

From: Annette Smith <vce@vce.org>

Subject: Re: Testimony about Act 250 in Vermont House, Legislature 2020 | Vermonters for a Clean Environment's Blog

Date: Mar 6, 2020 at 7:07:31 PM EST

To: "Sen. Christopher Bray" <CBray@leg.state.vt.us>

I took this version of the bill which is as it passed out of the NR Committee

<https://legislature.vermont.gov/Documents/2020/WorkGroups/House%20Natural/Bills/19-0040/Drafts,%20Amendments%20and%20Summaries/W~Ellen%20Czajkowski~DR%2019-0040,%20Draft%2014.1-As%20Recommended%20by%20House%20Natural%20Resources,%202-13-2020~2-13-2020.pdf>

and am offering comments on some of the bullet points in the first section, not in any particular order and not necessarily considering the amendments.

- Forest fragmentation, wildlife habitat connectivity criteria would be difficult to implement as written.
- Environmental justice language is even more problematic -- a sitting district commission chair said he would have no idea how to interpret it.
- Have not read the proposed amendments to transportation, energy conservation, and public investment criteria.
- Elevation trigger should be 1500 feet. Can be justified. Removal of 2000 feet in the House was unfortunate and likely due to lack of education of House members.
- Road rule will be circumvented, as was the prior road rule. Better jurisdictional trigger is 2 lots of more.
- Ridgeline protections were in the bill but were removed a while ago, not sure why.
- Have not read the new climate change criteria.
- Downtown exemption sounds good in theory but opens up the WWTF capacity can of worms, which the bill doesn't address and needs to.
- The professional board is potentially a good idea, but, like the elevation jurisdictional trigger it was poorly developed and mismanaged and needs a lot more stakeholder input. The tension is between developers that want permits faster with no pesky citizens involved, and meaningful public participation. A complicating factor is lawyers.
- Increased requirements for approval of plans is risky, as I have seen instances where towns threaten to or sometimes pull out of RPCs when they get too much pressure. Planners are being put through a lot with the Act 174 enhanced energy planning, and there is only so much appetite for directives from the state, when plans are supposed to be visionary. Their use as regulatory documents is anathema to what plans are supposed to be about.
- Amending the water and air criteria makes sense.
- Am concerned about any attempts to give more weight to ANR permits, where there is no public process.
- The slate quarry exemption needs to be eliminated. The House committee has taken a lot of testimony, Senate committee has not. VCE has worked on this issue for 5 years, it is not going away.
- The PUC has a pre-application process. It is relatively useless and does not do what it was intended, as most people don't understand its purpose, and for the public it tends to be an opportunity for the developer to give sales pitches but otherwise is generally a waste of time.

- Not sure what to make of the forest-based products operating out of permitted hours of operation, or the 1:1 ag soil mitigation.
- Shifting the burden of persuasion under criterion 8 makes sense.
- The river corridor language is apparently good.

What is missing? That's the problem with the VNRC/ANR deal bill, because a lot of things were likely discussed and taken off the table by one side or the other. Need to go back to the Commission on Act 250's report and review in the context of this bill.

Politically, the Democrats have the ability to pass a very good bill, but that opportunity was diminished by the House. In the floor debate, the Republicans asked good questions that they did not get answered, and perhaps the saddest part was that few people spoke about the economic values of Vermont's environment. Somehow the natural environment has not equated to addressing climate change in people's minds, and Act 250 is unfairly used to claim it is a major barrier to economic development. Given the current climate in the legislature and the governor's publicly stated opposition to the bill, the best outcome might be to leave it as is.