

Rep. Vose, Rock. 5  
Rep. Harrington, Straf. 18  
Rep. McGhee, Hills. 35  
Rep. Cormen, Graf. 15  
Rep. Caplan, Merr. 8  
October 30, 2023  
2023-2368h  
10/05

Amendment to HB 609-FN

1 Amend the title of the bill by replacing it with the following:

2  
3 AN ACT relative to the site evaluation committee for energy facility siting.

4  
5 Amend the bill by replacing all after the enacting clause with the following:

6  
7 1 Energy Facility Siting; Site Evaluation Committee. RSA 162-H:3 is repealed and reenacted to  
8 read as follows:

9 162-H:3 Site Evaluation Committee Established.

10 I. There is hereby established a committee to be known as the New Hampshire site  
11 evaluation committee consisting of 5 members, as follows:

12 (a) The 3 commissioners of the public utilities commission, the chairperson of which  
13 shall be the chairperson of the committee;

14 (b) The commissioner of the department of environmental services; and

15 (c) One public member and, when required pursuant to paragraph VI, an alternate  
16 public member, both of whom shall be appointed as described in RSA 162-H:4-b.

17 II. All members, including those who sit for a member recused under paragraph VI, shall  
18 refrain from ex parte communications regarding any matter pending before the committee.

19 III. Three members of the committee shall constitute a quorum for the purpose of conducting  
20 the committee's business, except that the 3 public utilities commissioners alone shall not constitute a  
21 quorum.

22 IV. The committee shall be administratively attached to the department of energy pursuant  
23 to RSA 21-G:10.

24 V. The chairperson shall serve as the chief executive of the committee and may:

25 (a) Delegate to other members the duties of presiding officer, as appropriate.

26 (b) Perform administrative actions for the committee, as may a presiding officer.

27 (c) Establish, with the consent of the committee, the budgetary requirements of the  
28 committee.

29 (d) Engage personnel in accordance with this chapter.

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VI. If at any time a member must recuse himself or herself on a matter or is not otherwise available for good reason, such person, if a state employee, may designate a senior administrative employee or a staff attorney from his or her agency to sit on the committee. The commissioner of the department of environmental services may, with the consent of the respective commissioner or director, and subject to the approval of the chairperson, designate a senior administrative employee from the department of transportation, the department of natural and cultural resources, the department of business and economic affairs, the division of historical resources, or the department of fish and game, to sit on the committee. In the case of the public member, the alternate public member shall serve as set forth in RSA 162-H:4-b.

2 Administrator and Support. Amend RSA 162-H:3-a to read as follows:

162-H:3-a Administrator and Other Committee Support. There is hereby established within the ~~[site evaluation committee]~~ **public utilities commission** the position of administrator who shall be an unclassified state employee. In the alternative, the position may be filled by an independent contractor. The administrator shall be hired by and under the supervision of the chairperson **of the public utilities commission and shall perform duties for the public utilities commission and the site evaluation committee as directed by the chairperson of the public utilities commission, with site evaluation duties having a higher priority. To the extent the administrator performs duties for the site evaluation committee, such duties shall be funded as set forth in RSA 162-H:21.** The administrator, or chairperson in the absence of an administrator, with committee approval, may engage additional technical, legal, or administrative support to fulfill the functions of the committee as necessary. Any person to be hired by the administrator shall be approved by the chairperson.

3 Public Member. RSA 162-H:4-b is repealed and reenacted to read as follows:

162-H:4-b Public Members.

I. The governor, with the consent of the council, shall appoint a public member and an alternate public member to serve on the committee. The public member and alternate shall be residents of the state of New Hampshire with expertise or experience in one or more of the following areas: business management; environmental protection; natural resource protection; energy facility design, construction, operation, or management; community and regional planning or economic development; municipal or county government; or the governing of unincorporated places.

II. The public member and the alternate public member shall serve 4-year terms and until their successors are appointed and qualified. Any public member or alternate public member chosen to fill a vacancy occurring other than by expiration of term shall be appointed for the unexpired term of the member who is succeeded.

III. If at any time the public member must recuse himself or herself from a matter before the committee or is not otherwise available for good reason, the alternate public member shall replace such member.

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1           IV. No public member nor any member of his or her family shall receive income from energy  
2 facilities within the jurisdiction of the committee. The public member and alternate shall comply  
3 with RSA 15-A and RSA 15-B.

4           V. Any public member or alternate may be removed from office by the governor and council  
5 for inefficiency, neglect of duty, or misconduct or malfeasance in office, after being given a written  
6 statement of the charges and an opportunity to be heard.

7           4 Applications. Amend RSA 162-H:7, III through VI to read as follows:

8           III. Upon filing of an application, the ~~[committee]~~ ***chairperson or designated presiding***  
9 ***officer*** shall expeditiously conduct a preliminary review to ascertain if the application contains  
10 sufficient information to carry out the purposes of this chapter. If the application does not contain  
11 such sufficient information, the ~~[committee]~~ ***chairperson or designated presiding officer*** shall,  
12 in writing, expeditiously notify the applicant of that fact and specify what information the applicant  
13 must supply.

14           IV. Each application shall contain sufficient information to satisfy the application  
15 requirements of each state agency having jurisdiction, under state or federal law, to regulate any  
16 aspect of the construction or operation of the proposed facility, and shall include each agency's  
17 completed application forms, which shall be contemporaneously filed with the state agency having  
18 jurisdiction. Upon receipt of a copy, each agency shall conduct a preliminary review to ascertain if  
19 the application contains sufficient information for its purposes. If the application does not contain  
20 sufficient information for the purposes of any of the state agencies having permitting or other  
21 regulatory authority, that agency shall, in writing, notify the ~~[committee]~~ ***chairperson or***  
22 ***designated presiding officer*** and the applicant of that fact and specify what information the  
23 applicant must supply. Notwithstanding any other provision of law, for purposes of the time  
24 limitations imposed by this section, any application made under this section shall be deemed not  
25 accepted either by the ~~[committee]~~ ***chairperson or designated presiding officer*** or by any of the  
26 state agencies having permitting or other regulatory authority if the applicant is reasonably notified  
27 that it has not supplied sufficient information for any of the state agencies having permitting or  
28 other regulatory authority in accordance with this paragraph.

29           V. Each application shall also:

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

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

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

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

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

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

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

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

13 VI. The ~~[committee]~~ **chairperson or designated presiding officer** shall decide whether or  
14 not to accept the application as administratively complete within 60 days of filing. Notice of  
15 acceptance of the application shall be simultaneously provided to the applicant and the applicable  
16 state agency. If the ~~[committee]~~ **chairperson or designated presiding officer** rejects an  
17 application because it determines it to be administratively incomplete, the applicant may choose to  
18 file a new and more complete application or cure the defects in the rejected application within 10  
19 days of receipt of notification of rejection.

20 5 Filing Fees; References to Subcommittees Removed. Amend RSA 162-H:8-a, II(d) to read as  
21 follows:

22 (d) Filing fees for administrative proceedings:

23 (1) Petition for committee jurisdiction: \$12,600.

24 (2) Petition for declaratory ruling: \$12,600~~[, or \$3,600 if heard by a 3-member~~  
25 ~~subcommittee]~~.

26 (3) Certificate transfer of ownership: \$12,600~~[, or \$3,600 if heard by a 3-member~~  
27 ~~subcommittee]~~.

28 (4) Request for exemption: \$12,600~~[, or \$3,600 if heard by a 3-member~~  
29 ~~subcommittee]~~.

30 (5) Request to modify a certificate: \$12,600~~[, or \$3,600 if heard by a 3-member~~  
31 ~~subcommittee]~~.

32 6 Funding Plan; Reference Deleted. Amend RSA 162-H:21 to read as follows:

33 162-H:21 Fund Established; Funding Plan. There is hereby established in the office of the state  
34 treasurer a nonlapsing, special fund to be known as the site evaluation committee fund. All  
35 application and other filing fees received by the committee under RSA 162-H:8-a shall be deposited  
36 in the fund. All moneys in the fund shall be continually appropriated to the site evaluation  
37 committee and shall only be used to pay for operating costs of the committee, including, but not

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

12       7 Repeal. RSA 162-H:4-a, relative to subcommittees of the site evaluation committee, is  
13 repealed.

14       8 Effective Date. This act shall take effect 60 after its passage.

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AMENDED ANALYSIS

This bill revises the member of the site evaluation committee for energy facility siting and eliminates subcommittees.