

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2013

Bill Number: H-52 Name of Bill: An act relating to municipal plans and flood resilience

Agency/Dept.: ANR/DEC Author of Bill Review: Ned Swanberg

Date of Bill Review: 1/24/13 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 encourage flood resilient communities by articulating goals and requiring municipal plans to include a section on flood resiliency.

Currently municipal and regional plans do not have a requirement to consider flood resiliency but simply need to identify floodplains on a map. Not being required – such elements are rarely considered, funded, or implemented.

H-52 has three primary pieces:

- 24 V.S.A. § 4302. PURPOSE; GOALS –adds four goals;
- 24 V.S.A. § 4382 requires a flood resilience plan, (municipal);
- 10 V.S.A. § 1427 RIVER CORRIDORS AND BUFFERS – requires ANR to support the communities in the adoption of a plan and related bylaws.

24 V.S.A. § 4302. PURPOSE; GOALS

(c) (14) To encourage flood-resilient communities.

(A) New development in undeveloped areas susceptible to flooding and fluvial erosion should be avoided or discouraged.

(B) The protection and restoration of floodplains and upland forested areas that attenuate and moderate flooding and fluvial erosion should be encouraged.

(C) New infrastructure that must be built in locations susceptible to flooding and fluvial erosion, such as roads, bridges, and buildings in areas designated under chapter 76A of this title, should be constructed to withstand flooding and fluvial erosion.

(D) Flood emergency preparedness and response planning should be encouraged.

Note the specific goals encourage to further.. and municipal plans may be consistent with these goals. (Note the absence of should or shall). In § 4302 (e) the plans prepared by RPCs and required of state agencies must be consistent with the goals.

24 V.S.A. § 4382. The plan for a municipality may be consistent with the goals in § 4302 and other plans and shall include:

(A) A flood resilience plan that:

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(i) identifies flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1428(a) or the best maps available, and designates those areas that should be protected, including floodplains, river corridors, land adjacent to streams, and upland forests, to reduce the long-term risk of flood damage to infrastructure and improved property; and
(ii) recommends policies and strategies to protect the areas identified and designated under subdivision (12)(A)(i) of this subsection and to mitigate risks to public safety, critical infrastructure, historic structures, and municipal investments.

(B) A flood resilience plan may incorporate an existing local hazard mitigation plan approved under 44 C.F.R. § 201.6.

10 V.S.A. § 1427 RIVER CORRIDORS AND BUFFERS

Secretary of Natural Resources shall establish a river corridor and floodplain management program to aid and support the municipal adoption of a flood resilience plan under 24 V.S.A. § 4382 and of river corridor, floodplain, and buffer bylaws.

2. Is there a need for this bill? *Please explain why or why not.*

3.

4. Template format Problem! Effects #ing.

5.

6. Yes. These changes support Vermont's work toward flood resiliency at all levels by:

7. 1. Articulating, encouraging and furthering Vermont's river corridor and floodplain resource protection goals in planning (municipal, regional, and state);

8. 2. Requiring municipal plans to use available data and address resiliency;

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

The key program requirement for the Department is to support the municipal work to adopt flood resiliency plans. This is consistent with the goals and priorities of the Department.

At this time there is no requirement for flood resiliency planning and as such it does not get done by municipalities or regional commissions under the limited funding available. Municipal plans must be updated every five years but many community plans have expired. In 2011 thirty-eight communities updated their municipal plans. Around 40% of the plans are expired. With this new requirement there would need to be a systematic plan to work with municipalities, RPCs, and other agencies to develop supportive materials, review drafts, and create/provide training. Resulting plans, bylaws and initiatives may qualify communities for Flood Resilient Community incentives as identified under Act 138.

The Department typically works with regional commissions to promote critical language in municipal plan enabling river corridor and flood hazard area regulations. This new Department requirement establishes the opportunity to work with municipalities at the critical municipal plan development step to provide necessary maps, data, and understanding for flood resiliency.

Municipalities are not well suited to use, integrate and understand the available data. RPCs do not have a reliable funding source to support such work at this time.

FTE estimate:

10. 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?
- 11.
12. Template format problem
- 13.
14. § 4302 requires that plans by RPCs and State agencies are consistent with the Goals.
15. This clause establishes goals for all levels of government in Vermont and strengthens the intent of the Legislature and Governor as expressed in Act 138 (2012) to promote inter-agency and inter-departmental communication and coordination for flood resiliency.
- 16.
17. Intergovernmental coordination is always tricky and can only happen consistently where required.
18. 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.)

Municipalities will encounter this requirement as a new necessary component of the municipal plan when their plan next needs updating. They will seek support from RPCs and funding support from the Municipal Grant Program.

Planners and Regional Commissions will likely support the intent of the bill but note that current funding for municipal and regional plans is already inadequate.

Regarding designated districts a specific goal is to avoid new development in undeveloped areas while also allowing for “buildings that must be built” in the hazard areas of Historic Downtown Development (neighborhoods, villages, growth centers, downtowns) designated under 24 VSA Chapter 76A. This language should create a foundation for constructive work with ACCD to set workable standards protecting the needs of historic centers.

19. Other Stakeholders:

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

This bill should be supported by communities exposed to and concerned about flooding (most). Also likely: VAPDA, Vermont Planners Assoc., watershed and water quality NGOs

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

VLCT will likely not support new requirements on municipalities especially if no funds follow to support the requirement

20. Rationale for recommendation: *Justify recommendation stated above.*

Most land uses are regulated at the municipal level. This bill would require consideration of hazard data and planning for a more flood resilient outcome. Even with no additional funding - this will strengthen municipal, regional, and state coordination for flood resilient outcomes.

21. 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.*

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The bill deserves support from ANR, however it could be stronger if:

- Funding was augmented through Municipal Planning Grant program;
- Funding streams to RPCs for work on hazard issues were more stable;
- Funding for ANR support to municipal planning efforts was augmented;
- The Goals (§ 4302) should inform the municipal plans;
- Development of resilience plans required review by DEC
- Municipal bylaw adoption required NFIP/flood resiliency review by DEC

Commissioner has reviewed this document:



Date: 1/28/13

Secretary has reviewed this document:



Date: 1-30-13