

Natural Resources Board's suggested revisions to H.424

H.424: Act 250 – The Next 50 Years
2070: A Vision for Vermont's Future

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

Statement of purpose of bill as Introduced:

In light of the upcoming 50th anniversary of ~~the State land use~~ law, known as Act 250, this bill proposes to create a commission to review and make recommendations on improving the effectiveness and efficiency of the Act as currently implemented in achieving ~~its goals~~. The commission's tasks ~~would~~ include

- Review of the Act 250 criteria in light of current science and research and ~~issues~~ that have emerged during those 50 years, such as climate change.
 - Review of potential changes to Act 250 jurisdiction, to encourage development in designated centers and protect natural resources outside those centers.
 - Review of the effectiveness and efficiency of the application and appeals process and ways to improve the process for all participants ~~, including applicants and other parties~~, and to ensure that ~~it~~ continues to encourage citizen participation; and
 - Review of the current administrative structure of the Act, including the role of the Natural Resources Board.
- Prior to making recommendations, the commission ~~would~~ solicit public input and proposals on the issues within its charge.

Sec.1, FINDINGS; PURPOSE

(a) (1) through (E) the same

(b) Purpose, This legislation acknowledges the multiple benefits achieved since ~~the its'~~ passage ~~of Act 250~~ in 1970 ~~, by Vermont's land use laws known as, Act 250.~~ ~~Over In~~ the last 50 years, Vermont has experienced significant changes, and Act 250 has helped preserve our traditional settlement patterns ~~, and~~ scenic beauty ~~and protect our natural resources~~. The Legislature intends to review the 1970, Act 250 vision for Vermont, ~~with the goal of ensuring that Act 250 continues to be effective over the next 50 years. and integrate it with the needs and knowledge of a perspective forward to 2070. We can try to imagine what that might look like, and should act now to protect and preserve our most valuable resources.~~

Our challenge is to preserve those things about Vermont for which we love her, while building economic opportunity, so that it is not necessary to be already wealthy to enjoy this ~~unusual unusual~~ place. To meet that challenge, we must begin with a determination to protect our environment. If we fail there, there will

be little point to success in the economic arena, because we would have lost that which we wished to be able to afford. If the prize is gone, the struggle loses meaning. The Vermont environment is the prize.

Act 250 represents a quality of life outcome that is essential for Vermont's future; ensuring that we ~~determining the healthy balance between~~ protecting the environment and promoting responsible smart growth to build a prosperous and sustainable economy, and healthy vibrant Vermont communities. At the end of the day, protecting Vermont's environment and growing Vermont's economy are not at odds with each other. Rather they are inextricably linked together.

The General Assembly establishes the Commission for Act 250: the Next 50 Years - 2070: A Vision for Vermont's Future; to review and make recommendations on any necessary revisions to the **Capability and Development Plan**. The charge includes significant engagement and dialog with Vermont citizens on their priorities for the Vermont landscape.

The Commission will review numerous issues as set forth herein including seeking to understand the impacts of climate change on infrastructure, development, and recreation, within the context of the ten criteria; ensuring that the Act 250 criteria reflect the most up to date scientific knowledge and research; examining how Act 250 reflects modern permitting at the local and state level; evaluating how successful Act 250 has been in meeting its goals and how any shortcomings can be addressed; and evaluating how the Act 250 permit and appeals process is serving Vermonters and how it can be improved.-

(c) Executive Branch Working Group --Report in October filed by NRB

Sec. 2, Commission on Act 250: The Next 50 Years
2070: A Vision for Vermont's Future, Report; Appropriation

(a) Establishment. There is established the Commission on Act 250: the Next 50 Years: 2070: A Vision for Vermont's Future;

- (1) Receive statistics on all current Act 250 permit processing, appeals, and administration, hear from all state agencies involved in land use planning and environmental permitting, Consider updates on permitting improvements from multi agency workgroup.
- (2) Review the goals of Act 250 and assess the outcomes from 1970 to 2017.
- (3) Foster ~~Convene~~ a public conversation about the future of the Vermont landscape including how to maintain a clean environment and a sense of place
- (4) Determine any changes for the appropriate regulation to achieve the desired outcomes for Vermont's future.
- ~~(4)~~

(b) Membership: The Commission shall be composed of the following members:

(1) Seven current members of the General Assembly, three Representatives, appointed by the Speaker of the House and three Senators appointed by the Committee on Committees. One Senator or Representative, appointed jointly by the Speaker and the COC.

(2) The Commission shall be served by the, "2070 Advisory Group" of the following members, or as many as deemed appropriate

~~The Chair of the NRB,~~

(1) The Chair of the Natural Resources Board or designee.

(2) Vermont Natural Resources Council~~NRG~~ representing a Vermont-based, statewide environmental organization that has a focus on land use and significant experience in the Act 250 process, ~~appointed by the Committee on Committees.~~

(3) A person with expertise in environmental science affiliated with a Vermont college or university, appointed by the Speaker of the House ~~Governor.~~

(4) A representative of the Vermont Association of Planning and Development Agencies, appointed by the Speaker of the House.

(5) A member of a Vermont-based business organization with significant experience in real estate development and land use permitting, including Act 250, appointed by the ~~Committee on Committees~~ Governor.

~~(6) A representative of the Vermont Planners Association, appointed by the Governor.~~

(67) A person currently serving, or having served, in the position of an elected officer of a Vermont city or town, appointed by VLCT. ~~Committee on Committees~~

~~An appointee by Governor with a business interest in the state
VNRC/CLF appointed by COC,~~

~~A statewide entity representing municipalities (VLCT)~~

~~A member of a Regional Planning Commission appointed by Speaker,~~

~~A landscape architect, appointed by the Speaker,~~

~~An urban developer appointed by the COC,~~

~~A member of the Development Council,~~

(78) The Chair of the Vermont Bar Association- Environmental Division ~~, or their designee.~~

(89) Designee(s) from ANR, ACCD, AOT, and AAFM appointed by the Secretary of the applicable agency.

(94) A former District Coordinator/ District Commissioner appointed by the Chair of the NRB.

(3) The Legislative Commissioners, in collaboration with the 2070 Advisory Group, will establish goals and procedures for the report and will consider restructuring and establishing the **Capability and Development Plan to express the vision for the next 50 years**. Furthermore, the report shall consider the applicability of any revised Capability and Development Plan in relation to the Act 250 criteria. (Review Executive Order for the Environmental Control Commission 1969)

(c) Preliminary Meetings: Information

The Advisory Group shall attend and participate in all meetings. A representative of the 2070 Advisory Group shall have the opportunity to make ~~may prepare~~ a presentation to the Commission on testimony, ~~and perspective from their constituencies~~. All ~~Commission~~ ~~of these are public~~ meetings and shall be held ~~in accordance with Vermont's~~ ~~ing to~~ open meeting laws, ~~in accessible locations~~. The intention of the 2070 Advisory Group is to provide information and inclusiveness from the beginning of the conversation to help contribute to positive outcomes.

The first phase of the Commission's work will be to become informed on the current processes of Act 250. The Natural Resources Board (NRB) will prepare information on:

The Act 250 Application Process, Coordination with ANR, ACCD, AOT, AAFM; Statistics including Multiple Year Review of Application Processing Times By District, Number of appeals and time to resolve Jurisdictional Opinions, Number of appeals of District Commission permits, and time to resolve, and an overview of the history of Natural Resources Board, and considerations of structure.

[The Commission shall provide an opportunity for organizations or individuals with expertise in any of the areas being considered by the Commission to provide input to inform the Commission's decision.](#)

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(d) Public Discussion meetings.

The Commission shall conduct a series of informational and interactive conversations on 2070 A Vision for Vermont's Future. The central question shall be, "How can Vermont achieve the best outcomes for the public good by protecting the environment and encouraging economic prosperity?"

(e) Information.

The Commission, in collaboration with the 2070 Advisory Group, shall compose and present, proposed changes **to the Capability and Development Plan**, including adjustments for Act 250, in alignment with criterion language, to best protect and preserve the environment and the landscape of Vermont.

The Report shall include a statistical analysis, produced collaboratively, among municipal, regional and state planners and regulatory entities, on permitting in general, and Act 250 permit processing.

(f) Study recommendations.

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Recommendations shall include the following:

1. Examine the Act 250 Criteria and Jurisdiction
Do the criteria reflect current science and adequately address climate change and other environmental threats that emerged since Act 250 was enacted in 1970?
Do the criteria support development in designated centers, and preserve rural areas, farms and forests?
Do the criteria support natural resources, working farms, working forests, in a healthy ecosystem protected from fragmentation?
Does Act 250 promote compact centers of mixed use and residential development surrounded by rural lands.
Does Act 250 apply to the type and scale of development that provide adequate protection for important natural resources.
How can we ensure all impacts of development are considered?
2. Consider the relationship of the NRB/Act 250 on scope, criteria and procedures for collaboration with, 1. ANR 2. ACCD – Designated Centers: Downtowns, Village Centers, PHP, 3. Municipal and Regional land use planning and regulation
3. Are these systems effective and efficient? Assess the issues.
District Commissions
Appeals
de novo vs. on the record
appeal history compare E Board to Superior Court or alternative
Public participation?
NRB – Structure?
alternatives
4. Specific considerations:
 - a. Circumstances under which land might be released from Act 250 jurisdiction
 - b. Examine definitions of subdivision and development for better ways to achieve Act 250 goals (including) the ability to protect forest blocks and habitat connectivity
 - c. Consider jurisdictional changes to protect ridgelines
 - d. Consider jurisdictional solutions for projects which overlap between towns with, and without, permanent zoning and subdivision bylaws.
5. Additional jurisdictional and criterion-based considerations

5-6. [Other applicable issues.](#)

(g) Report,

The Commission [in collaboration with the Advisory Group](#) shall consider the public input and discussions, in combination with other testimony to report its findings and recommendation for legislative action to the House Natural Resources, Fish and Wildlife Committee, and the Senate Natural Resources and Energy Committee. The Report shall attach proposed legislation, and be submitted on or before January 2019.

(h) Assistance.

- (1) Legislative Council will support the Commission and 2070 Advisory Group in collaboration with the NRB, on scheduling, administrative services and preparation of the report.
- (2) Office of Legislative Council shall provide legal services including drafting of proposed legislation.
- (3) Commission and 2070 Advisory Group shall have technical support from ANR, ACCD, AOT, AAFM
- (4) Data from Superior Court
- (5) Financial analysis JFO

- (i) Meetings; Officers
Election of Chair / Vice Chair

Appropriations: \$15,000 - \$25,000 (Estimated)

[At least Up to](#) three (3) Montpelier meetings, seven (7) Regional meetings, Logistics and Facilitation,- \$7,500.
Presentation materials. \$5,000 – \$8,000
Public Comments management -?
Preparation of Report, coordination, format, proofing

Sec. 3. EFFECTIVE DATE

On passage