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**Veto Message: Governor Kunin
1986 (H.751)**

An act relating to waste-to-energy facilities.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 9, 1986

The Honorable Ralph G. Wright
Speaker of the House
Vermont House of Representatives
State House
Montpelier, Vermont 05602
Re: H. 751

Dear Mr. Speaker:

I am returning herewith to the House, unsigned and without my approval, House Bill 751, entitled:

An act relating to waste-to-energy facilities.

Under present law, every proposed electric generation or transmission facility must obtain a certificate of public good from the Public Service Board, after review by the Board pursuant to 30 V.S.A. Section 248 (Section 248 proceedings). The criteria for review, which are found in subsection (b) of Section 248, include both technical and non-technical criteria. Among the non-technical criteria are the following relating to the environment:

(b)(1) with respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions and the municipal legislative bodies;

(b)(4) with respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment and the public health and safety.

Section 8 of House Bill 751 would exempt two categories of electric generation facilities, waste-to-energy and wood-fired facilities, from review by the Public Service Board under the environmental criteria referenced above.

Section 7 of the bill proposes to amend 10 V.S.A. Section 6001(3), a section of 'Act 250.' Current law exempts from Act 250 electric generation or transmission facilities which require a certificate of public good from the Public Service Board. The amendment to Act 250 embodied in Section 7 was intended to eliminate waste-to-energy and wood-fired facilities from that exemption, placing those facilities under Act 250 jurisdiction for full environmental review. Thus, the effect of the bill, as intended, would be to transfer jurisdiction over environmental review of such facilities from the Public Service Board in a Section 248 proceeding to the Environmental Board in an Act 250 proceeding.

Regrettably, the language of the bill fails to accomplish its legislative intent. Because of the interrelationship between the newly drafted language and existing language of Act 250, there is substantial risk that Act 250 jurisdiction would apply only to waste-to-energy and wood-fired facilities involving more than ten acres of land, if those facilities are located in municipalities with permanent zoning and subdivision bylaws. Since I am advised that it is not impractical to design such plants for ten acres or less, this 'loophole' is significant. Facilities within the loophole would receive environmental review under *neither* Act 250 *nor* Section 248.

Thus, if House Bill 751 were to become law, it would create an unacceptable risk that certain waste-to-energy and wood-fired facilities would entirely escape full environmental review. I am confident that such a result would be directly contrary to the legislature's intent to provide for enhanced environmental review of all such facilities, regardless of the size of their sites. Because I believe that full environmental review of all waste-to-energy and wood-fired facilities is extremely important, I have chosen not to

approve this bill. The effect of my veto will be to preserve review of these plants under the environmental criteria of Section 248 until the legislature can again act on this issue. In so doing I am also calling upon the Public Service Board to ensure that any proposed plants receive full environmental review under the provision of Section 248, with an opportunity for effective public participation.

Finally, there are beneficial provisions found in the remaining sections of H. 751, notably those which amplify the state's policies on solid waste and those which provide for state government recycling procedures. I intend to effectuate, by executive order or other action, as many of the remaining components of the bills as are within my executive authority.

Sincerely yours,
/s/ Madeleine M. Kunin
Madeleine M. Kunin,
Governor

*Note: Pocket Veto- The General Assembly adjourned May 3, 1986, 6 days before the veto message was received.

Sources: *Journal of the House*, May 3, 1986 (pages 1136-1138)