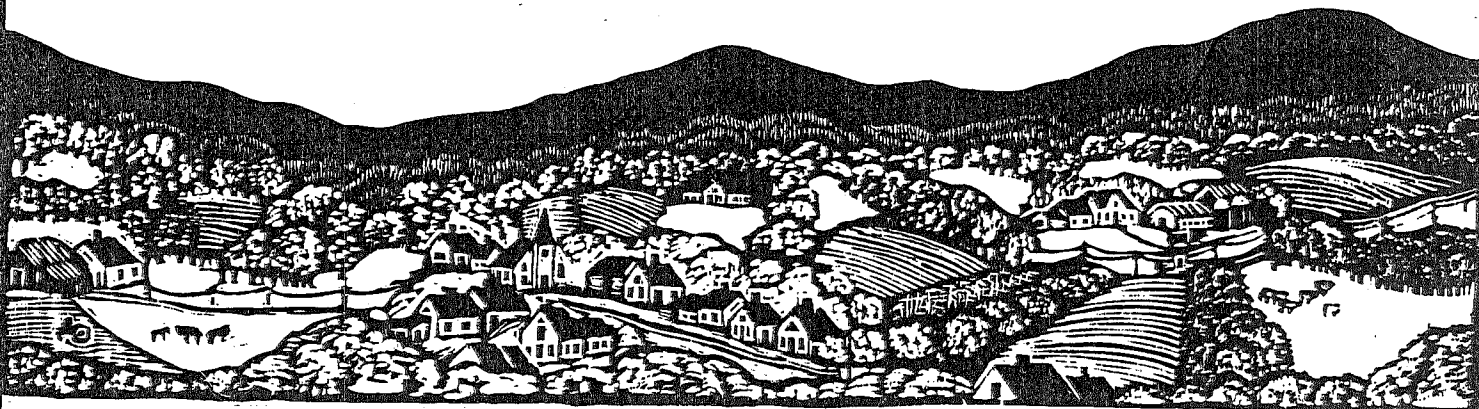


VNRC Bulletin



The 1990 Legislative Session: A Field Guide for Conservationists

January, 1990

UNIVERSITY OF VERMONT

FEB

Here's the good news: This could be a very big year for environmental protection in Vermont. In the 1990 legislative session, conservationists can look forward to major initiatives in recycling and waste reduction, suppression of global warming, protection of aquatic ecosystems, and state land acquisition. Additionally, even though state revenues appear to be tightening, Governor Kunin will continue to push for the Third Century Trust she proposed at VNRC's Conservation Celebration in September. The Trust could provide funding for ten years of land conservation, water cleanup, and recycling -- a significant legacy for future generations.

And here's the bad news: There are serious threats to our existing environmental laws. The 1988 planning law, Act 200, is under attack by extremists who want the law repealed or gutted. Act 250, after twenty years of effective development regulation and environmental protection, is being assailed by developers and municipalities who want to weaken it. Solid waste planning and management under Act 78 isn't satisfactory for some critics who want special treatment for landfills or who advocate massive solid waste facilities sited by the state. Our water quality laws might also be under attack -- some developers consider them "too strict."

Protecting the Fundamentals

Act 200: These days there are two types of people attacking Act 200, the 1988 planning law. One group generally opposes planning and zoning, believing that individual property interests are superior to the community's health, safety, and welfare. The other group has heard horror stories (mostly spread by the anti-planners) about alleged state government regulation under Act 200. In truth, neither group understands the benefit of Act 200 planning, nor the planning process under Act 200.

Act 200 provides funding and guidelines for community land use planning, with strong requirements for citizen participation. It enhances "local control" by giving towns new powers: the opportunity to review neighboring towns' plans (which might have broad impacts), and the ability to levy fees on developers. And it requires state agency planning that

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levy fees on developers. And it requires state agency planning that provides for public involvement and is in conformance with local and regional plans, for state actions affecting land use.

VNRC believes that Act 200 needs technical amendments that will improve its implementation -- to smooth out (but not remove) the regional approval mechanism to make deadlines and funding more helpful. But VNRC strongly opposes efforts to repeal or weaken Act 200 by eliminating the regional approval process.

If you support planning for the future of your community, now is the time to make your voice heard over the emotional opposition! Please speak up with your legislators and at your town meeting. Contact VNRC if your town is considering a vote on Act 200. Additionally, consider joining up with Green Mountain Citizens for Planning, a pro-planning group you can contact at 9 Bailey Ave., Montpelier VT 05602.

Act 250: This twenty-year-old development regulation law has done a lot to improve the quality of Vermont's growth and protect our natural resources. Now Act 250 is under fire because some state agencies and municipalities don't like having to meet its standards, and some developers and would-be landfill siters want an easier process.

According to the Vermont Supreme Court, Act 250 gives the District Environmental Commissions and Environmental Board (made up of citizens, not state agencies) "supervisory" authority over environmental protection in Vermont -- superior to state agencies, towns, and regional planning commissions. Act 250 establishes clear environmental standards for developers, whether they are municipal, state, or private. And it allows local people and interest groups to participate in the technical review of development projects. Act 250 is the most effective project regulation law in the United States.

VNRC supports proposals to strengthen Act 250 by 1) coordinating state and local permitting with Act 250 permits, and 2) providing additional staff who can help citizens including local officials and small business applicants to understand the process. These can be accomplished without legislation. In recognition of the law's twenty years of effective environmental regulation, VNRC strongly opposes efforts to weaken Act 250 or reduce its scope.

Act 78: In 1987 the Legislature addressed Vermont's growing landfill problem with a law that set commendable goals for solid waste management: 1) the "greatest feasible reduction in the amount of waste generated," 2) recycling and reuse "to the greatest extent feasible," 3) waste processing, and finally 4) landfilling of whatever waste remains.

The law also established a bottom-up process for planning and siting solid waste facilities. New solid waste districts can be formed by towns that wish to cooperate in waste management. Funding was provided for these districts and towns. State agency involvement was kept to a minimum: for example, approval of solid waste plans, and coordination of hazardous waste management and recycling programs.

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Antagonists of the "small is beautiful" approach to waste embodied in Act 78 continue to push for a state-wide siting authority which can force projects -- including landfills and incinerators -- onto towns and districts. They also want to exempt solid waste facilities from review under Act 250, contending that the law conflicts with Act 78. (Notably former Environmental Board Chair Leonard Wilson testified to the Senate Resources Committee in July that Act 78 and Act 250 can be administered together as long as solid waste districts and district environmental commissions cooperate early in the siting process.)

VNRC believes that Act 78 needs fine-tuning to require further separation of wastes; enhance recycling and waste reduction programs; provide adequate funding for districts, state agencies, and municipalities; and ban or tax the use of disposable products that are dangerous or have a non-disposable alternative. We strongly oppose efforts to change Act 78's important goals, to create new state-wide siting and waste management authorities, and to exempt solid waste facilities from environmental review under Act 250.

The Budget: At this writing we don't know what sort of adjustments will be suggested in the budget of the Agency of Natural Resources, Environmental Board, and other environmental programs. We are able to say, however, that cuts should not be allowed in already underfunded natural resource protection areas. Revenues can be raised from polluters and developers to pay for adequate environmental protection. Increased spending is needed in several areas: environmental enforcement; participation in Act 200 planning; regulatory review under the wetland law and Act 250; and Lake Champlain and Connecticut River clean-up.

New Law: Proposals for 1990

VNRC strongly urges the Legislature to adopt laws addressing the following problems:

Global warming: Senators Elizabeth Ready and George Little have prepared a comprehensive "global cooling" bill that will establish new programs and tax incentives in energy use, transportation, state procurement practices, and other important areas. As of this writing, the bill has not been assigned a number. In its early drafts, it contained significant measures that will put Vermont in the lead among states adopting tough measures to cut down on pollutants that contribute to warming of the earth's atmosphere. The Senate Natural Resources Committee will begin work on the bill.

Solid waste: The House Natural Resources and Energy Committee, chaired by Rep. Curt McCormack, will look into new measures to fine-tune solid waste management under Act 78. These are likely to include mandatory source separation, taking recyclables out of the waste stream (as has occurred in other northeastern states); banning the sale and land disposal of some hazardous products; increasing the costs of using non-recycled or non-recyclable products; and improving Vermont's ability to participate in recycling and waste reduction programs regionally. Many of these ideas are offered in a bill fashioned by Senator John

Carroll (no bill number yet). Governor Kunin supports source separation legislation and numerous other proposals for cleaning up and sorting out the waste stream, including new beverage container deposits, special taxes on "hard-to-dispose-of" items like batteries and oil, and bans on disposables including diapers.

Water withdrawals: The Legislature will have another opportunity to take up an important bill setting environmental standards for withdrawals and use of state waters (H.444, introduced by Rep. Tim Burke before he became Environmental Conservation Commissioner). The bill would provide clear statutory conditions and procedures for the removal of water from streams and ponds. At stake are the sensitive aquatic ecosystems that can be disrupted by the removal of water. The measure is sure to raise concern from users who divert Vermont's waters for snowmaking, commercial uses, and other needs.

Third Century Trust: With the support of environmentalists and Vermonters who lack adequate sewer disposal facilities, recycling facilities, and clean drinking water, Governor Kunin will continue to press for the enactment of the Third Century Trust, a long-term commitment to protecting Vermont's natural heritage. Needed this year, despite the predicted revenue shortfall, are: 1) statutory changes that will establish planning parameters for infrastructure development, 2) funding for a short list of critical infrastructure needs, 3) designation of revenue sources that will cover the program in future years, and 4) \$50 million for the Housing and Conservation Trust Fund.

Land acquisition: After the debacle at Westmore last year, when state plans to purchase 3,100 acres at Lake Willoughby fizzled, the Legislature appointed a study committee to come up with ways of acquiring, managing, and disposing of state lands. The Committee will make recommendations to the Legislature for a new program that will stabilize and fund the state's land acquisition efforts.

Please contact VNRC to participate in the enactment of these important bills and the protection of existing conservation and planning laws.

We'll be sponsoring a day-long workshop on how citizens can get involved in this year's legislation on **Saturday, January 20** in Montpelier. Contact VNRC for more information on this workshop, and join us in protection of the land, air, wildlife, and water we all love!

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THE 1990 LEGISLATURE: YOUR HELP IS NEEDED NOW

The legislative session has started up. The opportunities are many, but declining state revenues threaten basic environmental programs. Other legislative initiatives to protect Vermont's environment and natural resources are also in danger.

Please plan to work with your legislators, write letters to policymakers and local newspapers, and (if you can) attend key legislative hearings in Montpelier this year. Your influence on legislators is immeasurably important.

INFORMATION

If you need more information about any of these issues, please call VNRC's Montpelier office for the daily schedule and weekly legislative priorities. We expect to be at our legislative work until late May.

Our legislative advocate, Ned Farquhar, welcomes calls from VNRC members. This year's legislative staff -- Eileen Hiney, Jeannie Jenkins, and Amy Lord -- can also help answer your questions on the days that they are in the office.

We know that you must be informed to help advocate at home or in Montpelier, and we are here to assist.

THE BUDGET

Funding for important state environmental programs is in dire jeopardy.

Programs under budget fire include the Housing and Conservation Trust Fund, the new Third Century Trust (for environmental cleanup projects, including recycling and wastewater cleanup), and the Agency of Natural Resources operating budget.

Some reductions can be made in many areas of the budget. But even after severe reductions are put in place, the Legislature will face a large funding gap between projected revenues and spending needs for fiscal year 1991.

1. The Housing and Conservation Trust Fund has spent \$20 million on Vermont land and affordable housing since 1987, attracting another \$70 million in matching funds from Vermont land and housing trusts and communities. This is an important investment in the fabric of Vermont's communities: it provides housing for Vermonters and conservation of the landscape we treasure.

But funds are running low. To stay near the Fund's level of investment for past years, VNRC and dozens of other Vermont organizations support an infusion of \$8 million/year over the next six years.

The suggested source: a hike in Vermont's rooms and meals tax. (Some funding would also go to tourism promotion, industrial development lending, and general fund revenues.)

2. The proposed Third Century Trust will buy \$300 million in environmental clean-up for Vermont's future.

It will provide: 1) clean water for 50 towns that now have "boil-water" orders sometime during the year; 2) regional composting facilities; 3) recycling transfer stations and vehicles;

4) phosphorus reduction for sewer plants contributing to lake and stream enrichment; and
5) control of combined sewer overflow (CSO) problems that continue to plague many municipal wastewater plants, to the detriment of our environment.

The Trust proposal represents the first coordinated effort to provide funding for these essential programs. Our towns can't afford to provide these important environmental facilities. The Legislature must help, in a concerted long-term program of environmental investment.

This year, the Trust will need enabling legislation (no bill number yet) and some initial funding. Funding should come from environmental sources, to help reconcile some of the long-term costs of development and pollution in our state. Some funding should be secured from new "environmental savings bonds".

Suggested revenue sources for the Third Century Trust: 1) taxes on excessive packaging and use of unrecycled materials such as virgin newsprint, 2) fees on air and water pollution and some disposable products for which durable alternatives exist.

BILLS

Solid waste - The House Natural Resources Committee, chaired by Rep. Curt McCormack, has begun work on several major bills addressing Vermont's solid waste problem. VNRC supports bills that will help implement the goals of Act 78, the 1987 solid waste law: 1) reduction, 2) recycling, 3) processing, and 4) landfilling for residuals:

- **H.733** (Schaefer) establishes a state household hazardous waste program and will probably expand to address the larger issue of unregulated "small quantity" hazardous wastes.
- **H.778** (Ross) creates a new solid waste facilities panel for consolidated appeals from solid waste facilities decisions; we hope it will be expanded to include a measure of economic oversight to assure compliance with state recycling and source reduction goals.
- **H.792** (Bassett) lays out important new measures for source separation (for recycling and hazardous waste management) and landfill bans on some dangerous waste items.
- **H.766** (Seibert) establishes recycled content requirements for newsprint.
- **S.336** (Carroll) is a carefully crafted omnibus solid waste bill containing dozens of important solid waste measures, with landfill bans on hazardous products, new management measures, and source separation requirements.
- **H.404** (Resources Committee) and **S.327** (Blodgett) institute a tax on nonrecycled or nonrecyclable packaging.
- **S.293** (Blodgett), **S.271** and **S.272** (Webster), **S.323** (Skinner) relating to plastics separation and coding, management of recyclables, and bottle deposits.

There are a number of solid waste bills that VNRC does not support, including some that would eliminate Act 250 review of solid waste facility siting or affect the 1992 landfill closure/liner deadline. Burlington's recent (illegal) construction of a lined landfill cell without an Act 250 permit has caused some lawmakers to believe that Act 250 and Act 78 are "in conflict." VNRC believes that Act 250 oversight is essential in solid waste facility siting, and that Act 250 and Act 78 can work together to accomplish their different but complementary goals.

Clean air - Senators Elizabeth Ready and George Little have introduced comprehensive global warming legislation (**S.336**) to reduce Vermont's contribution to atmospheric change. The bill is starting in the Senate Resources Committee, which has already held public hearings. S.336 will reduce energy waste, increase the use of lower-impact and renewable energy, support public transportation and energy-sensitive transportation planning, and change state government procurement and design practices. This bill could be the best state legislation adopted in reaction to the global warming problem, and will go a long way toward accomplishing Governor Kunin's energy and emissions reduction targets, issued in an Executive Order late last year.

Act 200 - VNRC will continue to oppose the repeal of Act 200. We are working with pro-planning legislators to adopt changes in the planning law that will smooth out its problems and make it more responsive to towns that wish to plan. At this time no major hearings are scheduled, but your support for planning and Act 200 will be needed in the Legislature and at your Town Meeting. Despite the anti-planning rhetoric commanding so much airtime, Vermonters now have a great opportunity to work together toward protection of community values. The protection of Act 200 is essential to a quality future for Vermont.