

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2013

Bill Number: S.119 Name of Bill: _____

Agency/Dept.: Forests, Parks & Recreation

Author of Bill Review: Fraysier

Date of Bill Review: _____

Status of Bill (check one):

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies ☐ Fiscal

Recommended Position:

☒ Support ☐ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill is the Senate companion bill to H. 185 and is substantially similar to H.185. As with H. 185, S. 119 would amend the statutes governing conservation easements. Among other proposals, this bill would create an administrative review panel within the Natural Resources Board for review and approval of amendments that would materially affect existing conservation easements. Proposed amendments to conservation easements that require the approval of the legislature or an established regulatory body would be exempt from additional administrative review requirements unless the easement holder(s) chose to submit the proposed amendment to the administrative review panel.

2. Is there a need for this bill? *Please explain why or why not.* Conservation easements have been used extensively in Vermont by both non-profit land conservation organizations and state agencies to conserve important agricultural lands, forestlands, and natural areas. The impetus for both this bill and H. 185 is to provide a process that would satisfy IRS requirements for amendments to easements that were donated and for which the landowner claimed a charitable donation. There is also a need to provide an open, transparent public process for review and approval of major amendments to conservation easements. Creation of such a process would provide assurance to both the easement holders and stakeholders that the amendment is in the public interest.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

This bill would have minimal programmatic or fiscal impacts on ANR. Although ANR holds many conservation easements, they are rarely, if ever amended. Also, any proposed amendments to ANR's easements would likely either need to be approved by the legislature (as is the case with all of FPR's Forest Legacy easements) or by a regulatory body (as is the case for all of the Agency's mitigation easements), and would be exempt from the administrative review panel requirements of this bill. A representative from ANR may be asked to serve on the NRB administrative panel which would require an additional time commitment.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it? This bill would have a programmatic impact for the Vermont Agency of Agriculture and the Vermont Housing and Conservation Board - both of which hold or co-hold many conservation easements and are involved in numerous amendment proposals. Both of these organizations actively participated on the legislative study committee which drafted the proposed

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legislation and are supportive of the bill. The bill would also have a programmatic and fiscal impact on the Natural Resources Board which would house the new administrative review panel. The panel would be empowered to impose filing fees to recoup costs.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? *(for example: public, municipalities, organizations, business, regulated entities, etc.)*

This bill would have a significant programmatic impact on non-profit land trust organizations including the Vermont Land Trust, The Nature Conservancy, Upper Valley Land Trust, Stowe Land Trust, and other organizations that hold conservation easements in Vermont. These organizations were actively involved on the legislative work group that drafted the proposed legislation and are supportive of this bill. The bill provides for an open, transparent public process for amending easements via the NRB administrative review panel while providing the option for easement holders to seek a court order for a proposed amendment or conduct a holder's public review process instead, if it so chooses.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? Landowners, stakeholders, and the general public will appreciate the enhanced opportunity to provide input on major easement amendment proposals and would likely support this bill.

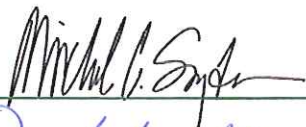
6.2 Who else is likely to oppose the proposal and why? Unknown. While the administrative review procedures outlined in this bill might not satisfy IRS requirements (in the case of donated easements) or meet the needs of all easement holders, the bill provides various exemptions and alternative procedures that should meet the needs of most parties.

7. Rationale for recommendation: *Justify recommendation stated above.* As with H. 185, this bill would help to ensure that holders of conservation easements follow an open, public process before approving major amendments to such easements. Any proposed amendment to ANR easements would likely involve legislative approval or approval by a regulatory body and would be exempt from the NRB administrative review panel requirements. However, the bill would provide the Agency the option to file the proposed amendment with the NRB panel if it felt there was a benefit in doing so. The Agency actively participated on the legislative work group that drafted this bill and believes the proposed legislation addresses the various concerns it raised through this process.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

N/A

Commissioner has reviewed this document:



Date: 2/25/13

Secretary has reviewed this document:



Date: 2-7-14