

1 H.396

2 Introduced by Representatives Scheuermann of Stowe, Hebert of Vernon, and

3 Krebs of South Hero

4 Referred to Committee on

5 Date:

6 Subject: Conservation and development; natural resources; land use; Act 250;

7 municipal planning and development; assistance to applicant; master

8 planning; burden of proof on appeal

9 Statement of purpose of bill as introduced: This bill proposes to assign a
10 permit specialist, on request of an applicant, to provide guidance and assistance
11 to the applicant during the permit process; to clarify that the Act 250 rules may
12 provide an option for master plan review at the request of an applicant, rather
13 than allowing a District Commission to require such review; and to require
14 that, in an appeal from a District Commission, the burden of proof is on the
15 appellant.

16 An act relating to various reforms of the environmental permitting process

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

1 Sec. 1. 3 V.S.A. § 2873 is amended to read:

2 § 2873. DEPARTMENT OF ENVIRONMENTAL CONSERVATION

3 * * *

4 (g) There is created within the ~~department of environmental conservation~~
5 Department of Environmental Conservation a small business technical and
6 environmental compliance assistance program. This program shall include
7 each element specified in section 507(a) of the federal Clean Air Act
8 (42 U.S.C. § 7401 et seq.) and shall also be authorized to assist small
9 businesses in similar fashion with regard to their obligations under all other
10 environmental legislation administered by the ~~department~~ Department and
11 under chapter 151 of this title.

12 (h) On request of the applicant, the Commissioner shall assign a permit
13 specialist to an application for a permit under chapter 151 of this title who shall
14 provide assistance to the applicant during the process of seeking a permit under
15 that chapter, any permits or approvals required from the Department for the
16 same project, and any opinions on the project to be obtained from another
17 department in the Agency or the Division for Historic Preservation. The
18 assigned specialist shall guide the applicant through the entire process of
19 seeking these permits, helping the applicant to obtain assistance from the
20 relevant agency, department, or commission; the relevant division or divisions

1 within that agency or department, and the staff who review and process the
2 permit applications.

3 Sec. 2. INTENT

4 In enacting Sec. 1 of this act, 3 V.S.A. § 2873(h), the General Assembly
5 intends that the Department of Environmental Conservation assign the duties
6 under that subsection to the existing permit specialist positions in the
7 Department's regional offices and does not intend to create additional
8 positions.

9 Sec. 3. 10 V.S.A. § 6025(b) is amended to read:

10 (b) The Board may adopt substantive rules, in accordance with the
11 provisions of 3 V.S.A. chapter 25, that interpret and carry out the provisions of
12 this chapter. These rules shall include provisions that establish criteria under
13 which applications for permits under this chapter may be classified in terms of
14 complexity and significance of impact under the standards of subsection
15 6086(a) of this chapter. In accordance with that classification, the rules may:

16 (1) provide an option, to be exercised solely at the request of an
17 applicant, for "master plan" review, meaning the issuance of partial findings of
18 fact and conclusions of law for a phased development or subdivision that may
19 also include a permit for the initial construction phase;

20 (2) provide for simplified or less stringent procedures than are otherwise
21 required under sections 6083, 6084, and 6085 of this chapter;

1 ~~(2)~~(3) provide for the filing of notices instead of applications for the
2 permits that would otherwise be required under section 6081 of this
3 chapter; and

4 ~~(3)~~(4) provide a procedure by which a District Commission may
5 authorize a district coordinator to issue a permit that the District Commission
6 has determined under Natural Resources Board rules is a minor application
7 with no undue adverse impact.

8 Sec. 4. 10 V.S.A. § 6088 is amended to read:

9 § 6088. BURDEN OF PROOF

10 (a) The burden shall be on the applicant with respect to subdivisions
11 6086(a)(1), (2), (3), (4), (9), and (10) of this title.

12 (b) The burden shall be on any party opposing the applicant with respect to
13 subdivisions 6086(a)(5) through (8) of this title to show an unreasonable or
14 adverse effect.

15 (c) Notwithstanding subsections (a) and (b) of this section, an appellant of
16 an act or decision of a District Commission shall have the burden of proof on
17 his or her appeal.

18 Sec. 5. 10 V.S.A. § 8504(a) is amended to read:

19 (a) Act 250 and agency appeals. Within 30 days of the date of the act or
20 decision, any person aggrieved by an act or decision of the Secretary, the
21 Natural Resources Board, or a District Commission under the provisions of

1 law listed in section 8503 of this title, or any party by right, may appeal to the
2 Environmental Division, except for an act or decision of the Secretary under
3 subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

4 When the appeal is from an act or decision of a District Commission, the
5 burden of proof shall be as set forth in subsection 6088(c) of this title.

6 Sec. 6. EFFECTIVE DATE

7 This act shall take effect on July 1, 2015.