



LAND USE REVIEW BOARD

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To: House Committee on Environment
Rep. Amy Sheldon, Chair
Rep. Larry Labor, Vice Chair
Rep. Larry Satcowitz
Rep. Sarita Austin
Rep. Ela Chapin
Rep. Micheal Hoyt
Rep. Kate Logan
Rep. Kristi Norris
Rep. Rob North
Rep. Chris Pritchard
Rep. Mike Tagliavia

From: Janet Hurley, Chair, Land Use Review Board
Sarah Hadd, Vice Chair, Land Use Review Board
Peter Gill, Executive Director, Land Use Review Board

Date: April 14, 2026

RE: Act 181 Implementation & S.325

Legislative Testimony

Thank you for the opportunity to provide testimony on S.325 and the work of the Land Use Review Board ("Board"). Last fall the Board asked legislative chairs to push out the February deadlines established in Act 181 for Tier 2 reporting and Tier 3 and Criterion 8(C) rulemaking. On January 8, 2026, the Board provided testimony to a joint meeting of your committee and the Senate Natural Resources Committee reporting on Act 181 implementation with a focus on the appeals study. We provided testimony to the Senate Natural Resources committee again in February with the following requests:

- Extend Act 181 implementation timelines for Tier 3, Criterion 8(C), and road construction jurisdiction to allow robust public input.
- Allow retention of permit enforcement with Act 250 program in Tier 1A areas until permits are transferred to the municipality to relieve municipalities of the burden of enforcing all existing permits at once.
- Ensure flood resilience standards are in place for priority housing projects to prevent lower income Vermonters from being made vulnerable to flood damage.

Board member Kirsten Sultan provided testimony to this committee on April 1, 2026, outlining the Act 250 permit process. The next day Board member Alex Weinhagen provided testimony on Act 181 implementation. Today, we will reiterate some of our previous testimony while focusing on the

location based jurisdiction implementation aspects of Act 181. We will also cite to sections of S.325 that reflect our requests and recommendations as a Board.

Implementation Update & Legislative Requests

The new full-time 5-member Board was seated in January last year and immediately began its work to implement Act 181 and administer the Act 250 program. Among our foremost priorities from the start was to be a public facing and accessible board. We have held weekly Board meetings since then and have provided physical meeting locations throughout the state in an effort to be more accessible to Vermonters outside of Montpelier and in keeping with Vermont Open Meeting Law requirements.

The Board released [Act 181 FAQs](#) this week. These can be updated as additional progress is made or to reflect any changes coming out of this legislative session. We have provided hard copies of these FAQs for your reference today.

In the last year, the Land Use Review Board has achieved the following:

- On **June 30** the Board submitted the [Wood Products Manufacturers Report](#) to the Legislature. In line with the Act 181 charge, the Board recommended changes to statutory language and undertook the development of program guidance and industry specific fact sheet to support the wood products manufacturing sector. H.932 Sec. 1 and Sec. 2 reflect the Board's recommendations.
- After rigorous stakeholder engagement and subsequent public outreach, the board delivered the [Act 250 Appeals Study](#) to the Legislature in **November**. The study proposes an appeals model for the legislature to consider that would transfer Act 250 appeals from the Environmental Court to the Board, including municipal appeals consolidation at the request of applicants, as well as municipal appeals from Tier 1 areas. The Board suggested a delay of a few years for these changes to allow time for the Board to conclude other aspects of the Act 181 rollout before taking on appeals. The model offers the potential to streamline appeals, particularly housing appeals, and strengthen policy governance of the Act 250 program by the Board.
- The Board developed and adopted [Regional Planning Commission Application Guidelines](#) and began receiving regional plans on a rolling basis starting in **September**. Act 181 established a two-step review process involving a 60-day preapplication review of draft plans from each RPC followed by a more formal step to determine statutory compliance of the adopted regional plans after public hearings.

This work involved setting up a new digital [Act 181 Application Database](#) to manage and track both preapplication and final application materials submitted by the state's eleven regional planning commissions, and comments from state partner agencies and the public.

In addition, the Board set up a [Future Land Use & Tier 1A/B Map Viewer](#) to assist review of the regional future land use maps, and proposed Tier 1A and 1B areas.

The Board is conducting public preapplication site visits and meetings in each of the regions. Public hearings on the adopted regional plans will likewise be held within those regions. The Board is conducting multiple concurrent reviews through **December 2026** until all eleven regional plans are determined to be compliant with Act 181.

S.325 contemplates adding an abridged review process for plan amendments or separate Tier 1B requests, which the Board supports. See S.325 Sec. 11.

As the regional plan preapplication process has evolved, regional planning commissions have submitted follow-up information clarifying proposed future land use area boundaries. These conversations have provided additional information to the Board and allowed RPCs to move forward on finalizing their plans in line with Board feedback.

- Based on the regional planning commission application guidelines, the Board adopted [Tier 1A Application Guidelines](#) in **December** and continues to develop additional information to assist municipalities considering applying for the Tier 1A status which would confer Act 250 exemption for new development. We recommended changing statute to allow the Board to maintain enforcement of existing Act 250 permits in Tier 1A areas until these permits are transferred to the municipality through the permit amendment process prescribed in Act 181. This change is included in S.325. Sec. 9.
- The Board released preliminary [Road Construction Jurisdiction Guidelines](#) and is collecting public comment on them through April. Recognizing the lack of adequate time for sufficient public involvement on guidance around the new road trigger, the Board requested a delay in its effective date to allow for robust public engagement on the development of clear rules and to allow Vermonters to prepare for this jurisdictional change. S.325 offers such an extension that would allow a public process to identify rules that are in line with public input and with the expressed legislative intent to prevent fragmentation of working lands and forest blocks. S.325 Sec. 2 and Sec. 7.
- The Board convened the [Criterion 8C \(forest blocks and habitat connector\) Stakeholder Group](#) to begin the rulemaking process for this new Act 250 criterion. The Board expressed a need for an extension on this effort to fully incorporate stakeholder and adequate public input. S.325 offers such an extension to January 1, 2028. S.325 Sec. 7
- To ensure mapping and rulemaking is informed by public input at multiple stages of development the Board requested delay of the Tier 3 effective date. S.325 Sec. 7 offers an extension to June 30, 2028. However, S.325 Sec. 5 also establishes June 30, 2028, as the deadline for submission of the proposed Tier 3 rules to LCAR. The effective date should be months after the LCAR submission deadline - not on the same day. We urge that this discrepancy be addressed with a revision to S.325. In any case, an extended timeline better

allows for the multiple rounds of feedback from Vermonters and stakeholders that the Board recognizes is essential and began in October.

Because this extension is not yet guaranteed, the Board is proceeding with its iterative development of the Tier 3 mapping and rules. After rigorous stakeholder guidance, a preliminary draft of the Tier 3 mapping was released in October. Thoughtful and substantive public feedback continues to be received on that draft. Revision and refinements based on that feedback are currently underway and a second draft will be released in late April. Public engagement sessions across the state are scheduled for May and June. This second round of public feedback will be followed by further stakeholder input and refinement of the mapping and rules. A third round of public engagement is planned before rule finalization. The extended timeline contemplated in S.325 would better allow these multiple rounds of feedback from Vermonters and stakeholders and lead to better informed and trusted results.

- The Board is engaged with other “covered agencies” to implement the Environmental Justice (EJ) law (Act 154 of 2022). This includes establishing protocols for [EJ complaint reporting](#), participation in consultant selection for a statewide EJ mapping tool, and early work on an Act 250 community engagement plan due by **July 1, 2027**. The Board is fully committed to its environmental justice responsibilities and looks forward to employing the EJ mapping tool to help ensure equitable distribution of environmental benefits that result from the implementation of Act 181 and the administration of the Act 250 program.

In line with our EJ responsibilities, the Board recommended adding statutory language to require flood hazard and river corridor standards be met for priority housing projects within flood hazard and river corridor areas that are exempt from Act 250 review. S.325 Sec. 2. This would better prevent potential low-income residents of such projects from being subject to flood damage. As drafted, the Mattos floor amendment (S.325 Sec. 4) allows developers to build affordable housing in locations that would place their occupants in flood zones without meeting flood proofing standards. It serves environmental justice principles to require developers of affordable housing to meet the same requirements for avoiding siting of projects in flood hazard areas that market rate housing is already required to meet in order to be exempt from Act 250 review.

Tier 2 Report

Section 34 of Act 181 required the Board address Act 250 in jurisdiction in its report specifically addressing:

- (1) recommend statutory changes to address fragmentation of rural and working lands while allowing for development.

(2) address how to apply location-based jurisdiction to Tier 2 areas while meeting the statewide planning goals and addressing commercial development. This will also include:

- (A) how to effectively protect primary agricultural soils,
- (B) review criterion 9(L) and jurisdictional triggers on addressing sprawl and strip development, and
- (C) necessary revisions over commercial activities on farms including accessory on farm businesses.

Should the road construction or Tier 3 provision of Act 181 be repealed, the Board's Tier 2 study and report would take on increased significance. The aim of the Tier 2 report is to explore how best to prevent fragmentation of rural working lands and forests, including how to support agricultural enterprises.

Not all regional planning preapplications are yet submitted; therefore, a clear understanding of what areas will be Tier 1 is not yet in place. Tier 3 mapping is iterative and not yet defined either. Tier 2 includes those areas not confirmed as Tier 1 or mapped as Tier 3. However, we know the scope of the Tier 2 jurisdictional study is substantial, as most of the State will be designated as Tier 2.

The Tier 2 study and report is an opportunity to evaluate benefits and burdens of the permitting process. We also look forward to the ability to use GIS environmental justice focus population tool to provide analysis that we have the responsibility to do. To fully examine the Tier 2 issues in light of new jurisdictional triggers that will not be fully in place at least until the end of 2026, the Board requires additional time and requests the opportunity to deliver its Tier 2 recommendations based on solid data collection and an open public process. S.325 does not currently offer such an extension. We request that S.325 include such an extension.

Conclusion

Adjustments to the Act 181 rollout are necessary to ensure that the Board can complete its work in a manner that is comprehensive and informed by meaningful public input. While significant progress has been made, including extensive stakeholder engagement, GIS analysis of critical resource areas, and development of a preliminary draft Tier 3 map, the breadth of other Act 181 responsibilities has demanded significant Board capacity and will continue to do so through 2026.

By extending the timelines for Act 181 implementation the Legislature will enable the Board to provide recommendations and rules that reflect thorough research, robust stakeholder and public engagement, and strong alignment with the goals of Act 181. We believe this additional time will produce inclusive, effective outcomes that protect Vermont's natural resources and working landscapes while addressing the state's needs for housing and economic development.