* as  
2 are reasonable to inform the public of the proposed project.

3 I-c. Within 90 days after acceptance of an application for a certificate, pursuant to RSA 162-  
4 H:7, the site evaluation committee shall hold at least one public hearing in each county in which the  
5 proposed facility is to be located and shall publish a public notice not less than 14 days before such  
6 session in one or more newspapers having a regular circulation in the county in which the hearing is  
7 to be held, describing the nature and location of the proposed facilities. The public hearings shall be  
8 joint hearings, with representatives of the agencies that have permitting or other regulatory  
9 authority over the subject matter and shall be deemed to satisfy all initial requirements for public  
10 hearings under statutes requiring permits relative to environmental impact. Notwithstanding any  
11 other provision of law, the hearing shall be a joint hearing with the other state agencies and shall be  
12 in lieu of all hearings otherwise required by any of the other state agencies; provided, however, if any  
13 of such other state agencies does not otherwise have authority to conduct hearings, it may not join in  
14 the hearing under this chapter; provided further, however, the ability or inability of any of the other  
15 state agencies to join shall not affect the composition of the committee under RSA 162-H:3 nor the  
16 ability of any member of the committee to act in accordance with this chapter.

17 II. Subsequent *public* hearings shall be in the nature of adjudicative proceedings under  
18 RSA 541-A and ~~may~~ *shall* be held in the county or one of the counties in which the proposed  
19 facility is to be located or in Concord, New Hampshire, as determined by the site evaluation  
20 committee. The committee shall give adequate public notice of the time and place of each  
21 subsequent hearing.

22 219:12 Effective Date. This act shall take effect upon its passage.

23  
24 Approved: July 8, 2015

25 Effective Date: July 8, 2015