

1 H.760

2 Introduced by Representatives Buss of Woodstock, Bartley of Fairfax, Boyden
3 of Cambridge, Burrows of West Windsor, Campbell of St.
4 Johnsbury, Christie of Hartford, Elder of Starksboro, Harrison
5 of Chittenden, Lalley of Shelburne, Priestley of Bradford,
6 Roberts of Halifax, Sibia of Dover, and Sims of Craftsbury

7 Referred to Committee on

8 Date:

9 Subject: Conservation and development; land use; Act 250

10 Statement of purpose of bill as introduced: This bill proposes to make multiple
11 changes to Act 250 related to increasing transparency.

12 An act relating to Act 250 transparency

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 10 V.S.A. § 6027 is amended to read:

15 § 6027. POWERS

16 * * *

17 (f)(1) The Board may publish or contract to publish annotations and indices
18 of the decisions of the Environmental Division and the text of those decisions.

19 The published product shall be available at a reasonable rate to the general

1 public and at a reduced rate to libraries and governmental bodies within the
2 State.

3 (2) The Board shall post on its website all previous decisions of the
4 Environmental Division of the Superior Court related to this chapter, including
5 all pleadings and attachments and all previous decisions by the District
6 Commissions. All documentation that is part of an application shall be
7 included in the online database, including any communications from the
8 District Coordinator or District Commission.

9 (3) The Board shall create a guidance document that explains how
10 existing precedent applies to different application types, including case law and
11 jurisdictional opinions, to be posted on its website.

12 * * *

13 Sec. 2. APPROPRIATION

14 In fiscal year 2025, the sum of \$250,000.00 is appropriated from the
15 General Fund to the Natural Resources Board in order to scan and upload
16 documents required under Sec. 1 of this act.

17 Sec. 3. 10 V.S.A. § 6082 is amended to read:

18 § 6082. APPROVAL BY LOCAL GOVERNMENTS AND STATE

19 AGENCIES

1 (a) The permit required under section 6081 of this title shall not supersede
2 or replace the requirements for a permit of any other State agency or municipal
3 government.

4 (b) By rule, the Board shall establish a process by which to resolve disputes
5 between a District Commission and a State agency when a District
6 Commission raises concerns about an agency permit used as evidence in a
7 permit application. A resolution of the dispute that requires changes to agency
8 permitting shall be published in order to alert applicants and will go into effect
9 for new applications after the publication date.

10 Sec. 4. RULEMAKING

11 On or before January 15, 2025, the Natural Resources Board shall adopt
12 rules to update the presumptions that are applicable to State agency permits
13 used as evidence for an Act 250 permit application under 10 V.S.A. § 6086(d).

14 Sec. 5. 10 V.S.A. § 6087 is amended to read:

15 § 6087. DENIAL OR APPROVAL OF APPLICATION

16 (a) No application shall be denied by the District Commission unless it
17 finds the proposed subdivision or development detrimental to the public health,
18 safety, or general welfare.

19 (b) A permit may not be denied solely for the reasons set forth in
20 subdivisions 6086(a)(5), (6), and (7) of this title. However, reasonable
21 conditions and requirements allowable in subsection 6086(c) of this title may

1 be attached to alleviate the burdens created. Any conditions that have been
2 attached shall identify which criteria under subsection 6086(a) of this title they
3 are attached to mitigate.

4 (c) A ~~denial of a~~ permit decision shall contain the specific reasons for
5 denial or approval.

6 (d) A person may, within six months after a denial, apply for
7 reconsideration of ~~his or her~~ a permit which application shall include an
8 affidavit to the District Commission and all parties of record that the
9 deficiencies have been corrected. ~~The District Commission shall hold~~ There
10 shall be a new hearing upon 25 days' notice to the parties. The hearing shall
11 be held within 40 days ~~of~~ after receipt of the request for reconsideration.

12 (e) The Board shall establish, by rule, a process for a request for
13 reconsideration. This process shall have the permit application reviewed by
14 some combination of other District Commissions and the Board itself. The
15 decision on reconsideration shall be issued within 30 days after the close of the
16 hearing.

17 Sec. 6. 10 V.S.A. § 6086 is amended to read:

18 § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA.

19 * * *

20 (h) The Board and District Commissions shall accept as evidence of
21 meeting the applicable criteria under subsection (a) of this section any best

1 management practices that have been recognized by the Public Utility
2 Commission in the 30 V.S.A. § 248 process. The Board shall post accepted
3 best management practices on its website.

4 Sec. 7. ACT 250 RULE 2(C) is amended to read:

5 RULE 2(C). DEFINITIONS

6 * * *

7 (26) “Cognizable change” means any physical change or change in use,
8 ~~including, where applicable, any change that may result in~~ demonstrates a
9 significant impact on any finding, conclusion, term, or condition of the
10 project’s permit. Cognizable change shall not be triggered by changes to the
11 interior or exterior of a building that are cosmetic in nature, that increase
12 energy efficiency, or that represent a replacement of existing items so far as
13 they do not change water or wastewater design flows.

14 Sec. 8. 10 V.S.A. § 6083 is amended to read:

15 § 6083. APPLICATIONS

16 * * *

17 (d)(1) The Board and Commissions shall make all practical efforts to
18 process matters before the Board and permits in a prompt manner. ~~The Board~~
19 ~~shall establish time limits for the processing of land use permits issued under~~
20 ~~section 6086 of this title as well as procedures and time periods within which~~
21 ~~to notify applicants whether an application is complete~~ Within 10 days after

1 the application's filing or the filing of updated application information, the
2 District Coordinator shall determine whether the application is complete and
3 notify the applicant. If the District Commission requests additional
4 information from the applicant, the applicant shall respond within 30 days.

5 (2) The Board shall establish policies, procedures, and accountability
6 measures for District Commissioners to ensure greater equity amongst
7 Commission decisions in order to resolve inequities and discrepancies. The
8 number of requests for reconsideration, the number of rebuttal presumptions,
9 and the number of appeals brought to the Environmental Division of the
10 Superior Court shall be included in the review of equity. Once the Board has
11 adopted the policies, annual training shall be required to ensure accountability
12 to the policies, procedures, and binding decisions of the Environmental
13 Division of the Superior Court.

14 (3) The Board shall report annually by February 15 to the General
15 Assembly by electronic submission. The annual report shall assess the
16 performance of the Board and Commissions in meeting the limits; and
17 accountability measures established pursuant to subdivision (2) of this
18 subsection, identify areas ~~which~~ that hinder effective performance; list fees
19 collected for each permit; summarize changes made to improve performance;
20 and describe staffing needs for the coming year. The annual report shall list
21 the number of enforcement actions taken by the Board, the disposition of such

1 cases, and the amount of penalties collected. The provisions of 2 V.S.A.
2 § 20(d) (expiration of required reports) shall not apply to the report to be made
3 under this subsection.

4 * * *

5 (h) If the District Coordinator deems the application incomplete after it has
6 been submitted to the District Commission and the applicant disagrees with the
7 District Coordinator, the Board shall review the application within 30 days and
8 determine if all required information has been submitted and whether the
9 application is complete.

10 Sec. 9. EFFECTIVE DATE

11 This act shall take effect on July 1, 2024.