



Weekly Legislative Report

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Legislature Speeding Towards a Recess

The pace of legislative activity was frenetic again this week as committees raced to get their bills finalized ahead of a six week recess – which can't come soon enough for most of them, as well as the dedicated staff who work for them or, indeed, your Advocacy staff. And today is the day the legislature will finish their work until returning in the middle of August. It is likely to be a long day.

The list of bills that are moving toward closure include [S.219](#) (law enforcement), [S.342](#) (temporary workers' compensation due to COVID-19), [H.349](#) (aid to municipalities to reimburse costs and digitize land records due to COVID-19), [H.942](#) (the Transportation Bill), [H.954](#) (the Miscellaneous Tax Bill), [H.959](#) (education and property tax yield), [H.961](#) (the first quarter state budget), [H.962](#) (Act 250), and [H.966](#) (broadband.)

Local officials should note that as soon as we are finished (temporarily) with the virtual legislature, we will publish an interim (and virtual) Legislative Wrap-up in early July, and then proceed directly to virtual VLCT municipal policy committee meetings in order to develop a draft Municipal Policy for the 2021-2022 biennium. We will first submit that policy to the VLCT Board of Directors and then to the VLCT membership for adoption at our virtual annual meeting on September 30.

Legislation to Help Towns Moving at Warp Speed

On Wednesday, S.349, the bill to provide reimbursement to municipalities for costs incurred to address the COVID-19 pandemic, passed the House in substantially amended form with an appropriation that was reduced by one third. (See [Weekly Legislative Report No. 24](#)). Late Thursday evening, after review from the Senate Government Operations and Appropriations committees, funding was substantially restored. The legislation was added as sections 8-10 to [H.966](#), the bill to provide COVID-19 funding for broadband connectivity, housing and economic relief. Thus, S.349 is no longer in play.

H.966 was voted out of Senate Appropriations, will be acted on today, and is due to be passed by the full legislature this afternoon. We, along with local officials, want to thank both committees for their work to restore the amount of available Coronavirus Relief Fund (CRF) monies to compensate municipalities for COVID-19 expenses.

The amendment to H.966 would allocate \$13 million from the CRF to the Agency of Administration for grants to reimburse eligible COVID-19 expenses incurred by December 30, which is the deadline to spend CRF monies established in the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. Those expenses could include hazard pay, supplies and equipment, sanitation, facility alterations, overtime compensation, the re-direction of staff to first response needs, and other expenditures not covered by other funding sources or by the Federal Emergency Management Agency.

Of the total \$13 million, \$12,650,000 would be available to counties and local governments. Counties could apply for grants in amounts not to exceed \$1.00 per person as determined by 2019 census data. Cities, towns, gores, fire districts, consolidated water or sewer districts and the Unorganized Towns and Gores of Essex County could apply for grants in amounts not to exceed \$25.00 per person, also as determined by the 2019 census. Two hundred thousand dollars would be set aside for solid waste districts and \$150,000 would be available to regional commissions to help smaller communities identify and document eligible COVID-19-related expenses. Local officials must be sure to document all of their expenditures that have resulted from managing the COVID-19 pandemic.

The bill also provides \$2 million in grants to towns to digitize their land records if they had to close offices due to COVID-19 and that have established a restoration and preservation reserve fund. Grants would be based on need and have a meaningful impact on the ability of the public to access digitized land records online. The Agency of Administration would be directed to publish guidelines for the digitization grants within ten days of enactment of the legislation.

H.966 will be passed today. Local officials should take the time to thank their legislators for providing some funds to municipalities to reimburse them for COVID-19-related expenditures. And be sure your documents are in order so you can apply for reimbursement as soon as the two programs take effect.

Coronavirus Relief Fund Appropriations

Today, the House and Senate are moving toward consensus on appropriation of Coronavirus Relief Fund money in advance of their six-week recess. According to a spreadsheet from the Joint Fiscal office (see resource below), the House, as of June 26 (today), has appropriated \$741,207,219 and the Senate \$749,577,119 in the combination of bills which allocate dollars to various COVID-19-eligible purposes. Those two figures will need to be reconciled before the legislature recesses at the end of the day.

Once all of the legislation is finalized, we will provide more details in our Legislative Wrap up.

Resource

- [Joint Fiscal Office Total Economic Stabilization and Recovery](#)

Focusing on Law Enforcement Reform

Following the recent killing of George Floyd and nationwide protests, the legislature thoroughly began to examine various law enforcement reform measures. (See [Weekly Legislative Report No. 23](#).) Yesterday, the House Judiciary Committee voted out [S.219](#) after meeting jointly with the House Government Operations Committee in marathon sessions over the past three days. The bill, which incorporates several measures found in other law enforcement bills that were already moving, is up for action on the House floor today.

Legislative Intent. The committees spent a good deal of time on the legislative intent portion of the bill. That intent recognizes the various measures the legislature has taken over the last ten years to reform law enforcement. The section goes further in committing the legislature to continue to address law enforcement policies, training standards, and discipline. The bill highlights the legislature's support of President Obama's Task Force on 21st

Century Policing's pillars of law enforcement. You may recall that VLCT first included the pillars of 21st Century Policing in our 2016 Municipal Policy, so we are pleased to see the legislature show clear support of it as well. S.219 promises that when the legislature returns in August, it will address issues they could not adequately tackle in the last few weeks, including moving the Criminal Justice Training Council to the jurisdiction of the Department of Public Safety, increasing resources and authority of the executive director of racial equity, and reviewing existing body camera policies to create one statewide strategy for all law enforcement across the state.

Data Collection and Body Cameras. Both House committees retained several original provisions of the original bill, including the provision that state grant funding to law enforcement agencies will be withheld if they do not comply with race data reporting requirements. The committees also included Senate language that added new mandated data collection points, such as if force was employed in a stop and if so, the type of force employed and whether the force resulted in bodily injury or death. Vermont's executive director of racial equity was also retained as an additional official in charge of administering and reviewing data collection by law enforcement.

The House version of the bill kept the Senate provision that mandated that all state Department of Public Safety law enforcement officers be equipped with body cameras. No similar mandate is placed on other law enforcement agencies.

Prohibited Restraints and Use of Force. S.219 continues to address improper or prohibited restraints, use of force, and unprofessional conduct. The act of placing a person in a prohibited restraint or failing to intervene and report to a supervisor when an officer observes another officer committing such actions are now new categories of unprofessional conduct and are subject to sanctions. Prohibited restraint is defined as "any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain." The penalty for using a prohibited restraint that causes serious bodily injury to or death of the person is imprisonment for up to 20 years, a fine of up to \$50,000, or both.

The bill is up for action today in the House and with a unanimous vote and broad committee support, the House will likely pass the bill and promptly send it back to the Senate for final review. Although the bill looks quite different from the Senate-passed version, the Senate may act quickly today and choose to concur with the House's proposals of amendment.

SNR Offers Strike-all Amendment to H.926

In the wake of last week's controversy on the Senate floor, the Senate Natural Resources and Energy Committee resumed its effort to pass various Act 250 reform measures this week that included in a strike-all amendment to [H.926](#), the House Act 250 reform bill. (A strike-all amendment removes everything after the title and replaces it with new language.) House lawmakers worked for more than a year on the legislation – which proposed major reforms to Vermont's land use law – before passing it, and then sending it over to the Senate in February.

Given the rush to get a bill finalized, which has been further exacerbated by the slowed pace of the virtual legislature caused by the pandemic, the committee concluded that they didn't have enough time to review the entirety of the House's work. Instead, they chose to single out certain elements to propose for passage. (See H.926 summary below.)

Prior to proposing the strike-all amendment to H. 926, the committee had proposed several amendments to S.237, the affordable housing bill, that would have tacked on various Act 250 reform measures selected from H.926. Earlier this week during the Senate floor discussion S.237 was ordered to "lie" – that is, the Senate suspended its consideration of the bill. The strategy may now be for the Senate to take up S.237 without the Act 250 reform amendments, and if approved, send it to the House after the summer recess.

Consequently, the committee proposed a strike-all version of H.926, replacing it with language identical to that offered on the Senate floor in its earlier amendment to S.237. Although the committee's version of the bill exempts downtown development districts and neighborhood development areas from Act 250 jurisdiction, the problematic municipal zoning minimum lot size mandates included in S.237 are not part of the strike-all amendment to H.926.

On Wednesday, after discussion and some testimony, the committee voted 3-2 to approve and forward the stripped-down, strike-all version of H.926. The speed at which the review of the bill is happening in the Senate is disconcerting to those who think the legislation would weaken natural resource protections and should be fully vetted with more expert testimony. Still, the proposed legislation has some hurdles to clear. Committee Chair Christopher Bray indicated that the bill will go to the Senate Finance and Appropriations committees before going to the full Senate. If approved there, H.926 would have to go back to the House for reconsideration in August and September, following the summer recess.

Workers' Compensation During COVID-19

The legislature is poised to pass [S.342](#), a bill that would provide workers' compensation benefits to front-line workers during the COVID-19 emergency. A front-line worker who suffers a disability or dies during the emergency would be compensated, provided that worker tested positive for COVID-19 between March 1, 2020, and January 15, 2021. A front-line worker is defined as an individual with an elevated risk of exposure to COVID-19 who is employed as a firefighter, law enforcement officer, emergency medical personnel or volunteer, worker in a health care or long-term care facility, correctional officer, child care provider to children of front-line workers, home health care worker, worker at a morgue, funeral establishment or crematory, or workers performing services that the Commissioner of Labor determines places them at a similarly elevated risk of exposure and have tested positive for COVID-19.

The presumption would not apply if a preponderance of the evidence demonstrates that the disease was caused by non-employment-related risk factors or exposure.

The bill also includes a directive to the Commissioner of Financial Regulation to investigate the potential for creating a special fund to reimburse worker's compensation insurers, inter-municipal insurance associations, and self-insured employers for COVID-19-related workers' compensation costs.

S.342 passed the Senate on April 27. The redrafted version, including the study, is currently on the House calendar and is likely to be passed by that body today.

Senate Passes H.688, the Global Warming Solutions Act

Last night, after almost two hours of debate, the full Senate advanced [H.688](#), the Global Warming Solutions Act. The bill passed on a roll call vote of 22-6. This morning, the Senate voted 22-5 to pass the bill, which was then sent to the House.

The House initially passed the bill in February, before COVID-19 intervened. As passed by the House, H.688 included an appropriation of \$972,000 to the Agency of Natural Resources (ANR) in FY21 to implement the act and included the addition of three full-time limited-service positions at the agency. The Senate removed both the appropriation and the positions from the bill.

The bill would require the state to cut emissions by 26 percent below 2005 levels by 2025, 40 percent below 1990 levels by 2030, and 80 percent below 1990 levels by 2050; further, it would create a cause of action allowing parties to sue the state if those goals are not met. The bill also creates the Vermont Climate Council, a 23-member body tasked with creating a plan by December 2021 that would achieve those reductions.

Sen. Joe Benning (R-Caledonia) interrogated the reporter of the bill, Sen. Mark McDonald (D-Orange), by asking how the citizen cause of action would function, the extent of power granted by the legislature to the council, and the overall ability of a small state like Vermont to make a dent in national carbon emissions. He also emphasized that without the appropriation and positions that were in the House-passed bill, ANR is doomed to fail to meet the bill's goals and will thus be open to those citizen suits. Supporters of the bill defended the effort as a moral obligation to address a pressing global issue, describing it as a modest but necessary step that some neighboring states have already taken that ensures Vermont continues to advance policy on climate change in the coming years.

The Global Warming Solutions Act passed the full Senate on Friday and is likely to be passed by the House before the day is out.



The Senate meets virtually on June 26.