



STATE OF VERMONT
LEGISLATIVE JOINT FISCAL OFFICE

MEMORANDUM

To: Senate Committee on Natural Resources and Energy
From: Julia Richter
Date: February 18, 2022
Subject: S.148 (Draft 3.2) An act relating to environmental justice in Vermont
URL for bill:

<https://legislature.vermont.gov/Documents/2022/WorkGroups/Senate%20Natural%20Resources/Bills/S.148/Drafts,%20Amendments,%20and%20Legal%20Documents/S.148~Ellen%20Czajkowski~%20Draft%203.2,%202-14-2022~2-15-2022.pdf>

Bill Overview:

This bill has several sections with and without fiscal implications. Sections of the bill with potential fiscal implications include:

- State agencies would have new responsibilities which include increased environmental justice reporting and the adoption of environmental justice community engagement plans,
- The creation of a new State environmental justice mapping tool, and
- A 17-member Advisory Council would be formed with a minimum meeting requirement of nine times per year.

Relevant fiscal uncertainties and considerations

As drafted, JFO is not able to estimate the full fiscal impact of this bill without further information and details either from the bill or state agencies.

The bill establishes an Advisory Council that will be granted per diems, but it does not provide detail about the amount of compensation this Council would receive.

The bill also creates new responsibilities for state agencies to incorporate environmental justice considerations in their work. The exact responsibilities of each agency are unclear in the bill as drafted, and therefore, JFO is unable to identify precisely what their funding needs will be to administer those responsibilities.

Based upon information on per diems for other State boards, as well as preliminary information on administrative needs of the bill from the agencies, **JFO estimates the bill would have fiscal implications totaling at least \$3 million per year.** Much of the fiscal impacts are expected to occur beyond FY 2023.

The following sections aim to provide a better understanding and background of relevant fiscal considerations.

Per diem considerations

The fiscal impact of the per diem compensation to the Advisory Council is unknown at this time. This is because the bill does not specify the level of compensation for the Council.

Pending additional provisions added by the committee, members would be entitled to receive per diem compensation of \$50.00 per day according to 32 V.S.A. § 1010. **JFO estimates the annual fiscal impact under this provision would be approximately \$20,000 for the 17-member Advisory Council.** This is calculated using JFO's 2020 estimate for the cost of public members and assumes that the Advisory Council will meet a total of nine times as referenced in the bill.

However, the fiscal impact of the per diem compensation and reimbursement of expenses paid to Advisory Council members depends on the values determined for compensation and reimbursement. For example, some committees and boards award members a higher per diem and include (but may not be limited to) those listed in the table below.

Table 1 – Examples of per diem compensations that differ from 32 V.S.A. § 1010

Board/Council	Per diem compensation for members	Details	Statute/Act
Vt Dairy Promotion Council	\$75	The appointive members shall each receive \$75.00 per day for each day spent in actual attendance at meetings of the council, but not exceeding a total compensation of \$750.00 per annum for each member, and they also shall receive their actual necessary expenses and mileage while attending to their duties	6 V.S.A. § 2971
Parole Board	\$100	Members are entitled to per diem for each day of official duties together with reimbursement of reasonable expenses incurred in the performance of their duties	32 V.S.A. § 1010
The Labor Board Review Panel	\$125 for members \$175 for Chair	The members including the Chair shall be reimbursed for their necessary expenses incurred in the performance of their duties.	3 V.S.A. § 921
Vermont Community Broadband Board	\$250	Members are entitled to per diem each day spent in the performance of their duties and each member shall be reimbursed for his or her reasonable expenses incurred in carrying out his or her duties under this chapter	30 V.S.A. § 8084(a)(5)

Estimated costs according to the referenced agencies and departments

The bill requires state agencies to consider environmental burdens, create and adopt a community engagement plan, submit annual summaries, use an environmental justice mapping tool, review baseline spending reports, and adopt or amend policies, procedures, plans, guidance, and rules.

To determine potential administration costs of the bill, JFO asked agencies and departments¹ for information. Table 2 outlines received responses, but estimates have not been verified or further analyzed by JFO.

¹ Agencies and departments were identified based on those have testified to Senate Natural Resources and Energy regarding S.148.

Table 2 - Reported estimated costs by Agency/Department:

Agency/Department	Agency reported	
	Estimated annual cost	Details
Agency of Natural Resources	10 new FTEs ² (est. \$1.25 million)	• Estimates 10 new FTE positions would be necessary
The Natural Resources Board	6 new FTEs (est. \$750,000)	• Estimates 6 new FTE positions would be necessary
Agency of Commerce and Community Development	1.5 new FTEs (est. \$188,000)	• Estimates 1.5 new FTEs would be necessary
Department of Public Service	\$450,000 - \$575,000 per year	• Estimates 2.5-3 FTE will be necessary (\$350-\$425k annually) • Estimates additional support for consultants would be necessary (\$100-150k annually)
Department of Public Safety	\$20,000 per year	• Additional costs to the Department related to staff time to develop the plan and tracking and providing reports to the legislature on the use of the funding • The Dept. of Health states much of this cost is dependent on forthcoming guidance with the implementation of the sections of the bill
Department of Health	Cost depends on the definition of the term "environmental justice investment"	• If the term "environmental justice investment" is limited to apply to capital investments in fixed plant and equipment, the cost of baseline and annual reporting for the Health Department would not be significant. • If the term "environmental justice investment" is defined to include payments for services and/or economic benefits, it would likely present costly and complex challenges to baseline and annual reporting.
The Public Utility Commission	-	No anticipated major additional costs

Source: Correspondence with agency and departments identified by testimony; estimates have not been verified by JFO

JFO typically assumes that new FTEs will have a fiscal impact on the state of \$125,000 per year inclusive of salary and benefits. Assuming that average, **the total fiscal impact reported by departments and agencies thus far would be a minimum annual cost of approximately \$3 million.** It should be noted that not every agency involved in this bill has provided administration cost information to JFO.

The bill does not specify the source of funding for any new administration costs.

Considerations for legislators

As noted, the full fiscal impact of this bill will depend primarily upon the following parameters:

- The per diem and additional compensation of the Advisory Council members
- The full administrative responsibilities and costs of the State agencies involved.

The bill does not contain any appropriations for administrative costs or Council compensation, nor does it identify any new sources of funding.

Furthermore, there remain some uncertainties regarding the requirement of investment benefits. Specifically,

² FTE = Full Time Employee

§ 6002 (g) cites “On or before July 1, 2024, the Agencies and Departments covered under subsection (b) of this section shall direct investments to environmental justice populations with a goal that at least 55 percent of the overall benefits from those investments go to environmental justice populations”. Questions regarding this provision include:

- How will benefits be measured?
- Who will oversee this mandate?
- How will suitable populations and communities be determined?
- Is the 55 percent of all total investments, or 55 percent of investments within each Agency and Department?
- What is the consequence if this level of investment is not achieved?

Sources:

Barret, Stephanie. Memorandum regarding “Calculating Costs for Interim Committee/Boards etc.”. https://ljfo.vermont.gov/assets/Uploads/aecde30d61/Per-diem_and_expense_estimates.pdf

Communications with the Agency of Natural Resources, the Agency of Commerce and Community Development, the Department of Public Safety, and Department of Health.

Vermont Statutes:

3 V.S.A. § 921

6 V.S.A. § 2971

30 V.S.A. § 8084(a)(5)

32 V.S.A. § 1010