WLR May 3: Tax Abatement & Sales, Local Option Tax, Open Meeting Law, and Adjournment

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Bills continue to progress at a rapid rate as we approach the last week (we hope) of the session. **Read more about what happened this week below,** and don't miss our latest advocacy update to **Municipal Capacity, Revenue, and Governance**, which includes:

- Tax Abatement and Tax Sales
- Statewide Authorization for Municipal Local Option Tax
- Changes to Open Meeting Law - *A must-pass bill due to remote or electronic meeting authorization expiring June 30, 2024.*

Opportunities for input:

- **Provide Input on VLCT's 2025/26 Municipal Policy**
- Contact Conference Committee Members - *To show your support for statewide authorization of Local Option Tax.*

Some of the content of the Weekly Legislative Report *below is provided by our advocacy partners. For additional detail and more commentary from VLCT Advocacy staff, visit the* ***Legislative Reports*** *webpage to access our topical Advocacy Updates.*

Quick Overview of the Road to Adjournment

While adjournment is planned for Friday, May 10th, there is a great deal of ground that needs to be made up for that to happen. Here are some of the obstacles to adjournment and the positions staked out by all the parties.

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The Budget

- **The Legislature:** the House and Senate conferees are very close to final agreement on the budget, however, they are now accounting for forecasted surplus revenues that could benefit the yield bill discussion.
- **The Governor:** seems poised to oppose any resulting budget for a myriad of reasons, and it's safe to say that everyone is awaiting a veto.
- Typically, when the budget is done, the session is done.

The Yield Bill

- **The House:** sent the Senate a yield bill that increases property taxes for homeowners by 15% and everyone else by 18% while also levying a new tax on internet services and a surcharge on short-term rentals.
- **The Senate:** was not enthusiastic, with the Chair of the Finance Committee responding, "This bill certainly did not live up to its publicity." The Committee seems underwhelmed by the solution to the education funding crisis sent to them and overwhelmed by how much they need to do with very little time left. They are looking at a bevy of new taxes and offsets to lower the property tax increase to something like 12% or 10%.
- **The Governor:** The Administration wants to see the property tax increase brought down to "low single digits," however, didn't bring anything to the table except deficit spending and use of surplus funds that may be available if an updated forecast is correct. It seems likely the Governor will veto whatever comes his way.

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Housing Bill

- **The Senate:** just passed its version that tries to marry the work the House sent them in H.687 with the work that was done on S.311.
- **The House:** might have issues with the Senate's cut of the appeals sections, as well as some of the interim exemptions. Outside of the land-use components, the Senate did not move forward with the very expensive H.829 which was sent to them, which could be the source of some aggravation.
- **The Governor:** might likely still veto the bill due to the addition of the road rule and forest fragmentation language.

The Privacy Bill

- **The Senate:** the Committee on Economic Development, Housing, and General Affairs passed its version of the bill, which was heralded by many as a major improvement. The bill might have hit a snag, as some members have proposed a floor amendment that would put the Private Right of Action back in the bill. If you do not want to see such an amendment, contact your Senator.
- **The House:** will most certainly not find the bill favorable, and a Committee of Conference will need to be formed with what time is left.
- **The Governor:** has really not weighed in publicly on the bill. There is a potential that he would veto such a bill due to the potential impact that it could have on small businesses.

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Public Safety Legislation

- **The Senate:** has S.195 (pretrial supervisions and conditions of release), S.58 ("Raise the Age" and drug offense penalties), H.645 (expanding restorative justice), and H.534 (retail theft) in its possession. Substantial changes in each piece of legislation will need to be negotiated if the bills are to pass this year.
- **The House:** is waiting for the Senate to get back to them with their amendments.
- **The Governor:** While none of them may be veto targets, the Governor seems poised to be unhappy with the results of most of these proposals and unlikely to be fine with funding them.

Land-Use & Housing Development Bill Passed by Senate

We have a final version of H.687 from the Senate after weeks of negotiations between members of the Senate Committee on Economic Development, Housing, and General Affairs and the Natural Resources Committee. The Senate voted to pass the legislation roughly on party lines, foreshadowing a potential veto by the Governor.

Notable updates to this amendment include:

- Interim exemptions have been pushed to 2028.

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- Keeps the change in the name of the Natural Resource Board to the Land Use Review Board.
- Cuts the sections that would push appeals to the new LURB and funds a new judge position in the Superior Court.
- It allows anyone to request a jurisdictional opinion but does not require one.
- If a municipality seeks to be excluded from Tier 1B, it shall lose any center or neighborhood designations and be ineligible for future designation until it seeks Tier 1B status.
- Senate Natural had amended a provision under hotels and motel conversions to require an area for food preparations which this draft reversed.
- Regarding who can appeal municipal decisions, the 3% has been removed and is now simply any 25 persons.

The bill transitions Act 250 to place-based jurisdiction instead of the traditional size-based jurisdiction by creating three tiers of jurisdiction, with Act 250 jurisdiction most intense in Tier 3 and non-existent in Tier 1a. This looks like the following;

- **Tier 1a** – 20 to 50 municipalities could fit into this tier and leave Act 250 altogether, though they would need to incorporate that criteria into their municipal zoning.
    - Tier 1b – most municipalities ***could*** fit into this for their core, so long as they do not opt-out. This tier would exempt housing development under 50 units on less than 10 acres.

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- For a second, we'll skip from Tier 1 to Tier 3 for the sake of making an explanation easier;
- **Tier 3 –** consists of "critical resource areas" where any activity within will more than likely trigger Act 250 jurisdiction and would, by some estimates, cover about 18% of the state's land mass.
- **Tier 2** – is essentially anything we have not described yet, which will closely resemble the existing Act 250 program.
    - The bill adds a "road rule" that triggers Act 250 if a road is more than 800 feet.
    - New criteria exist in the bill for "forest fragmentation."

The bill does so much more, which you can see in the section-by-section summary and in the Joint Fiscal Office overview.

Interim Exemptions:

H.687 does include interim exemptions until July 2028 to accommodate the time it will take to stand up the new tiers, however, it is scaled back from what was offered in S.311. The interim Act 250 thresholds for triggers are pushed to:

- Has no permits for housing within downtowns.
- 75 units within state-designated growth areas
- 50 units within a quarter-mile along transit corridors or census-designated urbanized areas with 50,000 residents.
- 50 units within a quarter-mile radius of village centers that have permiting, zoning, and subdivision bylaws

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- These are contingent on not being in floodplains or river corridors.
- No permit amendment is required for the construction of improvements to convert a commercial structure to 29 or fewer housing units.

None of the units built under these interim guidelines count towards the trigger Act 250 threshold.

Of important note: it is still unclear how all of this will interact with S.213, which regulates wetlands and river corridor development. Such areas cover much of the downtowns now exempted.

Senate Rushes to Consider Property, Cloud, STR Taxes Sent to Them by the House

The yield bill was not well-received by the Senate Committee on Finance, which was disappointed to still see property taxes increase by 15 or 18%. The newest revisions from local school budget votes have lowered them to 14.38% homestead and 17.99% non-homestead.

- The Committee seems primed to level the playing field to have the homestead and non-homestead increase by the same amount.
- The Administration conveyed that the Governor wants to see property taxes brought down to "low single digits," however, was unable to bring anything to the table except deficit spending and using surplus funds

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that may come if an updated forecast is correct.

- The potential solution highlights that the situation we are in here is of our own design. Note, we are in a good economy and revenues are coming in above target, **we just have an excessive spending problem.**

As of late Thursday night, it looks like the Senate will seek to find $52 million to get property tax increases to roughly 12%. The Senate seems comfortable with the following new or expanded taxes and revenue options:

- A limited cloud tax
- Using $25 million in surplus tax revenue
- A tax on clothing over $150
- Spending down some reserves if the Treasurer assures them that it would not hurt our bond rating
- They are also looking at an excise tax on sugar-sweetened beverages, vapes, and other longstanding targets.

One Senate Committee on Finance member lamented that a study due in December that would give granularity to non-homestead property tax is not complete, or they would attempt to tax second homes.

THE COMMITTEE WILL BE WORKING LATE INTO THE NIGHT TO FINALIZE THIS BILL.

Elsewhere In The State House

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Hundreds of hours of committee discussion each week culminate in our advocacy update, so not everything makes it into the overall update; however, we often cover what is left on the cutting-room floor here for our most dedicated readers.

- Read updates from Week 1, Week 2, Week 3, Week 4, Week 5, Week 6, Week 7, Week 8, Week 9, Week 10, Week 11, Week 12, Week 13, Week 14, Week 15, Week 16, and the last session's recap.
- This week, the Senate voted not to confirm Zoie Saunders, the Governor's appointed **Secretary of the Agency of Education.** In response, the Governor appointed her interim Secretary, where she can serve indefinitely.
- An extension of the **Vermont Employment Growth Incentive** program is still hanging in the balance. The legislation has hit a snag due to a lost appropriation. Please, if you care about the program, send a message to your legislators.
- The Senate gave final approval to H.72, which will create a pathway towards a S**afe Injection Facility** in Burlington where individuals can consume pre-obtained illegal drugs with access to harm reduction supplies, drug-checking services, addiction treatment, medical services, and overdose reversal medications.
- The Senate has passed a bill that changes prior authorizations in healthcare.
- S.102, which allows employees to leave meetings they perceive as political or religious, has advanced through the House.

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