

# Testimony to Senate Natural Resources and Energy Regarding S.311 and H.687

April 05, 2024



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

Senate Committee on Natural Resources and Energy Regarding S. 311, BE Home Act

*This testimony was delivered in writing on **April 3, 2024**, but not provided in person until **April 11, 2024** due to scheduling issues in the committee.*

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 in again about S. 311, and for my initial thoughts on the municipal impacts of H. 687. Both bills relate to changes to Act 250 and municipal zoning. Before starting, I'd encourage members to review [my March 22nd testimony](#) in this committee on S. 311 for a comprehensive understanding of VLCT's position on this bill. Today I'll jump straight into our concerns and

requests for changes to both bills:

**Related to S. 311:**

- Section 10 amends 24 V.S.A. § 4412 (1) D. It would have the effect of more than doubling the aggressive upzoning done just last year – which requires municipalities to allow five units per acre where water and sewer exist. This language would set a new 12 unit per acre minimum anywhere there is sewer and water. This may be appropriate in many water and sewer districts, but certainly not in all of them, and more than doubles the aggressive mandate the Legislature created last year. **We request this provision be removed.**
- Section 11 amends 24 V.S.A. § 4413 (a) (1) (H) and would allow any hotel and motel to be converted to a permanent housing unit. Specifically, turning a 50-unit hotel into a 50-unit housing complex has implications for a community. It may increase school enrollment. It may increase the need for transit services. It may increase water and sewer consumption. It may increase the need for recreational infrastructure (hotel guests don't need parks or T-ball coaches). Our communities have first-hand experience with the unintended consequences of changing the use of certain structures without careful planning. Our short-term rental issue here in Vermont has had wide ranging impacts on communities. The decision to turn hotels and motels into homeless shelters with no services during COVID led to enormous spikes in public safety budgets in places like Rutland City and Colchester. Hotels and motels were not created to be long-term housing units, and as such, towns didn't vet the projects when developed to ensure the area would be appropriate for permanent housing. **We request this provision be removed.**
- Section 12 amends 24 V.S.A. § 4428 by restricting a municipalities' ability to regulate parking. Act 47 last year addressed limiting municipalities' ability to set certain parking spot requirements for housing developments. This bill requires towns to count tandem parking spots as multiple spots related to parking requirements. Tandem parking works, sometimes. Smaller parking spots work, sometimes. Using excess parking in an adjacent lot works, sometimes. Municipalities need the ability to decide when these situations are appropriate and when they are not. **We request this provision be removed.**

- Section 17 amends 24 V.S.A. § 4464 by setting a timeline on appropriate municipal panels conducting land use reviews that will have unintended consequences, likely resulting in more denials. Changing the requirement that these panels issue a decision 45 days after the close of a hearing to 180 days after the submission of an application fails to recognize that small towns relying on volunteers take time to pull hearings together, do the work, and issue permits. It also mistakenly assumes that towns are the ones dragging these processes out – when it is often the developer and the town trying to get to yes, making amendments, and making better projects. **VLCT believes our larger towns and cities could work within the 180 day clock, but recommends allowing smaller towns, less than 5,000, to remain tied to the 45 day clock from end of the hearing currently in statute.**
- Section 24 amends 10 V.S.A. § 6032. Section 6032 (b) (1) requires municipalities to apply for approval from a regional planning commission to receive benefits of the new tier system. The relationship between municipalities and regional planning commissions is not and should not be a regulatory relationship. RPCs provide invaluable technical assistance. While VLCT understands that RPCs would be involved in the application process, they should not be given veto authority over a municipality. **As such, we recommend amending the language to read:**

(1) Municipalities develop the application for designation and proposed maps of the areas and submit it to the regional planning commission for comment ~~and approval~~. The regional planning commission shall then review the proposal to ensure it is consistent with the regional plan, and provide additional technical input and advice as needed to improve the application.

I also wanted to provide some testimony concerning H. 687. While VLCT supports many provisions of the bill, I do want to highlight some of our concerns.

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

In general, VLCT is concerned that the language establishing new exemptions for designated areas using Tier 1A and Tier 1B terminology will be overly restrictive – and based on a municipality’s bureaucracy and capacity instead of based on the land use maps and planning

contained elsewhere in the bill.

- Section 29 adds 10 V.S.A. § 6034, the process for achieving Tier 1A status. It includes 11 criteria a town needs to meet, including provisions requiring urban form bylaws (including four story development), wildlife habitat planning bylaws, capital plans and budgets, and adequate municipal staff. These provisions are overly burdensome. The reason Vermont municipalities have character is because we don't tell every municipality it has to look the same. Urban form bylaws...mandatory height requirements...threaten cookie cutter downtowns. Wildlife planning bylaws in our most densely developed areas seems to ignore the fact that we're reserving most of the state of Vermont for wildlife. VLCT supports the concept that these bills are going to green light development where municipalities want it, and preserve critical areas that municipalities and the state see as significant natural areas. However, I'm not convinced the language in this bill defining how Tier 3 will be designated is adequately addressed – which could result in some of our most rural communities essentially being pickled in time or roped off from any further development. Every community should have a path for growth, if they so choose. The state must be very careful not to preempt that opportunity by designating communities as critical resource areas in their entirety.

### **Concerns About Redefining RPC / Muni Relationships**

- Section 29 adds 10 V.S.A. § 6034 (e), allowing 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. We're also concerned that granting every adjacent RPC appeals rights is inappropriate. **VLCT requests the committee remove the adjacent RPC appeals rights.**
- 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**

- Section 33 amends 24 V.S.A. and adds a new § 4460 that requires 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 687 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.

I appreciate the committee's efforts to address our state's housing shortage. Municipalities are a willing partner at the table to solve our housing crisis. As such, I hope any actions you take will be with us, not to us.

#### Attachments

[Testimony from Ted Brady to Senate Natural Resources and Energy Regarding S.55 and H.687, 2024-04-03](#)

[H.687 as passed by the Full House](#)