

Vermonters for a Clean Environment

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Testimony to House Environment & Energy Committee

H.687, Feb. 20, 2024

VCE has limited experience with housing development cases in Act 250. Thomas Weiss's statistical evaluation of appeals of housing decisions shows that Act 250 is not an impediment to the development of housing.

VCE's experience with Act 250 has primarily been about quarries, including marble, aggregate, gravel, and slate quarries (exempt from Act 250), and the negative impacts on existing housing. Please do not exempt commercial and industrial uses from Act 250.

DISTRICT COMMISSIONS: Suggestion: The Governor shall publicize District Commission vacancies and seek applications from Vermonters with qualifications for District Commissioners.

Restore user friendly processes in the District offices that were dismantled over the last 7 to 10 years in order to actively assist small scale applicants per Act 250 Rule 51.

FOREST BLOCKS and CONNECTING HABITAT: Mitigating, Avoiding or Minimizing requirements, as defined in H.687, will enable the continued fragmentation of forest blocks and connecting habitat. Nowhere does the legislation provide the opportunity to deny a development. Change to: "will not have an undue adverse effect on forest blocks and/or connecting habitat," as is the standard for Ecosystem protection in (8).

RULEMAKING FOR FORESTS BLOCKS AND CONNECTING HABITAT: Delete. Not necessary. NRB has shown no capability for rule-making.

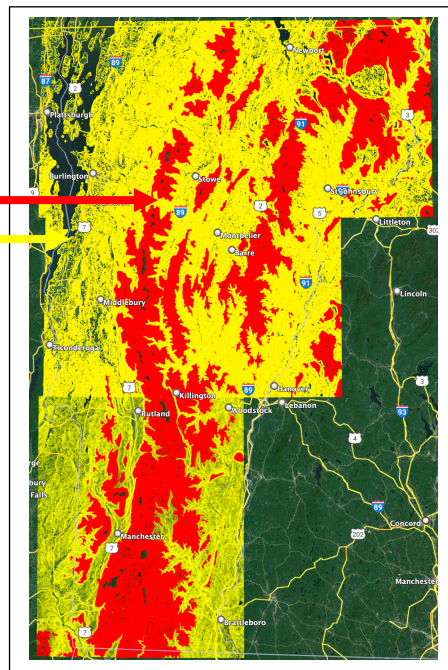
INTERIM FOREST BLOCK and CONNECTING HABITAT suggestion: Creation of two or more lots within 5 years on tracts of land over 1,500 feet in elevation will trigger Act 250 permitting. Allow this trial period to run with the downtown Act 250 exemptions granted last year and until the Resource Mapping is final.

RESOURCE MAPPING:

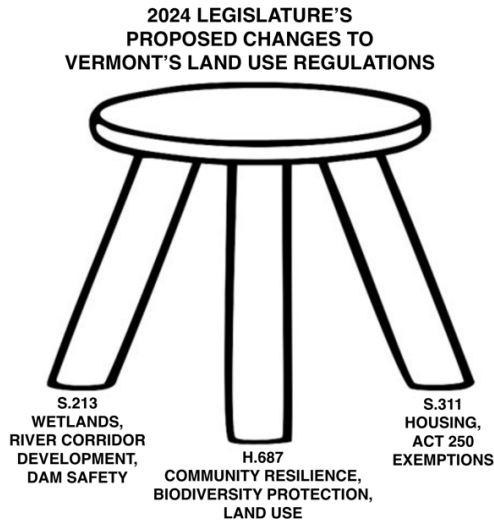
Prime Ag Soils maps are not accurate.

Red: Above 1500 feet

Yellow: Below 1500 feet



PLANNED GROWTH AREA DESIGNATIONS:



S.213 states that 70 - 80% of all flood-related damages occur within Vermont’s river corridors, and that only 10 percent of Vermont municipalities have adopted full river corridor protections through the Department’s model bylaws. It calls for DEC to amend the statewide river corridor base map to identify areas suitable for development that are located within existing settlements and that will not cause or contribute to increases in fluvial erosion hazards, by Jan. 1, 2026, with the issuance of a report Jan. 15, 2027.

H.687, p.51. Tier 1B allows a planned growth designation if it has a town plan, municipal zoning and subdivision by-laws, water and sewer capacity, adequate municipal staff, and an applicable regional plan, but does not require what is in Tier 1A which is, in addition to those elements, municipal flood hazard planning, flood hazard and river corridor bylaws, a capital budget and program, urban form bylaws for planned growth areas using smart growth principles, historic preservation bylaws and wildlife habitat planning.

H.687 allows for no permit or permit amendment for 50 units or fewer, located within a housing Tier 1B planned growth area designation.

S.311 has the same exemption but for 75 units.

Why are planned growth designations with exemptions from Act 250 permitting being considered for municipalities that do not have flood hazard and river corridor bylaws?

ENFORCEMENT: Transferring environmental permitting from Act 250 to municipalities also transfers enforcement. The NRB’s report on Act 250 (p. 17) anticipates significant loss of fee revenue. The report does not make any reference to enforcement. Shifting permitting to municipalities for Tiers 1A and 1B shifts costs associated with enforcement.

H.687 exemptions from Act 250 for Tiers 1A and 1B must contain requirements for municipalities to have enforcement capability.