

Vermont Planners Association (VPA) Legislative Report - April 26, 2022

The legislative session is winding down, with possible adjournment in the next two weeks. Leadership is reportedly aiming to wrap up by May 6. Tracking bills becomes very difficult in the last couple weeks of the session as there are last minute changes in committee, from the floor, and in conference committees. We plan to continue reporting what we can based on what we hear from intern Jonathan Godbout, our eyes and ears at the legislature. Reports are likely to be short, and we will instead focus on more comprehensive updates when we know the final status of various bills once they are signed or vetoed by the Governor.

House Bills

Alex Weinhagen

Here are the house happenings from the last week (April 18-22), plus upcoming House committee meetings for this week (April 25-29). No new bills introduced on the House side.

Updates on Planning Bills

S.226 – Omnibus Housing Bill – Passed the Senate on 3/31/22. Currently in House Appropriations, and expected to head to the full House for a floor vote soon – possibly this week or next. As noted in last week’s report, several provisions in the Senate version have been stripped from the House version; however, most of these were added to S.234 (see below). The one item that appears to have been abandoned is the streamlining of State water/wastewater permitting when a development is served by municipal water/wastewater. Stay tuned for changes by House Appropriations, a full floor vote, and any last minute amendments to the contractor registry to address the Governor’s opposition to that one provision.

S.234 – Act 250 – Passed the Senate on 3/25/22. Currently in House Ways & Means, and expected to head to the full House for a floor vote after Ways & Means gets additional fiscal information on Neighborhood Development Area tax credit impacts. Favorably voted out of House Natural Resources, Fish and Wildlife last week with a bunch of revisions and add-ons. Legislative counsel did a helpful summary of what remains in the bill, which can be found [online](#). Most notably, the proposed road rule to increase jurisdiction was stripped from the bill. This provision would have established Act 250 jurisdiction for development projects creating a single road or driveway greater than 800 feet, or multiple roads/driveways that in combination are greater than 2,000 feet in length. A big change, that if agreed to by the full House and the Senate, could help avoid a veto by the Governor! VPA recommended eliminating the proposed road rule, and recommended more work on the capability and development plan and location/resource based jurisdiction options.

The bill retains new Act 250 criteria for protecting forest blocks and connecting habitats. It requires several important reports by DHCD (designation program overhaul) and the Natural Resources Board (Act 250 items - accessory on-farm businesses, capability and development

plan use, location-based jurisdiction reform). Changes to the Act 250 appeal system from H.492 has been tacked onto the bill – i.e., appeals to an Environmental Review Board instead of the current Environmental Court process. Other add-ons to the bill include a variety of provisions that were originally in S.226:

- 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
- Accessory Dwelling Unit parking maximums – only up to one parking space per bedroom

S.210 – Rental Registry & Housing – Passed the Senate on 2/10/22. Scheduled for a final House floor vote on Tuesday (4/26). As previously noted, the Governor has expressed concern about this bill. However, it now includes various exceptions to the registration program (e.g., apartment buildings with four or fewer units that are owner-occupied), and it includes \$20,000,000 for a DHCD rental housing improvement program that the Governor supports. I expect House approval followed by swift resolution of the differences between the House and Senate versions, so that it can be sent to the Governor quickly.

S.188 – Cannabis, small cultivation permitting exemptions – Passed the Senate on 3/17/22. Currently in House Ways and Means, and expected to head to the full House for a floor vote soon – possibly this week. It's essentially the same as the Senate version of the bill, but it adds some language regarding hemp production. Most significantly on the cannabis cultivation front, this bill would:

- Revise/repeal the requirement that cannabis cultivation occur in an “enclosed, locked facility”. The new standard would require that cultivation occur in an area screened from public view with access limited to the cultivator and people over 21 that have permission from the cultivator.
- Exempt small cultivators (1,000 square feet or less of cultivation) from municipal zoning and Act 250 review as long as the cultivation is outdoors on a parcel of land that was previously subject to the State's Required Agricultural Practices (i.e., previously farmed).

It also includes a provision tied to federal regulation. If the federal government someday removes marijuana from the list of schedule 1 controlled substances, the State Cannabis Control Board shall provide a recommendation as to whether cannabis cultivation regulation should be transferred to the VT Agency of Agriculture, and whether cannabis cultivation should be regulated as farming.

S.148 – Environmental Justice – Passed the Senate on 3/29/22. Discussed in House Natural Resources, Fish and Wildlife last week. Likely to be voted out of committee favorably this week, with amendments to address the composition of and compensation for the interagency committee and advisory council. Stay tuned.

Senate Bills

Reported by Sharon Murray and Jonathan Godbout

H.157 Economic Development. The Senate on Thursday passed a strike-all version of last year's House economic development bill to include the proposed Capital Investment Grant Program and TIF district and pilot project language, along with proposed economic development and workforce incentive and assistance programs and associated appropriations that weren't in the House-passed budget. It's now officially back in House Ways and Means where TIF district provisions are generally not well received, and are up for discussion again on Tuesday. And the Governor made it very clear last week that the bills as passed do not meet his expectations for fully funding workforce development. To move things along, sections of the Senate's bill have already been under review in H. Commerce and Economic Development the past couple of weeks. Not yet clear what will make the final cut – in this bill, or the FY23 budget (H.740 below).

H.492 Environmental Review Board – Passed the House on 3/23. The ERB bill was taken up briefly again last week in Senate Natural Resources to consider the budget implications of the proposed change to a paid professional board (using PUC salaries as a baseline), additional staff, and more district office coverage called for in the bill, as presented by NRB Chair Sabina Haskell. Essentially, she suggested that the state can't afford the anticipated costs of restructuring, which were not included in the budget. The committee asked for a more detailed breakdown of costs, especially during the transition period, but has not scheduled testimony or a vote this week, suggesting it's not a high priority for passage in the Senate as a separate bill. It instead will likely reappear on the floor in a House-passed version of S.234, that consolidates the two bills.

H.518 Municipal Energy Resilience – Passed the House on 3/18. Legislative Counsel provided a walkthrough of the bill in Senate Natural Resources on Friday as applicable to municipal buildings, to include proposed targets, building assessments, and proposed grant and loan programs to fund needed weatherization and efficiency improvements. The committee generally agreed that available funding should apply only to the upgrade of existing buildings, to include heating system upgrades or replacements; and requested more information from Building and General Services regarding grant and loan program administration. A committee vote is scheduled for Tuesday.

H.546 Racial Justice Statistics – Passed the House on 3/22. Senate Judiciary voted out a strike-all version of the House bill creating the Office of Racial Equity within the Admin Agency, to include a Division of Racial Justice Statistics to collect and analyze data specific to racial disparities and biases within criminal and juvenile justice systems, and as more generally applicable to state policy development, along with a 7-member Racial Justice Statistics Advisory Council – all with a sunset/repeal date of June 30, 2027. Now in Senate Appropriations.

H.606 Community Resilience, Biodiversity – Passed the House on 3/16. Senate Natural Resources took testimony last week from The Nature Conservancy regarding their request to also incorporate water-based conservation in the planning process, in order to determine how

conservation can be achieved to its fullest extent. They also heard from Julie Moore, ANR, who spoke against expanding the scope to include water based-resources, and in support of removing references to “permanent” conservation. She also noted that ANR will need up to \$150,000 in FY23 for a consultant and a limited service position to focus on the planning work – an appropriation not included in the bill. Legislative Counsel suggested that permanent conservation is at the core of the bill, but necessarily involves both landowners and the state – it’s a significant policy question. After clarifying that the bill simply mandates the preparation of a conservation plan to provide guidance, the committee voted on Friday (4-0-1) to support the bill as is, while holding the vote open for Senator Campion.

H.697 Use Value Appraisal, Forest Reserve -- Pass the House on 3/8. Senate Natural Resources continued its review of the Forest Reserve bill last week, hearing from forest product industry reps who spoke against the new UVA category that would result in the loss of working forest land and forest products; and from VNRC who spoke in favor of the bill. Much of the committee’s discussion focused on Ecologically Significant Treatment Areas (ESTAs) under the current program, and as the foundation for the new category of forest management. The committee has more questions for Commissioner Snyder, prior to a possible committee vote on Tuesday.

H.709 Misc Ag Subjects – Passed the House on 2/22. The House ag bill voted out of Senate Agriculture includes a new section that specifically exempts development associated with the Franklin County State Airport from ag soil mitigation fees (the impetus for other, associated legislation this session). The House proposed change to the Chapter 117 definition regarding accessory on-farm businesses under Section 4412(11) (deleting “principally” produced), and the proposed Act 250 exemption applicable to all small farms, remain in the bill as voted out of committee. Now in Senate Finance.

H.736 Transportation Bill – Passed the House on 3/22. The Senate passed its version of the T-Bill on Friday (29-0), and sent it back to the House in concurrence, along with proposed amendments. House Transportation took testimony on Friday concerning zero fare public transit. On the House Calendar for consideration Tuesday.

H.739 Capital Appropriations – Passed the House on 3/29. Still under consideration in the Senate, the Senate version of the capital spending bill was voted out of Senate Appropriations as amended in Senate Institutions last week, and is on the Senate’s Notice Calendar for a second reading on Tuesday.

H.740 Budget Bill – Passed the House on 3/25. The Senate version of the \$8.2 billion FY23 Budget Bill passed the Senate on Wednesday and, as expected, the House refused to concur, calling for a conference committee to work through significant differences in the budgets passed in each chamber, with a potential veto in the offing. Key differences involve appropriations for proposed housing and economic development initiatives. The House increase in property transfer tax revenue allocated for planning under the Municipal and Regional Planning Fund (\$5.88 million) carried into the Senate budget, but neither includes a separate appropriation for municipal bylaw modernization grants. House members appointed to the conference

committee include Reps. Hooper, Fagan, and Jessup. Their Senate counterparts include Sens. Ktichel, Baruth, and Westman.

For those interested, other bills in the Senate that may yet make it out of committee include:

- H.175 Beverage Container Redemptions – in S. Natural Resources, Energy
- H.446 Surface Water Withdrawals –in S. Agriculture, and S. Natural Resources, Energy
- H.482 Petroleum Cleanup Fund – in S. Natural Resources, Energy
- H.500 Prohibiting Mercury Lamps – in S. Natural Resources, Energy
- H.501 Food De-packaging – in S. Natural Resources, Energy
- H.523 Hydrofluorocarbon Emissions – in S. Natural Resources, Energy
- H.551 Restrictive Covenants – in S. Judiciary

House and Senate Schedules (subject to change)

Assembled by Alex Weinhagen and Sharon Murray

Monday, 4/25

Nothing

Tuesday, 4/26

8:30 H.697 UVA/Forest Reserve Land –Discussion, possible vote; S. Natural Resources, Energy

9:00 S.210 Housing, Rental Registry – Discussion of possible amendments; H. General, Housing and Military Affairs

9:00 H.466 Surface Water Withdrawals –Testimony; S. Agriculture

9:45 H.518 Municipal Energy Resilience –Discussion, vote; S. Natural Resources, Energy

2:30 S.226 Housing Omnibus – Discussion of possible amendments; H. General, Housing and Military Affairs

1:15 S.148 Environmental Justice – Possible vote; H. Natural Resources, Fish, Wildlife

3:00 S.188 Cannabis Cultivation Permitting Exemptions – Testimony; H. Ways and Means

3:15 S.181 Miscellaneous Municipal Regulatory Authority – Testimony; H. Government Operations

Wednesday, 4/27

8:45 H.551 Restrictive Covenants – Markup, vote; S. Judiciary

9:15 S.226 Housing Omnibus – Discussion and possible vote on amendments; H. General, Housing and Military Affairs

10:15 S.234 Act 250 – Legislative counsel and fiscal analysis; H. Ways and Means
Afternoon S.226 Housing Omnibus – Discussion and possible vote on amendments; H. General, Housing and Military Affairs

2:30 H.709 Misc Ag Subjects – Walk-through; S. Finance

Thursday, 4/28

Nothing

Friday, 4/29

Nothing

Climate Caucus and Council

Peg Elmer Hough

Climate Caucus: Check out this [YouTube of the April 14 EV owners show n tell](#) at the Statehouse. It includes VT graphics showing cost comparisons with gas-fueled cars. Great practical information on maintenance and costs. A wide range of more than seven makes of cars were presented. The videographer bought his Chevy Bolt for \$15,000 with the help of Capstone's Mileage Smart program, which shows how accessible the shift from gas-fueled to EV can be.

Climate Council: Has a new website - <https://climatechange.vermont.gov> - now housed at ANR. Staff are referred to as working for the Global Warming Solutions Act, rather than as something like a State Climate Office (as in Maine). They held [public forums April 12-13](#) to offer an overview of the Climate Council's work and the now-adopted Climate Action Plan. Some great graphics in the video of the April 13 forum linked here.

The Council admits that the plan was slammed together too quickly and adopted to meet a deadline in the legislation. They are now actively engaged in learning more via more public outreach, better information on costs, measured data and results, and more...which will feed into an amended plan. About 100 people participated, in smaller breakout groups, providing input. There is clear success in the number of plan recommendations reflected in legislation moving to fruition this session. They heard requests for more municipal resources, and advocacy for smart growth incentives. They heard criticism about not getting down to the practical everyday lifestyle changes needed to be taken by everyone possible, and not addressing how to gain that massive shift. A summary will be provided to the Council soon.

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