

Vermont Planners Association (VPA)

Legislative Report - April 19, 2022

House Bills

Alex Weinhagen

Here are the house happenings from the last week (April 11-15), plus upcoming House committee meetings for this week (April 18-22). No new bills introduced on the House side.

Updates on Planning Bills

S.226 – Omnibus Housing Bill – Passed the Senate on 3/31/22. Lots of discussion in House General, Housing, Military Affairs last week – culminating in a favorable vote by the committee. However, what they reported out of their committee was a strike-all version of the bill, which didn't include several provisions in the Senate version. The following items were NOT included in House General's strike all version:

- Municipal site plan and conditional use permits – required two year minimum expiration date
- Act 250 exemption for priority housing projects – minor revision to population levels in the triggers
- Municipal Bylaw Modernization Grant Program
- State water/wastewater permitting streamlining when served by municipal water/wastewater
- Accessory Dwelling Unit parking maximums – only up to one parking space per bedroom
- Accessory Dwelling Unit funding program – for code updates and new ADUs

A few new provisions made it into the House General's version: unfair housing practice (minor revision); prohibition on municipal tax sale of a home while an VT Homeowners Assistance Program application is active; creation of a VT Land Access & Opportunity Board to collaborate with VHCB. House General's strike all version of the bill can be found in the [House Calendar for 4/19/22](#), starting on page 2211.

I believe the bill will now be referred to House Natural Resources, Fish and Wildlife. The two committees have discussed coordination of the review, so it's entirely possible that the left out items listed above will be added back into the bill by House Natural Resources. We shall see. It's also being discussed in House Ways and Means, since it includes new tax credits for the Neighborhood Development Area. The residential contractor registry is still in the bill, and the Governor's team keeps referring to this as one of several poison pills in various bills. It will be interesting to see who blinks first.

S.234 – Act 250 – Passed the Senate on 3/25/22. Continued discussion last week in House Natural Resources, Fish and Wildlife. Still a priority, but still a work in progress for this committee. Possible committee vote this week. Stay tuned.

S.210 – Rental Registry & Housing – Passed the Senate on 2/10/22. Lots of discussion in House General, Housing, Military Affairs last week – culminating in a favorable vote by the committee. Once again, they forwarded a strike all version. Very similar to what passed the Senate, but with inclusion of \$20,000,000 for a DHCD rental housing improvement program that the Governor supports. This is meant to be good policy and a sweetener to try to avoid a veto by the Governor. Various exceptions to the registration program are also in the bill in an attempt to address the Governor’s concerns. The bill is now being considered by House Ways and Means before it goes to a floor vote.

S.188 – Cannabis, small cultivation permitting exemptions – Passed the Senate on 3/17/22. House Agriculture and Forestry discussed the bill last week. They are favorable to the bill, and might even prefer to exempt all cannabis cultivation from municipal and Act 250 permitting. However, they know that only a targeted exemption for small-scale cultivation is likely to pass. We shall see how they revise the bill. Stay tuned.

S.148 – Environmental Justice – Passed the Senate on 3/29/22. Discussed in House Natural Resources, Fish and Wildlife last week. As reported by our intern, Jonathan Godbout... The Committee heard from many stakeholders including representatives from ANR, DEC, Regional Commissions, the Agency of Administration, among others. The Committee reviewed highlights of the mapping tool utilization and posed questions surrounding mapping tool details. Rep Lefebvre and Dolan specifically referenced the importance of rural data within the mapping tool utilization. Following testimony the Committee began walking through the bill with legislative council for mark-up and discussion. Chair Sheldon expressed trimming the definitions of the bill and adding some language including “biodiversity” to the “environmental benefits” definition. Throughout multiple meetings, the funding aspects of the bill were discussed. In addition, many witnesses advocated for an increase in the per diem rate for the council members. The committee did not complete its mark-up and discussion and will continue that discussion either later this week or the following week.

Senate Bills

Reported by Sharon Murray and Jonathan Godbout

The Senate is still working through bills passed by the House, in committee and on the Senate floor, in anticipation that the remaining morning (policy) committees will be shutting down next week to allow for extended budgeting, floor session, and conference committee time. Given that, this week’s calendar includes several pending committee votes on legislation that’s still active, including the following...

H.492 Environmental Review Board. This bill concerning Act 250 governance, as supported by VPA in the House, was finally taken up in Senate Natural Resources last week, with an intro and walk-through from Rep. Bongartz, one of the bill’s sponsors, and Legislative Counsel. NRB Chair, Sabina Haskell, spoke against the bill on behalf of the Administration, stating that it did not address requested exemptions, or their concerns regarding proposed jurisdictional changes included in other bills (S. 248). Steven Reynes – a former District Commissioner, E-Board

Chair, and colleague of Art Gibb, and currently a practicing environmental and land use attorney – spoke briefly in favor of the bill, and offered to provide more testimony this week. VPA also submitted our position statement in support, along with a list of potential witnesses who have experience with both the former E-Board and the current Environmental Court process, and Act 250's Capability and Development Plan, as referenced for further consideration. That said, given their tight schedule, it's not clear that the committee will be taking much if any additional testimony this week – the bill is now scheduled, along with several other bills we're tracking, for a brief committee discussion and vote on Thursday.

H.518 Municipal Energy Resilience. This bill, as passed by the House to provide technical assistance and funding to weatherize and reduce fossil fuel use in municipal buildings and facilities, was taken up in S. Natural Resources on Thursday, with testimony from several individuals, including state agency, RPC, VLCT, and town energy committee representatives. Buildings and General Services asked for additional program funding, as recommended in the Governor's budget, in association with recommended eligibility requirements. Peter Gregory discussed the need to ensure that a project is also ADA compliant to qualify. VLCT expressed concerns regarding ADA compliance requirements, and the requirement that towns coordinate with their regional planning commission to qualify for building assessments. The committee asked for specific language to review, and has scheduled a vote for Friday.

H.546 Racial Justice Statistics. The Senate Judiciary Committee took testimony on this bill last week, as passed by the House in March, to create an Office of Racial Equity and Division of Racial Justice Statistics within the Administration Agency. The role of the division would include data collection and analysis related to systemic racial bias and disparities, specifically within the criminal and juvenile justice system, but to also inform policy decisions throughout state government. This would essentially establish data collection and analysis for use in policy development as a function within the agency, and help address the more general lack of data for use in planning, especially in this area. Scheduled for markup in committee on Thursday.

H. 551 Restrictive Deed Covenants. The Senate Judiciary Committee also took testimony on this bill last week, which specifically prohibits and defines a process to remove unenforceable racially and religiously restrictive deed covenants. Scheduled for a vote on Tuesday, following discussion and markup.

H,606 Community Resilience, Biodiversity. S. Natural Resources took testimony on Wednesday, following a walk-through of the bill. Most of the discussion centered around definitional changes made on the House floor that narrow the focus to "permanent" forms of conservation that, according to ANR reps, require a significant investment of agency time, and could limit options allowing for more creative alternatives. VNRC spoke in favor of the bill as planning legislation that ultimately leaves implementation up to the legislature. Scheduled for discussion and a possible vote on Wednesday or Thursday, following additional testimony.

H.697 Use Value Appraisal, Forest Reserve Land. Forest, Parks and Rec relayed their concerns in S. Natural Resources last week regarding the scope of the bill as passed by the House – that for forestland this could represent a massive change in the program, allowing for

the enrollment more than 860,000 acres of passively managed forestland – two-thirds of which are already enrolled, subject to active forest management. A possible committee vote is scheduled for Wednesday or Thursday, following discussion.

H.709 Misc Ag Subjects. H.709 as passed by the House would amend the definition of “accessory on-farm business” under Chapter 117 to delete the reference to “principally” produced on the farm, with regard to qualifying products used to determine the percentage of total annual sales. It still however requires a municipality to determine whether qualifying products produced on the farm exceed 50% of total annual sales. It is also intended to clarify that, for purposes of Act 250, the farm exemption includes “small farms” that are subject to RAPs, but are not required to self-certify. This bill was taken up in Senate Agriculture last week, and may serve as a vehicle for other ag-related legislation still under discussion in the House and Senate – but the committee has scheduled a possible vote on the bill, without additional testimony, for Wednesday.

H.740 FY23 Budget. The budget bill was voted out of Senate Appropriations (7-0-0) on Friday, to include the increases for municipal and regional planning and VCGI under the Municipal and Regional Planning Fund as passed by the House (a VPA priority), but without a separate appropriation for another round of bylaw modernization grants. It’s now on the Senate Notice Calendar for a second reading this week.

H.736 Transportation Bill. The version of the House transportation bill voted out of Senate Transportation as a strike-all on Wednesday retains most, but not all of the House provisions included in the bill. The Senate version eliminates two GHG reduction incentive programs (e-bikes and e-recreation vehicles), shifts some public transit appropriations from the T-Fund to the General Fund as one-time appropriations, increases funding going to the Mobility and Transportation Innovation Grant Program, and allocates \$1.2 million to public transit providers to offer free fares.

The Senate version also adds a study of the governing structure of the Burlington International Airport, and requires VTrans to develop a plan and budget to update 1997 VT State Design Standards for roads in 2024 –“to create context sensitive multimodal projects that support smart growth” as recommended by VTrans, working with Smart Growth America in 2015. VPA actively participated in developing the 1997 standards, and in the [2014/15 VTrans/Smart Growth America Project](#) calling for their update. The Senate bill also retains VTrans’s requested amendments to Chapter 117 site plan review language, giving them a bye on specifying agency permit conditions for state highway access approval at that level of review.

H.739. Capital Appropriations. Still under review, discussion, and markup in S. Institutions. The committee has scheduled a possible vote for Wednesday, following additional testimony on state bonding.

House and Senate Schedules (subject to change)

Assembled by Alex Weinhagen and Sharon Murray

Tuesday, 4/19

- 10:15 Solar Power on Farms – DEC, ANR; S. Agriculture
10:15 H.551 Restrictive Covenants – Markup, vote; S. Judiciary
1:00 H.159 Economic Development – Testimony; H. Commerce & Economic Development
1:15 S.234 Act 250 – Possible vote; H. Natural Resources, Fish, Wildlife
1:15 S.210 Housing, Rental Registry – Possible vote; H. Ways and Means
1:45 S.210 Housing, Rental Registry – Testimony; H. Appropriations
2:00 S.188 Cannabis Cultivation Permitting Exemptions – Testimony; H. Agriculture and Forestry
2:45 S.226 Housing Omnibus – Testimony; H. Appropriations

Wednesday, 4/20

- 8:30 H.606 Community Resilience, Biodiversity – Testimony, discussion, possible vote; S. Natural Resources, Energy**
9:00 H.709 Misc Ag Subjects – Possible vote; S. Agriculture
10:15 H.697 UVA, Forest Reserve – Testimony, discussion, possible vote; S. Natural Resources, Energy
10:30 S.148 Environmental Justice – Testimony; H. Natural Resources, Fish, Wildlife
2:30 H.739 Capital Appropriations – Discussion, possible vote; S. Institutions

Thursday, 4/21

- 9:00 H.492 Act 250, Environmental Review Board – Discussion, vote; S. Natural Resources, Energy**
9:00 H.159 Economic Development – Testimony; H. Commerce and Economic Development
9:30 H.546 Racial Justice Statistics – Markup; S. Judiciary
10:00 H.606 Community Resilience, Biodiversity – Discussion, possible vote; S. Natural Resources, Energy
10:30 H.697 UVA, Forest Reserve – Discussion, possible vote; S. Natural Resources, Energy
1:00 H.159 Economic Development – Testimony; H. Commerce and Economic Development

Friday, 4/22

- 10:15 H.518 Municipal Resilience – Discussion, vote; S. Natural Resources, Energy**

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