

Act 250 Bill Testimony - Committee Bill 19-0040  
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Dear Chair Sheldon and Members of the Committee:

Thank you for the opportunity to provide testimony on this bill. The Addison County Regional Planning Commission provides regional planning services to Addison County and the 21 member municipalities that we serve. As such, we actively participate in the Act 250 process, state agency permits and the municipal permitting processes. I offer my testimony on this bill from this perspective.

This is a very idealistic bill. It seeks to use the 50th Anniversary of Act 250 to create its own environmental legacy. It does so, by proposing massive jurisdictional increases for State regulatory solutions to very broad, but poorly defined areas, like slopes greater than 15% or rural and working lands areas. Vermont does face environmental challenges, climate change being the most important. However, expanding Act 250 jurisdiction to virtually every commercial development in the State, which would be the consequence of this bill, will negatively impact economic development and have little impact on climate change.

This bill assumes that Vermont's forests and rural countryside are facing significant development pressure and that the State of Vermont must expand its regulatory jurisdiction to address that pressure. At least in Addison County, and I believe in most of Vermont, that is simply not the case. Most towns in Addison County lost population in the most recent population estimate. I believe that is true for large areas of the State. Development subject to Act 250 regulation in Addison County has been very, very limited. It has also mostly occurred within existing settlement areas where municipalities have supported growth (These areas are very different from the State designation program).

The working landscape, our farms and forest industries are struggling. They need support, not regulation. I would offer the Current Use Program 2018 data as both support for my position and as a better path forward. The Current Use program, especially for forestry is expanding, both in number of acres under management and in number of landowners participating. Programs like Current Use, which require forestry management plans that recognize connectivity and wildlife are much more suited to preserve resources by helping the local economy than State regulation.

Act 250 and the States planning regulations should work together. However, this legislation assumes the way for that to happen is under the auspices of state control of everything. Top down control does not equate to good planning at the local level.

Adam Lougee, 2.27.19  
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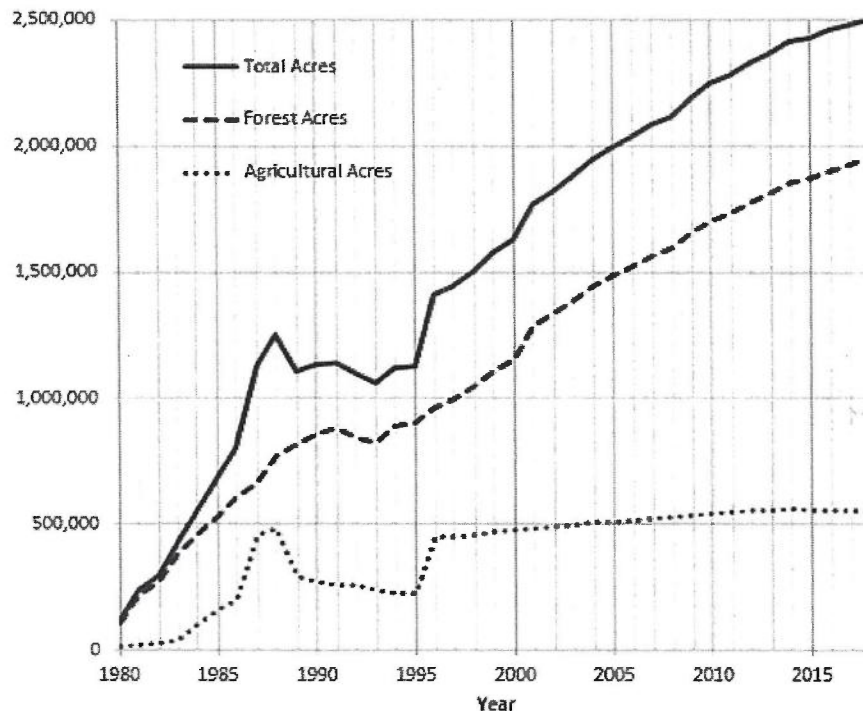
This bill purports to support economic development and the planning goals by making development easier in "enhanced designation areas". As currently drafted, those areas will never materialize in practice in most municipalities in the State. First, the existing state designation program was never intended to support this system. The designation areas are very narrowly drawn to support commercial grants and tax credits. If the legislature wants to establish a plan that is going to work, it must create the program to support local planning and the extent of existing settlements. Please see the map of Bristol Vermont. The entire map shows Bristol's village planning area. As you can see from the orthophoto behind it, it encompasses the developed area of Bristol, its center. The Bristol Village Planning Area constitutes about 1/10th of the town. The 9/10ths rural areas of Bristol are not shown. Within the center of Bristol, its designated downtown is the small walnut shape in the center of the map. It encompasses Bristol's already developed commercial block. It provides very limited opportunity for new development. However, because of the other limitations the state proposes to require for an area to achieve an enhanced designation, Bristol will probably never achieve it. It has a very small central sewer system that is at capacity. Enhanced designation requires wastewater systems. That currently will eliminate all other towns in Addison County from designation, except Middlebury, Vergennes, and perhaps Orwell and Shoreham. The program, as structured in the current bill constitutes an illusion for nearly all of the communities in Vermont. It will never happen.

If the legislature desires to give municipalities the ability to develop within their existing settlement areas, the legislature should allow the municipalities to define those areas. Municipalities do not need state controlled designation programs to do so. Most municipalities, like Bristol, already have planning areas supporting their commercial centers. As an alternative to state mandates controlled by state board, the legislature should provide resources supporting local planning and the infrastructure to implement that planning.

## 2018 Current Use (Use Value Appraisal) Program

Vermont's Current Use (Use Value Appraisal) Program began in tax year 1980 with the enrollment of fewer than 120,000 acres. As of 2018, this number is 2,498,517 acres and includes 15,307 landowners and 18,910 parcels (see Figure 1 and Figure 2 for details). Based upon ZIP codes of the owners, 4,357 of the enrolled parcels are owned by out-of-state persons (23%). The Vermont statute regulating the Current Use Program is found in 32 V.S.A. Chapter 124.

Figure 1. Annual Current Use Enrollment 1980-2018



The purposes of the program as defined by 32 V.S.A. § 3751 are to:

- Encourage and assist the maintenance of Vermont's productive agricultural and forest land;
- Encourage and assist in their conservation and preservation for future productive use and for the protection of natural ecological systems;
- Prevent the accelerated conversion of these lands to more intensive use by the pressure of property taxation at values incompatible with the productive capacity of the land;
- Achieve more equitable taxation for undeveloped lands;
- Encourage and assist in the preservation and enhancement of Vermont's scenic natural resources; and
- Enable the citizens of Vermont to plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety and welfare.

Landowners may apply to have eligible land and farm buildings enrolled in the program. In return for agreeing to keep the property in agricultural and forest production, the landowner pays property taxes based on *use value* rather than *fair market value*. Enrolled farm buildings are exempt from taxes.

Municipalities receive an annual payment from the state, called the “Hold Harmless Payment.” This payment from the state is meant to make up the difference between the municipal taxes paid at use value and the municipal taxes that would be paid on the fair market value of enrolled land and buildings.

Enrolled land is encumbered with a perpetual lien in favor of the State of Vermont to ensure payment of the Land Use Change Tax (LUCT) should it ever become due. The Department of Taxes subordinates the state’s lien in favor of a mortgage. In 2018, the Department processed 124 subordinations, which is down from 150 in 2017 and 189 in 2016.

Figure 2. Current Use Annual Enrollment

| Tax Year | Parcels | Owners | Agricultural Acres | Forest Acres | Total Acres |
|----------|---------|--------|--------------------|--------------|-------------|
| 2018     | 18,910  | 15,307 | 549,319            | 1,949,198    | 2,498,517   |
| 2017     | 18,723  | 15,147 | 553,372            | 1,926,499    | 2,479,871   |
| 2016     | 18,457  | 14,905 | 556,489            | 1,900,188    | 2,456,636   |
| 2015     | 18,154  | 14,653 | 554,078            | 1,872,070    | 2,426,149   |
| 2014     | 18,020  | 14,553 | 558,320            | 1,853,765    | 2,412,096   |
| 2013     | 17,647  | 14,246 | 555,234            | 1,814,585    | 2,369,819   |
| 2012     | 17,190  | 13,831 | 551,055            | 1,776,153    | 2,327,208   |
| 2011     | 16,724  | 13,469 | 549,601            | 1,734,012    | 2,283,613   |
| 2010     | 16,308  | 13,135 | 543,354            | 1,704,668    | 2,248,022   |
| 2009     | 15,642  | 12,570 | 534,275            | 1,654,295    | 2,188,810   |

Farm buildings in active agricultural use may be enrolled in the program. To enroll farm buildings, owners must earn 50% of their gross annual income from the business of farming, or lease to a person who earns 50% of their gross annual income from the business of farming. This includes dwellings used for farm employee housing.

By statute, the use value on farm buildings is established at 0% of fair market value, which means the landowner pays no property tax on these buildings (32 V.S.A. § 3752(12)). For 2018, the value of farm buildings on a parcel enrolled in the program ranged from \$500 to over \$4.64 million for the 1,840 parcels that had enrolled farm buildings (Figure 3). The total assessed value of enrolled farm buildings for the 2018 tax year was \$296,843,298.

For the 2019 tax year, the Current Use Program received 347 applications for new enrollments and 255 applications to add to existing enrollments. As of Dec. 1, 2018, the number of transfer applications is 491.