

1 S.148

2 Introduced by Senators Illuzzi and Doyle

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; natural resources; energy; public
6 service; hydroelectric plants

7 Statement of purpose: This bill proposes to require the commissioner of public
8 service, in consultation with the secretary of natural resources, to enter into an
9 agreement with the Federal Energy Regulatory Commission for a pilot project
10 to expedite development of small hydroelectric plants.

11 An act relating to a pilot project on expediting development of small
12 hydroelectric plants

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. FINDINGS

15 The general assembly finds:

16 (1) The existing policy of the state of Vermont is to promote
17 development and use of renewable energy plants, including hydroelectric
18 plants.

19 (2) The 2011 public review draft of the Comprehensive Energy Plan
20 issued by the department of public service (DPS) states in Sec. 3.3.2.8.2.2:

1 Opinions differ on the amount of available hydropower that is
2 available in Vermont. Depending on assumptions used, reports
3 vary from 25 MW at 44 sites (estimated by the ANR [agency of
4 natural resources] in 2008) to 434 MW at 1,291 sites (estimated in
5 a DOE [Department of Energy] study in 2006). A 2007 study for
6 the DPS identified more than 90 MW developable at 300 of the
7 existing 1,200 existing dams.

8 (3) Most hydroelectric plants require a license from the Federal Energy
9 Regulatory Commission (FERC) unless FERC grants an exemption.

10 (4) There are two classes of hydroelectric license exemptions granted by
11 FERC:

12 (A) Small hydropower projects, which are five megawatts or less,
13 that will be built at an existing dam, or projects that utilize a natural water
14 feature for head or an existing project that has a capacity of five megawatts or
15 less and proposes to increase capacity.

16 (B) Conduit exemptions for generating capacities of 15 megawatts or
17 less for nonmunicipal and 40 megawatts or less for a municipal project. The
18 conduit must have been constructed primarily for purposes other than power
19 production and be located entirely on nonfederal lands. In this context,
20 “conduit” refers to a human-made water conveyance (e.g., an irrigation canal).

1 (5) In August 2010, FERC and the state of Colorado, through its energy
2 office, entered into a memorandum of understanding “to streamline and
3 simplify the authorization of small-scale hydropower projects.” Under this
4 agreement, Colorado has undertaken a pilot project to test options for
5 simplifying the procedures to authorize the exemptions described in
6 subdivision (4) of this section for projects in Colorado while ensuring
7 environmental safeguards. The state’s prescreening will allow FERC to waive
8 stages of its exemption authorization process. The pilot project will continue
9 until 20 projects have gone through the program.

10 (6) In Vermont, the state energy office is the department of public
11 service.

12 Sec. 2. MEMORANDUM OF UNDERSTANDING; PILOT PROJECT

13 (a) In consultation with the secretary of natural resources, the
14 commissioner of public service (the commissioner) shall by January 15, 2013
15 enter into a memorandum of understanding with the Federal Energy
16 Regulatory Commission (FERC) for a pilot project to simplify the procedures
17 for FERC’s granting exemptions to its license requirements for plants in
18 Vermont that constitute small conduit hydroelectric facilities and small
19 hydroelectric power projects as defined in 18 C.F.R. § 4.30.

20 (b) In negotiating and entering into this memorandum of understanding, the
21 commissioner shall seek terms at least as favorable to the development of

1 in-state hydroelectric plants as those contained in the August 2010
2 “Memorandum of Understanding between the Federal Energy Regulatory
3 Commission and the State of Colorado through the Governor’s Energy Office
4 to Streamline and Simplify the Authorization of Small Scale Hydropower
5 Projects.”

6 (c) In negotiating and entering into a memorandum of understanding under
7 this section, the commissioner shall offer and agree to prescreening by the state
8 of Vermont of plants seeking exemption under the pilot project, in a manner
9 similar to the prescreening undertaken by the state of Colorado in the
10 memorandum of understanding described in subsection (b) of this section.

11 (d) A memorandum of understanding between the commissioner of public
12 service and FERC under this section shall bind the state of Vermont and its
13 agencies, including the department of public service and the agency of natural
14 resources.

15 (e) No later than January 15, 2013 and annually by each January 15
16 thereafter through the first January 15 after completion of the pilot project, the
17 commissioner shall submit a written report to the general assembly detailing
18 the progress of the project, including an identification of each hydroelectric
19 plant receiving exemption from FERC license requirements through the
20 project.

1 (f) On entry into a memorandum of understanding with FERC under this
2 section, the commissioner shall submit a copy of the memorandum to the
3 general assembly.

4 Sec. 3. EFFECTIVE DATE

5 This act shall take effect on passage.