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By Commentary

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COMMENTARY

Editor's note: This commentary is by Rep. Linda Joy Sullivan, a Democrat who represents the Bennington-Rutland District in the Vermont House of Representatives and is a member of the House Committee on Commerce and Economic Development. This is the second of a three-part commentary. [Part 1](#) was published Tuesday and [Part 3](#) will be published on Thursday.



We sometimes seem to be sitting on our collective hands and not promoting *all* of the very good Vermont has to offer. We do a great job around tourism, ski resorts, maple syrup, farm-to-table, bed and breakfasts, and craft beer. We don't seem to speak much about some of the very innovative and creative things going on around us — like the agri-urban programs at the [Intervale Center](#), the award-winning sustainability curriculum of [Green Mountain College](#), the nation-leading environmental studies program at [Vermont Law School](#), the work being done at the [Vermont Center for Emerging Technologies](#), or the educational programs advanced by the Sustainable Schools Project.

From the inside, we seem to be a state teeming with smart and creative thinkers looking to develop progressive solutions to global environmental and sustainability challenges. From the outside, however, the Vermont “*brand*” seems most to be about food and hospitality.

I [recently addressed](#) what I see to be the imperative that we grow our economy in order to provide greater economic opportunities for Vermonters. Unfortunately, purely *organic* (or internal) growth is not realistically going to be the engine that will allow us to create the sort of job and population growth necessary to lift our economy and, with it, help address the lack of affordable housing, sustain long-term wage growth, overcome transportation issues, or encourage new tax revenue streams to reduce our reliance on local property taxes. Some — not all, but some — stimulation of the economy will have to come from external sources, from businesses and investors looking to work and invest new money here. Yet it's an equal imperative that we pull off this growth without threat to all of the incredible attributes that make Vermont “*Vermont.*”

Just about every state in the U.S. pursues this sort of external investment in order to expand economic opportunity for its citizens. While everyone seems to want to develop the next Silicon Valley, that's not going to be us. There is no reason, however, why we can't be marketing ourselves as a center for green technologies and actively seeking to develop and promote a Vermont brand around clean manufacturing and environmental sustainability. It's a natural for us. There already exists a healthy national perception of Vermont (to include among the millennials who will become the next generation of business leaders) as a place of progressive, “outside of the box” thinkers. We are also thoroughly “green” in a nation soon to crave green solutions and a stone's throw from the economic and academic hubs of the United States. Why haven't we been able better to leverage this from an economic standpoint so as to attract green investment here?

Perhaps part of it has to do with what I refer to as our “*anti-brand.*” In the early 1970s, in the environmental regulation vacuum that existed at the time, Vermont adopted a very unique land use regulatory scheme we call Act 250. It is a complicated statute that cannot be fully described here. There's a lot of good to Act 250 — it requires that there be a careful balancing of environmental and community considerations before larger-scaled developments get started. It also, however, is seen by many as contributing to a perception that Vermont is “anti-business.”

That perception may be unfair, but there is no doubt that Act 250 presents substantial process challenges that can serve as disincentives to new investment. Imagine a Fortune 1000 executive contemplating investing in a clean manufacturing facility, a green technology incubator or a training center being told that if the project is found to be subject to Act 250, you will, in addition to satisfying many rigorous state permitting requirements as well as complying with many local permitting and planning commission standards, have to get approval from a regional Act 250 commission; that commission will hold a hearing at which community members will liberally be recognized as having party status with the right to appeal any result they are unhappy with; that while sometimes these parties are truly just concerned neighbors, they sometimes participate simply to stop

development because they don't like change, and sometimes they do it to thwart competition; those commissioners, in the meantime, are charged with making sure that 10 separate legal and factual conditions are met; the commissioners are neither politically accountable nor accountable to the courts, and there is no system of precedent that guide their decisions; the hearings are not conducted on the record, so if any party is unhappy with the result, there may be an appeal, and everyone will have to begin all over from scratch before a small understaffed specialty court in Montpelier; there is no way to predict the time involved to get final approval, it make take two to three years, or longer; some businesses have been known just to give up in frustration; others agree to any number of conditions simply to get through the process and avoid a *de novo* appeal.

Again, there's a lot of good that's been accomplished over the years through Act 250 in terms of preserving Vermont as Vermont. *Indeterminate delay and a lack of predictability as to result are, however, an absolute disincentive to business investment.* Most businesses and investors facing such a degree of uncertainty just won't take the chance.

Much of the original premise of Act 250 (the lack of federal environmental protection and the absence of state regulatory oversight) no longer holds true. The original plan, that the state would adopt a single statewide development standard, never happened. The scheme needs to be reformed. While the Legislature has begun to look again at Act 250, that work does not appear to envision us having a larger — and necessary — discussion of how we can also enhance our Vermont economy so as to increase our prosperity and expand economic opportunities for all. As I propose in my next and final writing on this issue, these discussions inextricably intertwined — they need to occur together.



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