

# Testimony Regarding Changes to Act 250 and Location Based Jurisdiction

March 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 Location Based Jurisdiction)

March 12, 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 asking me to come back to this committee to follow up on my February 13th testimony, and to share VLCT's most recent concerns with the bill as drafted.

First, let me say this bill is overwhelming. There's just so much here that I can't address it all today. So I will focus my remarks on areas I've seen improvement, and point out a few other areas of concern for Vermont' cities and towns.

### **Location-Based Jurisdiction Should Depend on Location, not Process and Capacity**

VLCT understood the legislative charge to last year's summer study committees to consider how best to move to a location-based jurisdiction for Act 250 – instead of a one-size-fits-all solution that doesn't recognize there are places we want growth and places we don't want growth. I'm concerned the bill focuses too heavily on a community's capacity instead of on the community's location. Our goal should be to encourage growth in historic and appropriate growth locations.

Section 28, which creates a new Tier 1A area that would be exempt from Act 250, puts too many hurdles in the way to qualify for this tier. Provisions requiring urban form bylaws (including six story development), wildlife habitat planning bylaws, capital plans, and adequate municipal staff will likely reduce the number of suitable places for development that could qualify for Tier 1A. These should be eliminated.

I'm also concerned that very few of our communities could qualify for Tier 1B (outlined in section 27), especially the requirement that those communities have municipal water or sewer.

And finally, the idea that a super majority of the land mass of the state would fall under Tier 3 – which would be subject to new development restrictions in this bill, makes me concerned that our smallest communities will have no opportunity to grow. I hope the final version of the bill will recognize that every community should have the ability to grow somewhere, and that the maps envisioned in this bill, and the process to gain designation, should recognize even the smallest communities that want to facilitate development.

### **Version 6.1 Largely Responds to VLCT's Concerns About Redefining RPC / Muni Relationships,**

During my February testimony, I pointed to multiple areas of the bill that would have redefined the RPC / municipal relationship – turning it into a regulatory relationship instead of a technical assistance relationship. Many of these concerns have been addressed. There are a

few remaining concerns:

- Section 28 still requires a town to apply to an RPC to receive Tier 1A status before the Environmental Review Board can act on the request. VLCT doesn't think the RPC should play an approval role – as it could create an adversarial relationship with the planning commission.
- Section 28 allows a regional planning commission and an adjacent regional planning commission to be interested parties with appeal rights of a Tier 1A application. VLCT believes it is not conducive to functional municipal relationships with RPCs for them to have appeal rights. Should the committee also believe that municipalities should have to apply to an RPC for Tier 1A approval, this would also give RPCs multiple bites at the apple to deny a town's request.
- Section 37 modifies how regional plans are approved – eliminating the ability of supermajority of municipal legislative bodies to veto a regional plan. This waters down the local ownership of the plan – and instead requires towns to appeal to the Environmental Review Board if they disagree with the plan.

### **Municipalities May Not Be Excited to Take Over Act 250 Permit Conditions**

Sections 31 and 33 require municipalities to take over Act 250 permits when they assume Tier 1A status. While some municipalities may be willing to take on these responsibilities, others may not be. This could be a disincentive to communities participating in the program, and possibly reduce the effectiveness of location-based jurisdiction efforts.

VLCT appreciates the efforts in the bill to expand the Municipal Planning Grant Program, redefine the designation program into the Community Investment Program, and make other changes to increase investment in our designated places.

Finally, I want to reiterate that VLCT supports the goal of creating location-based jurisdiction, and recognizes that in order to incentivize development where we want it, we need to disincentivize development where we don't. I'm not sure this bill finds the right balance yet, but I see positive momentum in this building moving to that concept, and I hope my comments help you move closer to that balance.

+++++

Attachments

[Testimony to House Environment and Energy Regarding H.687](#)