

**H.823 – An Act Relating to Encouraging Growth in Designated Centers  
and Protecting Natural Resources**

Aaron Adler, Legislative Counsel, March 17, 2014

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Sec.	Bill as Passed the House
1	<p>This section proposes amendments to the definitions that govern development under Act 250:</p> <ul style="list-style-type: none"> <li>• It would encourage mixed income housing and mixed use projects within various centers designated under 24 V.S.A. chapter 76A, such as designated downtown districts, by reducing the number of those projects that require an Act 250 permit. <ul style="list-style-type: none"> <li>○ The reduction would be accomplished by: (a) increasing the number of housing units required for the projects to trigger Act 250 jurisdiction and (b) stating that Act 250 jurisdiction over such a project shall count only the housing units within the project, and that housing units within the project shall not count toward determining jurisdiction over any other project.</li> <li>○ The section also would reorganize and simplify the statutory provisions relating to these projects, including defining them as “priority housing projects.”</li> <li>○ It would amend the affordability requirements for rental housing in mixed income housing projects as defined in Act 250 by revising the income ceiling for affordable rental housing from 60 to 80 percent of median income and by changing the required duration of affordability from 30 to 20 years.</li> </ul> </li> <li>• The section would define “existing settlement” to mean a center designated under 24 V.S.A. chapter 76A and an existing community center that is compact and contains a mixture of uses. Strip development outside these areas would not constitute an existing settlement.</li> <li>• It also would define “strip development” to mean linear commercial development along a public highway that meets three or more characteristics listed in the proposed definition, such as broad road frontage, predominance of single-story buildings, and others.</li> </ul>
2	<p>This section proposes amendments to criteria applied during Act 250 review:</p> <ul style="list-style-type: none"> <li>• It would amend the existing transportation criterion by adding a new subdivision requiring the development, as appropriate, to incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and existing and planned pedestrian, bicycle, and transit networks and facilities.</li> <li>• The section would replace the “rural growth areas” criterion with an “existing settlements” criterion to promote Vermont’s historic settlement pattern of compact village and urban centers separated by rural countryside. Under this criterion, development outside of an existing settlement must: <ul style="list-style-type: none"> <li>○ make efficient use of land, energy, road, utilities and other supporting infrastructure;</li> <li>○ be designed consistently with state planning goals to promote the historic settlement pattern;</li> <li>○ conform to the land use element, map, and resource protection policies in the applicable local and regional plans;</li> <li>○ not establish or extend a pattern of strip development;</li> <li>○ if located in an area of strip development, incorporate infill and avoid or minimize the characteristics listed in the definition of strip development; and</li> <li>○ if adjacent to an area of strip development, avoid or minimize the characteristics listed in the definition of strip development.</li> </ul> </li> </ul>

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<b>Sec.</b>	<b>Bill as Passed the House</b>
3	<p>This section would add a new statute to Act 250 under which a development in a designated downtown development district may obtain expedited findings and conclusions from the Natural Resources Board (NRB) in lieu of a permit or permit amendment from the District Commission. Under the section:</p> <ul style="list-style-type: none"> <li>• The NRB would review the development under a limited set of the Act 250 criteria and there would be no fee.</li> <li>• Affected state agencies such as the Agencies of Agriculture, Farm and Markets and of Natural Resources would submit written determinations on the issues under their jurisdiction within 30 days of receiving notice of a complete request for findings.</li> <li>• There would be no hearing unless the NRB determines there is a substantial issue that requires a hearing.</li> <li>• The NRB would issue a decision within 60 days of issuing a notice of complete request or, if there is a hearing, within 15 days of adjourning the hearing.</li> </ul>
4	<p>This section would provide that an Act 250 permit or permit amendment is not required for a development or subdivision that receives positive findings and conclusions from the NRB under Sec. 3. It also would require amended findings and conclusions from the NRB if there is a material change as defined in the Board rules.</p>
5	<p>Under this section, appeal of expedited findings issued by the NRB under Sec. 3 would be to the Environmental Division of the Superior Court.</p>
6	<p>This section proposes to amend a statute that governs suitable mitigation under Act 250 for the conversion of primary agricultural soils. Under current law, projects in designated growth centers benefit from a requirement for a 1:1 ratio of primary agricultural soils preserved to primary agricultural soils developed, while other projects must meet ratios ranging from 2:1 to 3:1. The bill proposes to extend this 1:1 ratio to projects in designated downtown development districts, new town centers designated on or before Jan. 1, 2014, and neighborhood development areas associated with a designated downtown.</p>
7	<p>This section proposes to amend the environmental enforcement statute to enable the NRB to enforce expedited findings issued under Sec. 3.</p>
8	<p>Under this section, the Environmental Division would review appeals from expedited findings issued by the NRB under Sec. 3 on the record.</p>
9-11	<p>These sections would apply to the Agency of Natural Resources' (ANR) revolving loan fund for municipal pollution control projects. They would:</p> <ul style="list-style-type: none"> <li>• Amend ANR's rules to conform its definition of designated centers to the statute.</li> <li>• Amend the governing statute for those rules by adding a definition of designated centers under 24 V.S.A. chapter 76A and directing ANR to give increased priority to eligible municipal projects in those centers.</li> </ul>

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<b>Sec.</b>	<b>Bill as Passed the House</b>
12-13	These sections would apply to ANR’s issuance of wastewater and water supply permits for new or modified connections to water and sewer mains from buildings in downtown development districts. Sec. 12 would direct ANR to issue permits for these connections on submission of an application consisting solely of the certification of a licensed designer and a letter from the owner of the water or sewer main allocating the capacity for the connection. Sec. 13 would direct ANR to conform its rules and application form to these provisions.
14	This section amends the enabling authority for “inclusionary zoning” to promote affordable housing in municipal land use bylaws. Under current law, a municipality may require that a certain percentage of housing units in a subdivision or planned unit development meet affordability limits that may include lower income limits and different affordability percentages from those otherwise specified in law. The amendment would allow a municipality to adopt similar requirements for any multi-unit development.
15	This section is on effective dates. Under it, Sec. 9 – amending ANR’s rules on loans for eligible municipal projects – would take effect on passage. Secs. 1–8 and 10–14 would take effect on June 1, 2014.