

Testimony Regarding Changes to Act 250 and Planned Growth Area Designation

February 14, 2024



Testimony of the Vermont League of Cities and Towns
Ted Brady, Executive Director
House Environment and Energy

Regarding H. 687 (Changes to Act 250 and Planned Growth Area Designation)
February 13, 2024

My name is Ted Brady, and I am the Executive Director of the Vermont League of Cities and Towns, which represents all 247 cities and towns in Vermont. Thank you for taking time to ask how H. 687, a bill that attempts to codify a years' long negotiation about how to allow development where we want it and control development where we don't. Today I want to share VLCT's official policy position on making changes to Act 250 to facilitate growth, our overarching concerns that many towns will not be able to benefit from the intended goals of this legislation as drafted, and some specific concerns with provisions of the bill.

VLCT's Position Related to Act 250 Jurisdiction

Every other year, all 247 cities and towns in Vermont consider and adopt a municipal policy that serves as the guide star for VLCT's policy work in this building. I wanted to share a few of the officially adopted portions of that policy with you today – as they don't represent my opinion – but the collective opinion of every city and town in Vermont, and directly address the work you are doing. One of our core principles calls for "local discretion to pursue sustainable housing and economic development, recovery, and resiliency." H. 687 could, and I stress "could", enable municipalities with new tools to do exactly that. This is especially important because last year, the Legislature prioritized taking local control away from municipalities in an effort to facilitate more growth. VLCT understood the necessity of many of the changes in Act 47, though as I said at the time, parallel changes to the state's land use law – Act 250 – were needed to make these sacrifices worthwhile.

Related to Act 250, our policy calls for:

- allowing municipalities with duly adopted local zoning and subdivision regulations to accept responsibility to administer Act 250 solely within their own jurisdictions;
- eliminating Act 250 jurisdiction over projects in designated downtowns, growth centers, new town centers, designated village centers, neighborhood development areas, and other areas designated in municipal plans;
- defining "regional impact" in Act 250 to mean a measurable effect on areas outside the borders of the city or town in which a project is proposed to be located;
- limiting district commissions' review of projects to those with regional impact and projects in municipalities without duly adopted zoning or subdivision bylaws;
- retaining Criterion 10 of Act 250, conformance with a duly adopted local plan or capital program adopted pursuant to 24 V.S.A. Chapter 117; and
- eliminating so-called "legacy only" Act 250 jurisdiction over properties that would not otherwise trigger current Act 250 jurisdiction

H. 687's Planned Growth Area Designation Process Does Not Adequately Recognize Historic and Current Municipal Land Use Policies

VLCT appreciates H. 687's creation of a planned growth area designation, a way for municipalities to exempt areas they want to grow from the Act 250 process. Most of Vermont's

cities and towns have undertaken deep and thoughtful planning processes that are largely in line with the state's planning goals. These processes involve a lot of citizen input, input from Regional Planning Commissions, votes by legislative bodies, and at times, community-wide votes. H. 687 should give deference to these democratic processes.

The Tier 1A planned growth area designation requirements – which would exempt a portion of a community from Act 250 jurisdiction – seems overly burdensome and out of reach of many of Vermont's municipalities. My understanding of the proposals from this summer's study committees didn't contemplate only exempting areas that have capital budget programs (Section D on page 48), urban form bylaws (section F on page 48), historic preservation bylaws (Section G on page 48), municipal staff (Section J on page 49) or wildlife habitat planning bylaws (Section H on page 49). Perhaps this last one is the best example of an unnecessary and likely limiting requirement. If the goal of our efforts are to incentivize place-based jurisdiction in a tiny portion of our state where we say we want people to live, we cannot layer the same old permitting requirements on our municipalities. As written, a very small number of Vermont municipalities would qualify for Tier 1A exemptions. As written, I also worry that Tier 1B may be structured improperly to reach other communities with historic development that would be appropriate for exemption. For example, the language requires municipality to have adequate planning and zoning staff. Municipalities that have Adopted Town Plans and Bylaw's should automatically qualify for Tier1B.

H. 687 May Redefine the Relationship Between Municipalities and Regional Planning Commissions

Regional Planning Commissions are some of the most important allies of municipalities. They are trusted advisors and service providers. H. 687 proposes to redefine that relationship.

On page 50 (line 11 – subsection 3), the bill allows Regional Planning Commissions to approve or deny an application for a planned growth area from a municipality. On page 53, Regional Planning Commissions are given party status to appeal. On Page 63, Regional Planning Commissions are given “substantial deference in municipal regulatory proceedings.” On Page 63, Regional Planning Commissions are given a new spot to weigh in on regional impact projects. On Page 67, municipalities lose the right to veto a regional plan. These are just a few of the areas where the bill redefines the relationship.

Regional Planning Commissions will be tasked with large policy decisions that municipalities should have more say in, not less. Many of these decisions reduce local decision making.

VLCT has long been concerned that Regional Planning Commissions too often weigh in on projects that are not of regional significance in the current Act 250 process, and I worry the changes here will only amplify these concerns.

H. 687 Doesn't Include Immediate Relief in the Midst of a Housing Crisis

Last year, in the name of immediate relief to our state's housing crisis, the Legislature made sweeping reforms to local zoning by preempting local decisions. The Legislature decided it was such a crisis that in the final day of the session, it changed the implementation date of Act 47 from one or two years in the future to an immediate implementation. H. 687 wouldn't have an impact on a single land use decision for at least 3 years – and likely many more.

VLCT recommends the committee consider extending the limited changes to Act 250 in Act 47 beyond their current sunset. We also recommend providing blanket exemptions to Act 250 for Vermont's designated downtowns, village centers and growth centers until the systems contemplated in H. 687 can be implemented.

Finally, I want to acknowledge what this committee is trying to do – bring together a compromise that allows development where we want it and restricts it where we don't. We support that goal – and would suggest that the best way to implement the Act 250 summer study committees' grand compromise might better be accomplished with more deference to municipal decisions and historic settlement patterns instead of more process and more appeals.

Attachments

[Testimony to House Energy and Environment 2024.02.13](#)