

1 S.209

2 Introduced by Senator Hartwell

3 Referred to Committee on

4 Date:

5 Subject: Transportation; complete streets

6 Statement of purpose of bill as introduced: This bill proposes to amend the
7 laws requiring that all users of Vermont's transportation system be considered
8 in all State and municipally managed transportation projects, and expand the
9 jurisdiction of the Transportation Board to hear appeals related to the Agency
10 of Transportation's or a municipality's determination not to accommodate all
11 users in a transportation project.

12 An act relating to the complete streets laws

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

14 Sec. 1. 19 V.S.A. § 10b is amended to read:

15 § 10b. STATEMENT OF POLICY; GENERAL

16 (a) The Agency shall be the responsible agency of the State for the
17 development of transportation policy. It shall develop a mission statement to
18 reflect:

19 (1) that State transportation policy shall be to encompass, coordinate,
20 and integrate all modes of transportation and to consider, and incorporate when

1 appropriate, “complete streets” principles, which are principles of safety and
2 accommodation of all transportation system users, regardless of age, ability, or
3 modal preference, in transportation projects; and

4 (2) the need for transportation projects that will improve the State’s
5 economic infrastructure, as well as the use of resources in efficient,
6 coordinated, integrated, cost-effective, and environmentally sound ways.

7 * * *

8 (c) In developing the State’s annual Transportation Program, the ~~agency~~
9 Agency shall, consistent with the planning goals listed in 24 V.S.A. § 4302 as
10 may be amended by 1988 Acts and Resolves No. 200 and with appropriate
11 consideration to local, regional, and ~~state~~ State agency plans:

12 (1) Develop or incorporate designs that provide integrated, safe, and
13 efficient transportation.

14 (2)~~(A)~~ Consider the safety and accommodation of all transportation
15 system users—including motorists, bicyclists, public transportation users, and
16 pedestrians of all ages and abilities—in all ~~state~~ State and municipally
17 managed transportation projects and project phases, including planning,
18 development, construction, and maintenance, ~~except in the case of projects or~~
19 ~~project components involving unpaved highways and, except as otherwise~~
20 provided in this subdivision, propose projects that provide safe accommodation
21 of such users. ~~If, after the consideration required under this subdivision, a~~ A

1 ~~proposed~~ State-managed project ~~does not incorporate complete streets~~
2 ~~principles, the project manager shall make a written determination, supported~~
3 ~~by documentation and available for public inspection at the Agency, that does~~
4 ~~not need to provide for the safe accommodation of all users if one or more of~~
5 the following circumstances exist:

6 ~~(i)(A)~~ Use of the transportation facility by pedestrians, bicyclists, or
7 other users is prohibited by law.

8 ~~(ii)(B)~~ The incremental cost of ~~incorporating complete streets~~
9 ~~principles providing safe accommodation of all users within the project scope~~
10 is disproportionate to the need or probable ~~use~~ benefit, as determined by
11 factors ~~including~~ that may include land use, current and projected user
12 volumes, population density, crash data, historic and natural resource
13 constraints, and maintenance requirements. If the safe accommodation of
14 some but not all users can be achieved without disproportionate incremental
15 cost, the Agency shall design and construct the project to provide for such
16 partial accommodation. The Agency shall consult local and regional plans, as
17 appropriate, in assessing these and any other relevant factors.

18 ~~(iii)(C)~~ ~~Incorporating complete streets principles is outside the scope~~
19 ~~of a project because of its very nature~~ The project involves an unpaved
20 highway.

1 Sec. 3. 19 V.S.A. § 309d is amended to read:

2 § 309d. POLICY FOR MUNICIPALLY MANAGED TRANSPORTATION
3 PROJECTS

4 (a) ~~Except in the case of projects or project components involving unpaved~~
5 ~~highways, for~~ For all transportation projects and project phases managed by a
6 municipality, including planning, development, construction, or maintenance,
7 ~~it is the policy of this state for municipalities to~~ shall consider “complete
8 streets” principles, which are principles of safety and accommodation of all
9 transportation system users, regardless of age, ability, or modal preference.
10 Except as provided in subsection (b) of this section, municipalities shall
11 provide for the safe accommodation of all such users within the scope of
12 municipally managed transportation projects.

13 (b) A project shall not be required to provide for the safe accommodation
14 of all users if one or more of the following circumstances exists:

15 (1) Use of the transportation facility by pedestrians, bicyclists, or other
16 users is prohibited by law.

17 (2) The incremental cost of providing safe accommodation of all users
18 within the project scope is disproportionate to the need or probable benefit, as
19 determined by factors that may include land use, current and projected user
20 volumes, population density, crash data, historic and natural resource
21 constraints, and maintenance requirements. If the safe accommodation of

1 some but not all users can be achieved without disproportionate incremental
2 cost, the municipality shall design and construct the project to provide for such
3 partial accommodation. The municipality shall consult local and regional
4 plans, as appropriate, in assessing these and any other relevant factors.

5 (3) The project involves an unpaved highway.

6 (c) ~~If, after the consideration required under this section, a municipally~~
7 ~~managed~~ project does not incorporate complete streets principles, the
8 municipality ~~managing the project shall, no later than at the end of the project~~
9 ~~definition phase of the project, make a written determination, supported by~~
10 ~~documentation and publicly available for public inspection at the office of the~~
11 ~~municipal clerk and at the agency of transportation from the municipality and~~
12 ~~the Agency upon request, that one or more of the following circumstances~~
13 ~~exist:~~

14 (1) ~~Use of the transportation facility by pedestrians, bicyclists, or other~~
15 ~~users is prohibited by law.~~

16 (2) ~~The cost of incorporating complete streets principles is~~
17 ~~disproportionate to the need or probable use as determined by factors such as~~
18 ~~land use, current and projected user volumes, population density, crash data,~~
19 ~~historic and natural resource constraints, and maintenance requirements. The~~
20 ~~municipality shall consult local and regional plans, as appropriate, in assessing~~
21 ~~these and any other relevant factors.~~

1 ~~(3) Incorporating complete streets principles is outside the scope of a~~
2 ~~project because of its very nature~~ explaining why all users were not safely
3 accommodated and which exception described in subdivisions (b)(1)–(3) of
4 this section applies.

5 ~~(b) The written determination required by subsection (a) of this section~~
6 ~~shall be final and shall not be subject to appeal or further review~~ A person
7 aggrieved by the municipality’s determination may file a notice of appeal with
8 the municipality and the Board within 30 days of the determination, and upon
9 receipt of the notice, the municipality shall forward to the Board the record of
10 its determination. If the Board finds that the municipality’s determination is
11 not supported by substantial evidence, the municipality shall redefine the
12 project. The Board’s decision shall be final and nonappealable.

13 Sec. 4. 19 V.S.A. § 5 is amended to read:

14 § 5. TRANSPORTATION BOARD; POWERS AND DUTIES

15 (a) The regulatory and quasi-judicial functions relating to transportation
16 shall be vested in the ~~transportation board~~ Board.

17 (b) Notwithstanding subsection (a) of this section, the duties and
18 responsibilities of the ~~commissioner of motor vehicles~~ Commissioner of Motor
19 Vehicles in Titles 23 and 32, including all quasi-judicial powers, shall continue
20 to be vested in ~~that individual~~ the Commissioner.

1 (c) The ~~board~~ Board may delegate the responsibility to hear quasi-judicial
2 matters, and other matters as it may deem appropriate, to a hearing examiner or
3 a single ~~board~~ Board member, to hear a case and make findings in accordance
4 with 3 V.S.A. chapter 25 of Title 3, except that highway condemnation
5 proceedings shall be conducted pursuant to the provisions of chapter 5 of this
6 title. A hearing examiner or single ~~board~~ Board member so appointed shall
7 report his or her findings of fact in writing to the ~~board~~ Board. Any order
8 resulting therefrom shall be rendered only by a majority of the ~~board~~ Board.
9 ~~Final~~ Unless otherwise provided by law, final orders of the ~~board~~ Board may
10 be reviewed on the record by the ~~superior court~~ Superior Court pursuant to
11 Rule 74 of the Vermont Rules of Civil Procedure.

12 (d) The ~~board~~ Board shall:

13 * * *

14 (13) hear and determine disputes involving a determination of the
15 ~~agency~~ Agency under section 309c of this title that the municipality is
16 responsible for repayment of federal funds required by the Federal Highway
17 Administration;

18 (14) provide appellate review in accordance with subsection 10b(e) or
19 309d(c) of this title of a determination by the Agency or a municipality not to
20 provide for the safe accommodation of all users within the scope of a
21 transportation project.

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(h) Unless otherwise provided by law, when an appeal is allowed from the ~~agency~~ Agency to the ~~board~~ Board, the appeal shall be taken by filing a notice of appeal with the ~~secretary~~ Secretary within 30 days of the date of the ~~agency~~ Agency decision from which the appeal is taken. The ~~secretary~~ Secretary shall promptly forward the notice of appeal to the ~~board~~ Board, together with the ~~agency's~~ Agency's record of decision.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2014.