

Vermont Planners Association (VPA)

Legislative Report - January 10, 2022

The session got off to a quick, if virtual, start last week. Due to high COVID numbers, all floor sessions, committee meetings, and hearings will be held remotely, at least for the next couple of weeks. Note that all bills can be reviewed through the [Bill, Act and Resolution search page](#).

VPA Legislative Priorities for 2022

VPA's has identified the following priorities and we will provide more details on the VPA positions on these topics in the coming weekly reports.

- Act 250 Reform
- Capability & Development Plan
- State Planning Office Study
- Housing (Chapter 117)
- Funding for Planning
- Climate Action Planning

Legislation - Generally

Reported by Alex Weinhagen, Sharon Murray and Peg Elmer

Budget Adjustment Act for current fiscal year (22-0441) – House Appropriations is holding a public hearing on Monday afternoon followed by discussion throughout the week. Note – several other committees are also discussing this and making recommendations to House Appropriations.

The Covid-19 Municipal Annual Meeting bill (S.172) was fast tracked last week with approval by both the Senate and the House. That bill is now in the Governor's hands and will likely be signed into law this week. It provides municipalities with very similar flexibility to what was granted to municipalities during the COVID state of emergency with regard to annual meetings – i.e. to hold town meetings via Australian ballot or to delay the in-person meeting to a later date.

Act 250 Reform – To date, four Act 250 bills have been introduced in the House (H.492, H.509, H.511, H.549) and one in the Senate (S.200) that merit further VPA consideration. For more information, see bills listed below. At least one additional bill from Senator Bray is expected out of S. Natural Resources and Energy in the next week or so.

Climate Caucus and Council - the Climate Caucus expects to start meeting on Fridays at noon on video again as they did last year. The first meeting hasn't been announced yet. The Climate

Council steering committee is meeting this afternoon on a draft workplan for 2022, for review by the full Council on 1/24.

House Bills

Reported by Alex Weinhagen

Bills Introduced

Ninety-eight new bills were introduced on the House side this past week (through H.455 - H.552), ten with a planning nexus.

H.492 – Act 250, Environmental Review Board, Appeals. This bill proposes to change the name and composition of the Natural Resources Board, give it the responsibility to administer Act 250 programs, and to hear Act 250 appeals instead of the Environmental Division of the Superior Court. It would also create a pre-application notice and review process for major Act 250 applications for feedback from local and regional planning commissions and adjoining landowners on proposed development plans prior to review by District Commissions. The NRB would be renamed as the Environmental Review Board, and would comprise five members – a full-time chairperson, four half-time board members, and would be staffed by a single staff attorney, with provisions for an appointed hearing officer. Members of the Environmental Review Board would be appointed the same way as Superior Court judges, with the Judicial Nominating Board providing a list of qualified candidates to the Governor for appointment. After the members of the Board are appointed, the Board would adopt rules of procedure for appeals and would report back to the General Assembly by the end of 2023 with recommendations to update Act 250. In H. Natural Resources, Fish, Wildlife.

H.509 – Act 250, Jurisdiction Clarification, One-Acre Towns. This bill proposes to clarify the Act 250 jurisdictional trigger for commercial/industrial development in municipalities that don't have zoning and subdivision regulations (i.e., one-acre towns). This is in response to a recent Supreme Court ruling on this issue, which is also currently under reconsideration. The proposed wording is still a bit difficult to parse, but it appears to clarify that the controlling factor is that the applicant controls one or more acres of land within a five-mile radius of the project. In other words, not that the involved development area is one or more acres, but that the total tract of land owned/controlled is one or more acres. In H. Natural Resources, Fish, Wildlife.

H.511 – Designation Area Reform & Act 250 Changes. This bill proposes to make changes to the requirements for designated neighborhood development areas and new town centers. It proposes changes to the definition of "priority housing projects." It also proposes updates to Act 250's floodway criteria. It would require hiring a consultant to review the State designated centers program and report back on proposed updates. The consultant work would include review and assessment of program requirements and incentives, and recommendations for: objectively defining and mapping existing compact settlements, improving consistency among and between regional plans and future land use maps, modernizing the program (to include reforms, consolidations), making designations and benefits more accessible to municipalities, strengthening designations as a platform for other place-based objectives and public investments, and to implement smart growth principles and state planning and development goals. Many of the changes in this bill reflect recommendations made by a group of eight

planning practitioners in 2021 in a document titled “Addressing Barriers to Housing in Vermont”. In H. Natural Resources, Fish, Wildlife.

H.518 – Municipal Fuel Switching Program. This bill proposes to create a program to encourage municipalities to conduct thermal energy audits and to switch from fossil fuels to renewable energy heating in municipal buildings. Allocates \$48 million in FY2023 for the program: \$2 million to regional planning commissions to provide technical assistance; \$5 million for municipal thermal energy audits; \$1 million for meetings and community outreach; \$40 million to replace heating systems in municipal buildings. In House Energy Committee.

H.524 – Municipal Zoning Pre-emption for Residential Uses. This bill proposes to eliminate the ability of municipalities to adopt certain zoning provisions, including setbacks, parking requirements, large lot requirements, and single-family zoning. It would also exempt all residential development from site plan review (i.e., not just one and two-family homes) and from off-street parking and loading requirements. In H. Natural Resources, Fish, Wildlife.

H.542 – Riparian Protection Areas. This bill proposes to require establishment of a riparian protection area adjacent to each stream in the State. A riparian protection area would be required to be at least 50 feet from the top of bank or top of slope of a stream with 0.25 or less square miles in drainage area and at least 100 feet from the top of bank or top of slope for a stream with greater than 0.25 square miles in drainage area. A person would be prohibited from creating cleared area or constructing impervious surface within a riparian protection area unless permitted by the Secretary of Natural Resources or allowed as a use under the act. In H. Natural Resources, Fish, Wildlife.

H.543 – Wetland Protection. This bill proposes to establish as State policy that wetlands shall be regulated and managed by the State to produce a net gain of wetlands acreage. The bill would require the Secretary of Natural Resources to amend the Vermont Wetlands Rules to incorporate the net gain policy. Compels at least 2:1 wetland area mitigation as part of permitting, with no exceptions based on project context (e.g., existing/planned settlement areas, designation areas, etc.). In addition, the bill would require the Vermont Significant Wetlands Inventory maps to be updated and revised annually. In H. Natural Resources, Fish, Wildlife.

H.549 - Act 250, Priority Housing and Tax Exemption. This bill proposes to expand the definition of priority housing project – e.g., affordable at 120% median income (vs. 80%); including all designation areas (i.e., adding NDAs and village centers). Also exempt from sales and use tax would be building supplies and materials used for the construction of priority housing projects. In H. Natural Resources, Fish, Wildlife.

H.551 - Prohibiting Racial and Religious Deed Covenants. This bill proposes to prohibit covenants in deeds that purport to restrict the ownership of property on the basis of race or religion and to establish a process for the removal of such covenants from deeds. Would apply to existing and future deed covenants.

H.552 - Transportation Initiatives to Reduce Carbon Emissions. This bill proposes a host of transportation policies and funding to reduce carbon emissions. Nineteen policies are detailed in the bill summary for this 50-page bill. Some items include: more funding for the Better Places

and Better Connections programs; require that certain employers install level 2 electric vehicle chargers; bolster complete streets requirements; update Act 250 Criterion 5 - Transportation; bike/ped infrastructure improvements; etc.

Senate Bills

Reported by Sharon Murray

Bills Introduced

To date, 73 new bills have been introduced in the Senate, eleven with a planning nexus.

S.155 – Agency of Public Safety. This bill restructures the executive branch to include fire safety, emergency management, and law enforcement departments, divisions, and functions under the Agency of Public Safety, with the Secretary serving as a member of the Governor's cabinet. In S. Government Operations.

S.174 – Public Notices. This bill allows public notices to be posted on “electronic news media” as defined (internet website dedicated to Vermont news), for the purpose of meeting public notice publication requirements. In S. Government Operations.

S.181 – Misc Municipal Regulatory Authority. This bill Includes a number of proposed amendments to Title 24 pertaining to municipal authority, to include the ability to adopt ordinances regarding sidewalks, speed limits, traffic calming, storm drains, property management standards, and the maintenance of blighted property. Allows for local option taxes by municipal vote (sales, rooms, meals, beverage). Also amends statutes with regard to certain municipal officials (election, appointment, removal); and allows for a change in the number of members appointed to a board of adjustment or development review board by municipal vote. In S. Government Operations.

S.188 –Small Cannabis Cultivation. This bill would categorize small cannabis cultivation operations as small farms regulated under Required Agricultural Practices, and therefore as exempt from Act 250 (and local review as applicable?). In S. Agriculture.

S.190 –State Highway ROW, Street Trees. This bill would require VTrans to adopt landscaping, streetscaping, tree removal and replanting policies, and to work with affected municipalities within areas along state highways to preserve the scenic qualities of a corridor, maintain environmental stewardship, conserve resources, foster long-term sustainable landscapes, and ensure continued reliance on “public street trees” (as defined) for their societal, economical, and environmental benefits. As proposed, would apply to VTrans projects and maintenance activities within areas in which housing predominates, or in a downtown or village center. It would also require that landscaping and streetscaping are included in project design, notice to the municipality prior to tree removals, and a replanting plan prepared in consultation with the legislative body. In S. Transportation.

S.200 – Act 250, Master Plan Permits. This bill would allow municipalities to apply for master plan permits for designated downtowns and neighborhood development areas, and allocates \$300,000 to the Municipal and Regional Planning Fund in FY23 for grants to help finance

applications. Subsequent development within an area covered by the master plan permit would be considered as a permit amendment (limited to housing development within a neighborhood development area). In S. Natural Resources, Energy.

S.210 – Rental Housing, Registry. This bill looks to be this year's version of H.79, as vetoed by the Governor (and on the House Calendar for a potential override). Would establish a state rental housing registry administered by DHCD, and an inspection program through the Department of Public Safety, to improve rental housing health and safety, and expand opportunities for affordable housing. Registration requirements would not apply to units that are not offered to the general public (e.g., family members, nonprofit homeshares, personal care providers), licensed lodging establishments, or units accessory to an owner-occupied residence (including ADUs), farm housing, or non-winterized, seasonal units. In S. Economic Development, Housing, General Affairs.

S.218 – Open Meeting Laws, Race. As a constitutional protection, this bill is intended to ensure that no public body segregates or excludes persons based on race. As such, public participation in any meeting of a public body shall not be discouraged or prohibited on the basis of race or other classification. In S. Government Operations

Committee Updates

S. Natural Resources, Energy – The committee received overviews last week of the Climate Action Plan, and Comprehensive Energy Plan, and spent Tuesday discussing their priorities for the session, to include:

- Weatherization programs, workforce development, and long-term funding, as a follow-up to 2021 legislation, with the goal of weatherizing 120,000 homes by 2030
- Updating the state's renewable energy standards to achieve 100% renewable by 2030
- Act 250 reform, focusing on housing and deforestation
- A clean-heating standard, to complement weatherization efforts; and
- Legislation to address transportation GHGs, to promote (or require?) the shift to EVs, in coordination with S. Transportation
- Several bills are anticipated, including two Act 250 bills (McCormack, Bray)

House and Senate Schedules (subject to change)

Assembled by Sharon Murray

Monday, 1/10

2:00 Budget Adjustment Advocates Hearing, H. Appropriations

Tuesday, 1/11

AM S.79 Rental Housing –VLCT, DHCD, RHAB, S. Economic Development, Housing

AM EV Road Usage Charge Study –VTrans, S. Transportation

9:15 Budget Adjustment, Housing –DHCD, VHFA, H. General, Housing

11:00 S.200 Act 250, Master Plans –Walkthrough, S. Natural Resources, Energy

- 1:30 H.273 Equity in Land Access, Property Ownership—Intro, H. General, Housing
1:45 VEDA Committee Bill – VEDA, VHFA, VHCB, VBA, VLCT, H. Commerce, Economic Dev.
2:15 S.155 Public Safety Agency – Walk-through, S. Government Operations
3:15 S.96 State Planning Office – Intro, walk-through, S. Government Operations

Wednesday, 1/12

- 8:30 Budget Adjustment—Committee Markup, H. Appropriations (through day)
8:30 New Energy Bills – Legislative Counsel, S. Natural Resources, Energy
9:00 Housing Roundtable –DHCD, VHCB, CHT, VHFA, TRORC, etc., S. Econ, Dev, Housing
9:00 EVSE Network Map Report, Plan Update –VTrans, S. Transportation
9:15 EV Road Usage Charge Study – VTrans, H. Transportation
9:15 Homelessness, Housing Solutions –DCF, VHSA, DHCD, VLA, H. General, Housing
9:45 S.188 Small Cannabis Farming/RAPs – Intro, S. Agriculture
10:30 Climate Action Plan –Overview, Council, H. Agriculture
11:00 Transit Financing Study – CCRPC, GMT, VPTA, VTrans, H. Transportation
11:15 Comprehensive Energy Plan – VTrans, DPS, S. Transportation

Thursday, 1/13

- 9:00 New Planning Bills – Legislative Counsel, S. Natural Resources, Energy
9:00 Federal Infrastructure Bill – VTrans, S. Transportation
1:00 Climate Action Plan, Weatherization – ANR, H. Corrections, Institutions
2:00 VEGI, TIF Reports – ACCD, VEPC, H. Commerce, Economic Development
2:30 Budget Adjustment – VHCB, DHCD, VHFA, S. Appropriations
2:45 Budget Adjustment – Committee Discussion/Vote, H. Appropriations

Friday, 1/14

- 8:30 Budget Adjustment – Committee Discussion/Vote, H. Appropriations
9:00 S.19 RPCs, Climate Change, Health Needs – Intro, walk-through, S. Health, Welfare
1:00 Historic Preservation Division Funding – DHP, S. Institutions
1:15 EV Chargers in Multi-Use Dwellings Pilot Report –DHCD, VTrans, H. Transportation