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H.789

Introduced by Representatives Sheldon of Middlebury, Berry of Manchester,
Botzow of Pownal, Chesnut-Tangerman of
Middletown Springs, Clarkson of Woodstock, Cole of
Burlington, Dakin of Chester, French of Randolph, Krebs of
South Hero, LaLonde of South Burlington, Lefebvre of Newark,
Lucke of Hartford, Masland of Thetford, McCullough of
Williston, Nuovo of Middlebury, Partridge of Windham,
Russell of Rutland City, Ryerson of Randolph, Sullivan of
Burlington, Troiano of Stannard, Yantachka of Charlotte, and
Zagar of Barnard

Referred to Committee on

Date:

Subject: Land use; natural resources; conservation and development;

municipal and regional planning and development; forest integrity

Statement of purpose of bill as introduced: This bill proposes to amend the
goals and requirements for municipal and regional land use planning to address
forest fragmentation.

An act relating to forest integrity and municipal and regional planning

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

2 ~~Sec. 1. 24 V.S.A. § 4302 is amended to read:~~

3 § 4302. PURPOSE; GOALS

4 * * *

5 (c) In addition, this chapter shall be used to further the following specific
6 goals:

7 (1) To plan development so as to maintain the historic settlement pattern
8 of compact village and urban centers separated by rural countryside.

9 (A) Intensive residential development should be encouraged
10 primarily in areas related to community centers, and strip development along
11 highways should be discouraged.

12 (B) Economic growth should be encouraged in locally designated
13 growth areas, employed to revitalize existing village and urban centers, or
14 both, and should be encouraged in growth centers designated under chapter
15 76A of this title.

16 (C) Public investments, including the construction or expansion of
17 infrastructure, should reinforce the general character and planned growth
18 patterns of the area.

19 (D) Development should be undertaken in accordance with smart
20 growth principles as defined in subdivision 2791(13) of this title.

21 (2) To provide a strong and diverse economy that provides satisfying
22 and rewarding job opportunities and that maintains high environmental

1 ~~standards, and to expand economic opportunities in areas with high~~

2 unemployment or low per capita incomes.

3 (3) To broaden access to educational and vocational training
4 opportunities sufficient to ensure the full realization of the abilities of all
5 Vermonters.

6 (4) To provide for safe, convenient, economic, and energy efficient
7 transportation systems that respect the integrity of the natural environment,
8 including public transit options and paths for pedestrians and bicyclers.

9 (A) Highways, air, rail, and other means of transportation should be
10 mutually supportive, balanced, and integrated.

11 (5) To identify, protect, and preserve important natural and historic
12 features of the Vermont landscape, including:

13 (A) significant natural and fragile areas;

14 (B) outstanding water resources, including lakes, rivers, aquifers,
15 shorelands, and wetlands;

16 (C) significant scenic roads, waterways, and views;

17 (D) important historic structures, sites, or districts, archaeological
18 sites, and archaeologically sensitive areas.

19 (6) To maintain and improve the quality of air, water, wildlife, and land
20 resources, and to ensure that forestlands remain intact and connected.

1 ~~(A) Vermont's air, water, wildlife, mineral, and land resources~~
2 should be planned for use and development according to the principles set
3 forth in 10 V.S.A. § 6086(a).

4 (B) Vermont's water quality should be maintained and improved
5 according to the policies and actions developed in the basin plans established
6 by the Secretary of Natural Resources under 10 V.S.A. § 1253.

7 (C) Vermont's forestlands should be managed so as to preserve and
8 improve the connectivity of wildlife habitat.

9 * * *

10 (9) To encourage and strengthen agricultural and forest industries.

11 (A) Strategies to protect long-term viability of agricultural and forest
12 ~~lands~~ forestlands should be encouraged and should include maintaining low
13 overall density.

14 (B) The manufacture and marketing of value-added agricultural and
15 forest products should be encouraged.

16 (C) The use of locally-grown food products should be encouraged.

17 (D) Sound forest and agricultural management practices should be
18 encouraged.

19 (E) Public investment should be planned so as to minimize
20 development pressure on agricultural and forest land.

21 * * *

1 ~~Sec. 2. 24 V.S.A. § 4348a is amended to read:~~

2 § 4348a. ELEMENTS OF A REGIONAL PLAN

3 (a) A regional plan shall be consistent with the goals established in section
4 4302 of this title and shall include the following:

5 (1) A statement of basic policies of the region to guide the future growth
6 and development of land and of public services and facilities, and to protect the
7 environment.

8 (2) A land use element, which shall consist of a map and statement of
9 present and prospective land uses:

10 (A) indicating those areas proposed for forests, recreation, agriculture
11 (using the agricultural lands identification process established in 6 V.S.A. § 8),
12 residence, commerce, industry, public, and semi-public uses, open spaces, and
13 areas identified by the State, regional planning commissions or municipalities,
14 which require special consideration for aquifer protection, wetland protection,
15 or for other conservation purposes;

16 (B) indicating those areas within the region that are likely candidates
17 for designation under sections 2793 (downtown development districts), 2793a
18 (village centers), 2793b (new town centers), and 2793c (growth centers) of this
19 title;

20 (C) indicating locations proposed for developments with a potential
21 for regional impact, as determined by the regional planning commission,
22 including flood control projects, surface water supply projects, industrial parks.

1 ~~office parks, shopping centers and shopping malls, airports, tourist attractions,~~
2 recreational facilities, private schools, public or private colleges, and
3 residential developments or subdivisions;

4 (D) setting forth the present and prospective location, amount,
5 intensity, and character of such land uses and the appropriate timing or
6 sequence of land development activities in relation to the provision of
7 necessary community facilities and services;

8 (E) indicating those areas that have the potential to sustain agriculture
9 and recommendations for maintaining them which may include transfer of
10 development rights, acquisition of development rights, or farmer assistance
11 programs.

12 * * *

13 (12) A forest integrity element that identifies contiguous forestlands and
14 important wildlife habitat areas and recommends specific policies to control
15 development in those areas to prevent forest fragmentation and increase habitat
16 connectivity.

17 (b) The various elements and statements shall be correlated with the land
18 use element and with each other. The maps called for by this section may be
19 incorporated on one or more maps, and may be referred to in each separate
20 statement called for by this section.

1 ~~Sec. 3. 24 V.S.A. § 4382 is amended to read:~~

2 § 4382. THE PLAN FOR A MUNICIPALITY

3 (a) A plan for a municipality may be consistent with the goals established
4 in section 4302 of this title and compatible with approved plans of other
5 municipalities in the region and with the regional plan and shall include the
6 following:

7 (1) A statement of objectives, policies, and programs of the municipality
8 to guide the future growth and development of land, public services, and
9 facilities, and to protect the environment.

10 (2) A land use plan:

11 (A) consisting of a map and statement of present and prospective
12 land uses, indicating those areas proposed for forests, recreation, agriculture
13 (using the agricultural lands identification process established in 6 V.S.A. § 8),
14 residence, commerce, industry, public, and semi-public uses and open spaces
15 reserved for flood plain, wetland protection, or other conservation purposes;

16 (B) setting forth the present and prospective location, amount,
17 intensity, and character of such land uses and the appropriate timing or
18 sequence of land development activities in relation to the provision of
19 necessary community facilities and service; and

20 (C) identifying those areas, if any, proposed for designation under
21 chapter 76A of this title, together with, for each area proposed for designation,
22 an explanation of how the designation would further the plan's goals and the

1 ~~goals of section 4302 of this title, and how the area meets the requirements for~~
2 the type of designation to be sought.

3 * * *

4 (13) A forest integrity plan that identifies contiguous forestlands and
5 important wildlife habitat areas and recommends specific policies to control
6 development in those areas to prevent forest fragmentation and increase habitat
7 connectivity.

8 * * *

9 Sec. 4. 24 V.S.A. § 4425 is added to read:

10 § 4425. FOREST INTEGRITY; FREESTANDING BYLAW

11 (a) Any municipality may adopt a freestanding forest integrity bylaw under
12 this chapter to maintain and improve the contiguity and connection of
13 forestlands in order to support forest health and wildlife habitat. Such a bylaw
14 may regulate land development in the areas to which it applies to achieve the
15 purposes of this section. Such a bylaw also may be part of zoning or unified
16 development bylaws.

17 (b) In the areas to which applies, a forest integrity bylaw may alter the uses
18 otherwise permitted, prohibited, or conditional under a different land use
19 bylaw, as well as the applicability of other provisions of that bylaw. Where a
20 forest integrity bylaw applies along with any other bylaw, compliance with the
21 forest integrity bylaw shall be prerequisite to the granting of a municipal land
22 use permit under that other bylaw. Where a forest integrity bylaw but not

1 ~~another land use bylaw applies, the forest integrity bylaw shall be administered~~
2 in the same manner as is a zoning bylaw, and a forest integrity permit shall be
3 required for land development covered under the bylaw.

4 Sec. 5. EFFECTIVE DATE

5 ~~This act shall take effect on July 1, 2016.~~

Sec. 1. 24 V.S.A. § 4302 is amended to read:

§ 4302. PURPOSE; GOALS

** * **

(c) In addition, this chapter shall be used to further the following specific goals:

(1) To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

(A) Intensive residential development should be encouraged primarily in areas related to community centers, and strip development along highways should be discouraged.

(B) Economic growth should be encouraged in locally designated growth areas, employed to revitalize existing village and urban centers, or both, and should be encouraged in growth centers designated under chapter 76A of this title.

(C) Public investments, including the construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.

(D) Development should be undertaken in accordance with smart growth principles as defined in subdivision 2791(13) of this title.

(2) To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.

(3) To broaden access to educational and vocational training opportunities sufficient to ensure the full realization of the abilities of all Vermonters.

(4) To provide for safe, convenient, economic, and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers.

~~(A)~~ Highways, air, rail, and other means of transportation should be mutually supportive, balanced, and integrated.

(5) To identify, protect, and preserve important natural and historic features of the Vermont landscape, including:

(A) significant natural and fragile areas;

(B) outstanding water resources, including lakes, rivers, aquifers, shorelands, and wetlands;

(C) significant scenic roads, waterways, and views;

(D) important historic structures, sites, or districts, archaeological sites, and archaeologically sensitive areas.

(6) To maintain and improve the quality of air, water, wildlife, forests, and other land resources.

(A) Vermont's air, water, wildlife, mineral, and land resources should be planned for use and development according to the principles set forth in 10 V.S.A. § 6086(a).

(B) Vermont's water quality should be maintained and improved according to the policies and actions developed in the basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253.

(C) Vermont's forestlands should be managed so as to maintain and improve forest blocks and habitat connectors.

* * *

(9) To encourage and strengthen agricultural and forest industries.

(A) Strategies to protect long-term viability of agricultural and ~~forest~~ forestlands should be encouraged and should include maintaining low overall density.

(B) The manufacture and marketing of value-added agricultural and forest products should be encouraged.

(C) The use of locally-grown food and forest products should be encouraged.

(D) Sound forest and agricultural management practices should be encouraged.

(E) Public investment should be planned so as to minimize development pressure on agricultural and forest land.

* * *

Sec. 2. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

* * *

(10) “Land development” means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

* * *

(34) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands or other natural features that do not themselves possess tree cover, and uses exempt from regulation under subsection 4413(d) of this title.

(35) “Forest fragmentation” means the division or conversion of a forest block by land development other than by a recreational trail or a use exempt from regulation under subsection 4413(d) of this title.

(36) "Habitat connector" means land or water, or both, that links patches of wildlife habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails.

(37) "Recreational trail" means a corridor that is not paved and that is used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.

Sec. 3. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

(1) A statement of basic policies of the region to guide the future growth and development of land and of public services and facilities, and to protect the environment.

(2) A land use element, which shall consist of a map and statement of present and prospective land uses, that:

(A) ~~indicating~~ Indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, areas reserved for flood plain, and areas identified by the State, regional planning commissions, or municipalities, ~~which~~ that require special

consideration for aquifer protection; for wetland protection; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes.

(B) ~~indicating~~ Indicates those areas within the region that are likely candidates for designation under sections 2793 (downtown development districts), 2793a (village centers), 2793b (new town centers), and 2793c (growth centers) of this title.

(C) ~~indicating~~ Indicates locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks, office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions.

(D) ~~setting~~ Sets forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services.

(E) ~~indicating~~ Indicates those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs.

(F) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the regional planning commission.

* * *

(b) The various elements and statements shall be correlated with the land use element and with each other. The maps called for by this section may be incorporated on one or more maps, and may be referred to in each separate statement called for by this section.

Sec. 4. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

(1) A statement of objectives, policies, and programs of the municipality to guide the future growth and development of land, public services, and facilities, and to protect the environment.

(2) *A land use plan:*

~~(A) consisting of, which shall consist of a map and statement of present and prospective land uses, that:~~

~~(A) ~~indicating~~ Indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, and open spaces, areas reserved for flood plain, and areas identified by the State, the regional planning commission or the municipality that require special consideration for aquifer protection; for wetland protection; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes;~~

~~(B) ~~setting~~ Sets forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service;~~

~~(C) ~~identifying~~ Identifies those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought;~~

~~(D) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize~~

forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the municipality.

* * *

Sec. 5. STUDY AND REPORT; LAND USE REGULATION; FOREST INTEGRITY

(a) Creation. There is created a Study Committee on Land Use Regulation and Forest Integrity to study potential revisions to 10 V.S.A. chapter 151 (Act 250) and to 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands.

(b) Membership. The Committee shall be composed of the following nine members:

(1) a current member of the House of Representatives appointed by the Speaker of the House;

(2) a current member of the Senate appointed by the Committee on Committees;

(3) a current officer of a municipality, appointed by the Vermont League of Cities and Town;

(4) a representative of the Vermont Association of Planning and Development Agencies, appointed by the Association;

(5) the Commissioner of Housing and Community Development or designee;

(6) the Chair of the Natural Resources Board or designee;

(7) the Commissioner of Forests, Parks and Recreation or designee;

(8) a representative of the Vermont Forest Roundtable through the Vermont Natural Resources Council; and

(9) a representative of the Vermont Working Lands Enterprise Board established under 6 V.S.A. § 4606, appointed by that Board.

(c) Powers and duties. The Committee shall study potential revisions to Act 250 and 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands. This study shall include the following:

(1) review of the relevant provisions of Act 250 and 24 V.S.A. chapter 117 as they exist on passage of this act;

(2) development and review of options to revise Act 250 and the bylaw provisions of chapter 117 to protect forestland from fragmentation and promote habitat connectivity;

(3) evaluation of the impact of those options on land use;

(4) a recommendation on whether to make such revisions and the reason for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made; and

(5) review of the definitions added by Sec. 2 of this act to 24 V.S.A. § 4303 and the amendments made by Secs. 3 and 4 of this act to 24 V.S.A. §§ 4348a and 4382, a recommendation on whether to make revisions to these provisions and the reasons for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made.

(d) Assistance. For purposes of scheduling meetings, preparing its recommendation on whether to make statutory revisions, and preparing any recommended legislation, the Committee shall have the assistance of the Office of Legislative Council. The Committee also shall be entitled to the technical and professional assistance of the Departments of Housing and Community Development and of Forests, Parks and Recreation and of the Natural Resources Board.

(e) Report. On or before July 1, 2017, the Committee shall submit its written recommendation and any proposed legislation to the House Committee on Fish, Wildlife and Water Resources and the House and Senate Committees on Natural Resources and Energy.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur on or before July 15, 2016.

(2) The Committee shall select a chair from among its legislative members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than four meetings.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings.

Sec. 6. EFFECTIVE DATES

(a) This section and Sec. 5 (study and report) shall take effect on passage.

(b) Secs. 1 (purpose; goals) and 2 (definitions) shall take effect on July 1, 2016.

(c) Secs. 3 (elements of a regional plan) and 4 (plan for municipality) shall take effect on January 1, 2018.