

**Agency of Commerce and Community Development**

Department of Economic Development

Vermont Economic Progress Council

National Life Building – Davis Building, 6<sup>th</sup> Floor

One National Life Drive

Montpelier, VT 05620-0501

[accd.vermont.gov](http://accd.vermont.gov)

[phone] 802-828-3211

[fax] 802-828-3383

**House Commerce & Economic Development Committee**  
**Additional Comments from Abbie Sherman**  
**Executive Director of the Vermont Economic Progress Council**  
**February 28, 2023**  
**H.10 Redraft**

Having now had the time to consider the changes to H.10, and having heard the review of the revised draft by David Hall with the Committee, I have the following additional comments:

**Recording Executive Session:**

Recording executive session will have a chilling effect on full and informed conversation. As you heard from Tucker Anderson, before going into executive session a body must make a motion regarding the specific nature of the matter and make a finding that premature public disclosure would place the public body or a person involved at a substantial disadvantage. Additionally, VEPC cannot take an action in executive session. They must come out of executive session and then make a motion.

It is unclear what benefit is derived from recorded minutes showing each Council member's comments and decision making. Whether or not an applicant has met the requirements to receive authorization for a VEGI is not determined by one person. It is determined by the majority vote of an 11-member Board (there must be at least 6 affirmative votes), which has legislative representation.

The Committee has heard on many occasions that the "but for" cannot be proven; it is not possible to audit. There is no way to definitively know if a company would move to another state or grow elsewhere. However, having an 11-member Board review and discuss the "but for" is stronger than one person's determination. Allowing access to the executive session reduces the determination to one person's opinion. It also reduces openness on the company's part during the executive session. The applicant company is less likely to provide the intimate details of their plans if the session is being recorded and potentially released to those uninvolved in the decision.

Allowing access to the executive session does not solve a perceived problem. It exacerbates it and has the potential of paralyzing the program if applicants are unwilling to be open in their discussions with VEPC.

**Conflict-of-Interest Policy:**

This is extraneous. While the reference in VEPC "Rules" has been repeatedly replaced, it does not override the fact that the 9 members appointed by the Governor are required to follow the Executive Code of Ethics, which is the reference made noting that all appointees of the Governor are subject to this. Inclusion of a conflict-of-interest policy in the VEPC "Rules" provides extra cover for the legislative appointees that may have a conflict of interest which they should also be required to identify.