

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: H.587 Name of Bill: An act relating to repealing the authority of selectboards to lay out rights-of-way for extracting lumber or other material from private property

Agency/Dept.: Forests, Parks & Recreation Author of Bill Review: Steve Sinclair

Date of Bill Review: 1/10/14 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 proposes to repeal 19 V.S.A. § 958, which allows a selectboard of a municipality, upon petition and after following a quasi-judicial process, to lay out a right-of-way through the lands of any person if necessary for the practical removal of lumber, wood, or other material.

2. Is there a need for this bill? *Please explain why or why not.* No. This provision is seldom implemented as neighbors try and be cooperative if there are access issues. In those few instances when nothing can be worked out, the selectboard can elect to get involved and typically the affected landowner is compensated and the right-of-way is temporary and only valid for the time necessary to remove the timber or lumber.

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

We may get calls from consulting foresters and landowners requesting our assistance in working out right-of-way issues with adjoining landowners. Potentially, landowners enrolled in UVA would be unable to implement their management plan if stands are inaccessible and this could result in increased work for Department County Foresters in oversight of plan implementation or delays in implementation and review of plan amendments. Finally, we may get requests to access private land over public land if access is denied from other directions.

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? See above, PVR may be impacted for UVA related issues.

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.)*

Private landowners with no access may not be able to manage their forest lands and may be removed from the UVA Program impacting the taxation of their land; private landowners with no access may be forced to engage in litigation to determine a legal access to the property based on existing common law principles such as an "easement by necessity" which would end up bringing other adjacent landowners into litigation in order to determine where that legal access actually exists. This would be expensive for all parties involved.

Please return this bill review as a Microsoft Word document to Laura.Gray@state.vt.us

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? Not sure, perhaps affected landowners and municipalities that don't want to serve as arbitrators.

6.2 Who else is likely to oppose the proposal and why? Landowners owning land-locked parcels. Also loggers who may find it more difficult to gain access for forest management.

7. Rationale for recommendation: *Justify recommendation stated above. "If it ain't broke, don't fix it".*

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.*

None

Commissioner has reviewed this document:



Date:

1/14/14

Secretary has reviewed this document:



Date:

1/15/14