

CHAPTER 233  
HB 281-FN - FINAL VERSION

05/18/2023 1879s  
29Jun2023... 2226CofC  
29Jun2023... 2250EBA

2023 SESSION

23-0172  
10/05

HOUSE BILL **281**

AN ACT relative to least cost integrated resource plans of utilities; municipal hosts for purposes of limited electrical energy producers; the cost of compliance with disclosure of electric renewable portfolio standards; repealing the energy efficiency and sustainable energy board; and procedures for energy facility siting by the site evaluation committee.

SPONSORS: Rep. Plett, Hills. 29; Rep. Notter, Hills. 12; Rep. Harrington, Straf. 18

COMMITTEE: Science, Technology and Energy

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AMENDED ANALYSIS

This bill:

I. Repeals the requirement for electric and natural gas utilities to submit least cost integrated resource plans with the public utilities commission and have the commission evaluate the plans and maintain them on file.

II. Removes the requirement that a municipal host under the limited electrical energy producers act be located in the same municipality as all group members.

III. Requires the department of energy to provide an estimated annual cost of compliance with electric renewable portfolio standards in customer's electric bills.

IV. Repeals the establishment of the energy efficiency and sustainable energy board and transfers some of the board's responsibilities to the department of energy.

V. Makes various changes to the energy facility site evaluation committee and permitting process.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to least cost integrated resource plans of utilities; municipal hosts for purposes of limited electrical energy producers; the cost of compliance with disclosure of electric renewable portfolio standards; repealing the energy efficiency and sustainable energy board; and procedures for energy facility siting by the site evaluation committee.

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

1 233:1 Repeal; Public Utilities Commission; Integrated Least Cost Resource Plans. RSA 378:38  
2 through RSA 378:40, relative to plans and compliance procedures for filing least cost integrated resource  
3 plans with the public utilities commission, are repealed.

4 233:2 Limited Electrical Energy Producers Act; Definitions. Amend RSA 362-A:1-a, II-c to read as  
5 follows:

6 II-c. "Municipal host" means a customer generator with a total peak generating capacity of  
7 greater than one megawatt and less than 5 megawatts used to offset the electricity requirements of a  
8 group consisting exclusively of one or more customers who are political subdivisions, provided that all  
9 customers are located within the same utility franchise service territory. ~~[A municipal host shall be located~~  
10 ~~in the same municipality as all group members if the facility began operation after January 1, 2021.]~~ A  
11 municipal host may be owned by either a public or private entity. For this definition, "political subdivision"  
12 means the state of New Hampshire or any city, town, county, school district, chartered public school,  
13 village district, school administrative unit, or any district or entity created for a special purpose  
14 administered or funded by any of the above-named governmental units.

15 233:3 Public Utilities Commission; Disclosure of Cost of Compliance. Amend RSA 378:49, II(c) to  
16 read as follows:

17 (c) Provide such information to electric customers at least annually in conjunction with billing,  
18 whether distributed through the mail or online, or other mailed or online communication to customers, as  
19 approved by the ~~[commission]~~ **department**, including the ~~[commission's]~~ **department's** estimated cost on a  
20 per kilowatt-hour basis **and estimated annual cost for the average residential ratepayer** for compliance  
21 with the electric renewable portfolio standard under RSA 362-F for the prior compliance year. The  
22 estimated cost for the compliance year shall be calculated once per year and provided in the customer's  
23 December bill, whether distributed through the mail or online. Each customer's bill shall identify the cost  
24 as an estimate and provide a link to information about the electric renewable portfolio standard, including  
25 its benefits, at the ~~[public utilities commission's]~~ **department's** website. **Utilities shall also be required to**  
26 **include an annual estimated cost to be calculated by multiplying the average per kilowatt hour cost of the**  
27 **electric renewable portfolio standard under RSA 362-F for the prior compliance year by the average**  
28 **residential monthly consumption of 625 kilowatt hours.** The costs for a utility to provide this information

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1 shall be recovered from electric customers through the distribution rates of the respective electric  
2 distribution utility.

3 233:4 New Paragraphs; Department of Energy; Establishment; Purpose. Amend RSA 12-P:2 by  
4 inserting after paragraph IV the following new paragraphs:

5 V. The department shall develop strategies, concepts, and tools to enhance outreach and  
6 education programs to increase knowledge and awareness about energy efficiency and sustainable  
7 energy among New Hampshire residents and businesses.

8 VI. The department shall expand upon the state government's efficiency programs to ensure that  
9 the state is providing leadership on energy efficiency and sustainable energy including reduction of its  
10 energy use and fuel costs.

11 233:5 Restructuring Policy Principles. Amend RSA 374-F:3, VI-a(b) to read as follows:

12 (b) Up to \$400,000 of system benefits charge funds collected annually shall be used to  
13 promulgate the benefits of energy efficiency according to guidelines developed as specified in RSA [125-  
14 O:5-a, (c)] ~~12-P:2~~, *V* as determined by the department of energy.

15 233:6 Repeal. RSA 125-O:5-a, relative to energy efficiency and sustainable energy board, is  
16 repealed.

17 233:7 Definitions. Amend RSA 162-H:2 to read as follows:

18 162-H:2 Definitions.

19 I. "Acceptance" means a determination by the committee that it finds that the application is  
20 complete and ready for consideration.

21 I-a. "Administrator" means the administrator of the committee established by this chapter.

22 I-b. "Affected municipality" means any municipality or unincorporated place in which any part of  
23 an energy facility is proposed to be located and any municipality or unincorporated place from which any  
24 part of the proposed energy facility will be visible or audible.

25 II. ~~[[Repealed.]]~~

26 ~~II-a.]~~ "Certificate" or "certificate of site and facility" means the document issued by the committee,  
27 containing such terms and conditions as the committee deems appropriate, that authorizes the applicant  
28 to proceed with the proposed site and facility.

29 III. "Commencement of construction" means any clearing of the land, excavation or other  
30 substantial action that would adversely affect the natural environment of the site of the proposed facility,  
31 but does not include land surveying, optioning or acquiring land or rights in land, changes desirable for  
32 temporary use of the land for public recreational uses, or necessary borings to determine foundation  
33 conditions, or other preconstruction monitoring to establish background information related to the  
34 suitability of the site or to the protection of environmental use and values.

35 ~~[IV. [Repealed.]]~~

36 ~~[V.]~~ IV. "Committee" means the site evaluation committee established by this chapter.

37 V. ***"Department" means the department of energy.***

38 VI. "Energy" means power, including mechanical power, useful heat, or electricity derived from  
39 any resource, including, but not limited to, oil, coal, and gas.

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1 VII. "Energy facility" means:

2 (a) Any industrial structure that may be used substantially to extract, produce, manufacture,  
3 transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting,  
4 storing or otherwise providing for the raw materials or products of any such industrial structure. This shall  
5 include, but not be limited to industrial structures such as oil refineries, gas plants, equipment and  
6 associated facilities designed to use any, or a combination of, natural gas, propane gas and liquefied  
7 natural gas, which store on site a quantity to provide 7 days of continuous operation at a rate equivalent to  
8 the energy requirements of a 30 megawatt electric generating station and its associated facilities, plants  
9 for coal conversion, onshore and offshore loading and unloading facilities for energy sources and energy  
10 transmission pipelines that are not considered part of a local distribution network.

11 (b) Electric generating station equipment and associated facilities designed for, or capable of,  
12 operation at any capacity of 30 megawatts or more.

13 (c) An electric transmission line of design rating of 100 kilovolts or more, associated with a  
14 generating facility under subparagraph (b), over a route not already occupied by a transmission line or  
15 lines.

16 (d) An electric transmission line of a design rating in excess of 100 kilovolts that is in excess  
17 of 10 miles in length, over a route not already occupied by a transmission line.

18 (e) A new electric transmission line of design rating in excess of 200 kilovolts.

19 (f) A renewable energy facility.

20 (g) An electrical storage facility with a peak storage capacity of 30 megawatt-hours or  
21 greater.

22 (h) Any other facility and associated equipment that the committee determines requires a  
23 certificate, consistent with the findings and purposes of RSA 162-H:1, either on its own motion or by  
24 petition of the applicant or 2 or more petitioners as defined in RSA 162-H:2, XI.

25 ~~[VII-a.] VIII.~~ "Energy facility proceeding time and expenses" means time spent in hearings,  
26 meetings, preparation, and travel related to any application or other proceeding before the committee  
27 concerning an energy facility, either existing or proposed, and related reasonable out-of-pocket expenses.

28 ~~[VIII.] IX.~~ "Filing" means the date on which the application is first submitted to the committee.

29 ~~[IX.] X.~~ "Person" means any individual, group, firm, partnership, corporation, cooperative,  
30 municipality, political subdivision, government agency or other organization.

31 ~~[X.] [Repealed.]~~

32 ~~X-a. [Repealed.]~~

33 XI. "Petitioner" means a person filing a petition meeting any of the following conditions:

34 (a) A petition endorsed by 100 or more registered voters in the host community or host  
35 communities.

36 (b) A petition endorsed by 100 or more registered voters from abutting communities.

37 (c) A petition endorsed by the governing body of a host community or 2 or more governing  
38 bodies of abutting communities.

39 (d) A petition filed by the potential applicant.

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1 XII. "Renewable energy facility" means electric generating station equipment and associated  
2 facilities designed for, or capable of, operation at a nameplate capacity of greater than 30 megawatts and  
3 powered by wind energy, geothermal energy, hydrogen derived from biomass fuels or methane gas,  
4 ocean thermal, wave, current, or tidal energy, methane gas, biomass technologies, solar technologies, or  
5 hydroelectric energy. "Renewable energy facility" shall also include electric generating station equipment  
6 and associated facilities of 30 megawatts or less nameplate capacity, but at least 5 megawatts which the  
7 committee determines requires a certificate, consistent with the findings and purposes set forth in RSA  
8 162-H:1, either on its own motion or by petition of the applicant or 2 or more petitioners as defined in RSA  
9 162-H:2, XI.

10 233:8 Powers and Duties of Committee. Amend RSA 162-H:4, I through III-b to read as follows:

11 I. The committee shall:

12 (a) Evaluate and issue any certificate under this chapter for an energy facility.

13 (b) Determine the terms and conditions of any certificate issued under this chapter.

14 ~~[(c) Monitor the construction and operation of any energy facility granted a certificate under  
15 this chapter to ensure compliance with such certificate.~~

16 ~~[(d) Enforce the terms and conditions of any certificate issued under this chapter.]~~

17 ***(c) Adjudicate enforcement matters.***

18 ~~[(e)]~~ ***(d)*** Assist the public in understanding the requirements of this chapter.

19 II. The committee shall hold hearings as required by this chapter and such additional hearings as  
20 it deems necessary and appropriate and in addition to the requirements under RSA 91-A, ensure  
21 adequate and timely public notice of no less than 7 calendar days.

22 ~~[[III. The committee may delegate the authority to monitor the construction or operation of any  
23 energy facility granted a certificate under this chapter to the administrator or such state agency or official  
24 as it deems appropriate, but shall ensure that the terms and conditions of the certificate are met. Any  
25 authorized representative or delegate of the committee shall have a right of entry onto the premises of any  
26 part of the energy facility to ascertain if the facility is being constructed or operated in continuing  
27 compliance with the terms and conditions of the certificate. During normal hours of business  
28 administration and on the premises of the facility, such a representative or delegate shall also have a right  
29 to inspect such records of the certificate holder as are relevant to the terms or conditions of the  
30 certificate.]~~

31 ~~[[III-a.]~~ ***III.*** The committee may delegate to the administrator or such state agency or official as it  
32 deems appropriate the authority to specify the use of any technique, methodology, practice, or procedure  
33 approved by the committee within a certificate issued under this chapter, or the authority to specify minor  
34 changes in the route alignment to the extent that such changes are authorized by the certificate for those  
35 portions of a proposed electric transmission line or energy transmission pipeline for which information was  
36 unavailable due to conditions which could not have been reasonably anticipated prior to the issuance of  
37 the certificate.

38 ~~[[III-b.]~~ ***III-a.*** The committee may not delegate its authority or duties, except as provided under this  
39 chapter.

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1 233:9 Application for Certificate. Amend RSA 162-H:7, IV-IX to read as follows:

2 IV. Each application shall contain sufficient information to satisfy the application requirements of  
3 each state agency having jurisdiction, under state or federal law, to regulate any aspect of the  
4 construction or operation of the proposed facility, and shall include each agency's completed application  
5 forms, ***which shall be contemporaneously filed with the state agency having jurisdiction.*** [~~Upon the filing  
6 of an application, the committee shall expeditiously forward a copy to the state agencies having permitting  
7 or other regulatory authority and to other state agencies identified in administrative rules.~~] Upon receipt of  
8 a copy, each agency shall conduct a preliminary review to ascertain if the application contains sufficient  
9 information for its purposes. If the application does not contain sufficient information for the purposes of  
10 any of the state agencies having permitting or other regulatory authority, that agency shall, in writing,  
11 notify the committee ***and the applicant*** of that fact and specify what information the applicant must supply[;  
12 thereupon the committee shall provide the applicant with a copy of such notification and specification].  
13 Notwithstanding any other provision of law, for purposes of the time limitations imposed by this section,  
14 any application made under this section shall be deemed not accepted either by the committee or by any  
15 of the state agencies having permitting or other regulatory authority if the applicant is reasonably notified  
16 that it has not supplied sufficient information for any of the state agencies having permitting or other  
17 regulatory authority in accordance with this paragraph.

18 V. Each application shall also:

19 (a) Describe in reasonable detail the type and size of each major part of the proposed facility.

20 (b) Identify both the applicant's preferred choice and other alternatives it considers available  
21 for the site and configuration of each major part of the proposed facility and the reasons for the applicant's  
22 preferred choice.

23 (c) Describe in reasonable detail the impact of each major part of the proposed facility on the  
24 environment for each site proposed.

25 (d) Describe in reasonable detail the applicant's proposals for studying and solving  
26 environmental problems.

27 (e) Describe in reasonable detail the applicant's financial, technical, and managerial  
28 capability for construction and operation of the proposed facility.

29 (f) Document that written notification of the proposed project, including appropriate copies of  
30 the application, has been given to the appropriate governing body of each affected municipality, as  
31 defined in RSA 162-H:2, I-b. The application shall include a list of the affected municipalities.

32 (g) Describe in reasonable detail the elements of and financial assurances for a facility  
33 decommissioning plan.

34 (h) Provide such additional information as the committee may require to carry out the  
35 purposes of this chapter.

36 VI. The committee shall decide whether or not to accept the application ***as administratively***  
37 ***complete*** within 60 days of filing. ***Notice of acceptance of the application shall be simultaneously provided***  
38 ***to the applicant and the applicable state agency.*** If the committee rejects an application because it  
39 determines it to be administratively incomplete, the applicant may choose to file a new and more complete

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1 application or cure the defects in the rejected application within 10 days of receipt of notification of  
2 rejection.

3 VI-a. Public information sessions shall be held in accordance with RSA 162-H:10.

4 VI-b. All state agencies having permitting or other regulatory authority shall report their progress  
5 to the committee within 150 days of the acceptance of the application, outlining draft permit conditions and  
6 specifying additional data requirements necessary to make a final decision on the parts of the application  
7 that relate to its permitting or other regulatory authority.

8 VI-c. All state agencies having permitting or other regulatory authority shall make and submit to  
9 the committee a final decision on the parts of the application that relate to its permitting and other  
10 regulatory authority, no later than 240 days after the application has been accepted.

11 VI-d. Within 365 days of the acceptance of an application, the committee shall issue or deny a  
12 certificate for an energy facility.

13 ~~VI-e. [Repealed.]~~

14 ~~VII. Notwithstanding any other provision of law, the application shall be in lieu of separate  
15 applications that may be required by any other state agencies.~~

16 ~~VIII.] VIII.~~ This chapter shall not preclude an agency from imposing its usual statutory fees.

17 ~~[IX.] VIII.~~ The applicant shall immediately inform the committee *and applicable state agency* of  
18 any substantive modification to its application.

19 233:10 Disclosure of Ownership. Amend RSA 162-H:8 to read as follows:

20 162-H:8 Disclosure of Ownership. Any application for a certificate, *or for change in ownership and*  
21 *transfer of certificate*, shall be signed and sworn to by the person or executive officer of the association or  
22 corporation making such application and shall contain the following information:

23 I. Full name and address of the person, association, or corporation.

24 II. If an association, the names and residences of the members of the association.

25 III. If a corporation, the name of the state under which it is incorporated with its principal place of  
26 business and the names and addresses of its directors, officers and stockholders.

27 IV. The location or locations where an applicant is to conduct its business.

28 V. A statement of assets and liabilities of the applicant and other relevant financial information of  
29 such applicant.

30 *VI. The committee shall administratively approve changes of ownership and transfers of*  
31 *certificates within 90 days of a petition if it determines the new certificate holder has adequate financial,*  
32 *technical, and managerial capability to assure construction and operation of the facility in continuing*  
33 *compliance with the terms and conditions of the certificate.*

34 233:11 Public Hearing; Studies; Rules. Amend RSA 162-H:10, I-c to read as follows:

35 I-c. Within 90 days after acceptance of an application for a certificate, pursuant to RSA 162-H:7,  
36 the site evaluation committee shall hold at least one public hearing in each county in which the proposed  
37 facility is to be located and the applicant shall publish a public notice not less than 14 days before such  
38 hearing in one or more newspapers having a regular circulation in the county in which the hearing is to be  
39 held, describing the nature and location of the proposed facilities. Not fewer than 10 days before such

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1 session, the applicant shall provide a copy of the public notice to the presiding officer of the committee.  
2 The applicant shall arrange for a transcript of such session to be prepared. ~~[The committee shall also~~  
3 ~~send a copy of the public notice, not less than 14 days before the hearing, by first class mail to the~~  
4 ~~governing body of each affected municipality. The]~~ ***Except for state agencies and programs that are***  
5 ***required by state or federal law or regulation to comply with program specific public notice and public***  
6 ***hearing requirements, the*** public hearings ~~[shall]~~ ***may*** be joint hearings, with representatives of the  
7 agencies that have permitting or other regulatory authority over the subject matter and shall be deemed to  
8 satisfy all initial requirements for public hearings under statutes requiring permits relative to environmental  
9 impact. ~~[Notwithstanding any other provision of law,]~~ The hearing ~~[shall]~~ ***may*** be a joint hearing with the  
10 other state agencies ~~[and shall be in lieu of all hearings otherwise required by any of the other state~~  
11 ~~agencies];~~ provided, however, if any of such other state agencies does not otherwise have authority to  
12 conduct hearings, it may not join in the hearing under this chapter; provided further, however, the ability or  
13 inability of any of the other state agencies to join shall not affect the composition of the committee under  
14 RSA 162-H:3 nor the ability of any member of the committee to act in accordance with this chapter.

15 233:12 Enforcement. Amend RSA 162-H:12 to read as follows:

16 162-H:12 ***Monitoring and*** Enforcement.

17 I. ~~[Whenever the committee, or the administrator as designee, makes a preliminary determination~~  
18 ~~that any term or condition of any certificate issued under this chapter is being violated, it shall, in writing,~~  
19 ~~notify the certificate holder of the specific violation and order the person to immediately terminate the~~  
20 ~~violation. If, 15 days after receipt of the order, the person has failed or neglected to terminate the~~  
21 ~~violation, the committee may suspend the person's certificate, or impose a fine not to exceed \$10,000 per~~  
22 ~~day until the violation is corrected. Except for emergencies, prior to any suspension, the committee shall~~  
23 ~~give written notice of its consideration of suspension and of its reasons therefor and shall provide~~  
24 ~~opportunity for a prompt hearing.]~~ ***The department shall monitor the construction and operation of any***  
25 ***energy facility granted a certificate under this chapter or prior law to ensure compliance with such***  
26 ***certificate and enforce the terms and conditions of any such certificate. With the exception of the authority***  
27 ***retained by the state agencies in accordance with paragraph V, the department may delegate the***  
28 ***authority to monitor the construction or operation of any energy facility granted a certificate under this***  
29 ***chapter to such state agency or official as it deems appropriate, but shall ensure that the terms and***  
30 ***conditions of the certificate are met. Any authorized representative or delegate of the department shall***  
31 ***have a right of entry onto the premises of any part of the energy facility to ascertain if the facility is being***  
32 ***constructed or operated in continuing compliance with the terms and conditions of the certificate. During***  
33 ***normal hours of business administration and on the premises of the facility, such a representative or***  
34 ***delegate shall also have a right to inspect such records of the certificate-holder as are relevant to the***  
35 ***terms or conditions of the certificate.***

36 II. ***Whenever the department administratively determines, on its own or in response to a***  
37 ***complaint, that any term or condition of any certificate issued under this chapter or prior law is being***  
38 ***violated, it shall, in writing, notify the certificate holder of the specific violation and order the person to***  
39 ***immediately terminate the violation. If, 15 days after receipt of the order, the person has failed or***

1 *neglected to terminate the violation, the department shall notify the committee, which may suspend the*  
2 *person's certificate, or impose a fine not to exceed \$10,000 per day until the violation is corrected. Except*  
3 *for emergencies, prior to any suspension or imposition of a fine, the committee shall give written notice of*  
4 *its consideration of suspension or imposition of a fine and of its reasons therefor and shall provide*  
5 *opportunity for a prompt hearing.*

6 *III. [The] Upon petition of the department, the* committee may suspend a certificate if the  
7 committee determines that a person has made a material misrepresentation in the application, or in the  
8 supplemental or additional statements of fact, or studies required of the applicant, or if the committee  
9 determines that the person has violated the provisions of this chapter, or any rule adopted under this  
10 chapter. Except for emergencies, prior to any suspension, the committee shall give written notice of its  
11 consideration of suspension and of its reasons therefor and shall provide an opportunity for a prompt  
12 hearing.

13 ~~III. The~~ *IV. Upon petition of the department, the* committee may revoke any certificate that is  
14 suspended after the person holding the suspended certificate has been given at least 90 days' written  
15 notice of the committee's consideration of revocation and of its reasons therefor and has been provided  
16 an opportunity for a full hearing.

17 ~~IV.] V.~~ Notwithstanding any other provision of this chapter, each of the other state agencies  
18 having permitting, or other regulatory authority shall retain all of its powers and duties of enforcement.

19 ~~V.] VI.~~ The full amount of costs and expenses incurred by the *department and* committee in  
20 connection with any enforcement action against a person holding a certificate, including any action under  
21 this section and any action under RSA 162-H:19, in which the person is determined to have violated any  
22 provision of this chapter, any rule adopted by the *department or* committee, or any of the terms and  
23 conditions of the issued certificate, shall be assessed to the person and shall be paid by the person to the  
24 committee. Any amounts paid by a person to the committee pursuant to this paragraph shall be deposited  
25 in the site evaluation committee fund established in RSA 162-H:21.

26 *VII. The department may adopt rules in furtherance of its monitoring and enforcement*  
27 *responsibilities under this chapter.*

28 233:13 Records. Amend RSA 162-H:13 to read as follows:

29 162-H:13 Records. Complete verbatim records shall be kept by the committee of all hearings, and  
30 records of all other actions, proceedings, and correspondence of the committee, including submittals of  
31 information and reports by members of the public, shall be maintained, all of which records shall be open  
32 to the public inspection and copying as provided for under RSA 91-A. ~~[Records]~~ *Committee records*  
33 regarding pending applications for a certificate shall also be made available on a website.

34 233:14 Findings and Certificate Issuance. Amend RSA 162-H:16 to read as follows:

35 162-H:16 Findings and Certificate Issuance.

36 I. The committee shall incorporate in any certificate such terms and conditions *in their entirety*  
37 *and without addition, deletion, or change*, as may be specified to the committee by any of the state  
38 agencies having permitting or other regulatory authority, under state or federal law, to regulate any aspect  
39 of the construction or operation of the proposed facility; provided, however, the committee shall not issue

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1 any certificate under this chapter if any of the state agencies denies authorization for the proposed activity  
2 over which it has permitting or other regulatory authority. The denial of any such authorization shall be  
3 based on the record and explained in reasonable detail by the denying agency.

4 II. Any certificate issued by the site evaluation committee shall be based on the record. The  
5 decision to issue a certificate in its final form or to deny an application once it has been accepted shall be  
6 made by a majority of the full membership. A certificate shall be conclusive on all questions of siting, land  
7 use, air and water quality.

8 III. The committee may consult with interested regional agencies and agencies of border states in  
9 the consideration of certificates.

10 IV. After due consideration of all relevant information regarding the potential siting, or routes of a  
11 proposed energy facility, including potential significant impacts and benefits, the site evaluation committee  
12 shall determine if issuance of a certificate will serve the objectives of this chapter. In order to issue a  
13 certificate, the committee shall find that:

14 (a) The applicant has adequate financial, technical, and managerial capability to assure  
15 construction and operation of the facility in continuing compliance with the terms and conditions of the  
16 certificate.

17 (b) The site and facility will not unduly interfere with the orderly development of the region  
18 with due consideration having been given to the views of municipal and regional planning commissions  
19 and municipal governing bodies.

20 (c) The site and facility will not have an unreasonable adverse effect on aesthetics, historic  
21 sites, air and water quality, the natural environment, and public health and safety.

22 (d) [Repealed.]

23 (e) Issuance of a certificate will serve the public interest.

24 V. ~~[[Repealed.]]~~ ***The committee shall issue an order granting or denying a certificate. Such order***  
25 ***shall summarize issues of concern expressed during public information sessions and hearings to ensure***  
26 ***that the public's voice has been heard and recorded.***

27 VI. A certificate of site and facility may contain such reasonable terms and conditions, including,  
28 but not limited to the authority to require bonding, as the committee deems necessary ~~[and may provide~~  
29 ~~for such reasonable monitoring procedures as may be necessary]~~. Such certificates, when issued, shall  
30 be final and subject only to judicial review.

31 VII. The committee may condition the certificate upon the results of ***applicable federal approvals***  
32 ***or appeal processes and*** required federal and state agency studies whose study period exceeds the  
33 application period.

34 233:15 Fund Established; Funding Plan. Amend RSA 162-H:21 to read as follows:

35 162-H:21 Fund Established; Funding Plan. There is hereby established in the office of the state  
36 treasurer a nonlapsing, special fund to be known as the site evaluation committee fund. All application  
37 and other filing fees received by the committee under RSA 162-H:8-a shall be deposited in the fund. All  
38 moneys in the fund shall by continually appropriated to the site evaluation committee and shall only be  
39 used to pay for operating costs of the committee, including, but not limited to, compensation and

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1 reimbursements made under RSA 162-H:22 for energy facility proceeding time and expenses, and  
2 administrator and other committee support costs under RSA 162-H:3, VII and RSA 162-H:3-a, except  
3 those costs paid by applicants under RSA 162-H:10, ***and all monitoring and enforcement costs of the***  
4 ***department, except those costs charged directly to applicants or owners.*** In the event lawful expenditures  
5 ***of the committee and department*** in a fiscal year are greater than the total fees and charges held in the  
6 site evaluation committee fund, the chair of the site evaluation committee~~;~~ may request, with prior  
7 approval of the fiscal committee, that the governor and council authorize additional funding from general  
8 funds not otherwise appropriated. ***Notwithstanding any other provision of law, the department may***  
9 ***engage additional technical, legal, or administrative support to fulfill the requirements of this chapter, the***  
10 ***cost of which shall be charged directly to the applicant or energy facility owner.***

11 233:16 New Section; Transition. Amend RSA 162-H by inserting after section 23 the following new  
12 section:

13 162-H:24 Transition. On the effective date of this section, the department shall assume responsibility  
14 for all monitoring and enforcement activities under this chapter, except for proceedings opened by the  
15 committee prior to the effective date of this section, including enforcement complaints, in which case the  
16 proceeding shall continue pursuant to any existing procedural order of the committee.

17 233:17 Role of State Agencies. Amend RSA 162-H:7-a, I(c)-(d) to read as follows:

18 (c) Identify issues of concern on the proposal or permit request or notify the committee that  
19 the application raises no issues of concern; ***and***

20 (d) When issues of concern are identified by the agency or committee, designate one or  
21 more witnesses to appear before the committee at a hearing to provide input and answer questions of  
22 parties and committee members~~;~~~~and~~.

23 233:18 Repeal. RSA 162-H:7-a, I(e), relative to role of state agencies, is repealed.

24 233:19 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 08, 2023  
Effective Date: October 07, 2023

