

Senate Committee on Natural Resources and Energy

Comments on S.311 (Draft No. 3.1, 2/16/2024) from

Charlie Baker on behalf of

Vermont Association of Planning and Development Agencies

March 21, 2024

General comments – Thank you for your work addressing our housing crisis, improving environmental protection, and strengthening the planning and permitting processes to better support implementation of municipal and regional plans.

Below are some general comments and then specific comments for your review. Thank you for your consideration.

General Comments:

1. We support the recommendations of the three summer study committees on Act 250, State Designations, and Regional Planning. S.308, S.311, and H.687 each contain provisions implementing those recommendations.
2. We generally support the housing program provisions of S.311 although we have not explored any of them in any detail. There is a real and significant need for the State to pull all levers possible to encourage more home construction, especially considering the loss of homes due to flood damage. The lack of adequate housing is negatively affecting almost every aspect of living in Vermont including the high cost of housing, the lack of additional property tax revenue that should be occurring, impacts on workforce and hiring. Increasing housing supply should help to reduce the increasing cost of housing.
3. We believe there is a significant need to expand housing programs and update Act 250 to address the housing crisis including equity considerations by encouraging all types of housing in our communities. Homeownership is the key to wealth creation for our residents and more housing supply is necessary to address the alarming gap in homeownership rates between white (73%) and black (21%) Vermonters.
4. We would like to see H.687 and S.311 combined, possibly with some additional provisions from S.308. H.687 provides the framework for long-term system change by updating the way that Regional Plans, Act 250, and the State Designations work together to better achieve the State's land use goals. S.311 has immediate Act 250 exemptions and many other housing provisions that should be considered to address the housing crisis in the short-term.
5. We would like to see the final bill keep short term Act 250 exemptions similar to those in S.311 while starting the process for the longer-term system change in the planning, permitting, and designation processes as proposed in H.687. Currently, the connection between Act 250 and planning is only via Criterion 10 with a basic consistency check

between projects and plans. We believe the new system outlined in H.687 with permanent Act 250 jurisdictional changes will more strongly support implementation in the medium and long term of municipal and regional plans in terms of encouraging housing in areas planned for growth and better protecting the State's natural resources. RPCs will support this work so that all communities can participate regardless of local capacity.

6. We offer specific comments below on the Act 250 sections we feel could be modified to provide clarity, improve the proposed processes, or better achieve the housing, smart growth, climate resilience, and environmental objectives. We also have specific comments on H.687 when the Committee starts to review that bill.

S.311 Specific Comments:

1. Page 1, Sec. 2, line 18+ (10 V.S.A. § 6001(3)(A)(iv) – We have several recommendations in this section:
 - a. Subsection (I) - We recommend making this consistent with Sec. 32 in H.687 or changing the 50-unit exemption in H.687 to be consistent with this immediate jurisdictional change to 75 units for these areas within municipalities with zoning, water, and sewer.
 - i. We recommend that this jurisdictional change only apply outside of river corridors or consistent with National Floodplain Insurance Program requirements.
 - ii. Lines 19-21. We recommend that the language be modified to provide more specific clarity that the jurisdictional change would only apply within the sewer and water service areas as follows: “...a tract or tracts of land, served by municipal sewer and water infrastructure as defined by 24 V.S.A. § 4303, located within a municipality with permanent zoning and subdivision bylaws, and...”
 - iii. We understand that Sec. 8(d) repeals this jurisdictional change on June 30, 2029. We would also like to see an off-ramp for this jurisdictional change to be replaced with a permanent jurisdictional change once a regional plan future land use map is approved for Tier 1B status.
 - b. We recommend retaining the priority housing project exemptions unless the municipality achieves a Tier 1A status.
 - c. Subsection (II) –This provision exempts any housing project with up to 30 units from Act 250 if a municipality has zoning and subdivision bylaws. If that is the case, we recommend that this be tied to a ¼ mile proximity to currently designated Village Centers or a ½ mile from designated Downtowns. To be consistent with the NRB Study, we recommend that the number of units be increased to 50 units.
 - d. We recommend adding language to make clear that priority housing projects may continue until the end of 2026 and also be allowed in downtowns and village centers permanently.
 - i. (IV) Notwithstanding any other provision of law to the contrary, until December 31, 2026, the construction of a priority housing project located entirely within a designated downtown development district, designated neighborhood development area, or a designated growth center.

- ii. (V) Notwithstanding any other provision of law to the contrary, the construction of a priority housing project in a municipality with permanent zoning and subdivision regulations and located entirely within a State Designated Downtown or Village Center approved as part of the Environmental Review Board review of regional plan future land use maps under 10 V.S.A. § 6033(b).
2. Page 6, Sec. 3, lines 1-5 – Subsection (bb) - This provision seems to provide a complete exemption from Act 250 for all development within a ¼ mile of designated Village Centers and ½ mile from Designation Downtowns. While we generally support this concept as supporting smart growth, we would like this exemption limited to municipalities with zoning and subdivision bylaws areas and within water and sewer service areas. This provision is closely tied in concept to Tier 1A from the NRB Study. We wonder if this might eliminate the need for the 75-unit jurisdictional change on page 1, Sec.2, lines 18-21 since most of the locations with water and sewer also have a Village Center or Downtown Designation?
3. Page 6, Sec. 4, lines 7-14 – We support providing signs to promote public awareness and engagement. We recommend that paying for the sign be the responsibility of the applicant and that the NRB develop guidance for the requirements of the sign (color, size, type size, development concept, etc.) so that there is consistency across the state.
4. Page 7, Sec. 5, line 1 – We recommend that the NRB should be required to provide a rule for this provision so as to have consistency across the Districts: “(2) The Natural Resources Board ~~may by rule~~ shall by rule allow the acceptance of a permit or permits or approval of any State agency...”
5. Page 7, Sec. 5, line 5 – We recommend that criteria (9) and (10) be removed from this provision because a municipal permit is not necessarily evidence of conformance with either of these criteria.
6. Page 9, Sec. 8, line 4 – If priority housing projects remain, we recommend retaining 10 V.S.A. § 6081(p).
7. Page 9, Sec. 9, line 19 - We support adding this reference to housing targets for municipal plans.
8. Pages 10+, Sec. 10 – We support these clarifications to the HOME Act changes made last year.
9. Page 21-29, Sections 23-26 – We support replacing these with the provisions for the process in 687.