

2023 Weekly Legislative Report

#7

This week the WLR includes important updates on housing, the large number of cities and towns under reappraisal orders, and mileage-based user fees for electric vehicles, as well as a few topics you'll want to keep up to date on in the Elsewhere in the Statehouse article.

Please consider testifying at the hearing about housing mentioned in the Senate Committee Continues to Discuss and Draft its Housing Bill article.

Local officials should remain attentive to the discussion we write about in the House Ways and Means Considers Reappraisal System article.

[Senate Committee Continues to Discuss and Draft its Housing Bill](#)

Testimony From ... and About ...

Since the start of the session, the Senate Economic Development, Housing and General Affairs Committee has focused almost exclusively on refining its draft housing bill. They have taken copious amounts of testimony about how to amend the permitting process to facilitate housing. At this point, they have heard from private and non-profit housing developers, appraisers, local officials, employers who can't attract workers due to housing shortages (including hospitals in the very different economies of the Northeast Kingdom and Chittenden County), Department of Housing and Community Development leadership, Act 250 staff and executive director, and people in the workforce who can't find housing or who took years to find housing. **On Thursday, February 16, the committee will host [a public hearing](#) on the subject. Please consider testifying at that hearing.**

As we have written many times, everyone agrees that the shortage of housing is a crisis throughout Vermont that affects every aspect of living. On Wednesday, the Chief Executive Officer of the Northeastern Vermont Regional Hospital testified about the approximately 200 well-paying job openings in the Northeast Kingdom health care arena. Candidates who are

excellent fits for those jobs have extreme difficulty finding housing: in the last year, he stated, the hospital has lost ten candidates who did not take a job or who accepted an offer and then had to withdraw because they could not find housing. The same story is repeated across the state.

Also testifying on Wednesday were the chair of the South Burlington City Council and the city's planning director, who identified many sections in the draft legislation that might unintentionally undo bylaw revisions designed to improve the process for permitting housing in the city. Making a measurable dent in the 35,000-45,000 additional housing units that the Vermont Housing Finance Agency estimates are needed, the city has approved permits for 900 dwelling units in the city center, the construction of which has not yet commenced, and an additional 400 proposed units are in preliminary stages of the city permitting process. The committee also heard from developers who have permitted and built housing projects.

Lastly on Wednesday, Department of Housing and Community Development (DHCD) Commissioner Josh Hanford testified in broad terms about the housing crisis and the need for changing the system to make housing development a reasonable undertaking. He emphasized that the Governor's position has shifted over time and that although there need to be a lot of options available, right now there are not. In a jarring revelation, the commissioner testified that Vermont encompasses 9,600 square miles. **All the designated areas in the state total 41 square miles – a mere 0.35 percent of the state's land mass.** He also spoke about the barriers to housing development that Act 250 jurisdiction creates. As the committee heard from many developers – small, large, private, and nonprofit – will walk away from projects that trigger Act 250 or will reduce the size of the projects to fit under the Act 250 threshold.

What Is In the Current Draft

The first ten sections of the committee's current draft essentially mirror those in H.68 (see article in [Weekly Legislative Report #4](#)) which dictate parking requirements, density requirements in areas served by sewer and water, uses by right, permissible grounds for appealing decisions, and enhanced reporting requirements.

The draft bill would, as has been requested by local officials, delete statute that allows any ten persons who may be voters or real property owners to appeal the decision of a development

review board or zoning administrator or board of adjustment. **Still able to appeal would be**

- a person owning title to the property;
- a host municipality, adjoining municipality or solid waste district;
- a person in the immediate neighborhood who can demonstrate a physical or environmental impact on the person's interest;
- any department and administrative subdivision owning any interest in property; and
- the Agency of Commerce and Community Development.

The draft bill would allow a developer to build 20 dwelling units within five years and five miles of each other before Act 250 jurisdiction kicked in; would eliminate that time and distance jurisdictional threshold if a developer was building in a designated neighborhood development area; and would eliminate Act 250 jurisdiction based on the number of units that could be built as part of a "priority housing project" in a municipality with a population below 10,000. The draft would not eliminate the developer time and distance rule outside of designated neighborhood development areas. VLCT called for eliminating Act 250 jurisdiction altogether in designated areas – downtowns, growth centers, new town centers, and neighborhood development areas.

In addition to other provisions in the draft bill, funding would be provided for DHCD to design and implement

- a pilot program to provide matching funds for development of single-room occupancy facilities;
- a program to provide matching funds for costs an employer incurs to create workforce housing;
- a program to identify commercial properties that may be converted to residential use and provide grant for conversion of those properties;
- a subgrant to Homeshare Vermont;
- a program to support safety and improvement of mobile home housing options, infrastructure, and community resiliency;
- funds and authority to the Vermont Housing Finance Agency to support creation and implementation of a Whole Loan Fund;
- amendments to the Missing Middle Housing Program to streamline the application process and equitable system for distributing grants; and

- creation of a Middle-Income Rental Housing Revolving Loan Program.

The bill would also provide funding to the Agency of Human Services to provide additional support for housing risk pools and mitigation funds.

The committee is likely to take the next week to incorporate what they have heard into a new draft bill. **We urge the committee to include flexibility for local governments as they update zoning bylaws to encourage housing within their communities and eliminate the duplicative permitting from Act 250 in designated areas.**

Resources for this article:

- [Mayor's Coalition Legislative Priorities 2023](#)
- [Public Hearing Notice Thursday, February 16, 2023](#)
- [Ted Brady, VLCT Opinion – Housing](#)
- [Joint Fiscal Office's 1/21/23 Presentation on Vermont's Investments in Affordable Housing](#)

[House Ways and Means Considers Reappraisal System](#)

On Thursday, the House Ways and Means Committee heard from local listers and assessors, representatives of the Vermont Assessors and Listers' Association, and private assessors and appraisers about the re-appraisal system in Vermont, the large number of cities and towns under reappraisal orders, what should be done to address the need for grand list appraisals, and the lack of people to do them. This effort followed conversations with the Director of Property Valuation and Review (PVR) and a discussion of options with VLCT Advocacy staff in January.

If a town's grand list falls below 85 percent of fair market value or rises above 115 percent of fair market value, the law requires the town to reappraise its properties, and PVR issues them an order to do so. The Equalization Study, performed each year by PVR, determines the Common Level of Appraisal (CLA) for all towns. In the most recent Equalization Study, the issue is that municipal grand lists are well below fair market values: in fact, in 2022 the statewide CLA was 83.1 percent of fair market value. A very readable explanation of the CLA and education property tax valuation system is in the [PVR Annual Report](#).

Draft legislation was proposed by the committee chair late last week to spur the conversation. This bill (which has not yet been introduced) would establish a moratorium on requirements to conduct a reappraisal or submit a compliance report on reappraisal plans to the Division of Property Valuation and Review in at least Fiscal Year 23. It would also prevent the lack of a reappraisal or compliance report from withholding education, transportation, or other funds from a municipality during the period of the moratorium. The \$8.50 per parcel per year payment to towns for reappraisal and grand list maintenance would be repealed, and the \$1 per grand list parcel would be increased to \$2 for services related to grand list maintenance. A state reappraisal program would be instituted to assist with periodic reappraisals of each municipality's grand list on a schedule yet to be determined (such as every eight years) by the Commissioner of Taxes.

The system and timeline of grand list maintenance and reappraisals is complex in Vermont and is tied to falling out of compliance with the Common Level of Appraisal (CLA). Thus, when municipalities are obligated to reappraise is irregular and unpredictable. Currently, 165 municipalities are going to need reappraisals, of which 42 have reappraisals planned for 2023–2027.

There is a fair amount of consensus that moving from the CLA as a trigger for requiring a reappraisal to a schedule for every town would increase predictability for all – the towns, appraisal firms, state agencies, and property taxpayers. Witnesses in the committee who have worked in the field for years provided a host of additional recommendations regarding timing, training, and local administration, particularly of the first levels of appeal from the property owner. Most recommendations did not extend to establishing a single statewide reappraisal system. The committee will continue work on the draft legislation, and local officials should remain attentive to the discussion.

Resources for this article:

- Draft reappraisal bill
- [Property Valuation and Review: Reappraisal Demand In Vermont](#)
- [2023 Property Valuation and Review: Annual Report](#)
- [2022 Property Valuation and Review: Equalization Study](#)

[Mileage-Based User Fees for Electric Vehicles](#)

Representatives from VTrans testified in the House Transportation Committee this week about a proposal in Governor Scott's budget that would design and implement a [mileage-based user fee](#) (MBUF) for electric vehicles that do not contribute to the gas tax in the manner gasoline fueled vehicles do, because their owners don't buy gas. The state's Transportation Fund relies on the gas tax to raise revenues to help fund maintenance and operation of Vermont's transportation network. In FY23, the gas tax revenues are projected to contribute 26 percent of the total state revenues to the Transportation Fund. Although electric vehicles (EVs) currently make up a small portion of vehicles on the road, VTrans projects that EVs will replace gasoline vehicles at a very steady pace in future years, partly as a result of adoption of the Low Emission Vehicle and Zero Emission Vehicle Rules, which were approved by the Legislative Committee on Administrative Rules in November 2022. Therefore, as EV use increases, gas tax revenues will decrease, resulting in less transportation revenues to fund state and local roads.

[The Vermont Low Emission Vehicle and Zero Emission Vehicle Rules](#), which took effect on December 16, 2022, set standards for emissions of air pollutants and greenhouse gases from passenger cars, light-duty trucks, and medium- and heavy-duty vehicles and engines that are delivered for sale or service in Vermont. These new standards will require vehicle manufacturers to deliver more EVs to Vermont. Beginning in 2025, manufacturers will be required to produce and sell an increasing percentage of zero-emission trucks and buses annually, getting to 100 percent EV sales by 2035. In 2022, a report was issued by a stakeholder group convened by VTrans to consider how Vermont may replace gas and diesel tax revenues that are not collected from EVs. The Road Usage Charge Study Advisory Committee issued its [final report](#) in 2022 and helped inform the proposal the legislature is considering this year in the governor's budget.

Sections 15–17 of Governor Scott's proposed [transportation bill](#) set out a roadmap whereby Vermont would adopt a mileage-based user fee (MBUF). The bill would create session law and not amend statute in order to provide VTrans time to secure federal funding under the IIJA and create a plan for implementing a MBUF by July 2025. By January 15, 2024, VTrans must submit a report to the legislature outlining a comprehensive plan to implement the MBUF with recommendations on the language needed to codify the fee into law. The report must also address how the fee should be calculated, what revenues can be anticipated, and other pertinent information to ensure a smooth transition and implementation of the MBUF.

VTrans and the committee recognized that the MBUF as proposed is not perfect, in that it can only affect EVs registered in Vermont. VTrans analyzed how Vermont may be able to exact fees on out of state EVs; however, their research showed that it would be so costly to implement and run such a system at EV charging stations and through utility companies that it would not meet the goal of bringing more revenue into the state.

The committee had many questions for VTrans and legislative counsel, and it seems supportive of moving forward with some iteration of a MBUF. Even with a MBUF in place for EVs, it still does not address the larger issue of state revenues consistently not keeping pace with the needs of state and local transportation infrastructure maintenance, and the ever-increasing costs for projects — but it is a step in the right direction.

Resources for this article:

- [Definition of Mileage-Based EV User Fees](#)
- [Department of Environmental Conservation Low Emission Vehicle and Zero Emission Vehicle Rules](#)

[Elsewhere in the State House](#)

Regional Dispatching

The Senate Government Operations Committee spent two days this week continuing to hear testimony on regional emergency dispatch operations. A committee bill will result from the committee this session that will address statewide dispatch operations for public safety agencies.

For several years, the state has expressed a strong interest in ceasing dispatching services to non-state public safety entities, citing workforce problems as the most pressing issue. Currently just under 100 police, fire, and EMS agencies are dispatched by the Vermont State Police.

This committee is trying to determine what the correct steps are to ensure that all communities have equitable access to dispatching services, while also ensuring that current dispatching agencies aren't negatively affected. The committee will have to address several

big issues, including

- what long-term funding model might guarantee that Vermonters can rely on fully operational dispatching services well into the future and
- what level of dispatching service and oversight the state would provide moving forward.

Nearly every person testifying confirmed that uniformity, redundancy, failover (automatic backup systems to ensure seamless operations), and continuity of operations are all paramount issues that need to be guaranteed statewide by all dispatching services.

The committee heard from several heads of agencies that currently provide dispatching services in the state, including chiefs of police, a chief of a fire department, and a county sheriff. They also heard from EMS service providers who rely on external dispatching services, the former Commissioner of Public Safety, the former Executive Director of the Central Vermont Public Safety Authority, and the EMS Chief at the Department of Health. The committee does not currently have a bill drafted; however, we can anticipate a first draft in the coming weeks.

Ranked-Choice Voting for Presidential Primary Elections

The Senate Government Operations Committee took testimony over two days on [S.32](#), a bill to implement a ranked-choice voting system for U.S. presidential primary elections for each political party in Vermont. The bill outlines the process for implementation of such a system including how political parties may opt in to ranked-choice voting for their party, how voting tabulation would occur, how voting results would be reported, and the type of voter education that the Secretary of State would be mandated to provide before implementation of ranked-choice voting.

The committee is in the early stages of considering the bill, and therefore it's unclear whether S.32 is a priority for passage this year, but the committee has shown support of the proposal in these early committee meetings.

Budget Adjustment Act

The Senate Appropriations Committee took up [H.145](#), the budget adjustment bill, this week. While the committee has questions about many sections of the House-passed bill, committee members agreed to include the \$3 million to the Agency of Administration to implement a Rural Infrastructure Program (so named in the House passed bill) that would help towns to access American Rescue Plan Act funds and programs. For the moment, the language describing that program is left out of [the Senate Appropriations draft](#) as they await further refinement of the parameters of the program and an index that would be used to prioritize communities who would be eligible for the assistance.

School Budgets

The House Ways and Means Committee heard from the Agency of Education this week regarding the estimated increases in school budgets over last year. The Agency of Education expects to receive proposed budgets from 117 school districts. To date, they have received 24 budgets (20.5 percent of those expected). [Initial estimates based on these proposed budgets](#) are that the increase in education spending will be 8.98 percent.

Nonresident Education Property Tax Rates

The House Ways and Means Committee also took up the concept of establishing [new categories of non-homestead properties](#) for purposes of the Education Fund. Language in the draft bill would describe each of those categories – affordable housing, commercial, industrial, open land and structures, rental housing, seasonal dwellings, secondary, nonseasonal dwellings, and utilities.

The committees will return to each of these issues in the next several weeks.

[Bills of Interest to Municipalities](#)

Number	Summary	Current Location
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<u>H.180</u>	Would establish a standardized opening time for polls.	H. Government Operations and Military Affairs
<u>H.185</u>	Would authorize the Department of Environmental Conservation to issue a permit for dredging of a navigable water in the State to improve navigation of the water and establish the Working Group on Navigation of Lake Champlain to evaluate and facilitate dredging of Lake Champlain between Mallet's Bay and the Inland Sea to improve navigation for public safety, emergency response, and environmental protection.	H. Environment & Energy
<u>H.193</u>	Would increase revenue for the Environmental Contingency Fund by increasing the solid waste franchise tax and increasing the tax on hazardous waste.	H. Environment and Energy
<u>H.197</u>	Would put in place an evaluation of state, teachers', and municipal employees' pension systems and a timeline for divesting from fossil fuels by December 31, 2030.	H. Government Operations and Military Affairs
<u>H.213</u>	Would create a study on mobile homes and mobile home parks.	H. General and Housing
<u>H.214</u>	Would establish a department to routinely examine police body camera and police cruiser dashboard camera footage.	H. Judiciary
<u>H.218</u>	Would establish a good cause standard for termination of employment, require employers to provide severance pay to terminated employees, and permit employees or representative organizations to bring an enforcement action on behalf of the State for violations of the good cause standard.	H. General and Housing
<u>H.226</u>	Would require candidates for local, county, legislative, and statewide offices to provide contact and demographic information to election officials and require municipal and county clerks to file the information with the Secretary of State.	

[S.60](#) Would enable any town to adopt a local option tax upon a vote of the voters and authorize the Department of Taxes to disclose a municipality's local option tax data to the town manager or legislative body of that municipality and extend to them the penalties for unauthorized disclosure of confidential tax data. S. Finance

[S.64](#) Miscellaneous changes to transportation laws including: making all non-limited access highways safe for bicycle and pedestrian use by December 31, 2023; VTTrans to lead, assist, and partner in transformation of the transportation sector to meet Vermont emissions requirements; require VTTrans notification to abutting landowners and the municipality before taking down a public street tree more than 6 inches in diameter at breast height; require VTTrans to develop a tree landscaping, streetscaping, tree policy; study allowing motor vehicles over 99,000 pounds to operate on Vermont highways and to report by January 15, 2024. S. Transportation

[S.69](#) Would establish a property tax surcharge on nonhomestead properties that are dwellings weatherized for year-round use, not long-term rental units, and not rented or occupied by a resident individual as their domicile. S. Finance

[S.73](#) Would add breast cancer, thyroid cancer, and cancers originating in the reproductive system to the cancers for which a firefighter may be eligible to receive workers' compensation. S. Economic Development, Housing and General Affairs

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