

LEGISLATIVE COMMITTEE MINUTES

SB429

Bill as
Introduced

SB 429-FN - AS INTRODUCED

2022 SESSION

22-2966
07/10

SENATE BILL **429-FN**

AN ACT relative to the site evaluation committee.

SPONSORS: Sen. Giuda, Dist 2; Sen. Watters, Dist 4; Sen. Ward, Dist 8; Rep. Harrington, Straf. 3; Rep. Vose, Rock. 9; Rep. Leishman, Hills. 24

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill:

I. Modifies the site evaluation committee to allow for agency designees, a quorum of 5 members, and expanded training.

II. Requires an opportunity for public comment at all public hearings and meetings and notice to the attorney general of all committee proceedings.

III. Updates various fees to reflect changes previously approved by the fiscal committee.

IV. Clarifies that subsequent certificate holders remain responsible for associated costs.

V. Authorizes the committee to impose a fine for preliminary determinations of violations of any certificate issued within RSA 162-H.

VI. Provides for funding of all operating costs out of the site evaluation committee fund and allows the chair of the committee to seek additional funding.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the site evaluation committee.

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

1 1 Energy Facility Evaluation, Siting, Construction and Operation; Site Evaluation Committee
2 Established; Certain Designees Allowed. Amend RSA 162-H:3, I to read as follows:

3 I. There is hereby established a committee to be known as the New Hampshire site
4 evaluation committee consisting of 9 members, as follows:

5 (a) The commissioners of the public utilities commission, the chairperson of which shall
6 be the chairperson of the committee;

7 (b) The commissioner of the department of environmental services, who shall be the
8 vice-chairperson of the committee, *the commissioner may appoint a designee, but such*
9 *designee shall not serve as vice-chairperson;*

10 (c) The commissioner of the department of business and economic affairs or designee;

11 (d) The commissioner of the department of transportation, *or designee;*

12 (e) The commissioner of the department of natural and cultural resources, the director of
13 the division of historical resources, or designee; and

14 (f) Two members of the public, appointed by the governor, with the consent of the
15 council, in accordance with RSA 162-H:4-b, III.

16 2 Energy Facility Evaluation, Siting, Construction and Operation; Site Evaluation Committee
17 Established; Number of Members Modified. Amend RSA 162-H:3, III to read as follows:

18 III. [Seven] *Five* members of the committee shall constitute a quorum for the purpose of
19 conducting the committee's business.

20 3 Energy Facility Evaluation, Siting, Construction and Operation; Site Evaluation Committee
21 Established; Modifications to Mandatory Training. Amend RSA 162-H:3, VII to read as follows:

22 VII. All committee members *and designees* shall on an annual basis complete [~~an~~] *a*
23 *comprehensive* intensive training program on the provisions of RSA 162-H and the administrative
24 rules adopted thereunder with respect to reviewing and evaluating applications for a certificate of
25 site and facility, *as well as training regarding energy infrastructure*. All new committee
26 members, and any designee to a subcommittee pursuant to RSA 162-H:4-a, II or III, shall complete
27 the training program prior to serving on, respectively, any committee or subcommittee proceeding.
28 The *legal* training shall be conducted by the department of justice *and the training regarding*
29 *energy infrastructure shall be conducted by the department of energy*.

30 4 Energy Facility Evaluation, Siting, Construction and Operation; Powers and Duties of the
31 Committee; Public Comment Required. Amend RSA 162-H:4, II to read as follows:

1 II. The committee shall hold hearings as required by this chapter and such additional
2 hearings as it deems necessary and appropriate. ~~At all hearings and public meetings, except~~
3 ~~for deliberative sessions convened to make final certificate or complaint resolution~~
4 ~~decisions, the committee or subcommittee shall provide an opportunity for the public to ask~~
5 ~~questions. Members shall refrain from answering questions or providing comments prior~~
6 ~~to a final decision if such answers or comments might provide the perception of bias for or~~
7 ~~against the project.~~ add 1. or 2 as it deems necessary and ensure adequate

8 5 Energy Facility Evaluation, Siting, Construction and Operation; Application and Filing Fees. and ensure adequate

9 Amend RSA 162-H:8-a to read as follows: and final

10 162-H:8-a Application and Filing Fees. notice

11 I. Except as provided in paragraph IV, a person filing with the committee an application for
12 a certificate for an energy facility, a petition for jurisdiction, a request for exemption, or any other
13 petition or request for the committee to take action, shall pay to the committee at the time of filing a
14 fee determined in accordance with the fee schedule described in paragraph II. If an application for a
15 certificate for an energy facility is deemed incomplete pursuant to RSA 162-H:7, VI, and a new
16 application is submitted thereunder, the [unearned] **unused** portion of the initial application fee
17 shall be refunded to the applicant or credited to the filing of the new application. The committee
18 may in its discretion provide for a credit or refund in other circumstances that are unforeseen by the
19 applicant.

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

23 (a) Application fee for electric generation facilities: [~~\$50,000~~] **\$60,000** base charge, **and**
24 **\$20,000 for a certificate monitoring and compliance charge**, plus:

25 (1) [~~\$1,000~~] **\$1,200** per megawatt for the first 40 megawatts, and [~~\$1,500~~] **\$1,800** per
26 megawatt for each megawatt in excess of 40 megawatts, for any wind energy system.

27 (2) [~~\$100~~] **\$120** per megawatt, for any natural gas or biomass fueled facility.

28 (3) [~~\$150~~] **\$180** per megawatt, for any coal or oil fueled facility.

29 (4) [~~\$200~~] **\$240** per megawatt, for any nuclear generation facility.

30 (5) **\$1,200 per megawatt, for renewable energy generation facilities.**

31 (b) Application fee for transmission facilities: [~~\$50,000~~] **\$60,000** base charge, **and**
32 **\$20,000 for a certificate monitoring and compliance charge**, plus:

33 (1) [~~\$3,000~~] **\$3,600** per mile, for any electric transmission facility.

34 (2) [~~\$1,500~~] **\$1,800** per mile, for any natural gas pipeline.

35 (c) Application fee for other energy facilities: [~~\$50,000~~] **\$60,000** fee **and \$20,000 for a**
36 **certificate monitoring and compliance charge.**

37 (d) Filing fees for administrative proceedings:

- 1 (1) Petition for committee jurisdiction: [~~\$10,500~~] **\$12,600**.
- 2 (2) Petition for declaratory ruling: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600** if heard by a
3 3-member subcommittee.
- 4 (3) Certificate transfer of ownership: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600** if heard
5 by a 3-member subcommittee.
- 6 (4) Request for exemption: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600**
7 if heard by a 3-member subcommittee.
- 8 (5) Request to modify a certificate: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600** if heard by
9 a 3-member subcommittee.

10 ***II-a. All certificate monitoring and compliance charges shall be deposited in the***
11 ***site evaluation committee fund established in RSA 162-H:21 and shall be non-lapsing and***
12 ***accounted for as a separate line item.***

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

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

25 6 Energy Facility Evaluation, Siting, Construction and Operation; Counsel for the Public;
26 Administrative Proceedings Included. Amend RSA 162-H:9, I to read as follows:

27 I. ***The chair or the administrator shall notify the attorney general of all***
28 ***administrative proceedings. The attorney general may appoint an assistant attorney***
29 ***general as counsel for the public in administrative proceedings.*** Upon notification that an
30 application for a certificate has been filed with the committee in accordance with RSA 162-H:7, the
31 attorney general shall appoint an assistant attorney general as a counsel for the public. The counsel
32 shall represent the public in seeking to protect the quality of the environment and in seeking to
33 assure an adequate supply of energy. The counsel shall be accorded all the rights and privileges, and
34 responsibilities of an attorney representing a party in formal action and shall serve until the
35 decision to issue or deny a certificate is final.

1 7 Energy Facility Evaluation, Siting, Construction and Operation; Public Hearing; Studies;
2 Rules; Including Certificate Holders in Cost Responsibility. Amend RSA 162-H:10, V to read as
3 follows:

4 V. The site evaluation committee and counsel for the public shall conduct such reasonable
5 studies and investigations as they deem necessary or appropriate to carry out the purposes of this
6 chapter and may employ a consultant or consultants, legal counsel and other staff in furtherance of
7 the duties imposed by this chapter, the cost of which shall be borne by the applicant *or certificate*
8 *holder* in such amount as may be approved by the committee. The site evaluation committee and
9 counsel for the public are further authorized to assess the applicant *or certificate holder* for all
10 travel and related expenses associated with the processing of an application *or other proceedings*
11 under this chapter.

12 8 Energy Facility Evaluation, Siting, Construction and Operation; Enforcement; Imposition of
13 Fine Allowed. Amend RSA 162-H:12, I to read as follows:

14 I. Whenever the committee, or the administrator as designee, *makes a preliminary*
15 *determination* [~~determines~~] that any term or condition of any certificate issued under this chapter
16 is being violated, it shall, in writing, notify the [~~person holding the certificate~~] *certificate holder* of
17 the specific violation and order the person to immediately terminate the violation. If, 15 days after
18 receipt of the order, the person has failed or neglected to terminate the violation, the committee may
19 suspend the person's certificate, *or impose a fine not to exceed \$10,000 per day until the*
20 *violation is corrected*. Except for emergencies, prior to any suspension, the committee shall give
21 written notice of its consideration of suspension and of its reasons therefor and shall provide
22 opportunity for a prompt hearing.

23 9 Energy Facility Evaluation, Siting, Construction and Operation; Enforcement; Certificate
24 Clarification. Amend RSA 162-H:12, II to read as follows:

25 II. The committee may suspend a [~~person's~~] certificate if the committee determines that
26 [~~the~~] *a* person has made a material misrepresentation in the application or, in the supplemental or
27 additional statements of fact or studies required of the applicant, or if the committee determines
28 that the person has violated the provisions of this chapter or any rule adopted under this chapter.
29 Except for emergencies, prior to any suspension, the committee shall give written notice of its
30 consideration of suspension and of its reasons therefor and shall provide an opportunity for a prompt
31 hearing.

32 10 Energy Facility Evaluation, Siting, Construction and Operation; Fund Established; Funding
33 Plan; Operating and Support Costs Included. RSA 162-H:21 is repealed and reenacted to read as
34 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
37 application and other filing fees received by the committee under 162-H:8-a shall be deposited in the

1 fund. All moneys in the fund shall be continually appropriated to the site evaluation committee and
2 shall only be used to pay for operating costs of the committee, including but not limited to,
3 compensation and reimbursements made under RSA 162-H:22 for energy facility proceeding time
4 and expenses, and administrator and other committee support costs under RSA 162-H:3, VII and
5 RSA 162-H:3-a, except those costs paid by applicants under RSA 162-H:10. In the event lawful
6 expenditures in a fiscal year are greater than the total fees and charges held in the site evaluation
7 committee fund, the chair of the site evaluation committee may request, with prior approval of the
8 fiscal committee that the governor and council authorize additional funding from general funds not
9 otherwise appropriated.

10 11 Effective Date.

11 I. Section 6 of this act shall take effect January 1, 2023.

12 II. Sections 5, 8, and 10 of this act shall take effect July 1, 2022.

13 III. The remainder of this act shall take effect 60 days after its passage.

**SB 429-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the site evaluation committee.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Site Evaluation Committee Fund			

The Department of Energy was contacted for a fiscal note worksheet initially on 12/2/2021, which they have not provided as of 12/21/2021. A request for a fiscal note worksheet was subsequently sent directly to the Public Utilities Commission on 12/20/2021.

METHODOLOGY:

This bill modifies the site evaluation committee to allow for agency designees, a quorum of 5 members, and expanded training and requires an opportunity for public comment at all public hearings and meetings and notice to the attorney general of all committee proceedings. The bill also updates various fees, removes the requirement for fiscal committee approval of fee increases or decreases, clarifies that subsequent certificate holders remain responsible for associated costs and authorizes the committee to impose a fine for preliminary determinations of violations of any certificate issued within RSA 162-H. In addition, the bill provides for funding of all operating costs out of the site evaluation committee fund and allows the chair of the committee to request additional general funds upon approval of the fiscal committee that the governor and council.

The Department of Justice indicates this bill would have no fiscal impact on its operations.

AGENCIES CONTACTED:

Departments of Energy and Justice

**SB 429-FN FISCAL NOTE
 AS INTRODUCED**

AN ACT relative to the site evaluation committee.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
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Funding Source:	<input checked="" type="checkbox"/> General Evaluation Committee Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Site

METHODOLOGY:

This bill modifies the site evaluation committee to allow for agency designees, a quorum of 5 members, and expanded training and requires an opportunity for public comment at all public hearings and meetings and notice to the attorney general of all committee proceedings. The bill also updates various fees, removes the requirement for fiscal committee approval of fee increases or decreases, clarifies that subsequent certificate holders remain responsible for associated costs and authorizes the committee to impose a fine for preliminary determinations of violations of any certificate issued within RSA 162-H. In addition, the bill provides for funding of all operating costs out of the site evaluation committee fund and allows the chair of the committee to request additional general funds upon approval of the fiscal committee that the governor and council.

The Site Evaluation Committee (SEC) indicates this bill increases the filing fees listed in RSA 162-H:8-a, and authorizes the SEC to impose fines. The SEC states, it is not possible to project the fiscal impact because the impact will depend on the circumstances surrounding specific cases. The bill allows the SEC, with the prior approval of the Fiscal Committee and Governor and Council, to utilize General Funds for lawful expenses which cannot be met with the balance of the SEC fund. This provision would codify a budget footnote to the SEC operating budget that has been included in the State operating budget since FY 2020. The SEC indicates it is not possible to estimate the need for General Funds given the variant nature of SEC filings.

The Department of Justice indicates this bill would have no fiscal impact on its operations.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

Site Evaluation Committee and Department of Justice

SB 429-FN - AS AMENDED BY THE SENATE

02/16/2022 0592s

2022 SESSION

22-2966

07/10

SENATE BILL **429-FN**

AN ACT relative to the site evaluation committee.

SPONSORS: Sen. Giuda, Dist 2; Sen. Watters, Dist 4; Sen. Ward, Dist 8; Rep. Harrington, Straf. 3; Rep. Vose, Rock. 9; Rep. Leishman, Hills. 24

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill:

I. Modifies the site evaluation committee to allow for agency designees, a quorum of 5 members, and expanded training.

II. Requires an adequate public notice of all committee proceedings pursuant to RSA 91-A.

III. Updates various fees to reflect changes previously approved by the fiscal committee.

IV. Clarifies that subsequent certificate holders remain responsible for associated costs.

V. Authorizes the committee to impose a fine for preliminary determinations of violations of any certificate issued within RSA 162-H.

VI. Provides for funding of all operating costs out of the site evaluation committee fund and allows the chair of the committee to seek additional funding.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough~~]
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the site evaluation committee.

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

1 1 Energy Facility Evaluation, Siting, Construction and Operation; Site Evaluation Committee
2 Established; Certain Designees Allowed. Amend RSA 162-H:3, I to read as follows:

3 I. There is hereby established a committee to be known as the New Hampshire site
4 evaluation committee consisting of 9 members, as follows:

5 (a) The commissioners of the public utilities commission, the chairperson of which shall
6 be the chairperson of the committee;

7 (b) The commissioner of the department of environmental services, who shall be the
8 vice-chairperson of the committee, *the commissioner may appoint a designee, but such*
9 *designee shall not serve as vice-chairperson;*

10 (c) The commissioner of the department of business and economic affairs or designee;

11 (d) The commissioner of the department of transportation, *or designee;*

12 (e) The commissioner of the department of natural and cultural resources, the director of
13 the division of historical resources, or designee; and

14 (f) Two members of the public, appointed by the governor, with the consent of the
15 council, in accordance with RSA 162-H:4-b, III.

16 2 Energy Facility Evaluation, Siting, Construction and Operation; Site Evaluation Committee
17 Established; Number of Members Modified. Amend RSA 162-H:3, III to read as follows:

18 III. [~~Seven~~] *Five* members of the committee shall constitute a quorum for the purpose of
19 conducting the committee's business.

20 3 Energy Facility Evaluation, Siting, Construction and Operation; Site Evaluation Committee
21 Established; Modifications to Mandatory Training. Amend RSA 162-H:3, VII to read as follows:

22 VII. All committee members *and designees* shall on an annual basis complete [~~an~~] *a*
23 *comprehensive* intensive training program on the provisions of RSA 162-H and the administrative
24 rules adopted thereunder with respect to reviewing and evaluating applications for a certificate of
25 site and facility, *as well as training regarding energy infrastructure*. All new committee
26 members, and any designee to a subcommittee pursuant to RSA 162-H:4-a, II or III, shall complete
27 the training program prior to serving on, respectively, any committee or subcommittee proceeding.
28 The *legal* training shall be conducted by the department of justice *and the training regarding*
29 *energy infrastructure shall be conducted by the department of energy*.

30 4 Energy Facility Evaluation, Siting, Construction and Operation; Powers and Duties of the
31 Committee; Public Comment Required. Amend RSA 162-H:4, II to read as follows:

1 II. The committee shall hold hearings as required by this chapter and such additional
 2 hearings as it deems necessary and appropriate *and in addition to the requirements under RSA*
 3 *91-A, ensure adequate and timely public notice of no less than 7 calendar days.*

4 5 Energy Facility Evaluation, Siting, Construction and Operation; Application and Filing Fees.
 5 Amend RSA 162-H:8-a to read as follows:

6 162-H:8-a Application and Filing Fees.

7 I. Except as provided in paragraph IV, a person filing with the committee an application for
 8 a certificate for an energy facility, a petition for jurisdiction, a request for exemption, or any other
 9 petition or request for the committee to take action, shall pay to the committee at the time of filing a
 10 fee determined in accordance with the fee schedule described in paragraph II. If an application for a
 11 certificate for an energy facility is deemed incomplete pursuant to RSA 162-H:7, VI, and a new
 12 application is submitted thereunder, the [~~unearned~~] *unused* portion of the initial application fee
 13 shall be refunded to the applicant or credited to the filing of the new application. The committee
 14 may in its discretion provide for a credit or refund in other circumstances that are unforeseen by the
 15 applicant.

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

19 (a) Application fee for electric generation facilities: [~~\$50,000~~] *\$60,000* base charge, *and*
 20 *\$20,000 for a certificate monitoring and compliance charge*, plus:

21 (1) [~~\$1,000~~] *\$1,200* per megawatt for the first 40 megawatts, and [~~\$1,500~~] *\$1,800* per
 22 megawatt for each megawatt in excess of 40 megawatts, for any wind energy system.

23 (2) [~~\$100~~] *\$120* per megawatt, for any natural gas or biomass fueled facility.

24 (3) [~~\$150~~] *\$180* per megawatt, for any coal or oil fueled facility.

25 (4) [~~\$200~~] *\$240* per megawatt, for any nuclear generation facility.

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27 (b) Application fee for transmission facilities: [~~\$50,000~~] *\$60,000* base charge, *and*
 28 *\$20,000 for a certificate monitoring and compliance charge*, plus:

29 (1) [~~\$3,000~~] *\$3,600* per mile, for any electric transmission facility.

30 (2) [~~\$1,500~~] *\$1,800* per mile, for any natural gas pipeline.

31 (c) Application fee for other energy facilities: [~~\$50,000~~] *\$60,000* fee *and \$20,000 for a*
 32 *certificate monitoring and compliance charge.*

33 (d) Filing fees for administrative proceedings:

34 (1) Petition for committee jurisdiction: [~~\$10,500~~] *\$12,600.*

35 (2) Petition for declaratory ruling: [~~\$10,500~~] *\$12,600*, or [~~\$3,000~~] *\$3,600* if heard by a

36 3-member subcommittee.

1 (3) Certificate transfer of ownership: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600** if heard
2 by a 3-member subcommittee.

3 (4) Request for exemption: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600**
4 if heard by a 3-member subcommittee.

5 (5) Request to modify a certificate: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600** if heard by
6 a 3-member subcommittee.

7 ***II-a. All certificate monitoring and compliance charges shall be deposited in the***
8 ***site evaluation committee fund established in RSA 162-H:21 and shall be non-lapsing and***
9 ***accounted for as a separate line item.***

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

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

22 6 Energy Facility Evaluation, Siting, Construction and Operation; Counsel for the Public;
23 Administrative Proceedings Included. Amend RSA 162-H:9, I to read as follows:

24 I. ***The chair or the administrator shall notify the attorney general of all***
25 ***administrative proceedings. The attorney general may appoint an assistant attorney***
26 ***general as counsel for the public in administrative proceedings.*** Upon notification that an
27 application for a certificate has been filed with the committee in accordance with RSA 162-H:7, the
28 attorney general shall appoint an assistant attorney general as a counsel for the public. The counsel
29 shall represent the public in seeking to protect the quality of the environment and in seeking to
30 assure an adequate supply of energy. The counsel shall be accorded all the rights and privileges, and
31 responsibilities of an attorney representing a party in formal action and shall serve until the
32 decision to issue or deny a certificate is final.

33 7 Energy Facility Evaluation, Siting, Construction and Operation; Public Hearing; Studies;
34 Rules; Including Certificate Holders in Cost Responsibility. Amend RSA 162-H:10, V to read as
35 follows:

36 V. The site evaluation committee and counsel for the public shall conduct such reasonable
37 studies and investigations as they deem necessary or appropriate to carry out the purposes of this

1 chapter and may employ a consultant or consultants, legal counsel and other staff in furtherance of
 2 the duties imposed by this chapter, the cost of which shall be borne by the applicant *or certificate*
 3 *holder* in such amount as may be approved by the committee. The site evaluation committee and
 4 counsel for the public are further authorized to assess the applicant *or certificate holder* for all
 5 travel and related expenses associated with the processing of an application *or other proceedings*
 6 under this chapter.

7 8 Energy Facility Evaluation, Siting, Construction and Operation; Enforcement; Imposition of
 8 Fine Allowed. Amend RSA 162-H:12, I to read as follows:

9 I. Whenever the committee, or the administrator as designee, *makes a preliminary*
 10 *determination* [~~determines~~] that any term or condition of any certificate issued under this chapter
 11 is being violated, it shall, in writing, notify the [~~person holding the certificate~~] *certificate holder* of
 12 the specific violation and order the person to immediately terminate the violation. If, 15 days after
 13 receipt of the order, the person has failed or neglected to terminate the violation, the committee may
 14 suspend the person's certificate, *or impose a fine not to exceed \$10,000 per day until the*
 15 *violation is corrected*. Except for emergencies, prior to any suspension, the committee shall give
 16 written notice of its consideration of suspension and of its reasons therefor and shall provide
 17 opportunity for a prompt hearing.

18 9 Energy Facility Evaluation, Siting, Construction and Operation; Enforcement; Certificate
 19 Clarification. Amend RSA 162-H:12, II to read as follows:

20 II. The committee may suspend a [~~person's~~] certificate if the committee determines that
 21 [~~the~~] a person has made a material misrepresentation in the application or, in the supplemental or
 22 additional statements of fact or studies required of the applicant, or if the committee determines
 23 that the person has violated the provisions of this chapter or any rule adopted under this chapter.
 24 Except for emergencies, prior to any suspension, the committee shall give written notice of its
 25 consideration of suspension and of its reasons therefor and shall provide an opportunity for a prompt
 26 hearing.

27 10 Energy Facility Evaluation, Siting, Construction and Operation; Fund Established; Funding
 28 Plan; Operating and Support Costs Included. RSA 162-H:21 is repealed and reenacted to read as
 29 follows:

30 162-H:21 Fund Established; Funding Plan. There is hereby established in the office of the state
 31 treasurer a nonlapsing, special fund to be known as the site evaluation committee fund. All
 32 application and other filing fees received by the committee under 162-H:8-a shall be deposited in the
 33 fund. All moneys in the fund shall be continually appropriated to the site evaluation committee and
 34 shall only be used to pay for operating costs of the committee, including but not limited to,
 35 compensation and reimbursements made under RSA 162-H:22 for energy facility proceeding time
 36 and expenses, and administrator and other committee support costs under RSA 162-H:3, VII and
 37 RSA 162-H:3-a, except those costs paid by applicants under RSA 162-H:10. In the event lawful

1 expenditures in a fiscal year are greater than the total fees and charges held in the site evaluation
2 committee fund, the chair of the site evaluation committee may request, with prior approval of the
3 fiscal committee that the governor and council authorize additional funding from general funds not
4 otherwise appropriated.

5 11 Effective Date.

6 I. Section 6 of this act shall take effect January 1, 2023.

7 II. Sections 5, 8, and 10 of this act shall take effect July 1, 2022.

8 III. The remainder of this act shall take effect 60 days after its passage.

SB 429-FN- FISCAL NOTE
 AS AMENDED BY THE SENATE (AMENDMENT #2022-0592s)

AN ACT relative to the site evaluation committee.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General Evaluation Committee Fund <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Site			

METHODOLOGY:

This bill modifies the site evaluation committee to allow for agency designees, a quorum of 5 members, and expanded training and requires an opportunity for public comment at all public hearings and meetings and notice to the attorney general of all committee proceedings. The bill also updates various fees, removes the requirement for fiscal committee approval of fee increases or decreases, clarifies that subsequent certificate holders remain responsible for associated costs and authorizes the committee to impose a fine for preliminary determinations of violations of any certificate issued within RSA 162-H. In addition, the bill provides for funding of all operating costs out of the site evaluation committee fund and allows the chair of the committee to request additional general funds upon approval of the fiscal committee that the governor and council. The bill also requires the Committee to provide no less than seven calendar days' notice prior to holding a public hearing.

The Site Evaluation Committee (SEC) indicates this bill increases the filing fees listed in RSA 162-H:8-a, and authorizes the SEC to impose fines. The SEC states, it is not possible to project the fiscal impact because the impact will depend on the circumstances surrounding specific cases. The bill allows the SEC, with the prior approval of the Fiscal Committee and Governor and Council, to utilize General Funds for lawful expenses which cannot be met with the balance of the SEC fund. This provision would codify a budget footnote to the SEC operating budget that has been included in the State operating budget since FY 2020. The SEC indicates it is not possible to estimate the need for General Funds given the variant nature of SEC filings.

The Department of Justice indicates this bill would have no fiscal impact on its operations.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

Site Evaluation Committee and Department of Justice

CHAPTER 176
SB 429-FN - FINAL VERSION

02/16/2022 0592s

2022 SESSION

22-2966
07/10

SENATE BILL **429-FN**

AN ACT relative to the site evaluation committee.

SPONSORS: Sen. Giuda, Dist 2; Sen. Watters, Dist 4; Sen. Ward, Dist 8; Rep. Harrington, Straf. 3; Rep. Vose, Rock. 9; Rep. Leishman, Hills. 24

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill:

I. Modifies the site evaluation committee to allow for agency designees, a quorum of 5 members, and expanded training.

II. Requires an adequate public notice of all committee proceedings pursuant to RSA 91-A.

III. Updates various fees to reflect changes previously approved by the fiscal committee.

IV. Clarifies that subsequent certificate holders remain responsible for associated costs.

V. Authorizes the committee to impose a fine for preliminary determinations of violations of any certificate issued within RSA 162-H.

VI. Provides for funding of all operating costs out of the site evaluation committee fund and allows the chair of the committee to seek additional funding.

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.

CHAPTER 176
SB 429-FN - FINAL VERSION

02/16/2022 0592s

22-2966
07/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the site evaluation committee.

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

1 176:1 Energy Facility Evaluation, Siting, Construction and Operation; Site Evaluation
2 Committee Established; Certain Designees Allowed. Amend RSA 162-H:3, I to read as follows:

3 I. There is hereby established a committee to be known as the New Hampshire site
4 evaluation committee consisting of 9 members, as follows:

5 (a) The commissioners of the public utilities commission, the chairperson of which shall
6 be the chairperson of the committee;

7 (b) The commissioner of the department of environmental services, who shall be the
8 vice-chairperson of the committee, *the commissioner may appoint a designee, but such*
9 *designee shall not serve as vice-chairperson;*

10 (c) The commissioner of the department of business and economic affairs or designee;

11 (d) The commissioner of the department of transportation, *or designee;*

12 (e) The commissioner of the department of natural and cultural resources, the director of
13 the division of historical resources, or designee; and

14 (f) Two members of the public, appointed by the governor, with the consent of the
15 council, in accordance with RSA 162-H:4-b, III.

16 176:2 Energy Facility Evaluation, Siting, Construction and Operation; Site Evaluation
17 Committee Established; Number of Members Modified. Amend RSA 162-H:3, III to read as follows:

18 III. [~~Seven~~] *Five* members of the committee shall constitute a quorum for the purpose of
19 conducting the committee's business.

20 176:3 Energy Facility Evaluation, Siting, Construction and Operation; Site Evaluation
21 Committee Established; Modifications to Mandatory Training. Amend RSA 162-H:3, VII to read as
22 follows:

23 VII. All committee members *and designees* shall on an annual basis complete [~~an~~] *a*
24 *comprehensive* intensive training program on the provisions of RSA 162-H and the administrative
25 rules adopted thereunder with respect to reviewing and evaluating applications for a certificate of
26 site and facility, *as well as training regarding energy infrastructure*. All new committee
27 members, and any designee to a subcommittee pursuant to RSA 162-H:4-a, II or III, shall complete
28 the training program prior to serving on, respectively, any committee or subcommittee proceeding.
29 The *legal* training shall be conducted by the department of justice *and the training regarding*
30 *energy infrastructure shall be conducted by the department of energy*.

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SB 429-FN - FINAL VERSION
- Page 2 -

1 176:4 Energy Facility Evaluation, Siting, Construction and Operation; Powers and Duties of the
2 Committee; Public Comment Required. Amend RSA 162-H:4, II to read as follows:

3 II. The committee shall hold hearings as required by this chapter and such additional
4 hearings as it deems necessary and appropriate *and in addition to the requirements under RSA*
5 *91-A, ensure adequate and timely public notice of no less than 7 calendar days.*

6 176:5 Energy Facility Evaluation, Siting, Construction and Operation; Application and Filing
7 Fees. Amend RSA 162-H:8-a to read as follows:

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

9 I. Except as provided in paragraph IV, a person filing with the committee an application for
10 a certificate for an energy facility, a petition for jurisdiction, a request for exemption, or any other
11 petition or request for the committee to take action, shall pay to the committee at the time of filing a
12 fee determined in accordance with the fee schedule described in paragraph II. If an application for a
13 certificate for an energy facility is deemed incomplete pursuant to RSA 162-H:7, VI, and a new
14 application is submitted thereunder, the [~~unearned~~] *unused* portion of the initial application fee
15 shall be refunded to the applicant or credited to the filing of the new application. The committee
16 may in its discretion provide for a credit or refund in other circumstances that are unforeseen by the
17 applicant.

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

21 (a) Application fee for electric generation facilities: [~~\$50,000~~] *\$60,000* base charge, *and*
22 *\$20,000 for a certificate monitoring and compliance charge*, plus:

23 (1) [~~\$1,000~~] *\$1,200* per megawatt for the first 40 megawatts, and [~~\$1,500~~] *\$1,800* per
24 megawatt for each megawatt in excess of 40 megawatts, for any wind energy system.

25 (2) [~~\$100~~] *\$120* per megawatt, for any natural gas or biomass fueled facility.

26 (3) [~~\$150~~] *\$180* per megawatt, for any coal or oil fueled facility.

27 (4) [~~\$200~~] *\$240* per megawatt, for any nuclear generation facility.

28 (5) *\$1,200 per megawatt, for renewable energy generation facilities.*

29 (b) Application fee for transmission facilities: [~~\$50,000~~] *\$60,000* base charge, *and*
30 *\$20,000 for a certificate monitoring and compliance charge*, plus:

31 (1) [~~\$3,000~~] *\$3,600* per mile, for any electric transmission facility.

32 (2) [~~\$1,500~~] *\$1,800* per mile, for any natural gas pipeline.

33 (c) Application fee for other energy facilities: [~~\$50,000~~] *\$60,000* fee *and \$20,000 for a*
34 *certificate monitoring and compliance charge.*

35 (d) Filing fees for administrative proceedings:

36 (1) Petition for committee jurisdiction: [~~\$10,500~~] *\$12,600.*

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SB 429-FN - FINAL VERSION
- Page 3 -

1 (2) Petition for declaratory ruling: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600** if heard by a
2 3-member subcommittee.

3 (3) Certificate transfer of ownership: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600** if heard
4 by a 3-member subcommittee.

5 (4) Request for exemption: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600**
6 if heard by a 3-member subcommittee.

7 (5) Request to modify a certificate: [~~\$10,500~~] **\$12,600**, or [~~\$3,000~~] **\$3,600** if heard by
8 a 3-member subcommittee.

9 ***II-a. All certificate monitoring and compliance charges shall be deposited in the***
10 ***site evaluation committee fund established in RSA 162-H:21 and shall be nonlapsing and***
11 ***accounted for as a separate line item.***

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

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

24 176:6 Energy Facility Evaluation, Siting, Construction and Operation; Counsel for the Public;
25 Administrative Proceedings Included. Amend RSA 162-H:9, I to read as follows:

26 I. ***The chair or the administrator shall notify the attorney general of all***
27 ***administrative proceedings. The attorney general may appoint an assistant attorney***
28 ***general as counsel for the public in administrative proceedings.*** Upon notification that an
29 application for a certificate has been filed with the committee in accordance with RSA 162-H:7, the
30 attorney general shall appoint an assistant attorney general as a counsel for the public. The counsel
31 shall represent the public in seeking to protect the quality of the environment and in seeking to
32 assure an adequate supply of energy. The counsel shall be accorded all the rights and privileges, and
33 responsibilities of an attorney representing a party in formal action and shall serve until the
34 decision to issue or deny a certificate is final.

35 176:7 Energy Facility Evaluation, Siting, Construction and Operation; Public Hearing; Studies;
36 Rules; Including Certificate Holders in Cost Responsibility. Amend RSA 162-H:10, V to read as
37 follows:

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- Page 4 -

1 V. The site evaluation committee and counsel for the public shall conduct such reasonable
2 studies and investigations as they deem necessary or appropriate to carry out the purposes of this
3 chapter and may employ a consultant or consultants, legal counsel and other staff in furtherance of
4 the duties imposed by this chapter, the cost of which shall be borne by the applicant *or certificate*
5 *holder* in such amount as may be approved by the committee. The site evaluation committee and
6 counsel for the public are further authorized to assess the applicant *or certificate holder* for all
7 travel and related expenses associated with the processing of an application *or other proceedings*
8 under this chapter.

9 176:8 Energy Facility Evaluation, Siting, Construction and Operation; Enforcement; Imposition
10 of Fine Allowed. Amend RSA 162-H:12, I to read as follows:

11 I. Whenever the committee, or the administrator as designee, *makes a preliminary*
12 *determination* [~~determines~~] that any term or condition of any certificate issued under this chapter
13 is being violated, it shall, in writing, notify the [~~person holding the certificate~~] *certificate holder* of
14 the specific violation and order the person to immediately terminate the violation. If, 15 days after
15 receipt of the order, the person has failed or neglected to terminate the violation, the committee may
16 suspend the person's certificate, *or impose a fine not to exceed \$10,000 per day until the*
17 *violation is corrected*. Except for emergencies, prior to any suspension, the committee shall give
18 written notice of its consideration of suspension and of its reasons therefor and shall provide
19 opportunity for a prompt hearing.

20 176:9 Energy Facility Evaluation, Siting, Construction and Operation; Enforcement; Certificate
21 Clarification. Amend RSA 162-H:12, II to read as follows:

22 II. The committee may suspend a [~~person's~~] certificate if the committee determines that
23 [~~the~~] *a* person has made a material misrepresentation in the application or, in the supplemental or
24 additional statements of fact or studies required of the applicant, or if the committee determines
25 that the person has violated the provisions of this chapter or any rule adopted under this chapter.
26 Except for emergencies, prior to any suspension, the committee shall give written notice of its
27 consideration of suspension and of its reasons therefor and shall provide an opportunity for a prompt
28 hearing.

29 176:10 Energy Facility Evaluation, Siting, Construction and Operation; Fund Established;
30 Funding Plan; Operating and Support Costs Included. RSA 162-H:21 is repealed and reenacted to
31 read as follows:

32 162-H:21 Fund Established; Funding Plan. There is hereby established in the office of the state
33 treasurer a nonlapsing, special fund to be known as the site evaluation committee fund. All
34 application and other filing fees received by the committee under RSA 162-H:8-a shall be deposited
35 in the fund. All moneys in the fund shall by continually appropriated to the site evaluation
36 committee and shall only be used to pay for operating costs of the committee, including but not
37 limited to, compensation and reimbursements made under RSA 162-H:22 for energy facility

CHAPTER 176
SB 429-FN - FINAL VERSION
- Page 5 -

1 proceeding time and expenses, and administrator and other committee support costs under RSA 162-
2 H:3, VII and RSA 162-H:3-a, except those costs paid by applicants under RSA 162-H:10. In the
3 event lawful expenditures in a fiscal year are greater than the total fees and charges held in the site
4 evaluation committee fund, the chair of the site evaluation committee, may request, with prior
5 approval of the fiscal committee that the governor and council authorize additional funding from
6 general funds not otherwise appropriated.

7 176:11 Effective Date.

- 8 I. Section 6 of this act shall take effect January 1, 2023.
9 II. Sections 5, 8, and 10 of this act shall take effect July 1, 2022.
10 III. The remainder of this act shall take effect 60 days after its passage.

Approved: June 07, 2022

Effective Date:

- I. Section 6 effective January 1, 2023
II. Section 5, 8, and 10 effective July 1, 2022
III. Remainder effective August 6, 2022

Amendments

Energy and Natural Resources
February 8, 2022
2022-0592s
07/08

Amendment to SB 429-FN

1 Amend the bill by replacing section 4 with the following:

2

3 4 Energy Facility Evaluation, Siting, Construction and Operation; Powers and Duties of the
4 Committee; Public Comment Required. Amend RSA 162-H:4, II to read as follows:

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

Amendment to SB 492-FN
- Page 2 -

2022-0592s

AMENDED ANALYSIS

This bill:

I. Modifies the site evaluation committee to allow for agency designees, a quorum of 5 members, and expanded training.

II. Requires an adequate public notice of all committee proceedings pursuant to RSA 91-A.

III. Updates various fees to reflect changes previously approved by the fiscal committee.

IV. Clarifies that subsequent certificate holders remain responsible for associated costs.

V. Authorizes the committee to impose a fine for preliminary determinations of violations of any certificate issued within RSA 162-H.

VI. Provides for funding of all operating costs out of the site evaluation committee fund and allows the chair of the committee to seek additional funding.

Committee Minutes

SENATE CALENDAR NOTICE

Energy and Natural Resources

Sen Kevin Avard, Chair
 Sen Bob Giuda, Vice Chair
 Sen James Gray, Member
 Sen David Watters, Member
 Sen Rebecca Perkins Kwoka, Member

Date: February 2, 2022

HEARINGS

Tuesday

02/08/2022

	(Day)	(Date)
Energy and Natural Resources		State House 103
		9:00 a.m.
(Name of Committee)		(Place)
(Time)	(Bill Number)	(Topic)
9:00 a.m.	SB 268-FN	relative to the approval of power purchase agreements for offshore wind energy resources from the Gulf of Maine.
9:15 a.m.	SB 440-FN	relative to approval of offshore wind energy contracts.
9:30 a.m.	SB 367	relative to the regulatory status of advanced recycling and manufacturing facilities.
9:45 a.m.	SB 429-FN	relative to the site evaluation committee.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 268-FN

Sen. Watters	Sen. Avard	Sen. Kahn	Sen. Rosenwald
Sen. Whitley	Sen. Soucy	Sen. Perkins Kwoka	Sen. Sherman
Sen. Cavanaugh	Sen. D'Allesandro	Sen. Prentiss	Rep. Somssich
Rep. Wall	Rep. Cushing		

SB 440-FN

Sen. Watters	Sen. Sherman	Sen. D'Allesandro	Sen. Avard
Sen. Rosenwald	Sen. Whitley	Sen. Soucy	Sen. Cavanaugh
Sen. Prentiss	Rep. Cali-Pitts	Rep. McGhee	Rep. Wall

SB 367

Sen. Avard	Sen. Watters	Sen. Hennessey	Sen. Bradley
Sen. Soucy	Sen. French	Sen. Cavanaugh	Rep. Pearl

SB 429-FN

Sen. Giuda	Sen. Watters	Sen. Ward	Rep. Harrington
Rep. Vose	Rep. Leishman		

Daley Frenette 271-3042

Kevin A. Avard
Chairman

Committee Amendment

429 - line In addition to the requirements under 91A
ensure timely public notice of no less than
adequate and 7 calendar days

appropriate, and, in addition to the requirements
under RSA 91A, ensure adequate and
timely public notice of no less than seven
calendar days

Senate Energy and Natural Resources Committee
Daley Frenette 271-3042

SB 429-FN, relative to the site evaluation committee.

Hearing Date: February 8, 2022

Members of the Committee Present: Senators Avard, Giuda, Gray, Watters and Perkins Kwoka

Members of the Committee Absent : None

Bill Analysis: This bill:

I. Modifies the site evaluation committee to allow for agency designees, a quorum of 5 members, and expanded training.

II. Requires an adequate public notice of all committee proceedings pursuant to RSA 91-A.

III. Updates various fees to reflect changes previously approved by the fiscal committee.

IV. Clarifies that subsequent certificate holders remain responsible for associated costs.

V. Authorizes the committee to impose a fine for preliminary determinations of violations of any certificate issued within RSA 162-H.

VI. Provides for funding of all operating costs out of the site evaluation committee fund and allows the chair of the committee to seek additional funding.

Sponsors:

Sen. Giuda

Sen. Watters

Sen. Ward

Rep. Harrington

Rep. Vose

Rep. Leishman

Who supports the bill: Senator Giuda, Senate District 2, Senator Ward, Senate District 8, Judith Saum, Bruce Clendenning, The Nature Conservancy in NH.

Who opposes the bill: None.

Who is neutral on the bill: None.

Summary of testimony presented:

Senator Giuda, Senate District 2

- This is a bill that came out of a committee that studied the SEC and its processes this past summer. SB 256 has already been voted out of committee and establishes a long-term solution to the issue by establishing a study committee that will look at the entire process of integrating the SEC with the Department of Energy. SB 429-FN is designed as a short-term solution until the study committee develops a long-term plan. SB 429-FN is meant to expedite and streamline the process.
- The bill has several recommendations. It Modifies the SEC to allow for agency designees, a quorum of 5 members, and expanded training. It is difficult to get any number of commissioners to attend meetings given their busy schedules. The bill recommends legal training be conducted by the DOJ because of the complex issues the SEC deals with as well as training on energy infrastructure by the newly formed DOE.
- Commissioner Scott will be expressing concerns. There has been public outcry for better communications. The bill addresses this issue by requiring an opportunity for the public to ask questions during meetings with the exception of deliberative meetings.
- The bill changes the application fees. There is a 60 thousand base charge and 20 thousand for certificate monitoring compliance. The monitoring compliance charges will go into the site evaluation fund and will not be non-lapsing, one of the problems that the SEC has had is funding. The sporadic nature of the applications causes this. The bill aims to integrate the DOE into the process. SB 256 will develop a long-term plan for this.
- Senator Watters stated that the study committee from last summer developed some reasonable recommendations. Over the years this has become increasingly complex and costly for department. We would like them to come forward for approvals instead of the taxpayers. Senator Giuda agreed with Senator Waters statement.
- Senator Watters stated that page 2 line 30 has a condition for 1,200 megawatts for renewable energy generation facilities. This is timely because they have been authorized and this is in accordance with line 25.

Robert Scott, DES

- Commissioner Scott mentioned that there are several people in the audience including Dan Goldner from the PUC who is the acting chair of the PUC and therefore the statute chair of the SEC. Pam Monroe is also in the audience and was an administrator on the SEC and is now head of Commissioner Scott's legal

team at DES. They are all available to help if the bill happens to go to a work session.

- DES supports the bill. They are supportive streamlining the process. DES does have concerns regarding page 2 lines 2-7. The SEC process currently has many opportunities for public process including a requirement for a public hearing in the county where a project is taking place. The language could cause a never-ending litigation process. The applicants and the public deserve finality.
- Senator Avard asked if it would be better to strike lines 2-7 from the bill. Commissioner Scott recommended the committee do that.
- Senator Giuda stated that they heard in the study committee last summer that the communications to the public were not timely. He would like to maintain a level of transparency. Commissioner Scott agreed.
- Senator Avard clarified that striking lines 2-7 is what Commissioner Scott is concerned with. Commissioner Scott agreed. His ultimate goal is to address issues that are not already covered by existing regulations.
- Senator Watters asked if Commissioner Scott would help develop language to replace the language being struck from lines 2-7. Commissioner Scott had no objections.

DF

Date Hearing Report completed: February 11, 2022

Speakers

Senate Energy & Natural Resources Committee

SIGN-IN SHEET

Date: 2/08/2022 Time: 9:45 a.m.

SB 429-FN AN ACT relative to the site evaluation committee.

Name/Representing (please print neatly)

Name/Representing	Support	Oppose	Speaking?	Yes	No
Senator Bob Givens SD2 (Prime)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Josh Elliott NH Dept of Energy	<input type="checkbox"/>	<input type="checkbox"/>	Speaking? (if questions)	<input type="checkbox"/> X	<input type="checkbox"/>
Bob Scott NHDES	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>

✓
✓
✓

Senate Remote Testify

Energy and Natural Resources Committee Testify List for Bill SB429 on 2022-02

Support: 3 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Ward, Senator Ruth	An Elected Official	Senate District 8	Support
Saum, Judith	A Member of the Public	Myself	Support
Clendenning, Bruce	A Lobbyist	the Nature Conservancy in NH	Support

Voting Sheets

Senate Energy & Natural Resources Committee

EXECUTIVE SESSION RECORD

2021-2022 Session

Bill # 429

Hearing Date: 2/8

Executive Session Date: 2/8

Motion of: OTP Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: Amendment Comm H Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: OTPA Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: Consent Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Avard, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Giuda, Vice Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Gray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Watters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Perkins Kwoka	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reported out by: Giuda

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Thursday, February 10, 2022

THE COMMITTEE ON Energy and Natural Resources

to which was referred **SB 429-FN**

AN ACT relative to the site evaluation committee.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 0592s

Senator Bob Giuda
For the Committee

A study committee over the past summer determined there are inefficiencies with the SEC. The Senate Energy and Natural Resources Committee already passed a bill that establishes a study committee to determine a long-term solution for this issue. The purpose of SB 429-FN is to provide a short-term solution to issues regarding the SEC until the study committee determines a sufficient long-term solution. The bill modifies the SEC to allow agency designees, a quorum of 5 members, and expanded training. It requires an opportunity for public comment at all public hearings and meetings and notice to the attorney general of all committee proceedings. It updates various fees and changes previously approved by the fiscal committee. It clarifies that subsequent certificate holders remain responsible for associated costs. It authorizes the committee to impose a fine for preliminary determination of violations of any certificate issued within RSA 162-H. Finally, it provides funding for all operating costs out of the SEC fund and allows the chair of the committee to seek additional funding. The committee amendment strikes lines 2-7 on page 2 and ensures compliance with RSA 91-A by ensuring adequate and timely notice of public hearings.

Sonja Caldwell 271-2117

FOR THE CONSENT CALENDAR

ENERGY AND NATURAL RESOURCES

SB 429-FN, relative to the site evaluation committee.

Ought to Pass with Amendment, Vote 5-0.

Senator Bob Giuda for the committee.

A study committee over the past summer determined there are inefficiencies with the SEC. The Senate Energy and Natural Resources Committee already passed a bill that establishes a study committee to determine a long-term solution for this issue. The purpose of SB 429-FN is to provide a short-term solution to issues regarding the SEC until the study committee determines a sufficient long-term solution. The bill modifies the SEC to allow agency designees, a quorum of 5 members, and expanded training. It requires an opportunity for public comment at all public hearings and meetings and notice to the attorney general of all committee proceedings. It updates various fees and changes previously approved by the fiscal committee. It clarifies that subsequent certificate holders remain responsible for associated costs. It authorizes the committee to impose a fine for preliminary determination of violations of any certificate issued within RSA 162-H. Finally, it provides funding for all operating costs out of the SEC fund and allows the chair of the committee to seek additional funding. The committee amendment strikes lines 2-7 on page 2 and ensures compliance with RSA 91-A by ensuring adequate and timely notice of public hearings.

General Court of New Hampshire - Bill Status System

Docket of SB429

Docket Abbreviations

Bill Title: relative to the site evaluation committee.*Official Docket of SB429.:*

Date	Body	Description
12/30/2021	S	To Be Introduced 01/05/2022 and Referred to Energy and Natural Resources; SJ 1
2/2/2022	S	Hearing: 02/08/2022, Room 103, SH, 09:45 am; SC 6
2/10/2022	S	Committee Report: Ought to Pass with Amendment #2022-0592s , 02/16/2022; Vote 5-0; CC; SC 7
2/16/2022	S	Committee Amendment #2022-0592s , AA, VV; 02/16/2022; SJ 3
2/16/2022	S	Ought to Pass with Amendment 2022-0592s, MA, VV; OT3rdg; 02/16/2022; SJ 3
3/23/2022	H	Introduced 03/17/2022 and referred to Science, Technology and Energy
3/30/2022	H	Public Hearing: 04/11/2022 03:00 pm LOB 306-308
4/13/2022	H	Executive Session: 04/19/2022 09:00 am LOB 306-308
4/22/2022	H	Committee Report: Ought to Pass (Vote 20-0; CC)
5/6/2022	H	Removed from Consent (Rep. Oxenham) 05/04/2022 HJ 11
5/5/2022	H	FLAM # 1896h (Rep. Oxenham): AF RC 158-176 05/05/2022 HJ 12
5/5/2022	H	Ought to Pass: MA DV 224-111 05/05/2022 HJ 12
5/27/2022	H	Enrolled (in recess of) 05/26/2022 HJ 14
5/27/2022	S	Enrolled Adopted, VV, (In recess 05/26/2022); SJ 13
6/8/2022	S	Signed by the Governor on 06/07/2022; Chapter 0176
6/8/2022	S	I. Section 6 Effective 01/01/2023
6/8/2022	S	II. Sections 5, 8, and 10 Effective 07/01/2022
6/8/2022	S	III. Remainder Effective 08/06/2022

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 429-FN

Senate Committee: Energy

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 05925 _____ - amendment # _____

_____ - amendment # _____ _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

_____ - amendment # _____ _____ - amendment # _____

_____ - amendment # _____ _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

_____ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

_____ Enrolled Bill Amendment(s)

_____ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate _____ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Daley

Committee Aide

6/27/22

Date

Senate Clerk's Office AK