

Vermont Planners Association (VPA) Legislative Report - April 12, 2021

Greetings! Lots of planning related action in the legislature last week and more coming up this week with VPA testimony lined up on Act 250 and on the proposed smart growth bylaw grants. Focus in the Senate is now on what to fund and allocating the influx of federal funds.

--Faith Ingulsrud

House Bills

Reported by Alex Weinhagen with assistance from Legislative Intern, Daniel Jarrard.

New Bills Introduced

H.446 – Miscellaneous Natural Resources and Development Subjects – This is the revised (and formally introduced) version of House Natural Resources, Fish and Wildlife committee bill DR-21-0956. I only mention it because of what it lacks. The committee bill included a bill-back provision for the staff time that VT Fish and Wildlife Department puts into the review of Act 250 applications – i.e., a minor component of Act 250 reform. Not sure why, but that provision was removed. Could be because the Administration's Act 250 reform bill (H.400/S.112) addresses this via a new ANR permit to address fish and wildlife impacts that includes recovery of review costs. H.446 now deals with a host of very technical changes (e.g., notice dates, etc.), none of which appear to have much of a planning nexus.

Committee Discussion Last Week

Act 250 Reform – H.120 & H.400/S.112 – The House Natural Resources, Fish and Wildlife Committee dove back into the turbulent waters of Act 250 reform. They walked through H.120, the reform bill proposed by several members of the committee that focuses on expanding review criteria (e.g., climate change, greenhouse gases, forest fragmentation, etc.) and expanding jurisdiction (e.g., river corridors, interstate interchanges). The “competing” Administration-supported bill (H.400) was also introduced with much more of a focus on making Act 250 review more centralized (professional NRB instead of District Commissions), with a streamlined appeal process (directly to the VT Supreme Court), and with more off-ramps (designation area exemptions, jurisdictional release, etc.).

The committee used this week to receive testimony on high priority reform goals from various groups. Peg Elmer Hough met with the committee on Wednesday (4/7) to deliver VPA's testimony on this. Our testimony was well-received. The committee will be diving into the details of the bills next week, and we were invited back to be part of that discussion – specifically on the Capability and Development Plan study parameters in H.120, and the jurisdictional expansions to resource areas (i.e., river corridors and interstate interchanges). Sharon Murray will likely tag-team in to be VPA's voice for this.

H.400 – Act 250 Reform (Administration's version) – Administration officials explained various facets of the Governor's Act 250 reform bill to the House Natural Resources, Fish and

Wildlife Committee. To better understand all of what H.400 aims to do, check out the summary on the first two pages of the bill. There was some push back from committee members on the proposal to have the Natural Resources Board (NRB) take over review of major Act 250 applications from the District Commissions. VT F&W Commissioner, Louis Porter, explained a proposed new permit from his department for development that impacts fish and wildlife habitat. H.400 doesn't directly address forest fragmentation via Act 250 criteria, but Commissioner Porter described how this and other wildlife habitat issues would be addressed through the new F&W permit, as laid out in sections 24-27 of the bill, and via rulemaking. A project that receives the F&W permit would be entitled to a presumption of compliance with the relevant Act 250 criteria. There was also a good deal of discussion about changes in H.400 to make a more professional Natural Resources Board (NRB) that would take over review of major Act 250 applications. Decisions of the Board would create precedent, and the Environmental Court would be cut out of the appeals process – i.e., appeals of Act 250 decisions by the NRB would go directly to the VT Supreme Court.

H.278 – Act 250 Municipal Master Plan Permits – Representative Kimbell introduced the bill in House Natural Resources, Fish and Wildlife on Tuesday (4/6). Committee members expressed some interest, but it's not clear that this bill will go anywhere given the bigger Act 250 reform discussions noted above.

S.33 – Project-Based Tax Increment Financing (TIF) – This bill passed the Senate, and was discussed in House Commerce and Economic Development on Wednesday (4/7) and Thursday (4/8). Unfortunately, Thursday's discussion started with the TIF wet blanket that is the State Auditor. Doug Hoffer once again expressed his concerns about the bill - similar to the cold water he threw on the Senate side. Some committee members expressed support for the bill and an understanding of its value (e.g., Representative Kimbell), but overall the committee seemed pretty hesitant about the bill. There seemed to be concern about this being a pilot project that couldn't be evaluated for 20 years (i.e., repayment period for a TIF). They seemed interested in exploring whether federal funding from the American Rescue Plan Act (ARPA) could be used as an alternative. Stephen Klein from the VT Legislative Joint Fiscal Office was there to talk about the possible use of ARPA funds. He said there is real possibility here given how much federal funding is coming in; however, he aptly pointed out that ARPA funds have to be spent within 3.5 years, and that for some municipal infrastructure projects, a combination of ARPA and TIF funding might be advantageous.

S.1 - Energy/Baseload Renewable Power Portfolio (Ryegate) – This bill passed the Senate, and was discussed in House Energy & Technology on Thursday (4/8) with testimony from many witnesses.

S.66 - Transportation/Electric Bicycles – This bill passed the Senate, and was discussed in House Transportation on Thursday (4/8), including testimony from Paul Conner (South Burlington Director of Planning & Zoning).

S.79 – Rental Registry & Code Enforcement – This bill passed the Senate, and was discussed in House General, Housing and Military Affairs on Wednesday (4/7), including testimony from many witnesses.

S.102 – Agricultural Designations, On Farm Composting, Food Waste – This bill passed the Senate, and was discussed for several days last week in House Agriculture and Forestry (4/7, 4/8, 4/9) with testimony from many witnesses.

H.232 - VHCB Racial, Ethnic, Economic Equity – House General, Housing and Military Affairs did an initial walk through of this bill on Thursday (4/8), along with testimony from VHCB.

Committee Discussion This Week

S.1 - Energy/Baseload Renewable Power Portfolio (Ryegate) – House Energy & Technology, discussion on Tuesday (4/13) at 2pm.

S.102 - Agricultural Designations, On Farm Composting, Food Waste - House Agriculture and Forestry, testimony on Tuesday (4/13) at 1pm.

S.33 – Project-based TIF – House Commerce and Economic Development, discussion and possible vote on Tuesday (4/13) at 9am and 1pm.

H.273 - VT Land Access & Opportunity – House General, Housing and Military Affairs, discussion and testimony on Tuesday (4/13) at 1pm.

S.79 – Rental Registry & Code Enforcement – House General, Housing and Military Affairs, discussion and testimony on Wednesday (4/14) at 9:15am and 1:15pm

S.101 - Housing, 117/Municipal Smart Growth Bylaw Grants – House Natural Resources, Fish and Wildlife, testimony on Tuesday (4/13) at 1pm and again on Wednesday (4/14) at 9am (including VPA testimony to be delivered by Alex Weinhagen)

H.120 – Act 250 Reform – House Natural Resources, Fish and Wildlife, testimony by the NRB chairperson on Tuesday (4/13) at 1pm, and more testimony on Thursday (4/14) at 9am (including VPA testimony to be delivered by Sharon Murray)

S.66 - Transportation/Electric Bicycles – House Transportation, discussion and testimony on Thursday (4/15) at 10:30am.

Senate Bills

Reported by Sharon Murray, with special thanks for input/updates this week from Peter Gregory and Legislative Intern, Daniel Jarrard.

Bills introduced: 135 Bills passed: 50

On the Senate turntable last week:

Your love gives me such a thrill, but it don't pay the bills – I want money. That's what I want...(Barry Gordy)

You can't always get what you want...but if you try sometimes, well you just might find, you get what you need... (Rolling Stones)

Much of the activity on the Senate side last week focused on the dollars and sense of state budgets sent over from the House, and initial allocations of the American Rescue Plan Act (ARPA) funding coming into the state. In the absence of more detailed federal program guidance many questions – including how to allocate federal funds for county government (RPCs?) - remain unanswered. But some early ARPA appropriations made it into H.315 (COVID relief) as amended in the Senate, and passed by both chambers last week. Thanks to the hard work of DHCD staff, Peter Gregory and other good folks, these include additional funding for new and existing planning programs, and for RPCs in support of their member municipalities.

Peter, in testimony in S. Government Operations, highlighted the need for funding to also begin to address shared municipal services, particularly in the area of policing and public safety. VLCT rightly pointed out that, given the amount pent up demand, especially for long-needed infrastructure improvements, ARPA funding may not stretch as far as many of us hope in meeting state and local needs. Seems everyone agrees that identifying priorities for use of these funds is critical. Some planning-related notes...

H.159 – Community, Economic Development, Better Places. DHCD staff provided an overview of their proposed Better Places Program in S. Economic Development which, as passed by the House, includes \$5 million in ARPA funding for the “Better Places Fund” in support of local public space and placemaking projects.

H.315 – COVID Relief Act. Some initial ARPA appropriations under the second COVID relief bill as passed by the Senate and House include:

- \$10 million to VHCB in 2021 to address housing for low income and at risk populations
- \$1.8 million in broadband funding in support of community broadband (communications union districts)
- \$3 million to the Working Lands Program
- \$5 million to ANR for recreation and trail infrastructure repairs and improvements on state land
- \$5 million in support of the VT Outdoor Economic Collaborative
- \$14 million to DEC for brownfield cleanup, and
- \$950,000 in municipal administrative, technical and program support under ARPA through 2024, including \$650,000 to VLCT (admin, tech support), and \$300,000 to RPCs (program/project management).

H.433 –T-Bill. S. Transportation got an introduction from VTrans staff on new program and permitting-related sections of the transportation bill as passed by the House, including the language under Chapter 117 regarding site and subdivision plan review on state highways.

H.439 – Budget Bill. S. Appropriations continued to work its way through the budget bill as passed by the House, with an eye towards ARPA \$ to fund additional requests on its list. It's not clear yet whether this will include the \$500,000 that DHCD requested for proposed Bylaw Enhancement Grants, as cut from S.101. So far this hasn't shown up in any bills reviewed. But, along with the standard Municipal Region Planning Fund (MRPF) allocation for RPCs, VCGI, and municipal planning grants (\$3.76 million), the budget bill includes an additional appropriation of \$850,000 in FY22 ARPA funding to ACCD for distribution to RPCs (\$75,000 each) to address increased demands related to the pandemic. Also included – the additional \$5 million allocated to the Downtown Transportation Fund.

ARPA \$\$ – The Governor's proposals for use of federal American Rescue Plan Act (ARPA) funding were presented in several committees throughout the week. In S. Natural Resources this included a Friday overview of proposed ANR funding related to:

- Climate change – \$200 million for EV infrastructure, weatherization, electrification incentives, hazard mitigation buyouts, and the climate action plan
- Infrastructure – \$170 million for water, sewer, and stormwater infrastructure, CSO abatement, dam safety, and healthy homes (residential water systems),
- Outdoor Recreation Economy –\$25 million in support of amenities along rail trails, VOREC grants, strategic investments in trails and other recreational assets, and
- Expedited Permitting – \$3 million for additional limited service staff at ANR, NRB, and Fire Safety to manage expedited permitting for ARPA projects.

Bills in Committee:

H.360 – Community Broadband. S. Finance spent much of last week reviewing the broadband bill, which would establish the VT Community Broadband Authority (through July 2029), and the Vermont Community Broadband Fund (ARPA \$), largely in support of local Communications Union Districts.

S.61 – UVA, Solar Facilities. The UVA bill was finally taken up in S. Agriculture last week, along with a draft strike-all version, and a review of H.88 as passed by the House, all having to do with definitions and clarifications of what constitutes agricultural land under the program, particularly with regard to onsite solar arrays. Under the strike-all version this would be expanded to also address solar arrays on cleared forest (open) land.

S.109 –Enhanced Energy Savings (Weatherization) Act. S. Natural Resources and Energy continued to work on a strike-all version of the bill they introduced earlier in the session. Proposed amendments focus on the development of the weatherization workforce and counseling services, under a Weatherization Workforce Group headed by Efficiency Vermont, and the Office of Economic Opportunity; along with the establishment of an “Energy Savings Fund” administered through the DPS to fund projects for which federal funds aren't available.

S.119 – Community Solar. S. Natural Resources and Energy heard from VELCO reps last week regarding the status of the Vermont grid system, especially with regard to future solar installations, and recommendations for improvement under the 2021 VT Long Range Transmission Plan,

Senate Calendar, Week of 4/12:

H.439 – Budget Bill. S. Appropriations meeting with DHCD, VHCB on Tuesday (4/13), 1:30 pm. Committee discussion and markups starting on Tuesday, continuing through the week..

H.360 – Community Broadband. S. Finance taking testimony on Tuesday (4/13) at 1:30 pm, and again on Wednesday (4/14) at 2:45 pm.

S.109 – Enhanced Energy Savings Act. S. Natural Resources and Energy, committee discussion on Tuesday (4/13) at 10:15 am w/re to budget (waterfall spending).

H.159 – Community, Economic Development, Better Places. S. Economic Development, committee discussion on Wednesday (4/14) focused on workforce development and Thursday (4/15).

Climate Caucus and Council

Reported by Peg Elmer Hough

The legislative Climate Solutions Caucus took time last week to pool ideas for spending ARPA funds, with climate as the focus. Rep. Mary Hooper, Chair, House Appropriations, joined them. She suggested they look at the Administration's FY'22 \$150 million allocation to support business, which is wide open to more definition. Also to do some smart preparation, to be ready to spend the infrastructure funding quickly when it becomes available. To help in this, her committee added 3 new positions at the Dept of Environmental Conservation, to support upgrading of municipal and school facilities.

Some discussion followed. Rep Selena Coburn mentioned conflicts from lack of communication between those promoting competing goals, such as expanding broadband into remote areas potentially working against smart growth principles.

The Caucus divided into workgroups, to develop ideas over the summer for ARPA funds on: smart growth, food systems/healthy soils, tech centers/higher education, and workforce. There may be more groups created.

The Vermont Climate Council has its monthly meeting on Monday, April 26 at 8:30 a.m. The Steering Committee is meeting this Thursday, April 15 at 2 p.m.

