

Sent: Wednesday, February 17, 2021 1:50 PM
To: House Natural Resources, Fish, and Wildlife
Subject: Bill Back and Habitat Work

Dear Member of the House Committee on Natural Resources, Fish and Wildlife;

During our discussion on the Fish and Wildlife Department's budget last week we had a brief conversation on the proposed change to the bill back language for our work on Act 250. I wanted to provide some additional information and context for your consideration. Attached are two documents. The first is some background and historical context on our work on regulatory efforts, including Act 250, section 248 and timber harvest review. The second is a comparison between the current bill back language now in statute and our proposed language.

As we discussed, FWD views this change as making the current language and authority for billing back for our costs of reviewing and improving projects actually able to be used functionally by our Department rather than as a new policy. In other words, I believe that the Legislature intended us to be able to utilize this mechanism, but the wording of the statute makes that difficult if not impossible in practice in the Act 250 context. At the most basic level, the \$3,000 individual project limit is rarely exceeded, and it is nearly impossible to know ahead of time if a project will be complex enough to reach that limit. In addition, the administrative requirements in place make using the current bill back authority very challenging. Perhaps most important, it is not clear that we can use bill back to cover pre-application work, which is often the majority or all of our work on an individual project.

We also discussed bill back compared to other potential sources of revenue to cover these costs, such as a General Fund appropriation. Bill back has a couple of things to recommend it. First, the bill back authority in Act 250 currently exists, so we are really making a policy function rather than creating a new policy. Second, we would bill for our actual expenses, so there would be no question of over billing or under billing for the work we did. Third, bill back creates an incentive for an applicant to make sure their project has the smallest possible impact on natural resources, as that would automatically reduce our involvement and our costs. And fourth, it seems appropriate that the costs for this work be covered by the applicant rather than all Vermonters.

We are, of course, happy to come in and discuss this provision as you prepare your response to House Appropriations.

Thanks,

Louis Porter | Commissioner
Vermont Agency of Natural Resources
Department of Fish and Wildlife