



Senate Committee on Natural Resources & Energy

H.809/H.823 State Designation Programs (24 VSA Ch.76A, 24 VSA Ch.117)

April 3, 2014

The Vermont Planners Association (VPA) has worked since 1989 to guide, promote and implement state planning policies under the Vermont Planning and Development Act, including growth center planning and development as envisioned under the state's Growth Management Act (Act 200). VPA is represented on the Vermont Downtown Board, and actively participated in DHCD working groups to improve state designation programs under Chapter 76A – as reflected in H.809 and H.823.

VPA's principal concerns with regard to the current designation process, as identified by our Growth Center Committee:

- **Growth center applications should flow directly from a municipality's comprehensive plan and supporting analyses, as initially envisioned under Act 200 and the Planning and Development Act.** Planning required for growth center designation under Chapter 76A (Historic Downtown Development) occurs separately from comprehensive municipal and regional planning under the Planning and Development Act (Chapter 117). The requirements of Chapter 76A and Chapter 117 should be better aligned and integrated – to include Chapter 117 provisions related to growth center designation under Chapter 76A; and to more specifically reference relevant Chapter 117 plan elements, analyses and programs (e.g., bylaws, capital improvement programs, official maps) under Chapter 76A.
- **The limited benefits of state designation are not commensurate with the amount of additional work required—program benefits should be increased.** This should include additional dedicated funding – and alternative funding mechanisms– for supporting infrastructure, and appropriate regulatory relief (e.g., truncated Act 250 review, flexibility with regard to the mitigation of impacts).

H.809: VPA supports H.809 as passed by the House because it addresses the first of these two concerns – by reintegrating growth center planning into municipal and regional planning.

- **H.809 streamlines the designation process, by consolidating, updating and clarifying growth center designation requirements under which the State Board makes its findings and determinations.** This includes the consolidation of designation criteria under one section, and pre-application review meetings conducted by DHCD staff with input from other state agencies and the regional planning commission.
- **H.809 strengthens the connection between municipal and regional planning, growth center planning and growth center designation as a form of plan implementation.** As proposed: designation criteria specifically reference state planning goals, municipal plan policies and implementing bylaws and ordinances under Chapter 117; written confirmation of growth center conformance with the regional plan is required; and DHCD is directed to provide guidance for growth center planning in relation to comprehensive municipal planning in the update of its planning manual.
- **H.809 requires the update of DHCD's *Planning Manual for Vermont Municipalities*** (under 24 VSA §4304). Last issued by the Department in 2000, this fundamental guidance document will be updated to address several “new” planning requirements enacted under the Act since then, and to incorporate growth center planning.

H.823: VPA also recommends the committee support H.823 as passed by the House which begins to address our second stated concern – by providing additional incentives under state designation programs to meet Vermont’s planning and development goals. Vermont has little wealth beyond its land and people. Financial, regulatory and infrastructure incentives must be carefully focused to help guide development in a manner that is consistent with longstanding state policy.

VPA supports:

- **Proposed changes to Act 250 thresholds for mixed income housing development, under the proposed definition of “priority housing development”** as well as related provisions intended to ensure the protection of historic properties.
- **Expanding the definition of “affordable” rental housing to also include households earning up to 80% of the median household income** (Section 1). This is consistent with related “affordable housing” definitions under 24 V.S.A. § 4303.
- **Regulatory benefits represented by proposed Act 250 “off-ramp” provisions for designated downtown development districts–** and potentially other designated areas where the associated impacts of new development have been adequately identified and addressed in the planning and designation process, in advance of development.
- **Expanding priorities for state infrastructure investment to include all designated centers as defined–** to also, in the future, include priority funding for stormwater management infrastructure.
- **Expanding the types of transportation facilities considered in Act 250 under Criterion 5 (Traffic); and allowing District Environmental Commissions to accept lower Levels of Service (LOS) under this criterion for transportation infrastructure within designated areas** (Section 2) – particularly where a lower LOS has been specified in a municipal or regional plan based on supporting studies, recognizing that more traffic congestion is anticipated and planned for within these areas. LOS standards should not be a barrier to development density in designated centers. We were sorry to see that a version of this provision was deleted from current draft.
- **Proposed changes to 9(L) with regard “rural growth areas”** as amended in the House. “Rural growth areas” as addressed under 9(L) were intended to be defined spatially in relation to the “land capability map” referenced under Criterion 9 (and still on the books)–to exclude those resources identified for protection in Act 250. In the absence of the land and capability map, this criterion has been difficult to apply. ***We strongly believe, however, that Criterion 9(L), as it pertains to existing and planned settlement patterns, should continue to be considered within a planning context, by also referencing conformance with local and regional land use plans and maps and resource protection policies as applicable.*** Language to this effect was added to the bill, at VPA request, as passed by the House
- **Allowing inclusionary zoning to apply to multi-unit or multi-family development (in addition to subdivisions and planned unit developments** (Section 14). We view Burlington’s requested language a technical correction to address an oversight in this section of statute.

Ultimately additional, targeted state funding – and alternative local funding sources – will be needed to provide the infrastructure needed to support downtown, village and growth center development. H.823 represents a good first step.

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