

1 S.238

2 Introduced by Senator Lyons

3 Referred to Committee on

4 Date:

5 Subject: Land use planning; natural resources; council of regional
6 commissions; office of planning coordination

7 Statement of purpose: This bill proposes to replace the council of regional
8 commissions with an office of planning coordination that would coordinate
9 planning efforts among the various levels of government and perform other
10 duties. This bill also proposes to rename the development cabinet as the
11 planning cabinet, revive state agency planning and link adequacy of that
12 agency planning to state budgeting, revive review of regional plans for
13 conformance with state land use planning goals, and have the environmental
14 court hear appeals on the sufficiency of regional plans and amendments.

15 An act relating to coordinating land use planning among various levels of
16 government

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

1 Sec. 1. 3 V.S.A. § 2102 is amended to read:

2 § 2102. POWERS AND DUTIES

3 The governor's cabinet shall adopt and implement a program of continuing
4 coordination and improvement of the activities carried on at all levels of state
5 and local government, including furtherance of the state planning purposes and
6 goals established by 24 V.S.A. § 4302(a)–(d), as provided in 24 V.S.A.
7 § 4302(e).

8 Sec. 2. 3 V.S.A. § 2104 is amended to read:

9 § 2104. PLANNING

10 ~~The central planning office and its state planning functions are transferred~~
11 ~~hereby to the office of the governor. The governor, by executive order, may~~
12 ~~specify the duties, responsibilities, and organization of the office as he deems~~
13 ~~necessary for the proper execution of its functions. The office shall be headed~~
14 ~~by a director of planning who shall be appointed by the governor to serve at his~~
15 ~~pleasure. The director of planning with the approval of the governor may:~~

16 ~~(1) coordinate the planning activities of departments of the executive~~
17 ~~branch;~~

18 ~~(2) make studies, surveys and reports concerning that program;~~

19 ~~(3) accept, contract for, and administer under this chapter and for its~~
20 ~~objectives and purposes contributions, capital grants, appropriations, gifts,~~
21 ~~services, and other financial assistance from or for any individual, association,~~

1 ~~corporation or other organization having an interest in planning and~~
2 ~~development, this state, and the United States, and any of their agencies,~~
3 ~~political or administrative subdivisions, and instrumentalities, corporate or~~
4 ~~otherwise; and~~

5 ~~(4) perform such other acts as may be necessary or appropriate to carry~~
6 ~~out the objectives and purposes of this section.~~

7 (a) An office of planning coordination is created within the agency of
8 administration. The office shall be headed by a director who shall be a
9 professional planner and shall be appointed by, and report directly to, the
10 secretary of the agency. The director shall be exempt from the classified
11 service.

12 (b) The office of planning coordination shall:

13 (1) Coordinate among all levels of government to ensure consistent and
14 wise development of state, regional, and municipal plans that will integrate
15 planning to ensure coordinated administration of government policies
16 addressing the multitude of issues posed by the state's continued growth and
17 development and to ensure consistency with the state planning goals
18 established by 24 V.S.A. § 4302. Specifically, the office of planning
19 coordination shall:

20 (A) Coordinate state agency and department planning to assure
21 consistency with the state planning goals and compatibility among state agency

1 and department plans and with applicable regional and municipal plans.

2 (B) Compile and review all proposed regional plans and
3 amendments, and, at the request of a municipality, review regional planning
4 commission decisions on the confirmation or approval of municipal plans, to
5 determine the consistency of regional plans and decisions with the state
6 planning goals, and the compatibility of regional plans and decisions with state
7 agency plans and the plans of other regions and municipalities.

8 (C) Maintain and make accessible to state, regional, and municipal
9 planning bodies all current municipal plans, whether approved or not; compile
10 and maintain an analysis and summary of the degree to which those plans are
11 consistent with the state planning goals.

12 (D) Prepare and present annually to the secretary of administration,
13 the cabinet, and the general assembly a report on the status of consistency of
14 all state agency and department plans and all regional and municipal plans with
15 the state planning goals.

16 (2) Coordinate research and the compilation of data and information
17 necessary for planning at all levels. Serve as a clearinghouse of planning data
18 and information. Systematically make critical data and information available
19 and accessible to state, regional, and municipal planning agencies and the
20 public.

21 (3) Provide technical assistance to state, regional, and municipal

1 planning agencies by undertaking or contracting for special studies and plans,
2 preparing or analyzing policy alternatives, and identifying immediate and
3 long-range needs and the resources to meet these needs.

4 (4) Participate with other states, Canadian provinces, and subdivisions
5 of states or provinces in interstate or binational planning, and assist regional
6 and municipal planning commissions to participate in planning with other
7 states and provinces and their subdivisions.

8 (5) Accept, contract for, and administer under this section and for its
9 objectives and purposes contributions, capital grants, appropriations, gifts,
10 services, and other financial assistance from or for any individual, association,
11 corporation or other organization, this state, and the United States, and any of
12 their agencies, political or administrative subdivisions, and instrumentalities,
13 corporate or otherwise.

14 (6) Perform such other acts as may be necessary or appropriate to carry
15 out the objectives and purposes of this section.

16 (c) The office of planning coordination may adopt rules, according to the
17 provisions of chapter 25 of this title, that it reasonably deems necessary to
18 carry out its duties and functions.

19 Sec. 3. 3 V.S.A. § 2202(a) is amended to read:

20 (a) An agency of administration is created. The agency shall consist of the
21 following:

- 1 (1) The department of finance and management;
- 2 (2) The department of human resources;
- 3 (3) The department of buildings and general services;
- 4 (4) The department of libraries;
- 5 (5) The department of taxes.
- 6 (6) The department of information and innovation.
- 7 (7) The office of planning coordination.

8 Sec. 4. 3 V.S.A. § 2285 is added to read:

9 § 2285. OFFICE OF PLANNING COORDINATION.

10 The office of planning coordination is created within the agency of
11 administration and is charged with all of the responsibilities assigned to it by
12 law. Other agencies, departments, divisions, and offices of state government
13 shall cooperate with the office of planning coordination and make available to
14 it data, facilities, and personnel as may be needed to assist the office in
15 carrying out its duties and functions.

16 Sec. 5. 3 V.S.A. § 2293 is amended to read:

17 § 2293. DEVELOPMENT PLANNING CABINET

18 (a) Legislative purpose. The general assembly deems it prudent to
19 establish a permanent and formal mechanism to assure collaboration and
20 consultation among state agencies and departments, in order to support and
21 encourage Vermont's economic environmentally sound development, ~~while at~~

1 ~~the same time conserving and promoting~~ and growth in Vermont that
2 conserves and promotes Vermont's traditional settlement patterns, its working
3 and rural landscape, its strong communities, ~~and its healthy environment~~ the
4 health of its residents and ecosystems, and the other values served by the state
5 planning purposes and goals established by 24 V.S.A. § 4302(a)-(d), all in a
6 manner set forth in this section.

7 (b) ~~Development~~ Planning cabinet. A ~~development~~ planning cabinet is
8 created, to consist of the ~~secretaries of the agencies of administration, natural~~
9 ~~resources, commerce and community affairs, and transportation, and the~~
10 ~~secretary of the agency of agriculture, food and markets~~ members of the
11 governor's cabinet and the commissioners of those independent departments
12 reporting directly to the governor that have programs or take actions affecting
13 or affected by the state planning goals established by 24 V.S.A. § 4302 as
14 determined by the office of planning coordination. The governor or the
15 governor's designee shall chair the ~~development~~ planning cabinet. The
16 ~~development~~ planning cabinet shall advise the governor on how best to
17 implement the purposes of this section, and shall recommend changes as
18 appropriate to improve implementation of those purposes. The ~~development~~
19 planning cabinet shall be staffed by the office of planning coordination. The
20 cabinet or office of planning coordination may establish interagency work

1 groups to support its mission, drawing membership from any agency or
2 department of state government.

3 (c) Planning goal support and consistency. All state agencies and all
4 independent departments reporting directly to the governor that have programs
5 or take actions affecting ~~land use, including those identified under 3 V.S.A.~~
6 ~~chapter 67,~~ or affected by the state planning purposes and goals established by
7 24 V.S.A. § 4302(a)-(d) shall, through or in conjunction with the members of
8 the ~~development~~ planning cabinet, support and act consistently with those
9 goals in all programs and functions and, specifically, shall:

10 (1) ~~Support conservation of working lands and open spaces.~~

11 (2) ~~Strengthen agricultural and forest product economies, and encourage~~
12 ~~the diversification of these industries.~~

13 (3) Develop and implement plans to educate the public by encouraging
14 discussion at the local level about the impacts of poorly designed growth, and
15 support local efforts to enhance and encourage development and economic
16 growth in the state's existing towns and villages.

17 (4)(2) Administer tax credits, loans, and grants for water, sewer,
18 housing, schools, transportation, and other community or industrial
19 infrastructure, in a manner consistent with the purposes and goals of ~~this~~
20 ~~section~~ 24 V.S.A. § 4302(a)-(d).

1 ~~(5)~~(3) To the extent possible, endeavor to make the expenditure of state
2 appropriations consistent with the purposes and goals of ~~this section~~ 24 V.S.A.
3 § 4302(a)-(d).

4 ~~(6) Encourage development in, and work to revitalize, land and~~
5 ~~buildings in existing village and urban centers, including “brownfields,”~~
6 ~~housing stock, and vacant or underutilized development zones. Each agency is~~
7 ~~to set meaningful and quantifiable benchmarks.~~

8 ~~(7) Encourage communities to approve settlement patterns based on~~
9 ~~maintaining the state’s compact villages, open spaces, working landscapes, and~~
10 ~~rural countryside.~~

11 ~~(8) Encourage relatively intensive residential development close to~~
12 ~~resources such as schools, shops, and community centers and make~~
13 ~~infrastructure investments to support this pattern.~~

14 ~~(9) Support recreational opportunities that build on Vermont’s~~
15 ~~outstanding natural resources, and encourage public access for activities such~~
16 ~~as boating, hiking, fishing, skiing, hunting, and snowmobiling. Support and~~
17 ~~work collaboratively to make possible sound development and well-planned~~
18 ~~growth in existing recreational infrastructure.~~

19 ~~(10) Provide means and opportunity for downtown housing for mixed~~
20 ~~social and income groups in each community.~~

1 (1) Be the central state agency to coordinate, consolidate, and operate, to
2 the extent possible, all housing programs enacted hereafter by the general
3 assembly or created by executive order of the governor.

4 (2) Be the central state agency for allocation of funds for local and
5 regional planning and coordination, and assist the office of planning
6 coordination in education and training related to local and regional planning.

7 (3) Administer the community development block grant program
8 pursuant to 10 V.S.A. chapter 29. When awarding municipal planning grants
9 prior to fiscal year 2012, the department shall give priority to grants for
10 downtowns, new town centers, growth centers, and Vermont neighborhoods.

11 (4) In partnership with the division for historic preservation, direct,
12 supervise, and administer the Vermont downtown program, and any other
13 program designed to preserve the continued economic vitality of the state's
14 traditional commercial districts.

15 Sec. 7. 3 V.S.A. § 4020 is amended to read:

16 § 4020. STATE AGENCY PLANNING AND COORDINATION

17 (a) ~~State~~ All state agencies, and all independent departments reporting
18 directly to the governor that have programs or take actions affecting ~~land use~~
19 or affected by the state planning goals established by 24 V.S.A. § 4302, as
20 determined by ~~executive order of the governor~~ the office of planning
21 coordination, shall engage in a continuing planning process to assure that those

1 programs and actions are consistent with ~~the~~ those goals ~~established in~~
2 24 V.S.A. § 4302 and compatible with the plans of other state agencies and
3 departments and with applicable regional plans and applicable approved
4 municipal plans, as those terms are defined in that section. For purposes of
5 this section and section 4021 of this title, “consistent” and “compatible” have
6 the meanings assigned to them in 24 V.S.A. § 4302(f), and state agency,
7 department, regional, and approved municipal plans are plans adopted or
8 approved pursuant to section 4021 of this title or 24 V.S.A. § 4348 or 4350,
9 respectively. This planning process shall be coordinated, ~~in a manner~~
10 ~~established by executive order of the governor,~~ through the office of planning
11 coordination with the planning process of other agencies and departments and
12 of regional and municipal entities of the regions in which the programs and
13 actions are to have effect.

14 (b) In the process of preparing plans or amendments to plans, a state
15 agency or independent department reporting directly to the governor shall hold
16 at least two public hearings which are noticed as provided in ~~3 V.S.A. § section~~
17 ~~839 of this title~~ for administrative rules, but plans shall not be adopted as
18 administrative rules under ~~3 V.S.A. chapter 25 of this title.~~ Specific notice also
19 shall be provided to all of the following, at least 30 days prior to the public
20 hearing:

21 (1) the executive director of each regional planning commission;

1 (2) ~~the department of housing and community affairs within the agency~~
2 ~~of commerce and community development~~ office of planning coordination;
3 and

4 (3) ~~the council of regional commissions; and~~

5 (4) business, conservation, ~~low income~~ low income advocacy, and other
6 community or interest groups or organizations that have requested notice prior
7 to the date the hearing is warned.

8 (c) Any of the foregoing bodies, or their representatives, may submit
9 comments on the proposed plan or amendment, and may appear and be heard
10 in any proceeding with respect to the adoption of the proposed plan or
11 amendment. State agencies and departments shall use an informal working
12 format at locations convenient and accessible to the public in order to provide
13 opportunities for all persons and organizations with an interest in their plans
14 and actions to participate.

15 Sec. 8. 3 V.S.A. § 4021 is amended to read:

16 § 4021. ADOPTION OF STATE AGENCY PLANS

17 (a) ~~By January 1, 1991, each state agency that has programs or that takes~~
18 ~~actions affecting land use shall adopt an interim plan that is compatible with~~
19 ~~regional and approved municipal plans and that is consistent with the goals~~
20 ~~established in 24 V.S.A. § 4302.~~ By January 1, ~~1993~~ 2011, each state agency
21 or independent department reporting directly to the governor that has programs

1 or takes actions affecting ~~land use~~ or affected by the state planning purposes
2 and goals established by 24 V.S.A. § 4302(a)–(d) shall ~~adopt~~ have adopted a
3 plan that is compatible with the plans of other state agencies and departments
4 and with applicable regional plans and approved municipal plans, and that is
5 consistent with ~~the~~ those state planning purposes and goals established in
6 24 V.S.A. § 4302. Thereafter, the agency or department shall ~~readopt~~ review
7 its plan biennially, and make any amendments necessary to ensure that its plan
8 remains compatible with other state agency or department plans, regional
9 plans, and approved municipal plans, and remains consistent with the purposes
10 and goals established in ~~by~~ 24 V.S.A. § 4302 § 4302(a)–(d). ~~The term~~
11 ~~“approved municipal plans” as used in this section has the meaning established~~
12 ~~in 24 V.S.A. § 4350~~. All proposed and adopted state agency plans and
13 amendments shall be submitted to the office of planning coordination for its
14 review.

15 (b) Each state agency or department plan adopted or amended pursuant to
16 subsection (a) of this section, or pursuant to the requirements of any federal
17 authority granted to the agency or department, shall contain a statement
18 expressly explaining the respects in which it is compatible with the plans of
19 other state agencies and departments and with applicable regional plans and
20 approved municipal plans, and in which it is consistent with the state planning
21 purposes and goals established by 24 V.S.A. § 4302(a)–(d). If a state agency

1 or department plan, as adopted or amended, contains any provisions that are
2 not compatible with the plans of other state agencies and departments or with
3 applicable regional plans and approved municipal plans, or that are not
4 consistent with the state planning goals, the plan shall contain a statement
5 explaining:

6 (1) the nature of the incompatibility or inconsistency;

7 (2) why the incompatibility or inconsistency is necessary in the public
8 interest to attain the desired effect of the plan as a whole;

9 (3) why there is no reasonable alternative way to achieve the desired
10 effect of the plan; and

11 (4) how any incompatible or inconsistent provisions have been
12 structured to mitigate their detrimental effects.

13 (c) Prior to preparation of the governor's annual budget request pursuant to
14 chapter 5 of Title 32, the office of planning coordination shall review the
15 explanatory statements required by subsection (b) of this section in any state
16 agency or department plan that has been adopted or amended since the last
17 annual budget request. On the basis of this review, the office of planning
18 coordination shall report to the secretary of administration either that the plan
19 as submitted is compatible with the plans of other state agencies and
20 departments and with applicable regional plans and approved municipal plans
21 and that it is consistent with the state planning purposes and goals established

1 by 24 V.S.A. § 4302(a)–(d) or, that in specific respects, it is not compatible or
2 consistent with those plans or goals. If the office finds that the plan is
3 incompatible or inconsistent with those plans or goals, it shall further advise
4 the secretary whether the explanatory statement of the agency or department
5 provides a satisfactory justification for the incompatibility or inconsistency.
6 The office of planning coordination shall transmit a copy of any report
7 prepared under this section to the speaker of the house and to the president of
8 the senate.

9 (d) Before delivering to the governor the estimates and statements of state
10 agencies and independent departments reporting directly to the governor as
11 provided in 32 V.S.A § 302, the secretary of administration shall review the
12 reports of the office of planning coordination prepared as provided in
13 subsection (c) of this section and shall advise the governor in writing, with
14 copies to the speaker of the house and the president of the senate, either that
15 the plan of each agency and independent department is compatible with the
16 plans of other state agencies and departments and with applicable regional
17 plans and approved municipal plans and that it is consistent with the state
18 planning purposes and goals established by 24 V.S.A. § 4302(a)–(d) or, that in
19 specific respects, it is not compatible or consistent with those plans or goals. If
20 the secretary finds that a plan is incompatible or inconsistent with those plans
21 or goals, the secretary shall not deliver the budget estimate of the agency or

1 department to the governor unless the secretary finds that the explanatory
2 statement of the agency or department provides a satisfactory justification for
3 the incompatibility or inconsistency and sets forth the basis for such a finding.

4 Sec. 9. 24 V.S.A. § 4305 is amended to read:

5 § 4305. ~~COUNCIL OF REGIONAL COMMISSIONS; REVIEWS OF~~
6 ~~STATE AGENCY AND REGIONAL PLANS; REVIEWS OF~~
7 ~~CONFIRMATION AND APPROVAL DECISIONS BY REGIONAL~~
8 ~~PLANNING COMMISSIONS~~

9 (a) ~~A council of regional commissions is hereby created. The council~~
10 ~~membership shall include a representative from each regional planning~~
11 ~~commission established under section 4341 of this title, three members who~~
12 ~~are state agency or department heads appointed by the governor and two~~
13 ~~members representing the public appointed by the governor. Each regional~~
14 ~~planning commission shall appoint its representative, or replacement in case of~~
15 ~~a vacancy, from among the commission's municipal representatives. The~~
16 ~~council shall annually elect one of its members as chairperson and another~~
17 ~~member as vice chairperson. The powers and duties of these officers shall be~~
18 ~~determined by the council. A majority of members shall constitute a quorum.~~
19 ~~Members of the council, other than state officials, are entitled to the per diem~~
20 ~~and expenses authorized under 32 V.S.A. § 1010.~~

1 ~~(b) The council shall provide, on request, an impartial mediator to help~~
2 ~~resolve disagreements between and among municipalities and regional~~
3 ~~planning commissions, and between and among regional planning~~
4 ~~commissions and state agencies, with respect to the compatibility of their plans~~
5 ~~with each other, and related matters.~~

6 ~~(e)~~(1) The council office of planning coordination established under
7 3 V.S.A. §§ 2104(a) and 2285 shall review proposed regional plans or
8 amendments, after public notice, adopted under section 4348 of this title and
9 determine the following:

10 (A) whether the plan, ~~as amended~~ with any amendments, contains the
11 elements required by law;

12 (B) whether the plan, with any amendments, is compatible with the
13 plans of state agencies and departments and adjoining regions; and

14 (C) whether the plan, ~~as amended~~ with any amendments, is consistent
15 with the state planning goals established in ~~by~~ section 4302 of this title.

16 (2) If a municipality requests that a proposed regional plan or
17 amendment be reviewed for compatibility with an approved municipal plan,
18 the ~~council~~ office of planning coordination shall conduct that review.

19 (3) Upon completion of a review under this subsection, ~~one or more~~
20 ~~representatives of the council shall appear before the regional planning~~
21 ~~commission and~~ a representative of the office of planning coordination shall

1 present the council's comments and recommendations of the office to the
2 regional planning commission and may ask the commission to reconsider
3 portions of its proposed plan.

4 ~~(d)(1) The council shall review state agency plans or amendments proposed~~
5 ~~under 3 V.S.A. chapter 67, after providing public notice as required under~~
6 ~~3 V.S.A. § 839 with respect to administrative rules notwithstanding the notice~~
7 ~~requirements established in section 4447 of this title, and determine the~~
8 ~~following:~~

9 ~~(A) whether the plan or amendment is compatible with the plans of~~
10 ~~other state agencies;~~

11 ~~(B) whether it is consistent with the goals established in 24 V.S.A.~~
12 ~~§ 4302;~~

13 ~~(C) whether it is compatible with regional plans; and~~

14 ~~(D) whether it is compatible with approved municipal plans of~~
15 ~~municipalities that have requested review by the council.~~

16 ~~(2) Upon completion of a review under subdivision (1) of this~~
17 ~~subsection, one or more representatives of the council shall appear before the~~
18 ~~state agency and present the council's comments and recommendations.~~

19 ~~(3) After the agency has adopted a plan or amendment, the council, after~~
20 ~~providing public notice as required under 3 V.S.A. § 839 with respect to~~
21 ~~administrative rules notwithstanding the notice requirements established in~~

1 ~~section 4447 of this title, shall review the plan, as amended or adopted, and~~
2 ~~shall prepare a written evaluation of the plan's compliance with the criteria~~
3 ~~established in subdivision (1) of this subsection. The written evaluation shall~~
4 ~~be sent to all persons who request a copy in writing, to the governor, to the~~
5 ~~speaker of the house and president of the senate, who shall forward them to~~
6 ~~appropriate legislative committees. If the council determines that the plan or~~
7 ~~amendment as adopted is not compatible with a regional plan or is not~~
8 ~~compatible with the approved municipal plan of a municipality that has~~
9 ~~requested review by the council, the evaluation shall be sent also:~~

10 (A) ~~to the regional planning commission,~~

11 (B) ~~to the legislative body and planning commission of the relevant~~
12 ~~municipality and to the state representatives that represent that municipality,~~
13 ~~and~~

14 (C) ~~to state senators who represent the relevant region or~~
15 ~~municipality.~~

16 (e)(b) ~~The council~~ office of planning coordination, at the request of a
17 municipality, shall establish, by rule adopted according to 3 V.S.A. chapter 25,
18 a process to conduct formal review of the sufficiency of an adopted regional
19 ~~plan or amendment and formal review of a regional planning commission~~
20 ~~decisions~~ decision with respect to the confirmation of municipal planning
21 efforts, ~~and~~ or the approval or disapproval of municipal plans or amendments.

1 ~~Formal review shall be conducted by a three-person regional review panel~~
2 ~~composed of council members, including at least two representatives of~~
3 ~~regional planning commissions, all assigned by the council in a manner~~
4 ~~established by rule. A representative of a regional planning commission shall~~
5 ~~not participate in formal review of the actions of the regional planning~~
6 ~~commission which the person represents. Council members who participate in~~
7 ~~the review of a regional plan under subsection (c) of this section shall not~~
8 ~~participate in a formal regional review panel proceeding on the same matter.~~
9 After the review, a representative of the office shall present the comments and
10 recommendations of the office to the regional planning commission and the
11 municipality and may ask either party to reconsider its prior decisions on the
12 municipal plan.

13 (f) ~~The council shall adopt rules, according to the provisions of 3 V.S.A.~~
14 ~~chapter 25, that are necessary for the performance of its functions under this~~
15 ~~chapter.~~

16 (g) ~~The council shall receive administrative support from the department of~~
17 ~~housing and community affairs.~~

18 Sec. 10. 24 V.S.A. § 4348(i) is amended to read:

19 (i) By December 31, 1992 and at least every five years thereafter, all
20 regional planning commissions shall submit regional plans and amendments
21 adopted under this section to the ~~council of regional commissions~~ office of

1 planning coordination established under 3 V.S.A. §§ 2104(a) and 2285 for
2 review under subsection 4305(a) of this title. ~~The council shall make~~
3 ~~recommendations to the regional planning commissions with respect to~~
4 ~~appropriate amendments for consideration by the commissions.~~

5 Sec. 11. 24 V.S.A. § 4476 is amended to read:

6 § 4476. ~~FORMAL~~ JUDICIAL REVIEW OF REGIONAL PLANNING

7 COMMISSION DECISIONS

8 (a) ~~Formal~~ Environmental court review. A request ~~for formal~~ to review ~~of~~
9 the sufficiency of an adopted regional plan or amendment, ~~or for formal review~~
10 ~~of the decision of a regional planning commission with respect to the~~
11 ~~confirmation of a municipal planning effort, or the decision relating to~~
12 ~~approval of a municipal plan,~~ shall be made to the regional review panel
13 ~~created under section 4305 of this title~~ environmental court. A request for
14 ~~formal~~ review of a regional plan or amendment adopted after July 1, 2010 shall
15 be filed within 21 days of adoption of the plan or amendment ~~or the decision~~.

16 (b) Standing. The following have standing to request ~~formal~~ review or
17 become parties to ~~formal~~ review conducted under this section:

18 (1) a person owning title to property affected by a decision of the
19 regional planning commission who alleges that that decision imposes on that
20 property unreasonable or inappropriate restrictions that significantly impair
21 present or potential use under the particular circumstances of the case;

1 (2) ~~a municipality whose planning effort is the subject of a decision by~~
2 ~~the regional planning commission, any other~~ municipality within the region,
3 any municipality which adjoins the region, or a regional planning commission
4 which adjoins the region;

5 (3) any agency, department, or other governmental subdivision of the
6 state owning property or an interest therein within a municipality listed in
7 subdivision (2) of this subsection, and the agency of commerce and community
8 development;

9 (4) ~~any 20 persons who by signed petition allege that the decision, if~~
10 ~~confirmed, will not be in accord with the requirements of this chapter, and who~~
11 ~~own or occupy real property located within any combination of the following:~~

12 (A) ~~any municipality whose planning effort is the subject of the~~
13 ~~decision by the regional planning commission; or~~

14 (B) ~~any municipality which adjoins a municipality whose planning~~
15 ~~effort is subject of the decision by the regional planning commission;~~

16 (5) with respect to the sufficiency of an adopted or amended regional
17 plan, any 20 persons who by signed petition allege that the plan or amendment
18 is not in accord with the requirements of this chapter, and who own or occupy
19 real property located within the area that includes the region and the
20 municipalities that adjoin the region;

1 (6) the regional planning commission whose plan; or amendment; ~~or~~
2 ~~decision~~ is the subject of the request for ~~formal~~ review.

3 (c) Procedure; ~~regional review panel~~. Notice of ~~formal~~ judicial review
4 shall be sent by mail to the municipalities within the region, to the regional
5 planning commission, to the office of planning coordination, and to the agency
6 of commerce and community development and shall be accompanied by a
7 statement of all reasons why the appellant believes the plan ~~or opinion~~ to be in
8 error and all issues which the appellant believes to be relevant. ~~Within 30 days~~
9 ~~of receipt of the notice of formal review, the date for a hearing shall be set and~~
10 ~~the council shall publish notice of the hearing in a newspaper of general~~
11 ~~circulation in the applicable region, and shall provide notice in writing of the~~
12 ~~hearing to individuals and organizations that had requested notice from the~~
13 ~~regional planning commission under section 4348 relating to the adoption of a~~
14 ~~regional plan. The appellant shall pay the costs of publication. The hearing~~
15 ~~shall be held within 45 days of receipt of the notice of formal review. Upon~~
16 ~~motion, for good cause shown, the panel may extend the date of the hearing.~~
17 ~~Within 20 days of adjournment of the hearing, the regional review panel shall~~
18 ~~issue a decision approving, conditionally approving or disapproving the~~
19 ~~regional plan or amendment or the opinion with respect to confirmation of the~~
20 ~~municipal planning effort or approval of the municipal plan. The regional~~
21 ~~review panel shall be governed by the provisions for contested cases in chapter~~

1 ~~25 of Title 3~~ The environmental court shall carry out the review in such
2 manner as the supreme court may by rule provide.

3 (d) Issues on ~~formal~~ review.

4 ~~(1)~~ With respect to ~~formal~~ review of the sufficiency of an adopted or
5 amended regional plan, the ~~regional review panel~~ court shall determine:

6 ~~(A)~~(1) whether the plan contains the elements required by law;

7 ~~(B)~~(2) whether the plan is compatible with the plans of adjoining
8 regions and with the approved plans of adjoining municipalities; and

9 ~~(C)~~(3) whether the plan is consistent with the goals established in
10 section 4302 of this title.

11 ~~(2) With respect to formal review of a regional planning commission~~
12 ~~decision on the confirmation of a municipal planning effort, the regional~~
13 ~~review panel shall determine:~~

14 ~~(A) whether the municipality is engaged in a continuing planning~~
15 ~~process that, within a reasonable time, will attain consistency with the goals~~
16 ~~established in section 4302 of this title; and~~

17 ~~(B) whether the municipality is maintaining its efforts to provide~~
18 ~~local funds for municipal and regional planning purposes.~~

19 ~~(3) With respect to formal review of a regional planning commission~~
20 ~~decision on the approval or disapproval of a municipal plan, the regional~~
21 ~~review panel shall determine:~~

1 ~~(A) whether the plan is consistent with the goals established in~~
2 ~~section 4302 of this title;~~

3 ~~(B) whether the plan is compatible with its regional plan; and~~

4 ~~(C) whether the plan is compatible with approved plans of other~~
5 ~~municipalities in the region.~~

6 (e) Stays.

7 (1) The filing of a notice of ~~formal~~ judicial review under this section
8 shall not stay the effect of the plan or ~~the decision of the regional planning~~
9 ~~commission~~ amendment, unless so ordered by the ~~regional review panel~~ court.

10 ~~(2) If notice of formal review of the decision of a regional planning~~
11 ~~commission to approve or disapprove a municipal plan is filed prior to final~~
12 ~~adoption of the plan, the regional review panel shall stay formal review~~
13 ~~proceedings pending final adoption. The panel, however, may proceed with~~
14 ~~formal review upon the request of the municipality whose plan is the subject of~~
15 ~~the review.~~

16 (f) Appeal to supreme court. An appeal from a decision of the ~~regional~~
17 ~~review panel~~ environmental court shall be to the supreme court, according to
18 the Vermont Rules of Appellate Procedure.

19 Sec. 12. EFFECTIVE DATE

20 This act shall take effect on July 1, 2010.