

**CHAPTER 115**  
**SB 116 - FINAL VERSION**

20Apr2017... 1305h

2017 SESSION

17-0353  
06/01

SENATE BILL            ***116***

AN ACT                requiring notice to affected municipalities of energy facility siting.

SPONSORS:            Sen. Ward, Dist 8; Sen. Innis, Dist 24; Sen. Fuller Clark, Dist 21; Sen. Feltes,  
Dist 15; Sen. Sanborn, Dist 9; Rep. Kurk, Hills. 2

COMMITTEE:          Energy and Natural Resources

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ANALYSIS

      This bill requires applicants for an energy facility certificate to give notice to affected municipalities.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struck through.]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seventeen*

AN ACT                    requiring notice to affected municipalities of energy facility siting.

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

1            115:1 New Paragraph; Energy Facility Siting; Definitions; Affected Municipality. Amend RSA  
2            162-H:2 by inserting after paragraph I-a the following new paragraph:

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

6            115:2 Energy Facility Siting; Application for Certificate; Notice to Municipalities. Amend RSA  
7            162-H:7, V(f) to read as follows:

8            (f) Document that written notification of the proposed project, including appropriate  
9            copies of the application, has been given to the appropriate governing body of each ~~[community in~~  
10           ~~which the facility is proposed to be located]~~ ***affected municipality, as defined in RSA 162-H:2, I-***  
11           ***b. The application shall include a list of the affected municipalities.***

12           115:3 Energy Facility Siting; Public Hearing; Notice to Municipalities. Amend RSA 162-H:10,  
13           I-I-c to read as follows:

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

26           I-a. Within 45 days after acceptance of an application for a certificate, pursuant to RSA 162-  
27           H:7, the applicant shall hold at least one public information session as described in paragraph I in  
28           each county in which the proposed facility is to be located and shall, at a minimum, publish a public  
29           notice not less than 14 days before said session in one or more newspapers having a regular  
30           circulation in the county in which the session is to be held, describing the nature and location of the

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1 proposed facility. ***The applicant shall also send a copy of the public notice, not less than 14***  
2 ***days before the session, by first class mail to the governing body of each affected***  
3 ***municipality.*** Not less than 10 days before such session, the applicant shall provide a copy of the  
4 public notice to the presiding officer of the committee. The administrator, or a designee of the  
5 presiding officer of the committee, shall act as presiding officer of the information session. The  
6 session shall be for public information on the proposed facility with the applicant presenting the  
7 information to the public. The presiding officer shall also explain to the public the process the  
8 committee will use to review the application for the proposed facility.

9 I-b. Upon request of the governing body of a municipality or unincorporated place in which  
10 ***any part of*** the proposed facility is to be located, or on the committee's own motion, the committee  
11 may order the applicant to provide such additional public information sessions as described in  
12 paragraph I as are reasonable to inform the public of the proposed project.

13 I-c. Within 90 days after acceptance of an application for a certificate, pursuant to RSA 162-  
14 H:7, the site evaluation committee shall hold at least one public hearing in each county in which the  
15 proposed facility is to be located and shall publish a public notice not less than 14 days before such  
16 ~~[session]~~ ***hearing*** in one or more newspapers having a regular circulation in the county in which  
17 the hearing is to be held, describing the nature and location of the proposed facilities. ***The***  
18 ***committee shall also send a copy of the public notice, not less than 14 days before the***  
19 ***hearing, by first class mail to the governing body of each affected municipality.*** The public  
20 hearings shall be joint hearings, with representatives of the agencies that have permitting or other  
21 regulatory authority over the subject matter and shall be deemed to satisfy all initial requirements  
22 for public hearings under statutes requiring permits relative to environmental impact.  
23 Notwithstanding any other provision of law, the hearing shall be a joint hearing with the other  
24 state agencies and shall be in lieu of all hearings otherwise required by any of the other state  
25 agencies; provided, however, if any of such other state agencies does not otherwise have authority  
26 to conduct hearings, it may not join in the hearing under this chapter; provided further, however,  
27 the ability or inability of any of the other state agencies to join shall not affect the composition of the  
28 committee under RSA 162-H:3 nor the ability of any member of the committee to act in accordance  
29 with this chapter.

30 115:4 Energy Facility Siting; Public Hearing; Notice to Municipalities. Amend RSA 162-H:10,  
31 III to read as follows:

32 III. The site evaluation committee shall consider and weigh all evidence presented at public  
33 hearings and shall consider and weigh written information and reports submitted to it by members  
34 of the public before, during, and subsequent to public hearings but prior to the closing of the record  
35 of the proceeding. ***The committee shall provide an opportunity at one or more public***  
36 ***hearings for comments from the governing body of each affected municipality and***  
37 ***residents of each affected municipality.*** The committee shall consider, as appropriate, prior

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- 1 committee findings and rulings on the same or similar subject matters, but shall not be bound
- 2 thereby.

115:5 Effective Date. This act shall take effect 60 days after its passage.

Approved: June 15, 2017  
Effective Date: August 14, 2017