

3/12/07

VPA LEGISLATIVE REPORT #9

**POST- TOWN MEETING WEEK- - MID-POINT IN THE SESSION –
CROSSOVER THIS FRIDAY!**

Committee agenda items (bills moving) of note this week:

HOUSE COMMERCE

H.248 - Telecommunications Authority

Thursday, March 15, 2007

9:00 a.m. **H.248 - Telecommunications Authority**

Karen Horn, VT League of Cities & Towns

Rex Burke, Bennington County Regional Commission (10:00 a.m.)

HOUSE FISH, WILDLIFE & WATER RESOURCE

H. 154 Stormwater Permitting

H.73: Water Management Types

H.296 Wastewater Permitting (Universal Jurisdiction)

Related Note: The Agency of Natural Resources is making available for informal comment **revisions to the Wastewater System and Potable Water Supply Rules**. The Agency is currently planning to start the formal process for adopting these revisions in early April. Due to the number and scope of the changes to the rules, however, the Agency is asking for comments and input before the formal rulemaking starts. **The informal comment period will close on March 28, 2007.**

Email: Roger.B.Thompson@state.vt.us Phone: 802-241-3027

More Information Link:
<http://www.anr.state.vt.us/dec/ww/rules.htm#os>

HOUSE GENERAL, HOUSING & MILITARY AFFAIRS

Thursday, March 15, 2007

9:00 a.m. **H.299 - New Neighborhood Initiative for Housing Development**

Jim Saudade, Deputy Secretary, Agency of Commerce & Community Affairs

Andrew Broderick, Housing Vermont

10:00 a.m. **H.502 - Installation Standards for Manufactured Housing**

a.m.

Karen Moore, Vermont Manufactured Housing Association (Speakerphone)

Chris Rice, Lobbyist, Vermont Manufactured Housing Association

Molly Dugan, Deputy Commissioner, Dept. of Housing & Community Affairs

Arthur Hamlin, Housing Program Coordinator, Agency of Commerce & Community

Affairs

11:00 a.m. **H.332 - Sale and Closure of Mobile Home Parks**

Molly Dugan, Deputy Commissioner, Dept. of Housing & Community Affairs
Arthur Hamlin, Housing Program Coordinator, Agency of Commerce & Community Affairs
Michael Momaney, Director, Development, VT State Housing Authority
Stuart Bennett, VT Landlord Association

HOUSE NATURAL RESOURCES & ENERGY

Renewable Energy/Climate Change Bill (combination of several bills)

Wednesday, March 14, 2007

9:00AM **H.248: Telecom Bill**

Chris Campbell, Department of Public Service (9:00)
Larry Lackey, (9:30)
Deena Frankel, Public Service Board (10:00)
Peter Young, Natural Resources Board (10:30)
Michael Zahner, Natural Resources Board (10:30)
Karen Horn, VT League of Cities & Towns (11:30)

Wednesday, March 14, 2007 **Education Committee Framework Initiative**
Joint Hearing with House Ways & Means (Room 11) 2:30 PM – 4:30 and 6-8pm

SENATE ECONOMIC DEVELOPMENT, HOUSING & GENERAL AFFAIRS

Wednesday, March 14, 2007

9:00 a.m. **Financing, Reappraisal, and Infrastructure in Tax Incentive Financing Districts**
Committee Discussion; Possible Vote

9:30 a.m. **Redevelopment of Contaminated Properties Program**
Committee Discussion; Possible Vote

10:30 a.m. **The Uniform Environmental Covenants Act; Brownfields**
Committee Discussion; Possible Vote

SENATE FINANCE

Energy: S.94 Energy Efficiency *Energy testimony including but not limited to S.94 Energy Efficiency; Proposals: payment program for essential electricity service for low income Vermonters, incentive for commercial customer owned generation, eliminating property tax disincentive to customer owned generation*

SENATE NATURAL RESOURCES & ENERGY

Wednesday, March 14, 2007

9:00 a.m. **S.94 - Energy Efficiency**

Al Boright, Leg. Counsel

9:30 a.m. **S.148 - New Town Center**

Brian Shupe, Vt. Forum on Sprawl

Greg Brown, E.D., Chittenden County Regional Planning Commission

Thursday, March 15, 2007

8:30 a.m. **S.96 - Pollution Control; Lake Champlain**

Mike O'Grady, Leg. Counsel

Pat Parenteau, Vermont Law School (9:00 a.m.)

Canute Dalmasse, Dep. Secy., Agency of Natural Resources (9:30 a.m.)

Jon Groveman, Vt. Natural Resources Council (9:45 a.m.)

10:15 a.m. **BREAK**

10:30 a.m. **S.92 - Groundwater Mapping**

Mike O'Grady, Leg. Counsel

Larry Becker, State Geologist

Jon Groveman, VNRC

Matt Levin, Vermonters for a Clean Environment

Steve Springer, Water 1st

Bills of Interest introduced:

- H.513 AN ACT RELATING TO FINANCING RENEWABLE ENERGY AND ENERGY EFFICIENCY PROJECTS

Introduced by Representative Jewett of Ripton

Statement of purpose: This bill proposes to create mortgage lending programs to provide residential and commercial customers with capital financing for renewable energy and energy efficiency projects.

- S.172 AN ACT RELATING TO INSTALLATION STANDARDS FOR MANUFACTURED HOUSING (Also H. 502)

Statement of purpose: This bill proposes to assure that manufactured housing, often affordable housing, is securely and competently installed by creating uniform installation standards by a board that will also handle licensing, complaint investigation, enforcement, and inspection services.

- H.509 AN ACT RELATING TO FINANCING, IMPROVEMENTS, AND REAPPRAISAL RELATED TO TAX INCENTIVE FINANCING DISTRICTS

Introduced by Representatives Kupersmith of S. Burlington, Audette of S. Burlington, Head of S. Burlington and Pugh of S. Burlington

Statement of purpose: This bill proposes to make changes to the tax incentive financing law to solve problems with reappraisal, to provide more flexibility in financing improvements with tax increments, and to clarify what improvements are eligible for tax increment financing.

- H.504 AN ACT RELATING TO STATE HIGHWAY MUNICIPAL AND VILLAGE ZONES

Introduced by Representatives Masland of Thetford, Barnard of Richmond, Botzow of Pownal, Cheney of Norwich, Copeland-Hanzas of Bradford, Fisher of Lincoln, McCullough of Williston, Minter of Waterbury and Sharpe of Bristol

Statement of purpose: This bill proposes to authorize municipalities through which a state highway passes to establish municipal and village highway zones. It also directs the agency of transportation to revise the design standards for state highways within a zone and authorizes municipalities to work with the agency to modify state highways within a zone in accordance with the revised standards.

- H.456 AN ACT RELATING TO ABANDONED MOBILE HOMES, UNDERGROUND FUEL TANKS, AND WATER QUALITY IN MOBILE HOME PARKS

Statement of purpose: This bill proposes to provide additional resources for removal of underground fuel tanks in mobile home parks, to allocate liability for water quality in consecutive water systems, and to create a mobile home improvement fund.

- H.474 AN ACT RELATING TO AN ON-SITE WASTEWATER SYSTEM STUDY

Introduced by Representatives Clark of Vergennes, Canfield of Fair Haven, Flory of Pittsford, Jewett of Ripton, Maier of Middlebury, Nuovo of Middlebury, Oxholm of Vergennes, Peltz of Woodbury, Rodgers of Glover, Sharpe of Bristol, Stevens of

Statement of purpose: This bill proposes to require the agency of natural resources to redirect the use of money appropriated in fiscal year 2007 for the completion of an alternative on-site wastewater system study in Addison County.

- H.494 AN ACT RELATING TO ON-SITE PUBLIC WATER SUPPLY AND WASTEWATER TREATMENT

Introduced by Representatives Bray of New Haven and Jewett of Ripton

Statement of purpose: This bill proposes to extend the date on which the agency of natural resources assumes jurisdiction over the permitting of all potable water supply and wastewater systems.

Sec. 1. 10 V.S.A. § 1974 is amended to read:

§ 1974. SINGLE-FAMILY RESIDENCES ON THEIR OWN INDIVIDUAL

LOTS

(c) A substantially completed single-family residence on its own individual lot, and its substantially completed associated potable water supply and wastewater system, is exempt from the permitting requirements of this chapter, provided that the lot on which the residence is located was in existence as of the effective date of this act and was exempt from the subdivision permitting requirements that existed on that date. This exemption shall remain in effect unless and until:

(1) the lot is subdivided and the resulting lots are not exempt under the applicable rules in existence at the time of subdivision; or

(2) any other action for which a permit is required under this chapter occurs after July 1, ~~2007~~ 2009.

* * *

(e) A permit is not required for the addition of one or more bedrooms or any other attached exterior horizontal expansion to a single-family residence on its own lot that was exempt from the subdivision permitting requirements that existed on June 13, 2002, provided that:

(1) a fully complying replacement area has been identified by a licensed designer and a diagram identifying the location of that area is certified by the designer and filed in the land records; and

(2) no other action for which a permit is required under this chapter occurs after July 1, ~~2007~~ 2009.

* * *

Sec. 2. 10 V.S.A. § 1976(b) is amended to read:

(b) As of July 1, ~~2007~~ 2009, those provisions of municipal ordinances and zoning bylaws that regulate potable water supplies and wastewater systems are superseded by the provisions of this chapter and the rules adopted under this chapter. However, to the extent that local ordinances and bylaws apply to potable water supplies and wastewater systems that are exempt from the permitting requirements of this chapter, and to the extent that those local ordinances and bylaws establish procedural requirements that are consistent with this chapter and the rules adopted under this chapter, those provisions of existing and any future ordinances or bylaws shall not be superseded in municipalities that receive delegation under this section.

Sec. 3. 10 V.S.A. § 1978(e)(4) is amended to read:

(4) The annual reporting requirement shall end as of January 15, ~~2007~~ 2009.

Sec. 4. AGENCY OF NATURAL RESOURCES ALTERNATIVE

WASTEWATER SYSTEM REPORT

On or before January 15, 2008, the agency of natural resources shall report to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, the house committee on commerce, and the senate committee on finance regarding the alternative or innovative wastewater systems approved for use by the agency in difficult or noncomplying soils of the state. The report shall include:

(1) A list of innovative or alternative wastewater treatment system components or products that the agency of natural resources has approved for use in difficult or noncomplying soils, including at-grade systems, mound systems, recirculating sand filters, intermittent sand filters, waterless toilets together with greywater disposal

systems, the Avantex textile treatment system, Ecoflow Biofilter peat treatment system, Presby Enviro-Septic

gravel-less distribution pipe, Flout floating outlet distribution box, and the Orenco Hydro-splitter mechanical distribution alternative to a distribution box.

(2) A list of the alternative or innovative wastewater treatment systems that have been approved for use in each county of the state by the agency of natural resources.

(3) A procedure that the agency of natural resources shall follow in responding to and aiding completion of applications for installation of innovative or alternative wastewater systems in difficult or noncomplying soils.

Sec. 5. EXTENSION OF SUNSET OF MUNICIPAL ON-SITE

WASTEWATER AND PUBLIC WATER SUPPLY AUTHORITY

Sec. 14 of No. 133 of the Acts of the 2001 Adj. Sess. (2002) is amended to read:

Sec. 14. REPEAL

(c) 18 V.S.A. §§ 1218a (single lot subdivision), 1218b (exempt municipalities), 1218c (exempt municipalities with sewage ordinances), 1218d (exempt municipalities without sewage ordinances), and 1218e (sewer approval) are repealed as of July 1, ~~2007~~ 2009.

- S.165 AN ACT RELATING TO LOCAL OPTION TAX REVENUE
FUNDING OF REGIONAL ALTERNATIVE TRANSPORTATION

Introduced by Senator Lyons of Chittenden District and Senator Ayer of Addison

Statement of purpose: This bill proposes to establish a regional alternative transportation fund and to dedicate a portion of local option sales tax revenues to this fund.

Sec. 1. 24 V.S.A. § 138(d) is amended to read:

(d) Of the taxes collected under this section, 70 percent of the taxes shall be paid on a quarterly basis to the municipality in which they were collected, after reduction for the costs of administration and collection under subsection (c) of this section. Revenues received by a municipality may be expended for municipal services only, and not for education expenditures. ~~Any~~ Of the remaining revenue, 80 percent shall be

deposited into the PILOT special fund established by 32 V.S.A. § 3709, and 20 percent shall be deposited into the regional alternative transportation fund under 19 V.S.A. § 11f.

Sec. 2. 19 V.S.A. § 11f is added to read:

§ 11f. REGIONAL ALTERNATIVE TRANSPORTATION FUND

(a) There is created a special account within the transportation fund to be known as the regional alternative transportation fund. This fund shall be comprised of the portion of local option sales tax revenue allocated in 24 V.S.A. § 138(d).

(b) By January 15 of each year, the secretary of transportation shall make recommendations to the house and senate committees on transportation for establishing and enhancing regional alternative modes of transportation. The agency shall annually solicit input from each of the regional planning commissions and the Chittenden County metropolitan planning organization on regional priorities

S.66 – latest version (from Brian Shupe 3/1/07)

The Committee on Economic Development and General Affairs, to which was referred Senate Bill S.66, entitled “AN ACT RELATING TO REQUIRING A COMMUNITY AND REGIONAL IMPACT STUDY OF THE PROJECTED EFFECTS OF LARGE-SCALE RETAIL USES” respectfully report that they have met and considered the same and recommend that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds that the public good is served when a town is empowered to conduct neutral studies, funded by the permit applicant, regarding the effects that construction of a large-scale retail store are likely to have on the town. In this manner, the town, the applicant, and other interested parties are likely to be better served up front, total time devoted to this analysis may be less in the long run, and the town is able to better predict which development projects are likely to cost taxpayers funds and which projects are likely to adversely affect the local economy.

Sec. 2. 10 V.S.A. § 6001(31) is added to read:

(31) “Large-scale retail use” means:

(A) if applied outside a designated downtown or new town center, designated as such under 24 V.S.A. chapter 76A, a single retail business having a gross floor area in one or more buildings at the same location of 75,000 square feet or more in which:

(i) goods or merchandise is offered for retail sale to the general public or to members for personal, business, or household consumption; and

(ii) services incidental to the sale of those goods may be provided.

(B) if applied within a designated downtown or new town center, designated as such under 24 V.S.A. chapter 76A, a single retail business having a gross floor area in one or more buildings at the same location of 100,000 square feet or more in which:

(i) goods or merchandise is offered for retail sale to the general public or to members for personal, business, or household consumption; and

(ii) services incidental to the sale of those goods may be provided.

Sec. 3. 10 V.S.A. § 6083(h) and (i) are added to read:

(h)(1) A district commission shall:

(A) Procure an independent consultant to conduct a community and regional economic impact study in each situation in which an application for a permit under this chapter is for a large-scale retail use. If an application is for one or more permit amendments to expand an existing large-scale retail use entirely within a designated downtown or new town center, the study shall be required if the cumulative expansion will be of ~~100,000 square feet of 50 percent of the~~ floor space, or more. If an application is for one or more permit amendments to expand an existing large-scale retail use not located entirely within a designated downtown or new town center, the study shall be required if the cumulative expansion ~~would~~ **will** be of ~~75,000 square feet 15 percent of the~~ floor space, or more.

(B) Notify the general public when a community and regional economic impact study has been completed and provide at least one copy of the study for review by the general public.

(C) Provide the completed study to the applicant, the regional planning commission, each municipality within the region, and each adjoining municipality that is located in an adjoining region.

(D) Assure that proceedings related to the application are scheduled in a manner that gives the recipients of the completed study adequate time to consider the study while determining the nature and extent of their participation in proceedings under this chapter.

(2) A community and regional economic impact study shall be designed to disclose the range of projected impacts, costs, and benefits of the proposal upon all municipalities located within the economic region as defined by the district commission, based upon an evaluation of historic patterns of commerce. Issues addressed in the community and regional economic impact study shall include:

(A) Projected costs arising from the demand for and required improvements to public services and infrastructure.

(B) The impact of these projected costs on the capacity of existing or planned community facilities.

(C) The value of improvements that are to be provided by the project to public services and to public facilities.

(D) Projected tax revenues to be generated by the project.

(E) Projected impact on property values in the community and region and the potential loss or increase in municipal tax revenues resulting from the proposed project.

(F) Projected net job loss or creation caused by the project and the resulting potential loss or increase in tax revenues; and estimates of how much revenue generated by the project will be retained and redirected into the economy of the community and the region.

(G) The impact of large-scale retail uses on any existing designated downtown, designated village center, designated growth center, or designated new town center, designated as such according to chapter 76A of this title.

(H) Traffic on roads and highways in the vicinity of the project.

(I) Projected impact on the character of the area in the municipality where the use is proposed.

(J) Projected impact on the viability of agricultural lands in the vicinity of the project.

(K) Projected impact on affordable housing for low and moderate-income residents, to be determined in consultation with local, regional and state housing agencies.

(i) A district commission shall consider any community and regional economic impact study that is submitted to it after having been conducted by an independent consultant for a municipality, as provided under 24 V.S.A. chapter 117. A district commission receiving such a study may take testimony on the study, ~~and~~ may accept or conditionally accept any portion of the study or the entire study in lieu of any portion of the study, or the entire study, that the district commission otherwise is required to procure under this section, **and may request supplemental information which does not duplicate information contained in the study completed for the municipality.** A district commission, at any point in the proceedings, may procure additional studies to complement any or all portions of the study completed for the municipality and accepted by it under this section, but the district commission shall not duplicate portions of a municipal study that it has accepted. An application shall not be considered a complete application until a community and regional economic impact study has been completed and accepted by a district commission, and until copies have been distributed as required by this chapter.

Sec. 4. 10 V.S.A. § 6083a(i) is added to read:

(i) If an application is for a large-scale retail use, the fee shall include the actual costs to the district commission of procuring a community and regional economic impact study, to the extent required under subsection 6083(h) or (i) of this title. However, any fee imposed under this subsection shall not exceed \$75,000.00. Actual costs of any study procured by the district commission shall be determined, and the fee shall be due and payable as provided by procedure or rule of the land use panel. Failure to pay shall be grounds for permit revocation.

Sec. 5. 24 V.S.A. § 4303(33) is added to read:

(33) "Large-scale retail use" means:

(A) if applied outside a designated downtown or new town center, designated as such under chapter 76A of this title, a single retail business having a gross floor area in one or more buildings at the same location of 75,000 square feet or more, **except in a municipality that has adopted a bylaw that establishes a different area, in which:**

(i) goods or merchandise is offered for retail sale to the general public or to members for personal, business, or household consumption; and

(ii) services incidental to the sale of those goods may be provided.

(B) if applied within a designated downtown or new town center, designated as such under chapter 76A of this title, a single retail business having a gross floor area in one or more buildings at the same location of 100,000 square feet or more, **except in a municipality that has adopted a bylaw that establishes a different area, in which:**

(i) goods or merchandise is offered for retail sale to the general public or to members for personal, business, or household consumption; and

(ii) services incidental to the sale of those goods may be provided.

Sec. 6. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(8) Large-scale retail uses.

(A) Conditional use review. Large-scale retail use, if allowed by a municipality in one or more zoning districts, shall be subject to conditional use review pursuant to subdivision 4414(3) of this title, in addition to any other review procedure prescribed in the zoning bylaws.

(B) Community and regional impact study.

(i) Prior to receiving any municipal zoning permit for the project, a municipality may require any applicant for a new large-scale retail use ~~shall~~ to pay to the municipality the impact evaluation fee required under this chapter, established in the amount necessary to complete a community and regional economic impact study of the range of projected impacts, costs, and benefits of the proposal upon all municipalities located within the economic region, as defined by the district environmental commission, based upon an evaluation of historic patterns of commerce. Such a study may also be required in the case of one or more expansions of an existing large scale retail use, provided that if the expansion or expansions are located entirely within a designated downtown or new town center, the cumulative expansion shall be at least 100,000 square feet of floor space; and if the expansion or expansions are not located entirely within a designated downtown or new town center the cumulative expansion shall be of at least 75,000 square feet of floor space. If the municipality requires any applicant for a new or expanded large scale retail use to pay for such a study, the municipal development review board or board of adjustment shall procure an independent consultant to conduct the study. Issues addressed in the community and regional economic impact study shall include:

(I) Projected costs arising from the demand for and required improvements to public services and infrastructure.

(II) The impact of these projected costs on the capacity of existing or planned community facilities.

(III) The value of improvements that are to be provided by the project to public services and to public facilities.

(IV) Projected tax revenues to be generated by the project.

(V) Projected impact on property values in the community and region and the potential loss or increase in municipal tax revenues resulting from the proposed project.

(VI) Projected net job loss or creation caused by the project and the resulting potential loss or increase in tax revenues; and estimates of how much revenue generated by the project will be retained and redirected into the economy of the community and the region.

(VII) The impact of large-scale retail uses on any existing designated downtown, designated village center, designated growth center, or designated new town center, designated as such according to chapter 76A of this title.

(VIII) Traffic on roads and highways in the vicinity of the project.

(IX) Projected impact on the character of the area in the municipality where the use is proposed.

(X) Projected impact on the viability of agricultural lands in the vicinity of the project.

(XI) Projected impact on affordable housing for low and moderate-income residents, to be determined in consultation with local, regional and state housing agencies.

(XII) Additional impacts that the appropriate municipal panel determines should be evaluated.

(ii) If the municipality requires a community and regional study, the appropriate municipal panel shall:

(I) Notify the general public when a community and regional economic impact study has been completed and provide at least one copy of the study for review by the general public.

(II) Provide the completed study to the applicant, the regional planning commission, each municipality within the region, and each adjoining municipality that is located in an adjoining region.

(III) Assure that proceedings related to the application are scheduled in a manner that gives the recipients of the completed study adequate time to consider the study while determining the nature and extent of their participation in proceedings under this chapter.

(iii) If a municipality requires a community and regional impact study, an application shall not be considered a complete application until the study has been completed and copies have been distributed as required by this chapter. The community and regional economic impact study shall be considered, together with other evidence submitted in the proceeding, in evaluating the fiscal and economic impacts of a large-scale retail use to determine if the use will have an undue adverse effect on:

(I) The capacity of existing or planned community facilities.

(II) The character of the area in the municipality where the use is proposed.

(III) Traffic on roads and highways in the vicinity of the project.

(IV) The viability of agricultural lands in the vicinity of the project and in the region.

(V) The utilization of renewable energy resources.

(VI) The supply of affordable housing for low and moderate-income residents.

(iv) In evaluating an application for a large-scale retail use as part of a conditional use review, the appropriate municipal panel shall assure that any required community and regional economic impact study has been completed, and shall examine the impact of large-scale retail uses on existing designated downtowns, existing designated village centers, designated growth centers, and designated new town centers, each as designated under chapter 76A of this title, based on the community and regional economic impact study and other evidence submitted in a proceeding on the application. A municipality shall not base its decision on regional impacts occurring outside of the municipality.

(v) Each adjacent municipality and the regional planning commission shall be notified of the hearing date, time, and location at least 15 days prior to the final public hearing to consider the large-scale retail use proposal.

(vi) Any study may be submitted by a party to a proceeding under 10 V.S.A. chapter 151, relating to a large-scale retail use, and may be considered by the district environmental commission as evidence in the proceeding.

Sec. 7. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

* * *

(3) Conditional uses.

* * *

(D) With regard to large-scale retail uses, such uses shall not result in an undue adverse effect on:

(i) the fiscal well-being of the municipality and its ability to provide public services or facilities to residents and property owners; or

(ii) the viability of agricultural lands within the municipality; or

(iii) the supply of affordable housing for low and moderate-income residents.

Sec. 8. 24 V.S.A. § 4440(e) is added to read:

(e) If an application is for a large-scale retail use, the fee shall include the actual costs of procuring a community and regional impact study, if required under this chapter. Actual costs of the study shall be determined, and the fee shall be due and payable as provided by procedures and standards established by the legislative body; provided however, that any fee imposed under this subsection shall not exceed \$75,000.00. Failure to pay shall be grounds for permit revocation.

Sec. 9. APPLICABILITY OF CHAPTER 117 AMENDMENTS

The portions of this act that amend 24 V.S.A. chapter 117 shall not apply to projects for which a zoning permit application has been submitted as of the effective date of this act, notwithstanding whether such a project may require one or more local permits or authorizations.

- **H.451 AN ACT RELATING TO DESIGNATED LOW IMPACT DEVELOPMENT NEIGHBORHOODS, AGRICULTURAL LANDS MITIGATION AND HOUSING UNDER ACT 250, LAND GAINS TAX EXEMPTIONS FOR HOUSING, AND OTHER HOUSING INCENTIVES**

Introduced by Representatives Leriche of Hardwick, Perry of Richford and Clarkson of Woodstock

Statement of purpose: This bill proposes to acknowledge a category of designated “low impact development (LID) zones” that exist under the downtown chapter, and that includes “growth centers,” “downtowns,” “new town centers,” and “village centers,” and to establish an additional designation for “LID neighborhoods” within the category. It proposes to broaden and enumerate benefits to which all LID zones will be entitled and to enumerate a school tax benefit to which LID neighborhoods will be entitled. It proposes that agency of natural resources’ water and wastewater fees and Act 250 fees exclusively for housing developments shall be one-half the normal rate. It proposes to expand the size of housing developments allowed before Act 250 jurisdiction takes effect. It provides that housing units in any designated entity under the downtown chapter shall not be counted in determining jurisdiction over housing units outside a designated entity. It proposes to require that Act 250 fees will be due in stages, with a small initial review fee, and the balance due in stages. It proposes revisions in Act 250 criterion 9B to reduce review under the agricultural lands criteria, for applications that would be located in a designated entity and that contain fewer than 10 acres of agricultural lands that are not protected by conservation easement, and it would remove agricultural lands mitigation requirements for those proposals. It proposes to put the burden on a housing opponent in appeals of agency of natural resources permits, Act 250 permits, and planning and zoning chapter permits. It proposes to require a wetlands study to develop an MOU with the Army Corps of Engineers with a view to allowing conversion of wetlands in designated entities and establishing regional preapproved wetlands mitigation systems. It requires urban stormwater rules to protect watersheds while allowing high density development of housing. It proposes to exclude from the land gains tax lands upon which residential construction commences within two years. It allows municipalities to retain for three

years education property taxes collected on assessments within designated low impact development neighborhoods.

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

* * * Downtown Chapter * * *

Sec. 1. 24 V.S.A. § 2791(15) and (16) are added to read:

(15) “Low impact development neighborhood” means a specific and limited area of land identified on a map that is targeted for, and appropriate for, higher density residential development, redevelopment, or infill that is required to address identified housing needs, that is consistent with the municipal plan and the adopted zoning and subdivision regulations, and that contains substantially the following characteristics:

(A) it is located within or adjacent to areas served by existing or planned infrastructure and in areas that are not more appropriately designated as downtown, village center, new town center, or growth center;

(B) it has water and sewer capacity;

(C) it complements an existing downtown, village center, new town center, or growth center within the municipality or a neighboring municipality designated under this chapter;

(D) it is a design review district or overlay district under section 4414 of this title;

(E) it is consistent with smart growth principles defined under this chapter;

(F) it includes “neighborhood design principles,” as outlined in statute and defined in municipal neighborhood design standards, which may address factors, including the following: neighborhood density; pedestrian scale and orientation; interconnected street and sidewalk or path networks; streetscape design; grid, block, and lot layout; house siting and design; housing types and affordability; neighborhood amenities; public spaces and buildings such as community centers, schools, parks, and playgrounds; and other allowed uses, such as neighborhood corner stores, cafés, personal services, and child care.

(16) “Low impact development zones” means designated growth centers, downtowns, village centers, new town centers, and low impact development neighborhoods.

Sec. 2. 24 V.S.A. § 2793d is added to read:

§ 2793d. DESIGNATION OF LOW IMPACT DEVELOPMENT

NEIGHBORHOODS

(a) A town that has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title may apply to the state board for designation of one or more low impact development neighborhoods. An application for designation must include a map that delineates the boundaries of the low impact development neighborhood consistent with the definition of “low impact development neighborhood” provided in subdivision 2791(15) of this title and evidence that notice has been given to the regional planning commission and the regional development corporation of the intent to apply for this designation.

(b) Within 45 days of receipt of a completed application, the state board shall designate a low impact development neighborhood if the state board finds the applicant has met the requirements of subsection (a) of this section.

(c) A low impact development neighborhood designated by the state board pursuant to this section is eligible for the following development incentives and benefits:

(1) Provided the proposal is eligible, priority consideration for municipal planning funds under section 4306 of this title for projects that are related to the designated low impact development.

(2) Inclusion of a low impact development neighborhood, as defined in this chapter, as a priority growth center in the state's consolidated plan for housing and community development programs.

(3) The authority to create a special taxing district pursuant to chapter 87 of this title for the purpose of financing both capital and operating costs of a project within the boundaries established through low impact development designation.

(4) Whenever the commissioner of the department of buildings and general services or other state officials in charge of selecting a site are planning to lease or construct buildings suitable to being located in a low impact development after determining that the option of utilizing existing space in a downtown development district or a village center is not feasible, the option of utilizing existing space in a designated low impact development neighborhood shall be given thorough investigation and priority, in consultation with the community.

(d) The state board shall review a low impact development designation every three years. If, at the time of the review, the state board determines that the low impact development no longer meets the standards for designation established in subsection (a) of this section, it may take any of the following actions:

(1) require corrective action;

(2) provide technical assistance through the Vermont downtown program; or

(3) remove the low impact development's designation, with that removal not affecting any of the low impact development's previously awarded benefits.

(e) A low impact development neighborhood designation may be made concurrently with any of the other designations established under this chapter.

* * * Agency of Natural Resources Fees * * *

Sec. 3. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the agency of natural resources.

* * *

(3) Notwithstanding other provisions of this section to the contrary, in the case of developments in low impact development zones provided for under 24 V.S.A. chapter 76A, consisting exclusively of housing, fees assessed under subdivision (2) of this subsection regarding discharge permits, and those assessed under subdivision (4) of this subsection, regarding water supply and wastewater permits shall be one-half the amount specified in this subsection.

* * *

Sec. 4. 10 V.S.A. § 6001(3) is amended to read:

(3)(A) "Development" means:

* * *

(B) Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of any combination of mixed income housing or mixed use and is located entirely within a ~~growth center designated pursuant to 24 V.S.A. § 2793c or within a downtown development district designated pursuant to 24 V.S.A. § 2793~~ low impact development zone as defined in 24 V.S.A. § 2791, "development" means:

(i) Construction of mixed income housing with 100 or more housing units or a mixed use project with 100 or more housing units, in a municipality with a population of ~~20,000~~ 12,000 or more.

(ii) Construction of mixed income housing with 50 or more housing units or a mixed use project with 50 or more housing units, in a municipality with a population of ~~10,000~~ 6,000 or more but less than ~~20,000~~ 12,000.

(iii) Construction of mixed income housing with 30 or more housing units or a mixed use project with 30 or more housing units, in a municipality with a population of ~~5,000~~ 3,000 or more and less than ~~10,000~~ 6,000.

(iv) Construction of mixed income housing with 25 or more housing units or a mixed use project with 25 or more housing units, in a municipality of less than ~~5,000~~ 3,000.

(v) Construction of 10 or more units of mixed income housing or a mixed use project with 10 or more housing units where the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the state or national register of historic places, if the state division of historic preservation has not approved the demolition.

(C) For the purposes of determining jurisdiction under subdivisions (3)(A) and (3)(B) of this section:

* * *

(ii) Within any continuous period of five years, housing units constructed by a person entirely within a ~~designated downtown district or designated growth center~~ low impact development zone established under 24 V.S.A. chapter 76A shall not be counted together with housing units constructed by a person partially or completely outside a designated downtown development district or designated growth center to determine jurisdiction over the housing units constructed by a person partially or completely outside the designated downtown development district or designated growth center and within a five-mile radius.

* * *

Sec. 5. 10 V.S.A. § 6083a is amended to read:

§ 6083a. ACT 250 FEES

* * *

(d) Notwithstanding any other provision of this section to the contrary, to the extent that a development or subdivision is for housing and in a low impact development zone as established under 24 V.S.A. chapter 76A, the fees assessed under this section shall be one-half the amounts specified in this section.

* * *

(i) Fees under this section for housing and mixed use developments within low impact development zones as provided for under 24 V.S.A. chapter 76A shall be due as follows: a \$250.00 review fee shall be due upon submission of an application, with any balance due with commencement of construction; provided that, at the request of the applicant, the balance may be paid in specific stages that correspond to each stand-alone segment of the proposed development, with each payment being due upon the commencement of construction of that stage.

Sec. 6. 10 V.S.A. § 6086(a)(9) is amended to read:

(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a district commission.

* * *

(B) Primary agricultural soils. A permit will be granted for the development or subdivision of primary agricultural soils only when it is demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not result in any reduction in the agricultural potential of the primary agricultural soils; or:

(i) the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; and or

(ii) except in the case of an application for a project located in a any low impact development zone designated ~~growth center~~ under 24 V.S.A. chapter 76A that contains fewer than 10 acres of agricultural lands that are not protected by conservation easement, there are no lands other than primary

agricultural soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; and

* * *

Sec. 7. 10 V.S.A. § 6093(c) is added to read:

(c) Notwithstanding other provisions of this section to the contrary, any low impact development zone designated under 24 V.S.A. chapter 76A shall not be subject to mitigation requirements under subdivision (a)(1) of this section, if the designated area contains fewer than 10 acres of agricultural lands that are not protected by conservation easement.

Sec. 8. 10 V.S.A. § 8504(k) is amended to read:

(k) Limitations on appeals. Notwithstanding any other provision of this section:

(1) there shall be no appeal from a district commission decision when the commission has issued a permit and no hearing was requested or held, or no motion to alter was filed following the issuance of an administrative amendment;

(2) a municipal decision regarding whether a particular application qualifies for a recorded hearing under 24 V.S.A. § 4471(b) shall not be subject to appeal;

(3) if a district commission issues a partial decision under subsection 6086(b) of this title, any appeal of that decision must be taken within 30 days of the date of that decision;

(4) to the extent that a development that is in a low impact development zone established under 24 V.S.A. chapter 76A consists only of housing in an appeal of any decision under Act 250, or an agency decision, or a decision under the planning and zoning chapter, or any combination of these decisions, a determination that is favorable to the developer of housing shall be presumed to be valid, and the burden of proof shall be on any party opposing the decision issued under subsection (l) of this section.

Sec. 9. 32 V.S.A. § 5402(c) is amended to read:

(c) The treasurer of each municipality shall by December 1 of the year in which the tax is levied and on June 1 of the following year pay to the state treasurer for deposit in the education fund one-half of the municipality's statewide nonresidential tax and one-half of the municipality's homestead education tax, as determined under subdivision (b)(1) of this section, except that the municipality may retain any education property taxes collected on assessments on any parcels within an area designated by the Vermont downtown development board as a low impact development neighborhood under 24 V.S.A. § 2793d in the first three years beginning with the year of designation. The commissioner of education shall determine the municipality's net nonresidential education tax payment, and its net homestead education tax payment to the state, and payment shall be accompanied by a return prescribed by the commissioner of education. The municipality may retain one-eighth of one percent of the total education tax collected, only upon timely remittance of net payment to the state treasurer.

Sec. 10. 32 V.S.A. § 10002(o) is added to read:

(o) Also excluded from the definition of land is a parcel in a low impact development zone established under 24 V.S.A. chapter 76A on which the purchaser shall, within two years from the date of acquisition, construct a single-family or multi-family residential building or buildings. If a residential building or buildings are not constructed on the parcel and available for occupancy within two years of the date of transfer, the tax imposed by this chapter shall become due and payable.

Sec. 11. WETLANDS STUDY

The secretary of natural resources, in conjunction with the chair of the natural resources panel and a representative of the housing and conservation board, shall meet with representatives of the Army Corps of Engineers to develop a memorandum of understanding that, together with any required statutory revisions

and rule amendments, will establish a preapproved wetlands mitigation strategy to apply regionally, that will allow the conversion of Class III wetlands that are located in any area that is zoned for development that is located in any low impact development zone under 24 V.S.A. chapter 76A. The secretary shall present to the legislative committees on natural resources and energy and to the house committee on fish, wildlife and water resources any proposed statutory changes that are deemed necessary in order for the MOU to take effect.

Sec. 12. STORMWATER RULES

The secretary of natural resources shall develop urban stormwater rules to apply in areas designated under 24 V.S.A. chapter 76A, so as to protect watersheds, while at the same time allowing for high density development of housing in low impact development zones established under 24 V.S.A. chapter 76A

- H.446 AN ACT RELATING TO A LOCAL OPTION PROPERTY TRANSFER SURTAX TO FUND A MUNICIPALITY'S LOCAL LAND BANK FUND Introduced by Representatives Edwards of Brattleboro and Marek of Newfane

Statement of purpose: This bill proposes to establish a local option property transfer surtax of 2.0 percent to fund the preservation of farms, forest lands, lands with scenic values, land for nature or wildlife reserves, easements for trails, and lands for hunting and other recreational use.

- S.151 AN ACT RELATING TO ESTABLISHING A STATEWIDE RENTAL HOUSING PROGRAM TO ASSURE SAFE AND HEALTHY RENTAL HOUSING IN VERMONT Introduced by Senator Condos of Chittenden District, Senator Flanagan of Chittenden District, Senator McCormack of Windsor District and Senator White of Windham District

Statement of purpose: This bill proposes to create a state rental housing program within the department of public safety. The goal of the program is the preservation and protection of rental housing for the benefit and safety of the owners and renters of that housing. The program will provide uniform and responsive rental housing code inspections, education and training for property owners and tenants, technical and financial assistance to help owners of rental property maintain their rental housing in compliance with the state's rental housing codes, and enforcement of the provisions of the program and appropriate codes to preserve and protect existing rental housing.

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