

1 H.715

2 Introduced by Representatives Sibilila of Dover, Buss of Woodstock, Hango of
3 Berkshire, Harrison of Chittenden, Priestley of Bradford, and
4 Sims of Craftsbury

5 Referred to Committee on

6 Date:

7 Subject: Conservation and development; land use; Act 250

8 Statement of purpose of bill as introduced: This bill proposes to make multiple
9 changes to the State land use and development law, known as Act 250.

10 An act relating to climate change resilience under Act 250

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 10 V.S.A. § 6000 is added to read:

13 § 6000. PURPOSE; CONSTRUCTION

14 The purposes of this chapter are to ensure the State can develop in a manner
15 that protects and conserves the environment of the State while supporting
16 equitable access to critical infrastructure, electric distribution lines, electric
17 transmission lines, water and wastewater lines, telecommunications facilities,
18 or broadband infrastructure.

19 Sec. 2. REPEAL

20 2023 Acts and Resolves No. 47, Sec. 19c is repealed.

1 Sec. 3. 30 V.S.A. § 248 is amended to read:

2 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
3 FACILITIES; CERTIFICATE OF PUBLIC GOOD

4 (a)(1) No company, as defined in section 201 of this title, may:

5 * * *

6 (8) No company, as defined in section 201 of this title, and no person, as
7 defined in 10 V.S.A. § 6001(14), shall in any way begin site preparation for or
8 commence construction of new or the replacement of existing electric
9 distribution lines unless the Public Utility Commission first finds that the same
10 will promote the general good of the State and issues a certificate to that effect
11 pursuant to this section.

12 * * *

13 Sec. 4. 10 V.S.A. § 6001 is amended to read:

14 § 6001. DEFINITIONS

15 As used in this chapter:

16 * * *

17 (3)(A) “Development” means each of the following:

18 * * *

19 (D) The word “development” does not include:

20 * * *

1 cases, and the amount of penalties collected. The provisions of 2 V.S.A.
2 § 20(d) (expiration of required reports) shall not apply to the report to be made
3 under this subsection.

4 * * *

5 (h)(1) If after six months of an application being deemed incomplete, the
6 District Commission neither receives any communication or additional
7 information from the applicant, the District Commission may dismiss an
8 application or may hold a hearing on the application to establish what
9 information is needed to complete the application.

10 (2) If after six months of an application being deemed incomplete, the
11 applicant believes that the application is complete, the Board shall hold a
12 hearing on the application to determine if the application is complete or if
13 additional information is required.

14 Sec. 6. 10 V.S.A. § 6084 is amended to read:

15 § 6084. NOTICE OF APPLICATION; PREAPPLICATION PROCESS;

16 HEARINGS; COMMENCEMENT OF REVIEW

17 (a) The plans for the construction of any development or subdivision
18 subject to the permitting requirements of this chapter must be submitted by the
19 applicant to the District Commission, municipal and regional planning
20 commissions, affected State agencies, and adjoining landowners not less than
21 30 days prior to filing an application under this chapter, unless the municipal

1 and regional planning commissions and affected State agencies waive this
2 requirement.

3 (1) The District Commission may hold a meeting on the proposed plans
4 and the municipal or regional planning commission may take one or more of
5 the following actions:

6 (A) make recommendations to the applicant within 30 days;

7 (B) once the application is filed with the District Commission, make
8 recommendations to the District Commission by the deadline established in the
9 applicable provision of this section, Board rule, or scheduling order issued by
10 the District Commission.

11 (2) The application shall address the substantive written comments and
12 recommendations made by the planning commissions related to the criteria of
13 subsection 6086(a) of this title received by the applicant and the substantive
14 oral comments related to those criteria made at a public hearing under
15 subdivision (1) of this subsection.

16 (3) This subsection shall not apply to a project that has been designated
17 as using simplified procedures pursuant to subdivision 6025(b)(1) of this title
18 or an administrative amendment.

19 (b) ~~On or before the date of~~ Upon the filing of an application with the
20 District Commission, the ~~applicant~~ District Commission shall send, by
21 electronic means, notice and a copy of the ~~initial~~ application to the owner of

1 the land if the applicant is not the owner; the municipality in which the land is
2 located; the municipal and regional planning commissions for the municipality
3 in which the land is located; the regional development corporation for the
4 region in which the land is located; the State legislators for the municipality in
5 which the land is located; the Vermont Agency of Natural Resources; and any
6 adjacent Vermont municipality and municipal and regional planning
7 commission if the land is located on a municipal or regional boundary. The
8 ~~applicant shall furnish to the District Commission the names of those furnished~~
9 ~~notice by affidavit, and shall post, send by electronic means~~ a copy of the
10 notice ~~in~~ to the town clerk's office of the town or towns in which the project
11 lies. The town clerk shall post the notice in the town office. The applicant
12 shall also provide a list of adjoining landowners to the District Commission.
13 Upon request and for good cause, the District Commission may authorize the
14 applicant to provide a partial list of adjoining landowners in accordance with
15 Board rules.

16 ~~(b)~~(c) Upon an application being ruled complete, the District Commission
17 shall determine whether to process the application as a major application with
18 a required public hearing or process the application as a minor application with
19 the potential for a public hearing in accordance with Board rules.

20 * * *

1 ~~(e)~~(d) Anyone required to receive notice of commencement of minor
2 application review pursuant to subsection ~~(b)~~(c) of this section may request a
3 ~~hearing that an application be treated as a major~~ by filing a request within the
4 public comment period specified in the notice pursuant to Board rules. The
5 District Commission, on its own motion, may order ~~a hearing that an~~
6 application be treated as a major within 20 days ~~of following~~ notice of
7 commencement of minor application review.

8 ~~(d)~~(e) Any hearing or prehearing conference for a major application shall
9 be held within 40 days ~~of following~~ receipt of a complete application; or within
10 20 days ~~of following~~ the end of the public comment period specified in the
11 notice of minor application review if the District Commission determines that
12 it is appropriate to ~~hold a hearing for a minor application~~ treat the application
13 as a major application. Any hearing required shall be held in the municipality
14 where the project is located unless the parties agree to an alternate location.
15 When conducting hearings and prehearing conferences, the Board shall
16 exercise reasonable flexibility with its rules of procedure and of evidence to
17 maximize pro se participation while ensuring the fairness of the proceeding.

18 ~~(e)~~(f) Any notice ~~for a major or minor application,~~ as required by this
19 section, shall also be published by the District Commission in a local
20 newspaper generally circulating in the area where the development or

1 subdivision is located and on the Board's website not more than ten days after
2 receipt of a complete application.

3 * * *

4 (g) When an application concerns the construction of improvements for one
5 of the following, the application shall be processed as a minor application in
6 accordance with subsections ~~(b)~~(c) through ~~(e)~~(f) of this section:

7 Sec. 7. WETLAND RULES UPDATE

8 On or before September 30, 2025, the Department of Environmental
9 Conservation shall update the wetland rules to exempt electric utilities from
10 required wetland permits for resiliency projects involving power line relocation
11 near or in roadside rights-of-way. The rules may still require best management
12 practices.

13 Sec. 8. EFFECTIVE DATE

14 This act shall take effect on July 1, 2024.