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Senate Committee on Natural Resources and Energy
State House
Montpelier, Vermont

Subject: H.492, the structure of the Natural Resources Board

Dear Committee:

Please pass H.492 out of your committee. This is an important bill that will advance the recommendations of the commission on the future of Act 250.

I ask you to consider a shorter transition to the Environmental Review Board. The transition delays the creation of the Environmental Review Board until July 1, 2023. Then it allows the Environmental Review Board one year to create rules. The Environmental Review Board will not start hearing appeals until July 1, 2024.

I present for contrast the creation and functioning of the Environmental Board. When the Environmental Board was created, we took a leap of faith. The Environmental Board and the District Commissions began functioning within two months. Act 250 was passed and signed on the last day of the session, April 4, 1970. The governor was required to appoint board members and district commissioners by June 1, 1970. Permits were required for any development or subdivision beginning June 1, 1970. District Commissions were issuing permits as early as July 8, 1970. The Environmental Board was issuing declaratory rulings and decisions as early as September 9, 1970. The total time from passage of the Act to a fully functioning Act 250 system was five months. So we can achieve a fully functioning Environmental Review Board in less time than is proposed in H.492.

The Administrative Procedures Act was created in 1968, two years before Act 250. I have not researched that law to determine how it might have affected the early operations of the Environmental Board. The earliest rules posted by the Natural Resources Board became effective August 1, 1971. The Environmental Board and District Environmental Commissions operated effectively in the 14 months before the first rules became effective.

There are ways to shorten the transition period that I can explain as you get into H.492 in more detail.

I also have concerns about a provision that allows board members to be reappointed without competition as long as the member wants to be reappointed and the governor agrees.

Please pass H.492 out of your committee. Before you do, please consider shortening the transition period and whether members should be re-appointed without competition.

Sincerely,
Thomas Weiss