



## Vermont Sustainable Jobs Fund

*Accelerating the Development of Vermont's Green Economy*

February 17, 2016

**TO: Representative Bill Botzow, Chairman, House Commerce & Economic Development Committee**

**FROM: Ellen Kahler, Executive Director**

**RE: Request for a technical correction to Title 10, Chapter 15A, § 328**

Due to an Open Records Request that was recently made to our organization, it has come to our attention that it would be helpful to make two minor technical corrections to the Vermont Sustainable Jobs Fund's enabling statute. **Would it be possible to include these two technical corrections in the Commerce Committee's Economic Development Bill that you are developing?**

### **Aligning Session Law Change with VSJF Statute**

The first request is purely administrative. When the Vermont Sustainable Jobs Fund's enabling statute was first adopted by the General Assembly in 1995, it instructed VEDA to establish and incorporate the Fund as a non-profit organization. Between 1996 – 2002, the VSJF was housed at VEDA's offices and they generously provided general administrative and bookkeeping services, since the VSJF has little funding and minimal staff. During the 2002 legislative session, as part of the Appropriations Bill, the following language was approved by the General Assembly, which transferred administration and implementation authority from VEDA to the Agency of Commerce & Community Development:

#### **Act 142 (2002); Sec 254**

(a) All authority and responsibility for the administration and implementation of the sustainable jobs fund and the sustainable jobs program established by chapter 15A of Title 10 is transferred from the Vermont economic development authority to the agency of commerce and community development, secretary's office. The agency shall be the successor to all rights and obligations of the authority in any matter pertaining to the fund and the program on and after July 1, 2002. (Amended 2002 No. 142; § 254(a), eff. July 1, 2002)

It has come to our attention that this Session Law paragraph was never transferred over to the main body of the VSJF's governing statute. This created confusion for the person making the Open Records Request because they thought we were still under VEDA's administrative authority.

**REQUEST #1:** Instruct Legislative Council to include the above mentioned Session Law paragraph in Title 10, Chapter 15A, § 328.

### **Modifying or Striking Title 10, Chapter 15A, § 328 (d) from VSJF's Governing Statute**

In re-reading our statute recently, we realized that § 328 (d) is outdated and should either be changed or struck from the statute. We believe the original intent of (d) was to designate VEDA as the entity to hire or assign the VSJF's *initial* Director, just as it was asked to assist the VSJF in obtaining its non-profit status.

(d) The Vermont economic development authority may hire or assign a program director to administer, manage, and direct the affairs and business of the board, subject to the policies, control, and direction of the corporation formed under this section.

We do not believe the intent of the General Assembly was to grant VEDA – nor now the ACCD (since administrative authority was delegated to it in Act 142 (2002); Sec 254) -- the authority to hire and fire the executive director of the VSJF for all time. As a mature and fully functioning organization, that duty should rest solely with the Board of Directors of the VSJF.

Due to the unique relationship between the State of Vermont and Vermont Sustainable Jobs Fund (as an independent, 501c3 non-profit corporation), we believe the Administration will retain sufficient oversight of the Executive Director and the programmatic focus of the organization because of the make up of the Board of Directors, as directed in statute:

§ 328 (c)(1) ... and the Board of Directors of the corporation formed under this section shall consist of:

- (A) the Secretary of Commerce and Community Development or his or her designee;
- (B) the Secretary of Agriculture, Food and Markets or his or her designee;
- (C) a director appointed by the Governor; and
- (D) eight independent directors, no more than two of whom shall be State government employees or officials, and who shall be selected as vacancies occur by vote of the existing directors from a list of names offered by a nominating committee of the Board created for that purpose.

**REQUEST #2:** Strike paragraph (d) completely.

**OR** add the word *initial* to the existing statute reference above in this manner:

(d) The Vermont economic development authority may hire or assign ~~a~~*the initial* program director to administer, manage, and direct the affairs and business of the board, subject to the policies, control, and direction of the corporation formed under this section.

Thank you for considering these two requests. We hope they can be accommodated.

CC: Nick Richardson, Chair, VSJF Board of Directors

CC: Pat Moulton, Secretary, Agency of Commerce & Community Development

CC: Lucy Leriche, Deputy Secretary, Agency of Commerce & Community Development and VSJF Board member