

Legislative Report - February 8, 2022

Legislation - Generally

By Sharon Murray

Now that Town Meeting break is behind us, mid-session legislative deadlines are fast approaching, and there will be a lot of activity under the golden dome over the next couple of weeks. Any remaining policy bills that didn't make it out of committee before break have to be voted out early this week in order to meet Friday's crossover deadline, while budget bills get another week. The Senate is finally returning to the State House in person, and will be holding nominal floor sessions on Tuesday and Wednesday to allow committees time to finish up, followed by full floor sessions on Thursday and Friday. House committees forwarded their FY23 budget recommendations to House Appropriations prior to break, so the committee can finalize its proposed budget in time for a floor vote by March 18th, along with House capital spending, transportation, and tax bills. For VPA policy wonks, time to check posted calendars for scheduled floor votes!

House Bills

No house report available at this time..

Senate Bills

Reported by Sharon Murray and Jonathan Godbout

S.148 Environmental Justice. A strike-all version of the Environmental Justice (EJ) bill was unanimously voted out of S. Natural Resources and Energy on Friday before break, and is now scheduled for a second reading on the Senate floor on March 8th. As voted out, the bill would establish state EJ Policy subject to further rulemaking, create an EJ Advisory Council and Interagency EJ Committee, and an EJ mapping tool to be developed and maintained by ANR for use in identifying and assessing impacts or "burdens" on environmental justice populations.

"Environmental justice" as defined in this context means that "all individuals are afforded equitable access to and distribution of environmental benefits; equitable distribution of environmental burdens; fair and equitable treatment and meaningful participation in decision-making processes; and the development, implementation, and enforcement of environmental laws, regulations, and policies." And "meaningful participation" is defined to mean that "all individuals have the opportunity to participate in energy, climate change, and environmental decision making, including needs assessments, planning, implementation, permitting, compliance and enforcement, and evaluation. Meaningful participation also integrates diverse knowledge systems, histories, traditions, languages, and cultures of Indigenous communities in decision-making processes. It requires that communities are enabled and administratively assisted to participate fully through education and training."

S.155 Agency of Public Safety. S. Government Operations voted out a strike-all version of the new agency bill on Friday before break (4-0-1), after incorporating the creation of a new “Office of Community Collaboration and Empowerment” within the proposed agency. This office would be charged with reviewing department policies using an Equity Impact Assessment Tool, and creating a structure within the agency for community outreach, participation, and engagement. The need for this office was discussed mainly with respect to law enforcement and community policing, but as proposed would also apply to fire and emergency management policies, programs, and services. In voting out the bill, the committee also stressed the need for more comprehensive, publicly accessible data to ensure accountability, as included in related legislation (S. 250) to be voted out in advance of crossover, along this year’s state ethics code bill (S.151).

S.181 Municipal Regulation. S. Government Operations on Thursday before break voted out a strike-all version of the VLCT bill, now also scheduled for a second reading on March 8th. As reported earlier, S.181 would allow municipalities to:

- regulate sidewalk installation, traffic calming devices, storm drains, and public improvements, and authorize speed limits as low as 15 mph,
- regulate blighted properties and establish property maintenance standards,
- make zoning permit approval contingent on the receipt of other town permit approvals,
- adjust the number of members on a development review board or zoning board of adjustment,
- elect or appoint non-town voters or residents to unfilled municipal positions if local suitable candidates are not available,
- codify and authorize emergency provisions adopted during the COVID-19 pandemic for use during all-hazard events and declared states of emergency.

S.188 Small Cannabis Cultivation. This bill, which would exempt small cannabis cultivation under the jurisdiction of the Cannabis Control Board from local zoning and Act 250 review, was taken up before break in S. Finance to receive last minute testimony from Rural Vermont, representing the Vermont Cannabis Equity Coalition. Rural Vermont spoke in opposition to the bill due to potential inequities and barriers for new or diversifying outdoor growers, including the 1,000 sf limit defining “small” cannabis cultivation. The committee suggested that such equity concerns were outside of its purview, and would have to be taken up in the House. They instead focused on the fiscal impacts of proposed tax exemptions, and plan to move the bill forward in advance of crossover.

S.210 Rental Registry, Enforcement. This year’s rental registry bill, as passed by the Senate on February 10th well in advance of crossover – but under the cloud of another potential gubernatorial veto – has since been on pause in H. General, Housing, and Military Affairs while they finish up work on priority house bills.

S.234 Act 250. Much of the discussion in S. Natural Resources and Energy before break focused on housing affordability under statutory and program definitions, particularly as applicable to ARPA-funded Priority Housing Projects under Act 250 – also very much a topic of

discussion in S. Economic Development and Housing. The committee finally voted out a strike-all version of the bill on Friday before break (4-1) in order to meet crossover, with the intent of working on floor amendments during break in consultation with Senator Sirotkin, especially to address areas of overlap with the Senate's housing bill (S.226).

As voted out of committee, S.234 retains proposed NDA, Chapter 117, and Priority Housing Project amendments from H.511 (as also included in S.226), along with a new affordability clause specific to ARPA-funded housing projects. It does not appear to extend Act 250 PHP exemptions to other ARPA-funded capital projects as requested by the administration. It also adds a new Act 250 criterion addressing "undue" impacts to forest blocks, habitat connectors, and rare and irreplaceable natural areas, but no longer defines "fragmentation" in this context, subject to related mapping and rulemaking. It also includes a jurisdictional road rule as supported in committee (4-1) despite clear opposition to this from the administration. ANR resource mapping requirements are also included, along with proposed limits on conditions imposed on wood product manufacturers. Three studies also made the final cut in committee: DHCD's designation study, an evaluation of Act 250 jurisdiction over on-farm businesses, and a study of the structure of the NRB. S.234 is on the calendar for a second reading on March 8th, but may be delayed pending committee floor amendments.

S.226 Housing Bill. As of break the Senate's omnibus housing bill remained a work in progress in S. Economic Development, Housing and General Affairs. After some follow-up work over the break with DHCD staff (ADUs, smart growth areas), housing providers (affordability requirements, limits), and S. Natural Resources (areas of overlap), the committee is expected to vote out their housing bill on Wednesday. The draft under consideration before break retains sections from H.511 regarding NDAs, PHPs, tax credits, and proposed Chapter 117 amendments, as supported by VPA – though wastewater requirements for NDAs were still under discussion. With regard to ADUs, the committee discussed ownership requirements – likely to be retained – and proposed parking space limitations based on the number of bedrooms – likely to be deleted. They were more concerned that ADUs qualify for funding under the VT Housing Incentive Program (VHIP), with some long-term rental requirements attached. Bylaw modernization grants also remain in the bill, with the addition of affordability language suggested by VHCB, but there was also some pre-break discussion regarding the need to define "smart growth areas" (raised by VNRC) as referenced under proposed grant language. Based on testimony from Chief Superior Court Judge Zonay, the final version of the bill will likely *not* include funding for an additional, temporary E-Division judge (as carried over from S.270). Land banking provisions have also been removed, but may instead be included for summer study. The TIF section, extending existing TIF districts, will likely be consolidated with TIF provisions under the committee's economic development bill (S.263).

The Committee aims to make final adjustments to the bill in preparation for a vote on the bill first thing Wednesday. The Committee discussed newly drafted provisions of the bill including additions to the missing middle program and the large employer housing sections. There was additional discussion on ADU parking minimums and the upper limits of funding for first-time-homebuyers and first-generation-homebuyers when both situations apply, and the new

language clarifying smart growth using the recommendations provided by VNRC referring to principles in statute.

S.258 Climate Change, Agriculture. This bill – calling for a review of Required Agricultural Practices as impacted by climate change – didn’t get much committee time as introduced; but a strike-all version that incorporates requested changes to other ag agency program statutes, and extends the Dairy Industry Revitalization Task Force until 2023, was voted out of S. Agriculture on Friday before break. With regard to the impacts of climate change on farming and RAPs, the Ag Agency has instead agreed to work with environmental groups (VNRC, CLF, LCC) over the summer, and report back to the committee next year.

S.263 Economic Development. As of break, this bill was also still a moving target in S. Economic Development, Housing and General Affairs, but will be voted out in some form later this week in advance of crossover. Before break the committee focused on the administration’s proposed Capital Investment Grant Program for “transformational projects” under ARPA, including associated appropriations, and program rules under federal guidelines. The draft under discussion prior to break (7.3) also retains VEPC-requested statutory changes governing existing TIF programs, along with a pilot project-based TIF program allowing for up to four projects (rather than the ten initially proposed) – subject to further negotiation in S. Finance.

House and Senate Schedules (subject to change)

Assembled by Faith Ingulsrud

Tuesday, 2/22

See report above

Wednesday, 2/23

9:00 S. 226 - Housing Bill - committee vote; S. Econ Dev, Housing

9:00 22-0029 - Transportation Program with testimony on Zero fare - GMT, Electric school busses, and Microtransit for towns without public transit; H. Transportation

9:00 H. 492 - Act 250 structure of the Natural Resources Board; H. Ways and Means

10:45 H. 581 - Act 250 and rural economic development - Chris Campany testifying; H. Agriculture

9:30 S. 263 -Economic Development Bill - Walk through for remainder of morning; S. Econ Dev, Housing

Thursday, 2/24

10:00 H. 606 - Community resilience and biodiversity protection- Possible Vote; H.Natural Resources

9:00 S. 263 -Economic Development Bill - Walk through and possible vote at 11; S. Econ Dev, Housing

Friday, 2/25

9:00 S. 263 -Economic Development Bill - Walk through and possible vote; S. Econ Dev, Housing

Online Resources: [Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), and the weekly [VLCT legislative report](#).