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Joint Fiscal Office

1 Baldwin Street • Montpelier, VT 05633-5701 • (802) 828-2295 • <https://jfo.vermont.gov>

Fiscal Note

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By Daniel Dickerson and Joyce Manchester

H.492 (Draft 7.1) – An act relating to the structure of the Natural Resources Board

As recommended by the House Committee on Natural Resources, Fish, and Wildlife

<https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Ways%20and%20Means/Bills/H.492/H.492~Ellen%20Czajkowski~As%20Recommended%20by%20the%20House%20Committee%20on%20Natural%20Resources,%20Fish%20and%20Wildlife~3-9-2022.pdf>

Bill Summary

This bill changes the structure, function, and name of the Natural Resources Board. A five-member board called the Environmental Review Board is charged with hearing appeals of Act 250 permit decisions in addition to keeping the current duties of the Natural Resources Board. It also establishes the Environmental Review Board Nominating Committee, consisting of seven members, three from the Executive Branch and four members of the legislature.

Fiscal Impact

JFO estimates the bill would have approximately a **\$385,000 fiscal impact in Fiscal Year 2023** and **approximately \$615,000 fiscal impact in future years**. The bill, as recommended by House Natural Resources, proposes a \$300,000 appropriation from the General Fund to the Environmental Review Board in FY 2023 to pay for a new Staff Attorney, the four new part-time Environmental Review Board members, and additional operating costs required to implement the newly established appeals process. There would be additional costs, potentially as early as FY23 but definitely in future years, that are not addressed with the funding provided in the bill.

Background and details

Section 1 would re-structure the existing Natural Resources Board to the Environmental Review Board and would establish Board membership as one full-time Chair and four additional half-time members.

Section 3 would establish a Environmental Review Board Nominating Committee. Four of the members would be legislators and entitled to per diems and expenses when meetings occur outside of the legislative session.

Section 5 outlines a new appeals process for which the Environmental Review Board is responsible.

Section 6 proposes raising per diem pay for members of District Commissions from \$50 to \$100 per diem; pay and expenses are available for time spent reviewing permit applications and for time spent making decisions on permit applications as authorized by the Executive Director. Vermont has nine District Environmental Commissions. Each has a chair, two members, and four alternates; the state has 63 members and alternates. In FY 2021, the amount paid out to members of District Commissions for per diems and expenses was about \$10,000. JFO anticipates more members would file for per diems under the new, higher amount. The additional cost of per diems and expenses is roughly estimated to be about \$20,000.

Section 7 would authorize the Board to assess costs to an applicant for additional personnel related to a particular proceeding (billbacks). This section would also require the appointment of an Executive Director. This is an existing position that has not been filled for several years.

Section 11 proposes a new \$295 fee for filing of an appeal with the Board. The Board estimates that there would be approximately 10-20 appeals filed each year, resulting in \$3,000 to \$6,000 in new revenues.

Section 14 would create five new positions at the Environmental Review Board:

- One Staff Attorney I
- Four half-time Environmental Review Board members, starting no later than July 1, 2023

Section 14 also appropriates \$300,000 to the Environmental Review Board from the General Fund in FY 2023 for the five new positions and additional operating costs required to implement the appeals process established in this bill.

	FY23	Out years
FY23 General Fund appropriation	\$300,000	
H.492 costs		
New – Staff Attorney I (FY23 cost dependent on timing of hire) – full year estimated	\$105,000	\$105,000 annually
Fill vacant Executive Director position (FY23 cost dependent on timing of hire) – half year estimated	\$80,000	\$160,000 annually
New – Four half-time ERB members (FY23 cost dependent on timing of appointments) – half year estimated for each member	\$150,000	\$300,000 annually
Per diems for legislators as members of new Nominating Committee	\$4,000	\$4,000 annually
Increased per diems/expenses for members of district commissions	\$20,000	\$20,000 annually
Misc. operating costs (office space, furniture, etc.)	\$25,000	\$25,000 annually
Total new annual costs	\$384,000	\$614,000 annually
<i>Remaining funding need</i>	<i>(\$84,000)</i>	<i>(\$614,000)</i>

Budget context and future fiscal obligations

While the bill includes an appropriation to address some of the new costs in FY23, all new costs would be ongoing and would require funding in future years. The Natural Resources Board is primarily funded through Act 250 fees, which are deposited in the Act 250 Permit special fund. The Board also receives some General Fund annually. Fee revenues and General Fund appropriations have not kept up with the cost to operate the Board. The Act 250 Permit fund has been in a deficit since the end of fiscal year 2019. The new costs from this bill would exacerbate the special fund deficit in future years without 1) additional ongoing General Fund support, or 2) fee increases. However, fee increases alone would not address the entirety of the funding need.