

LEGISLATIVE UPDATE

April 7, 2017

Issue 13

ejc Consulting
6147 VT RTE 116, Starksboro, VT 05487
ejcconsultingvt@gmail.com
802 233 9563

WEEK 13

As we move into April the pace of the session seems to be picking up. The tentative end date is Saturday May 6. The Senate morning committees will be ending next week, which, usually suggests that the end is near. Because this is the first year of the biennium there is not the sense of urgency to get bills passed, as they always have next year. I also think there is some expectation that the legislature might have to reconvene in October after the Federal Budget is passed and the legislature and Governor knows exactly how federal budget will impact Vermont.

Reminder, if you are interested in coming to the statehouse or would like more information please don't hesitate to contact me.

RURAL ECONOMIC DEVELOPMENT

S-34 An act relating to cross-promoting development incentives and State policy goals

This bill has passed out of the Senate and is in House Agriculture and Forestry. The House Ag and Forestry committee heard from Deputy Commissioner Lincoln on Thursday regarding the tax exemption language for forestry and logging equipment and how important this would be for the forestry industry in Vermont.

Today the House Ag and Forestry committee heard from Diane Bothfeld, Agency of Ag, on the duties and responsibilities of the Vermont Milk Commission. **S-34**, contains language that requires the Vermont Milk Commission to reconvene and:

- *Analyze the current status of the milk market to identify areas or issues that could be addressed in an amendment to the Milk Marketing Order.*
- *Collaborate with interested parties, including other Northeastern states, to develop a proposed amendment to or replacement of the current Milk Marketing Order for the northeast. The proposed amendment or replacement shall be designed to:*
- *provide farmers with an equitable price for milk that is based on the costs of production; and*
- *eliminate or reduce provisions in the Milk Marketing Order that facilitate price volatility in the milk market.*

- *Submit a proposed amendment to or replacement of the Milk Marketing Order to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry on or before January 15, 2018.*
- *After review by the General Assembly, submit to the congressional delegation of Vermont the proposed amendment to or replacement of the Milk Marketing Order so that the U.S. Congress may amend the Milk Marketing Order.*

Ms. Bothfeld suggested that the House Ag and Forestry committee might want to hear from Erik Rasmussen, Federal Milk Market Order 1 Administrator, on the cost and feasibility of getting the above information. The House Ag and Forestry Committee will continue to take testimony on **S-34**, next week.

FORESTRY FRAGMENTATION

H-233 An act relating to protecting working forests and habitat

This bill proposes to amend the criteria and jurisdiction of the State land use law, known as Act 250, to protect forest resources in order to support the forest economy, water quality, and habitat.

The House Natural Resources Fish and Wildlife took testimony Wednesday morning on **H-233**. The testimony ran the gamut of those that support the regulatory language of **H-233** to those who want to utilize more education and outreach rather than regulation to deal with forest fragmentation. All parties acknowledged forest fragmentation but there was a definite difference in why it is occurring and how to deal with it. The House Natural Resources Fish and Wildlife will be taking more testimony next Tuesday afternoon on **H-233**.

There is language in **H-424**, the ACT 250 bill that requires a study and a report back to the legislature that includes forest fragmentation.

ACT 250

H-424 An act relating to the Commission on Act 250: the Next 50 Years

In light of the upcoming 50th anniversary of the State land use law, known as Act 250, this bill proposes to create a commission to review and make recommendations on improving the effectiveness and efficiency of the Act as currently implemented in achieving its goals. The commission's tasks would include:

- review of the Act 250 criteria in light of current science and research and issues that have emerged during those 50 years, such as climate change;
- review of potential changes to Act 250 jurisdiction to encourage development in designated centers and protect natural resources outside those centers;

- review of the efficiency of the application and appeals process and ways to improve the process for all participants, including applicants and other parties, and to ensure that it continues to encourage citizen participation; and
- review of the current administrative structure of the Act, including the role of the Natural Resources Board.

This bill has passed the House and is now in Senate Natural Resources and Energy. The committee took testimony from several interested parties today, including Diane Snelling, Chair of the Natural Resources Board. The testimony of witnesses was very much in support of the bill. The Senate Natural Resources and Energy committee will continue to take testimony next week. Senate Natural Resources committee is a morning committee so they will stop meeting next Friday. If the bill is going further the committee would have to vote the bill out early next week.

WATER QUALITY

The Senate Institution's Committee heard from Rebecca Ellis, from ANR, with an overview of the Clean Water Appropriations in **H-519**, the Capital Bill. The following memo was submitted to the committee.

Governor Scott has proposed a clean water investment of \$50 million over current spending in the FY18-19 biennium, consistent with the level of funding recommended in the [Treasurer's Report](#) of January 15, 2017. This amount represents approximately half of the estimated annualized gap between current spending levels and the total annual investment needed to meet the state's clean water goals. The Governor's proposed revenue sources for FY18-19 consists of \$26.5 million in the capital bill; \$13.4 million in transportation funds; and \$10 million in revenues from the property transfer tax surcharge.

Of the \$26.5 million in the capital bill, the Governor proposed a clean water appropriation of \$21,715,328 (Governor's [Capital Budget Proposal](#), page 34, section 10.1.F) over two years: \$10,497,664 in FY18 and \$11,217,664 in FY19. The Clean Water Fund Board met on February 10 and February 22, 2017 to recommend an allocation of the FY18 monies. The Clean Water Fund Board's proposal, which was approved by the Secretary of Administration, was forwarded to the House Corrections and Institutions Committee in a [memo](#) dated March 14, 2017. DEC supports the proposed allocation of the FY18 clean water appropriation, as further modified by the House.

Senate Institutions will continue to work on the Capital bill next week.

FROM THE LAKE CHAMPLAIN REGIONAL CHAMBER OF COMMERCE

Independent Contractor Bill Falls Short

The Chamber provided testimony to the House Commerce Committee on a draft independent contractor bill this week. The Chamber has sought clarification of the current law on behalf of our member businesses. We believe the current interpretation of the law disadvantages sole proprietors and encourages businesses to contract with larger businesses or send work out of state. We also believe that our economy depends on people taking the leap of faith to go into business for themselves and that our laws should encourage that when possible. We reminded the Committee that businesses want to understand the rules and work within them but that clarity and certainty is needed for businesses to make informed decisions when contracting with a sole proprietor.

The bill lays out several factors to be used in determining whether a person is an independent contractor.

- *The individual performs work that is separate or distinct from that of the hiring entity OR they are registered as a business*
- *Their work is performed subject to a written agreement or contract*
- *They are free from direction and control*
- *The operate a separate and distinct business and the extent to which the individual is performing work that is an integral part of the business.*
- **We are very concerned with this provision, as reasonable people would likely disagree on what is considered "integral" to a particular business. Current law includes a provision that indicates someone is an employee if the work they are doing is within the nature of the employer's business. Nature of the business has been applied broadly and has caused most of the difficulty for businesses trying to contract with sole proprietors. By including "integral" in this draft, the Committee is choosing to leave the heart of the current problem in the bill.**
- *They control their opportunity for profit or loss.*
- **We would prefer to see the word control removed from this provision and instead have it read whether the person has the opportunity for profit or loss.**
- *The individual has a substantial investment in the facilities, tools, instruments, materials, and knowledge used.*
- **We would like to see substantial deleted as again, it is subject to interpretation and reasonable people could easily disagree on what is a "substantial" investment.**
- *The work performed required specialized knowledge or skill.*
- *The individual holds him or herself out for business*
- *Is not treated as an employee for tax purposes and either has an EIN number or has filed or will file self-employment taxes.*

The bill's statement of purpose includes the following goal: to make Vermont's workers' compensation and unemployment insurance laws "more simple, clear and comprehensible." While we appreciate the Committee's work on this bill, we feel that it falls far short of that goal.

The business community has repeatedly asked for a clear, easy to understand test to determine if a sole proprietor is a separate business with whom they can contract or an individual that must be treated as an employee. Employers have expressed a desire to follow both the letter and spirit of the law and have looked to the Legislature for a resolution. ***The bill in its current form does not provide additional clarity and could actually confuse matters more.***

Below is the link to the Vermont Legislative website

Public Hearing on the 2018 Federal Farm Bill

The Vermont Senate Committee on Agriculture and House Committee on Agriculture and Forestry are holding a public hearing on the 2018 Federal Farm Bill.

Thursday, April 20, 10 to 12:00

Room 10 Vermont State House

Farmers and all members of the agriculture community, as well as interested food consumers, are invited to testify. Signup will be at the door the day of the hearing, and participants will speak in the order they sign up at the hearing.

ejc Consulting

A Legislative Concierge Service

Providing Information, Education and Communication

- A weekly newsletter of legislative happenings
- Monitor bills and committee meetings
- Legislative Issue Alerts
- Schedule meetings with legislators and regulatory leaders
- Facilitate meetings with other organizations
- Assist in developing and recommending strategies to move your issues forward
- Provide training sessions to help you maneuver the legislative process
- An annual "Day at the Statehouse"

Coming together is a beginning, keeping together is progress, staying together is success”

– Henry Ford

ejc Consulting

6147 VT RTE 116, Starksboro, VT 05487

ejcconsultingvt@gmail.com

802 233 9563