

# VERMONT LEAGUE OF CITIES AND TOWNS

## LEGISLATIVE WRAP-UP



2016

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## **INTRODUCTION: THE END OF A BIENNIUM; THE END OF AN ERA**

How many legacy issues can you cram into a legislative biennium? Now that the 2016 session has ended, we have the answer to that question. Whether they were successful or not, lots of issues merited the term “legacy.” And quite a few legislators felt the need to secure their place in Vermont legislative history before departing the State House by promoting these issues. For starters, think marijuana, water quality (Act 64), education (Act 46), renewable energy siting (S.230), and automatic voter registration (H.458). Many of those legacy issues coalesced at the end of this biennium.

Vermont’s leadership will change in a big way in 2017. The governor, lieutenant governor, speaker of the House, president pro tem, attorney general, and a number of veteran representatives and senators are either retiring or seeking new office. The campaign season has already started and is likely to be tumultuous. The issues with which local governments deal will be front and center again in the next several months. Stay engaged! Be sure that your candidates are familiar with local government issues. A list of candidates qualified for the Vermont Primary on August 9 is already posted on the [Secretary of State’s website](#).

VLCT advocacy staff followed nearly 300 bills over the course of the biennium. By the end of the 2016 session, 40 new bills affecting municipal government passed. You will read about water quality, the siting of renewable energy facilities, the Open Meeting Law, forestry, stormwater fees for the Agency of Transportation (VTrans), hazardous materials regulation, and more in this legislative wrap up. Legislation includes statutory changes and “session law” not in statute that establishes study committees and sometimes legislative intent or direction to an agency.

Our annual legislative summary also includes a list of municipal charter amendments – whether or not they passed – as well as a list of summer study committees, advisory committees, and commissions established in this legislative session.

Local officials visited the State House on many occasions this year and relentlessly followed bills in ways that produced real results for local government. On January 20, a score of local officials testified to both House and Senate Natural Resources and Energy committees on the state of siting renewable energy facilities across the state. Many traveled to the State House almost every day thereafter that the legislature was in session, establishing a consistent local government presence in the State House. Local police, mayors, and municipal managers testified frequently about the problems with the many proposals to legalize marijuana. Wastewater treatment facility operators and public works directors followed the bills that dealt with combined sewer overflow, water quality and potable water, focusing on the impacts that legislation would have on cities and towns. On a crisp VLCT-sponsored Local Government Day in mid-February, scores of local officials descended upon the State House to discuss VTrans stormwater fees payable to municipal stormwater utilities, voter registration, and other topics of concern to local officials. These and other efforts by municipal officials strongly influenced those bills and substantially improved the final products. We are grateful to you for your efforts.

Because this is the second year of the biennium, any bill that did not pass by May 6, the night the legislature adjourned, is dead. All statewide office holders and legislators are up for election in November.

As always, more work remains to be done. The process to develop next year’s VLCT municipal policy begins almost immediately. A new biennium with many new legislators will begin next January and local officials will be ready for them. If history holds true to form, some local officials will be among them!

The governor may sign a bill into law or it will become law without his signature within five days of the date upon which a bill is sent to him. Should he veto a bill, the legislature will return to the State House on June 9 to consider overriding the veto. (He already vetoed H.518; as of this writing, he hasn't made up his mind on S.230.) If, after reading the Wrap Up, you have some recommendations for action in 2017, please send them to [horn@vlct.org](mailto:horn@vlct.org) and [gzakov@vlct.org](mailto:gzakov@vlct.org). Plan to attend the VLCT Town Fair and annual meeting on October 5 and 6. You can find as-passed versions of bills and acts, once the governor signs them, on the [legislative website](#).

We look forward to working with our members this summer and fall to develop a focused municipal policy for 2017.



VLCT Public Policy and Advocacy staff represent all 246 cities and towns to the Vermont legislature and administration as well as to the federal government and interest groups. We initiate, track, and promote legislation that provides authority, autonomy and resources to cities and towns. Member-established policies to implement those priorities can be found in the 2016 Municipal Legislative Policy. The VLCT Municipal Policy will be revised this summer for the 2017 session. With guidance from the VLCT Board and membership, Advocacy staff ensure that municipal priorities are addressed in the State House, by the executive branch, in studies, guidance and rule-making procedures, and other policy-making forums throughout the year.

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## MUNICIPAL FINANCE

### Appropriations Bill (H. 875)

(amends various statutes including 24 V.S.A. § 4753(a) and 32 V.S.A. § 3708)

The [appropriations bill](#) is always one of the last bills to pass and signals the end of the legislative session. It is also true that, as one of the last bills to pass, it always contains more than a few policy issues that legislators were unable to get into other bills as well as a slew of study committees – although, thankfully, far fewer than legislators propose. H.875 is no exception.

The FY16 appropriations bill that passed last year and which was amended by Act 68 (the budget adjustment act) totaled \$5.630 billion. Of that amount, \$2.387 billion was state money. Education Fund dollars, with the General Fund transfer to the Education Fund of \$303 million netted out, totaled \$1.249 billion.

This year's adopted FY17 appropriations bill totals \$5.762 billion, including \$2.459 billion in state funds. Education Fund dollars, with the General Fund transfer to the Education Fund of \$306 million netted out, are \$1.270 billion.

The appropriations bill also contains the allocations for local highway assistance, which this year totaled \$64.24 million.

The total budget proposal represents a 3 percent increase in state dollars and a 2.4 percent increase overall. The increase in the Education Fund is 1.6 percent. The entire budget growth picture from FY12 through FY17 is summarized at the [Joint Fiscal Office's website](#).

H.875 contains language recommended by a summer study committee on payments in lieu of taxes (PILOT) to towns for lands owned by the Agency of Natural Resources (ANR). That language establishes that the base payment for PILOT on ANR lands is 0.6 percent of the fair market value as appraised by the Division of Property Valuation and Review (PVR) on April 1, 2016. For parcels that ANR acquires after that date, the municipal tax rate of the fair market value assessed on April 1 in the year it was acquired will be the base payment. Beginning in FY22 and every three to five years thereafter, the ANR secretary will need to recommend an adjustment to update the base payments consistent with the statewide municipal tax rate or other indicators. That recommendation will be included as part of the administration budget report. H.875 includes both language phasing in the new PILOT system and payments to ease the transition in those towns that would be hardest hit by the change. The entire report and recommendations on the ANR PILOT program is posted on the [legislature's website](#).

PILOT payments for state buildings, to the City of Montpelier, and for correctional facilities are all paid out of the PILOT Special Fund, which is made up entirely of 30 percent of revenues from local option taxes enacted by cities and towns.

At least until 2020, the governor is directed to itemize current service liabilities in his budget report, including:

- the total obligations and the amount estimated for full funding in the current year in which an amortization schedule exists;
- pension liabilities for the Vermont State Employees Retirement System, the Vermont State Teachers Retirement System, and other post-employment benefit liabilities, as well as relevant Government Accounting Board Standards for those subdivisions;

- statutory funding levels from the Property Transfer Tax to the Current Use Administration Special Fund, the Vermont Housing and Conservation Fund, and the Municipal and Regional Planning Fund; and
- maintenance of transportation road and bridge infrastructure at current levels.

The bill will allow the Agency of Agriculture, Food and Markets – along with ANR and the Department of Public Service, when they are parties in a Public Service Board (PSB) proceeding that incurred expenses – to retain additional staff to help in those proceedings or monitor compliance with any formal opinion or order of the board to bill the applicant for a portion of those costs. Current law (30 V.S.A. §§ 20, 21) restricts that authority to the PSB, the Department of Public Service, or ANR.

H.875 appropriates \$100,000 to analyze the financial implications of expanding Dr. Dynasaur – the state’s children’s Medicaid and Children’s health Insurance Program – to all Vermont residents up to 26 years of age. A report is due to the legislature by January 15, 2017. VLCT supported the proposal to assess whether extending Dr. Dynasaur would save money for the overall health care insurance system and Vermonters.

H.875 appropriates \$425,000 to the Secretary of State for the 2016 primary and general elections.

The bill affirms that the Department of Public Safety will continue to provide 911 call-taking services, unless otherwise directed by legislative enactment.

The ANR secretary is authorized to expend funds in excess of the \$100,000 limit from the Environmental Contingency Fund to address drinking water contaminated by perfluorooctanoic acid (PFOA), which has been a significant issue in several parts of the state.

The table on page 31 details those appropriations that affect local governments. Note that the Budget Adjustment Act (Act 68) is referred to several times in the notes to the table. That bill, signed by the governor in March, amended appropriations for FY16, the current fiscal year.

Municipal planning grants, as the table indicates, total \$457,000. While the amount appropriated has been steady for several years, the number of applications has increased each year as municipalities work to comply with added planning requirements. This year, those requirements will include significantly enhanced forestry and energy elements of municipal plans. We certainly believe that it is time to increase the amount available for municipal planning grants.

### **Education Funding (H.853, Act 132)**

(amends 16 V.S.A. § 212 and 32 V.S.A. § 5402n(c))

Every year, the legislature establishes Education Fund tax rates for the coming fiscal year that are based upon a letter of recommendation from the commissioner of Taxes sent to the legislature in December. In 2015 as part of [Act 46](#), the legislature directed the Tax Department to move to a yield basis for their recommendations. As described in the December letter from the commissioner of Taxes and Act 46, the property dollar equivalent yield means the amount of spending per equalized pupil that would result if the homestead property rate of \$1 per \$100 of equalized education property value were in place and statutory Education Fund reserves were maintained. The income dollar equivalent yield means the amount of spending per equalized pupil that 2 percent income tax for those paying on income will support in the coming year and statutory reserves are in place. How much each district chooses to spend per pupil compared to the enacted yield will determine its locally adjusted rates on homestead value and income. The commissioner’s letter is posted on [the legislative website](#).

In FY17 only, the property dollar equivalent yield is \$9,701 and the income yield is \$10,870. The non-resident education property tax is \$1.53 per \$100 of value.

The bill requires that annually by December 1, the Joint Fiscal Office must prepare and publish an official, annotated copy of the Education Fund Outlook, which that office already does on a regular basis. The Education Fund Outlook projects revenues and expenses of the Education Fund for the following fiscal year. The forecast is refined throughout the year, and the most recent Education Fund Outlook is posted on the [legislative website](#).

The act creates a Common Level of Appraisal (CLA) Study Committee to study the use of an aggregate CLA in a merged school district. The committee includes the director of Property Valuation and Review, two town listers appointed by the Vermont Assessors and Listers Association, a school board member from a merged district appointed by the Vermont School Boards Association, and one member appointed by VLCT. A report is due to the legislature by December 15, 2016.

Act 132 requires the Joint Fiscal Office and the Legislative Council to report on changes made in calculating the statewide education property tax and the impact on education spending, tax rates, and the Education Fund balance based on the education funding proposal embodied in [H.846](#) – an education property tax bill that did not pass – which would remove the excess spending penalty in 2019, and also create a base per-pupil spending for each student. That report is due to the legislature by November 15, 2016. A separate report will address creating an education tax adjusted by income for all taxpayers, using [S.175](#) (as introduced), another funding bill that didn't pass, as the starting point. That report is due to the legislature by December 15.

Act 132 clarifies that a member town in a new union school district might have an equalized unified homestead property tax rate either higher or lower than its pre-merged rate. The act also provides for ameliorating that fluctuation in the short term for new merged union school districts.

**The Fee Bill (H.872)**  
(amends a variety of statutes)

Each year, the legislature passes a fee bill that updates fees that state agencies or other regulated entities charge for permits or licenses. State agencies are on a three-year cycle, which anticipates that they will submit requests for fee increases to the House Ways and Means Committee every three years. Last year, municipalities faced an enormous increase in Agency of Natural Resources' fees to fund water quality-related programs designed to implement the Lake Champlain Total Maximum Daily Load (TMDL), whenever it is released by the U.S. Environmental Protection Agency.

This year's fee bill, H.872, raises \$26,870,380 in new fees. Of that amount, \$24,280,410 will come from new or amended fees on investment (mutual fund) companies, the majority of which are apparently out of state. Only a few sections affect local governments:

- A marriage license fee will increase from \$45 to \$60. Of that amount, the clerk will continue to keep \$10, \$35 (up from \$20) will be sent to the Domestic and Sexual Violence Fund, and \$15 will go to the state treasurer.
- Fees will increase for the use or storage of hazardous chemicals based on the amount of chemical or substance.
- State fire prevention and building code fees will increase from \$5.50 to \$8.00 per each \$1,000 of construction work to be done, with a minimum fee of \$50 and a maximum fee of \$185,000.

- Fees will increase for a tobacco license or renewal from a municipality from \$100 to \$110.
- A new \$50 fee will be charged for a “tobacco substitute endorsement.” This fee and the fee for a tobacco license will be forwarded to the Department of Liquor Control, which issues the license, renewal, or endorsement.

In discussions during the last days of the session, legislators agreed to ask VLCT and municipal clerks to develop language that would put municipal fees charged by clerks on a regular schedule for updates, as is the case for state agencies. Many fees charged by clerks have not increased in years, and it is only reasonable that there would be a regular review of statutorily established fees for municipal services as there is for state agencies. Along with the formal study committees that were established, that work will proceed over the summer and fall in conjunction with the Vermont Municipal Clerks’ and Treasurers’ Association and other concerned entities.

Fee increases generally take effect on July 1.

**Intercepting Municipal Funds (H.747, Act 77)**  
(amends 24 V.S.A. § 4555)

Act 77 provides that, in the unlikely event that a municipality or school district is in default on payment of principal or interest on a municipal or revenue bond held by the Municipal Bond Bank, the state treasurer shall withhold any state funds due to the town or school district until the default is cured. The state treasurer will use the withheld state dollars to pay on the defaulted bond payments. Those payments will be credited to the town or school district.

In Vermont, no town, city, village, or school district has ever defaulted on a bond payment, and neither the treasurer nor the Municipal Bond Bank expects a default. Language that was in statute allowed the state treasurer to intercept state dollars going to a town or school district, but did not provide that those funds be used to pay on any defaulted bond debt. The legislation was proposed to provide an additional level of comfort to bond rating agencies.

The governor signed Act 77 on April 19; it takes effect on July 1, 2016.

**Technical (Miscellaneous) Tax Bill (H.873)**

(amends various sections of tax legislation including 32 V.S.A. §§ 3102(e), 3754(b), 3755, 4041a, 4465, 4467, 6061(13), 6069, 9701, 9712)

The Technical Tax Bill, [H.873](#), formerly known as the Miscellaneous Tax Bill, is an annual product of the legislature, and every year it features a few items that affect local governments. Every year, the tax laws need tweaking in some respect, and in some years the changes are significant for one class of taxpayer or another. This year, the following provisions affect local governments:

- The Commissioner of Taxes may disclose tax return information to a municipality that administers its own local option tax.
- The deadline for holding the Current Use Advisory Board annual public hearing is changed from August to October 15. By September 1, an agricultural land owner shall certify eligibility for the Use Value Program (Current Use).
- The Department of Taxes’ Department of Property Valuation and Review (PVR) will receive up to \$100,000 annually to provide free education on assessment of properties to listers. Funds no longer go to municipalities for funding lister education.

- The PVR Hearing Officer (no longer Property Tax Officer) needs to inspect a property only if requested by property owner. The PVR Director will notify a property owner of this option within ten days of an appeal being filed.
- The first audit of the Milton Tax Increment Financing District (TIF) will be delayed one year to allow the first annual municipal audit that incorporates TIF requirements to be completed.
- The City of Burlington is authorized to extend the period to incur indebtedness in the Burlington Waterfront TIF for 6.5 years for only three properties that are part of the Church Street Mall redevelopment proposal. The extension is contingent on an executed construction contract evidencing commitment to construct not less than \$50 million of private development on those parcels.
- “Homestead” is defined to reference October 15 as the deadline for making a declaration.
- Landlords are directed to furnish a certificate to the Department of Taxes in addition to the renter.

A few additional items are worth noting:

The Department of Taxes is directed to negotiate a contract for tax collection from online lodging-type companies such as Airbnb that offer short-term rentals over the internet.

In an effort to capture sales tax from retail internet companies, online vendors that do business in Vermont and do not collect sales tax are to notify Vermont purchasers that sales tax is due and must be paid on the purchaser’s tax return. Each failure to provide such notice will cost the non-collecting vendor \$5.00. Vendors with at least \$100,000 in sales or at least 200 annual transactions will send notification of the total amount over \$500.00 for purchases in the previous calendar year to the consumer. The Department of Taxes is authorized to adopt rules to implement this practice.

An annual assessment will be enacted for each ambulance agency of 3.3 percent of the agency’s annual net patient revenues for services delivered to patients. The Department of Taxes will notify each ambulance agency of the assessment amount. The intent of the section is to increase Medicaid reimbursement rates to ambulance service providers and also to comply with federal law.

**School Construction Aid (H.529, Act 93)**  
(amends 16 V.S.A. § 3448)

Act 93 suspends until 2020 the applicability of current statute that states if a school district sells an item or building that was financed with state construction aid through the capital bill, the district shall refund to the state that percent of the sale price that equals the percentage of construction aid received, but in no event more than the amount of the original state aid received. Thus, until 2020 school districts will not need to repay those capital funds.

Under the statute that is suspended by Act 93, all repayments are to be made to the state treasurer and used for school construction aid awards. No school district may receive general state education aid unless the school district has repaid any school construction aid that it owes to the state.

## **PUBLIC SAFETY**

### **Opioid Abuse (S.243)**

(amends session law)

S.243 tasks the Department of Health with establishing a community grant program this summer and fall to support local opioid prevention strategies. The grant program must support evidence-based approaches and be based on a comprehensive community plan, including community education and initiatives that increase awareness or implement local programs, or both. Partnerships involving schools, local governments, and hospitals will receive priority.

### **Law Enforcement, Safety, 911 Call-Taking, Dispatch (H.130, Act 118)**

(amends 20 V.S.A. §§ 2358, 2367; adds 29 V.S.A. § 842)

H.130 sets the stage for post-legislative session discussions around a variety of law enforcement and public safety issues.

The bill created the Law Enforcement Officer Regulation Study Committee to study, report, and make recommendation to the legislature by December 1, 2016, regarding the current regulation of law enforcement officers' certification and how the regulations should change. The eight committee members comprise state and local officials, including a chief from of a municipal police department appointed by the Chiefs of Police Association, an officer appointed by the Vermont Police Association, and one representative from VLCT. The committee will study several issues including:

- Level II basic training hours and physical fitness requirements;
- the internal affairs programs of law enforcement agencies;
- law enforcement agencies reporting unprofessional conduct to the Vermont Criminal Justice Training Council;
- the Training Council's role in investigating and acting on officer unprofessional conduct; and
- types of discipline the Training Council may impose on officer certification.

A working group was also created to study and make recommendations to the legislature by January 15, 2017, regarding E-911, dispatch, and call-taking services in the state. It will make recommendations on the most efficient, reliable, and cost-effective means for providing statewide call-taking operations for Vermont's 911 system, how dispatch services are provided and funded – including disparities in the current set-up – and study whether there should be any changes to the structure. The group is made up of nine members from the law enforcement, firefighter, and first responder communities, and includes a representative from VLCT.

A third group was established within the Training Center Governance Committee to annually review the safety at the Training Center and submit recommendations regarding how training safety at the Training Center could be improved. The seven-member Training Safety Subcommittee – made up law enforcement, firefighter, state official, and VLCT personnel – would report to the Governance Committee, which in turn will report to the legislature regarding:

- Any training safety issues discovered and remedies taken, if any, and
- Whether the committee has implemented any of the subcommittee's recommendations and, if not, why.

Lastly, the bill updates the scope of practice for Level II law enforcement officers as defined in 20 V.S.A. § 2358(b)(2).

### **Animal Cruelty (H.533)**

(adds 24 V.S.A. § 1943)

During the final two days of the legislative session, and during the Committee of Conference process, an advisory board was created and included in a bill that addresses domestic violence and victim notification. The new provisions of the bill did not receive testimony in any committees of jurisdiction; therefore, VLCT was not able to provide any input on the subject.

H.533 creates the Animal Cruelty Investigation Advisory Board within the Department of Public Safety to advise the governor, the legislature, and the Commissioner of Public Safety on issues involving the cooperation and coordination of all agencies that exercise animal welfare responsibilities. The 11 members include state officials and a variety of governor-appointed individuals from the animal welfare, animal health, municipal, and law enforcement communities.

The board will oversee Vermont's system for investigating and responding to animal cruelty complaints and develop a systemic, collaborative approach to providing the best services to Vermont's animals. Duties include:

- identifying and monitoring deficiencies in the state's system of investigating and responding to animal cruelty complaints;
- studying the feasibility of designating one law enforcement agency to receive, dispatch, and document the outcome of animal cruelty complaints and help develop a uniform response protocol for assigning the complaints to appropriate law enforcement agencies;
- developing written standard operating procedures and checklists for objective investigation of cruelty complaints;
- developing a guide for animal cruelty prosecution;
- exploring funding sources for cruelty investigations and a certification program for humane officers;
- developing trainings, protocols, procedures, and guidance documents for agencies engaged in animal welfare;
- developing recommendations for providing liability protection and reducing uncompensated costs to animal shelters and animal welfare groups that assist law enforcement in cruelty investigations; and
- exploring aligning dog licensure deadlines with annual veterinary care.

### **Fair and Impartial Policing, Impaired Driving (H.571)**

(amends 20 V.S.A. §§ 2358, 2366)

This bill makes it easier for Vermonters to get their drivers licenses back after they have been suspended due to their failure to pay fines. Much of the bill does not necessarily impact municipalities directly, however portions of it affect law enforcement officers.

H.571 includes requirements that law enforcement officers receive a minimum of four hours of training in "fair and impartial policing" and that they receive a refresher course every other year. The requirement for refresher training is added to the current requirement that law enforcement agencies track roadside stop data consisting of the age, gender, and race of drivers, the reasons for the stop, the type of search conducted, and what evidence was located, among other data. The deadline for agencies to track and report this data has been extended to September 1, 2016, by which time the data collected must go to a

vendor chosen by the Criminal Justice Training Council in electronic format, be made public, and be posted online.

H.571 also mandates that the Secretary of Transportation and the Commissioner of Public Safety must ensure that funding is available to train an adequate number of law enforcement officers who can detect impaired driving and collect data regarding the number and geographic distribution of law enforcement officers who receive Advanced Roadside Impaired Driving Enforcement and Drug Recognition Expert trainings.

**Privacy, Drones, Automated License Plate Readers (S.155)**

(adds 20 V.S.A. §§ 4621-4624; 13 V.S.A. § 4018; 13 V.S.A. §§ 8101-8108;  
amends 23 V.S.A. §§ 1607, 1608, 1213)

The Senate and House Judiciary committee spent quite a bit of time this session on a “privacy” bill that will affect certain local law enforcement agencies and officers.

With regard to unmanned aerial vehicles (drones), a law enforcement agency may not use a drone or information acquired through its use to investigate, detect, or prosecute a crime, with specific exceptions. The agency also can’t gather or retain data on private citizens who are peacefully exercising their constitutional rights of free speech and assembly. Law enforcement agencies must report the type, nature, scope, data collected, and rationale for the use of drones annually to the Department of Public Safety, which will in turn forward the information to the General Assembly.

The legislature remained rather silent as to the private use of drones, basically saying that anyone using a drone must operate it in accordance with the guidelines of a community-based organization such as the Academy of Model Aeronautics National Model Aircraft Safety Code. No one may equip a drone with a dangerous or deadly weapon. Federal law also requires the registration of drones that weigh more than 0.55 pounds. The Federal Aviation Administration Drone Registration online system is in place at <http://federaldroneregistration.com>.

Current practices for data collected by automated license plate readers remain the same: the data collected will be held for 18 months. However, data held for longer than six months may only be accessed by law enforcement with a warrant.

The bill also spells out when a warrant is required to access certain cellphone and electronic communication information by law enforcement.

**Body Cameras S.174)**

(amends session law)

Pursuant to S.174, the Law Enforcement Advisory Board must propose to the legislature a statewide policy for the use of body cameras by law enforcement officers by December 15, 2016. The policy must address when officers should wear body cameras, when cameras should be turned on and off, how camera malfunctions should be treated, and when video recordings should be exempt from disclosure under the Public Records Act. The board must also study the associated costs of body cameras and investigate potential grants that may be available for law enforcement agencies to acquire them. The legislation will take effect upon passage.

## ENVIRONMENT AND QUALITY OF LIFE

### Siting Renewable Energy Facilities (S.230)

(amends 30 V.S.A. §§ 202, 202b, 218d, 248, 8005, 8005a, 8010; 24 V.S.A. §§ 4345, 4348a, 4352)

It was touch and go on the last day of the session as to whether or not [S.230](#), the renewable energy facility siting bill, would pass. In the end, the House and Senate conferees were able to squeeze out an agreement and a bill passed. Several sections of the bill “take effect upon passage.” But since the Governor has not signed S. 230 as of this writing (and we are hearing rumblings that he may not), those provisions have not gone into effect.

**Planning for Renewable Energy.** S.230 gives a regional commission the right to participate in Certificate of Public Good (CPG) proceedings before the Public Service Board (PSB). It requires the commission to undertake studies and make recommendations on the conservation of energy and development of renewable energy resources.

The bill amends the description of a regional or municipal plan energy element to include an analysis of resources needs, scarcities, costs, and problems within the region across all energy sectors including electric, thermal and transportation, efficiency, siting of renewable energy resources and areas unsuitable for siting those resources or particular categories or sizes of resources.

S.230 establishes a new system for securing a “determination of energy compliance” for a regional or municipal plan. A regional commission may submit its adopted regional plan to the Commissioner of the Department of Public Service (DPS), who shall issue an affirmative determination upon finding that the regional plan meets the requirements of the amended regional or municipal energy element; is consistent with Vermont’s goals of greenhouse gas reduction, securing 25 percent of Vermont’s total energy needs from renewable energy sources by 2025, and building efficiency; and is consistent with the state energy policy and the Comprehensive Energy Plan.

Once a regional planning commission (RPC) has secured an affirmative determination of energy compliance, a municipal legislative body may submit its adopted municipal plan to the RPC for a municipal determination of energy compliance. The DPS or RPC will hold a hearing and render a decision within two months of receipt of the request for a determination. That affirmative determination will remain in effect until the end of the period for expiration of the plan to which it applies. An RPC may appeal a DPS decision to the Natural Resources Board within 30 days of the decision. The board shall hold a *de novo* hearing and issue a decision within 90 days of the appeal’s filing. A municipality may seek a determination of energy compliance from the DPS until July 1, 2018, if its regional commission has not yet received a determination. It will have the same right of appeal from the DPS decision. There is no appeal from the decision of a regional commission with respect to a municipal plan.

The Comprehensive Energy Plan will include recommendations for regional and municipal energy planning (strategies and options for achieving compliance) and the standards for issuing a determination of energy compliance. The standards and recommendations, developed with affected persons this summer, must be completed by November 1. Standards are to include:

- analysis of total energy use across transportation, heating, and electric sectors;
- identification and mapping of existing electric generation and renewable resources;
- establishment of the target years of 2025, 2035, and 2050 for energy conservation, efficiency, fuel-switching, and the use of renewable energy for transportation, heating, and electricity;

- the analysis of the amount of thermal-sector conservation, efficiency, and conversion to alternative heating fuels, transportation system and land use strategies, electric system conservation, and efficiency needed to achieve targets;
- the identification of potential areas for development and siting of renewable energy resources; and
- the potential electric generation from such resources in the identified areas.

The DPS is to collaborate with VLCT and the Vermont Association of Planning and Development Agencies on training in each regional commission area.

The bill also requires the DPS to provide regional commissions and municipalities with publicly available information detailing the location of electric transmission and distribution infrastructure in the region or municipality and the capacity of the infrastructure to accept additional electric generation facilities without modification.

**Substantial Deference.** Once a determination of energy compliance is made, the PSB must give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan. Substantial deference means “a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative.”

A municipality or RPC may hold a hearing on a proposal. When the application is submitted to the PSB, it shall address the substantive written comments received within 45 days of submission to the regional or municipal commission and substantive oral comments given at a the public hearing.

**Party Status.** The Agency of Agriculture, Food and Markets is required to appear as a party in the PSB CPG permitting process if a proposal for an electric generation facility exceeds 500 kilowatts (kW) and is on a site with primary agricultural soils. Otherwise, that agency has the right to appear, as does a regional commission and the legislative body or planning commission of an adjacent municipality if the proposed facility’s nearest component is 500 feet from the boundary or more than ten times the height of the proposed facility’s highest component. If a solar facility is sited on primary agricultural soils, those soils are to remain designated as primary agricultural soils.

**Vegetation, Decommissioning, Site Preparation.** Proposed projects of more than 50 kW that are not an auxiliary use on structures with other purposes shall include in the application the physical disturbance due to construction and operation, acreage of primary agricultural soils, visible infrastructure, and all construction, including access roads, utility lines, and vegetation management. The DPS is directed to file a petition for rule making by November 1, 2016, It is further directed to file proposed rules on December 15 and then adopt rules on post-construction inspection, aesthetic mitigation, and decommissioning of the project at the end of its useful life by August 15, 2017, unless the Legislative Committee on Administrative Rules extends the date.

**Radar Controlled Lighting.** Radar-controlled obstruction lights shall be installed on wind turbines if a facility includes more than four turbines and the Federal Aviation Administration allows the use of radar-controlled lighting technology.

**Recording in the Land Records.** A CPG for in-state generation facilities must be recorded in the land records of the host municipality within 45days of its issuance.

**Sound Standards for Wind.** By July 1, 2017, the PSB must adopt rules regarding sound levels from wind generation facilities, again unless the Legislative Committee on Administrative Rules extends the date. The PSB is to consider standards that apply to all wind generation facilities, the methodology for determining sound levels, and measurement locations for each such facility on a case-by-case basis or standards that apply to categories of wind generation facilities. Temporary rules are to be put into effect 45 days from passage of the bill (which, remember, has not yet been signed by the governor). Until the board adopts temporary rules, no CPG shall be issued for a wind generation facility. The rules may not allow sound levels that are above the lowest maximum decibel levels authorized in any CPG issued before the passage of S.230 that contains decibel limits.

**Standard Offer Projects.** The bill also establishes a pilot project to site new standard offer plants wholly located on a preferred site, that is:

1. a structure whose primary purpose is not energy generation;
2. a parking lot canopy over a paved lot if the location remains a parking lot;
3. a previously developed site if the footprint of the energy generation facility matches the pre-existing structure;
4. a brownfield, landfill, or gravel pit;
5. an appropriate superfund site;
6. a new hydroelectric facility at an existing dam; or
7. a location designated in a municipal plan.

Such a facility, if approved, may receive financial incentives to be constructed. A report on the pilot project is due to be delivered to the legislature by January 15, 2018. A standard offer plant is a renewable energy plant in Vermont with a plant capacity of 2.2 megawatts or less, that has been commissioned after September 30, 2009, is not a net-metering system, and has been determined to be a “qualifying small power production facility” under federal law.

**Working Group.** S.230 creates an Access to Public Service Board Working Group (no municipal representative) to review the current processes for citizen participation in PSB proceedings and recommend how to make citizen participation easier. A report is due to the legislature by December 5, 2016. The first meeting must be called by July 1, 2016, and the group will cease to exist on February 1, 2017.

**Ratepayers.** Finally, S.230 prohibits the setting aside of funds collected from ratepayers for supporting future expansion or upgrade of transmission or distribution networks, except after notice and hearing and only if cost estimates for the expansion are consistent with least cost integrated planning, the amount does not exceed 20 percent of estimated cost of the expansion, interest earned on the funds is credited to ratepayers, funds are disbursed after the expansion is in service, and none of the funds pays for anything more than least cost integrated planning.

### **Notice of Wastewater Discharges (H.674, Act 86)** (adds 10 V.S.A. Chapter 47)

Act 86 was introduced early this year to establish notification requirements when there are overflows of combined sewer, sanitary sewer, or separate storm sewer systems, despite the fact that the Agency of Natural Resources (ANR) was, at the time, in the middle of adopting rules to address wastewater treatment system overflows.

A combined sewer system is a collection system (pipes, pump stations, etc.) designed to convey sewage and stormwater through a network of pipes to a treatment plant. A sanitary sewer system is a collection

system that conveys sewage and groundwater entering the collection system through inflow and infiltration to a wastewater treatment facility. A separate storm sewer system is a collection system that is designed to discharge stormwater and groundwater entering the collection system through inflow and infiltration to surface waters.

An operator of a wastewater treatment facility, or his or her delegate, is to post on a publicly accessible electronic network, mobile application, or other electronic media designated by the ANR secretary an alert that informs the public of an untreated discharge of sewage and its location as soon as possible, but no longer than one hour from the discovery of the discharge. If there is no telephone or internet service at the location where the operator or delegate is working to control the discharge, he or she may delay posting the alert until the discharge is controlled or stopped, but no later than four hours from the discovery.

Within 12 hours of the discovery, the operator is to notify the ANR secretary through ANR's online reporting system and also notify the local health officer of the discharge. The notification to the secretary is to include the specific location of each untreated discharge and the body of water affected, the time it began and ended, the approximate total volume of sewage and stormwater that was released, the cause of the discharge, and the person reporting. For a combined system, that means each outfall that discharges during a storm event.

The ANR secretary is to post notification of other unpermitted discharges to waters of the state that may pose a threat to human health or the environment and that he or she identifies.

Each combined sewer overflow outfall needs to be marked with permanent signs that identify the outfall and warn of the potential threat to public health from recreating in the waters there or downstream. The municipality must post temporary signs downstream of untreated discharges or other unpermitted discharges posted by the secretary.

The Department of Health is directed to coordinate with ANR efforts to monitor the presence of cyanobacteria in waters of the state and maintain an internet site to provide information about cyanobacteria in places known to be used for recreation, including swimming and boating.

The governor signed the bill on May 4, which was its effective date. More information concerning posting alerts is on the [Department of Environmental Conservation website](#).

**Classification of State Waters (H.517, Act 79)**  
(amends 10 V.S.A. § 1252)

Act 79 increases the options for classifying waters of the state and provides that a body of water may be classified for particular uses.

- Class A(1) waters are those in a natural condition that have significant ecological value.
- Class A(2) are waters suitable for a public water source with filtration and disinfection or other required treatment, with a character that is uniformly excellent.
- Class B(1) waters are those in which one or more uses are of demonstrably and consistently higher quality than Class B (2) waters.
- Class B(2) waters are suitable for swimming and other primary contact recreation, irrigation and agricultural uses, aquatic biota and aquatic habitat, good aesthetic value, boating, fishing and other recreational uses, and for public water source with filtration and disinfection or other requested treatment.

In developing basin plans, the Agency of Natural Resources shall identify waters that should have one or more uses reclassified.

**Timber Harvest and Forestry (H.857)**

(amends 10 V.S.A. §§ 2515, 2600, 2601, 2602, 2606b, 2608, Chapter 83 subchapter 4, and 24 V.S.A. 4302(c), 4303, 4382, 4348)

It was a long and tangled path for the slew of forestry bills that were introduced this session, including H.789 (forest integrity and municipal plans), H.851 (conduct of forestry operations), H.852 (state lands, maple sugaring, and succession planning), H.854 (timber trespass), H.855 (fire suppression and forest fire wardens), and H.857 (timber harvesting). Who knew there were so many forestry-related problems to be solved?! Portions of several of those bills were combined into [H.857](#). The timber trespass legislation, H.854, was passed as a self-standing bill.

The commissioner of the Department of Forests, Parks and Recreation is to deliver a report to the legislature by December 15, 2016, recommending implementation of a harvest notification program – that is, notifying the state when trees are cut. The recommendation is to include how a harvest notification program would be structured and who should provide the notice, as well as when and how. The report is to summarize the environmental and economic benefits of the recommended harvest notification program including whether the program would increase compliance with Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, the estimated number of staff and amount of funding needed to implement the program, and proposed draft legislation.

The legislation amends the statute regarding sugaring in state forests and calls for recommendations for a statewide program to improve the capacity of providing successional planning technical assistance to forestland owners in Vermont.

H.857 amends the statute for appointment of a town forest fire warden, who is appointed by the commissioner of the department upon approval by the selectboard. A town forest fire warden may now be reappointed for successive five-year terms. When there are woodlands within the limits of a city – but no longer a village – the chief of the fire department acts as the city forest fire warden.

A forest fire warden's salary is paid by the town; the statute that dictated pay of 15 cents for each fire permit issued is deleted, thus leaving the town to set its own rate of compensation. In addition, the commissioner's annual payment to the forest fire warden is increased from \$20 to \$30 for record keeping, \$30 for attending training, and \$10 for each fire report submitted.

Since 1977, the statute stated that for the purpose of extinguishing forest fires, a town shall not be held liable in any one year for an amount greater than ten percent of its grand list. When bills were submitted to the commissioner by December 31, the state was required to reimburse the town for one half of its forest fire suppression costs up to and including ten percent of its grand list. Those protective limits are deleted. New language states that a municipality in which a forest fire occurs shall pay the cost to suppress a forest fire that occurs on land not owned by the Agency of Natural Resources (ANR), including the cost of personnel and equipment. The commissioner may, according to a forest fire suppression reimbursement policy, reimburse a municipality for all or a portion of the cost of suppressing a forest fire on land not owned by ANR.

The state shall reimburse a town for all of its fire suppression costs at a rate determined by the commissioner according to the forest fire suppression reimbursement policy for forest fires on ANR land. In order to get any reimbursement, the forest fire warden must have reported the forest fire to the commissioner within 14 days of extinguishment. The commissioner and forest fire warden must approve the costs before submission to the municipality for payment.

In the event of a forest fire, the forest fire warden may choose to share or delegate command authority to a chief engineer of a responding department or, in the chief's absence, the highest ranking assistant fire fighter present during the fire.

A permit to burn brush, wood, weeds, or grass is now required for every fire, unless (1) snow surrounds the open burning site; (2) the fire is in an outdoor fireplace or fire ring not located within woodland, timberland, or a field containing dry plant material contiguous to a woodland; (3) the fire is 200 feet or more from any woodland or field containing dry plant material; or (4) it is in a city with a fire department.

By January 1, 2017, the commissioner, in consultation with VLCT and other interested parties, must develop a policy that provides the criteria the department is to use in determining how and whether to reimburse towns for the costs of fire suppression. That policy is then to be delivered to the legislature.

The compact relating to mutual aid in combating and controlling or preventing forest fires is operative between any Vermont party and any other state that is party to a compact if the other state's legislature has agreed to the provisions of the compact.

H.857 amends the planning statutes to expand the forestry goal currently in the law. Now Vermont's forestlands should be managed to maintain and improve forest blocks and habitat connectors. The definitions section of Title 24 Chapter 117 includes definitions of forest blocks (contiguous areas in any stage of succession and not currently developed for non-forest use), forest fragmentation (division or conversion of a forest block by land development other than by a recreational trail or use exempt from regulation), habitat connector (land or water that links patches of wildlife habitat within a landscape allowing movement, migration, the dispersal of animals and plants, and the functioning of ecological processes), and recreational trail (non-paved corridor for recreational activity).

After January 1, 2018, the regional and municipal plan must contain a land use element that now includes areas reserved for flood plain and for maintenance of forest blocks, wildlife habitat, and habitat connectors. The plan must indicate areas important for those purposes and that plan for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production recreation, or other identified values or functions.

A study committee on land use regulation and forest integrity is created to study potential revisions to Act 250 and municipal bylaws that would protect contiguous areas of forestland from fragmentation and promote habitat connectivity. A report is due to the legislature by January 1, 2017. The nine-member committee includes a representative of a municipality appointed by VLCT.

Having required all of the above actions by municipalities and regions, H.857 prohibits municipal regulation of forestry operations.

The bill clarifies that land acquired by the Green Mountain National Forest or ANR is exempt from the levy of a land use change tax for those lands that are being acquired and were in the Use Value program. It also clarifies when a lien for a levy of land use change tax may be released for lands in the Use Value program.

### **Clean Water and Water Pollution Abatement Revolving Loan Funds (H.610, Act 103)**

(re-designates 10 V.S.A. Chapter 55; amends 10 V.S.A. §§ 1251, 1278, 1571, 1592, 1621, 1623, 1628, 1630, 1632 and 24 V.S.A. §§ 4751, 4752, 4753, 4754, 4755; adds 24 V.S.A. §§ 4763c, 4763d, 4764, 4765, 4766, 4767, 4768; repeals 10 V.S.A. 1591- 1595, 1624, 1624a, 1625, 1626a)

[H.610](#), introduced at the request of the Agency of Natural Resources (ANR), re-writes the statutes regulating the clean water and water pollution control revolving loan funds, which make available loans for the construction or upgrade of water supply and water pollution control facilities. The entire Chapter 55 is re-titled “Aid to Municipalities for Water Supply and Water Pollution Abatement and Control.” Much of the bill is just a reorganization of current statutes, but there are both some notable changes and some important protections for municipalities that were added by the Institutions committees.

“Pollution abatement facilities” are defined as municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities to abate water pollution. “Water pollution abatement and control facilities” are defined more broadly as equipment, conveyances, and structural or non-structural facilities owned or operated by a municipality that are needed for and appurtenant to prevention, management, treatment, storage, or disposal of stormwater, sewage, or waste, including a wastewater treatment facility, combined sewer operation facility indirect discharge system, wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project. All of those listed items, as well as costs to acquire land for a project, are eligible costs when a municipality seeks funding for a project.

ANR may award state assistance grants or loans for water pollution abatement and control facilities pursuant to the agency priority point system in amounts not to exceed 35 percent of eligible costs. The priority system includes consideration of whether the project:

- is grant or loan eligible;
- is in waters that are in compliance with Vermont Water Quality Standards or are subject to a Total Maximum Daily Load (TMDL) and condition of the waters affected by the project;
- will address water quality issues identified in a basin plan;
- will abate or control pollution that is causing or may cause a threat to public health;
- will address an emergency situation affecting or constituting a threat to the environment, public health, safety, or welfare;
- repairs or replaces existing infrastructure;
- is a cost-effective alternative;
- serves a designated center;
- is affordable for the municipality; and
- removes a pollutant for which the waters affected by the project are impaired.

The bill designates the state as a municipality for purposes of water pollution abatement and control facilities or water supply system facilities, however a state department may only receive a grant or loan if there is a surplus of funds at the end of each fiscal year after all municipal applicants have received committed funds.

The bill also addresses eligibility for grants and plans for potable water supply systems and makes clear that for purposes of the revolving loan fund a public water supply system does not include bottled water facilities or for-profit non-community systems. Municipalities may apply for loans for public water supply systems and publically owned water pollution abatement and pollution control facilities. The agency may certify to the Municipal Bond Bank the award of a loan to a municipality to assist with a public water supply sytem project when the project is necessary; the proposed type, size, and cost of the project are suitable for the intended purpose; and the municipality will have the technical, financial, and manegerial ability to operate the facility in compliance with state and federal law.

The certification will specify the interest rate and indicate which loan conditions apply. The term is not to exceed 20 years and the interest rate with administrative fee will be between 0 and 3 percent. A municipality determined to be disadvantaged, according to a formula applied by ANR, may receive a loan of up to 30 years with an interest rate of as little as minus 3 percent.

The ANR secretary is to submit a report to the legislature by December 15, 2016, on whether and how to provide plans to private entities for water pollution abatement, control facilities, and public water supply systems. The report is to include an assessment of the funds available for grants and loans to municipalities and funds available for loans to private entities to improve water quality; the estimated costs to municipalities in the next ten years to comply with water quality and water supply mandates; the estimated demand from municipalities for grants and loans; and a recommendation of whether to authorize loans to private entities for water pollution abatement and control facilities or public water supply systems.

Until rules are adopted, the secretary may award financil assistance as follows:

- grants of 25 percent of eligible costs for combined sewer separation facilities and combined sewer overflow abatement project costs or dry weather sewage flows (projects that proceeded since 1984 with dry weather abatement shall be eligible for an increase to 35 percent grant);
- wastewater treatment facilities with design capacity of 250,000 or more gallons per day (gpd) will be eligible for a grant of up to 50 percent of the cost of that portion of the facility that takes septage or septage and sludge, if the facility's capacity is equivalent to 4,000 septage/sludge gpd for each 1,000,000 gpd design capacity.

The governor signed the bill on May 12.

**Conservation Easements (H.580, Act 84)**  
(amends 10 V.S.A. § 823; adds 10 V.S.A. § 6311)

Act 84 is that incredible rarity of a bill that had virtually no opposition and went all the way through the legislative process without any change from the version that was introduced.

The act establishes that a tax lien does not affect conservation rights and interests if it is attached after the conservations rights and interests are recorded in the municipal land records.

Act 84 also exempts conservation and preservation rights and interests from the requirement to be re-recorded in the land records every 40 years. Act 84 was signed by the governor on May 4 and takes effect on July 1.

## **Toxins in Drinking Water (H.595)**

(amends 10 VSA §§ 1283(b), 1978(a), 1981, 6615c; adds 10 VSA §6615d)

H.595 began life as a bill to regulate the use of surface waters as potable water supplies, and it still does that. But it does so much more. That is because once perfluorooctanoic acid (PFOA) – a contaminant that was never regulated by federal or state law – was discovered in water supplies in the southwestern part of the state, it was late in the session and the legislature needed to find a related bill that could serve as a vehicle for legislation addressing that and similar issues. This is significant legislation that was written hastily at the end of the session. Therefore, it's likely to need to be tweaked in years to come.

More information about PFOAs is on the [Department of Environmental Conservation's website](#). The Town of Bennington and the Village of North Bennington have proposed to extend municipal water supply to certain areas where wells are contaminated by PFOA.

The secretary of the Agency of Natural Resources (ANR) is directed to adopt rules by July 1, 2017, that address the residential use of surface water as a potable water supply. A surface water may be approved as the source of a potable water supply if (1) the building using it is one single family residence occupied by the owner of record, (2) the home does not accommodate a home occupation that employs non-family members or (3) is not visited by the public for sufficient lengths of time to presume need for the use of the water supply. A professional engineer needs to design the potable water supply using surface water and the design must include a treatment system for the surface water. The owner of the water supply will need to comply with other requirements for potable water supplies using surface water.

The Technical Advisory Committee on Wastewater Systems and Potable Water Supplies is to recommend whether and how to test for contamination in groundwater sources used as potable water supplies. The ANR secretary must then submit those recommendations to the legislature by January 15, 2017.

H.595 amends the statute that establishes the Environmental Contingency Fund by deleting language that allows for its use to investigate and clean up where responsible parties have paid into the fund. It authorizes the ANR secretary to use the fund to pay the costs of oversight or assessment of a natural resource that is damaged by the release of a hazardous material or to pay for oversight or restoring a natural resource so damaged. The Environmental Contingency Fund has a \$100,000 limit for a response to an individual situation. The appropriations bill, H.875, authorizes the ANR secretary to exceed that limit.

When there is an actual or threatened release of a hazardous material for which a person (i.e., an individual, corporation, or municipality) may be liable, H.595 also establishes authority for the secretary to require information regarding:

- the type, nature, and quantity of any commercial chemical product or hazardous material used, treated, stored, or disposed of or transported to a facility;
- the nature of a release or threatened release of a hazardous material from a facility;
- financial information related to a person's ability to pay for or perform clean-up, or information surrounding the corporate structure if a potentially liable person has notified the secretary that he or she can't pay or refuses to perform or fails to respond to the deadline (within 15 days of a request or on a date specified by the secretary).

A person who has received an information request must grant access to the facility to inspect and copy all documents or records relating to the request or copy and furnish all information requested at his or

her expense, or explain in writing that the information has already been provided. Trade secrets, which are defined in the statute, are exempted from the requirement. If the person fails to provide the requested information, he or she may be compelled to do so by the superior court.

A new section of statute authorizes the secretary to assess damages against any individual, corporation, municipality or other entity found to be liable for a release of hazardous material for injury to, destruction of, or loss of a natural resource from the release. Damages shall include the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of the injured, damaged, or destroyed natural resources or the services the natural resources provided as well as any reasonable costs of a damage assessment. The secretary may also seek compensation for the interim injury to or loss of a natural resource pending the recovery of services to the baseline condition of the natural resource. The secretary is directed to adopt rules to implement the section including how natural resources damages will be assessed and valued.

Damages will not be recovered when (1) the person liable for the release demonstrates that the nature and degree of the destruction or injury or loss was identified in an application for or renewal of a permit, certification, license, or other required authorization; (2) the secretary authorized the destruction, injury or loss to the natural resource; and (3) the person was operating within the terms of that permit, certification, license, or other authorization. Actions to recover natural resources damages must begin within six years of the date of the discovery of the loss and its connection with the release of hazardous material in question. Likewise, H.595 stipulates that there may be no action for recovery of damages that occurred before the adoption of these rules. Funds recovered for damages are to be deposited in the Environmental Contingency Fund. These are key provisions because municipalities as well as other entities operate many kinds of infrastructure in compliance with permit provisions that regulators may in hindsight consider insufficiently protective of the environment but that were state-of-the-art at the time of their imposition.

By July 1, 2016, the ANR secretary is to convene a working group of interested parties and parties with expertise in natural resource damage assessment and valuation to consult on the natural resource damages rule adoption. A copy of the draft rule must be submitted to the legislature by February 1, 2017. Rule adoption is to commence by July 1, 2017, and occur by March 1, 2018.

A separate work group is to recommend how to improve the ability of the state to prevent exposure to toxic chemicals and hazardous materials or wastes, identify and regulate the use of toxic chemicals or hazardous materials that are currently unregulated in the state, and inform communities and citizens of potential exposure to toxic chemicals, including the contamination of groundwater, public drinking water systems, and private potable water supplies. That group's report is due to the legislature by January 15, 2017.

The secretary of Administration is to amend the Standard State Provisions for Contracts and Grants to require an applicant for a state-funded grant to certify that the applicant is in good standing with the agencies of Natural Resources and Agriculture, Food and Markets with respect to water quality standards, laws, and regulations. By January 15, 2021, the secretary of Administration is to submit a report to the legislature regarding methods to require all economic development assistance applications to include a certification that the applicant is not in violation of programs enforced by ANR and include information about any enforcement actions taken by the state.

The bill takes effect on passage (signature by the governor), except that the section on state grants takes effect July 1, 2016, and the section on permitting surface water sources takes effect July 1, 2017.

**Municipal Plans (H.367, Act 90)**  
(amends 24 V.S.A. §§ 4350, 4385, 4387)

Act 90 extends the expiration of the current municipal plan and re-adoption requirement from five years to eight years, which better corresponds to regional plans. The eight-year plan expiration date takes effect retroactively and applies to all plans adopted or readopted on or after July 1, 2015. (In light of this change, a best practice to help the public would be to put the expiration date of your municipal plan on the cover or first page of the plan). The requirements for comprehensive plan updates in advance of re-adoption include community outreach, considering consistency with state planning goals, addressing required plan elements, evaluating the plan for internal consistency, and the compatibility with approved municipal and regional plans.

Municipal plan amendments do not extend the plan expiration date of a plan.

As part of the existing regional planning commission municipal consultation and confirmation process (twice every eight years), a municipality will now also be required to document that it has reviewed its plan and is actively engaged in a process to implement it. Act 90 is a very important piece of legislation that will not only help municipalities plan, but also implement a municipal plan – which was hard for most municipalities to achieve under the five-year re-adoption structure.

**Clean Water Fund Board (H.518)**

H.518, which was passed on May 5, would expand the membership of the Clean Water Fund Board by four members. The board would include two members of the public or House of Representatives appointed by the Speaker of the House who are from separate watersheds and one of whom is a municipal official, plus two members of the public or Senate appointed by the President Pro Tem of the Senate appointed by the Committee on Committees, each from a separate watershed, one of whom is also a municipal official.

The legislation was roundly opposed by the administration, whose secretaries currently make up the entirety of the Clean Water Fund Board. **The governor vetoed the bill on May 20.**

<b>MUNICIPAL GOVERNANCE AND ADMINISTRATION</b>
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**Open Meeting Law (S.114, Act 129)**  
(amends 1 V.S.A. §§ 312, 314(b))

Act 129 makes several important and practical changes to Vermont's Open Meeting Law by providing greater clarity to public bodies that must comply with its provisions. The law was last amended in 2014, and many of those changes created compliance concerns from governmental entities, including municipalities, across the state. Two years later – after much discussion, input, and compromise from a variety of interested parties – S.114 was passed.

Changes to the law include:

- When a member of a public body is participating in a meeting by electronic or other means, a roll call is required only if the vote is not unanimous. Current law requires each vote be taken by roll call, even those that are not substantive but are purely procedural.

- All references to “days” and “business days” in the law are amended to read “calendar days,” a term that leaves no room for misinterpretation.
- Minutes posted to a town website must remain there for a minimum of one year.
- Any response from a public body to allegations of violations must be made within 10 calendar days. The law previously stipulated “seven business days.”
- When curing a violation, a public body no longer has to ratify or declare void “any and all actions taken” during a meeting. Rather, those actions that are the most egregious must be voided or ratified. They include actions taken when a meeting is noticed improperly, when a person is wrongfully excluded from attending a meetings, or when a public body utilizes executive session, or a portion thereof, for reasons not authorized under 1 V.S.A. § 313(a)(1)-(10).

### **Intermunicipal Services (H.249, Act 89)**

(adds 24 V.S.A. §4345b)

Regional planning commissions (RPCs) are extended the ability to enter into intermunicipal service agreements with one or more municipalities under Act 89. Prior to entering into any agreement, bylaws must be adopted. The bylaws must specify the process for entering into the agreements, as well as the methods of withdrawing from and terminating them. There must be public hearings on any bylaw proposal and requests for comments from selectboards. A selectboard may veto a bylaw within 35 days of adoption. Additionally, a selectboard must ratify a service agreement prior to its municipality participating in it.

Under Act 89, RPCs may exercise several powers. They may promote cooperative arrangements and coordinate, implement, and administer service agreements among municipalities. This includes arrangements and action with respect to planning, community development, joint purchasing, intermunicipal services, infrastructure, and related activities. RPCs may also exercise any power, privilege, or authority as defined within a service agreement for dealing with local or regional problems.

RPCs do not have the power of eminent domain or taxation, and they may not exercise essential legislative functions.

The legislation takes effect on July 1, 2016.

### **Automatic Voter Registration and Early Voting (H.458, Act 80)**

(amends 17 V.S.A. §§ 2145a, 2145, 2124; 1 V.S.A. § 317(c)(31); adds 17 V.S.A. § 2546a)

Act 80 allows automatic voter registration for any eligible Vermonter who is issued a state driver’s license or identification card by the Department of Motor Vehicles (DMV). It streamlines voter registration at the DMV with a system that identifies eligible voters and automatically sends their information to their municipal clerk for addition to the voter checklist, unless they choose to opt out.

The legislation also includes a provision that will allow town clerks to count votes with the Board of Civil Authority the day before an election.

Effective January 1, 2017, a board of civil authority may vote to permit election officials to deposit early voter absentee ballots into a vote tabulator – for those towns that use one –for registering and counting votes, and also to check early voter absentee ballots in accordance with 24 V.S.A. § 2546(a). The depositing of ballots shall take place at the town clerk’s office on the day preceding the election. The clerk must post notice not less than 30 days not more than 40 days before the election; notice must be published in a newspaper of general circulation and on a town website at least five days before the

election; and the town clerk and at least two election officials must be present when the ballots are inspected.

### **Town Service Officers (H.575, Act 71)**

(amends 24 V.S.A. § 871 and 33 V.S.A. § 2111; repeals 33 V.S.A. 2102(a)-(b))

Town service officers will no longer play any role in administering the General Assistance Program of Vermont's Economic Service Divisions to people who require emergency food, fuel, or shelter. Historically, town service officers provided this service, however as technology has progressed and the administration of the benefits has become more involved, the Department for Children and Families' Economic Services Division has assumed all of the program's duties.

Under the new law, selectboards may choose to appoint a town service officer at their organizational meeting. If they do so, they will determine what roles and responsibilities the town service officer will have. Because town service officers will not be administering General Assistance Program benefits, selectboards will no longer need to notify the DCF Commissioner of town service officer appointments. Towns, however, should continue to send requests for burial expense reimbursement to the DCF's Economic Services Division.

The legislation will take effect July 1, 2016.

### **Vital Records (H.629, Act 110)**

(amends session law)

Act 110 creates a Vital Records Study Committee to study Vermont's laws governing the administration and issuance of vital records and best practices in other jurisdictions and recommend legislation to reform Vermont's vital records laws.

The committee comprises the Commissioner of Health, the state archivist, a probate judge, a municipal clerk from the Vermont Municipal Clerks' and Treasurers' Association (VMCTA), and a clerk appointed by VLCT who is *not* a VMCTA member. The committee will issue recommendations on:

- persons who should be entitled to receive copies of birth and death certificates;
- the collection and maintenance of information about who requests vital records;
- those persons who should have the authority to issues certified copies;
- the physical standards and security of vital records and storage;
- whether the process for registering birth certificates should be streamlined;
- penalties for fraudulent activities;
- which records or information should be designated confidential; and
- appropriate fees for vital record copies, rulemaking, and effective dates needed to implement the committee's recommendations.

The committee must report and recommend proposed legislation to the House and Senate Government Operations committees by November 15, 2016.

### **Town Cemetery Maintenance (H.640, Act 85)**

(Amends 18 V.S.A. § 5362)

Act 85 revised the statute regarding maintenance of cemeteries to eliminate language that stipulates that the amount drawn from a town's treasury in any year for the purpose of maintaining a cemetery "shall

not exceed \$500.” With this change, the funding for maintenance of cemeteries will be appropriated as part of the municipal budget upon a vote of Town Meeting, which is how other line items in the municipal budget are established.

The act does not, however, change the statutory obligation for municipalities to “cause lots and walks to be cleared of weeds and grass, the headstones or monuments to be replaced or repaired, or other disfigurements removed.”

**Municipal Charters**  
(amends Title 24 Appendix: Municipal Charters)

<b>Charters that Passed in 2016</b>				
<b>Bill/Act</b>	<b>Municipality</b>	<b>Major Provisions</b>	<b>Provision(s) Did Not Pass</b>	<b>Provision(s) Passed</b>
H.505 Act M13	Village of North Bennington	<ul style="list-style-type: none"> <li>• Reword geographical area of the village</li> <li>• Misc. meeting administrative changes</li> <li>• Changes to town officers (Treasurer, Board of Trustees, Police, Fire, etc.)</li> <li>• Water/sewer</li> </ul>	N/A	All
H.519 Act M14	Town of Brandon	Local option taxes	N/A	All
H.871 Act M15	City of Montpelier	<ul style="list-style-type: none"> <li>• Regulation of public water supply sources</li> <li>• Local option taxes</li> </ul>	Regulation of muni. water supply source located in neighboring town	Local option taxes
H.880 Act M16	Town of Bridport	Allow for appointment of town clerk and town treasurer	N/A	All
H.881 Act M17	Town of Charlotte	Hybrid, two-part process (floor vote <i>and</i> Australian ballot vote) to consider and vote on annual town budget	N/A	All
H.882 Act M18	City of Burlington	<ul style="list-style-type: none"> <li>• Miscellaneous administrative changes to annual fiscal report</li> <li>• Increase membership to Board of Police Commissioners</li> </ul>	N/A	All
H.883 Act M19	City of Winooski	<ul style="list-style-type: none"> <li>• Amend job descriptions of mayor, city council, and city manager</li> <li>• Terms of office, suspension and removal provisions for certain officers</li> <li>• Process and procedure changes to voter referendum for ordinance adoption</li> </ul>	N/A	All
H.884 Act M20	City of Barre	Decrease membership to the Board of School Commissioners	N/A	All
H.885 Act M21	Town of Shelburne	Appointment of town treasurer	N/A	All
H.886 Act M22	Town of Brattleboro	<ul style="list-style-type: none"> <li>• Amend early voting criteria for town meeting</li> <li>• Amend nomination of candidate process for town meeting member (under Brattleboro’s Representative Town Meeting structure)</li> </ul>	N/A	All
H.887 Act M23	Village of Barton	<ul style="list-style-type: none"> <li>• Reword geographical area of the village</li> <li>• Remove poll tax</li> </ul>	N/A	All

Because Vermont is a Dillon’s Rule state, local governments may exercise only those powers expressly granted to them by the legislature and those powers that are necessarily implied from those express powers. The authority granted to local governments comes from the Vermont Constitution, from specific provisions of state statute, and from governance charters. Governance charters allow towns, cities, and villages to adopt laws and regulations that only impact the municipality adopting them, and the charter becomes the primary source of power and structure for the municipality.

Governance charters or charter amendments must be approved by voters after a series of public hearings; thereafter, the General Assembly must approve them before they can go into effect. The process for charter approval and adoption is found in 17 V.S.A. § 2545.

<b>Charters that Failed to Pass in 2016</b>				
<b>Bill</b>	<b>Municipality</b>	<b>Major Provisions</b>	<b>Provision(s) Did Not Pass</b>	<b>Provision(s) Passed</b>
H.566	City of Burlington	Storage of firearms in locked device or in safe storage depository	All	None
H.567	City of Burlington	Police confiscation or seizure of deadly or dangerous weapons	All	None
H.568	City of Burlington	Prohibition of firearms at establishments licensed to serve alcohol on premises	All	None

## **TRANSPORTATION**

### **Transportation Capital (H.876)**

(amends 10 V.S.A. § 494, 23 V.S.A. §§ 1033, 1035, 1047, 1049, 1064, Chapter 13 Subchapter 12, and other sections that do not affect municipalities)

[H.876](#) (the T Bill) is the transportation capital funding and policy bill. The transportation appropriation items are in H.875 and H.876. (See appropriations table on page 31.) Transportation related policy issues are generally included in the T Bill.

Almost 85 percent of all roadways in Vermont are town highways. Only 2,709 of the 15,804 total Class 1, 2, 3, and 4 highway miles are maintained solely by state government. Twelve and a half percent of the 13,131 municipal highway miles are Class 4, which are not required to be maintained by the municipality, yet on which vulnerable areas for stormwater will need to be addressed.

According to the Agency of Transportation’s (VTrans’) budget history graph (see page 29 of the [FY17 Agency of Transportation Budget presentation](#)) that was presented to the House and Senate Transportation committees in January, the VTrans budget has increased 75 percent since FY06. VTrans staff expects the agency’s overall budget to increase by \$20 million during each of the next five years as a result of passage of the federal Fixing America’s Surface Transportation (FAST) Act. The VTrans budget in FY17 will total \$618 million. For the first time in ten years, the [FAST Act](#) establishes five years of predictable funding for state budgets. The act is estimated to provide an additional \$100+ million to Vermont over that five-year period, federal fiscal years 2016-2020.

Throughout the legislative session in both House and Senate Transportation committees, to the extent there was any discussion, it was clear that local highway aid programs (including Town Highway Structures, Vermont Better Roads, Class 2 Paving, Town Bridge Grants, Town Highway Aid, Town

Highway Aid Class 1 Supplemental, and State Aid for Non-Federal Disasters) would be level-funded. Then in the conference committee, where House and Senate versions of a bill are reconciled, the Class 2 Roadway Program line item was increased by \$400,000 from \$7,248,750 to \$7,648,750. According to H.876, at least \$400,000 of a \$900,000 reduction in the amount of transportation funds appropriated to the Department of Public Safety must be used to fund a permanent increase of at least \$400,000 in transportation funds allocated to the Class 2 Roadway Program. (The Department of Public Safety will receive \$21,150,000 in FY17 and \$20,250,000 in FY18 and succeeding years. As well, in FY18, the department will receive \$400,000 for costs related to state police vehicles.)

The VTrans secretary is directed to allocate up to \$100,000 in federal National Highway Transportation Safety Administration grant dollars to the Share The Road Program and other highway safety initiatives for education to improve the safety of all transportation network users including bicyclists and motor vehicle operators.

The Municipal Mitigation Grant Program is funded at \$2,905,000 in FY17, an increase from FY16's \$650,000. Of that amount, \$1,465,000 is from the Clean Water Fund, established as part of Vermont's Clean Water Act, Act 64, of 2015. The VTrans Municipal Mitigation Grant Program supports municipal gravel and paved road stormwater mitigation projects to help comply with the Municipal Road Permit that was mandated in Act 64. Implementing best management practices enhances municipalities' resilience to flood damages and should help to reduce long-term maintenance costs. The state has identified roadway, stormwater, and culvert improvements through the Tactical Basin Planning Process. The allocation, although welcome, will not begin to meet the need for funding to complete the retrofits and new stormwater projects required of the Municipal Roads Permit.

State aid for non-federal disasters is provided to repair, build, or reconstruct Class 1, 2, and 3 town highways, and to repair or replace drainage structures including bridges on Class 1, 2, 3, and 4 town highways that are damaged by natural or man-made disasters. A drainage structure on a Class 4 road will be eligible for repair or replacement if the town can document that it maintained the structure before the non-federal disaster. If the total cumulative damages to town highways and drainage structures are less than the value of ten percent of the town's overall total highway budget, excluding the town's winter maintenance budget, the disaster won't qualify for state aid.

Three municipalities have implemented stormwater utilities to raise funds to pay for stormwater management projects that are required by their municipal separate storm sewer system (MS4) permits and the Lake Champlain Total Maximum Daily Load (TMDL), whenever the U.S. Environmental Protection Agency releases it. A fourth municipality is in the process of adopting a stormwater utility, however few others are expected to pursue one. A stormwater utility enables a municipality to assess all property owners a fee that is generally based on a calculation of the amount of impervious surface owned. The fee is used to put in place stormwater management infrastructure and provide for its maintenance and operation. As a mechanism to manage stormwater, the Agency of Natural Resources encourages municipalities to adopt stormwater utilities because there are no exemptions from stormwater utility fees: everyone pays in because every impervious surface contributes to stormwater runoff. H.876 includes a provision that provides a credit to VTrans for the work it does to control stormwater on its own transportation network in towns that have stormwater utilities in place. VTrans will be charged no more than the highest rate category charged by the stormwater utility and will receive a 35 percent credit on the charge.

A new priority is added to the seven already in place for allocating money from the Clean Water Fund – funding to municipalities to establish and operate stormwater utilities. From January 15, 2017, until January 15, 2021, VTrans is directed to report to the legislature regarding the establishment of municipal

stormwater utilities, VTrans' fees paid to municipalities for stormwater utilities and agency projects implemented in towns with stormwater utilities.

H.876 directs VTrans to develop a statewide digital parcel data layer as part of the Statewide Property Parcel Mapping Program. Development of the data layer is expected to take three years, and 80 percent of development and operation costs are expected to be funded with Federal Highway Administration funds while the other 20 percent should be paid with Transportation Fund dollars. VTrans will maintain the data layer and make property parcel data available to state agencies, regional commissions, municipalities, and the public. A Property Parcel Data Advisory Board is created to monitor the program and to recommend improvements to enhance its usefulness. The advisory board will include a VLCT representative.

Municipalities may erect and maintain or approve the erection of signs referring to a census-designated place within a town, rather than the town itself. A census designate place is defined as a “statistical entity of a settled concentration of population that is identifiable by name, is not legally incorporated and is delineated by the U.S. Census Bureau.”

In light of a continuing problem of trucks getting stuck on Route 108 in Smuggler’s Notch, H.876 prohibits truck-trailer-semitrailer combinations (commercial vehicles) from operating on the Smuggler’s Notch section of that highway.

The bill revises statues relating to vulnerable users – particularly bicyclists who share the road with motor vehicles.

## **EMPLOYMENT AND EMPLOYEE BENEFITS**

### **Paid Sick Leave (H.187, Act 69)**

(amends 21 V.S.A. §§ 345, 384; adds 21 V.S.A. §§ 481-486)

Act 69 guarantees paid time off to employees for sickness, medical appointments, caring for family members who are sick, and for life issues concerning domestic violence. Employees who work 18 hours or more per week are covered under the policy unless they are seasonal employees who work 20 weeks or less during a year, or if they are under the age of 18.

The law rolls out in two phases, and employees will start earning sick leave on January 1, 2017. In 2017 and 2018, employers are required to give employees 24 hours (three days) off per year. Thereafter, hours increase to 40 hours (five days) off per year.

Municipalities that already provide paid sick leave will not be impacted as long as employees are offered at least as much time off as the law mandates, and the reasons allowed for that use of paid sick time aligns with the provisions of Act 69.

**“Ban the Box” (H.261, Act 81)**  
(adds 21 V.S.A. § 495j)

Act 81, also known as the “Ban the Box” bill because of the checkbox on many job application forms, prohibits private and public employers from asking about a job applicant’s criminal record on an initial job application. Employers may still inquire about criminal history during an interview, or once a prospective employee has been deemed otherwise qualified for the position. Additionally, employers may still ask about criminal history if a federal or state law or regulation creates a mandatory or presumptive disqualification based on a conviction for one or more types of criminal offenses. Likewise, if the prospective employer is under a federal or state obligation *not* to employ an individual who has been convicted of one or more types of criminal offenses, and the application questions are limited to the types of criminal offenses creating the disqualification or obligation, the employer *may* ask about the specified criminal convictions.

An article in the [June 2016 VLCT News](#) explains a municipality’s requirements regarding the law.

<b>2016 LEGISLATIVE SUMMER STUDIES AND REPORTS</b>
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Before they left town last month, legislators directed the creation of a number of summer study committees, advisory panels, and commissions. Interestingly all the summer study committee reports will be delivered to a new legislature next year whose new members and leadership may not have any particular vested interest in the reports. The following list of summer study and advisory committees concern issues that affect local governments – and many of them call for a municipal representative. If you would like to be considered to serve on a committee, please contact Karen Horn at [khorn@vlct.org](mailto:khorn@vlct.org).

**H.130.** A Law Enforcement Officer Regulation Study Committee will recommend how law enforcement should be regulated, including when unprofessional conduct should be reported to the Criminal Justice Training Council and when the council should be able to take action. Members will include a representative of VLCT who is appointed by the Executive Director.

An E-911 and Dispatch Working Group will report on the most efficient, reliable, and cost-effective means for providing statewide call-taking operations for Vermont’s 911 system, the manner dispatch should be provided, and what changes need to be made to the system. Members will include a VLCT representative.

A training safety subcommittee will recommend training safety at the Police and Fire academies and include an employee of the VLCT who specializes in risk management, appointed by the Executive Director.

**H.518.** The Clean Water Fund Board would be expanded to include four additional members, one of whom would be a municipal official. The Governor vetoed H.518.

**H.533** creates the Animal Cruelty Investigation Advisory Board within Department of Public Safety to advise the governor, the legislature, and the commissioner of Public Safety on issues involving the cooperation and coordination of all agencies that exercise animal welfare responsibilities. The 11 members include state officials and governor-appointed individuals from the animal welfare, animal health, municipal, and law enforcement communities.

[H.595](#) requires the secretary of the Agency of Natural Resources (ANR) to convene a working group by July 1 to recommend rules for assessing natural resources damages. The secretary is also to convene a working group of interested parties and parties with expertise in the field of toxic chemical use and regulation to recommend how to identify, regulate, publicize, and prevent exposure to toxic chemicals, hazardous materials, or hazardous wastes (no specific interested parties identified). The secretary is to convene a Technical Advisory Committee on Wastewater Systems and Potable Water Supplies to recommend how to test for contamination in groundwater sources used as potable water supplies. Those recommendations must be submitted to the legislature by January 15, 2017.

[H. 610](#). The ANR secretary is to submit a report to the legislature by December 15, 2016, on whether and how to provide plans to private entities for water pollution abatement, control facilities, and public water supply systems. The report is to include an assessment of the total funds available for grants and loans to municipalities and total funds available for loans to private entities to improve water quality; the estimated costs to municipalities in the next ten years to comply with water quality and water supply mandates; the estimated demand from municipalities for grants and loans; and a recommendation of whether to authorize loans to private entities for water pollution abatement and control facilities or public water supply systems.

[H. 629](#). Act 110 creates a Vital Records Study Committee to study Vermont's laws governing the administration and issuance of vital records and best practices in other jurisdictions with regard to the administration and issuance of vital records and recommend legislation to reform Vermont's vital records laws. The committee consists of the commissioner of Health, the state archivists, a probate judge, a clerk from the Vermont Municipal Clerks' and Treasurers' Association, and a clerk appointed by VLCT who is not a VMCTA member. The committee must report and recommend proposed legislation to the House and Senate Government Operations committees by November 15, 2016.

[H.853](#) establishes a Common Level of Appraisal Study Committee to study the use of an aggregate common level of appraisal in a merged school district to determine the statewide education tax for each municipality in that district. VLCT will appoint one committee member. The Joint Fiscal Office and the Legislative Council are to report on changes made in calculating the statewide education property tax and the impact on education spending, tax rates, and the Education Fund balance. A separate report will address creating an education tax adjusted by income for all taxpayers.

[H.857](#). A Study Committee on Land Use Regulation and Forest Integrity will study potential revisions to Act 250 and Title 24 Chapter 117 – the municipal planning and zoning statute – to protect contiguous areas of forestland and promote habitat connectivity. VLCT will appoint one committee member. The commissioner of Forests, Parks and Recreation and VLCT and other interested parties are to develop a policy and criteria for reimbursing towns for forest fire suppression. The commissioner must deliver a report recommending implementation of a harvest notification program to the legislature by December 15, 2016.

[H.872](#). In discussions during the last days of the session, legislators asked VLCT and municipal clerks to develop language that would put municipal fees charged by clerks on a regular schedule for updates, as is the case for state agencies. Many fees charged by clerks have not increased in years, and it is only reasonable that there would be a regular review of statutorily established fees for municipal services as there is for state agencies. Along with the formal study committees that were established, that work will proceed over the summer and fall in conjunction with the Vermont Municipal Clerks' and Treasurers' Association and other concerned entities.

**H.875** appropriates \$100,000 to analyze the financial implications of expanding Dr. Dynasaur – the state’s children’s Medicaid and Children’s health Insurance Program – to all Vermont residents up to 26 years of age. A report is due to the legislature by January 15, 2017. VLCT supported the proposal to assess whether extending Dr. Dynasaur would save money for the overall health care insurance system and Vermonters.

**H.876.** Annually until January 15, 2021, the Agency of Transportation is to report to the legislature regarding the status and number of municipal stormwater utilities, the number of new stormwater utilities created in the previous year, and the amount of fees paid to stormwater utilities, and provide a list of stormwater projects or programs implemented by the agency in municipalities with stormwater utilities.

A Property Parcel Data Advisory Board will monitor a new statewide property parcel mapping program and make recommendations to the Agency of Transportation on how to improve the program to enhance usefulness of the statewide property parcel data to agencies, regional commissions, municipalities, and the public. The seven-member board will include a VLCT representative.

**S.174.** The Law Enforcement Advisory Board must propose to the legislature a statewide policy for the use of body cameras by law enforcement officers by December 15, 2016. The policy must address when officers should wear body cameras, when cameras should be turned on and off, how camera malfunctions should be treated, and when video recordings should be exempt from disclosure under the Public Records Act. The board must also study the associated costs of body cameras and investigate potential grants that may be available for law enforcement agencies to acquire them. The legislation will take effect upon passage.

**S.230.** The Department of Public Service (DPS) will develop recommendations and standards for municipal and regional plans to meet in order to secure a “determination of energy compliance” so that the Public Service Board accords substantial compliance to those plans in Certificate of Public Good proceedings. The DPS will engage an extensive list of interested parties, including municipal utilities and planning commissions.

S.230 creates an Access to Public Service Board Working Group of five members (no municipal representative) to review the current processes for citizen participation in Public Service Board proceedings and make recommendations to promote increased ease of citizen participation in those proceedings. A report is due to the legislature by December 5, 2016. The first meeting is to be called by July 1, 2016; the group shall cease to exist on February 1, 2017.

**Marijuana.** Despite the concerted efforts of many legislators and advocates, legislation to legalize, regulate, or even study marijuana in Vermont failed this session, mainly because of the unanswered questions raised during testimony. The House and Senate did agree, however, to direct their Joint Legislative Justice Committee to convene six hearings to consider the legalization and regulation of marijuana. According to the legislative website, that standing legislative committee “exercises oversight of the Department of Corrections and works with and provides assistance to other legislative committees on matters related to corrections policy”. The committee comprises Senators Richard Sears, Tim Ashe, Peg Flory, and Ginny Lyons and Representatives Alice Emmons, Maxine Grad, Sandy Haas, Mary Hooper, and Butch Shaw.

**H.875: Municipal Funding Priorities in FY17 Budget (in millions)**

<b>Budget Line Item and Section Number</b>	<b>FY16 Approved</b>	<b>FY17 Governor's Recommend</b>	<b>FY 17 House Passed</b>	<b>FY17 Senate Passed</b>	<b>FY17 Final As Passed</b>
(GF) Homeowner Rebate, Municipal <sup>1</sup> (B 137)	\$18.20	\$16.20	\$16.20	\$16.2	\$16.2
(GF) Renter Rebate, Municipal <sup>2</sup> (B 138)	2.91	3.12	3.12	3.12	3.12
(EF) Reappraisal and Listing Payments <sup>3</sup> (B 139)	3.43	3.43	3.43	3.43	3.43
(GF) Current Use – Municipal <sup>4</sup> (B 140)	14.98	15.32	15.32	15.32	15.32
(LOT) PILOT State Buildings <sup>5</sup> (B 142, E 142)	6.40	6.40	7.10	7.20	7.20
(LOT) PILOT Montpelier <sup>5</sup> (B 143, E 143))	0.18	0.18	0.27	0.18	0.18
(LOT) PILOT Corrections Facilities <sup>5</sup> (B 144, E 144)	0.04	0.04	0.07	0.04	0.04
(GF) Special Investigative Units (B 206)	1.68	1.84	1.84	1.84	1.84
(GF) Transfer to Education Fund <sup>6</sup> (B 513, E 513)	303.34	305.90	305.90	305.9	305.9
(GF) Teachers' Retirement System (B 514)	73.10	82.66	82.66	78.96	78.96
(GF) Retired Teachers' Health Benefits (B 515)	15.58	18.32	18.32	22.02	22.02
(GF, inter-dept. transfer) PILOT – ANR Lands (B 701, E 701)	2.29	2.38	2.34	2.38	2.38
Municipal Planning Grants (D 100)	0.46	0.46	0.46	0.46	0.46
(TF) Town Highway Structures <sup>7</sup> (B 911)	9.48	6.33	6.33	6.33	6.33
(TF, federal funds) Local Technical Assistance (Vt. Better Roads) (B 912)	0.39	0.39	0.39	0.39	0.39
(TF) Class 2 Paving and Rehabilitation (B 913)	7.25	7.25	7.25	7.25	7.65
(TF, TIB, federal funds) Town Bridge Grants <sup>8</sup> (B 914)	21.63	18.82	18.82	18.82	18.82
(TF) Town Highway Aid Program (B 915)	25.98	25.98	25.98	25.98	25.98
(TF) Town Highway Aid Program – Class 1 Supplemental (B 916)	0.13	0.13	0.13	0.13	0.13
(TF) State Aid for Nonfederal Disasters <sup>9</sup> (B 917)	1.15	1.15	1.15	1.15	1.15
(federal funds) State Aid for Federal Disasters <sup>10</sup> (B 918)	1.44	1.28	1.28	1.28	1.28
(TF, special, federal funds, inter-dept. transfer) Municipal Mitigation Grant Program	0.65	2.91	2.91	2.91	2.91
Total Local Highway Aid	68.10	64.24	64.24	64.24	64.64
<b>TOTAL</b>	<b>503.66</b>	<b>520.49</b>	<b>521.27</b>	<b>521.29</b>	<b>521.69</b>

Sources of funds noted are General Fund (GF), Education Fund (EF), Local Option Taxes (LOT), Transportation Fund (TF), and Transportation Infrastructure Bond (TIB).

- Homeowner Rebate as passed in 2016 equaled \$18.2 million, GF. That number was reduced in Act 68 (Budget Adjustment Act) to \$15.3 million.
- Renter Rebate as passed in 2016 equaled \$2.9 million, GF. That number was reduced in Act 68 to \$2.78 million.
- Reappraisal and Listing Payments as passed in 2016 equaled \$3.43 million, EF. That number was increased in Act 68 to \$3.68 million.
- Municipal Current Use as passed in 2016 equaled \$14.98 million, GF. That number was reduced in Act 68 to \$14.65.
- Figures for all years are all from local options tax sharing and no state monies.
- Required by statute to increase by New England economic project cumulative price index for government purchases (16 V.S.A. § 4025(a)(2)). In 2010 and 2011, the legislature reduced this with “Notwithstanding” language. The 2011 legislature re-calibrated the amount of aid to be adjusted annually that will cost an additional \$27.5 million in property taxes having to be raised in FY13 and each succeeding year.
- House Appropriations figure in H.490 actually states \$9.48 million, but that is only higher than what is reported because the state “borrowed” \$3.15 million from last year’s appropriation that has yet to be spent to cover a Transportation Fund shortfall. The extra \$3.15 million in H.490 only “pays back” the amount borrowed.
- Includes state and federal aid only, no local match.
- State Aid for nonfederal disasters as passed in 2016 equaled \$1.15 million, TF. That number was increased in Act 68 to \$2.84 million.
- State Aid for federal disasters as passed in 2016 equaled \$1.44 million, TF. That number was reduced in Act 68 to \$1.28 million.



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