

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: H/S. 329 Name of Bill: An act relating to use value appraisals

Who Introduced this bill? Senate Committee on Agriculture

Agency/Dept.: Forests, Parks & Recreation

Author of Bill Review: Steven Sinclair

Date of Bill Review: 2/11/14

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 is the Senate Agriculture Committee response to the House passed H.329 from the 2013 Legislative session. A series of public forums were held over the summer/fall and this is the reflection of that input and the Senate reactions to H.329. It has a number of provisions, some related to the agricultural program and inconsistencies within listing/appraisals with no impact to FPR. There are however, several provisions- the floating two-acre exclusion, a benefit cap, a report on the county foresters workload, and licensing of consulting foresters that do impact us.

2. Is there a need for this bill? *Please explain why or why not.* As stated above, some of the proposed provisions do not impact FPR or UVA forestland. However, the provisions that do impact FPR and implementation of the UVA program on forestland need to be changed to avoid creating problems for County Foresters in implementing the program requirements and insuring compliance. In particular, the two-acre exclusions area proposal is problematic from a forestry UVA perspective. In our research for Westman amendment, we discovered that there are two acre exempted areas that are not tied to water and wastewater permits. By requiring exempted areas to include development amenities where sited, but also allowing a floating exemption for undeveloped parcels, might make sense to insure that septic design and building placement can be planned to meet site conditions. However, there are multiple issues with this provision. First, the way this is drafted could be interpreted to allow more than one 2 acre exclusion area that would not need to be defined or identified on the ground or in the plan. The first sentence of proposed 3756(b) states that the owner may "designate a portion of the parcel, not to exceed two acres, that shall be valued...." it then states in the next sentence "The designated portion does not need to represent a fixed location, or portion of the parcel, and an owner may designate more than one portion per parcel." This sentence, read together with the first sentence could be interpreted to mean that the owner can designate multiple portions of the parcel as exclusion areas as long as each one is not greater than 2 acres. The easiest way to address this is to add "so long as the total excluded area of the enrolled parcel is no greater than two acres total." at the end of the second sentence.

The second issue is that it impacts the ability to ensure compliance. Under this proposal, a landowner does not need to identify a 2 acre exclusion. If the landowner cuts a 2 acre area and it is contrary to the FMP the landowner can claim that it is a 2 acre exclusion. Pursuant to 3755(c) the department must file an adverse inspection report within 30 days of the inspection of the property. If the county forester does not file an

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

adverse inspection report due to the landowner claiming it is a 2 acre exclusion area, we could later be prevented from filing an adverse inspection report because the 30 days has gone by - a landowner could claim that we are estopped from later pursuing enforcement. This could allow the landowner to claim another area as the exclusion area, claiming that the first cut was not the 2 acre exclusion area, but a new cut is. If this proposal is going to move, we should request that the 30 day limit for filing an adverse inspection report is deleted or at least extended to some larger period of time.

It seems like this proposal is just a form of parking. What does the term "developed" mean? Is it the definition of "development" in this chapter? Landowners could argue that a proposed subdivision has not been legally subdivided, and therefore not developed, because they have not sold a lot yet and it only becomes subdivided when a lot is sold, even if the landowner has received a subdivision permit and there is power and other utility infrastructure in place. The term developed should be defined by referencing the definition of "development" in this chapter or it should be more specifically defined to address these concerns. Another problem arises when the exclusion area is not defined in the plan and the owner clears it - it will be "development" under the existing definition in chapter 124 and quite possibly a cut contrary so the owner would need to eventually amend the plan to define where the exclusion area is so that they don't receive an adverse inspection report (see above discussion - FPR would need to issued adverse inspection reports if there is any question as to compliance with the plan in order to preserve the right to enforce against noncompliance) and discontinuance of the entire parcel.

If the intent of this provision is to address an issue related to Agricultural UVA lands then the 2 acre exclusion could be provided for Ag lands only and not forest lands.

Benefit Cap- This has occurred at various times when the state faced fiscal constraints. It leaves a degree of uncertainty for the landowners as property values fluctuate, as would their reimbursement. This might also provide an opening to create other caps on reimbursements over time. County Forester Report- the intent for requiring this report is not clear. If the purpose of the report is to assess workload, we already have this information. However, if the intent is to strengthen enforcement of UVA compliance, clearer rules in statute or in the UVA Manual would do more good than a dedicated forester. If they want us to conduct the study, are we going to be able to undertake yet another unfunded project due at the same time as the Voluntary Harvest Guidelines? FPR could definitely use more County Foresters to implement this growing program - a single forester dedicated to enforcement would help, but it would not resolve the workload issue. Requiring licensing of foresters by the state could create an argument for consulting foresters that self certification of forest management plans should be allowed if the forester is licensed by the state.

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

This is hard to determine based on what's presented. Any changes in UVA require a lot of public outreach which typically fall upon the county foresters. The 2 acre exclusion area could cause a significant increase in work load for the county foresters in conducting inspections, determining compliance with the plan and potentially issuing adverse inspection reports within the 30 statutory time period to preserve the ability to enforce if a cut contrary is really a cut contrary and not an exclusion area. The department will need to invest time to study and prepare the report required in section 6 of this bill.

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? PVR has expressed their displeasure with

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

the idea of a floating two-acre exemption. It would be hard to record this in a deed at the town office. Certainly the AAFM will have time commitments in developing rules for agricultural enrollements.

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.)*
Potential increased costs for enrollees related to the issued discussed above, additional municipal work on assessments and valuations, etc.

6. **Other Stakeholders:**

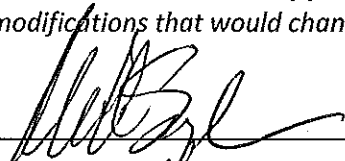
6.1 Who else is likely to support the proposal and why?

6.2 Who else is likely to oppose the proposal and why?

7. **Rationale for recommendation:** *Justify recommendation stated above.* Division between the House and Senate bill are so different, I'm not sure what will come out from conference committee. the original House bill was perhaps a little cleaner. I say we stay neutral overall suggesting the proposed changes. Firming up the Agricultural requirements and recognition of overworked county foresters may not be a big enough win to support, in my opinion.

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.*
See above.

Commissioner has reviewed this document:



Date:

2/14/14

Secretary has reviewed this document:



Date:

2-27-14