

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2015-2016**

Bill Number: H.552 Name of Bill: An act relating to threatened and endangered species

Agency/ Dept: ANR/Fish and Wildlife Author of Bill Review: Catherine Gjessing

Date of Bill Review: 24 Jan, 2016 Related Bills and Key Players: The Endangered Species Committee and Fish and Wildlife Staff

Status of Bill: (check one): ☒ Upon Introduction ☐ As passed by 1<sup>st</sup> body ☐ As passed by both

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**Recommended Position:**

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

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**Analysis of Bill**


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1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.* The bill modernizes the threatened and endangered species statute. The bill provides the Secretary with additional authority to designate and protect critical habitat, in a manner that appropriately balances landowner and economic interests, after notification to landowners, other state agencies and stakeholders. The Secretary is required to go through a public notification and input process in accordance with rulemaking in order to designate habitat. The bill also provides greater clarity regarding criminal and civil enforcement, a clear public notice process for major permits, and greater flexibility and efficiency in the permitting process.
2. **Is there a need for this bill?** *Please explain why or why not.* Yes. The Vermont statute is over 30 years old and does not provide the Secretary with sufficient authority to protect habitat necessary to the survival of the species, enforcement sections lack clarity and there is no authority to streamline the permitting process with General Permits. Although habitat protections exist in Act 250 and 248, this is a fraction of the development that occurs statewide. The bill also eliminates the economic hardship requirement for development permits and replaces them with incidental permits. This means that developers do not have to demonstrate economic hardship.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**  
Initially Fish and Wildlife Department staff could expend more time and effort on critical habitat designations and promulgating General Permits and their requirements. However, the bill will likely provide for some efficiencies in the long run so that staff can focus more time on landowner assistance, recovery of species, and compliance monitoring.
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 will have some impact on Vtrans, FPR, and AAFM because the fish and wildlife staff will work very closely with these entities on any habitat designations which may respectively affect Vtrans properties or right of ways, forestry or agriculture. This bill is not anticipated to affect design or permitting for Vtrans but may affect management practices on occasion. In addition, the Secretary and fish and wildlife staff will rely on Vtrans, FPR or AAFM expertise to inform the designation of critical habitat and the formulation of applicable best management practices.

*Please return this bill review as a Microsoft Word document to [laura.gray@state.vt.us](mailto:laura.gray@state.vt.us) and [jessica.mishaan@state.vt.us](mailto:jessica.mishaan@state.vt.us)*

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)  
The bill could have an affect on municipalities, public utilities, and businesses. It may increase the costs associatred with some projects that have an impact on threatened and endangered species however, most of these projects are already subject to similar requirements under Act 250 and 248. The bill will also increase permitting efficiencies through the implementation of the general permit and the elimination economic hardship permits. Perspectives will be mixed.
6. **Other Stakeholders:**
- 6.1 **Who else is likely to support the proposal and why?** Conservation groups and many members of the public will support the bill.
- 6.2 **Who else is likely to oppose the proposal and why?** This bill is controversial and some foresters, AIV, Vt Traditions, developers, and agricultural groups may oppose the bill based on fears that the Agency will designate large areas of Vermont land as critical habitat. (The statute defines critical habitat narrowly and the statutory language and agency staffing does not allow for such designations).
7. **Rationale for recommendation:** *Justify recommendation stated above.* Wardens are happy to enforce any state laws relating to the protection of natural resources, however, these protections exist on a federal level where robust enforcement already exists. Did they not, I would see need for this bill and its enforcement.
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.* The Agency does not support expansive habitat designation language or increasing criminal penalties for threatened and endangered species violations as most violations should be civil in nature. In addition, the Agency suppots more specific language and a deadline for the issuance some General Permits.
9. **Gubernatorial appointments to board or commission?** N/A

Commissioner has reviewed this document:  Date: 1/25/16

Secretary has reviewed this document:  Date: 1/25/16