

House Fish, Wildlife and Water
January 7, 2010

VLCT Testimony on H. 323

Thank you for the opportunity to testify on behalf of cities and towns around the state on H. 323, the riparian buffer bill.

We have significant concerns about several sections of the proposal and questions about other sections. Our most significant question may be: how is the implementation of this legislation to be funded?

The definition of “navigable waters” is problematic and we echo the request of VNRC yesterday to assure that the definitions of “waters,” “navigable waters,” and “waters of the state” be consistent across statutes, programs, rules and guidances administered by any agency or board of the state. We do believe that using all streams, ponds, flowages and other waters within the territorial limits of Vermont, which are boatable under the laws of this state, is likely to be a very expansive scope for this bill.

Our reading of the legislation is that *unless* a municipality has adopted fluvial erosion hazard maps and associated bylaws *or* has a riparian buffer zoning bylaw *or* a bylaw adopted prior to July 1, 2014 that is consistent with state law *or* establishes a bylaw of less than 50 feet that is based on site specific conditions, the state requirement for a 50 foot minimum buffer zone is in effect. That default buffer zone is enforced and administered by the Agency of Natural Resources.

Our most significant concern is how settled downtowns and the transportation networks leading to them would be addressed so as to provide for continued development and sustained vibrancy in those priority areas. Our downtowns, where the state seeks to cluster growth, are right next to rivers and streams. That is where development historically occurred and we need only consider downtown White River Junction, Springfield, Burlington, Montpelier – in fact, every downtown – to recognize that fact.

Downtowns include essential public infrastructure, private and public structures and private development or redevelopment potential. Downtowns would be essentially non-conforming under the provisions of this legislation. We are very concerned about how municipal bylaws that are in conformance with the state statute, 10 V.S.A. §§ 1452 and 1453, could be crafted so as to protect the viability of downtowns.

We also note that the Vermont Community Development Grant Program and the water and wastewater revolving loan funds are heavily over-subscribed programs right now with established priorities that have been established subsequent to pitched battles over the years. Class 2 town highway aid and the town highway structures programs are vital to local governments ability to “provide highways passable by pleasure cars in all seasons of the year,” as is required by statute. ARRA investments this year notwithstanding, Vermont’s road and

bridge infrastructure is in horrendous repair. The legislation would currently seem to provide an additional incentive for towns that adopt fluvial erosion hazard mapping, an innovative measure. If in a time of extremely scarce resources that proposed carrot morphed into a stick, local governments would vigorously oppose the proposal.

Finally, local governments are being asked to address riparian buffers and erosion control, wetlands, stormwater management and phosphorus control, flood control and floodway management, basin planning, water quality standards and ever more stringent water typing to name a few water-related issues currently under discussion. The Clean and Clear Program does indeed fund one-half of a water specialist, hosted at the Vermont League of Cities and Towns, to provide technical assistance and outreach to local governments in addressing these complex issues. The position, cut from full time last year, is the only one in the state dedicated to providing assistance to local governments. It is on the chopping block this year again. Yet local governments are constantly pressured to address the above mentioned water related issues within their communities. This should be a major concern for the committee seeking to implement priorities such as a new riparian buffer statute.

Thank you for the opportunity to testify.

Karen Horn, Director
Public Policy & Advocacy