



# WEEKLY LEGISLATIVE REPORT

The Vermont League of Cities and Towns' **Weekly Legislative Report** is published each Friday during Vermont's legislative session.

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## Local Government Day is Wednesday

Your VLCT staff has packed lots of informational activities into next Wednesday's Local Government Day in the Legislature. You'll have opportunities to meet with the governor, the speaker of the House, and numerous legislators. You can tour the State House with State Curator David Schutz or attend meetings of the Fish, Wildlife and Water Resources, Transportation, and Government Operations committees. The Tax Department will make a presentation that illustrates its new website. The State of Vermont is developing a statewide Parcel Mapping Data Program that would help ensure the creation of consistent, current parcel boundary data for every town in the state, and the Vermont Center for Geographic Information will be displaying its digital parcel mapping and data sets. Just added to the morning roundtable session is a policy briefing on the elections system that clerks are using. Will Senning, Elections Director for the Office of the Secretary of State, will guide the discussion. And of course you'll have ample time to meet your VLCT staff and network with colleagues from around the state.

There is so much legislation to discuss with your legislators in advance of Town Meeting Day. For specific issues, you may want to review previous *Weekly Legislative Reports* (archived online [here](#) or the 2016 [VLCT Municipal Policy](#)).

Additionally, the Windham County delegation is inviting attendees from southeast Vermont to meet with them at 8:30 a.m. at the State House to discuss issues particular to that region. The day's most updated agenda is posted [on our website](#).

There is still time to sign up! The roads are clear! We look forward to seeing you under the golden dome.

Local Government Day is sponsored by VLCT, the Municipal Clerks' and Treasurers' Association, the Vermont Assessors and Listers Association, and the Green Mountain Water Environment Association.

—Karen Horn

## VLCT Board Meeting

At the VLCT Board's monthly meeting on Thursday, Chris Cole, Secretary of the Agency of Transportation (VTrans), discussed a proposal for payment of stormwater fees to municipalities that have or are planning to establish stormwater utilities.

Pursuant to [Title 24, Chapter 101](#), a municipality may establish a stormwater utility to fund its stormwater management efforts. Property owners within the boundaries of a stormwater utility are charged fees – generally based on the estimated amount of impervious surface at the property – for use of the stormwater management system. Revenues may be used to maintain and upgrade existing storm drain systems and construct flood control measures and drainage plans, all in an effort to reduce stormwater flows to the waters of the state. Revenues would also be used for administration and maintenance of the built infrastructure, most of which requires regular maintenance. Did you know, for instance, that the stones in stone-lined ditches need to be cleaned when they become loaded with sediment?

South Burlington established Vermont's first stormwater utility after municipalities were authorized to create them in 2002. Burlington adopted a stormwater ordinance that included fees but decided not to establish a stormwater utility, and Williston and Colchester are both in the process of creating stormwater utilities.

The Department of Environmental Conservation encourages the creation of stormwater utilities as a way to efficiently manage stormwater, to ensure that all property owners – including those who are exempt from property taxes – contribute to stormwater management, and help finance the required management measures. The costs are considerable. In Colchester, the 2014 stormwater budget was \$248,000; its stormwater capital improvement projects completed between FY05 and FY14 totaled \$1.3 million.

VTrans is concerned that a potential proliferation of stormwater utilities and a variety of local administrative methodologies would unduly burden the Transportation Fund, its budget, or municipal transportation aid programs. VTrans pays stormwater fees pursuant to a service agreement in South Burlington out of the general transportation budget. Secretary Cole said that VTrans is obligated to address stormwater runoff from its network through a newly created program as a result of Act 64, the water quality bill of 2015. The agency has proposed applying a system of credits in communities that have established stormwater utilities and that some of the funding to pay stormwater utility fees (which would total approximately \$300,000) come from the Clean Water Fund. While still in negotiations with Colchester and Williston, VTrans has proposed legislation that would establish both statutory credits and administrative consistency for the agency.



Chris Cole, Secretary of Transportation

Other issues the Board discussed included:

- the fate of S.241, the marijuana legalization legislation that VLCT continues to oppose\* but also is working to make manageable for local governments if it is passed;
- S.221, a bill that would provide a mechanism at the Criminal Justice Training Council (a.k.a. Police Academy) to de-certify law enforcement officers in certain circumstances;
- a proposal to move education funding to an income tax-based system and to establish a study committee to make recommendations about how that might happen;
- the management of excavated development soils in downtown projects;
- a number of energy bills and the extent to which they address the Public Service Board permitting concerns that local officials have eloquently testified on in past weeks; and
- legislation to establish a state ethics commission, amend the Open Meeting Law, provide for voters to allow their elected legislative body to appoint the clerk or treasurer, and the divestiture of retirement funds from companies that hold large fossil fuel reserves.

\* The Board unanimously reaffirmed the position adopted by membership at the VLCT annual meeting: “In any discussion of legalization of marijuana, the legislature should identify the effects on cities, towns and villages, to include impacts on local school populations, municipal police, first responders, municipal ordinances and municipal budgets. Do not expand exemptions to Act 76, Vermont’s 2013 law addressing the possession of small quantities of marijuana. Oppose the legalization of marijuana.”

—Karen Horn

## Town Service Officers

This week, the House Human Services Committee voted out [H.575](#), a bill that would eliminate the role town service officers play in administering General Assistance benefits. The General Assistance Program is a state emergency financial assistance program administered by the Department for Children and Families for individuals who need helps with basic needs, such as emergency housing, personal needs, income, rental subsidy, medical, dental, or prescription assistance, and burials. The program has matured over the years and, in 2010, Vermont’s 2-1-1 service assumed more responsibility for after-hour emergency calls related to General Assistance benefits in order to make service more efficient and consistent. The changes the department seeks regarding administering the General Assistance Program directly at the state level are also meant to improve efficiency and administrative consistency.

The removal of the town service officer’s role in administering General Assistance benefits will eliminate most of the statutory duties town service officers currently have. That said, many towns have town services officers who assume *other* duties that fall outside those outlined in statute. To preserve the office and give municipalities the authority to determine what role, if any, a town service officer may assume, the bill moves that appointment of a town service officer from Title 33 to Title 24 – specifically [24 V.S.A. § 871](#). With this change, selectboards will have the option of appointing a town service officer at the public body’s first organizational meeting. This gives municipalities greater flexibility and control over whether a town service officer is appropriate for the community and, if so, what the job description would look like.

The VLCT Board endorsed the legislation at its meeting on Thursday.

—Gwynn Zakov

## Letter to Senate Finance

Discussions concerning the legalization of marijuana continued in the Senate this week. VLCT Advocacy submitted the following letter to the Senate Finance Committee to address concerns we have with the potential taxation of marijuana and the affordability of legalization at the municipal level. As we reported last week, earlier versions of S.241 did not specifically delegate any resources, revenue, or taxing authority to local governments, which is a significant concern for Vermont local governments.

February 4, 2016

Hon. Tim Ashe, Chairperson  
Senate Finance Committee  
Vermont State House  
115 State Street  
Montpelier VT 05633-5301

Dear Chairperson Ashe:

Thank you for taking the time to hear from VLCT regarding revenues to support municipal efforts to regulate the manufacture of marijuana products and their consumption in accordance with the law and municipal regulations.

I understand that the committee was told that cities and towns have authority to enact local option taxes today. As your committee knows and has been working to remedy, that is not quite accurate.

Pursuant to [24 V.S.A § 138](#):

... (a)(2) a municipality opting to impose a local option tax may do so prior to July 1, 1998 to be effective beginning January 1, 1999, and anytime after December 1, 1998 a local option tax shall be effective beginning on the next tax quarter following 90 days' notice to the Department of Taxes of the imposition; and

(3) a local option tax may only be adopted by a municipality in which:

(A) the education property tax rate in 1997 was less than \$1.10 per \$100.00 of equalized education property value; or

(B) the equalized grand list value of personal property, business machinery, inventory, and equipment is at least ten percent of the equalized education grand list as reported in the 1998 Annual Report of the Division of Property Valuation and Review; or

(C) the combined education tax rate of the municipality will increase by 20 percent or more in fiscal year 1999 or in fiscal year 2000 over the rate of the combined education property tax in the previous fiscal year.

Those municipalities may adopt a one percent meals, rooms, and alcoholic beverage, or sales tax. Local option sales taxes are assessed in Burlington, Colchester, Dover, Killington, Manchester, Middlebury, Rutland Town, St. Albans Town, South Burlington, Stratton, Williston, Wilmington, and Winhall.

Local option meals, alcoholic beverages, and rooms taxes have been adopted in Brattleboro, Colchester, Dover, Killington, Manchester, Middlebury, Rutland Town, St. Albans Town, South Burlington, Stowe, Stratton, Williston, Wilmington, Winhall, and Woodstock.

Some of those municipalities are enabled to adopt a local option tax pursuant to 24 V.S.A. § 128. Voters in other municipalities have approved charter change provisions to enact a local option tax. Those charter changes must be approved by the legislature. This is by no means a foregone conclusion – last session, Colchester’s charter change was only approved one day before adjournment. Your committee – indeed, the entire Senate – has supported extending local option taxing authority to all cities and towns on multiple occasions. VLCT strongly supports providing that revenue-raising option to local governments. The House, however, has never agreed to grant that authority to cities and towns generally.

The local option taxes that have been approved and enacted are limited in several ways that would not be helpful in the context of marijuana legalization. First, 30 percent of local option tax revenues are remanded to the state and those are the dollars that pay for the buildings payment in lieu of taxes program. Second, the local option tax is assessed on all sales that are not exempt from sales tax under state statute. There is not authority for local governments to assess a sales tax on just one product. We believe that a local option sales tax on marijuana should be assessed on just marijuana products, and that all such revenues raised in the municipality should remain in the municipality.

Thank you for your interest in this issue and in your continuing support for enabling municipalities to enact a tax other than the property tax to help cover the ever increasing demand for services from local government.

Sincerely,



Karen Horn, Director  
Public Policy and Advocacy

## Councils of Governments

On Wednesday, the House Government Operations Committee voted out [H.249](#), a bill that would provide for a regional commission to become a council of governments, on a vote of 8-2-1.

As voted out of the committee, H.249 would provide that – upon a vote of at least 67 percent of both the board of a regional commission and the legislative bodies of the regional planning commission’s member municipalities – the regional commission would be converted to a council of governments (COG). At least half of the COG’s appointed representatives would need to be elected officials from the member municipalities. All municipalities that were members of the regional commission would be members of the COG unless they sought permission from the Secretary of Commerce and Community Development to withdraw and move to a different regional commission or COG and were granted that permission.

The new COG would need to adopt bylaws to specify the organization of the COG, designate officials, and stipulate the process for withdrawing from and terminating service agreements with member municipalities or for dissolving the COG and reverting to the regional commission.

Upon creation of a COG, all the assets, liability, and property of the regional commission would become assets and liabilities of the COG. The regional commission’s planning functions would remain available to all members and be separated financially from other governmental service functions that members of the COG might decide to take on. A COG could “exercise any power, privilege, or authority [as defined within a services agreement] capable of exercise by a member municipality,” except for essential legislative functions, taxing authority, or eminent domain. Should a COG vote to establish a service, only those municipalities that vote to participate in that service would be billed for it or be a party to it.

H.249 is on the House Calendar for notice today and will be voted on next week. Local officials with concerns about the details of how a COG would operate should contact their representatives.

—Karen Horn

## **Medicaid Reimbursements**

Health care affordability is an issue the legislature continues to grapple with at many different levels. The impacts of health care affordability and the reforms that are taken year after year have a far-reaching impact, but one growing concern in particular will have a very large bearing on many Vermont communities. That concern is the state's reimbursement rates for ambulance and emergency medical treatment services.

Currently, ambulance services are reimbursed at a rate that is 42 percent of what Medicare pays, while other providers are reimbursed at a rate of 80 to 90 percent. As the cost of providing emergency services increases and the number of individuals on Medicaid increases, severe budgetary gaps begin to form statewide, and the financial stress felt by service providers likewise escalates. When staff reductions and increased fundraising are unable to cover the costs of operation, the cost for services shifts directly to municipalities via the property tax. Vermont municipalities are subsidizing Medicaid for these services with close to \$2.8 million in property taxes. If reimbursement rates were increased to the same level as other service providers, it would cost the state Medicaid fund \$1.28 million and result in an additional \$1.5 million in federal funds.

H.138 and S.151 are two bills that would require Medicaid to reimburse for ambulance and emergency medical treatment services in the same amounts as the Medicare reimbursement rate in effect at the time the services are rendered. VLCT supports these proposals and hopes the legislature will begin to address the underfunding of these vital community services soon. Otherwise, the impact on the quality of services, local budgets, and property taxes will be huge.

—Gwynn Zakov

## **Fees**

Every year, the House Ways and Means Committee receives a “fee” bill (no number yet) from the administration with a list of fees that it would like created, increased (by far the majority), reduced, or deleted. Many state agencies used to increase their fees at will without any legislative oversight whatsoever until a committee chair, Oreste Valasangiaco, put an end to that practice. Thousands of fees are charged by governmental units, and state agencies are generally on a three-year cycle for legislative review of their fees when they can seek increases or revisions to them.

As local governments are acutely aware, the Department of Environmental Conservation and Agency of Agriculture, Food and Markets updated their fee schedules last year, particularly as they pertained to water quality permits. And yet, the agency is back this year seeking more fee increases. For instance, small farms that were first defined in 2015 would this year be required to pay a new annual certification fee of \$250.

Fees for civil marriage or civil union licenses would be increased from \$45 to \$60. Predictably, the proposal would not provide any additional share to the town clerks who issue those licenses and who are today are entitled to retain \$10. The share deposited to the Domestic and Sexual Violence Special Fund would be increased from \$20 to \$35, and \$15 (the current amount) would be remitted to the State Treasurer on a quarterly basis.

Fees for storage or use of hazardous chemicals would be increased, as would fees for liquor licenses and education and Department of Motor Vehicles transactions. New fees would be instituted for highway access permits:

Residential or agricultural purposes	\$0
Utility installations including each direct connection to the state highway stormwater system	\$100
Minor commercial development (no traffic impact study required with an application for a highway access permit)	\$250
Major commercial development (traffic impact study required)	\$2500
Annual blanket permits for routine inspection and maintenance of existing utility installations within state highways	\$500

Fees not regularly scheduled for review are those that are statutorily established and collected by municipalities. This year, the fee for marriage licenses is proposed for an increase without any attention to adjusting the municipal portion. There is no assurance that municipal fees will be reviewed periodically or increased to account for inflation or additional responsibilities, as is the case with state agency fees. For instance, [32 V.S.A. § 1671](#), the statute regarding fees payable to town clerks for recording documents was last adjusted in 2009. It would be very helpful if those fees statutorily established were on a regular schedule for updates.

Local officials should urge their legislators to establish a regular schedule for updating those municipal fees.

—Karen Horn

### **Whither the New Bills?**

There is no list of new bills this week. That's because no new bills relating to local government have been introduced since then. The only bills that may be introduced throughout the rest of the legislative session are committee bills such as the fee bill, the appropriations bill, the capital bill, and the transportation bill.