

Vermont Planners Association (VPA)

Legislative Report – January 17, 2023

Senate Bills

Reported by Kati Gallagher and Kerry Brosnan

S.1 - Act 250 jurisdiction over aircraft hangars - Exempts state-owned aircraft hangars from Act 250.

S.5 - Clean Heat Standard - Would establish the Clean Heat Standard to reduce Vermont's greenhouse gas emissions from the thermal sector through a tradeable credit system. One of the key climate action bills this session.

House Bills

Reported by Alex Weinhagen and Kerry Brosnan

H.2 – Act 250 aircraft hangar exemption – This bill proposes exempt from Act 250 review the construction of aircraft hangars up to 120'x120' at State-owned airports.

H.5 – Planning study and future land use maps – This bill would charge VAPDA with reporting on ways to improve coordination between municipal, regional, statewide planning. Requires a report with recommendations by December 2023 on a laundry list of topics: aligning planning policies (municipal, regional, state); advancing energy plans; improving and implementing future land use maps; aligning State investments and policy with local and regional plans; use of future land use maps in Act 250 and Section 248 review.

H.6 – Act 250 stream and elevation jurisdiction – This bill would increase Act 250 jurisdiction: within 100 feet of streams above 1500 feet; any subdivision above 2000 feet.

H.15 – Golf course green space & park protection – This bill would designate golf courses as protected green space with limited development. Allocates funds to purchase and convert golf courses to State Parks.

H.16 – Rail service expansion study – This bill charges VTrans with studying expansion of passenger and freight rail service in Vermont and the region.

H.29 – River Corridors, State jurisdiction – This bill would require a State permit for all development in river corridors by 2025, with an allowance for municipal delegation.

H.30 – Wetlands, net gain policy/permitting – This bill would update State wetland policy & permitting to require a net gain in wetlands when wetland permits are issued. Also requires updating/improvement of State wetland mapping.

H.31 – Aquatic nuisance control moratorium and study – This bill would place a one-year moratorium on the use of pesticides to control aquatic nuisances (e.g. milfoil) to allow for study of alternatives.

H.36 – Forest block planning exemption – This bill would exempt small municipalities from the existing requirement to address forest blocks and habitat connectors in municipal plans.

H.42 - Public meetings, extending flexibility – This bill would extend covid-era public meeting allowances until July 1, 2024 – e.g., annual meeting scheduling, remote participation, fully remote public meetings, etc.

Updates on planning bills

Housing Bill – Bongartz & Ram Hinsdale – Representative Bongartz and Senator Ram Hinsdale have been working on a bill to increase housing supply. The version we've seen includes limited municipal permitting reform and pre-emption of some zoning practices and development review. VPA's Legislative Committee is working on providing feedback on this. We anticipate this bill will be blended with other more general housing provisions as part of a larger housing omnibus bill to be introduced by Senator Ram Hinsdale in the Senate Committee on Economic Development, Housing and General Affairs. Stay tuned. More information once the bill is introduced or taken up in committee.

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

Vermont's Climate Action Plan

Vermont Planners Association Recommendations

January 13, 2023



Overview

The reality of climate change makes our state's future uncertain, affecting our natural resources, the built environment, our economy and jobs, public health, food system and more we cannot anticipate. The most impactful way to address the climate crisis in Vermont is through good land use planning. Good planning helps communities navigate uncertainty and achieve the best outcomes for all, particularly those whose voices often aren't heard. After passing the Climate Action Plan, Vermont now needs to provide coordinated oversight and funding at the state, regional, and municipal level implement the recommendations.

VPA is grateful for the enormous effort by the Vermont Climate Council to develop the Vermont Climate Action Plan, as well as the Legislature's actions to implement it through recent legislation. However, there is much more to accomplish. VPA believes there are two main categories of work to be done: **climate mitigation** (actions that are taken to reduce the speed and amount of climate change) and **climate adaptation and resiliency** (actions that are taken to reduce or respond to adverse impacts from climate change, or to take advantage of beneficial impacts).

Recommendations



1. **Enabling Statutes:** Make revisions to the planning half of Title 24, Chapter 117, Sections 4302, 4348a and 4382, in order to modernize the law and integrate climate mitigation and adaptation and environmental justice into municipal and regional plans. In addition, update Act 250 in keeping with the Climate Action Plan recommendations.



2. **Funding:** Fully restore allocations to the Municipal and Regional Planning Fund (MRPF). The CAP recommends a new staff position in each RPC, as well as funding the RPC's and VHCB according to the original formula. The Municipal Planning Grants and VCGI should, likewise, be fully funded according to formula.



3. **Coordination:** Establish a single statewide climate planning office or interagency panel (including representation from planners) to distribute funding, share best practices, and improve coordination among state agencies. The body should be charged with integrating state policy, implementing the Climate Action Plan recommendations related to land use, aligning them with Act 250, municipal and regional planning processes, and other relevant plans with equity as a lens to focus and guide this work. The Office would also assist in prioritizing climate planning and investment in the allocation of state and federal funding.



4. **River Corridors:** Revise state oversight of river corridors to recognize that different standards and tools are needed within existing settlements, including residential and mixed-use areas surrounding but outside the designated centers.



5. **Data:** Provide VCGI with the funding and authority to organize data collection, analysis, and interagency/sector policy buy-in on data needed to help communities navigate climate change uncertainty and achieve the best outcomes for all. This includes \$1.75 million for new aerial photographs that will document change and provide crucial real-world data to planners.

Challenges



Enabling Statutes: Although regions and municipalities are starting to address climate change in their planning process, they are not specifically enabled (or required) to do so under current statutes (24 V.S.A Chapter 117). Adding this would support consistency and coordination from the state CAP to local implementation.



Funding: Vermont has done an excellent job of creating plans and goals to address future challenges. However, historically there has been far less financial support for implementation. In addition, municipalities and regional planning agencies are not immune to inflation challenges that worsen the chronic underfunding of planning in the state and prevent us from taking proactive measures to address challenges.



Coordination: Once enabling statutes are aligned and funding is secured to advance the CAP, Vermont needs an organization to oversee coordinated, multi-sector land use policies to address the combined challenges of climate adaptation and mitigation. This would ensure holistic approaches infrastructure investment, housing needs, economic development, and natural resource conservation.



River corridors: Increasing frequency and severity of flooding will put existing settlements near rivers at risk. While new development should avoid areas prone to flooding and erosion, creative approaches are necessary to make historic centers more resilient where they stand. Adaptation and resilience would include floodproofing existing buildings, or using green infrastructure to absorb floodwaters naturally.



Data: Robust data and mapping will be necessary to support all the above initiatives, particularly to ensure equitable distribution of the impacts of climate change as well as the resources needed to respond to it. National data, while helpful at a state level, is not accurate enough at the regional or local scale to support informed decision-making on environmental justice issues.

VPA Contacts:

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Bolstering Funding for Planning **Vermont Planners Association Recommendations**

January 13, 2023



Overview

Vermont faces unprecedented challenges that require planning and action on many fronts – e.g., housing crisis, climate adaptation and mitigation, infrastructure investment, etc. The Legislature made unprecedented investments in FY22 & FY23 to address these challenges. It's time for all of us to get to work on implementation! Given this historic opportunity, and the complexity of these issues, planning for coordinated solutions is essential at municipal, regional, and statewide levels.

Recommendations

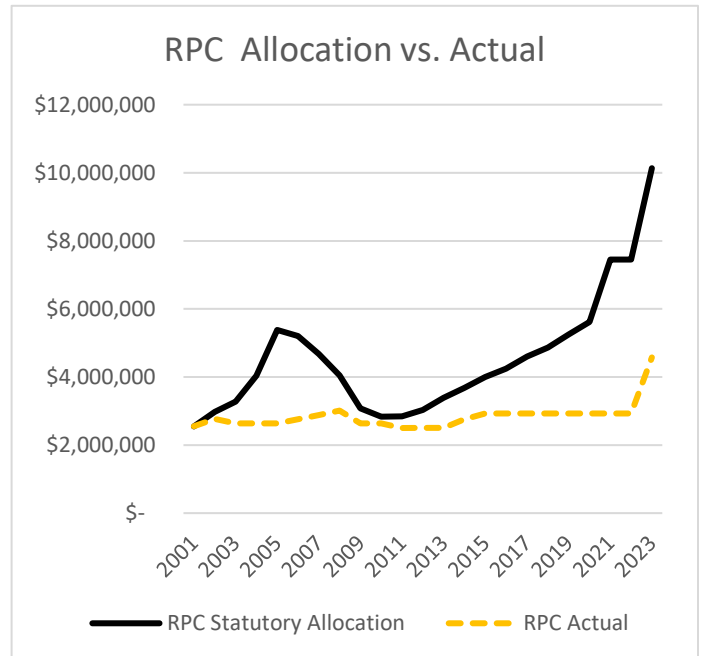
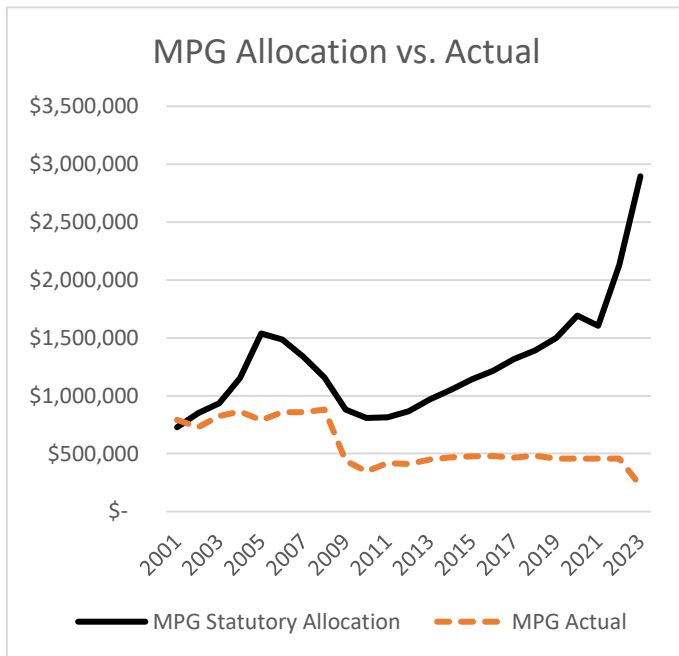
1. **Restore funding of the Municipal and Regional Planning Fund to the level outlined in existing State statute, 24 V.S.A. § 4306(2) – i.e., 17% of property transfer tax revenue.**
 - a. **Increase FY24 funding for regional planning commissions by 3% to \$4,711,648 consistent with the rest of State government increases to partially address inflationary pressures.**
 - b. **Increase FY24 funding for the Municipal Planning Grant (MPG) program to at least \$800,000.** Sustain this increased base funding for municipal planning in future fiscal years, as discussions continue on restoring full funding levels outlined in statute.
 - c. Reaffirm the future of the MRPF by ensuring unspent balances remain in the fund and accrue interest for future use. As already provided for in existing State statute - 24 V.S.A. § 4306(2).
2. Ensure the funding increase to the MPG program is focused on municipal planning related to the statewide challenges Vermont faces – now and on the horizon.
 - a. Climate Action – adaptation and mitigation
 - b. Infrastructure – water/sewer, transportation, stormwater, broadband
 - c. Housing – increasing supply, providing affordable housing, addressing demographic change and equity issues
 - d. ARPA & Federal Infrastructure Funding – prioritization and efficient use
3. Allocate FY23 budget adjustment funding to support the acquisition of improved statewide LIDAR data. High resolution elevation data and other LIDAR products support all areas of planning, from climate adaptation to housing development. VCGI has applied for USGS funding, which requires state matching funds.

Challenge

Vermont has real opportunities to address unmet needs, but requires greater investment in planning to effectively meet these challenges. The Municipal and Regional Planning Fund (MRPF) is a key State funding source for planning. The MRPF provides substantial funding to the regional planning commissions, limited funding to municipalities through the Municipal Planning Grant program, as well as funding for the VT Center for Geographic Information (VCGI). For twenty years, the MRPF has been seriously underfunded. Thankfully, the Legislature began to address this with targeted increases in the FY23 budget. Continued investment in the MRPF remains necessary!

Pursuant to 24 V.S.A. § 4306(2), the MRPF “shall be composed of 17 percent of the revenue from the property transfer tax under 32 V.S.A. chapter 231 and any monies from time to time appropriated to the Fund by the General Assembly or received from any other source, private or public.” Unfortunately, actual funding has not followed this formula, and the MRPF has been grossly underfunded even as property tax transfer revenue has grown substantially. As shown in the charts below, funding for regional planning commissions (RPCs) and the Municipal Planning Grant program was largely flat or declining for two decades. This sustained funding gap has compromised Vermont’s ability to plan for and address the challenges we now face.

Funding for the MPG program remained flat until FY2009, when it was slashed by 50%. Since 2009, property transfer tax revenues have ballooned thanks to ever increasing property valuation and property sales. In FY22, the MRPF only provided a fraction of what it should have to support planning per the statute. RPCs received only 45% and municipalities only 7.7% of the statutory allocation. Even with the funding boost in FY23, RPC and municipal planning funding is expected to be small fraction of the statutory allocation.



Opportunity

Taking action on climate adaptation and mitigation, building critical infrastructure, creating more housing – all while staying focused on equity issues. Vermont communities are up for these challenges, but they need adequate funding to plan for and implement solutions. Every year, the Municipal Planning Grant program is oversubscribed. In FY22, there were MPG requests and related municipal bylaw modernization requests totaling \$1,538,385, but only \$943,261 in available funds at the beginning of the fiscal year. In 2021, the total requests exceeded \$849,000; however, MPG funding of \$691,434 was only sufficient to make awards to 39 of 51 applications. In the five-year period of 2018-2022, Vermont communities requested \$4 million in grant funds, but due to underfunding of the program, only \$2.5 million could be awarded.

“Excellent program for small rural towns, who don’t have the resources to investigate or research solutions to community needs. My experience is that needs far outpace resources.” - 2019 MPG Survey Respondent

Unprecedented need for investment in planning:

- ARPA - With a 2024 deadline for obligation of ARPA funds, and a 2026 spending deadline, Vermont communities have much planning to do.
- Federal Infrastructure Funding – With federal infrastructure and inflation reduction dollars flowing, now is the time to plan for and prioritize infrastructure improvement projects.

Community, regional, and statewide planning are needed to identify priorities and implement solutions. Planning is critical to ensuring this infusion of federal funding is used efficiently to address Vermont’s challenges – with community input and equitable outcomes.

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Addressing the Housing Crisis

Vermont Planners Association Recommendations

January 13, 2023



Overview

Vermont is suffering from a housing crisis. It shows up in a variety of ways: employers are having a difficult time hiring, half of renters are paying too much for housing, first time homebuyers can't find homes, people end up having to buy housing further away from their jobs, and there aren't enough housing options available for all parts of the market.

The reason for the housing demand is due in large part to VT's aging demographic, an increase in single person households, and population growth in some regions; combined with a declining rate of new home construction over the last four decades, which was exacerbated by the COVID pandemic.

In addition, Vermont has vast racial disparities in housing, with a nearly 50% difference in the homeownership rate between Black and White families. VT's population growth has been and is projected to be from populations of color¹. Creating more inclusive opportunities will result in economic and social benefits for the state.

Finally, Vermont has not effectively defined where new homes should go. Without that level of planning, state policies and funds can sometimes be at cross purposes making it more difficult to deliver homes to those that need them.

Recommendations

VPA recommends continuing to identify ways to incentivize or encourage development of housing, specifically "the missing middle." There has been a lot of work on this topic already, including a significant amount of funding in the 2022 legislative session. Continued funding is needed for diverse housing types that aren't well represented in the market, and are more inherently affordable – e.g., small multi-unit buildings, small single-unit dwellings, accessory dwelling units. VPA believes there are five specific categories of work to be done:

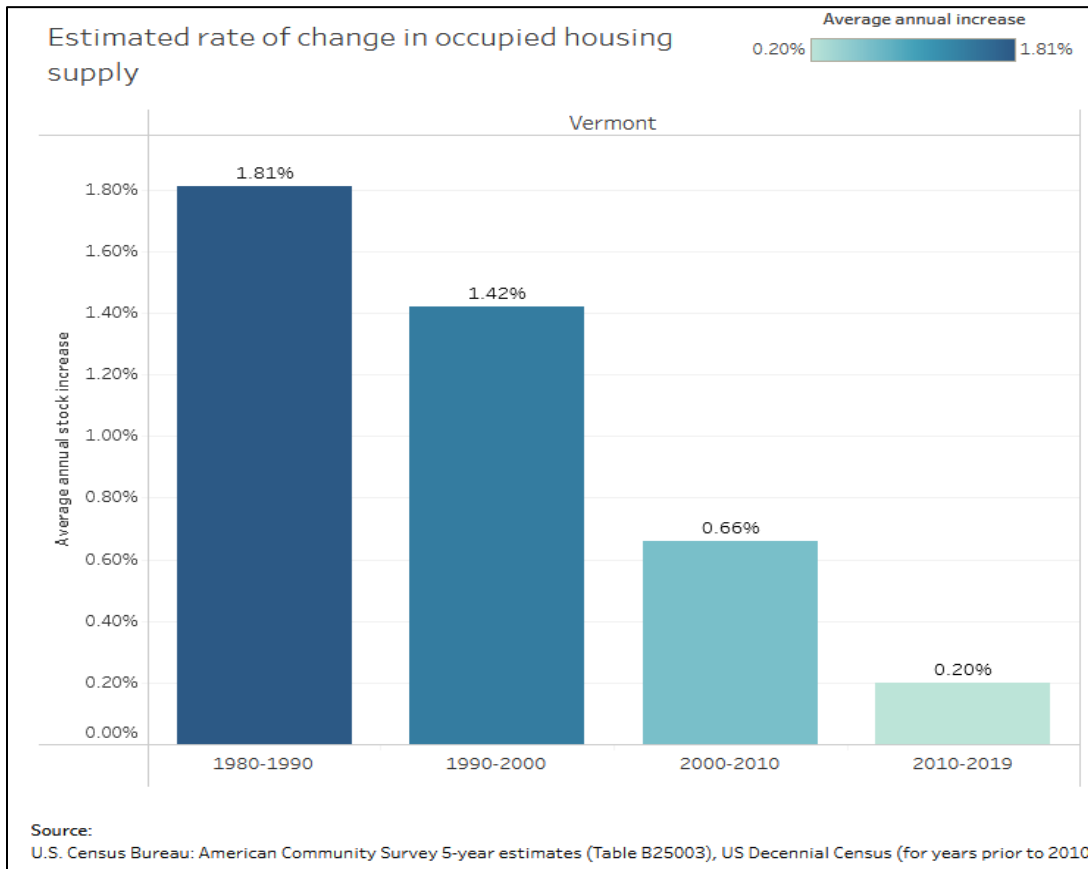
- a. **Wastewater:** A major limiting factor to housing development in our Villages is wastewater. This includes funding issues and permitting issues. Specifically, VPA requests additional funding for the Village Water and Wastewater Initiative for planning and design of rural wastewater systems. VPA also believes it is important to clarify state wastewater permit requirements for Accessory Dwelling Units, reduce State wastewater permit burden for some or all municipal sewer/water hookups, and ease requirements for alternative wastewater systems.
- b. **Zoning and Chapter 117:** Support municipalities in reforming development regulations to promote fair housing, create more diverse housing types and opportunities (dwelling unit size, single vs. multi-unit homes, rental and owner-occupied housing) and increase the supply of housing. In the short-term, continue to fund the Bylaw Modernization Grant program to address incremental and focused changes at the municipal level. Consider targeted changes to Chapter 117 during the 2023 legislative session. Looking forward, establish a study committee, comprised of planners, housing developers, housing providers, equity professionals, and other key stakeholders to analyze and recommend further changes to Chapter 117.
- c. **Data Improvements:** Currently there is no consistent data throughout the state on how many homes exist and are newly built. Without this data it is hard to properly define the problem and the solution. In addition, population and housing projections are necessary for future planning, and are not done consistently at the state level. Provide VCGI with funding and resources needed to produce annually updated municipal- and regional-level population and growth projections that can serve cross sector policymaking.
- d. **State Policies and Programs:** Align state policies and programs to remove barriers to development within the state designation areas (for reference this is only 0.3% of the state's land area). Consider reforms to Act 250 to help facilitate the development of more high-density housing, including reductions in Act 250 jurisdiction within state designated areas as may be recommended by reports commissioned in Act 182 of 2022. Eliminating redundant development review, and the application and mitigation fees associated with those reviews, will lower the cost of housing development in areas that have been planned for, and recognized as, suitable locations for growth.

¹ Report of the Executive Director of Racial Equity, January 15, 2020. Prepared by Xusana R. Davis, Esq.

https://racialequity.vermont.gov/sites/reap/files/doc_library/EDRE%20Report%20to%20GA%202020%20-%20REVISED_0.pdf

- e. **Funding:** In addition to funding planning work for housing as noted above, continue to fund supportive housing programs, and housing for those experiencing homelessness. These programs should include first time buyer education and support for historically disadvantaged groups.

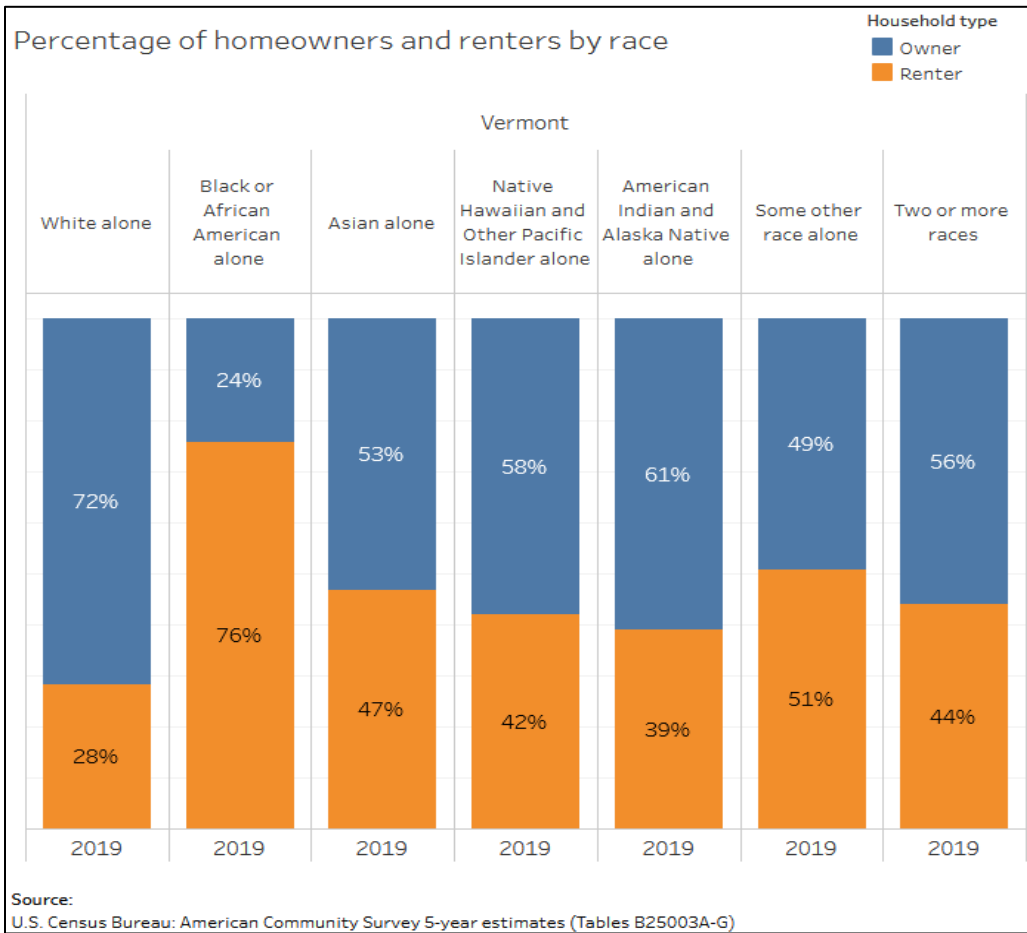
Background Information on Housing Challenges:



Home building declines statewide, while the need for homes has increased. In accordance with Vermont Housing Finance Agencies’ 2020 VT Housing Needs Assessment, “Before 2010, the number of homes in Vermont increased at an average annual pace of 1%.” That pace dropped to only 0.20% between 2010 and 2019. Meanwhile the need for homes has increased due to reductions in household size in all parts of the state, and population growth in some parts of the state. The Needs Assessment also identifies a need for 5,800 new primary homes in Vermont by 2025. This is likely a low projection and we are already behind the ball with COVID challenges.

Housing is unaffordable for many. Nearly 90,000 renter and owner households (36% of all households in the state) pay more than 30% of their income on their housing costs. “These households have the least flexibility to adjust to higher housing prices or move to other locations and are therefore hard hit when housing markets are constrained or decline” (Vermont Housing Finance Agency, 2020 VT Housing Needs Assessment).

Homeownership among Black and African American households is significantly lower than White households. Wealth creation in the United States is largely driven by homeownership. Black Americans have historically been denied access to housing, homeownership, and home loans due to government policies such as redlining, urban renewal, and race-based housing covenants.



Significant needs exist for supportive housing. The 2020 VT Housing Needs Assessment also highlights housing quality challenges, and a continued demand for service-enriched housing. The number of households requiring supportive services far outnumber the services available. Despite significant effort to address homelessness, VT consistently has a relatively high population of people experiencing homelessness.

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Planning for 21st Century Challenges

Vermont Planners Association Recommendations

January 13, 2023

Overview

Vermont statutes governing local, regional, and state agency planning goals and requirements date from the 1960s, to include the Vermont Planning and Development Act (24 VSA Ch. 117) enacted in 1967, and State Land Use and Development Plans (10 VSA Ch. 151, or Act 250) in 1969. State planning requirements were last extensively updated more than thirty years ago in response to a period of relatively rapid growth and development, under Vermont's 1988 Growth Management Act (Act 200).

Planning at the local and regional level improved dramatically following the passage of Act 200, in part due to consistent, dedicated state funding for planning, and Vermont's Geographic Information System (VGIS), established under the Municipal and Regional Planning Fund. Our now outdated state planning requirements, however, do not adequately address 21st century challenges, nor more modern, data- and community-driven, approaches to planning (see Vermont's Statutory Planning Framework, attached).

Recommendations

- ***Establish and adequately fund a one-to two-year "Vermont Planning Commission" staffed by the Department of Housing and Community Development, to review and recommend updates to the state's current planning framework, including state statutes governing municipal, regional, and state agency planning, and in particular state planning policies and required plan elements.***
 - Ensure that the Commission includes representation from affected planning and development organizations in the state (e.g., VAPDA, VPA, VCGI, VLCT) and state agencies, departments, commissions, and organizations currently involved in environmental and land use planning, land conservation, land use law, housing, and community development.
 - Authorize and fund technical planning consultant services needed to support the Commission.
 - Report to the Vermont General Assembly by January 2025, to include recommended statutory changes regarding state planning goals, required plan content (elements), and plan adoption and review procedures applicable to municipal, regional, and state agency planning.

Challenges

Now, more than ever, Vermont needs more informed, coordinated, and strategic local, regional, and state agency planning to address the existential challenges we face. We can no longer rely on outdated planning requirements, historic trends, or the status quo to effectively anticipate and address a changing climate, shifting demographics, ongoing housing shortages, emerging technologies, needed infrastructure improvements, or community resilience, equity, and environmental justice. The planning framework established in state statutes over the past fifty years lacks the substance, focus, and adaptability needed to adequately anticipate and meet the challenges ahead.

- Planning at all levels has become increasingly siloed, technical, and complex. The structure of our current statutory planning framework makes it difficult to address cross-cutting statewide priorities such as climate change.

- State planning requirements are “one size fits all” regardless of context, scale, or size – they lack a strategic focus, making it difficult to more specifically identify and address areas and issues of particular state, regional, or local concern.
- Current state planning goals do not clearly define critical state interests or incorporate more recently enacted state plans, goals, and strategies – e.g., as intended to address climate change, renewable energy, community sustainability and resilience, equity, and environmental justice.
- State planning requirements are structured so that plans tend to focus more on describing the status quo, rather than defining a clear roadmap for the future.
- State planning goals and required plan “elements” are topical rather than issue-oriented, making it difficult to adequately address cross-cutting or specific areas of concern. For example, comprehensive planning, as currently structured, treats land use planning separately from planning for public works and infrastructure. As a result, many plans fail to adequately address the public infrastructure, and associated capital investments needed to support preferred forms of land use, including higher density housing and mixed-use development.
- The processes defined in statute currently reinforce this critical gap in decision making, reducing the usefulness of comprehensive planning. At a time when we anticipate federal infrastructure funding, and the climate action plan demands rethinking how we invest in, build, and deliver public services, few municipalities are well positioned to take advantage of available or potential future funding.
- Planning is also increasingly data-driven, but the state no longer provides community profiles or more comprehensive datasets for use in coordinated local, regional, and state agency planning – including but not limited to basic population, housing, and employment forecasts. The use of federal census and community survey data, especially at the local level, is increasingly problematic and unreliable.
- Planning also now demands broader, more extensive forms of community engagement beyond the minimum, outdated public hearing requirements called for in statute.

Opportunities

While Vermont’s planning processes were cutting edge when established more than 30 years ago, contemporary planning practices have progressed to be much more anticipatory and strategic –e.g., through issues identification, new forms of community engagement, modeling and scenario planning, and the use of applications that focus more on equitable and fiscally viable community outcomes.

Financial, legislative, and administrative support are needed to assess and update state planning requirements and unlock the potential power of local, regional, and state agency planning to more broadly engage local communities, to identify and address current and anticipated needs, to readily adapt to changing circumstances, and to more strategically focus on plan outcomes – including implementation priorities, programs, and actions. We need the ability and guidance to craft plans that are relevant, functional, and useful – that support good decision-making, community investment, and adaptive and equitable responses to changing times and conditions.

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Vermont's Statutory Planning Framework

Relevant Statutes:

Vermont Planning and Development Act (24 VSA Ch. 117; State Planning Goals, Plan Elements)

State Land Use and Development Plans (10 VSA Ch. 151; Act 250 – Capability and Development Plan)

State Agency Planning (3 VSA Ch. 67; Agency Planning – Planning and Coordination)

- **State Planning and Development Goals.** There are two separately adopted sets of statewide planning goals and policies that are intended to guide, inform and coordinate local, regional, and state agency planning: 1) the 1975 Act 250 "Capability and Development Plan" (now largely ignored, but under review by the Natural Resource Board), and 2) 1988 "Act 200" state planning goals (24 VSA § 4302) – numbering fourteen as most recently amended.
- **Plan Content.** The Vermont Planning and Development Act (24 VSA Ch. 117) governing local and regional planning also establishes a number of required "plan elements" specific to municipal and regional plans (§§ 4348a, 4382), and prescribed plan adoption processes.
- **Regional Plans.** Regional commissions are required to adopt regional plans that are consistent with state planning goals, address eleven required regional plan elements and associated maps, and are compatible with other regional, and regionally "approved" municipal plans.
- **Municipal Plans.** Municipalities (cities, towns, incorporated villages) are encouraged but not required to plan. Adopted municipal plans must incorporate twelve required plan elements, and associated maps.
- **Data, Analyses.** Municipal and regional plans must be based on available data and analyses.
- **Municipal Plan Preparation.** Municipal plans are prepared by appointed or elected volunteer planning commissions, typically with regional planning commission or planning consultant assistance.
- **Regional Planning Preparation.** Regional plans are prepared by commission staff and committees, sometimes with outside consultant assistance.
- **Public Outreach.** Community engagement in the planning process is required, at minimum through warned public hearings prior to plan adoption.
- **Plan Amendments, Updates, Reoption.** Plans may be amended at any time, but municipal and regional plans must be updated and readopted every eight years to remain in effect.
- **Municipal Plan Approval.** Municipalities may submit local plans for regional review and "approval" – for consistency with state planning goals, compatibility with the regional plan and other approved municipal plans and, in association with "enhanced" energy planning, to benefit from available incentives (e.g., grants, impact fees, state designations, energy facility siting).
- **Municipal Confirmation.** Regional commissions are also required to "confirm" the local planning process at least twice during each eight-year period that a plan is in effect, to include an interim review of the status of local plan implementation efforts.
- **State Agency Planning.** State agency planning now occurs largely outside of the planning framework established under Act 250 and Act 200, but is instead governed by federal, legislative, or administrative mandates specific to each agency plan. State agency planning is generally no longer required to address state planning and development goals, or associated consistency and compatibility requirements.

Vermont Planners Association (VPA) Legislative Report – January 23, 2023

The first week of the legislative session was largely dedicated to introductions and overviews, but the second week brought some more substantive legislation from a planning perspective. See below for reporting by Alex Weinhagen, Kati Gallagher, and Kerry Brosnan.

Senate Bills

Reported by Kati Gallagher and Kerry Brosnan

New bills introduced

S.23 – Prohibiting Certain Forms of Discrimination – this bill would make a minor change to housing discrimination provisions (9 V.S.A. § 4501) prohibiting discrimination on the basis of a person’s weight.

Updates on planning bills

S.5 - Clean Heat Standard – Senate Natural Resources and Energy continues testimony on this bill this week. Also noteworthy, the Governor’s budget includes his own version of addressing greenhouse gas emissions in the thermal sector, [as reported by VT Digger](#).

House Bills

Reported by Alex Weinhagen and Kerry Brosnan

New bills introduced

H.56 – Ratepayer Protection and Thermal Energy Network Act – This bill proposes to give the Public Utility Commission (PUC) jurisdiction over the construction and operation of utility model thermal energy networks. It would require the Commission to adopt rules on the permitting process for such operations. It prohibits the PUC from approving permits to expand natural gas service territory. It also directs the Commission to change the energy assistance program options for customers with low incomes and would require the Commission to adopt rules that include a tiered discount system.

H.58 – Zoning Administrator appointment – This bill would make a minor change to the incompatible positions that a ZA cannot also hold. Existing statute prohibits a ZA from serving on the board of adjustment or the development review board. As proposed, the municipal planning commission, the regional planning commission, and the legislative body (e.g., Select Board, City Council) would also become incompatible for ZAs.

H.64 – Prohibiting wake boats – This bill proposes to allow the municipality or municipalities surrounding an oligotrophic lake to prohibit the use of wake boats on the oligotrophic lake and to create a modified process for the Agency of Natural Resources, Department of Environmental Conservation, to amend the Vermont Use of Public Waters Rules when a municipality or municipalities surrounding an oligotrophic lake have prohibited the use of wake boats on the oligotrophic lake.

H.68 – Housing and municipal permit reform – This bill proposes to remove various State and municipal regulatory barriers for fair zoning and housing affordability. This is the housing and permit reform bill initiated by Representative Bongartz. It includes a variety of helpful changes as well as some

problematic pre-emptions of municipal zoning, particularly in areas served by municipal water and sewer – e.g., mandatory allowance for residential density of five units per acre; mandatory bonuses for affordable housing projects (40% density bonus and an extra floor above building height maximums); parking requirements limited to no more than one space per dwelling unit. It looks like the provisions of this bill will be taken up by the Senate first – see note below. The VPA Legislative Committee is preparing testimony with suggested revisions.

**** NOTE** – The provisions in this House bill have been incorporated into a larger omnibus housing bill, which is currently in draft form and under discussion in the Senate Economic Development, Housing, and General Affairs committee. Discussion of the municipal permit reform sections began on Friday (1/20/23). You can find the draft bill (DR 23-0091) on the committee’s website [here](#). Individual VPA members are encouraged to review the bill, and contact members of this Senate committee with comments. Be sure to copy your email to the committee staff person as well. Contact information for these five Senators and the committee staff assistant is available on the committee’s website [here](#). We recommend forwarding these comments to your legislators as well, so they are in the loop early on. Please forward your comments to [Alex Weinhagen](#) and [Darren Schibler](#) as well, so our VPA Legislative Committee is aware of them.

H.70 – Telecommunications facilities, PUC review extension – This bill proposes to make multiple changes to 30 V.S.A. § 248a, the statute that governs the siting of telecommunications facilities, including extending the sunset on applications for an additional three years. In other words, continued pre-emption of any municipal review of telecom facilities – i.e., as it has been for several/many years.

H.73 – Revoking Vermont's use of California's Clean Air Act waiver – This bill proposes to prohibit Vermont from using California’s Clean Air Act waiver to set motor vehicle emission standards. Introduced by members of the minority party, this bill is unlikely to go anywhere.

H.74 – Repeal of the Global Warming Solutions Act – This bill proposes to change the State’s greenhouse gas reduction requirements to goals and repeal the Vermont Climate Council. Introduced by members of the minority party, this bill is unlikely to go anywhere.

Updates on planning bills

Housing Bill – Bongartz & Ram Hinsdale – As noted above under H.68, the Senate Economic Development, Housing, and General Affairs Committee began discussing housing-related municipal permit reform on Friday (1/20/23), as part of a large, draft omnibus housing bill. The draft Senate bill currently includes some interesting new sections that are not in the H.68 bill: appeals of ZA decisions (section 5a); RPCs providing “Housing Resource Navigators” with \$300,000 in funding to make that happen (section 11a); some significant Act 250 jurisdictional changes and exemptions (section 12). It also includes many more sections on funding that show lots of promise, but haven’t been fleshed out yet. This bill has not been formally introduced, but can be found on the committee’s webpage. It may become a committee bill. Unclear as of Friday. Some concerns being discussed by the VPA Legislative Committee were also raised by Senators during Friday’s initial discussion.

H.42 - Public meetings, extending flexibility – This bill was fast tracked. It passed both the House and Senate last week, and is now awaiting the Governor’s signature. It would extend covid-era public meeting allowances until July 1, 2024 – e.g., annual meeting scheduling, remote participation, fully remote public meetings, etc. However, note that the time extension for posting meeting minutes has NOT been renewed.

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA) Legislative Report – January 31, 2023

Not much new on the Senate side this week as discussion of the omnibus housing bill and affordable heat act continue, but plenty of new bills in the House. See below for reporting by Alex Weinhagen, Kati Gallagher, and Kerry Brosnan.

Senate Bills

Reported by Kati Gallagher and Kerry Brosnan

New bills introduced

S.38 – Act 250 Downtown Master Plan Permits – this bill would allow municipalities to apply for master plan permits from Act 250 designated downtowns and neighborhood development areas, which in turn would allow individual projects to be reviewed as permit amendments. The bill also would allocate \$300,000 to the Municipal and Regional Planning Fund and \$500,000 to the Natural Resources Board to support applications for master plan permits. Unclear if this bill has legs.

Updates on planning bills

S.5 - Clean Heat Standard – Senate Natural Resources and Energy continued testimony on this bill.

DR-0091 – Omnibus Housing (not yet) Bill – see summary under House Updates on Planning Bills.

House Bills

Reported by Alex Weinhagen and Kerry Brosnan

Updates on Planning Bills

H.42 - Public meetings, extending flexibility – This bill was fast tracked and signed by the Governor on January 25 (Act 1). It extends most of the covid-era public meeting allowances until July 1, 2024 – e.g., annual meeting scheduling, remote participation, fully remote public meetings, etc.

Omnibus Housing Bill – Senate Economic Development, Housing, and General Affairs – Discussion of the omnibus housing bill (DR 23-0091) continued in this Senate committee. Nearly every day was packed with testimony from a variety of experts and interest groups. You can find the draft bill (DR 23-0091) on the committee’s website [here](#). Discussion of the municipal permit reform and pre-emption portions of the bill continue to generate a lot of comments – see sections 1-9.

- **Section 1 – Parking** – restricts how much can be required to no more than one space per dwelling unit
- **Section 2 – Density & Building Height** – when served by municipal water and sewer: municipality must allow a residential density of at least five units per acre; mixed use developments and affordable housing developments must be granted a 40% density bonus and additional building height (one more habitable floor) beyond the municipality’s maximum.

- **Section 3 – Emergency Shelters** – requires that this use type be allowed, and limits review in the same fashion as uses listed in section 4413(a)(1) – e.g., schools, state buildings/uses, churches, hospitals, etc.
- **Section 4 – Definitions** – provides definitions for “duplex”, “emergency shelter”, “multi-unit dwelling” – would allow each unit of a duplex to have an ADU
- **Section 5 – Bylaw Reporting** – requires additional reporting to the State (DHCD) when municipal bylaws are updated
- **Section 5a – Appeals** – changes who can appeal a ZA permit/action; eliminates the category of “Any 10 persons”
- **Section 6&7 – Subdivision Administrative Approval** – allows municipalities to enable administrative review of minor subdivisions
- **Section 8 – Appeals** – prohibits appeals of municipal conditional use approvals for residential development on the basis of “character of the area” for projects within certain State designation areas: downtowns, neighborhood development areas, and growth centers.
- **Section 9 – Decisions** – for housing development, prohibits municipal review boards from imposing conditions that would increase lot size or parking requirements, or reduce density or building size beyond what is required/allowed for in the municipality’s land use regulations. Includes an option to do so if the municipality demonstrates it is required by a non-discretionary standard (e.g., wetlands, flood hazard area, etc.), and that it will not result in an unequal treatment of housing or an unreasonable exclusion of housing development

VPA is finalizing our comments. We will distribute these to everyone once the Executive Committee reviews, edits, and approves them. Alex Weinhagen is scheduled to deliver VPA’s testimony on Wednesday (2/1). Individual VPA members are encouraged to review the bill, and contact members of this Senate committee with comments. Be sure to copy your email to the committee staff person as well. Contact information for these five Senators and the committee staff assistant is available on the committee’s website [here](#). We recommend forwarding these comments to your legislators as well, so they are in the loop early on. Please forward your comments to me as well, so our VPA Legislative Committee is aware of them.

New bills introduced

H.95 – Municipal energy resilience grant revision – This bill proposes to amend the Municipal Energy Resilience Grant Program to add the purchase or replacement of equipment that reduces energy consumption to the list of eligible uses of a grant award.

H.96 – Clean Heat Standard (House version) – House version of the Senate bill that is already under discussion (S.5). This bill proposes to establish the Clean Heat Standard to reduce Vermont’s greenhouse gas emissions from the thermal sector. The Clean Heat Standard shall be administered by the Public Utility Commission with assistance from the Clean Heat Standard Technical Advisory Group and the Equity Advisory Group.

H.100 – Pedestrian Safety – This bill proposes to allow municipalities to seasonally install in-street pedestrian crossing signs in crosswalks, allow municipalities to lower certain speed limits on State highways, and express the General Assembly’s intent that the Traffic Committee should not increase the speed limit on a State highway in response to a municipality’s request that the speed limit be lowered.

H.101 – Transportation Affordability Act of 2023 – Multifaceted bill with many provisions - e.g., VTrans plan for greenhouse gas reductions; transportation and climate initiative program; self-funded feebate program based on car efficiency; appropriate funds for bike/ped program and ebike incentive program; amend the State’s transportation policy related to emissions and infrastructure; update complete streets policy; VTrans update of the VT State Standards; work with Amtrak on service modifications; appropriate funds to maintain zero-fare service on urban public transit.

H.105 – Community Resilience & Disaster Mitigation – This bill proposes to create the Community Resilience and Disaster Mitigation Grant Program and the Community Resilience and Disaster Mitigation Fund. This bill also increases the assessment on certain insurance company premiums for the Community Resilience and Disaster Mitigation Fund.

H.110 – Telecom facilities, PUC review extension (bill #2) – This bill proposes to extend the sunset on applications under 30 V.S.A. § 248a, the statute that governs the siting of telecommunications facilities, for an additional three years. In other words, pre-empting municipal review of telecom facilities until 2026. Essentially does the same as H.70.

H.111 – Workforce housing & Permitting – Tackles the housing issue from a different angle than the municipal permitting pre-emption in H.68. This bill proposes to make multiple changes related to housing investment and regulatory reform. It would amend the Vermont Rental Housing Improvement Program to expand eligible uses of funds and provide additional funding, amend the Missing Middle-Income Homeownership Development Pilot Program to expand geographic distribution of funds and provide additional funding, and create the Middle-Income Rental Housing Revolving Loan Program and a revolving loan fund to provide subsidized loans for rental housing developments that serve middle-income households. The bill would also amend the Municipal Bylaw Modernization Grant Program to exempt municipalities with populations of less than 1,500 persons from the grant requirement to implement the complete streets principals. It would appropriate funds to the Municipal Planning Grants with a portion of the grants reserved for municipalities that do not yet have a municipal plan or do not yet have zoning bylaws. The bill proposes to hire Housing Resource Navigators at the Vermont Association of Planning and Development Agencies for use by the regional planning commissions. It would exempt housing projects in downtowns and village centers with zoning from needing an Act 250 permit. It would remove the ability of 10 residents or property owners to appeal municipal zoning decisions. It would allow towns to register with Agency of Natural Resources (ANR) to issue authorizations for wastewater permits, in lieu of the ANR permit. It would not require mitigation of primary agricultural soils under Act 250 for an alternative or community wastewater system that will serve development within a designated area.

H.124 – Rural Economic Development Capacity - This bill proposes to provide additional funding and support to rural communities to ensure effective and equitable access to economic development resources. Amongst many other provisions, this bill would change the formula for RPC funding, and would prioritize communities that have not adopted a municipal plan or zoning bylaws for Municipal Planning Grant funding.

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Housing & Permit Reform Legislation

Vermont Planners Association Recommendations



- **H.68 (as introduced) - House Environment & Energy**
- **DR 23-0091, draft 5.1, 1/19/23 (Senate Economic Development, Housing, and General Affairs)**

January 31, 2023

Overview

The housing crisis is real and stems from a number of factors – e.g., a slowdown in residential construction after the 2008 economic collapse, lending restrictions enacted after the great recession, increased cost of building materials, supply chain shortages since the onset of the covid pandemic in 2020, a shortage of skilled labor, rising cost of land, inadequate State and Federal funding for infrastructure, antiquated municipal and State permitting, and unwieldy and slow appeals processes.

State and local government can and should take action in the areas over which we have control. VPA strongly supports modernizing municipal land use regulations, State permitting reform (e.g., wastewater, stormwater, building codes, Act 250), as well as changes to expedite development review appeals processes. Both H.68 and the larger housing omnibus bill in the Senate include important reforms and funding. We recommend the revisions below to improve these bills, and to set the stage for even more impactful permit reform in the 2024 legislative session.

General Comments

1. We support most sections of the bill. We hope our comments below will help refine and improve the bill, particularly the sections that deal with municipal zoning reform. We recommend language be added to the bill to convene a commission or stakeholder group (housing advocates, municipal planners, developers, regional planning commissions, etc.) to evaluate and provide additional recommendations for action in the 2024 legislative session. Legislative studies on Act 250 and state planning designation reforms due out this year will help inform this effort.
2. Similar stakeholder engagement efforts in other states helped yield results at the state and local level. Approaches like [New Hampshire's Housing Appeals Board](#), [Maine's study](#) of land use regulations and short-term rentals, and targeted "fair share" provisions in Massachusetts and Rhode Island should be considered.
3. To achieve the most impactful reforms of municipal land use regulation, we recommend including the municipal planning practitioners that work with zoning regulations and local-level development review every day. VPA would be very willing to participate through member outreach and designation of a representative to formally serve on a stakeholder group.

Provisions to Rework for 2024

4. **Section 1 (both bills). Parking spaces per dwelling unit.** Right-sizing residential parking requirements to actual need makes sense, especially for one-bedroom units, multi-unit buildings, and senior housing. VPA agrees that excessive parking requirements in municipal zoning regulations can impact the viability of new housing projects, particularly in-fill and redevelopment. Context, housing type, and availability of transit are all important factors to consider. The bill should be revised to recognize these factors, so as not to constrain all municipalities to a one space per dwelling unit formula for every housing project.

- a. Even in some of Vermont’s urban centers, dwelling units with two or more bedrooms are very likely to need parking for more than one vehicle. VPA agrees that there should be less parking in growth areas than is required today to make more efficient use of limited space and reduce the cost of development. Unfortunately, transit options, on-street, and off-site parking are currently limited in Vermont villages and downtowns, and certainly in rural areas not served by transit. VPA recommends further discussion, and possibly reducing parking requirements for specific types of development in areas served by adequate public transit.
 - b. Furthermore, VPA recommends adding language to clarify that municipalities can require parking maximums as well as minimums – this is currently practiced but has been challenged based on stricter interpretations of current statute.
5. **Section 2 (portions; both bills). Residential density, building height, and density bonuses.** VPA has long advocated for higher density development in areas planned for infrastructure-supported growth. However, these pre-emptions of municipal land use regulations could be problematic and may result in unintended consequences for some communities. They should be discussed and refined by a stakeholder group for consideration in the 2024 session, perhaps working towards a statewide plan for housing growth that complements, rather than overrides, existing regional and municipal land use planning. Some of the issues include:
- a. A one-size fits all approach for all areas served by municipal water and sewer doesn’t recognize the complexity, history, and planning of these service areas. For example: shoreline areas where water/sewer service exists to address water quality issues; legacy service areas that are adjacent but outside areas planned for growth; service areas that were expanded outside of growth areas to address public health issues (mobile home parks, PFAS contamination, etc.); and floodplains, and river corridor, and other unbuildable areas within a service area.
 - b. Not all municipal water and wastewater systems have large amounts of uncommitted reserve capacity. Some communities with limited capacity have adopted local land use policies to direct this limited capacity toward redevelopment of their village and downtown cores, including housing that meets the needs of low- and moderate-income Vermonters.
 - c. Some municipal systems are subject to Act250 permit conditions that have required adoption of land use regulations and/or limit connections in order to limit sprawl. It is unclear whether the State preemption will also overturn these Act250 permit conditions. Unless clearly defined in Statute, it is possible that this will introduce litigation and unpredictability that could discourage housing investment in these communities.
 - d. Meaningful tools are also needed to address defined housing production targets in affluent exurban communities that exercise exclusionary policies simply by avoiding investment in municipal water and sewer infrastructure. This could include a combination of incentives for communities that make progress on meeting more clearly defined housing goals, as well as consequences for those that do nothing or actively avoid it, as anticipated in existing statutes.
 - e. While VPA strongly supports measures that increase affordable housing and mixed-use development, the proposed height waivers for such development likely will not work as intended. The limits to building heights in rural areas are also pragmatic – namely, the community’s ability to provide adequate water service and fire protection to taller buildings. Until these underlying issues are resolved, removing height restrictions in zoning will simply stall such projects in the permitting process. Density “bonuses” can also be addressed in other ways (reduced lot sizes and setbacks, increased lot coverage, etc.)

Suggested Revisions on Remaining Provisions

6. **Section 4 (both bills) – Duplex definition.** Revise the duplex definition for clarity. We suggest requiring that two-unit dwellings be treated like single-unit dwellings in terms of density, minimum lot size, and other dimensional standards. However, we don't support treating each unit in a two-unit dwelling as a single-unit dwelling. The proposed duplex definition would be different depending on whether it was served by municipal sewer and water. Apparently, the purpose of this change is to allow each unit of a duplex to be able to add an accessory dwelling unit (ADU). As outlined in existing statute, ADUs are appropriately allowed on properties with a single-unit dwelling, and typically include requirements for owner occupancy and size limitations. Instead of expanding ADUs to properties with two-unit dwellings, we should be simplifying zoning regulations and addressing structural barriers found in State technical permitting that make infill projects difficult – e.g., wastewater rules, stormwater rules, fire safety codes, etc. We also recommend eliminating the term duplex and “family” dwelling throughout 24 V.S.A. Chapter 117 to help provide consistency, clarity, and to avoid outdated references. We recommend using the terms single-unit dwelling, two-unit dwelling, multi-unit dwelling, and accessory dwelling unit.
7. **Section 5 (both bills) – Bylaw reporting.** Revise so that municipalities are required to submit a report and bylaws/regulations to DHCD, so that DHCD can ensure consistent coding and uploading to statewide databases. More importantly, currently there is no review process to ensure that municipal bylaws are not exclusionary prior to adoption – only allowance for after-the-fact enforcement through 24 V.S.A. § 4453. Further consideration is merited on whether to empower or require RPCs to review proposed bylaws for conformance with fair housing practices as they currently do for municipal comprehensive plans (as required to receive the benefits of municipal “confirmation”).
8. **Sections 6 & 7 (both bills) - Administrative subdivision revision.** Revise to eliminate the undefined terms of minor and major subdivision. Simply authorize municipalities to allow the Administrative Officer to approve subdivisions involving three or fewer lots, as well as revisions to subdivisions previously approved by an Appropriate Municipal Panel that don't involve the creation of new lots, in accordance with the administrative review provisions found under 24 V.S.A. § 4464(c) (Administrative Review).
9. **Section 8 (both bills) – Appeals.** Revise/expand to include designated village centers, and to include any other approval that addresses character of the area (e.g., subdivision, site plan, etc.).
10. **Section 10 (H.68) – Energy codes.** Revise to clarify that RBES/CBES or stretch code is the standard, but that municipal energy codes that address aspects not covered by RBES/CBES or stretch code are allowed – e.g., prohibition on use of fossil fuel, orientation/design for solar gain, etc.
11. **Section 11 (both bills) - Appropriation to MRPF for municipal bylaw updates.** Revise to increase appropriation to \$1,000,000 if the proposed statewide zoning provisions are passed.

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VPA is a non-profit advocacy and educational organization of over 150 planners and related professionals. We are dedicated to the advancement of community planning in Vermont at the local, regional, and state levels, to foster vibrant communities and a healthy environment.

Our membership is diverse, including municipal planners, regional planning commission staff, private planning consultants, state planning professionals, etc. We also work to coordinate VPA's advocacy and education with other groups involved in planning policy such as VAPDA (VT Association of Planning & Development Agencies), VLCT, and the Agency of Commerce and Community Development.



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Vermont Planners Association (VPA) Legislative Report – February 6, 2023

VPA continues to follow two of the Legislature's main issues – housing and energy. Planning bill introduction seems to have slowed somewhat moment as existing bills work through committees.

See below for reporting by Alex Weinhagen, Kati Gallagher, and Kerry Brosnan.

Senate Bills

Reported by Kati Gallagher and Kerry Brosnan

New bills introduced

S.55 – Permanently Authorizing Electronic Meetings of Public Bodies – Additional and separate from the temporary extensions in H.42 (which was signed by the Governor on 1/25/23), this bill would permanently codify the pandemic practice of allowing public meetings without a designated physical location, provided public attendance is enabled electronically and by phone.

Updates on planning bills

S.5 – Affordable Heating Act (known as the Clean Heat Standard last session) – Senate Natural Resources and Energy continued testimony on this bill. One main friction point is the cost of implementing the program (with the Administration arguing that up-front costs to the average Vermonter is too high), along with concerns about grid reliability, especially in rural areas, if we transition to mostly electric heat. Fuel dealers are also concerned that costs and administrative responsibilities will fall on them, rather than their suppliers as intended by legislators.

DR-0091 – Omnibus Housing (not yet) Bill – see summary under House Updates on Planning Bills.

House Bills

Reported by Alex Weinhagen and Kerry Brosnan

Updates on planning bills

Omnibus Housing Bill – Senate Economic Development, Housing, and General Affairs – Discussion of the omnibus housing bill (DR 23-0091) continued in this Senate committee. Once again, nearly every day was packed with testimony from a variety of experts and interest groups. You can find the draft bill (DR 23-0091) on the committee's website [here](#). Alex Weinhagen provided testimony on behalf of VPA on February 1. VPA supports the bulk of the bill, with some suggestions for minor edits and clarifications. We identified two provisions that need further work, and suggested that a stakeholder group or a commission work over the summer on these and other potentially more impactful areas of reform, to be part of a follow up housing bill in 2024. The two provisions relate to parking and density, and are in section 1 and 2 of the draft bill.

- **Section 1 – Parking** – restricts how much can be required to no more than one space per dwelling unit

- **Section 2 – Density & Building Height** – when served by municipal water and sewer: municipality must allow a residential density of at least five units per acre; mixed use developments and affordable housing developments must be granted a 40% density bonus and additional building height (one more habitable floor) beyond the municipality’s maximum.

This Senate committee is hearing a lot of testimony and a lot of support for the bill. Individual VPA members are encouraged to review the bill, and contact members of this Senate committee with comments. Be sure to copy your email to the committee staff person as well. Contact information for these five Senators and the committee staff assistant is available on the committee’s website [here](#). We recommend forwarding these comments to your legislators as well, so they are in the loop early on. Please forward your comments to me as well, so our VPA Legislative Committee is aware of them.

NOTE – In section 2 of the latest draft of the bill (23-0091, draft 6.1, 1/27/23), the owner occupancy requirement for accessory dwelling units has been removed.

New bills introduced

H.126 – Community Resilience, Biodiversity Protection – This bill proposes to establish State goals of conserving 30 percent of the land of the State by 2030 and 50 percent by 2050.

H.128 – Act 250 wood products & accessory on-farm business – This bill proposes to reduce the amount of mitigation wood products manufacturers need to do for primary agricultural soils. It proposes to exempt small forest product processors from needing an Act 250 permit. It proposes to make changes to the definition of accessory on-farm business and exempt those businesses from needing an Act 250 permit. It would require electric generation facilities with a capacity greater than 500kW to get an Act 250 permit.

H.129 – Brownfields redevelopment funding – This bill proposes to increase the maximum amount of grant awards from the Brownfield Revitalization Fund. In addition, the bill proposes to require the Secretary of Commerce and Community Development to issue annual grants to regional planning commissions in the State to conduct characterization and assessment of potential Brownfield sites. The bill also would require the Secretary of Commerce and Community Development to report to the General Assembly regarding administration of the Brownfield Revitalization Fund and projects funded from the Fund.

H.132 – Homeless Bill of Rights – This bill proposes to establish a homeless bill of rights and prohibit discrimination against persons without homes. Among other provisions, adds “housing status” to the list of protected classes for public accommodations and housing.

H.135 – Rent Increase Limits – This bill proposes to cap the amount by which a landlord may annually increase rent by not more than the average of the Consumer Price Index over the prior 12-month period, or six percent above the most recent rent, unless the landlord can demonstrate that a greater increase is necessary due to additional costs for repairs or other exigent circumstances beyond normal maintenance or improvement. The bill also proposes to limit the amount of a security deposit to not more than one month’s rent, which may be applied as the final month’s rent if no damage is discovered at an inspection that occurs not more than one month prior to the termination of the tenancy.

H.137 – VHIP for disabled home share – This bill proposes to expand the Vermont Housing Improvement Program to include incentives for the costs of home share modifications to accommodate Vermonters with disabilities.

H.164 – Low-impact wastewater systems – This bill proposes to authorize the use of low-impact wastewater systems designed to manage and treat wastewater from plumbing fixtures supplied by hand-carried or hand-pumped water. The yurt bill! Think composting toilet, low volume gray water treatment system, hand carried water – all without having to design a “just in case”, traditional replacement septic system.

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA) Legislative Report – February 13, 2023

Continued testimony and discussion on the omnibus housing bill and the affordable heating bill on the Senate side. Some discussion of the biodiversity bill on the House side.

See below for reporting by Alex Weinhagen, Kati Gallagher, and Kerry Brosnan.

Senate Bills

New bills introduced

S.64 – Transportation Planning & Climate Action – This bill proposes to make miscellaneous changes to laws related to vehicles, infrastructure, and transportation planning. The focus is on changes to factor in the State’s Climate Action Plan, including infrastructure and planning improvements for pedestrian/bicycle use, multi-modal transportation, complete streets, etc.

Updates on planning bills

S.5 – Affordable Heating Act (known as the Clean Heat Standard last session) – Senate Natural Resources and Energy continued testimony and discussion of this bill. Some changes were discussed, and the committee appears to be making progress in moving the bill along, although it hasn’t voted on a final draft yet.

Omnibus Housing Bill (DR 23-0091) – Senate Economic Development, Housing, and General Affairs – Discussion of the omnibus housing bill continued in this Senate committee. You can find the bill on online [here](#). The committee agreed to modify the bill language so that each unit in a duplex would not be able to create their own accessory dwelling units. Continued testimony by a variety of people, including fellow planner Paul Conner from the City of South Burlington to explain their transfer of development rights system, and the issues a mandatory residential density could cause for their TDR and land conservation programs. Various committee members appear to be getting the message about the need for nuance with regard to residential density mandates across all municipal water and sewer areas. Still waiting to see an updated version of the bill to address concerns that have been raised.

As previously mentioned, the committee is holding a public hearing on February 16 at 5pm to get more feedback on the bill. It’s hybrid, so you can participate via Zoom or in person. [Now is the time to provide feedback – either via the hearing or by submitting written testimony.](#) It will be MUCH harder to revise the bill after changes are made based on this public comment period. Testimony at the hearing is limited to three minutes, and you must register by noon on February 15 – or before as time slots are going fast. To register for the public hearing or to get an email address for written testimony, go to this [webpage](#).

Much of this bill is good policy – including many of the municipal zoning pre-emption provisions. However, VPA identified two provisions that really need further work, and suggested that a stakeholder group or a commission work over the summer on these and other potentially more impactful areas of reform, to be part of a follow up housing bill in 2024. The two provisions relate to parking and density, and are in section 1 and 2 of the draft bill. You can find VPA’s testimony on our legislative [webpage](#).

- Section 1 – Parking – restricts how much can be required to no more than one space per dwelling unit

- Section 2 – Density & Building Height – where served by municipal water and sewer: municipality must allow a residential density of at least five units per acre; mixed use developments and affordable housing developments must be granted a 40% density bonus and additional building height (one more habitable floor) beyond the municipality’s maximum.

House Bills

Updates on planning bills

H.126 – Community Resilience, Biodiversity Protection – This bill was discussed in the House Environment and Energy Committee this week. The committee received some cautionary/negative feedback from the Secretary of the Agency of Natural Resources (Julie Moore) who raised concerns about the bill’s focus on permanent land protection (versus other conservation measures, e.g., Current Use Program), and the lack of science-based goal posts (i.e., 30% of Vermont protected by 2030 and 50% protected by 2050).

New bills introduced

H.213 – Mobile Home Study Committee – This bill proposes to create a study committee on mobile homes and mobile home parks and the needs around infrastructure, flood protections, and resident rights. This is a short-form bill at this point – i.e., no details yet, just the purpose statement.

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA) Legislative Report – February 21, 2023

As crossover looms, committees are wrapping up initial work on bills and moving them to other committees. See below for reporting by Alex Weinhagen, Kati Gallagher, and Kerry Brosnan.

Senate Bills

Reported by Alex Weinhagen, Kati Gallagher and Kerry Brosnan

New bills introduced

S. 83 - Project-Based TIF – Would establish a TIF project development program, administered by the VEPC, to allow a municipality to apply to use statewide education property tax and municipal property tax increment to pay for infrastructure projects.

Updates on planning bills

S.5 – Affordable Heating Act (known as the Clean Heat Standard last session) – Discussed and revised throughout the week, the Senate Natural Resources and Energy Committee voted on it positively on Friday (2/17). We shall see what Senate committee it lands in next, before it heads to the Senate floor for a vote. Additional equity provisions may be inserted by the Senate Natural Resources and Energy Committee prior to or when it gets to the Senate floor.

DR-0091 – Omnibus Housing (not yet) Bill – see summary under House Updates on Planning Bills.

House Bills

Reported by Alex Weinhagen and Kerry Brosnan

Updates on planning bills

Omnibus Housing Bill – Senate Economic Development, Housing, and General Affairs – Discussion of the omnibus housing bill ([DR 23-0091](#)) continued in this Senate committee. A new draft of the bill (draft 7.2, 2/13/23) was released and discussed by the committee throughout the week. You can find the new draft by following the bill link above – yellow highlighting shows changes from the previous draft. Another draft is expected Tuesday 2/21/23 with a vote planned for Wednesday.

The Committee is making an effort to address feedback received, including VPA's comments, but there is still room for improvement as evidenced by disagreements amongst committee members about various sections of the bill. Senator Cummings continues to raise concern about requiring higher density residential in all municipal water and sewer areas. She is concerned about sprawl implications. Senator Harrison and Senator Clarkson advocated for additional language in the bill to clearly define that the goal is to have growth be focused in the designated growth areas with water and sewer. Senator Brock has expressed concerns with nearly every section of the bill. With 4 of 5 committee members pushing for more targeted minimum residential density requirements, hopefully we will see another draft of the bill that better addresses this issue. The chairperson is trying to have the committee wrap up its work and vote on the bill this week, but it appears more work and more compromise may be necessary.

Here is Alex Weinhagen's take on how draft 7.2 does or does not address the issues raised in VPA's testimony:

- **General - Convene a commission or stakeholder group to make recommendations for 2024 legislation – Not addressed**
- **Section 1 – Parking – Not addressed.** No revisions made.
- **Section 2 – Building height bonus for affordable housing projects – Addressed.** Removed from the bill.
- **Section 2 – Density bonus for affordable housing projects – Addressed.** Density bonus reduced from 40% to 20%.
- **Section 2 – Residential density allowance (5 units/acre) in areas served by municipal water/sewer – Partially addressed, but needs further work.** A lengthy section was added to define and caveat what “served by municipal water and sewer infrastructure” means. The new language specifies that residential connections/expansions are available, and not prohibited by: 1) State regulations or permits; 2) Identified capacity constraints, or; 3) municipally and capacity agreements, or; 4) certain areas identified in a municipal ordinance or bylaw (with a long list of types of areas that can be identified). This list constitutes a good attempt to identify the many permutations of when a 5 units/per acre residential density requirement could be problematic. It doesn't cover all of them, and doesn't address the fundamental flaw in using municipal water/sewer service areas as a surrogate for actual smart growth planning.

**FYI – new sections were added to address required housing elements of regional (section 11) and municipal plans (section 12)

- **Section 4 – Duplex Definition – Partially addressed.** The definition was simplified to eliminate a separate definition within municipal water/sewer service areas that allowed for each duplex unit to have an ADU. The term duplex is still being used, rather than our suggestion to use two-unit dwelling.
- **Section 5 – Bylaw Reporting – Not addressed.** No revisions made.
- **Section 7&8 – Administrative Subdivision Review – Addressed.** Nicely done! Extraneous minor/major subdivision distinction removed. Municipalities given ability to enable administrative review of subdivisions, and to decide when a public hearing is needed prior to approving a subdivision plat.
- **Section 9 – Appeals – Not addressed.** No revisions made.
- **Section 11 – Regional Plan Housing Element **NEW SECTION**** Requires that regional plans assess housing need and estimate needed housing investments in terms of price, quality, unit size or type, zoning district. Requires that any regional housing targets or ranges be disaggregated by municipality. Requires a set of recommended action items to address housing needs.
- **Section 12 – Municipal Plan Housing Element ** NEW SECTION**** Requires that the municipal plan be consistent with the goals of section 4302 (changes “may be” to “shall be”). Requires that municipal plans include a program for public and private actions to address housing needs as identified in the regional plan.
- **Section 13 – Energy Codes **NEW SECTION**** The issue VPA raised with the corresponding section of H.68 was not addressed. The language introduces an odd allowance for municipalities to

enact more stringent building energy codes for homes larger than 1800 square feet, if the municipality receives approval from the VT Department of Public Service.

- **Section 14 – Appropriation, Municipal and Regional Planning Fund (MRPF) – Addressed.** Appropriation increased from \$500,000 to \$750,000.

Changes also made to later sections of the bill dealing with Act 250 jurisdictional trigger and funding for various housing programs. The Act 250 trigger for housing projects is currently 10 or more units. The earlier draft increased this to 20 units. The current draft increases it to 25 units. The current trigger for subdivisions is 10 or more lots. The current draft would increase that trigger to 15 lots within a designated area. Same language in this draft as the last with regard to exempting all priority housing projects in designation areas from Act 250 review – including designated village centers with permanent zoning and subdivision bylaws.

House Bills

Reported by Alex Weinhagen and Kerry Brosnan

H.126 – Biodiversity Protection & Land Conservation – The House Environment and Energy Committee discussed and marked up this bill to establish conservation goals (30% of VT conserved by 2030, 50% of VT conserved by 2050) and to require a conservation plan by 2024 to outline how to achieve the goals. Expect to the conversation to continue, along with a revised draft of the bill.

New bills introduced

H.241 – Recovery Residences – Planning nexus – would require municipalities permit recovery residences as a single-family dwelling, similar to residential care homes and group homes. Full description... This bill proposes to (1) provide certain residential rental agreement exclusions to recovery residences; (2) require that recovery residences have certain policies and procedures pertaining to residential agreements, temporary removal, separation, and drug testing; (3) require a municipality to treat a recovery residence as a single-family residential home under its land use bylaws; (4) require the Department of Corrections to submit a report to the General Assembly pertaining to the number of individuals on furlough who reside in recovery residences; and (5) establish the Recovery Stabilization Study Committee

H.242 – Thermal Energy Networks - This bill proposes to give the Public Utility Commission (PUC) jurisdiction over the construction and operation of utility model thermal energy networks. Similar provisions to H.56, which was introduced by the same Legislator (Rep. Cordes, Addison-4 district). Presumably anticipating district heating of the sort potentially happening in [BTV](#).

H.248 – Climate Infrastructure Fund - This bill proposes to create a new Vermont Climate Infrastructure Fund to be administered by the State Treasurer's Office, with an administrator and advisory board to provide strategic planning, operational support, and organizational support for the Fund. The Fund will coordinate financing of and strategic planning for climate investments, in collaboration with existing financing entities, including the Vermont Economic Development Authority, the Vermont Bond Bank, and the Vermont Housing Finance Agency, to reduce greenhouse gas emissions and perform related ecosystems services aligned with Vermont State climate goals and State needs for resilience improvements. The Fund will make investments in projects and programs that reduce Vermont's greenhouse gas emissions, increase climate change mitigation, increase climate resilience and

adaptation, improve watershed health, and enhance sequestration and other ecosystem services of forest and agricultural land. Just an excerpt of the lengthy purpose statement. No details as this is a “short-form” bill – a bit of a placeholder bill to be fleshed out later.

H.269 - Rural Electric Vehicle Supply Equipment Grant - This bill proposes to create the Rural Electric Vehicle Supply Equipment Grant Program. Emphasis on “rural” – targets underserved, rural communities for funding to install EV chargers.

H.276 – Rental Registry - This bill proposes to create a registration requirement and registry for rental housing in this State. Resurrected from last session, this very straightforward bill would provide statewide data on rental housing – both long term and short term rentals. Opposed by the Governor in the last go around, perhaps this year it is possible – either with the Governor changing his tune, or with the Legislature overriding a veto.

H.289 – Renewable Energy Standard - This bill proposes to increase the amount of total renewable energy required pursuant to the Renewable Energy Standard – i.e., for electricity sold in Vermont, the percentage that comes from renewable sources. 2023 63% renewable, and increasing 10.6% every two years to reach 100% by 2030. Current statute indicates 55% for 2023 and requires 75% by 2032.

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA) Legislative Report – February 28, 2023

With one week left before crossover, we saw several new bills on the House side, and both chambers continued discussion on existing bills, including the Omnibus Housing Bill (now S.100).

Senate Bills

Reported by Alex Weinhagen, Kati Gallagher and Kerry Brosnan

New bills introduced

No new bills with a planning nexus in the Senate this week.

Updates on planning bills

S.100 - Omnibus Housing Bill – The omnibus housing bill finally got a bill number as it was revised and formally introduced after passing favorably out of the Senate Economic Development, Housing, and General Affairs Committee last week. The bill went through a couple new drafts last week in short order. You can find the now formally introduced bill language online [here](#).

A couple of the positive revisions mentioned in last week's update were retracted in favor of the original version of the bill – e.g., building height bonus back in the bill, 40% density bonus back in the bill. A minor revision on the parking provision was made. The required minimum residential density allowance in municipal water and sewer service areas was retained, although revised from five to four dwelling units per acre. Ultimately, the concerns expressed the prior week (by 4 of 5 committee members) about better targeting minimum residential density requirements didn't result in a substantive change to the bill.

The bill is now being considered by the Senate Natural Resources and Energy Committee. They received an introduction last Friday, and are taking testimony this week. Alex Weinhagen will testify on behalf of VPA – reiterating our prior comments, and highlighting the issue of the four dwelling unit per acre density allowance across municipal water and sewer areas. Chip Sawyer will again be testifying on behalf of the City of St. Albans – highlighting the issue of instituting an arbitrary parking maximum of 1 or 1.5 parking spaces per dwelling unit, regardless of the context or the type of residential use.

There is quite a lot in this bill, so it warrants reading. Aside from a few problematic provisions, there is much to cheer for! This bill appears to have legs, and support from the Governor, so some version of it will likely be passed by the full Senate ahead of "crossover", so that it can be considered by the House and potentially become law this session. Still plenty of time and room for fine tuning, so take the opportunity to review the sections important to your planning work, and make yourself heard in the legislative process! VPA's Legislative Committee is happy to field your questions on the best way to do that – e.g., the who, how, and when to submit comments.

- **Sections 1-13** - Municipal permit reform and State pre-emption of local zoning
- **Sections 14-15** – Additional appropriations for planning – e.g., MPG grants, RPC funding, VCGI funding, new "Housing Navigators"

- **Sections 16-21** – Act 250 reform – reducing Act 250 jurisdiction for housing projects, enabling municipalities to seek “enhanced designation” for Act 250 exemptions in designated areas, etc.
- **Sections 24-25** – State wastewater permit reform – eliminate duplicative State wastewater permitting for connections to a municipal wastewater system
- **Sections 30-42** – Substantial new funding for a variety of housing programs – e.g., rehabilitation of existing housing, creation of new housing, etc.

House Bills

Reported by Alex Weinhagen and Kerry Brosnan

Discussion in various committees about several bills, but no definitive action or committee votes on those bills last week. Planning bills discussed included: H.101 (transportation affordability), H.111 (workforce housing & Act 250 reform), H.126 (biodiversity & conservation), H.241 (recovery residences), H.276 (rental housing registry). Many thanks to our Legislative Intern (Kerry Brosnan) for covering a wide range of committee discussions and providing stellar notes!

New bills introduced

H.222 – Recovery Residences & Drug Treatment – Planning nexus – would require municipalities permit recovery residences as a single-family dwelling, similar to residential care homes and group homes. Don’t worry, your déjà vu is justified. Last week we described H.241 as doing the same thing. H.222 is more about drug treatment with a recovery residence section. H.241 is more specific to recovery residences and includes a definition.

H.309 – VHCB Funding - This bill proposes to prohibit the use of the property transfer tax revenue dedicated to the Vermont Housing and Conservation Trust Fund for any other governmental purpose. Long-standing statute indicates that VHCB gets 50% of revenue from the property transfer tax. It rarely gets that much, as legislative budget writers siphon off funds for other needs.

H.317 – Residential Building Accessibility - This bill proposes to require that all newly constructed or created single-family and multiunit dwellings with three or fewer units be accessible, be adaptable for future accessibility, or be visitable by an individual with a disability. This bill also proposes to require housing authorities to give prospective tenants with a disability priority when an accessible dwelling is available.

H.320 – Renewable Energy Standard - This bill proposes to update the amount of total renewable energy required pursuant to the Renewable Energy Standard. Another case of déjà vu given that last week, we described H.289 as doing something similar. This bill appears to go in the opposite direction – i.e., less renewable energy required than in the current statute. 2025 57% renewable, and increasing 1.5% every year to reach 64.5% by 2030. Current statute indicates 55% for 2023 and requires 75% by 2032.

H.331 – Natural Resources Board - This bill proposes to change the name of the Natural Resources Board to the Environmental Review Board and give it the authority to hear appeals from the District Commissions and district coordinators in addition to the Board’s current duties. The Environmental Division of the Superior Court will continue to hear appeals from other environmental permits, enforcement, and local zoning appeals. Members of the Environmental Review Board would be

appointed the same way as Superior Court judges, with the Judicial Nominating Board reviewing the candidates. After the members of the Board are appointed, the Board would adopt rules of procedure for appeals. The same bill was introduced in the 2022 session (H.492), and was supported by VPA at that time. That earlier bill passed the House but didn't make it through the Senate. Unlikely that this new bill will move this session, but it could be in play for action in the 2024 session.

H.332 – Building Energy Code Study Committee - This bill proposes to increase compliance with residential and commercial building energy standards by establishing a study committee to recommend the designation of a State agency or office as the authority having jurisdiction to recommend other compliance mechanisms such as incentives and enforcement and to recommend staffing and funding sources, both transitional and permanent, to include potential federal grants.

H.367 – Rural Economic Development - This bill proposes to adopt miscellaneous provisions to support rural economic development, administrative capacity, and vitality. This is a very dense and multi-faceted bill. Revises funding programs to prioritize underserved communities, including funding for housing and for municipal bylaw modernization grants. Tinkers with Act 250 jurisdiction, agricultural soil mitigation, and appeals of municipal land use permits. And that's just the first half of the bill.

H.370 – Municipal Trails - This bill proposes to specify that municipalities may, but are not required to, maintain legal trails and to provide selectboards with the authority to regulate the use of legal trails.

H.374 – Resilient Rivers Commission - This bill proposes to establish the Resilient Rivers Commission to provide information to the public on the importance of protecting riparian zones and rivers and current regulation of riparian zones and rivers under current State law. The Commission would be required to submit a report to the General Assembly recommending how the State should preserve and improve the quality and health of waters of the State and avoid degradation of waters.

H.378 – Office of Housing Advocate - This bill proposes to create an Office of the Housing Advocate to assist landlords, tenants, and homeowners with housing-related questions by providing information, referrals, and assistance to individuals about obtaining or providing housing services. One responsibility, of many, would be to, "Analyze and monitor the development and implementation of federal, State, and local laws, rules, and policies relating to housing."

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA) Legislative Report – March 6, 2023

Reported by Alex Weinhagen, Kati Gallagher and Kerry Brosnan

This week is the Town Meeting break for the Legislature. They will be back at next week. The crossover deadline should be shortly thereafter for most bills, and a week later for bills with a financial component. Crossover is a timing issue for bill progression. It is the deadline by which a bill needs to pass one chamber (House or Senate), in order to be considered by the other chamber this session. Bills that miss crossover are still discussed, but typically aren't acted on until the next year – unless they get swept up into other bills that are moving faster. Crossover is typically the Friday of the week after the Town Meeting break. This year, that would be March 17 for regular bills and March 25 for bills that need review by the money committees.

Senate

New bills introduced

S.115 - Misc. Ag - Section 8 limits municipalities' authority to regulate stormwater management; bylaws cannot exceed the ANR's authority and prevents municipalities from charging operating fees related to exempt practices (e.g. farms).

Updates on planning bills

S.5 – Affordable Heat Act – Various fine tuning last week, and then the bill passed the Senate on March 3 on a 18-10 vote. Headed to the House for consideration. The Governor vetoed a similar bill last session, and appears to still be opposed this time around. We'll see what the House does with the bill, and whether an eventual veto can be overridden this year.

S. 83 - Project-Based TIF - Received a couple of days of testimony in Senate Finance, including from VLCT, town administrators, ACCD and the state auditor, but hasn't passed out of Senate Finance.

S.100 - Omnibus Housing Bill – Discussed in Senate Natural Resources & Energy throughout the week. Testimony from VPA and various planners. Committee members seem more concerned with the relatively minor Act 250 permit reforms in the bill, rather than the municipal permit reforms that have been the focus of VPA's testimony. Amendments to the bill anticipated next week before the Senate Natural Resources & Energy Committee pushes it forward. The bill does include spending, so passage by March 25 by the full Senate is necessary to meet crossover.

House

New bills introduced

H.382 – Nuisance Properties as Salvage Yards – This bill proposes to authorize municipalities to adopt an ordinance that extends State and local enforcement authority concerning scrapyards to any premises within the municipality that constitutes a public nuisance due to the accumulation of rubbish, scrap, junk, or abandoned vehicles.

H.387 - Farm water quality regulatory authority - This bill proposes to transfer from the Secretary of Agriculture, Food and Markets to the Secretary of Natural Resources all authority to administer and enforce water quality requirements on farms in Vermont.

H.394 - Municipal authority over group homes - This bill proposes to clarify that the municipal zoning limitation on residential care homes and group homes does not extend to facilities that will house high-risk, justice-involved youth.

H.435 - Regenerative Economy –This bill proposes to require the State to develop a plan for a regenerative economy by 2026. A regenerative economy is an economic system that works to regenerate natural and human resources. The bill envisions the creation of “People’s Assemblies” in each region of the state, to be facilitated by the 11 regional planning commissions. These People’s Assemblies shall create a regenerative economy plan for each region. Each plan shall address a long list of goals and objectives. Each State agency would also be required to create a regenerative economy plan. The VT Association of Planning and Development Agencies (VAPDA) would be responsible for creating a statewide regenerative economy roadmap. Various new grant programs are envisioned, to be administered by different State agencies.

H.436 - Municipal flexibility with energy goals - This bill proposes to give municipalities the authority to use home energy rating systems for compliance with the residential building energy standards. It would also allow the Department of Taxes to share data on the fuel tax with municipalities. It would also direct the Department of Motor Vehicles to share data with municipalities related to the tax on transportation fuels. The bill would also prohibit a renewable energy project from being denied a certificate of public good solely for aesthetic concerns.

H.437 – Energy Storage Plan - This bill proposes to direct State’s electric distribution utilities and Vermont Electric Power Company (VELCO) to submit to the Department of Public Service a report, including an electric system map, identifying where energy storage facilities and flexible load management initiatives, and how much of each solution, would deliver the greatest reliability, affordability, community resilience, and sustainability benefits, which would then be used by the Clean Energy Development Board to award grants to those locations.

H.449 – Short-term Rental Registry - This bill proposes to create a registration requirement and registry for short-term rental housing in this State.

Updates on planning bills

H.126 – Biodiversity & Conservation – This land conservation planning and goal-setting bill was voted favorably out of the House Environment & Energy Committee, and then landed in the House Agriculture, Food Resiliency, and Forestry Committee. It seems to be receiving a somewhat chilly reception in the House Ag. Committee. The bill calls for creating a plan to conserve 30% of Vermont by 2030 and 50% by 2050. Three conservation tiers: ecological reserve areas (left in natural state); biodiversity conservation areas (managed to maintain/restore habitat); natural resource management areas (sustainable forestry). Some committee members and witnesses expressed concerned about ecological reserve areas, and perceived limits or impacts to forest management.

H.276 – Rental Registry – House Committee on General and Housing discussion of this bill continued. The current draft includes a variety of exemptions intended to focus the registry only on housing that is for long term rental. Interesting how fear of what the State would use the data for, can influence whether we even collect data in the first place.

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA)

Legislative Report – March 20, 2023

Reported by Darren Schibler, Kati Gallagher and Kerry Brosnan

After taking a break for Town Meeting, this week the Legislature will focus on moving money bills to the other chamber, along with any non-money bills that have straggled.

Senate

New bills introduced

S.136 – Changing Dates of GHG Reduction Targets – This bill would update the target dates for the state's greenhouse gas emission reductions to 2030, 2040, 2050, and 2060 (instead of 2025, 2030, 2040, and 2050). Referred to Senate Natural Resources but unsure of its path.

Updates on planning bills

S.5 – Affordable Heat Act – The bill passed the Senate on March 3 on a 18-10 vote. House Environment & Energy starting consideration this week. The Governor vetoed a similar bill last session, and appears to still be opposed this time around. We'll see what the House does with the bill, and whether an eventual veto can be overridden this year.

S.83 - Project-Based TIF – No movement, likely to die in committee following critique by the state auditor.

S.100 - Omnibus Housing Bill – Senate Natural Resources & Energy voted out an amended version of the bill 4-1. Amendments focused on limiting the Act 250 permit reforms, with some new provisions:

- Increased the density mandate to 5 units per acre (instead of 4 units) in areas served by municipal water & sewer
- Increased the threshold for Act 250 permits up to 25 units for certain housing projects within downtowns, NDAs, and growth centers with a sunset of 7/1/2026
- Added an Act 250 master plan permit section
- Retained enhanced designations for Village Centers
- Incorporated energy code study provisions of H.332 (see below)
- Retained appeal of municipal land use permits by 10+ people, but only if they have a “common injury to a particularized interest.”

The bill made a brief stop in Senate Finance and is now in Senate Appropriations before heading to the Senate Floor. Further amendments will be discussed by SNRE and SED on Tuesday 3/21.

S.115 - Misc. Ag – Introduced by the Senate Committee on Agriculture, this bill includes a provision to exempt agricultural operations from regulation and fees by municipal stormwater utilities with the intent of better aligning with statutory limits as interpreted by the Agency of Agriculture. Several municipal officials and VLCT testified that state or municipal stormwater operating permits and fees (for

private / on-site stormwater management practices) are distinct from municipal stormwater utilities and fees, which are used to fund public stormwater initiatives implemented by municipalities as required under MS4 permits. Municipalities are concerned that exempting some land uses would lead to other exemptions and reduce funding to meet MS4 requirements. The bill is currently in Senate Finance and is scheduled for a vote on Friday 3/24, but Senate Natural Resources has scheduled additional discussion for Tuesday 3/21 as well.

House

New bills introduced

H.484 – Workforce & Economic Development – House Commerce & Economic Development introduced what appears to be an omnibus bill for economic development includes funding for several new and existing programs, including (among other things): \$10mil for brownfields (\$1mil to go to RPCs for brownfields assessment) and increasing the grant cap for remediations to \$500k; a new Rural Industry Development Grant to be administered by ACCD to the tune of \$5mil; and the Better Places program updated to allow up to 3 (instead of 1) project per municipality per year.

Updates on planning bills

H.31 – Aquatic Nuisance Control – As originally introduced, this bill would have put a one-year moratorium on the use of pesticides for control of aquatic nuisances (primarily milfoil) and created a committee to study the issue. The moratorium was scrapped, but study committee retained, of the version of the bill that was passed out of House Environment & Energy. Read detailed [reporting from VTDigger](#).

H.70 / H.110 – Extending sunset on 30 V.S.A. §248a – Both bills would extend PUC review of telecommunications facilities for another three years. H.70 was consolidated into H.110, which was voted favorably out of House Environment & Energy.

H.126 – Biodiversity & Conservation – This land conservation planning and goal-setting bill was voted favorably out of the House Environment & Energy Committee, and then took a side trip to House Agriculture, Food Resiliency, and Forestry Committee where further concerns from the committee and forest industry professionals were aired about ecological reserve areas, and perceived limits or impacts to forest management. Regardless, the bill is scheduled for a vote in House Appropriations for Monday at 4:00pm.

H.213 – Study Committee on Mobile Homes and Mobile Home Parks – Would create a study committee on mobile homes and mobile home parks and the needs around infrastructure, flood protections, and resident rights. Voted favorably out of House General & Housing.

H.222 / H.241 – Reducing Overdoses / Recovery Residences – We previously reported that both these bills would require municipalities permit recovery residences as a single-family dwelling, similar to residential care homes and group homes. H.222 includes extensive details on how recovery residences would operate internally, which has evolved over the past few sessions. VPA advocated for House Human Services to include the definition of “recovery residence” contained in H.241 within H.222, which was voted out favorably.

H.276 – Rental Registry – House Committee on General and Housing discussion of this bill continued. DHCD Commissioner Hanford spoke against the bill due to the cost of standing up the registry system (IT alone would cost up to \$1 mil, plus new staff positions). He stated that the landlord certificate, grand list, and tax department could provide the information needed, but Rep. Stevens noted that this contradicts the Rental Housing Advisory Board’s findings. Commissioner Hanford noted that DHCD is already implementing half of the Board’s suggestions and asked for time to see the results. The bill was voted favorably out of committee but it’s unclear if it will make crossover to the Senate.

H.332 – Building Energy Code Study Committee – This bill got additional discussion in both House General and Senate Natural Resources and Energy. RPCs, Energy Futures Group (a nonprofit), and building industry partners are applying for a Department of Energy Grant that would assess ways to improve compliance with building energy codes with an eye towards energy efficiency, overseen by the bill’s proposed study committee. Senate Natural Resources included H.332’s provisions in their amendment to S.100 (see above).

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA) Legislative Report – March 28, 2023

Reported by Alex Weinhagen, Kati Gallagher, Kerry Brosnan, and Darren Schibler

Crossover has come and gone – the date by which a bill needs to be voted out of their original committee in order to be voted on by one chamber (House or Senate) in time for it to be considered by the other chamber this session. Some bills that made the crossover deadline are still bouncing between committees with pending amendments prior to a vote. That means we won't know the "final" House version or Senate version of these bills until later this week.

Senate

New bills introduced

S.140 – Energy Storage Study Committee – Would “create a study committee to evaluate the costs and benefits of energy storage to electricity customers, utility providers, and the energy storage industry in Vermont.” Senate Natural Resources (all of whom are sponsors on the bill) are discussing it this week.

Updates on planning bills

S.5 – Affordable Heat Act – This bill passed the Senate on March 3, and is now being considered by the House Environment and Energy Committee. The committee did a walk through of the bill last Thursday, and took testimony equity issues on Friday (3/24).

S.100 - Omnibus Housing Bill – Several amendments proposed by individual Senators and discussed last week in Senate Natural Resources and in Senate Economic Development & Housing committees. Most of these amendments have to do with Act 250 and designation area provisions. A bit difficult to track all of this as it bounces between these two committees for input. Amendments from individual Senators appear possible when this bill is voted on by the full Senate – presumably some time this week. Meanwhile, the Senate Appropriations Committee recommended stripping all funding provisions from the bill – e.g., no increased funding for Municipal Planning Grants to help municipalities comply with the new restrictions on municipal authority over parking and residential development density (though additional funding may be added to the Municipal and Regional Planning Fund in a separate bill). Last week, the Governor expressed strong opposition to amendments proposed by the Senate Natural Resources committee that would strip most of the substantive Act 250 reform from the bill. The VT League of Cities and Towns also registered their concerns about the trajectory of the bill, noting that if the housing crisis demands reforms to municipal permitting, then meaningful reforms to State permitting via Act 250 should also be in the bill. It will be interesting to see what the Senate ends up approving this week, as it will set the stage for negotiations on the House-side to improve the bill, so that it can pass the Legislature and still be signed into law by the Governor.

S.115 - Misc. Ag & Stormwater Provisions – Introduced by the Senate Committee on Agriculture, this bill includes a provision to exempt agricultural operations from regulation and fees by municipal stormwater utilities with the intent of better aligning with statutory limits as interpreted by the Agency of Agriculture. After concerns were raised by several municipal officials, the problematic sections were

amended to study the issue and report back on necessary solutions by the end of the year, so that action can be taken in 2024 if necessary. Expect to see this bill voted on by the full Senate later this week.

House

New bills introduced

H.494 – FY24 Budget Bill aka the Big Bill – just released over the weekend, so your legislative reporters haven't had a chance to review the details. However, this bill contains funding for all state programs, including several planning interests that may have come through other bills.

Updates on planning bills – from Kerry's reporting

H.126 – Biodiversity & Conservation – After some amendments, this bill was approved by the full House on Friday (3/24), and now heads to the Senate – likely the Natural Resources & Energy Committee.

H.276 – Rental Registry – House Committee on General and Housing converted this to a study bill. The study would assess cost, design, and implementation of a registry and consider the different possible ways to do it. Two frameworks were laid out to be explored; one using an existing framework with landlord certificate and associated data and one using a new framework for an annual registration requirement for long term and short term rental housing. The report will be due Dec 15th, 2023. Expect to see this bill voted on by the full House later this week.

H.222 – Reducing Overdoses / Recovery Residences – One portion of this bill would require municipalities permit recovery residences as a single-family dwelling, similar to residential care homes and group homes. H.222 includes extensive details on how recovery residences would operate internally, which has evolved over the past few sessions. It was amended to include the definition of "recovery residence" that was part of H.241. Expect to see this bill voted on by the full House later this week.

H.110 – Extending sunset on 30 V.S.A. §248a – This bill would extend PUC review (i.e., pre-empt municipal review) of telecommunications facilities for another three years. This bill was approved by the full House on Wednesday (3/22), and now heads to the Senate Finance Committee.

H.31 – Aquatic Nuisance Control – As reported last week, this bill creates a study committee to look into the use of pesticides for the control of aquatic nuisances (e.g., Eurasian water milfoil). Expect to see this bill voted on by the full House later this week.

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA) Legislative Report – April 4, 2023

Reported by Alex Weinhagen, Kati Gallagher, Kerry Brosnan, and Darren Schibler

We are still waiting for the crossover dust to settle, and updates to the Legislature's website to reflect bills that passed. Discussions will continue on key bills moving from one chamber to committees in the other chamber – e.g., S.5, S.100, H.126, etc.

No new bills with a planning nexus were introduced.

Updates on planning bills

S.100 - Omnibus Housing Bill – This bill passed the full Senate on Friday (3/31) with a few amendments. We are still waiting for the version as passed to be published on the Legislature's website. Some problematic provisions related to municipal zoning pre-emption (e.g., parking minimums, residential density minimums) are still in the bill, so it will be important for planners to engage with their legislators and key committees on the House side to recommend revisions. The bill appears to be landing first in the House Committee on General and Housing. They will get an introduction to the bill on Tuesday (4/4), with substantive discussion and testimony to follow next week or thereafter. This is likely to be the committee most receptive to the concerns VPA and individual planners have raised. Once the bill makes it through this committee, it will likely head to the House Committee on Environment and Energy.

S.115 - Misc. Ag & Stormwater Provisions – This bill is scheduled for a third reading and final vote in the Senate on Tuesday (4/4). As reported last week, this bill includes a provision to exempt agricultural operations from regulation and fees by municipal stormwater utilities with the intent of better aligning with statutory limits as interpreted by the Agency of Agriculture. After concerns were raised by several municipal officials, the problematic sections were amended to study the issue and report back on necessary solutions by the end of the year, so that action can be taken in 2024 if necessary.

S.5 – Affordable Heat Act – As reported last week, this bill passed the Senate on March 3, and is now being considered by the House Environment and Energy Committee. The committee has a full week of testimony and discussion planned for this week.

H.126 – Biodiversity & Conservation – As reported last week, after some amendments, this bill was approved by the full House on 3/24, and now is now waiting to be taken up by the Senate Natural Resources & Energy Committee.

H.276 – Rental Registry Study – This greatly revised bill passed the House on Thursday (3/30), and is now awaiting consideration by the Senate Committee on Economic Development, Housing, and General Affairs. VPA will be submitting a letter of support for the rental registry concept, in the hopes that it can actually be enacted in 2024. As reported last week, this is now a study bill. The study would assess cost, design, and implementation of a registry and consider the different possible ways to do it. Two frameworks were laid out to be explored; one using an existing framework with landlord certificate and

associated data and one using a new framework for an annual registration requirement for long term and short term rental housing. The report will be due Dec 15th, 2023.

H.222 – Reducing Overdoses / Recovery Residences – This bill passed the House on Wednesday (3/29), and is now awaiting consideration by the Senate Committee on Health and Welfare. As reported last week, one portion of this bill would require municipalities permit recovery residences as a single-family dwelling, similar to residential care homes and group homes. H.222 includes extensive details on how recovery residences would operate internally, which has evolved over the past few sessions. It was amended to include the definition of “recovery residence” that was part of H.241.

H.31 – Aquatic Nuisance Control – This bill passed the House on Wednesday (3/29), and is now awaiting consideration by the Senate Committee on Natural Resources and Energy. As previously reported, this bill creates a study committee to look into the use of pesticides for the control of aquatic nuisances (e.g., Eurasian water milfoil).

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA) Legislative Report – April 11, 2023

Reported by Alex Weinhagen, Kati Gallagher, Kerry Brosnan, and Darren Schibler

With crossover in the rear view mirror, the Legislature's focus turns to reviewing the bills sent over by the other chamber. New bills may be introduced, but won't be passed this year (though they may be taken up during the second half of the biennium).

No new bills with a planning nexus were introduced in either chamber this week, so your VPA Legislative reporters followed up on existing bills.

Updates on planning bills

Senate

S.100 - Omnibus Housing Bill – The version of this bill that passed the Senate on March 31 is available on the Legislature's [website](#). The bill still has pre-emptions of municipal development review and zoning that are intended to boost housing production (e.g., parking minimums, residential density allowances, etc.). Interestingly, most of these provisions wouldn't take effect until December 1, 2024. The bill includes nothing as consequential on the State development review front to boost housing production. Duplicative State water/wastewater permits and fees will still be required for projects connecting to a municipal water/wastewater system. The very positive reform to eliminate this unnecessary State permit process was stripped from S.100.

Very little substantive or bold Act 250 reform remains in the bill. Act 250 "reform" includes:

- A temporary increase in the jurisdiction trigger (from 10 to 25 units) ONLY within designated downtowns, neighborhood development areas, and growth centers, and ONLY until July 2026.
- A temporary Act 250 exemption for priority housing projects in any size community ONLY within designated downtowns, neighborhood development areas, and growth centers, and ONLY until July 2026. More limited (size-constrained) exemptions already exist for priority housing projects in communities with populations under 10,000. The same blanket exemption already exists for priority housing projects in communities 10,000 or over.
- Master Plan permitting – Municipalities can seek an Act 250 master plan permit for an area within a designated downtown or neighborhood development area. Once granted, actual development consistent with the master plan permit would only require an Act 250 permit amendment rather than a separate Act 250 permit. In neighborhood development areas, this would only apply to residential development.
- Enhanced Designation – A municipality can seek "enhanced designation" for any designation area (e.g., downtown, neighborhood development area, growth center, village center). If received, any development within that designation area would be exempt from Act 250 review. In order to receive the enhanced designation, the municipality would have to apply to the Natural Resources Board, and demonstrate that the municipal development review bylaws are identical or at least consistent with model bylaws to be created by the Natural Resources Board.

All of the very positive fiscal provisions were stripped out of the bill, and presumably landed in the big budget bill instead (H.494). Hard to say for sure, as the big budget bill is relatively inscrutable for those outside the Legislature's money committees and the Administration.

S.100 will be discussed in two House Committees – [House General and Housing](#), and [House Environment and Energy](#). House General and Housing got an introduction to the bill last week. House Environment and Energy will get their introduction this week (Tuesday, 4/11), and will begin taking testimony on Wednesday (4/12), including input from VPA. House Environment and Energy is also looking for input on H.68 – most provisions of which were incorporated into S.100, albeit with revisions. Some problematic provisions related to municipal zoning pre-emption (e.g., parking minimums, residential density minimums) are still in the bill, so VPA will largely be reiterating the testimony we provided on the Senate side.

NOW is the time to engage with your Representative and with Representatives on the two committees noted above. If this bill is going to be effective, they need to hear more from municipal officials. VPA can help! Reach out, and we can help you be heard.

S.115 - Misc. Ag & Stormwater Provisions – This bill passed the Senate on Tuesday (4/4). As reported previously, this bill includes a study provision to consider exempting agricultural operations from regulation and fees by municipal stormwater utilities with the intent of better aligning with statutory limits as interpreted by the Agency of Agriculture. Interestingly, it also suspends all municipal stormwater fees and assessments on property's subject to the State's Required Agricultural Practices for one year (July 1, 2023 – July 1, 2024). Strange to study an exemption, but also provide the exemption before the study is even conducted.

S.5 – Affordable Heat Act – The bill passed the Senate on March 3, and is being considered by the House Environment and Energy Committee. Testimony and discussion ongoing.

House

H.126 – Biodiversity & Conservation – As reported last week, after some amendments, this bill was approved by the full House on 3/24, and is scheduled for testimony before the Senate Natural Resources & Energy Committee on Thursday 4/13.

H.276 – Rental Registry Study – As reported last week, this bill was significantly pared down to a report due this December to assess cost, design, and implementation of a registry and consider the different possible ways to do it. The bill now rests with the Senate Committee on Economic Development, Housing, and General Affairs. VPA submitted a letter in support of the bill and the rental registry.

H.222 – Reducing Overdoses / Recovery Residences – This bill passed the House and will receive testimony this Tuesday 4/11 in the Senate Committee on Health and Welfare. As reported last week, one portion of this bill would require municipalities permit recovery residences as a single-family dwelling, similar to residential care homes and group homes. H.222 includes extensive details on how recovery residences would operate internally, which has evolved over the past few sessions. It was amended to include the definition of “recovery residence” that was part of H.241.

H.31 – Aquatic Nuisance Control – (no updates) This bill passed the House on Wednesday 3/29, and is now awaiting consideration by the Senate Committee on Natural Resources and Energy. As previously reported, this bill creates a study committee to look into the use of pesticides for the control of aquatic nuisances (e.g., Eurasian water milfoil).

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA) Legislative Report – April 25, 2023

Reported by Alex Weinhagen, Kati Gallagher, Kerry Brosnan, and Darren Schibler

Apologies that we missed getting out last week's report due to VPA's focus on S.100. This report attempts to catch up on legislative happenings since our last edition on 4/11.

New Bills Introduced

S.146 – Indirect Discharges and Antidegradation – Talk about jargon! This bill introduced on 4/13 would clarify how ANR permits septic systems (indirect discharges) to avoid incremental decreases of water quality (antidegradation) through rulemaking as required by the EPA. The bill itself simply allows ANR to permit septic systems up to 6,500 gpd through an individual permit to review effects on degradation. The bill also allows upgrade of surface water class through ANR rulemaking, requires a report to Senate Natural Resources, and creates a nonpoint source pollution stakeholder group.

23-0107 – Renewable Energy Standard – Technically not a bill yet, but Senate Natural Resources has been discussing increasing the amount of electricity generated from renewable sources that public utilities are required to include in their portfolio, setting milestones that ratchet up to 100% renewable by 2032. This is generally supported by electric utilities, but with comments about the increasing costs / diminishing returns of increasing the renewable portfolio without other changes in the heating and transportation sectors. The bill also included a provision that would have limited the size of net-metering systems from the current 500 kW to 150 kW unless the customer's usage exceeded 150 kW. There is not committee consensus on this provision so it may come out.

Updates on Planning Bills

Senate

S.100 - Omnibus Housing Bill – The bill remains in House Environment & Energy, where it received testimony throughout the week including from VAPDA, South Burlington, St. Albans, and Rutland as well as DHCD, VHFA, the NRB, and others. In particular, the NRB expressed hesitation about being able to draft model bylaws for enhanced designation as contemplated by the bill. The committee also held a joint hearing with House General & Housing and tossed around ideas for tracking the amount of new housing the bill will spur. VPA has previously testified on the bill and followed up with [a list of recommended changes](#) to the bill on 4/21. Bill markup continues throughout week before it is expected to be voted out of committee by Friday. We expect a [set of floor amendments from the rural caucus](#), generally supported by advocates but it's unclear how much traction this will gain. Provisions include:

- Within municipalities with zoning, adding a permanent Act 250 exemption for housing projects fewer than 4 units everywhere, and within designated centers of these municipalities, exemption for projects fewer than 25 units.
- Reintroducing municipal delegation of wastewater permitting
- Exempting municipal wastewater systems in designated areas from agricultural soil mitigation fees

- Creation of a Rural Recovery Coordination Council
- One-time appropriation of \$750,000 to the Municipal and Regional Planning Fund to prioritize creation of municipal plans and zoning bylaws in municipalities that do not have them
- Reintroducing the \$300,000 appropriation to VAPDA for Housing Resource Navigators

S.5 – Affordable Heat Act – The bill passed the House at the end of last week and has now passed both bodies. A veto is likely since the Governor has signaled major concerns with the bill due to the cost to the general public for completing required upgrades, and to the state for administering the program. The question remains whether the Legislature’s democratic majority will be able to override the veto.

H.126 – Biodiversity & Conservation (“30 x 30” bill) – Senate Natural Resources & Energy began its review of this bill on 3/31 with testimony echoing what was heard on the House side. There was support for consensus language by the Forest Partnership expanding ability to actively manage conserved land. Late last week The Nature Conservancy advocated for including conservation of 30% of Vermont’s freshwater ecosystems. The Committee added further study of this issue to the bill before voting it out on Friday 4/25; it has now been referred to Senate Appropriations.

House

S.115 - Misc. Ag & Stormwater Provisions – This bill will receive testimony in the House Agriculture committee this week. The bill includes a study provision to consider exempting agricultural operations from regulation and fees by municipal stormwater utilities with the intent of better aligning with statutory limits as interpreted by the Agency of Agriculture. Interestingly, it also suspends all municipal stormwater fees and assessments on property subject to the State’s Required Agricultural Practices for one year (July 1, 2023 – July 1, 2024).

H.128 – Removing Regulatory Barriers for Working Lands Businesses – This bill was introduced early in the session but hasn’t gotten any attention until this week in House Agriculture. The bill would exempt wood products manufacturers from the Act 250 agricultural soil mitigation fee, and wholly exempt certain wood processors currently treated as minor applications under 10 V.S.A. § 6084(g). The bill would also expand the definition of accessory on-farm businesses following [the NRB report](#) on the topic. Finally, the bill proposes to require Act 250 review for electric plants over 500 kW.

H.222 – Reducing Overdoses / Recovery Residences – This bill continues to work its way through the Senate and is likely to pass with minimal modification to the municipal zoning provisions. As a reminder, this bill would require municipalities permit substance misuse recovery residences as a single-family dwelling, similar to residential care homes and group homes.

H.31 – Aquatic Nuisance Control – This bill has been dormant since passing the House on Wednesday 3/29, but is now receiving testimony this week in Senate Committee on Natural Resources and Energy. As previously reported, this bill creates a study committee to look into the use of pesticides for the control of aquatic nuisances (e.g., Eurasian water milfoil).

Online Resources

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Vermont Planners Association (VPA) Legislative Report – May 3, 2023

Reported by Alex Weinhagen, Kati Gallagher, Kerry Brosnan, and Darren Schibler

First, a thank-you and farewell to our intrepid Legislative Intern Kerry Brosnan in her last week. She has been the primary source of information for these reports, even managing to be in two places at once (thanks to the magic of Zoom recordings)!

The end of the legislative session is hectic, unpredictable, and difficult to report on, so this week's edition focuses on the details of S.100 with brief updates on other major bills that have moved. The next update will be a few weeks after the Legislature adjourns (scheduled for May 12) when we know the final disposition of bills.

In the meantime, please feel free to reach out to Darren (dschibler@ccrpcvt.org) if you're looking for a specific update on a particular bill.

NO NEWLY INTRODUCED PLANNING BILLS THIS WEEK – UPDATES ON PLANNING BILLS FOLLOW

S.100 - Omnibus Housing Bill – House Environment & Energy has engaged in furious sausage-making on this bill and passed [a revised version](#) on Monday. The bill was discussed by House Ways and Means and is scheduled for Appropriations on Thursday 5/4, and then presumably it will go to the full House for a vote. Assuming it passes the full House, the differences between the House and Senate versions will then need to be ironed out – either by simple agreement or via a conference committee.

Although VPA's comments and specific suggestions were discussed, very few of them appear to have been incorporated into the draft that was voted out of House Environment & Energy. Major points:

- The parking provision (Section 1) in the most recent draft seems more confusing and problematic than the Senate version.
- The mandatory density allowance (Section 2) remains at 5 units/acre even though the NDA designation program density minimum is 4 units/acre.
- The provision exempting small soil-based wastewater systems from the density mandate was removed, though perhaps unintentionally and planning partners are working to add this back.
- The mandatory density bonus provision for affordable housing incorporates some of our suggested language, but retains the additional building height to add another story/floor.
- Language regarding administrative approval of subdivisions is still included, but without clarity on definitions of “major” vs. “minor” subdivisions.
- The Act 250 “reforms” are still anemic, temporary, and only apply in designation areas.
- For the purpose of appealing municipal administrative permits, the definition of “interested person” in 24 V.S.A. § 4465(b) has been changed from any 10 voters or landowners to only ONE “aggrieved person” as defined in 10 V.S.A. § 8502(7) for Act 250 appeals.

At this point, there is very little chance of influencing the bill before it is passed, but if you would like to see changes, reaching out to your representative and requesting an amendment on the House floor might be the only way to do so.

Thankfully, the most problematic municipal zoning reforms don't become effective for 18 months (December 2024). That means municipalities have some time to adjust their land use regulations, and technical corrections and/or real Act 250 reform are at least possible in the 2024 legislative session.

S.3 – Ban on Paramilitary Training Camps – We have not reported in detail on this bill, but for those who are following it due to the fallout from Slate Ridge, we wanted to note that it was passed by both the House and Senate and now awaits the Governor's signature. The law will live in Title 13, Chapter 85 taking this issue out of the arena of municipal zoning.

S.5 – Affordable Heat Act – The bill was fully passed by both bodies and delivered to the Governor on 4/28. A veto is likely since the Governor has signaled major concerns with the bill due to the cost to the general public for completing required upgrades, and to the state for administering the program. The question remains whether the Legislature's democratic majority will be able to override the veto.

S.115 - Misc. Ag & Stormwater Provisions – This bill originally proposed to exempt properties regulated under Required Agricultural Practices from municipal stormwater fees. Due to concern raised by municipal officials and VLCT, the Senate version downgraded this to a study, but despite this House Agriculture reversed course based on testimony from the EPA, ANR, and Agency of Agriculture and reinstated the fee exemption with no study bill (but did clarify that the exemption is not retroactive). There was a question as to how houses/residences on farms will be assessed and the initial language was changed to try to show that those houses will still be assessed.

H.31 – Aquatic Nuisance Control – As previously reported, this bill creates a study committee to look into the use of pesticides for the control of aquatic nuisances (e.g., Eurasian water milfoil). Senate Natural Resources removed the moratorium on use of said pesticides and pushed the study due date out to September 1, 2023 before voting the bill out. It will make a quick stop in Appropriations before moving to the Senate floor.

Online Resources

[Bill, Act and Resolution search page](#), past [VPA Legislative Reports](#), upcoming [House / Senate Committee Meetings](#), and the weekly [VLCT legislative report](#).

Vermont Planners Association (VPA)
2023 Legislative Summary
June 16, 2023

Reported by Alex Weinhagen, Kati Gallagher, Kerry Brosnan, and Darren Schibler

Overall, 680 bills were introduced during the 2023 legislative session - 523 in the House and 157 in the Senate. Many weren't discussed at all, and most never made it out of their assigned committee. However, since 2023 is the first year of the legislative biennium, all bills that didn't become law are still "active" - meaning, they can be discussed and advanced in the 2024 session. VPA tracked a total of 70 bills with a planning nexus. See below for a summary of those that went somewhere, with an emphasis on those that made it across the finish line to become law.

CAVEAT. The 2023 session isn't over yet! The Legislature will reconvene on/around June 20 to consider various bills that the Governor vetoed. The most significant of which is the "big bill" - i.e., the State budget for the fiscal year that starts July 1, 2023. It's possible that the Legislature could do additional work as well - e.g., passing other bills that didn't quite make the finish line for the May adjournment.

H.31 – Aquatic Nuisance Control Committee & Report – Signed by the Governor on 6/12/2023

Originally written with a one-year moratorium on the use of pesticides to control aquatic nuisances (e.g., Eurasian water milfoil), this bill was revised to simply create a study committee. The committee's charge is to assess the environmental and public health effects of the use of pesticides, chemicals other than pesticides, biological controls, and other controls in comparison to the efficacy of their use in controlling aquatic nuisances. The committee shall provide a report with recommendations regarding whether and when pesticides, chemicals other than pesticides, or biological controls should be used to control aquatic nuisances in Vermont. Report due by December 15, 2023. Committee ceases to exist on April 1, 2024.

H.42 (Act 1) - Public Meetings, Covid-era Procedures Extension – Signed by the Governor on 1/25/2023

This bill was fast tracked and became law early in the session. It extends most of the covid-era public meeting allowances until July 1, 2024 - e.g., annual meeting scheduling, remote participation, fully remote public meetings, etc. Will there be a bill in 2024 to make fully remote public meetings an option more permanently? Stay tuned!

H.110 (Act 20) - Telecom Facility Review Authority – Signed by the Governor 5/25/2023

Municipalities lost the ability to regulate telecom facilities many years ago, in favor of review by the State Public Utility Commission (PUC). What you might forget, is that PUC authority over telecom facilities was supposed to sunset; thereby, returning regulatory authority to municipalities. This sunset has been extended time and time again, and this bill was just the most recent example. PUC authority will now sunset on July 1, 2026. The bill also requires the State Public Service Department and the PUC to collaborate on a report on the PUC process of siting telecom facilities, and how to make participation easier for municipalities and individuals. Input from VLCT, utilities, and any other interested parties required. Report due by January 15, 2024.

H.126 - Community Resilience and Biodiversity Protection – Became law without signature 6/12/2023

This bill sets a conservation vision and goals to conserve a percentage of Vermont's total land area - 30% by 2030 and 50% by 2050. Conserved land to include State, federal, municipal, and private lands. Conserved land shall include a mix within three categories: ecological reserve areas, biodiversity

conservation areas, and natural resource management areas. Each category is defined in the bill, but the percentage mix is to be determined, and guided by the conservation targets within Vermont Conservation Design. The bill charges the VT Housing and Conservation Board and the VT Agency of Natural Resources with an inventory of Vermont's conserved land and conservation policies by July 1, 2024. The bill also requires that VHCB and ANR develop a plan by December 31, 2025 to implement the conservation goals. Developing the plan requires at least 12 public meetings to solicit stakeholder input.

H.222 (Act 22) - Recovery Residences and Drug Treatment – Signed by the Governor on 5/25/2023

This bill seeks to reduce drug overdoses in a variety of ways – e.g., needle disposal, opioid treatments, drug checking for contaminants, etc. Section 9 of the law makes changes to the equal treatment of housing provision in 24 V.S.A. § 4412(1)(G) by stipulating that a recovery residence serving not more than eight persons shall be considered a permitted single-family residential use of property. A definition of recovery residence is also included. Effective on passage.

H.270 - Cannabis Regulation Revisions – Became law without Governor's signature on 6/14/2023

This bill makes a variety of changes to the State's regulation of the new cannabis industry. Section 5 of the bill clarifies and emphasizes limitations on municipal regulation of cannabis establishments – e.g., public nuisance ordinances cannot regulate outdoor cultivators; municipalities shall not regulate in a manner that has the effect of prohibiting the operation of a cannabis establishment. Section 6 of the bill exempts all outdoor cultivators subject to the Required Agricultural Practices from Act 250 review and from municipal zoning regulation (previously the exemption was much narrower). Essentially, this grants outdoor cannabis cultivators the same Act 250 and municipal zoning exemptions enjoyed by farming/agricultural uses. Effective on passage, but still awaiting action by the Governor.

H.479 - Transportation Bill – Signed by the Governor on 6/12/2023

Also known as the annual "T-Bill," this year's most significant provision (Section 35) is to establish a new Chapter 24 of Title 19 (Highways) that requires the state and municipalities to use "complete streets" principles (rather than simply considering them) when completing ANY transportation project, with some exceptions based on site / traffic factors as well as municipal and regional plan policies. The state and RPCs will be responsible for providing training on complete streets to municipalities. The T-bill also includes lots of relevant funding for roads, public transit, e-bike and electric vehicle incentives (including an "Electrify Your Fleet" program for which municipalities and businesses are eligible). The bill also establishes a new mileage-based fee for electric vehicles starting July 1, 2025.

H.145 (Act 3) – FY23 Budget Adjustment Act – Became law without Governor's signature 3/20/2023.

There is always a lot to unpack in budget bills, but here are the planning-related highlights:

- Section 45: \$30 million for the Department of Public Service and Vermont Community Broadband Board to leverage federal money and reduce the overall cost of universal broadband
- Section 65: \$6 million for the statewide Brownfields Revitalization Fund for direct grants of up to \$200,000 for assessment and remediation, as well as \$1 million total to be distribute to RPCs for their brownfields programs
- Section 95: \$3 million in assistance for municipal capacity to apply for state / federal funds, which can be distributed through RPCs, contractors, or directly to municipalities

H.494 – FY2024 Budget Bill – Vetoed by Governor 5/27/2023, awaiting potential override 6/20/2023

Again, planning-related highlights from this 336-page bill:

- Sec. B.1100(a)(3): \$500,000 in community grants related to health equity, pending creation of the Office of Health Equity
- Sec. B.1102(a) allocates \$10 million for the Vermont Rental Housing Improvement Program
- Sec. B.1102(b) allocates \$3 million to VAPDA to hire Housing Navigators included in S.100

- Sec. B.1102(c) allocates \$50 million in one-time funding for VHCBC to provide additional mixed-income housing and housing to address homelessness
- Sec. D.100 allocates \$7,545,993 in total to the Municipal and Regional Planning Fund, including:
 - \$6,211,650 million for RPCs
 - \$898,323 for municipal planning grants, of which up to \$500,000 may be used specifically for bylaw modernization grants
 - The remaining \$436,060 for the Vermont Center for Geographic Information
- Sec. F.5: another \$1 million was allocated to the Brownfields Revitalization Fund for assessment grants to property owners looking to redevelop contaminated sites. This is in addition to the \$1 million included in the FY2023 budget adjustment act (H.145 / Act 3).
- Sec. F.9 (Better Places Program): municipalities are now eligible for up to three projects in a given year (rather than just one)

S.3 (Act 13) – Prohibitions on Paramilitary Training Camps – Signed by the Governor on 5/8/2023

Those who have been following the [Slate Ridge case](#) will be interested to know that with this fairly short bill, the issue of regulating paramilitary training camps has passed out of the hands of zoning and into law enforcement (Chapter 13 of statute). However, this does not affect existing protections for hunting and sport shooting ranges in other sections of statute.

S.5 (Act 18) – Affordable Heat Act – Governor’s veto overridden on 5/11/2023

Act 18 is the result of two years of debate (and two vetoes) on a Clean Heat Standard that advances the state’s greenhouse gas emissions reduction goals from heating of buildings. The law is essentially a cap-and-trade system administered by the Public Utilities Commission (PUC) that requires fossil fuel providers to create or purchase “clean heat credits” for implementing measures like weatherization, fuel switching away from fossil sources, and increasing heating system efficiency. Though there are provisions ensuring equitable access to clean heat measures for low- and moderate-income customers, the Governor’s veto was based on concern about increased up-front costs for clean heat measures at a time when Vermonters are already struggling with affordability. The credit system will generate PUC-tracked data that may be informative for enhanced energy planning, but it’s unclear if that data will be shared with planners. Ultimately, this law does not implement the clean heat standard. It simply directs the PUC to come up with the rules/logistics to implement the clean heat standard, and deliver this by January 15, 2025 for review/approval by the Legislature.

S.100 (Act 47) – Housing Opportunities Made for Everyone – Signed by the Governor on 6/5/2023

The biggest piece of planning legislation to come out of this session, the HOME Act makes numerous changes to statutes related to municipal zoning, Act 250, and planning generally to equitably increase housing availability and affordability across the state. Several other studies related to regional planning, the designation program, Act 250, rural recovery, and energy code compliance are included in the bill, along with funding for housing programs. Most statutory changes are effective December 31, 2024, but a few are as early as July 1, 2023. [DHCD guidance on the bill is forthcoming](#), but here is a brief summary:

- In residential areas served by municipal water and sewer as defined in the bill, zoning must establish building and lot standards that allow for a minimum density of 5 dwellings per acre.
- In water / sewer service areas, affordable housing projects are entitled to a 40% density bonus and an additional floor of height.
- Duplexes must be allowed with the same dimensional standards as single-unit homes.
- Dwellings with up to 4 units must be an allowed use in residential zones served by municipal water and sewer.
- Municipal zoning cannot require more than 1.5 parking spaces per dwelling unit, and no more than 1 space per dwelling in areas served by public water and sewer or areas less than 0.25 miles from public parking.

- There are new statutory definitions for accessory dwelling unit, duplex, emergency shelter, multi-unit dwelling, and areas “served by municipal water and sewer infrastructure.”
- There is a new process for reporting to and review of municipal bylaw amendments by DHCD.
- Statute now enables administrative minor subdivision review in municipal bylaws.
- New “by-right” provisions limit the modifications and conditions Appropriate Municipal Panels can impose on housing developments.
- Regional plans must include affordable housing targets, disaggregated to municipalities, and more detailed assessment of housing needs.
- Municipal plans must include specific actions to address housing needs.
- Rural towns under 24 V.S.A. §4303 can no longer vote to adopt municipal bylaws through town-wide Australian ballot by default, though the legislative body can still elect to use this process on a case-by-case basis.
- Until July 1, 2026 priority housing projects and certain housing projects with 25 or more units in designated centers are not considered “development” under Act 250.
- Municipalities can now apply for Act 250 master plan permits in downtowns and NDAs.

S.115 (Act 42) – Misc. Agriculture & Stormwater Provisions – Signed by the Governor on 6/1/2023

Among other things, this bill exempts properties regulated under Required Agricultural Practices from municipal stormwater fees. There was considerable debate and advocacy by VLCT and municipal stormwater regulators attempting to clarify that state or municipal stormwater operating permits and fees (for private / on-site stormwater management practices) are distinct from municipal stormwater utilities and fees, which are used to fund public stormwater initiatives implemented by municipalities as required under MS4 permits. Municipalities were concerned that exempting some land uses would lead to other exemptions and reduce funding to meet MS4 requirements. In the end, the Agency of Agriculture’s legal counsel prevailed on the basis of aligning with their interpretation of statutory limits.

For additional perspective, and information on a host of other bills related to municipalities, check out the 2023 legislative summary done by the Vermont League of Cities and Towns (VLCT):

<https://www.vlct.org/weeklylegislativereport/2023-legislative-wrap>

For more perspective on bills related to planning, check out the upcoming VT Department of Housing and Community Development (DHCD) legislative summary - <https://accd.vermont.gov/community-development/resources-rules/planning>. This one isn’t ready yet, but should be posted in the coming weeks. DHCD staff are highly involved in the legislative action, and often report on bills with a planning connection that VPA didn’t focus on. In other words, we highly recommend checking out their summary when it becomes available.

Online Resources

[Bill, Act and Resolution search page](#)

Past [VPA Legislative Reports](#)

DHCD Legislative Summary

VLCT Legislative Summary