

2023 -- H 5172

=====
LC000158
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

—————
A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ENERGY FACILITY SITING
ACT

Introduced By: Representatives McGaw, Speakman, Donovan, Cortvriend, Kislak,
Carson, Cotter, Stewart, Ajello, and Henries

Date Introduced: January 19, 2023

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-98-8 and 42-98-11 of the General Laws in Chapter 42-98 entitled
2 "Energy Facility Siting Act" are hereby amended to read as follows:

3 **42-98-8. Applications — Contents — Acceptance for filing.**

4 (a) The rules and regulations promulgated by the board pursuant to § 42-98-7(c) shall
5 prescribe the form and contents of applications under this chapter. The applications shall contain
6 at least the following, where applicable:

7 (1) Identification of the proposed owner(s) of the facility, including identification of all
8 affiliates of the proposed owners, as the term is defined in § 39-3-27.

9 (2) Detailed description of the proposed facility, including its function and operating
10 characteristics, and complete plans as to all structures, including underground construction and
11 transmission facilities, underground or aerial, associated with the proposed facility.

12 The complete plans shall be the basis for determining jurisdiction under the energy facility
13 siting act and shall be the plans submitted to all agencies whose permit is required under the law.

14 (3) A detailed description and analysis of the impact of the proposed facility on its physical
15 and social environment together with a detailed description of all environmental characteristics of
16 the proposed site, and a summary of all studies prepared and relied upon in connection therewith.

17 Where applicable these descriptions and analysis shall include a review of current
18 independent, scientific research pertaining to electric and magnetic fields (EMF). The review shall

1 provide data assessing potential health risks associated with EMF exposure. For the purposes of
2 this chapter “prudent avoidance” shall refer to measures to be implemented in order to protect the
3 public from EMF exposure.

4 (4) All studies and forecasts, complete with the information, data, methodology, and
5 assumptions on which they are based, on which the applicant intends to rely in showing the need
6 for the proposed facility under the statewide master construction plan submitted annually.

7 (5) Complete detail as to the estimated construction cost of the proposed facility, the
8 projected maintenance and operation costs, estimated costs to the community such as safety and
9 public health issues, storm damage and power outages, estimated costs to businesses and
10 homeowners due to power outages, the estimated unit cost of energy to be produced by the proposed
11 facility, and expected methods of financing the facility.

12 (6) A complete life-cycle management plan for the proposed facility, including measures
13 for protecting the public health and safety and the environment during the facility’s operations,
14 including plans for the handling and disposal of wastes from the facility, and plans for the
15 decommissioning of the facility at the end of its useful life.

16 (7) A study of alternatives to the proposed facility, including alternatives as to energy
17 sources, methods of energy production, and sites for the facility, together with reasons for the
18 applicant’s rejection of these alternatives. The study shall include estimates of facility cost and unit
19 energy costs of alternatives considered.

20 [\(8\) A detailed and specific statement as to the effects the proposed facility would have on](#)
21 [the ability of the state to meet the carbon-emissions-reduction goals set forth in § 42-6.2-2\(a\)\(2\).](#)

22 (b) Within thirty (30) days of the filing of an applicant under this chapter, the board shall
23 notify the applicant whether the application is in the form and addresses the matters that are required
24 by this section and the rules and regulations as are promulgated pursuant to § 42-98-7. An
25 application meeting these requirements shall then be docketed. Any application deemed to be
26 deficient shall be returned to the applicant, together with a concise and explicit statement of the
27 application’s deficiencies. Within fifteen (15) days of the resubmission of an application following
28 a rejection for deficiency, the board shall docket the application together with specification of
29 continuing deficiencies noted by the board, if any.

30 **42-98-11. Final hearing — Standards — Decisions.**

31 (a) Within forty-five (45) days after the final date for submission of advisory opinions
32 pursuant to § 42-98-10, the board shall convene the final hearing on the application. The purpose
33 of this hearing shall not be to rehear the evidence which was presented previously in hearings before
34 agencies designated under § 42-98-9, but rather to provide the applicant, intervenors, the public,

1 and all other parties in the proceeding, the opportunity to address in a single forum, and from a
2 consolidated, statewide prospective, the issues reviewed, and the recommendations made in the
3 proceedings before the agencies designated under § 42-98-9. The board at this hearing may, at its
4 discretion, allow the presentation of new evidence by any party as to the issues considered by the
5 agencies designated under § 42-98-9. The board may limit the presentation of repetitive or
6 cumulative evidence. The hearing shall proceed on not less than thirty (30) days' notice to the
7 parties and the public, shall be concluded not more than sixty (60) days following its initiation, and
8 shall be conducted expeditiously.

9 (b) The board shall issue a decision granting a license only upon finding that the applicant
10 has shown that:

11 (1) Construction of the proposed facility is necessary to meet the needs of the state and/or
12 region for energy of the type to be produced by the proposed facility.

13 (2) The proposed facility is cost-justified, and can be expected to produce energy at the
14 lowest reasonable cost to the consumer consistent with the objective of ensuring that the
15 construction and operation of the proposed facility will be accomplished in compliance with all of
16 the requirements of the laws, rules, regulations, and ordinances, under which, absent this chapter,
17 a permit, license, variance, or assent would be required, or that consideration of the public health,
18 safety, welfare, security and need for the proposed facility justifies a waiver of some part of the
19 requirements when compliance cannot be assured.

20 (3) The proposed facility will not cause unacceptable harm to the environment and will
21 enhance the socio-economic fabric of the state.

22 (c) The board shall not issue a decision granting a license to any applicant unless the board
23 makes an affirmative determination that construction of the proposed facility will not adversely
24 impact the ability of the state to achieve the carbon-emissions-reduction goals set forth in § 42-6.2-
25 2(a)(2).

26 ~~(e)~~(d) Within sixty (60) days of the conclusion of the final hearing the board shall issue its
27 final decision on the application. A decision in favor of the application shall constitute a granting
28 of all permits, licenses, variances, or assents, which under any law, rule, regulation, or ordinance
29 of the state or of a political subdivision thereof which would, absent this chapter, be required for
30 the proposed facility. The decision may be issued requiring any modification or alteration of the
31 proposed facility, and may be issued on any condition the board deems warranted by the record,
32 and may be issued conditional upon the applicant's receipt of permits required by federal law. The
33 board's decision shall explicitly address each of the advisory opinions received from agencies, and
34 the board's reasons for accepting, rejecting, or modifying, in whole or in part, any of those advisory

1 opinions. The board shall, within ten (10) days of granting a license, with or without conditions,
2 deliver the decision to the speaker of the Rhode Island house of representatives, and the president
3 of the Rhode Island senate.

4 SECTION 2. This act shall take effect upon passage and shall apply to applications made
5 to the energy facility siting board on or after the effective date of this act.

=====
LC000158
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- ENERGY FACILITY SITING
ACT

1 This act would require an applicant for a proposed energy facility to provide a statement
2 on how the proposed facility would affect the state's ability to meet carbon-emissions-reduction
3 goals. This act would further require that no license is to be issued unless the proposed facility will
4 not adversely impact on the state's ability to achieve the carbon-emissions-reduction goals.

5 This act would take effect upon passage and would apply to applications made to the energy
6 facility siting board on or after the effective date of this act.

=====
LC000158
=====