

**H.926 – An act relating to changes to Act 250**  
**As Amended by House Appropriations**  
**Section by Section Summary**

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**The House Appropriations amendment does the following:**

**In Sec. 3, Strike § 6028- raising the per diem rate for the Board and District Commissioners from \$50 to \$100**

Strikes all of the sections turning the Natural Resources Board into a professional board, including the sections that changed the structure of the Board, the changes that gave the Board power to issue major permits, and all of the sections where references to the Board were added. This include striking the following whole sections from the bill (so these sections remain as the law exist today):

- § 6021- Board; Vacancy; Removal
- § 6026- District Commissioner
- § 6027- Powers
- § 6083- Applications
- § 6085- Hearings; Party Status
- § 6089- Appeals

It also strikes the following Secs. from H.926:

**Sec. 10- 11 Amending jurisdiction for Environmental Division of Superior Court**

These sections were removed because they changed the appeal route for Act 250 permits. The House Appropriation amendment leaves appeals of Act 250 permits going to the Environmental Court.

**Sec. 17 Environmental Division; Continued Jurisdiction**

This section was removed because the Environmental Division is retaining jurisdiction over Act 250 permit appeals.

**Sec. 18 Natural Resources Board Permit Report**

This section was removed because without the new professional Board, there is no need for a report on how the new Board is working.

**Sec. 19 New NRB Staff and Appropriation**

This section was removed because it contained an appropriation for the new professional Board. The appropriation was for additional staff and operational costs.

**Sec. 20 Natural Resources Board Transition**

This section was removed because it established a schedule for the transition to the new professional Board.

**Adds Sec. 13 Act 250 Permit Fee Review- this is the only newly added language (other than rewording the Effective Dates)**

On or before December 15, 2020, the Secretary of Administration shall review the Act 250 permit program and fees. The review shall include the following:

- (1) the workload of the Natural Resources Board, including the District Commissions,

- (2) whether the Natural Resources Board, including the District Commissions have sufficient staff to administer the Act 250 program,
- (3) the sufficiency of the current Act 250 permit fee structure to cover agency work done on Act 250 permit applications;
- (4) the possibility of allocating Act 250 permit fees to other State agencies; and
- (5) the possibility of State agencies directly charging applicants for work done on Act 250 permit applications.

### **Changes Effective Date Section**

The House Appropriation amendment simplifies the effective date section by removing all of the effective dates related to the professional Board:

This act shall take effect on passage, except that 10 V.S.A. §6086(a)(8) (Ecosystem protection; scenic beauty; historic sites) shall take effect on September 1, 2021.

### **Sec. 1 Amends Capability and Development Plan** (Same language as in original bill)

Adds new finding to the Capability and Development Plan for GHG emissions and Climate Change.

### **Sec. 2 Amends Capability and Development Plan** (Same language as in original bill)

Amends Finding (2) of the Capability and Development Plan to add ecosystem protection.

### **Sec. 3 Amends 10 V.S.A. chapter 151**

The following is all the same as the underlying H.926

- Adds a Purpose Section to Act 250 to explicitly reference Capability and Development Plan and Title 24 goals of municipal and regional planning.
- Adds a jurisdictional trigger for development within an interstate interchange unless the Regional Planning Commission finds that municipal bylaws meet the criteria established in this statute
- Adds the “Road Rule” as a jurisdictional trigger- roads and driveways greater than 2000ft trigger Act 250 jurisdiction
- Lowers the elevation threshold for jurisdiction over commercial, industrial, and residential to 2,000 ft (farming, forestry, logging remain exempt up to 2,500ft)
- Updates the definitions of floodways and floodway fringe to flood hazard areas and river corridors to match ANR’s rules
- Clarifying the definition of “commercial purpose” so that it is not necessary to determine whether monies received are essential to sustain a project.
- Clarifying the master permitting process and fee waiver application process
- Preapplication process- Applicants must submit plans to District Commissions and regional and municipal planning commissions 30 days before filing application in order to get feedback from the community
- Exempts Designated downtowns and Neighborhood Development Areas (NDAs) from Act 250
- Adds slate quarries to ANR Natural Resources Atlas
- Reorganizes Criteria 1, 2, 3- separates air from water pollution
- Adds subcriterion 1(A) air contaminants

- Amends Criterion 2 to include the existing water subcriteria.
- Combines existing Criteria 2 & 3
- Amends Criterion 5 to require review of projects for safety and congestion impacts to bicycle and pedestrian infrastructure
- Amends Criterion 5 to better define when it is appropriate to require projects to incorporate transportation demand management strategies
- Amends Criterion 8 to add forest blocks and connecting habitat and adopts an avoid, minimize, and mitigate requirement and require the NRB to adopt rules on how to avoid, minimize, and mitigate impacts on forest blocks and connecting habitat
- Amends Criterion 9(F) to include energy efficiency and stretch codes and require certification through inspection
- Updates public investment criterion 9(K) to include forms of public investments that have developed since 1970
- Adds Criterion 9(M)- Climate Adaptation to require projects to be designed to adapt and be resilient to climate change
- Adds Criterion 9(N)- Environmental Justice which requires that a project not disproportionately impact any one group
- Clarifying in Criterion 10 that regional plan provisions apply to a project if they meet the same standard of specificity applicable to statutes and to be used in Act 250, the plans must obtain approval from RPC
- Allows forest-based enterprises to make and receive deliveries outside of permitted hours of operation
- Reaffirming the supervisory authority in environmental matters of the Board and District Commissions, in accordance with the original intent of Act 250 as determined by the Vermont Supreme Court.
- Revising the statutory authority on the use of other permits to demonstrate compliance with the criteria, allowing all permits to receive a presumption without going through the NRB's rulemaking process. Lowers the standard for rebutting the presumption.
- Permit applications can be denied without prejudice if applicants don't respond within 6 months
- Shifts burden of persuasion under Criterion 8(A) to applicant
- Forest-based enterprises can mitigate primary ag soils on a ratio of 1:1
- Creates process under which property can be released from Act 250 jurisdiction when the property would no longer trigger Act 250 jurisdiction

**Sec. 4 Resource Mapping; Forest Blocks** (Same language as in original bill)

Requires ANR to include forest blocks on resource maps

**Sec. 5 Designated Center Appeal** (Same language as in original bill)

Designation decisions under 24 V.S.A. chapter 76A for downtown development districts and neighborhood development areas are appealable to NRB

**Sec. 6 Regional Plans** (Same language as in original bill)

Requiring regional plans to be approved as consistent with the statutory planning goals by the NRB

**Sec. 7 Municipal Plans** (Same language as in original bill)

Requiring municipal plans to be consistent with statutory goals for municipal and regional planning (just changes *may* to *shall*).

**Sec. 8 Municipal Jurisdiction over Downtowns and Neighborhood Development Areas** (Same language as in original bill)

Projects in downtowns and neighborhood development areas are exempt from Act 250. Existing Act 250 permits for projects within downtowns and NDAs can be extinguished by the Appropriate Municipal Panel when the Act 250 permit conditions are added to municipal permits.

**Sec. 9 Repeal of Downtown Development Findings** (Same language as in original bill)

Repeals 10 V.S.A. § 6086b (downtown development; findings) which established an expedited process for downtowns.

**Sec. 10 River Permits** (Same language as in original bill, but was Sec. 12)

Changes scope of ANR's Rivers program and requires ANR to create a permit for Highest Priority Rivers. In November 2021, the Rivers Program matches Act 250 jurisdiction and in November 2023 the program expands to Highest Priority River Corridors. These will be mapped and established by rule.

**Sec. 11 Racial Equity Review** (Same language as in original bill, but was Sec. 13)

The Executive Director of Racial Equity, in cooperation with the Racial Equity Advisory Panel and the Human Rights Commission will review Act 250 to assess the extent to which Act 250 has contributed to adverse impacts on racial equity and diversity within the State and report back to the General Assembly by October 15, 2021.

**Sec. 12 Regional and Municipal Planning Review** (Same language as in original bill, but was Sec. 14)

The Natural Resources Board shall consult with Agency of Commerce and Community Development on the Capability and Development Plan and how to update and incorporate it and its maps into Act 250. Report back by December 15, 2020.

**Sec. 13 Act 250 Permit Fee Review- New from House Appropriations**

On or before December 15, 2020, the Secretary of Administration shall review the Act 250 permit program and fees. The review shall include the following:

- (1) the workload of the Natural Resources Board, including the District Commissions,
- (2) whether the Natural Resources Board, including the District Commissions have sufficient staff to administer the Act 250 program,
- (3) the sufficiency of the current Act 250 permit fee structure to cover agency work done on Act 250 permit applications;

- (4) the possibility of allocating Act 250 permit fees to other State agencies; and
- (5) the possibility of State agencies directly charging applicants for work done on Act 250 permit applications.

**Sec. 14 Revision Authority** (Same language as in original bill, but was Sec. 15)

The Office of Legislative Council shall alphabetize the definition section of Act 250 (§ 6001) and add reader assistance subdivision headings in § 6086.

**Sec. 15 Criterion 8(C) Rulemaking** (Same language as in original bill, but was Sec. 16)

The NRB shall adopt rules for the new criterion 8(C) which requires that a project not adversely impact forest blocks and connecting habitat by September 1, 2020.

**Sec. 16 Effective Dates**

**The House Appropriation amendment simplifies the effective date section by removing all of the effective dates related to the professional Board**

This act shall take effect on passage, except that 10 V.S.A. §6086(a)(8) (Ecosystem protection; scenic beauty; historic sites) shall take effect on September 1, 2021.