

Section-by Section Summary: S.135
An act relating to promoting economic development

Conference Report Summary
(Conference changes from underlying bills in highlights)

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Summary

Secs. A.1-A.3: Vermont Employment Growth Incentive Program (VEGI)

Sec. A.1 (House/Senate) –

Amends 32 VSA chapter 105, the chapter that governs the VEGI program:

1. § 3332(b)(3) – requires VEPC to find, to finally approve an application, that the business is not a party to, or complies with the terms of, an administrative order, consent decree, or judicial order; and that the business complies with Vermont laws and regulations.

2. § 3334(f) – adds a “purpose” statement for the enhanced incentive for a business in a qualifying labor market area

3. § 3335(c) – adds a “purpose” statement for the enhanced incentive for an environmental technology business (“Green VEGI”)

4. § 3339 – authorizes Department of Taxes to recapture incentives paid if a business falsely attests compliance with Vermont law during the application or claims process

Sec. A.2 (House/Senate)

Moves language in statute that says the Department of Taxes can disclose to VEPC the tax information necessary for VEPC and Tax to perform their duties under VEGI statute.

Sec. A.3 (Conference)

Strikes out any changes to current law in 32 V.S.A. § 3341 concerning confidentiality of business data and inserts Sec. A.3 to require VEPC to recommend how it will report aggregate information on the wages and benefits for jobs created through the Program.

Sec. B.1: Rural Economic Development Infrastructure Districts

(House)

Enables the formation of special municipal districts to finance, own, and maintain infrastructure that provides economic development opportunities in rural and under-resourced areas of the State, including areas within one or more municipalities. Specifically, provides mechanisms for public and private partnerships, including opportunities for tax-incentivized financing and voluntary citizen engagement, to help overcome density and economic hardship.

Secs. C.1-C.2: Green Mountain Secure Retirement Plan

(Senate w/ minor technical amendments by House)

Sec. C.1 - Directs Vermont to adopt and implement a multiple employer plan public retirement plan called the Green Mountain Secure Retirement Plan, a Multiple Employer Plan (MEP) available on a voluntary basis to employers with 50 or fewer employees who do not offer a retirement plan, and to self-employed persons, pursuant to a specific proposal to be developed by the Public Retirement Study Committee pursuant to Sec. C.2. Adds to the provisions concerning the board that oversees the MEP: the requirement that the employer member be an employer with 50 or fewer employees who does not offer a retirement plan; the duty to annually report to the House and Senate Government Operations Committees concerning the Plan; and that members may receive per diem compensation if not otherwise compensated by another source.

Sec. C.2 - Amends 2016 Acts and Resolves No. 157, Sec. F.1, establishing the interim study on the feasibility of establishing a public retirement plan and creating the Public Retirement Study Committee. This section charges the Committee with developing specific recommendations concerning the design, creation, and implementation of the Plan, as well as studying and making specific recommendations concerning: access to a marketplace for private sector retirement plans and options available to individuals ineligible to participate in the Plan; options for paying the costs of the Plan if operational costs exceed revenues; and methods to increase participation in the MEP if participation is low after three years.

Secs. D.1-D.2: VOSHA and Workers' Compensation

(Senate/House)

Sec. D.1 – raises civil penalties for VOSHA violations to match the amounts now required under federal law

Sec. D.2 – lowers the employers' contribution to the workers compensation fund

Secs. E.1-E.5: Workforce Development

Sec. E.1 (Conference)

Directs Commissioner of Labor and State Workforce Development Board to convene a State workforce development system working group to assess Vermont's current workforce education and training activities, workforce development strategies, and resource allocations, and design two or more options, at least one of which is not primarily based upon restructuring State agencies and departments, for a State workforce development system that meets the needs of employers and employees.

Sec. E.2 (Senate with House addition of Agency of Education as partner)

Authorizes funding from the Workforce Education and Training Fund, in collaboration with the Agency of Education, for career training and planning for younger Vermonters, beginning in middle school. House/Conference specifies that K-12 school districts and supervisory unions are among eligible recipients of WETF funds.

Sec. E.3 (House)

Authorizes the Secretary of Administration to create within the Agency of Education the position of Career Pathways Coordinator, who will serve directly under the State Director for Career Technical Education, and whose duties include: serving as the interagency point person for the development of a State-approved Career Pathways System; addressing funding, governance, and access to career technical education in Vermont; and developing necessary data, indicators, and outcomes to evaluate success of the system.

Sec. E.4 (House)

Heating Fuel and Service Workforce Training Pilot Project. Directs Department of Labor, in collaboration with regional CTE Centers and the Vermont Fuel Dealers Association, to establish the Pilot Project using available private, State, and federal funding. Under the Project, the partners, with Adult Tech Ed providers, will organize informational meetings and identify training candidates; train selected candidates; and increase workforce needed in this sector. DOL and employers each agree to pay 50% of training provided by VFDA in partnership with CTE Centers.

Sec. E.5 (House; conference strikes House intent language)

CTE Dual Enrollment Memoranda of Understanding. Directs Agency of Education to assist UVM and State Colleges in developing MOU with regional CTE Centers to expand the recognition of academic and technical course work completed by students in CTE programs by UVM and the Vermont State Colleges.

Sec. F.1: Minimum Wage and Benefits Cliff Study

(Senate; Conference adds collaboration with DCF per House's Benefits Cliff Study)

Creates a minimum wage study committee composed of six legislators, and identifies specific subjects that the committee will research and submit a report, including Conference charge, based on House Sec. F.1 - Benefits Cliff Study, to work directly with Department of Children and Families, in consultation with JFO, to evaluate the State's public benefit structure and recommend methods for mitigating or eliminating the benefit cliffs.

Sec. G.1: Financial Technology Study

(Senate/House)

Directs the Vermont Law Schools Center for Legal Innovation, in collaboration with the Commissioner of Financial Regulation, Secretary of ACCD, and Attorney General, to study and report on risks and rewards of development in financial technology, a policy direction, and goals and outcomes for success.

H.1–H.11: Housing Provisions

Sec. H.1: Outreach to Municipalities

(Senate/House)

Directs the Agency of Natural Resources to conduct an outreach campaign to municipalities to make them aware of the opportunity, under current law (10 V.S.A. § 1976), to be delegated the authority from ANR over permitting for water and sewer connections.

Sec. H.2 – Definition of Affordable Housing for Local Land Use Law (24 V.S.A. Chapter 117)

(Senate/House)

Defines “affordable housing” for owner-occupied housing as affordable to a household (30% of income) that earns 120% of the area median income, as defined by HUD. Current law is 80% of area median income for owner-occupied housing.

Secs. H.3-H.6 – Act 250 - Priority Housing Projects

(Senate with minor technical change by House)

Sec. H.3 exempts from Act 250 jurisdiction priority housing projects in municipalities of 10,000 people or more; but those projects may be required to get a permit under certain circumstances, such as when the project involves the demolition of buildings listed on the State or National Register of Historic Places.

This section also amends the definition of “mixed income housing” by changing the duration of affordability for rental housing to not less than 15 years, and it amends the definition of “affordable housing” by changing the income requirements within the definition, including increasing the income ceiling for owner-occupied housing from 80 to 120 percent. House makes technical drafting change.

Sec. H.4 (Senate/House)

Clarifies that if any designation (not just a downtown development district designation) is removed, Act 250 permitting requirements will apply to any subsequent substantial change to a priority housing project that originally was exempt because of the designation.

H.4 also clarifies that no permit or permit amendment is required for a priority housing project, in a designated center other than a downtown development district, that (1) stays below any applicable thresholds set forth in 10 V.S.A. § 6001(3)(A)(iv)(I), and (2) complies with the conditions of any existing permit or permit amendment for the tract(s) on which the project will be located.

(Senate with minor technical change by House)

Sec. H.5 allows the District Commission to authorize an amendment to the conditions of a permit or permit amendment for the projects mentioned in Sec. H.4, without notice and a hearing, if all parties or their successors in interest consent to the proposed changes.

If any of the parties does not consent to the changes, the applicant for the amendment must submit a permit application, and review of the application is limited to the changes that did not receive the consent of the parties. House makes technical drafting change.

(Senate/House)

Sec. H.6 establishes a new section within Title 30 that requires priority housing projects as defined under Act 250 (10 V.S.A. § 6001) to meet or exceed the stretch codes established by the Department of Public Service.

Sec. H.7: Publication of Median Household Data

(Senate/House)

Directs the Department of Housing and Community Development, with VHFA, to publish data and eligibility incomes and costs for affordable housing.

Secs. H.8-H.9: Downtown Tax Credits

(Senate/House)

Sec. H.8. Increases the annual amount of tax credits available from \$2,200,000.00 to \$2,400,000.00.

(House)

Sec. H.9. Changes claim period to provide that a developer can claim the tax credit at any time before the completion of the project (rather than any time up to one year after the completion).

Sec. H.10: Tax Credit for Affordable Housing – Captive Insurance Participation

(Senate/House)

Allows captive insurance companies to apply tax certificates purchased under this VHFA program against their captive insurance premium tax liability.

Sec. H.11: Vermont State Housing Authority; Powers

(Senate/House)

Expands governing statute to allow VSHA to work with regional or other partners to apply to HUD for approval to administer housing subsidies as a group, new entity or association, or as a contractor of one of those.

Sec. I.1: Sales and Use Tax; Repeal of Sunset; Airplanes and Parts

(Senate/House)

Repeals the sunset for a sales and use tax exemption for: (1) aircraft sold to businesses engaged in air commerce; and (2) parts, equipment, and machinery to be installed in any aircraft.

Secs. J.1–J.7: Tax Increment Financing Districts

Overview:

- (1) lifting the statutory “cap” on TIF districts and allowing six new TIF districts;
- (2) allowing a municipality with an approved district to retain not more than 70 percent of the State education tax increment and not less than 85 percent of the municipal increment;
- (3) requiring an initial TIF capacity report and an annual update concerning fiscal impacts and projected costs and benefits of TIFs;
- (4) modifying the criteria on which the Vermont Economic Progress Council approves new districts; and
- (5) creating a new municipal-only TIF district that may only use municipal increment, and not statewide education property tax increment, for infrastructure improvements.

(House)

Sec. J.1 – Finding that the State of Vermont has an important role to play in creating the infrastructure necessary to support downtown development and revitalization, particularly in distressed communities.

Sec. J.2 – 24 V.S.A. § 1892

(House/Senate; further amended by Conference)

(d) Strikes the prohibition on approving new TIF districts and adds the South Burlington TIF to the list of historical districts approved to date.

Adds new subsections (e)-(h) – Based on House Sec. J.10 – Initial TIF Capacity Study –

(e)-(f) Directs the Joint Fiscal Office, with the assistance of the consulting Legislative Economist, the Department of Taxes, and Agency of Commerce and Community Development, to report on the use of TIFs and other tools and report on the capacity of Vermont to utilize TIFs moving forward, including:

(1) a recommendation for a sustainable statewide capacity level for TIFs or comparable economic development tools and relevant permitting criteria;

(2) the positive and negative impacts on the State’s fiscal health of TIFs and other tools, including the General Fund and Education Fund;

(3) the economic development impacts on the State of TIFs and other tools, both positive and negative;

(4) the mechanics for ensuring geographic diversity of TIFs or other tools throughout the State; and

(5) the parameters of TIFs and other tools in other states.

(g) Annual update of the initial TIF Capacity study, including:

(1) an assessment of any material changes from the initial report concerning TIFs and other tools, and an assessment of the health and sustainability of the tax increment financing system in Vermont;

(2) short-term and long-term projections on the positive and negative fiscal impacts of the TIF districts or other tools, as applicable, that are currently active or authorized in the State;

(3) a review of the size and affordability of the net indebtedness for TIF districts and an estimate of the maximum amount of new long-term net debt that prudently may be authorized for TIF districts or other tools in the next fiscal year.

(h) Annually – based on reports - the General Assembly shall consider the amount of new long-term net debt that prudently may be authorized for TIF districts in the next fiscal year and determine whether to expand the number of TIF districts or similar economic development tools in addition to the previously approved districts referenced in subsection (d) of this section and the six additional districts authorized by 32 V.S.A. § 5404a(f).

Sec. J.3 – 24 V.S.A. § 1894

(House/Senate further amended by Conference)

Provides that a municipality with an approved district to retain not more than 70 percent of the State education tax increment and not less than 85 percent of the municipal increment.

Sec. J.4 - 32 V.S.A. § 5404a
(House/Senate further amended by Conference)

Subsection (f) – Controls for new TIF districts (Senate and further conference)

- (1) – No new districts in a municipality with a current district until debt retired
- (2) - not more than **six new districts** in the State
 - not more than **two per county**
 - (A) – existing districts don't count against limit
 - (B) - VEPC reviews in order received, unless in a calendar month it receives more than are available; then VEPC determines which best meets needs of county
 - (C) - if General Assembly not in session and VEPC receives a number of applications that would exceed limit, VEPC can present to Emergency Board, which may raise the cap
- (3) – Approved municipality must notify VEPC if it decides not to pursue district

Subsection (h) – Criteria for approval (House/Senate and further conference)

(1) But for – clarifying language concerning the “but for” analysis

- (h)(1)(A) – clarifying
- (h)(1)(B)(ii) provides that the review of applications should include number of units of affordable housing, if applicable to a project

(h)(3) Location Criteria application must meet **two of three** location criteria

- (A) – Development is compact, high density, **or** located in or near existing industrial area
- (B) –adds neighborhood development area (to list of other designated districts available under 24 V.S.A. chapter 76A)
- (C) clarifies changes to define more clearly an area that is “economically distressed”

(h)(4) – Project Criteria – must meet three of five criteria (House)

–adds potential for “rehabilitated affordable” housing as an option under project criteria, and incorporates by reference definition of “affordable housing” under 24 V.S.A. § 4303 (120 percent of median for owner-occupied; 80 percent of median for rental)

Sec. J.5 – Implementation – Provides that TIF changes in Secs. J.1–J.4 applicable only to applications filed, and districts approved on or after passage.

Municipal TIFs (House)

Sec. J.6 – 24 V.S.A. chapter 53, subchapter 5 redesignates the TIF chapter in Title 24 to apply to “Statewide Tax Increment Financing.”

Sec. J.7 – 24 V.S.A. chapter 53, subchapter 6 creates a new subchapter for “Municipal Tax Increment Financing” to permit a municipality to create a TIF district that only uses

municipal tax increment to fund infrastructure improvements. Under this TIF structure, the legislative body of a municipality considers and approves a tax increment financing plan, and no VEPC approval is required. A municipality is also prohibited from using education property tax increment to fund the project.

Secs. K.1–K.3: [Deleted.]

Secs. L.1: Microbusiness Development Program

(House; Senate Budget)

Sec. L.1 – Microbusiness Development Programs. Includes findings concerning the programs and a statement of intent to provide funding, subject to available resources.

Secs. M.1-M.3: Economic Development Funding Priorities

(House; Senate Budget)

Sec. M.1 – Small Business Development Center. Includes statement of intent to provide funding, subject to available resources, for the purpose of increasing the number of SBDC business advisors, with priority to underserved regions of the State.

(House; Senate Budget)

Sec. M.2 – Economic Development Marketing. Authorizes Agency of Commerce and Community Development to use available funds to implement the Department of Economic Development’s economic development marketing plan, with more explicit language on performance measures:

(c) Prior to taking any action pursuant to subsection (a) of this section, including issuing any requests for proposals for contracts or grants to partner with the Department in implementing this section, the Secretary of Commerce and Community Development shall adopt relevant outcomes, performance measures, and indicators in order to:

(1) clearly articulate the goals and expectations for the State’s economic development marketing plan and its implementation, any contracts or grants with the Department, and for the activities of the Department and its partners; and

(2) enable the General Assembly to evaluate the performance and effectiveness of the plan and its implementation, and of the activities of the Department and its partners undertaken pursuant to this section.

N.1. Effective Dates –

Effective on passage of S.135 – Secs. C.1, C.2 (public retirement), D.1, D.2 (VOSHA and workers’ compensation), E.1 (workforce development system), F.1 (minimum wage study), H.11 (Vermont State Housing Authority).

Remainder – effective on date of enactment of FY 2018-2019 budget