

1 H.547

2 Introduced by Representative Klein of East Montpelier

3 Referred to Committee on

4 Date:

5 Subject: Natural resources; environmental conservation; Act 250; permit
6 process data analysis

7 Statement of purpose: To inform future discussion on issues related to state
8 environmental permit processes, this bill proposes to require the development
9 and analysis of data concerning the reasons why some permit applications take
10 longer than 120 days to process and, based on this analysis, the development of
11 recommendations for modifications to reduce permit processing time.

12 An act relating to development and analysis of data relating to
13 environmental permit applications that take longer than 120 days to process

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

15 Sec. 1. FINDINGS

16 The general assembly finds that:

17 (1) Debate on state environmental permit processes often has included
18 anecdotal accounts of lengthy times for the processing of permit applications.

19 (2) Responses to these accounts have included statistics showing that
20 most state environmental permit applications are processed in 120 days or less.

1 (3) The state has not conducted an analysis that focuses on those
2 environmental permit applications that take more than 120 days to process,
3 attempting to identify the reasons and categories of reasons why these
4 applications took longer than 120 days.

5 (4) Conducting an analysis of the type described in subdivision (3) of
6 this section would be useful in developing mechanisms that are likely to be
7 effective in reducing permit processing time, whether those mechanisms are
8 statutory in nature or are accomplished through rule, procedure, application
9 form revision, or guidance document.

10 (5) An analysis of the type described in subdivision (3) of this section
11 should be transparent, replicable, and capable of revision. Participants in a
12 discussion on permit process changes should be able readily to access the data
13 used in the analysis, identify and understand assumptions and the development
14 of categories, and re-analyze the data and suggest different categorization.

15 Sec. 2. PERMIT PROCESS DATA ANALYSIS

16 By November 15, 2010, the agency of natural resources and the natural
17 resources board each shall perform an analysis and submit a written report, the
18 purpose of which is to develop, for permit applications that have taken longer
19 than 120 days to process, a more in-depth and systematic understanding of the
20 reasons and categories of reasons, whether structural or otherwise, for those

1 longer periods. Each of the following shall apply to the analyses and reports
2 required by this section:

3 (1) The analysis and report shall be with regard to applications for
4 permits, under the programs that the agency and the natural resources board
5 respectively administer, filed within the five years immediately prior to
6 January 1, 2009.

7 (2) In performing the analysis required by this section, the agency and
8 board respectively shall identify each application the processing of which took
9 longer than 120 days from the date on which the application was first filed,
10 regardless of whether the initial filing was complete. For the purpose of this
11 subdivision, “identify” means at a minimum the name of each applicant, a brief
12 description of the project, the location of the project, the permit or approval for
13 which application was made, whether the application was for an original or
14 amended permit, the date of initial application, and the date of disposition by,
15 as applicable, the agency or a district commission.

16 (3) For each such application, the agency and board respectively shall
17 identify each reason why the application took longer than 120 days to process.
18 Reasons may include: the application was determined to be incomplete, in
19 which case the agency and the board shall also summarize the areas in which
20 the application was incomplete and identify whether and when the application
21 was completed; additional information was requested of the applicant, in which

1 case the agency and the board shall also summarize the requested information
2 and identify whether and when such information was received; the applicant
3 requested that the application be placed on hold, in which case the agency and
4 the board shall also identify whether and when the applicant requested that the
5 application be reactivated; and such other reasons as are factually accurate.

6 (4) The agency and board respectively shall analyze the data developed
7 pursuant to subdivisions (2) and (3) of this section and develop categories of
8 reasons, applicable to multiple applications, why the applications subject to
9 this section took longer than 120 days to process. The agency and board
10 respectively shall determine the total number of applications that took longer
11 than 120 days to process, the number of such applications for each category
12 developed under this subdivision, and the number of such applications that are
13 within more than one category developed under this subdivision.

14 (5) The agency and board respectively shall submit a report that
15 includes, describes, and discusses at least each of the following. The agency
16 and the board may agree to combine the reports into one document:

17 (A) A summary of the actions and steps taken within the agency and
18 the board to complete the tasks required by this section, including ensuring the
19 accuracy of the data used and developed.

20 (B) In the case of the agency, an identification of each agency
21 program that it included in the analysis required by this section and, for each

1 agency program not included, a statement of why the program was not
2 included. The agency may exclude from this analysis an agency program that
3 does not issue environmental or land use permits, certificates, or approvals.

4 (C) The total number of applications subject to this section that took
5 longer than 120 days to process.

6 (D) For the categories of reasons developed under subdivision (4) of
7 this section:

8 (i) A summary of the analysis supporting the development of these
9 categories.

10 (ii) An identification of each such category and the number of
11 applications subject to this section that fall within the category.

12 (iii) The number of applications subject to this section that fall
13 within more than one of the categories developed under subdivision (4) of this
14 section.

15 (iv) The recommendations of the agency and board respectively to
16 address each such category in a manner that reduces application processing
17 time. Recommendations may include draft legislation, rule changes, issuance
18 or revision of procedures, and issuance or revision of application forms and
19 instructions.

20 (E) An appendix, in electronic format on data disc, that contains
21 individually for each application subject to this section a document that at a

1 minimum includes the information described in subdivisions (2) and (3) of this
2 section. Document names shall use a consistent format agreed on between the
3 agency and the board. The data disc shall organize the documents in
4 subfolders on the disc by permit type and, within those subfolders, by
5 environmental district.

6 (6) The data gathered in completing the tasks required under
7 subdivisions (2) and (3) of this section shall be entered in a database that is
8 capable of generating reports that can serve as the documents required by
9 subdivision (5)(E) of this section. To promote the goal of transparency, the
10 database software used under this subdivision (6) shall be software that is
11 reasonably available to the general public for commercial purchase.

12 (7) The report required by subdivision (5) of this section shall be
13 submitted to the governor, to the senate committees on economic development,
14 housing and general affairs and on natural resources and energy, and to the
15 house committees on commerce and economic development, on fish, wildlife
16 and water resources, and on natural resources and energy.

17 Sec. 3. EFFECTIVE DATE

18 This act shall take effect on passage.