



The STATEHOUSE INSIDER

*Weekly politics and analysis
of transportation issues*



FINAL LEGISLATIVE REPORT

2015 SESSION ADJOURNS

Speaker Shap Smith gaveled the 2015 legislative session to a close at 11:05 pm on Saturday, May 15. Absent the unlikely need for a veto session on June 23, or the Speaker and Senate President jointly calling for lawmakers to return on June 30, the General Assembly adjourned until January 5, 2016.

Lawmakers started in January by re-electing Governor Shumlin. While he narrowly edged out Republican

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Scott Milne in the November election, Shumlin did not win an absolute majority of the vote. As a result, under the Vermont Constitution the Legislature had, as its first item of business, to choose who would be Governor. In a break with tradition Milne refused to concede and many urged the legislature to elect him. In the end Shumlin was reelected by a 110-69 largely (but not completely) party line vote over Milne.

The general election results and contested legislative vote weakened Shumlin's political standing. Unlike past years he was unable to dominate the legislative agenda. The session ended with the Governor and legislative leaders in a standoff over income taxes and spending. In the end, the Governor blinked and reluctantly agreed to increase income taxes, while lawmakers reduced spending.

The Issues

The Governor's decision a few weeks before the session to pull the plug on his single payer health care proposal--an issue that he first ran for Governor on in 2010--made health care reform difficult to achieve this year. Lawmakers balked at the Governor's alternative plan to raise \$90 million in state and federal funds by a new 0.7 percent payroll tax to boost provider payments under the Medicaid program and thereby supposedly reduce the "cost shift" to private health insurance premiums. To the disappointment of many advocates, lawmakers instead passed a much scaled back health care bill, S.139, which one lawmaker described as barely "keeping the lights on" in health care reform. The bill raises a mere \$3.2 million in revenue from an increase in the cigarette tax. When matched by federal dollars S.139 will fund just over \$6 million in provider increases and a few other items.

Despite the modest action on health care, a number of significant bills passed. They include:

- A budget and tax package that closed a \$113 million FY2016 budget deficit by raising \$31.9 million in taxes and fees, imposing \$56 million

in cuts to growth in the budget, and using \$25 million in one-time funds. Taxes include raising income taxes (by eliminating some deductions and capping others), imposing the sales tax on soda, imposing the rooms and meals tax on items sold from vending machines and changes in the current use property tax law. While the legislature did cut growth in the budget and raise new revenues, the budget is still on track to increase in FY2017 beyond the growth in revenues. As a result, the 2016 session will once again involve tough fiscal decisions.

- In an effort to control escalating property taxes a bill that encourages Vermont's school districts to merge into a "preferred education governance structure" of at least 900 students in order to achieve economies of scale. The bill includes various "incentives" for districts to merge. Among other things it phases out the counting of phantom students in the formula governing the distribution of money to school districts and, in some instances, grants to small schools. Additionally, it imposes variable education spending growth limits on districts to try to control school spending.
- An energy bill that builds on existing law and addresses regional energy market concerns by creating long-term renewable energy targets for Vermont's utilities. The three tiered system created by the bill requires an increase in utilities' electricity sales from renewable energy, more in-state distributed renewable energy generation and the employment of energy transformation projects that reduce fossil fuel usage and greenhouse gas emissions. The new targets go into effect January 1, 2017 and increase annually. The bill also addresses the development of solar projects by giving municipalities more weight in the Public Service Board siting process and creates a solar siting task force to propose legislation to the legislature next January.

- A water quality bill to clean up Lake Champlain and avoid takeover of the state's water quality programs by the US EPA. The enhanced water quality efforts provided for in the bill are funded by a "clean water surcharge" on the property transfer tax. The surcharge will raise \$7.5 million annually for three years and is repealed on July 1, 2018. The Agency of Natural Resources is directed to come up with another funding source to replace it.
- A child protection bill that increases information sharing between the courts and the Department for Children and Families and beefs up Vermont's child cruelty statutes. The bill is in response to the deaths of two toddlers last year.
- An omnibus economic development bill that contains a range of measures to spur economic growth. Among other things, it includes a program assisting first-time homebuyers with their down payments. It also makes changes to the Vermont Employment Growth Incentive (VEGI) program that gives tax credits to companies creating jobs in Vermont.
- A bill that repeals the "philosophical" exemption for parents who do not want to vaccinate their children and a bill that prohibits mentally ill Vermonters from purchasing guns and makes it a state crime for certain classes of convicted felons to possess firearms. Both of these bills brought hundreds of people the State House on both sides of these emotionally charged issues. Both bills passed, although the firearm safety bill did not include a provision, as had originally been proposed, requiring background checks in connection with purchasing a firearm at a gun show.

State House Decorum, Personnel and Ethics

The session was marked by some notable lapses in public decorum in the statehouse. First, a group opposing Governor Shumlin's decision to abandon single payer health care noisily disrupted his inaugural address in January. Lawmakers and the Governor had

to exit through the back doors of the House chamber and a number of protesters were forcibly removed by police. Then on May 1 a group of protesters paraded through the State House chanting so loudly that the Senate had to suspend debate on the floor because Senators couldn't hear one another. Many worry that these unprecedented disruptions may result in increased security measures that could trump the long-standing tradition of Vermonters having unfettered access to their State House and the lawmakers inside.

There were some key changes in personnel inside the State House this year. In March, lawmakers unexpectedly ousted long time Sergeant-At-Arms Francis Brooks of Montpelier due, in part, to the breakdown in security during Governor Shumlin's inaugural address. Brooks was replaced with Janet Miller, the longtime director of the legislature's administrative arm, the "Legislative Council." Don Milne, who has held the post of House Clerk for 23 years, is retiring after a long illness, and on the last day of the session House members elected assistant clerk Bill Magill to replace him.

Another notable change in State House decorum this year relates to ethics. The House established an ethics panel to review possible conflicts of interest by its members. After resisting the idea of creating a similar panel in the Senate the Senate President Pro Tem, Senator John Campbell, D-Windsor, changed his mind and spoke favorably of the idea. However, in the end the Senate did not create such a panel.

Somewhat related is passage of a law prohibiting lobbyists from making contributions to legislative leadership PACs until after the legislature adjourns in the second year of the biennium. In addition, an independent counsel has been appointed to investigate Attorney General Bill Sorrell for alleged campaign finance violations.

Finally, as Lt. Governor Phil Scott put it in his closing remarks the shocking May 7 Statehouse arrest of

Senator Norm McAllister, R-Franklin, on criminal sexual assault charges cast a "cloud" over the Senate. One of his alleged victims worked for him at the Statehouse as an intern. Despite calls for him to do so, so far Senator McAllister has not resigned from his seat. As a result and due to frustration over his unwillingness to step down, Senator McAllister has been stripped of his senate committee assignments.

DMV MISCELLANEOUS BILL

S.122, the DMV Miscellaneous Bill, passed the House and Senate and is awaiting Governor Shumlin's signature. The provisions of most interest to VADA are:

- Effective January 1, 2016, DMV is authorized to issue an "exempt vehicle title" at the request of a Vermont resident (including a licensed Vermont dealer) for a vehicle that is more than 25 years old.
- Effective July 1, 2015, Vermont's distracted driving law is amended to prohibit texting or the use of cell phones while stopped in a "public highway" at a red light. Once the operator has moved the vehicle to the side of or off the public highway, it is legal to text or use a cell phone. Also, GPS no longer has to be in a cradle or otherwise mounted to the vehicle, but can be placed in a cup holder, or around the dashboard in certain circumstances, to allow a cell phone to operate as a GPS. The amended law allows the use of GPS that is installed by the manufacturer or securely mounted in the vehicle but not to the windshield. "Securely mounted" means "the device is placed in an accessory or location in the vehicle, other than the operator's hands, where the device will remain stationary under typical driving conditions."
- Effective upon passage, the New Motor Vehicle Arbitration Board is no longer required to hold an arbitration hearing when a manufacturer does not contest the consumer's complaint.
- At VADA's request, the bill authorizes new car dealers to display used cars for up to 14 days at fairs. Existing law only allowed used car dealers to display used vehicles.
- Two provisions VADA opposed in committee are NOT in the final bill: (1) limitations on the use of motor vehicle dealer plates by immediate family members; and (2) a provision that would have allowed DMV to suspend a dealer's license for 15 days without a hearing.

The final text of the bill is not online yet. However, the committee of conference report for S.122 can be found on p. 1984 of the Senate [Journal](#) for 5/15/15.

The text of the underlying document that the Committee of Conference Report amends is the Senate Proposal of Further Amendment and can be found on p. 994 of the Senate [Journal](#) for 4/29/15.

DMV TECHNICAL CORRECTIONS BILL

The House and Senate passed [H.240](#), a lengthy DMV Technical Corrections. The bill is awaiting the Governor's signature. The bill cleans up and fixes typos in the DMV statutes but is not supposed to change policy.

T-BILL

[H.488](#), the Transportation Capital Bill ("T-Bill"), passed the House and Senate and is awaiting the Governor's signature. This bill establishes the Agency of Transportation's Budget for fiscal year 2016. The biggest issue lawmakers dealt with in H.488 was a shortfall in the Transportation Infrastructure Bond (TIB) fund of \$7.2 million. The shortfall was the result of low gas prices and the correlating lower gas tax revenue. The House and Senate Transportation Committees considered a number of options including cutting the district leveling program, delaying projects, raising gas taxes, cutting VTRANS payroll and putting a higher "floor" into the TIB assessment. Ultimately the legislature approved a transportation program that balanced the TIB fund through transferring funds within the program, reductions in VTRANS payroll and the potential delay of projects within the Program Development Division. The legislature also added a revenue-neutral floor to the TIB assessment in hopes of avoiding a similar shortfall in the future.

SALES TAX ON SERVICES

The tax bill, [H.489](#), which passed the House and Senate and is awaiting the Governor's signature, contains a study on whether Vermont should impose the sales tax on services, with the exception of business-to-business services, with a report due by January 15, 2016. This has tax implications for repair and warranty services that dealers provide consumers. Here is the study language that passed:

Sec. 94. SALES TAX ANALYSIS

(a) The General Assembly concludes that the structural deficiencies in Vermont's current revenue and budgeting structure, combined with a change in the State economy from an economy based on goods to an economy based on services, requires an examination and rethinking of Vermont's current sales tax base.

(b) On or before January 15, 2016, the Commissioner of Taxes shall report to the Senate Committee on Finance and House Committee on Ways and Means on how the Department of Taxes would implement an extension of Vermont's sales and use tax to select consumer services, not to include business to business services, most commonly taxed in other states. The extension of the sales and use tax modeled in the report shall provide two scenarios designed to raise both \$15 million and \$30 million in revenue in Vermont on an annual basis. The report shall include a draft of proposed rules which shall identify specific services by industry type that are taxable or not taxable.

(c) On or before January 15, 2016, the economists for the Legislative and Executive Branches, with the assistance of the Joint Fiscal Office and the Department of Taxes, shall file a joint report to the Senate Committee on Finance and the House Committee on Ways and Means on the fiscal impact of further extending Vermont's sales and use tax to a broader range of consumer services. The report shall analyze the short- and long-term economic impacts to the State of Vermont of such an extension, and contrast those impacts with the short- and long-term projections of Vermont's current sales and use tax revenues without the changes in the proposal.

RENEWABLE ENERGY STANDARD

Lawmakers gave final approval to H.40, the Renewable Energy Standard (RES) bill, late last week. Prior to passage, the bill was amended in the Senate to include provisions relating to solar projects and the role of municipalities in the Public Service Board process for the siting of such projects. The bill establishes renewable energy goals for Vermont's utilities through a three-tiered system. The third, Energy Transformation tier, requires that two percent of utilities' annual electric sales come from in-state distributed renewable generation, energy transformation projects, or a combination of the two. Utilities that choose to develop energy transformation projects to meet this requirement are encouraged to partner with other entities. The projects must reduce greenhouse gas emissions and fossil fuel usage. Such projects may include, but are not limited to, incentives for electric vehicle infrastructure. Utilities may begin developing these projects this year, although the requirement will not go into effect until January 1, 2017 (July 1, 2019 for municipal utilities with no more than 6,000 customers) and increases annually. In addition, to annual and biennial reporting on the RES requirements, the Public Service Board will be required to hold workshops on the implementation of all three tiers and to solicit input from stakeholders beginning August 1 of this year.

ACTIVE ISSUES FOR 2016

TIRES

This year the House Natural Resources and Energy Committee and the House Fish, Wildlife and Water Resources Committee held a joint hearing on [H.36](#), a bill that requires that tire manufacturers create a product stewardship program for used tires. Representatives of the Agency of Natural Resources (ANR), a number of other environmental advocates, and John Sheerin, the Director of End of Life Tire Programs at the Rubber Manufacturers Association, testified. ANR is going to create a group to take a "deep dive" into understanding the options for recycling tires over the summer and fall. VADA has been invited to participate in this effort. Hopefully a solution can be found without the state imposing a tax on the retail sale of tires or the creation of a new product stewardship program for tires. This sets up H.36 for action in 2016.

WINTER TIRES

The Senate Transportation Committee took up [S.144](#), a bill that would require rental car companies to offer rental cars equipped with winter tires from November 15 through April 1. The bill defines "rental car company" as "any person offering pleasure cars for rent in Vermont on a short-term basis" so motor vehicle dealers renting cars would be included. Rental car companies and VADA testified against the bill in the Senate Transportation Committee. Committee members voiced concerns about the bill so it did not move this session but the bill will remain open next session.

DMV FEE BILL

All Department of Motor Vehicle fees will be up for review and likely increased in 2016.

As the legislature has adjourned, this is KSE's last legislative report for 2015. A special thanks to Marilyn Miller and Mitchell Jay for all their help and insights during the 2015 session. Thanks also for having KSE serve as VADA's lobbyist. We wish you all a great summer!