



LEGISLATIVE REPORT

Lake Champlain Regional Chamber of Commerce & GBIC

February 26, 2010 - Week 8



Lake Champlain Regional Chamber of Commerce

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Legislative Report is a weekly update from the legislative team of the Lake Champlain Regional Chamber of Commerce and GBIC.

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The future of the Vermont Yankee Nuclear Plant was the big news this week. With snow swirling outside, Legislators and visitors arriving at the Statehouse were greeted by a giant, inflatable nuclear plant, protesters carrying signs and additional security personnel.

Leading up to the hastily scheduled vote, several press conferences were held to draw attention to the issue. Business and labor groups joined forces to ask for a delay in the vote. Chamber President Tom Torti commented that rushing to a vote is not the Vermont way, adding that our state has a history of clear and thorough debate on important issues. GBIC President Frank Cioffi reminded legislators that making power purchase decisions too far in advance has backfired in the past and that Vermont needs to keep our options open in order to ensure the best outcome for the state.

Entergy also held a press conference and offered Vermont a special power price if the plant was re-licensed. Twenty-five megawatts of power would be priced at four cents per kilowatt-hour for three years. The power could be used for economic development. Senate President Pro Tem Peter Shumlin (D-Windsor Co.) responded that the special price is what Vermont utilities pay under their current contract with Vermont Yankee.

The Senate took up the Vermont Yankee bill, bill S.289, on Wednesday morning and Senator Phil Scott (R-Washington Co.) challenged bringing the bill to the floor since the Rules Committee had not met. Upon conferring with the Senate Secretary, Senator Scott indicated that he did not feel the process was a good one but that the vote should take place. The final vote on the bill was 26 to 4 with Senators Mazza (D-Chittenden/Grand Isle Co.) Scott (R-Washington Co.), Flory (R-Rutland Co.) and Starr (D-Essex/Orleans Co.) voting to re-license the plant and the majority opposed. Since the bill failed to pass the Senate, it will not move to the House for a vote. Senator Shumlin spoke to the Senate prior to the vote about the process. He commented that both the Senate Natural Resources and Finance Committees had been working on the Vermont Yankee re-licensing for four years adding that the Chairs of both committees felt they had no one else to hear from on the issue. Senator Scott commented that Entergy had made bad decisions and breached their trust. However, he felt that there were unanswered questions and that responsible compromises had been offered. He encouraged his colleagues to vote yes saying that more was at stake than scoring political points and that politics had come before responsible process.

The Senate passed S.288, the Vermont Recovery and Reinvestment Act with little debate. As reported by Sen. Vince Illuzzi, (R-Essex/Orleans Co.) the bill invests \$8.6 million of federal stimulus funds in a variety of programs designed to provide job training and job creation opportunities. The tax provisions were removed from the bill and will be considered as part of the Miscellaneous Tax Bill.

The House General, Housing and Military Affairs Committee continued taking testimony on H.382 which would mandate paid sick leave. The Chamber does not support the bill and we asked the Committee to consider the impact the bill would have on employers' ability to maintain jobs during this economic recession. We communicated the message we heard from many members who are concerned that such a requirement would force them to cut other benefits or salaries or be less flexible when special circumstances arise. The bill would allow employees to earn one hour of paid sick leave for every 30 hours of work. The Chamber is concerned that mandating paid sick leave would add additional costs to employers that are struggling the most during this recession and could force employers to be less flexible or do away with employee benefits. The Committee is also considering H.523 which would require employers to provide each employee with a paid or unpaid break totaling at least 30 minutes during each six hours of work. The breaks must be scheduled at least two hours after the start of the employee's shift and no later than two hours before the end of the shift.

Supporting family businesses in Vermont was the focus when Chamber/GBIC members Stephanie O'Brien of O'Brien Brothers Agency and Jim Donohue of Gallagher Flynn & Company appeared before the Senate Finance Committee. The Committee is considering a proposal to change the estate tax back to a threshold of \$3.5 million from \$2 million. O'Brien's business began as a dairy farm. She told the Committee that she worries about how they will pay the tax, which is a non-income-producing event and occurs at the worst possible time in the life of a family business. Jim Donohue spoke of the triple whammy effect of the Legislature's changes in tax policy (capital gains, income tax deductibility and estate tax) made last year which is causing his clients to consider changing their domicile. The Committee will continue their deliberations on this issue as they consider the Miscellaneous Tax Bill.

The House Commerce Committee continued their work on H.647 regarding the misclassification of employees for worker's compensation this week. Doug Robie with DEW Construction testified that DEW works hard to ensure independent contractors have appropriate insurance but that he is concerned the penalties in the bill would fall too harshly on small contractors that don't have the administrative capacity DEW has. Further, a stop work order provision in the bill could

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affect the pace of a job if the person found to be without insurance or misclassified was critical to the project. Chamber Board Member Mike Walsh with Hackett Valine and McDonald also testified on the bill representing the Vermont Insurance Agents' Association. He agreed that smaller contractors do not have the resources to police their subcontractors the same way a large company can. He indicated that mandatory workers compensation or a predetermination system for independent contractors would provide greater clarity. The Committee is now considering a 24-hour waiting period during which time appropriate insurance could be obtained before a stop work order is issued. The Committee also clarified their intention that only the misclassified employees or those without insurance would be subject to the stop work order rather than the entire company or the full job site.

The Senate Economic Development Committee is also working on a workers' compensation bill. The bill:

- bans employers who misclassify workers from contracting with the state for up to three years;
- increases the fines for employers who commit workers' compensation fraud and requires the Commissioner of Labor to issue a stop work order in such cases until workers' compensation insurance is obtained;
- prevents employers from retaliating or taking any negative action against an employee that has filed a workers' compensation claim or complaint; and
- allows claimants to make a video or audio tape recording of their workers' compensation medical exam.

Senator Hinda Miller (D- Chittenden Co.) reminded her colleagues that Vermont has 97 % compliance with workers' compensation insurance and that the penalties in the bill might result in unintended consequences.

The Senate Economic Development Committee passed out their Unemployment Insurance bill on a 3-2 vote late last week with Committee Chair Vince Illuzzi and Senators Hinda Miller and Bill Carris (R- Rutland Co.) supporting the bill and Chittenden County Senators Doug Racine and Tim Ashe voting against the bill. Bill S.290 spreads the costs of dealing with the fund's shortfall across employers, employees and the unemployed. Specifically, the bill would:

- Raise the taxable base wage upon which employers' insurance rates are calculated from \$10,000 this year to \$12,000 in 2011, \$15,000 in 2012 and \$16,000 in 2013. The base wage would drop down to \$14,000 if and when we reach tax schedule two.
- Create a 0.2 percent tax on employees that would sunset when we reach tax schedule three, in approximately 2014.
- Change benefits by instituting a one-week waiting period, calculating benefits by looking at a worker's past four quarters of work rather than two, changing benefits for workers fired for gross misconduct and disallowing workers from receiving severance pay and unemployment benefits simultaneously.

The bill will put the unemployment fund back in the black sooner than expected and prevent additional interest payments and tax penalties for employers since Vermont will need to borrow less Federal funds.

The House Natural Resources Committee is working on a renewable energy bill that is expected to change but currently includes an expansion of the feed in tariff program enacted last year in order to help farms and changes to permitting requirements for renewable energy projects.

The Senate Health and Welfare Committee is working on a bill to require restaurants to provide nutritional information on their menus (bill S.171). Committee Chair, Senator Doug Racine (D-Chittenden Co.) indicated that he would like the requirements established in the bill to match those passed in other states so that restaurants will not need to produce new information in order to comply with Vermont's law. The bill applies to restaurants with more than 10 outlets nationally but the number may be raised to 20. The Committee is also working on health care reform legislation that could include global budgeting for hospitals in Vermont.

S.64, the Growth Center bill, is back on the table in the Senate Natural Resources Committee. Kevin Dorn, Secretary for the Agency of Commerce and Community Development, has been working with smart growth advocates to: 1) restructure the Downtown Board and eliminate the Planning Coordination Group so as to simplify the application process; 2) allow growth center decisions to be reconsidered; and 3) limit the size of growth centers with additional requirements for densities within these centers to be at least four residential units per acre. Our organizations have requested that growth center legislation recognize the existence of industrial parks, which provide value-added jobs and do not lend themselves to mixed use development. The same incentives applying to growth centers should also be provided to these important areas for our economy.

The House and Senate Education Committees will hold a public hearing about consolidating school districts on March 9 at 5:00 p.m. There are several bills requiring the number of school governing units to be reduced to 14-16 regional districts, each having a superintendent and school board. The House Education Committee is considering a different approach in a committee bill that would provide incentives for districts to merge. These incentives include favorable budgeting provisions and technical assistance. School officials testifying before this committee described how they are already either sharing some services or considering consolidation without a state mandate. The Chamber and GBIC will provide testimony in support of providing a combination of incentives and mandates for consolidation.

The Senate Transportation Committee chaired by Senator Dick Mazza (D-Chittenden/Grand Isle Counties) has been dedicating time to issues of interest to the tourism industry. The adequacy of interstate signage for major attractions and institutions has historically been a difficult balance to achieve in terms of aesthetics versus the need for more signs. The issue of more signage was raised at the request of the Vermont State Colleges.

The House passed S. 77, the electronic waste bill, which will require manufacturers to provide a free system for consumers to recycle items like computers and televisions. The bill now goes to the Senate, which passed the measure last year, for final approval.

The Challenges for Change legislation was signed into law by Governor Douglas this week. The government restructuring plan is the subject of our legislative breakfast on March 15.