

1 S.58

2 Introduced by Senators Lyons, Ashe, Baruth, Cummings, Fox, Galbraith,
3 MacDonalD, McAllister, McCormack, Pollina, Rodgers, White,
4 and Zuckerman

5 Referred to Committee on Natural resources and Energy

6 Date: January 25, 2013

7 Subject: Conservation and development; land use; Act 250; oil or petroleum
8 pipeline

9 Statement of purpose of bill as introduced: This bill proposes to require an
10 Act 250 permit for a new oil pipeline or for an existing oil pipeline if a
11 physical change is made to the existing pipeline that is not solely for the
12 purpose of repair.

13 An act relating to Act 250 and oil pipelines

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

15 Sec. 1. 10 V.S.A. § 6001 is amended to read:

16 § 6001. DEFINITIONS

17 * * *

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

19 (i) ~~The~~ the construction of improvements on a tract or tracts of
20 land, owned or controlled by a person, involving more than 10 acres of land

1 within a radius of five miles of any point on any involved land, for commercial
2 or industrial purposes in a municipality that has adopted permanent zoning and
3 subdivision bylaws;

4 (ii) ~~The~~ the construction of improvements for commercial or
5 industrial purposes on more than one acre of land within a municipality that
6 has not adopted permanent zoning and subdivision bylaws;

7 (iii) ~~The~~ the construction of improvements for commercial or
8 industrial purposes on a tract or tracts of land, owned or controlled by a person,
9 involving more than one acre of land within a municipality that has adopted
10 permanent zoning and subdivision bylaws, if the municipality in which the
11 proposed project is located has elected by ordinance, adopted under 24 V.S.A.
12 chapter 59 ~~of Title 24~~, to have this jurisdiction apply;

13 (iv) ~~The~~ the construction of housing projects such as cooperatives,
14 condominiums, or dwellings, or construction or maintenance of mobile homes
15 or trailer parks, with 10 or more units, constructed or maintained on a tract or
16 tracts of land, owned or controlled by a person, within a radius of five miles of
17 any point on any involved land, and within any continuous period of
18 five years;

19 (v) ~~The~~ the construction of improvements on a tract of land
20 involving more than 10 acres that is to be used for municipal, county, or state
21 purposes. In computing the amount of land involved, land shall be included

1 that is incident to the use such as lawns, parking areas, roadways, leaching
2 fields, and accessory buildings;

3 (vi) ~~The~~ the construction of improvements for commercial,
4 industrial, or residential use above the elevation of 2,500 feet;

5 (vii) ~~Exploration~~ the exploration for fissionable source materials
6 beyond the reconnaissance phase or the extraction or processing of fissionable
7 source material;

8 (viii) ~~The~~ the drilling of an oil and gas well;

9 (ix) the construction of an oil or petroleum transmission pipeline
10 and associated facilities.

11 * * *

12 Sec. 2. 10 V.S.A. § 6081 is amended to read:

13 § 6081. PERMITS REQUIRED; EXEMPTIONS

14 (a) No person shall sell or offer for sale any interest in any subdivision
15 located in this state, or commence construction on a subdivision or
16 development, or commence development without a permit. This section shall
17 not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all,
18 of a subdivision unless the sale, mortgage, or transfer is accomplished to
19 circumvent the purposes of this chapter.

(b) Subsection (a) of this section shall not apply to a subdivision exempt
under the regulations of the ~~department of health~~ Department of Health in
effect on January 21, 1970 or any subdivision which has a permit issued prior
to June 1, 1970 under the ~~board of health~~ Board of Health regulations; or has

pending a bona fide application for a permit under the regulations of the ~~board of health~~ Board of Health on June 1, 1970, with respect to plats on file as of June 1, 1970 provided such permit is granted prior to August 1, 1970. Subsection (a) of this section shall not apply to development which is not also a subdivision, which has been commenced prior to June 1, 1970, if the construction will be completed by March 1, 1971. Subsection (a) of this section shall not apply to a state highway on which a hearing pursuant to 19 V.S.A. § 222 has been held prior to June 1, 1970. Subsection (a) of this section shall not apply to any telecommunications facility in existence prior to July 1, 1997, unless that facility is a "development" as defined in subdivision 6001(3) of this title. ~~Subsection (a) of this section shall apply to any substantial change in such excepted subdivision or development. Subsection (a) of this section also shall apply to an excepted oil or petroleum transmission pipeline and associated facilities if there is any physical change to the pipeline or associated facilities unless the change is solely for the purpose of repair in the usual course of business and does not alter the capacity, function, or operation of the pipeline. Subsection (a) of this section also shall apply to an oil or petroleum transmission pipeline and associated facilities excepted under this subsection if there is a cognizable physical change to the pipeline or associated facilities, unless the change is solely for the purpose of repair in the usual course of business.~~

1 * * *

2 ~~Sec. 3. 10 V.S.A. § 6086 is amended to read:~~

3 § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

4 * * *

5 (g) When applying the criteria of this section to an oil or petroleum
6 transmission pipeline, the district commission shall not consider the safety of
7 the pipeline and shall issue no permit condition that regulates pipeline safety or
8 has the effect of regulating pipeline safety.

9 Sec. 4. APPLICATION

10 This act shall apply to any physical change to an oil or petroleum pipeline
11 ~~and associated facilities that is made after the act's effective date regardless of~~

1 ~~whether a jurisdictional opinion under 10 V.S.A. chapter 151 (Act 250) was~~
2 ~~issued prior to that date concerning the applicability of that chapter to the~~
3 ~~physical change unless the requestor sought and the district coordinator~~
4 ~~employed the process under 10 V.S.A. § 6007(c) for issuance of a~~
5 ~~jurisdictional opinion that constitutes a final determination.~~

Sec. 3. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

** * **

(g) When applying the criteria of this section to an oil or petroleum transmission pipeline, the district commission shall not consider the safety of the pipeline and shall issue no permit condition that regulates pipeline safety or has an effect on pipeline safety that is not permitted under the Pipeline Safety Act, 49 U.S.C. §§ 60101–60137.

Sec. 4. APPLICATION

Notwithstanding 1 V.S.A. §§ 213 and 214, this act shall apply to any cognizable physical change to an oil or petroleum pipeline and associated facilities that is made after the act's effective date regardless of whether a jurisdictional opinion under 10 V.S.A. chapter 151 (Act 250) was issued prior to that date concerning the applicability of that chapter to the change.

6 Sec. 5. EFFECTIVE DATE

7 This act shall take effect on passage.