

2023 Weekly Legislative Report #11

In the first week back from the Town Meeting break, legislators rushed to get bills out of committees ahead of the crossover deadline (today).

Your advocacy staff worked hard to assure that legislative committees understand local government perspectives on numerous bills that are moving. Our Elsewhere In the State House this week provides summaries of those bills of most significance to cities and towns.

[Housing The Week After Town Meeting](#)

Legislators returned to the State House after their Town Meeting break on Tuesday. The Senate Natural Resources and Energy Committee again took up S.100, the comprehensive zoning, Act 250, and housing bill that was voted out of the Senate Economic Development, Housing and General Affairs Committee on February 23.

The review below may be far more than you want to read. At this point, readers need to know that with the amendments to S.100 from the Senate Natural Resources and Energy Committee (SNR), S.100 is a municipal pre-emption bill that will do very little to spur housing development, places little faith in local governments, and fails to address severe, well documented impediments to housing that result from restrictive Act 250 laws. VLCT was willing to work on a bill that would strike a balance by addressing both local and state impediments to housing. However, VLCT cannot support SNR's one-sided piece of legislation.

We urge you to contact your senators. Tell them to support the version of [S.100 that was introduced](#) by the Senate Economic Development, Housing and General Affairs Committee.

In the amendment they voted out on Wednesday 4-1, the Senate Natural Resources Committee left intact every mandate pertaining to municipal zoning. They substantially limited any changes to Act 250, deleted language that would eliminate duplicative permitting for connecting a development to municipally owned water and sewer systems, and partially reinstated the right of any ten people to appeal a zoning decision.

On Thursday, S.100 was sent to the Senate Finance Committee, which voted it out that same afternoon with no recommendation. The next stop is the Senate Appropriations Committee.

Municipal Zoning and Land Use

As the bill was introduced and as voted out of the Senate Natural Resources and Energy Committee, it includes mandates for municipal zoning bylaws to

- require not more than one parking space per dwelling unit or 1.5 parking spaces if parking is scarce,
- allow duplexes in any district that allows year-round residential development,
- allow multiunit dwellings with up to four units in any district served by municipal sewer and water,
- require criteria for conversion of an existing detached nonresidential building to habitable space for an accessory dwelling unit to be no more restrictive than criteria for a single-family dwelling,
- allow a hotel to rent rooms through the state of Vermont General Assistance Program to any person using public funds (the program to provide temporary housing to those who are homeless),
- establish lot and building dimension standards allowing at least four dwelling units per acre and density no more restrictive than for single-family dwellings in districts served by municipal sewer and water,
- allow any mixed use and affordable housing developments to exceed building height limitations by one additional habitable floor beyond the maximum height and exceed density limitations by 40 percent if the structure complies with the Vermont Fire and Building Safety Code in districts served by municipal water and sewer,
- allow a duplex the square footage that complies with an applicable building code, and

- allow emergency shelters to be located anywhere, defined as “any facility, the primary purpose of which is to provide temporary shelter for the homeless in general or for specific populations of the homeless and does not require occupants to sign leases or occupancy agreements”.

S.100 as introduced would eliminate the ability of any ten people to appeal a zoning permit. Still able to appeal will 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. As amended, any ten people demonstrating “a common injury to a particularized interest protected by this chapter” (24 V.S.A. Chapter 117) would have the right to appeal a local zoning decision.

Act 250

As introduced, S.100 would make a few important changes to Act 250 in recognition of the chilling effect that Act 250 has on the development of housing. “Development” would be defined in Act 250 to include the construction of housing with 25 or more units, on a tract or tracts of land, owned or controlled by a person, within five miles and five years anywhere in the state. The current trigger is ten units. Priority housing projects would be allowed without triggering Act 250 in designated downtowns, new town centers, village centers with zoning and subdivision bylaws, growth centers, or neighborhood development areas.

As voted out of the Senate Natural Resources Committee, construction of 25 units by a person on a tract of land within five years would be allowed until July 1, 2026 in a designated downtown, neighborhood development area, or growth center. A priority housing project could be constructed in a designated downtown or growth center until July 1, 2026. Readers should note that all the designated areas in Vermont total only 41 of 9,600 square miles.

The introduced bill provided a process for a municipality to secure “enhanced designation” for a designated area, and thereafter the town would address Act 250 criteria as part of its permitting, thus eliminating duplicative land use permitting in that area. The City of Burlington recommended a process for a municipality to secure enhanced designation for an entire municipality if certain conditions are met. The Senate Natural Resources Committee

amendment would allow a municipality to apply to the Natural Resources Board for a master permit for a downtown development district or neighborhood development area and would allow a municipality to seek an enhanced designation for a village district if they had zoning and subdivision in place, municipal sewer and water infrastructure, and adequate staff to support capital planning, development review, and zoning administration.

Connections to Municipal Water and Wastewater Systems

As introduced, the bill would provide a mechanism for a municipality to take over authorizing connections to municipal water supply and wastewater systems, if they so choose. There is a delegation process in statute now, and it is so onerous that towns have not taken that option. So currently a developer will need to secure a permit for connecting a project to a municipal system from the state and from the town, the latter being the entity that operates, maintains and pays for the system. The Senate Natural Resources Committee deleted that mechanism, leaving in place the expensive and duplicative permitting system.

Building Energy Codes

The Senate Natural Resources Committee would establish an energy code compliance committee to recommend strategies for increasing compliance with the Residential and Commercial Building Energy Standards. A report would be due to the legislature by December 31, 2023.

Resources for this article:

- [S.100 as introduced](#)
- [Letter to Members of the Vermont Senate from VLCT on the Senate Natural Resources and Energy Committee Amendment to S.100](#)

[Ranked Choice Voting](#)

On Wednesday, the Senate Government Operations Committee unanimously voted out [S.32](#), a bill that empowers towns, cities, and villages to implement ranked-choice voting in local elections and sets up a framework for moving the state towards statewide ranked-choice voting for statewide elections. The bill would authorize either the voters of a town, city, or village, or the legislative body, to vote to adopt a ranked-choice system of voting if they use

Australian ballot voting for local elections. A town, city, or village may begin using ranked-choice voting at the 2024 annual meeting and then thereafter. If a town, city, or village votes to adopt a ranked-choice voting system but chooses to discontinue use of the system, only the voters are authorized to vote to discontinue ranked-choice voting, regardless of whether the initial authorization was approved by the voters at large or by the local legislative body.

The bill further specifies the information that must be included on ballots, how tabulation of votes must be administered, and how voting results must be reported. It includes an appropriation to the Secretary of State's Office to help communities that vote to implement a ranked-choice voting system to educate and assist the municipality with implementation.

S.32 also sets up a framework for moving the state towards statewide implementation of a ranked-choice voting system for statewide elections. A Ranked-Choice Voting Study Committee is proposed to study and make recommendations on how Vermont can implement such a voting system by 2026. A report from the committee would be due January 15, 2024, to instruct further action by the legislature.

The bill heads to the Senate Appropriation Committee – due to the appropriation to the Secretary of State's Office– and then to the Senate floor for consideration.

[Law Enforcement Training and Domestic Violence](#)

On Thursday, the House Government Operations and Military Affairs Committee unanimously voted out a [law enforcement committee bill](#) that focuses mostly on domestic violence. It would mandate the [Law Enforcement Advisory Board](#) to update the Domestic Violence Involving Law Enforcement Model Policy from 2010 by January 1, 2024 to meet current needs and contemporary standards. After the statewide model policy is updated, every law enforcement agency and constable with law enforcement authority in the state, including constables exercising law enforcement authority, would have to adopt the policy by July 1, 2024.

The bill also proposes that two new professional misconduct standards be added to law. The bill proposes that if an on- or off-duty law enforcement officer causes or attempts to cause physical harm to a family or household member, or places that person in fear of serious imminent physical harm, that conduct would be considered Category B level gross professional misconduct under Vermont Criminal Justice Council (VCJC) review. Additionally, a violation of the Domestic Violence Involving Law Enforcement Policy while on or off duty

would also be a Category B level misconduct act.

Lastly, the bill would mandate the VCJC to collect and report aggregate data regarding domestic and sexual violence by law enforcement officers and complaints of professional misconduct resulting in the filing of charges or stipulations or the taking of disciplinary action.?

[Other Pending Law Enforcement Legislation](#)

Sheriff Reforms

The Senate Government Operations Committee anticipates voting out [S.17](#) this Friday. The bill focuses on sheriff reforms. Currently it proposes to add a conflict of interest provision in law that would apply to sheriffs and deputy sheriffs. It proposes to amend law relating to contracts between a municipality and county sheriffs. Specifically, it proposes that funds derived from overhead administrative fees in a contract must be kept in a separate account held by the sheriff's department and used only for the costs of necessary departmental expenses. Fees could not be used for employee compensation, bonuses, salary supplements, retirement contributions, or employee benefits. S.17 proposes to set a single, statewide contracted rate of pay for sheriff departments providing law enforcement or security services to county and state courthouses.

S.17 would create a Sheriff's Department Oversight Task Force to examine issues in implementing reforms and accountability across Vermont Sheriff's Departments. The task force would consist of various state agency, judicial, county, and law enforcement entities. The task force would study and make recommendations addressing

- increasing efficiency in delivery of public safety services by sheriffs,
- examining compensation and revenue sources,
- analysis of the duties of sheriffs as a whole,
- oversight of sheriff's departments, and
- potentially reorganizing the Department of State's Attorneys and Sheriffs to better support the duties and operations of state's attorneys and sheriffs.

A report to the legislature would be due by November 15, 2023.

Statewide Emergency Communications and Dispatch

The Senate Government Operations Committee is finalizing [legislation](#) addressing dispatching and public safety emergency communications. The bill proposes to expand the jurisdiction of the Enhanced 911 Board to include development, implementation, and supervision of regional emergency dispatch services statewide.

Under the proposal, all regional dispatch centers would need to submit dispatching plans that cover a five-year timespan to the new Public Safety Communication Board (formerly the E-911 Board). These plans would be required to include such information as projected operational budgets, data on call volumes, mapping of response times of agencies in its territory, redundancy and failover plans, and compliance with technology and equipment standards. A regional dispatch center is defined broadly to include State dispatch centers, dispatch centers in operation on the effective date of the bill, union municipal districts, and similar public authorities. It would mandate that all public safety agencies be members of a regional dispatch center and would be permitted to transfer membership or associations with one dispatching center to another only with approval of the Public Safety Board.

As the E-911 Board transitions into the new Vermont Public Safety Communication Board and becomes operational, a Public Safety Communications Advisory Committee would help the Board in the transition process. The advisory committee would be comprised of technology experts and public safety stakeholders to focus on critical aspects of a statewide public safety communications system. During the transitions phase, this committee would send progress reports to the legislature and would include a recommendation for collecting money from agencies and municipalities currently dispatched by the State for the dispatching services they provide.

To fund these new dispatching measures, the bill would create a special fund known as the Regional Dispatch Fund, to help pay for

- new regional dispatch centers,
- procurement of equipment, technology and training,
- expenses of the new Board, and
- costs attributable to regional dispatch operations.

Beginning in fiscal year 2027, new regional dispatch centers established on or after July 1, 2024 and their member municipalities shall pay an annual dispatch assessment into the Regional Dispatch Fund based on a formula that takes into account call volumes, grand list size, a statewide base fee, and budget needs, to fund the statewide system.

There are numerous provisions of the bill that still need to be ironed out, but the committee still hopes to vote the bill out today before the crossover deadline.

Miscellaneous VCJC Amendments

The House Government Operations and Military Affairs Committee is also working on another [bill that focuses on fair and impartial policing](#) and broader professional regulations. This bill proposes to amend statute to remove the minimum number of hours mandated for fair and impartial policing training and instead mandate that all law enforcement must demonstrate competency in fair and impartial policing to maintain certification. It would also mandate the VCJC to adopt rules with respect to Advanced Roadside Impaired Driving Enforcement training and law enforcement certification. The bill would amend the law related to roadside stop data collection and add that the date, time, and location of stops be collected and tracked. Lastly, it would mandate that, prior to hiring a law enforcement officer, a hiring agency must have access to all previous employers' performance reviews of the potential hire. Currently this is only required for the officer's most recent employer. The committee hopes to vote the bill out today.

[Administrative and Technical Changes to Tax Laws](#)

On Wednesday, the House Ways and Means Committee unanimously voted out [a bill](#) that proposes to make various changes to tax laws, including to personal income tax, meals and rooms tax, sales and use tax, use value appraisal, property valuation, the homestead property tax credit, and property transfer tax. The following provisions would affect municipalities directly or indirectly:

- Repeal the requirement that the Director of Property Valuation and Review establish and maintain a central file of duplicate municipal grand list.
- Remove the requirement that the Director of Property Valuation and Review send Current Use related notices by mail to municipalities by mail.

- Require the Commissioner of Tax to provide every town notices in plain language describing the homestead property tax credit, including the eligibility requirements and deadlines, to be included in property tax bills. Municipalities must provide the Commissioner's notice with each tax bill and notice of delinquent taxes that it mails to homestead property taxpayers and may additionally distribute the notice in an alternative manner.
- Extend the homestead property tax credit claim filing deadline from a final date of October 15 to March 15 of the following calendar year. For claims made between October 15 and March 15 of the following calendar year, a \$150 late filing penalty will be charged, credits will be issued directly to claimants rather than reducing their property tax bill, and municipalities will not be required to reissue a property tax bill.

The bill went to the House floor for action today.

[Elsewhere In The State House](#)

Local Option Tax

On Thursday, the Senate Finance Committee unanimously voted out S.60, a bill that would grant general authority to municipalities to adopt a one percent local option tax on sales, meals and alcoholic beverages, or room upon a majority vote of the registered voters of the town. The requirement to thereafter seek approval from the legislature would be eliminated. An amendment to the bill would establish a charter for the Town of South Hero and bless the vote that town took at Town Meeting 2022 to establish a local option tax on meals and alcoholic beverages. The town will use the proceeds of the local option tax for municipal recreation and park facilities, and town structures. The bill would also authorize the town to adopt a one percent sales or rooms tax at a later date if the town so voted.

Tax Increment Financing (TIF)

On Wednesday, the Senate Finance Committee voted out S.94 on a vote of 6-1 to extend the time period for the City of Barre to incur indebtedness for its tax increment financing district for two years beginning March 31, 2024 and to extend the time period the city may retain

municipal and education property tax increment until December 31, 2039. The city explained to the committee that the COVID pandemic had shut down economic development and that in the wake of the pandemic as it became clear that employment habits have changed and the city is unlikely to host the same number of commuting workers during the daytime hours, they are re-evaluating downtown infrastructure needs. It is evident that the parking garage previously thought vital to the TIF district success is no longer a necessity.

On Thursday, the committee voted out S.35, also on a 6-1 vote, which would grant the Town of Hartford an extension on the time that indebtedness can be incurred for two years, beginning March 31, 2024, in recognition of the same effects COVID has had on economic investment efforts in their White River Junction TIF.

Property Valuation

On Thursday, the House Ways and Means Committee took up a [revised draft bill](#) to revamp the property assessment process. The bill

- would delete the requirement for the Commissioner of the Department of Taxes to order a town to reappraise if its common level of appraisal falls below 85 percent or increases beyond 115 percent and
- would require a town to reappraise its entire grand list if the coefficient of dispersion is greater than 20.

It would also create and fund a statewide office of reappraisals at the Department of Taxes. The Commissioner would establish a schedule for town reappraisals and publish it annually. The department would contract with one or more appraisers to

- conduct statistical reappraisals of a town's grand list two years after the full reappraisal and
- conduct full reappraisals every six years.

Towns would be paid \$2 per parcel for costs related to maintenance of the grand list.

By December 15, 2023, the department would submit a progress report on the first six months of the statewide reappraisal office and defining new categories of property for homestead and

non-homestead properties. By December 15, 2024, the department would submit a progress report on implementation of the statewide reappraisal system and its litigation assistance program, as well as recommended language for new categories of property.

The committee is expected to vote out the bill this afternoon as bills need to be out of committee to meet the Crossover deadline. Once it is voted out of committee, a number will be assigned.

[New Bills of Interest to Municipalities](#)

Number	Summary	Current Location
H.465	Would lower the quorum requirement for regional emergency management committees to five voting members until December 31, 2023, and permit a committee to subsequently vote to modify its quorum requirements upon initially meeting.	House Passed
H.471	Would amend Vermont's tax laws, including personal income tax, meals and rooms tax, sales and use tax, use value appraisal, property valuation, the homestead property tax credit, and property transfer tax.	House calendar
H.474	Amendments to Burlington Charter to prohibit eviction of tenants without just cause.	H. Government Operations and Military Affairs
H.476	Would require law enforcement agencies and constables who exercise law enforcement authority to adopt the Domestic Violence Involving Law Enforcement Model Policy and any future updates to the Policy as well as require the Vermont Law Enforcement Advisory Board to update the Domestic Violence Involving Law Enforcement Model Policy.	House Calendar

Number	Summary	Current Location
S.124	Would establish the School Construction Aid Task Force to examine, evaluate, and report on issues relating to school construction aid; and by January 15, 2024, require the Task Force to submit a written report with its findings and recommendations for legislative action.	S. Appropriations
S.130	Would provide two hours of paid leave so employees may vote in elections; establish good cause standard for termination; prohibit employers from taking adverse actions against an employee because of exercise of free speech rights; prohibit employers from inquiring about employment status on a job application or interfering with efforts to seek employment with another employer; make interference with an employee's efforts to seek alternate employment an unfair labor practice for public employers.	S. Economic Development, Housing and General Affairs
S.136	Would extend the deadlines by which the state needs to reduce greenhouse gas emissions	S. Natural Resources & Energy

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The next Advocacy Chat is Monday, March 20 at 11 AM.

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