

SB 50 - AS AMENDED BY THE SENATE

02/09/2017 0278s

2017 SESSION

17-0842

06/05

SENATE BILL **50**

AN ACT relative to members of the site evaluation committee.

SPONSORS: Sen. Bradley, Dist 3; Sen. Fuller Clark, Dist 21; Sen. Avard, Dist 12; Sen. Innis, Dist 24; Rep. Barry, Hills. 21; Rep. Richardson, Coos 4; Rep. Backus, Hills. 19

COMMITTEE: Energy and Natural Resources

ANALYSIS

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

This bill is a request of the public utilities commission.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT relative to members of the site evaluation committee.

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

1 1 Energy Facility Siting; Site Evaluation Committee. Amend RSA 162-H:3, I(f) to read as
2 follows:

3 (f) Two **full committee public** members ~~[of the public,]~~ **one of whom may be a**
4 **municipal representative who is a member of a city or town governing body or a city or**
5 **town manager or a town administrator, shall be** appointed by the governor, with the consent
6 of the council, at least one of whom shall be a member in good standing of the New Hampshire Bar
7 Association, and both of whom shall be residents of the state of New Hampshire with expertise or
8 experience in one or more of the following areas: public deliberative or adjudicative proceedings;
9 business management; environmental protection; natural resource protection; energy facility
10 design, construction, operation, or management; or community and regional planning or economic
11 development.

12 2 Energy Facility Siting; Site Evaluation Committee. Amend RSA 162-H:3, III through VI to
13 read as follows:

14 III. No **full committee** public member, **alternate public member, public subcommittee**
15 **member**, nor any member of his or her family shall receive income from energy facilities within the
16 jurisdiction of the committee. The public members shall comply with RSA 15-A and RSA 15-B.

17 IV. All **state agency** members, **full committee members, the alternate public member,**
18 **and public subcommittee members** shall refrain from ex parte communications regarding any
19 matter pending before the committee.

20 V. ~~[Seven]~~ **Six** members of the committee shall constitute a quorum for the purpose of
21 conducting the committee's business.

22 VI. Any **full committee** public member, **alternate public member, or public**
23 **subcommittee member** ~~[of the committee]~~ may be removed by the governor and council for
24 inefficiency, neglect of duty, or misconduct or malfeasance in office, after being given a written
25 statement of the charges and an opportunity to be heard.

26 3 Limited Electrical Energy Producers; Site Evaluation Committee. Amend RSA 162-H:3, X
27 and XI to read as follows:

28 X. An alternate public member who satisfies the qualification requirements of
29 subparagraph I(f), excluding the New Hampshire Bar membership requirement, shall be appointed
30 by the governor, with consent of the council. The alternate public member shall only sit on the
31 committee ~~[or a subcommittee]~~ as provided for in paragraph XI. **The alternate public member**

1 *may sit on a subcommittee as provided in RSA 162-H:4-b.*

2 XI. If at any time a member must recuse himself or herself on a matter or is not otherwise
3 available for good reason, such person, if a state employee, may designate a senior administrative
4 employee or a staff attorney from his or her agency to sit on the committee. In the case of a *full*
5 *committee* public member, the chairperson shall appoint the alternate public member, or if such
6 *alternate public* member is not available, the governor and council shall appoint a replacement
7 upon petition of the chairperson. ~~[The replacement process under this paragraph shall also be~~
8 ~~applicable to subcommittee members under RSA 162-H:4-a.]~~

9 4 New Paragraph; Energy Facility Siting; Site Evaluation Committee; Public Subcommittee
10 Members. Amend RSA 162-H:3 by inserting after paragraph XI the following new paragraph:

11 XII.(a) In addition to the public members of the committee under RSA 162-H:3, I(f), and the
12 alternate public member of the committee under RSA 162-H:3, X, there shall be 2 public
13 subcommittee members appointed by the governor, with consent of the council, both of whom shall
14 be residents of the state of New Hampshire with expertise in one or more of the following areas:
15 public deliberative or adjudicative proceedings; business management; environmental protection;
16 natural resource protection; energy facility design, construction, operation, or management; or
17 community and regional planning or economic development.

18 (b) The 2 public subcommittee members shall serve 4-year terms and until their
19 successors are appointed and qualified. The initial terms of one subcommittee member shall be 2
20 years. Any public subcommittee member chosen to fill a vacancy occurring other than by expiration
21 of term shall be appointed for the unexpired term of the member who is to be succeeded.

22 5 Energy Facility Siting; Site Evaluation Committee. Amend RSA 162-H:4-a, II to read as
23 follows:

24 II. When considering the issuance of a certificate or a petition of jurisdiction, a
25 subcommittee shall have no fewer than 7 members. ~~[The 2]~~ **Two** public members shall serve on
26 each subcommittee with the remaining 5 or more members selected by the chairperson from among
27 the state agency members of the committee. Each selected member may designate a senior
28 administrative employee or staff attorney from his or her respective agency to sit in his or her place
29 on the subcommittee. The chairperson shall designate one member or designee to be the presiding
30 officer who shall be an attorney whenever possible. ~~[Five]~~ **Four** members of the subcommittee shall
31 constitute a quorum for the purpose of conducting the subcommittee's business.

32 6 New Section; Energy Facility Siting; Site Evaluation Committee. Amend RSA 162-H by
33 inserting after section 4-a the following new section:

34 162-H:4-b Public Members Serving on Subcommittees.

35 I. For purposes of serving on subcommittees, the 2 full committee public members, the
36 alternate public member, and the 2 public subcommittee members shall constitute a pool of public
37 members from which one or 2 is chosen by random draw.

38 II. In establishing a subcommittee to consider the issuance of a certificate or a petition of

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jurisdiction pursuant to RSA 162-H:4-a, II, the chairperson shall select, by a random draw, 2 public members.

III. In establishing a subcommittee pursuant to RSA 162-H:4-a, III, the chairperson shall select, by a random draw, one public member.

IV. If at any time a public member must recuse himself or herself on a matter or is not otherwise available for good reason, the chairperson shall select, by a random draw, another public member to sit on the subcommittee.

7 Energy Facility Siting; Public Hearing. Amend RSA 162-H:10, I-c to read as follows:

I-c. Within 90 days after acceptance of an application for a certificate, pursuant to RSA 162-H:7, the site evaluation committee shall hold at least one public hearing in each county in which the proposed facility is to be located and shall publish a public notice not less than 14 days before such session in one or more newspapers having a regular circulation in the county in which the hearing is to be held, describing the nature and location of the proposed facilities. ***Not fewer than 10 days before such session, the applicant shall provide a copy of the public notice to the presiding officer of the committee. The applicant shall arrange for a transcript of such session to be prepared.*** The public hearings shall be joint hearings, with representatives of the agencies that have permitting or other regulatory authority over the subject matter and shall be deemed to satisfy all initial requirements for public hearings under statutes requiring permits relative to environmental impact. Notwithstanding any other provision of law, the hearing shall be a joint hearing with the other state agencies and shall be in lieu of all hearings otherwise required by any of the other state agencies; provided, however, if any of such other state agencies does not otherwise have authority to conduct hearings, it may not join in the hearing under this chapter; provided further, however, the ability or inability of any of the other state agencies to join shall not affect the composition of the committee under RSA 162-H:3 nor the ability of any member of the committee to act in accordance with this chapter.

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