

1 H.687

2 Representatives Buss of Woodstock, Representatives Andrews of Westford,
3 Bartley of Fairfax, Carpenter of Hyde Park, Chase of Chester, Donahue of
4 Northfield, Elder of Starksboro, Hango of Berkshire, Roberts of Halifax, Sims
5 of Craftsbury, and Williams of Granby move that the report of the Committee
6 on Environment and Energy be amended as follows:

7 First: By striking out Sec. 1, purpose, in its entirety and inserting in lieu
8 thereof a new Sec. 1 to read as follows:

9 Sec. 1. PURPOSE

10 The purpose of this act is to further assist the State in achieving the
11 conservation vision and goals for the State established in 10 V.S.A. § 2802 and
12 24 V.S.A. § 4302. It provides a regulatory framework that supports the vision
13 for Vermont of human and natural community resilience and biodiversity
14 protection in the face of climate change, as described in 2023 Acts and
15 Resolves No. 59. It would strengthen the administration of the Act 250
16 program by changing the structure, function, and name of the Natural
17 Resources Board. The Environmental Review Board would retain the current
18 duties of the Natural Resources Board in addition to reviewing the future land
19 use maps of regional plans and reviewing applications for the Tier 1A area
20 status. The Board would provide oversight, management, and training to the
21 Act 250 program staff and District Commissions and develop Act 250 program

1 policy through rulemaking. This change would allow the Act 250 program to
2 be a more citizen-friendly process applied more consistently across districts.
3 The program updates established in this act would be used to guide State
4 financial investment in human and natural infrastructure.

5 Second: In Sec. 3, 10 V.S.A. § 6021, in subsection (a), after the words “the
6 Act 250 program” by striking the words “and hear appeals”

7 Third: In Sec. 3, 10 V.S.A. § 6021, by striking out subsection (e) in its
8 entirety

9 Fourth: In Sec. 5, 10 V.S.A. § 6025, by striking out subsection (a) in its
10 entirety and inserting in lieu thereof a new subsection (a) to read as follows:

11 (a) The Board may adopt rules of procedure for itself and the District
12 Commissions. The Board’s procedure for approving regional plans and
13 regional plan maps, which may be adopted as rules or issued as guidance, shall
14 ensure that the maps are consistent with legislative intent as expressed in
15 section 2802 of this title and 24 V.S.A. §§ 4302 and 4348a.

16 Fifth: In Sec. 6, 10 V.S.A. § 6027, by striking out subsections (f) and (g) in
17 their entireties and inserting in lieu thereof:

18 * * *

19 Sixth: In Sec. 6, 10 V.S.A. § 6027, by striking out subsection (h) in its
20 entirety and inserting in lieu thereof a new subsection (h) to read as follows:

1 (h) The ~~Natural Resources~~ Board may hear appeals of fee refund requests
2 under section 6083a of this title.

3 Seventh: By striking out Secs. 10, 10 V.S.A. § 6089, and 11, 10 V.S.A.
4 § 6007, in their entireties and inserting in lieu thereof new Secs. 10 and 11 to
5 read as follows:

6 Sec. 10. 10 V.S.A. § 6082 is amended to read:

7 § 6082. APPROVAL BY LOCAL GOVERNMENTS AND STATE
8 AGENCIES

9 (a) The permit required under section 6081 of this title shall not supersede
10 or replace the requirements for a permit of any other State agency or municipal
11 government.

12 (b) By rule, the Board shall establish a process by which to resolve disputes
13 between a District Commission and a State agency when a District
14 Commission raises concerns about an agency permit used as evidence in a
15 permit application. A resolution of the dispute that requires changes to agency
16 permitting shall be published in order to alert applicants and shall go into effect
17 for new applications after the publication date.

18 (c) The Board shall adopt rules to update the presumptions that are
19 applicable to State agency permits used as evidence for a permit application
20 under subsection 6086(d) of this title.

1 Sec. 11. 10 V.S.A. § 6087 is amended to read:

2 § 6087. DENIAL OR APPROVAL OF APPLICATION

3 (a) No application shall be denied by the District Commission unless it
4 finds the proposed subdivision or development detrimental to the public health,
5 safety, or general welfare.

6 (b) A permit may not be denied solely for the reasons set forth in
7 subdivisions 6086(a)(5), (6), and (7) of this title. However, reasonable
8 conditions and requirements allowable in subsection 6086(c) of this title may
9 be attached to alleviate the burdens created. Any conditions that have been
10 attached shall identify which criteria under subsection 6086(a) of this title they
11 are attached to mitigate.

12 (c) A ~~denial of a~~ permit decision shall contain the specific reasons for
13 denial or approval.

14 (d) A person may, within six months after a denial, apply for
15 reconsideration of ~~his or her~~ a permit which application shall include an
16 affidavit to the District Commission and all parties of record that the
17 deficiencies have been corrected. ~~The District Commission shall hold~~ There
18 shall be a new hearing upon 25 days' notice to the parties. The hearing shall
19 be held within 40 days ~~of~~ after receipt of the request for reconsideration.

20 (e) The Board shall establish, by rule, a process for a request for
21 reconsideration. This process shall have the permit application reviewed by

1 the Board. The decision on reconsideration shall be issued within 30 days after
2 the close of the hearing.

3 Eighth: In Sec. 12, 10 V.S.A. § 6083a, by striking out subsection (i) in its
4 entirety and by renumbering the remaining subsections

5 Ninth: By striking out all of Sec. 13, 10 V.S.A. chapter 220, in its entirety
6 and inserting in lieu thereof a new Sec. 13 to read as follows:

7 Sec. 13. 10 V.S.A. § 6083 is amended to read:

8 § 6083. APPLICATIONS

9 * * *

10 (d)(1) The Board and Commissions shall make all practical efforts to
11 process matters before the Board and permits in a prompt manner. ~~The Board~~
12 ~~shall establish time limits for the processing of land use permits issued under~~
13 ~~section 6086 of this title as well as procedures and time periods within which~~
14 ~~to notify applicants whether an application is complete~~ Within 10 days after
15 the application's filing or the filing of updated application information, the
16 District Coordinator shall determine whether the application is complete and
17 notify the applicant. If the District Commission requests additional
18 information from the applicant, the applicant shall respond within 30 days.

19 (2) The Board shall establish policies, procedures, and accountability
20 measures for District Commissioners and District Coordinators to ensure
21 greater equity amongst Commission decisions in order to resolve inequities

1 and discrepancies. The number of requests for reconsideration, the number of
2 rebuttal presumptions, and the number of appeals brought to the Environmental
3 Division of the Superior Court shall be included in the review of equity. Once
4 the Board has adopted the policies, annual training shall be required to ensure
5 accountability to the policies, procedures, and binding decisions of the
6 Environmental Division of the Superior Court.

7 (3) The Board shall report annually by February 15 to the General
8 Assembly by electronic submission. The annual report shall assess the
9 performance of the Board and Commissions in meeting the limits; and
10 accountability measures established pursuant to subdivision (2) of this
11 subsection, identify areas ~~which~~ that hinder effective performance; list fees
12 collected for each permit; summarize changes made to improve performance;
13 and describe staffing needs for the coming year. The annual report shall list
14 the number of enforcement actions taken by the Board, the disposition of such
15 cases, and the amount of penalties collected. The provisions of 2 V.S.A.
16 § 20(d) (expiration of required reports) shall not apply to the report to be made
17 under this subsection.

18 * * *

19 (h) If the District Coordinator deems the application incomplete after it has
20 been submitted to the District Commission and the applicant disagrees with the
21 District Coordinator, the Board shall review the application within 30 days and

1 determine if all required information has been submitted and whether the
2 application is complete.

3 Tenth: By striking out all of Secs. 14, 4 V.S.A. § 34, and 17, environmental
4 division; continued jurisdiction, and their reader assistance headings in their
5 entireties and by renumbering the remaining sections to be numerically correct.