

Senate Energy and Natural Resources Committee

Griffin Roberge 271-2878

SB 50, relative to members of the site evaluation committee.

Hearing Date: January 31, 2017

Time Opened: 9:45 a.m.

Time Closed: 10:17 a.m.

Members of the Committee Present: Senators Feltes, Bradley, Innis and Avar

Members of the Committee Absent: Senator Fuller Clark

Bill Analysis: This bill changes certain requirements concerning membership on the site evaluation committee.

This bill is a request of the public utilities commission.

Sponsors:

Sen. Bradley

Sen. Fuller Clark

Sen. Avar

Sen. Innis

Rep. Barry

Rep. Richardson

Rep. Backus

Who supports the bill: Senator Kevin Avar (District 12), Senator Martha Fuller Clark (District 21), Senator Dan Innis (District 24), Martin Honigberg (SEC), Pamela Monroe (SEC), Rep. Richard Barry (Hillsborough - District 21), Rep. Suzanne Smith (Grafton - District 8), Todd Selig (Durham), Cordell Johnston (NH Municipal Association), Rep. Peter Somssich (Rockingham - District 27), Rep. Judith Spang (Strafford - District 6).

Who opposes the bill: N/A.

Who is neutral on the bill: N/A.

Summary of testimony presented in support:

Senator Jeb Bradley

Senate District 3

- Introduced SB 50 on behalf of Martin Honigberg, who is the director of the Site Evaluation Committee (SEC) and the Public Utilities Commission (PUC).
- In 2014, Senator Forrester introduced a bill that came to the Senate Energy Committee. Senator Bradley began working on that bill which rewrites the rules of the SEC.
- Administratively, there have been significant changes to the SEC. The SEC

shrank from fifteen members to nine. The nine members are: three commissioners of the PUC, the commissioner of the NH DES, the commissioner of NH DRED, the commissioner of the NH DOT, the commissioner of the department of cultural resources, and two members of the public.

- Getting a quorum for seven high ranking state officials, given their busy schedules, is difficult. With more complex applications and multiple public hearings for the SEC, the mere functioning has necessitated these changes.
- The bill is not intended to alter the review process for projects. Those provisions remain in place. SB 50 is meant to facilitate the workings of the SEC.

Martin Honigberg & Pamela Monroe

*Chairman, Public Utilities Commission & Commissioner, Site Evaluation Committee
Administrator, Site Evaluation Committee*

- Three purposes of SB 50:
 - To increase the pool of public members available to the SEC. The SEC is asking too much of their current public members. The way the statute is structured is that the two public members are required on every single subcommittee. There is no way to use an alternate if one of the public members is unavailable or has to recuse his or her self. Currently, one public member slot is empty. They are looking for alternates to use on subcommittees. Alternates would not be standing committee members.
 - Address the quorum problem and reduce the requirement. The quorum requirement for the 9 member standing committee is 7. The quorum requirement for the 7 person subcommittees is 5. With all the high ranking state officials, it is nearly impossible to schedule 7 members to meet on any given day.
 - Clarify the responsibilities of the applicant and the committee in respect to public hearing sessions.
- The SEC had specific recommendations to SB 50:
 - Section 2, line 12-17: missing references to all the types of public members.
 - Line 24: the bill refers to “Limited Electrical Energy Producers.” The bill should reference “Energy Facility Siting.”
 - Page 2, line 23. Strike “the” and just begin the sentence with “2.” It is no longer just the two public members. It is two public members from the pool of public members the SEC will have.
- Senator Bradley asked Mr. Honigberg to supply the language for the first two changes. Mr. Honigberg did so.

Cordell Johnston

Government Affairs Counsel, NH Municipal Association (NHMA)

- Provided written testimony.
- Mr. Johnston wished to speak in support of an amendment offered by Senator Fuller Clark. The NHMA did not have a position on the underlying bill.
- The amendment would add a municipal representative to the SEC.
- A municipality currently has no authority to review an application. The

amendment would add a member to represent the perspective of municipalities. That member would be someone who sits on a governing body in a town/city.

- Senator Bradley asked if Senator Fuller Clark had shared that amendment with Mr. Honigberg. Mr. Johnston said he did not know.

Todd Selig

Town Administrator, Durham, NH

- Mr. Selig delivered Senator Fuller Clark's amendment to the committee. Senator Fuller Clark was busy presenting other legislation to other committees.
- Mr. Selig detailed the committee:
 - The amendment would increase the SEC from 9 members to 10.
 - It would add three public members to the committee, with one being a municipal representative who is a current member of a city or town governing body. That member would be appointed by the governor and approved by the executive council.
- Regional infrastructure projects impact many parts of a municipality without any input from that municipality. The insertion of a municipal perspective would allow the SEC to appreciate the concerns that affected towns/cities may have.
- Senator Bradley asked if Mr. Selig is looking for this 10th member to have familiarity with each project. Mr. Selig stated he is fine with appointing anyone so long as they are a current member of a city or town governing body. They would represent municipal interests as whole.
- Senator Bradley said inserting a 10th member into the SEC would upend the quorum requirements. Senator Bradley asked if Mr. Selig had factored that in the rest of the amendment. Mr. Selig said no, but the changes should be very clear.
- Senator Bradley clarified line 16 to 18 in Senator Fuller Clark's amendment. The only option available would be a town administrator, town manager, or a member of a select board or town council to be nominated at the discretion of the governor. Mr. Selig stated that was correct.

Martin Honigberg

Chairman, Public Utilities Commission & Commissioner, Site Evaluation Committee

- Believes Senator Fuller Clark's amendment is a substantive change to the make-up of the committee.
- Mr. Honigberg did not understand what the amendment was asking for in putting public members on subcommittees, whether the amendment was calling for three public members, or two, which is current law.
- Senator Avard asked if the amendment was undermining the intention of SB 50. Mr. Honigberg did not comment or offer an opinion. He stated a similar effort was made in the last legislation session and failed.
- Senator Avard asked if this amendment will create the same problem the SEC is encountering right now. Mr. Honigberg said he envisions it as a challenge for the municipal appointee. Someone with a full time job in a city or town will not have all their efforts focused on SEC business. Even the municipality could face

strain as they lose a member of their governing body.

- Senator Avar asked if Mr. Honigberg sees any benefit to the amendment. Mr. Honigberg said the legislature is the best place to make a decision regarding its benefits.
- Senator Bradley asked if the public members were paid per diem. Mr. Honigberg stated that was correct.
- Senator Bradley questioned Mr. Selig about the amendment. Moving from 9 to 10 members will mess up the intention of SB 50. Additionally, the amendment is asking the new member to sit in and commit time to the SEC in addressing applications and attending public hearings, which is a big responsibility. This new member would have two full-time jobs. Given that there is a current opening for a public member, Senator Bradley sees no harm in allowing the governor to possibly appoint a municipal government official. Senator Bradley asked if that would be satisfactory because that could be done currently. Mr. Selig said the chair's opinion is valid, but many municipal government officials are retired and are open to contributing more of their time.
- Senator Bradley is sensitive to the need of quorum. Senator Bradley puts forth a reasonable compromise saying the governor may consider a municipal representative on the SEC. Mr. Selig stated that it is important to not put process ahead of the importance of municipal considerations. There is no representation from municipalities and the projects considered by the SEC have a massive impact on cities and towns. If Senator Bradley's language is as far as the committee will go in considering a municipal representative, then Mr. Selig will accept that.
- Mr. Honigberg stated he is concerned about a substantive desire, exemplified in the amendment, that would derail what the SEC views as a process bill.

Summary of testimony presented in opposition: N/A.

Neutral Information Presented: N/A.

Future Action: Pending

GJR

Date Hearing Report completed: January 31, 2017