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H.768

Introduced by Representative Stebbins of Burlington

Referred to Committee on

Date:

Subject: Conservation and development; land use; Act 250

Statement of purpose of bill as introduced: This bill proposes to create a process for municipalities to be delegated authority to review development in lieu of Act 250 permits.

An act relating to municipal delegation of Act 250 authority

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. § 6032 is added to read:

§ 6032. DELEGATION OF REVIEW AUTHORITY TO MUNICIPALITIES

(a) Established. Municipal Delegation of Act 250 through functional equivalency is an agreement between the Natural Resources Board and a municipality upon the Board finding the municipality’s regulations, standards of review, and enforcement mechanisms are functionally equivalent or better at reviewing development issues currently covered by each applicable criteria under subsection 6086(a) of this title. This shall be referred to as Municipal Delegation of Act 250. Areas of a municipality included in the Municipal

1 Delegation Agreement shall be exempt from Act 250 review required under
2 this chapter.

3 (b) Requirements. A municipality, by its legislative body, may apply to the
4 Board for delegation of authority in lieu of Act 250 authority under this
5 chapter. To be considered for municipal delegation, the municipality shall
6 demonstrate that robust planning, permitting, administration, and enforcement
7 are in place in the municipality. The municipality shall demonstrate that its
8 local regulations and processes are functionally equivalent to the applicable
9 criteria currently evaluated through Act 250 by having:

10 (1) received approval from its legislative body at a public meeting to
11 pursue municipal delegation through an agreement with the Board;

12 (2) an adopted municipal plan, approved by the regional planning
13 commission as compatible with the regional plan and statewide planning goals
14 and objectives of 24 V.S.A. § 4302;

15 (3) adopted permanent zoning and subdivision bylaws, in compliance
16 with 24 V.S.A. chapter 117 and other duly adopted municipal ordinances or
17 codes enabled by statute, that regulate issues relevant to any applicable criteria
18 from subsection 6086(a) of this title within the municipality;

19 (4) within municipal limits, a downtown, neighborhood development
20 area, or growth center designated under 24 V.S.A. chapter 76A;

1 (5) professional staff to administer and enforce municipal codes and
2 ordinances and commitment from the legislative body of the municipality to
3 invest in, and support, enforcement; and

4 (6) municipal sewer and water infrastructure to support growth and
5 development, including the ability to expand capacity when necessary.

6 (c) Regional planning commission (RPC) review.

7 (1) A municipality shall first submit its application for municipal
8 delegation to its regional planning commission. The RPC shall review the
9 application and recommend any changes necessary to meet the requirements of
10 subsection (b) of this section. If the RPC finds that the municipality has met
11 all of the criteria for municipal delegation, the RPC shall provide a letter of
12 recommendation to be submitted as part of the application to the Natural
13 Resources Board.

14 (2) If the RPC raises objections to the municipality's application, the
15 municipality may choose to rework the application and resubmit it to the RPC
16 or submit the application for review by the Board without RPC approval. In
17 the latter instance, the municipality would have to prove to the Board that the
18 application is consistent with the regional plan and explain why it chose not to
19 rework its application in response to the RPC recommendations.

20 (d) Natural Resources Board review.

1 (1) Within 60 days after receiving an application, the Board shall hold a
2 public meeting to review a municipal application, including an opportunity for
3 public comment. The Board shall then issue a determination on the
4 application. During the Board’s review, an RPC’s recommendation and
5 affirmative finding of functional equivalency creates a presumption that the
6 application is consistent with the regional plan, and therefore State planning
7 goals, and shall be given deference with regard to the adequacy of municipal
8 bylaws.

9 (2) Upon concurrence with the findings of an RPC, the Board shall
10 authorize the Executive Director of the Natural Resources Board to execute an
11 agreement with municipal officials outlining the terms of the municipal
12 delegation. The agreement may identify areas of the municipality or certain
13 project types that shall remain within the jurisdiction of this chapter due to
14 their regional significance, such as airports, landfills, or ski resorts, as
15 determined by the Board. The agreement shall exempt development from
16 review under all of the current criteria of subsection 6086(a) of this title and
17 identify any of those criteria that are not applicable within the municipal
18 boundaries and therefore not required to be regulated at the municipal level.

19 (3) If the Board rejects a municipal application that had received a
20 recommendation from its RPC, the Board shall clearly articulate deficiencies in
21 municipal planning or bylaws relative to any applicable Act 250 criteria within

1 the municipality. Municipalities shall be allowed to address those deficiencies,
2 modify their applications, and reapply.

3 (4) A Municipal Delegation Agreement shall be reviewed by the Board
4 and recertified every eight years.

5 (5) A Municipal Delegation Agreement may be amended or revoked if
6 the underlying Act 250 jurisdictional triggers under section 6001 of this title or
7 criteria under subsection 6086(a) of this title are amended, if a municipality
8 substantially amends local regulations that are applicable to the Agreement, or
9 if a municipality fails to administer or enforce local regulations according to
10 the terms of the Agreement.

11 (6) During the term of the Municipal Delegation Agreement, the
12 municipality shall report to the Board on a schedule, and with the content, as
13 described in the Municipal Delegation Agreement.

14 (e) Guidance. On or before December 31, 2024, the Natural Resources
15 Board, in consultation with the relevant stakeholders, including municipalities
16 and regional planning commissions, shall issue guidance for municipalities
17 seeking a Municipal Delegation Agreement based on the appendices of the
18 Municipal Delegation Framework Report required under 2023 Acts and
19 Resolves No. 47.

1 Sec. 2. 10 V.S.A. § 6090 is amended to read:

2 § 6090. RECORDING; DURATION AND REVOCATION OF PERMITS

3 * * *

4 (c) Release from permit.

5 (1) On an application signed by each permittee, the District Commission
6 shall release land subject to a permit under this chapter from the obligations of
7 that permit and the obligation to obtain amendments to the permit and from
8 jurisdiction under this chapter on finding that the municipality where the land
9 is located has a Municipal Delegation Agreement.

10 (2) It shall be a condition of each affirmative decision under this
11 subsection that a subsequent proposal of a development or subdivision on the
12 land to which the decision applies shall be subject to this chapter as if the land
13 had never previously received a permit under the chapter.

14 (3) An application for a decision under this subsection shall be made on
15 a form prescribed by the Board. The form shall require evidence
16 demonstrating that the application is for land subject to a Municipal Delegation
17 Agreement. The application shall be processed in the manner described in
18 section 6084 of this title and may be treated as a minor application under that
19 section. In addition to those required to be notified under section 6084, the
20 District Commission shall send notice at the same time to all other parties to
21 the permit and to all current adjacent landowners.

