

VPA LEGISLATIVE REPORT #4

ISSUE OF THE WEEK: Housing

House General, Housing & Military Affairs Committee:

-Wednesday 2-4pm Room 10 - **Gov.'s Housing Proposal to be presented:** Kevin Dorn, ACCD and John Hall, DHCA.

-Thursday – 9:30 Am Housing: Jennifer Decesaro, National Council of State Legislatures.

-Friday – 9:30 Am Housing- Karen Lafayette, Lobbyist; 10:30 Am – Housing Tax Credits - Andy Broderick, Housing Vermont

New bills since last week - of interest to planners:

H. 738 - This bill proposes to authorize the creation of **planned unit development (PUD) distributed power systems**. These are energy distribution systems that would be created within planned unit developments established under 24 V.S.A. chapter 117, would be subject to statutory size limitations, and would be authorized only to serve customers located within the planned unit development. The systems would also be served by the utility company in whose service area the projects are created. The public service board is given authority to establish and monitor the program.

The [Public Service] board shall establish by rule or order standards and procedures governing application for and issuance or revocation of a certificate of public good for planned unit development (PUD) distributed power systems under the provisions of section 248 of this title. A PUD distributed power system:

(1) shall be located in a PUD, created under the provisions of 24 V.S.A. chapter 117, that is more than 100 acres in size;

(2) shall be authorized to sell power only to customers who are located within the PUD;

(3) shall be of no more than 1,999 kw (AC) capacity;

(4) shall operate in parallel with facilities of the electric distribution system;

(5) shall integrate a renewable energy source such as a photovoltaic array, wind turbine, fuel cell, or biomass gasification generation technology or other sustainable energy technology.

(b) A PUD distributed power system shall be deemed to promote the public good of the state if it is in compliance with the criteria of this section and board rules or orders. In developing these rules or orders, the board:

(1) may waive the requirements of section 248 of this title that are not applicable to PUD distributed power systems, including, but not limited to, criteria that are generally applicable to public service companies as defined in this title;

(2) may modify notice and hearing requirements of this title as it deems appropriate;

(3) shall seek to simplify the application and review process as appropriate; and

(4) shall find that these rules are consistent with state power plans.

(c) An applicant for a certificate of public good for a PUD distributed power system shall be exempt from the requirements of subsection 202(f) of this title [looking at Section 202(f), this

would appear to eliminate participation by the Department of Public Service in a proceeding regarding the conformance of a proposal with the DPS 20 – year Electric Plan]

H. 739 - This bill proposes to establish a process by which the public service board may authorize **intervenor funding** with respect to matters before the board. The bill proposes to authorize funding of intervenors that are municipalities as well as intervenors that are not municipalities, but that can establish that full participation would cause a significant financial hardship to the intervenor. The bill proposes to provide this funding in situations where the intervenor substantially benefits the general good by contributing to the proceeding.

Senate Finance Committee will discuss this on Wednesday afternoon; witnesses being scheduled.

H.747 - This bill proposes to clarify state law on municipal regulation of **public shade trees**.

Excerpts of existing and proposed language: ...“shade tree” and “ornamental tree” shall mean a tree planted and growing on public property or within a public right-of-way, in a town or village center, public park or square, or other public place

This chapter shall not apply to normal maintenance for highway purposes, including removal and pruning of trees and plants along a highway right-of-way within the limits of the right-of-way. A public shade tree within the residential part of a municipality shall not be felled without a public hearing by the tree warden, except that when it is infested with or infected by a recognized tree pest, or when it constitutes a hazard to public safety, no hearing shall be required. In all cases the decision of the tree warden shall be final except that when the tree warden is an interested party or when a party in interest so requests in writing, such final decision shall be made by the legislative body of the municipality. The decision on whether removal or pruning is necessary shall be made solely by the legislative body of the municipality. A legislative body may consult with the town tree warden.

See the full bill for further details.

Bill Bartlett writes: I enjoy and appreciate your weekly legislative updates. However, I wonder why **H.554 re: Basin Planning**, isn't on your radar screen? Thanks, Bill - See House Calendar below!

House Calendar - Tuesday

H. 554

An act relating to the classification of state waters.

Rep. Deen of Westminster, for the Committee on **Fish, Wildlife and Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) It is the settled policy of the state as set forth in section 1250 of this title to protect and enhance the existing quality, character, and usefulness of surface water and to seek over the long term to upgrade the quality of the surface waters of the state.

(2) The adoption of any water management types within the classifications of state surface waters shall conform to the state water policy.

(3) Procedures or rules adopted by the water resources panel of the natural resources board relating to the designation of water management types shall maximize public participation and public input in a manner consistent with the department of conservation's 2001 Vermont watershed initiative guidelines for watershed planning.

(4) Basin plans and water management type designations and redesignations proposed by the agency of natural resources shall include sufficient information and documentation to ensure transparency regarding agency decision-making.

(5) **Because the agency of natural resources has consistently violated both the federal Clean Water Act requirement that the state engage in a continuing planning process for state surface waters and the state requirement in subsection 1253(d) of Title 10 that all 17 basin plans be updated every five years,** the further extension of the deadline by which the agency shall update all 17 basin plans is **granted reluctantly and subject to the insistence that the agency update all basin plans by 2009** as required by this act.

The secretary of natural resources shall propose to the water resources panel of the board an implementation process for the antidegradation policy in the water quality standards of the state. Upon submittal of the implementation process by the secretary, the panel shall promptly initiate rulemaking for adoption of an implementation process in the water quality standards of the state.

Sec. 3. 10 V.S.A. § 1252(i) is added to read:

(i) The board may adopt by rule water management types representing subcategories of water quality criteria for designated uses within the classes of waters set forth in subsection (a) of this section to achieve and maintain a level of quality that fully supports the attainable uses and water quality protection of all or any portion of a water body. The designation or redesignation of a water body as a water management type by the board shall be done by rule according to chapter 25 of Title 3.

Sec. 4. 10 V.S.A. § 1253(d) is amended to read:

(d) The board shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by it before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The secretary shall revise all 17 basin plans by ~~January 1, 2006~~ December 31, 2009, and update them every five years thereafter. On or before January 15 of each year, the secretary shall report to the house committees on agriculture and ~~natural resources and energy~~ fish, wildlife and water resources and to the senate committees on agriculture and natural resources and energy regarding the progress made and difficulties encountered in revising basin plans. By January 1, **1993**, the secretary shall prepare an overall management plan to ensure that the water quality standards are met in all state waters.

They left the 1993 deadline in ...

Senate Calendar – Tuesday -

**Bill Amended; Third Reading Ordered
S. 127.**

An act relating to **Vermont housing finance agency.**

[Includes the following interesting amended definition:]

“**Residential housing**” means residential housing units designed primarily to provide principal dwelling accommodations whether on a permanent or temporary basis for persons or families, which may include the land and improvements thereon and such nonhousing facilities or services considered necessary or convenient **or part of a community development plan** by the agency in connection with the residential housing, **including commercial enterprises and government functions within the same building.** “Residential housing” includes, but is not limited to, single or multi-family dwellings, congregate homes, residential care homes as defined in 33 V.S.A. § 7102, nursing homes, transitional housing, emergency shelters for the homeless or displaced, mobile homes, single room occupancy dwellings, and group homes for the mentally ill or developmentally disabled. “Residential housing” also means cooperative interests, and mobile home parks as defined in section 6201 of this title;

See the Senate Calendar for the full bill as amended.

LEGISLATIVE COMMITTEES THIS WEEK:

Senate Natural Resources & Energy Committee:

The Senate Natural Resources Committee last week had a full week of testimony on the proposed **Growth Centers Legislation**. Apparently they are taking a breather from that this week to digest and assimilate all of that (and for Al Boright, legislative counsel to do so). The Committee Calendar for this week shows discussion of the following different legislative proposals:

-Tuesday: **H.627 Special Environmental Revolving Fund**

-Wednesday (a full schedule of presentations from bill sponsors): **S.9 - Empowering Municipalities to Regulate the Application of Pesticides**, **S.12 - Limiting the Application of Granular Fertilizers**, **S.155 - Tire Deposit and Return System**, **S.196 - Reducing Certain Fees for Construction of Municipal Buildings and for Registration of ATV's**, **S.199 - Idling School Buses**, **S.271 - Idling Diesel Buses and Trucks**, **S.208 - Aquatic Nuisance Eradication and Education**, **S.244 - Pollution Abatement Monies; Public Health; Wastewater Systems**

- Thursday and Friday: **Committee Discussion**

House Natural Resources & Energy Committee: selected agenda issues this week:
Tuesday - **VT Energy Security and Reliability Act**

Wednesday - **Regional Greenhouse Gas Initiative, Net Metering; Little SPEED; Act 61 Suggested Changes; VT Energy Security & Reliability Act**

Thursday - **Net Metering , Vehicle Fuel Efficiency/Carbon Emissions; H.584 - Idling of School Buses on School Property, H.698 - Expanding the Allowable Scope of the Net Metering Systems, H.584 - Idling of School Buses on School Property.**

Fridsay H.708 - Junkyards being Regulated by the Secretary of Natural Resources Instead of Agency of Transportation, Clean Energy Fund

Also this week:

House Fish & Wildlife & Water Resources Committee - Wednesday morning and Thursday morning: **H.294 - Ground Water Management**

House Appropriations – Wednesday 10 Am: **H.690 - Identification, Documentation & Development of the Creative Sector of the State's Economy**

House Government Operations: Thursday morning: **H.12 - Municipal Regulation of Amateur Radio Antennas**

Senate Agriculture- Tuesday 9Am: **S. 204, Stormwater**

AND...

Ancient Roads H. 701: (Identified and Unidentified Corridors) Scheduled on House Gov't Operations agenda for Tuesday Jan 31st at 11 AM. and Thursday Feb 2nd at 2pm; Thursday 4:30pm –6:30 pm PUBLIC HEARING on VT Interactive TV (limited sites) 4

Eminent Domain S.246: Senate Judiciary hears from Michele Child, Legislative Counsel on this from 11:15 to noon on Wednesday Feb. 1st

TRANSPORTATION - House Transportation Committee hears Regional Planning and CCMPO Executive Directors– all day Thursday Feb 2nd. See Committee Agenda for order.

'till next week...

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