

Week 12 - April 5, 2019

THE VERMONT **STATEHOUSE INSIDER**

Weekly politics & analysis
of the issues in Montpelier



THE WEEK OF

A number of highly anticipated issues were in the spotlight this week. H.107, the bill that would expand paid family and medical leave benefits reached the House floor. This bill along with S.23, which would raise the minimum wage to \$15 per hour by 2024 are serious points of contention between the Democratically-controlled legislature and Republican Governor Phil Scott. Governor Scott vetoed similar bills last year.

In the Senate, an amendment that would protect abortion rights passed with overwhelming support. Proposal 5 was brought forward with the spectre of a conservative Supreme Court overturning *Roe v. Wade*. While there was no controversy over Proposal 5, there were fireworks on the Senate floor when a bill that would regulate small-scale contractors almost met with procedural death. S.163, would require small contractors to register with the secretary of state's office. After lengthy debate there was a motion to refer the bill to the Government Operations Committee, which could have the effect of delaying further action this year. The vote on the motion resulted in a tie, which is about as common as a sasquatch walking across the statehouse lawn, and the Lieutenant Governor had to break the tie and prevent the bill from being referred.

In the committees the process of reviewing bills that met the crossover deadline began in earnest. These bills include the budget, transportation bill and capital bill as well as numerous policy bills. With six weeks left in the session, the sense of urgency to finalize bills and get them out of committee is starting to seep into the statehouse ether.

Readers may recall that the session started with a controversy around the need for a delay to Act 46, the law that forces schools to merge. Despite significant resistance to addressing the issue in the House, the House did eventually pass a bill and moved it to the Senate. The Senate did not agree with the House version and passed their own version of a “delay” bill. The issue is now in the first conference committee of the 2019 session. The conferees met briefly today with the primary takeaway being it appears the House is back to their initial position of preferring to take no action. This would mean the State Board of Education decision to force schools to merge would stand, despite pending court cases and uncertainty in communities around the state. The Senate pushed back, and the conversation will continue next week.

Things are about to get interesting.

DMV MISCELLANEOUS BILL

The House Transportation Committee continued its review of the DMV Miscellaneous Bill, S.149. The bill contains various amendments to DMV laws. Its most notable provisions relate to the creation of an automated vehicle testing program in Vermont. The committee is considering adding a number of issues to the bill including consumer protection for owners of vehicles that were towed without their consent (H.201) and regulating the use of colored lights on vehicles (H.112), among others. [Here is a link](#) to S.149 as it passed the Senate.

TRANSPORTATION BILL

This week the Senate Transportation Committee continued its review of H.529, the Transportation Bill. The bill contains the FY20 transportation budget along with numerous other items, including an electric vehicle sales and lease incentive program. The bill also requires the Agency of Transportation, in consultation with the Joint Fiscal Office, to conduct a technical analysis of commuter rail service utilizing self-propelled diesel multiple unit rail cars between St. Albans, Essex Junction, Burlington and Montpelier. The committee is also considering adding a provision to the bill to regulate electric vehicle charging stations.

[Here is a link](#) to the bill as it passed the House.

PAID FAMILY LEAVE

The House debated for hours on Wednesday and Thursday before advancing legislation that would create a mandatory, statewide paid family and medical leave program. The program which would start in 2020 would give workers earning up to \$13.34 per hour 90 percent of their pay and workers earning more 50 percent of their pay up to a maximum of \$1,334 per week (if their leave is approved). The program is funded by default by employees with the option for the employers to contribute to some or all of the cost. The bill directs the Commissioner of Financial Regulation to seek out a private insurance carrier to provide the benefits by developing and issuing an RFP by September 1 2019, with carrier selection to be completed by November 15, 2019. Governor Scott has proposed a different version of this program that would allow employers to choose whether or not to participate, but supporters of the House bill are pushing for a mandatory program in order to provide benefits to more Vermonters. The bill passed 92-52 with five absences, falling short of the two-thirds margin necessary to override a possible veto.

HOME CONTRACTORS

After considerable wrangling the Senate gave final approval to a multifaceted housing related bill, S.163. The bill strengthens the role of the Department of Health in the enforcement of state rental housing health and safety laws, enhances the enforcement authority of local health officials, provides for the creation of a comprehensive rental housing data management system applicable to all rental housing in the state, and calls for a report concerning the establishment of a “comprehensive system for the professional enforcement of state rental housing health and safety laws.” The bill also creates a grant program to assist landlords in improving their rental properties. As introduced the bill also requires all home construction and home improvement contractors who perform work costing more than \$1,000 to register with the Secretary of State’s office, requires such contractors to have professional liability insurance providing coverage of at least \$300,000 per claim, and obligates such contractors to use written contracts that reflect certain specified terms. When the bill first came to the Senate floor for initial approval on March 28 the Senate Appropriations Committee’s amendment stripping the \$1,150,000 in funding provided for in the bill was adopted. When the bill came back to the Senate floor for final approval on April 3 the Senate amended it to make the contractor registration requirement apply only to contractors who perform work costing more than \$2,000. Senator Rodgers, D-Essex/Orleans, then moved that the registration requirement be taken out of the bill altogether. That motion was rejected in a 13 to 16 roll call vote. Senator Sears, D-Bennington, then moved to have the bill sent to the Government Operations Committee. That motion sparked a 15-15 tie vote, with Lieutenant Governor Zuckerman casting a tie breaking vote to defeat the motion. The bill then received final approval on a 19-11 roll call vote.

CANNABIS

The House Government Operations Committee continued to take testimony on S.54 - a bill establishing a regulated market for cannabis in Vermont. The committee looked at the differences between [S.54](#) and [H.196](#). You can view a side-by-side comparison of S.54 and H.196 [here](#). One of the most contentious issues at stake in this discussion is whether or not the existing medical dispensaries will have early access to the commercial market for cannabis. After extensive debate, the Senate elected not to give dispensaries a head start for numerous reasons, including concerns raised by current participants in the state's medical program who would prefer to not get their medication from the same location as customers purchasing recreational cannabis. Proponents of small, Vermont-branded cannabis products believe that all parties participating in a regulated market should be given equal footing in an effort to ensure a reputation for high-quality products.

PRIVACY

The House Commerce and Economic Development Committee began taking testimony this week on S.110, the data privacy bill passed by the Senate. S.110 incorporates several recommendations made by the Attorney General in a recent report to the legislature regarding steps the state can take to improve data privacy for Vermonters. The Senate-passed bill directs the State's Chief Data Officer and Chief Records Officer to report back by January 15, 2020 on the how the state of Vermont collects and manages personally identifiable information. The bill also establishes Vermont's own version of California's Student Online Privacy and Information Protection Act (SOPIPPA), expands the definition of "personally identifiable information" (PII) to include "health information," biometric information, login credentials and passport numbers, and amends the state's data breach law. Representatives of the Attorney General's office testified in support of the bill, but noted that they will be submitting language for the committee's consideration that clarifies elements of the newly modified definition of PII.

ABORTION RIGHTS

The Senate took a historic step on Thursday and passed when they passed an amendment to the Vermont Constitution to protect abortion rights by 28-2 bipartisan vote. A 2/3rds vote of the Senate, or 20 votes, was required for passage. Only Sen. Brian Collamore, R-Rutland, and Sen. James McNeil, R-Rutland, voted against the amendment. The amendment now goes to the House for a single majority vote. Then next biennium starting in 2021, the Senate and House will have to pass the same language again. If that happens the proposed amendment will be put on the statewide ballot for Vermonters to vote on. Interestingly, the amendment itself does not use the word "abortion" and is not based on the right to privacy, the right the US Supreme Court relied on to legalize some abortions under the US Constitution in *Roe v. Wade*. Instead the proposed Vermont amendment provides a right to personal reproductive autonomy, which is broader than abortion and applies to women and men, which can only be abridged by the state under the heightened strict scrutiny judicial review standard. The text of the amendment is as follows:

Article 22. [Personal reproductive liberty]

That the people are guaranteed the liberty and dignity to determine their own life's course. The right to personal reproductive autonomy is central to the liberty protected by this Constitution and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means.