



# WEEKLY LEGISLATIVE REPORT

February 17, 2012

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## House Health Care Committee Completes Work on Health System Reform Bill

The House Health Care Committee completed its work on H.559, the Administration's plan for continuing on the road of health system reform. The bill now moves to the House Appropriations Committee. On Thursday, February 16, the committee made decisions on two items in the bill that are of particular interest to municipalities.

First, the committee decided to include "bronze" level plans in the Health Benefit Exchange, which will begin offering health plans on January 1, 2014. Under the federal health care act, bronze plans are those which pay 60 percent of health claim costs, with the patient responsible for the remainder through deductibles and co-pays. This is a positive decision for municipalities because the vast majority of them with fewer than 50 employees – over 80 percent – currently offer high deductible health plans that would likely be considered bronze plans. In addition, about 80 percent of their employees are in these plans. Many municipal employers reduce the burden on their employees by paying for some of the deductible and co-pay costs through, for example, contributions the employer makes to employees' health savings accounts (HSAs). This will facilitate the transition to the exchange driven market, which is particularly important in light of the committee's other decision relating to the exchange.

The committee's second significant decision was to not allow health plans to be offered outside of the exchange. This means that as of January 1, 2014, small employers and their employees will only have access to health insurance plans through the exchange when their existing insurance policy expires.

These two changes follow last week's decision to require only employers with fewer than 50 employees to be part of the exchange, down from the original proposal requiring all those with 100 or fewer employees.

One interesting aspect of the health benefit exchange is that there are significant federal tax credits available to individuals who purchase their health insurance through the exchange. These tax credits limit the total premium paid, total cost sharing, and total out-of-pocket cost based on household income as a multiple of the federal poverty level. For example, based on current numbers, a family of three with an annual household income at 400 percent of the federal poverty level (\$73,240) would be eligible for federal tax credits that would limit their total out-of-pocket costs for *both* health insurance premiums and deductibles and co-pays to \$7,933. This is *considerably less* than the amount that most municipal employers currently pay towards a family health insurance premium and represents an even bigger savings when the employee's current deductibles and co-pays are added to

the employer contribution.

These tax credits are generally not available if an employer-sponsored health plan is available to the employee. This led to considerable discussion by the committee about whether the exchange design should encourage employers to drop their group health plan and instead provide pre-tax funding to employees who could then individually purchase a health plan on the exchange and take advantage of the federal tax credits.

Maximizing federal tax credits is also of prime importance to the state, which hopes to convert these tax credits to federal support to the state when it seeks federal waivers to implement its single-payer, universal care plan, Green Mountain Care.

In summary, the version of H.559 coming out of the House Health Care Committee will:

- combine the small group and individual markets;
- not allow health insurance to be offered to small groups outside of the exchange;
- limit the exchange to employers with up to 50 employees in 2014 (per federal law, the exchange will be open to employers with up to 100 employees in 2016); and
- allow all four metal levels of plans allowed in the federal Accountable Care Act (platinum, gold, silver, and bronze) to be offered through the Vermont Health Benefit Exchange.

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## **The State of Vermont Capital Budget Adjustment: Fiscal Years 2012 and 2013**

Governor Shumlin recently released the Capital Budget Adjustment proposal for Fiscal Years 2012 and 2013. The adjustment comes in the second fiscal year of the first two-year capital budget, also known as a biennium budget, which was passed by the legislature on May 5, 2011, as H.446, Act 40. The idea behind enacting a two-year capital budget was to be able to get more projects started in FY 2012 that would help spur the economy and to enable the administration and legislature to take a slightly longer view of their capital expenditures. However, this capital budget adjustment comes after a series of statewide disasters – the spring floods and then Tropical Storm Irene – and the budget adjustment reflects those disasters' impacts on state spending in ways no one could have anticipated. This current adjustment proposal is an effort to address the tremendous capital needs that arose as a result of those floods; some of the proposed line item amendments affect municipalities. The capital bill adjustment (no number until it is formally introduced) is currently being reviewed in the House Institutions and Corrections Committee.

The Agency of Commerce and Community Development would have its Historic Preservation Grants, Human Services and Educational Facilities Grants, Recreational Grants, Historic Barns & Agricultural Grants, and its Agricultural Fair Capital Projects (formerly the Farmers' Markets Infrastructure Grants) each cut by \$75,000, bringing these line items down to \$150,000 each to be spent in FY13.

The Agency of Natural Resources' Clean Water State/EPA Revolving Loan Fund Match has been reduced by \$500,000 to a total of \$1,500,400 in FY13 (not including administrative support). The Water Supply Revolving Loan Fund has been reduced by \$700,000 to a line item budget of \$2,033,140 in FY13. Most of this reduction was expected as federal stimulus dollars are not available this year and federal funding for EPA has been cut; thus, the state needs to match a smaller federal amount.

Much of the rest of the Capital Budget Adjustment for Fiscal Years 2012 and 2013 affects state buildings, new state property transactions, capitol complex parking, etc. The budget adjustment further modifies the Legislative Intent section of the Capital Bill: the adjustment authorizes a total capital expenditure of

\$157,485,477 (replacing \$154,739,399), with no more than \$88,749,757 (replacing \$92,249,757) to be appropriated in the first year of the biennium, and the remainder to be appropriated in the second year.

The [table on page 7](#) highlights issues of interest to local governments. The numbers provided in the table are under review by the House Committee on Corrections and Institutions and are subject to change.

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## The Transportation Bill

The Transportation Bill – or “T-Bill,” as it is colloquially known – is currently being reviewed by both the House and Senate Transportation Committees. The bill adopts the Vermont Agency of Transportation’s proposed Fiscal Year 2013 capital program (as amended) and makes miscellaneous changes to the laws relating to transportation policy. The capital program, as well as the changes to law, will affect municipalities in various ways, and the committees have been discussing a few of these changes and spending decisions at length, with VLCT testifying on several of them.

In its current draft form, the T-Bill provisions the Enhancement Grant Program to allow preferential weighting to projects involving a municipality implementing eligible environmental mitigation projects under a river corridor plan that has been adopted by the Agency of Natural Resources (ANR) as part of a basin plan. Towns implementing these mitigation projects will have a better chance of success in the competition to gain funding. For more information on the ANR mitigation projects, please see [www.vtwaterquality.org/rivers/htm/rv\\_restoration.htm](http://www.vtwaterquality.org/rivers/htm/rv_restoration.htm).

The draft T-Bill also improves State Aid for Town Highways in the event of certain natural or man-made disasters. This aid has provisions for disasters that do not qualify for major assistance from the Federal Emergency Management Agency (FEMA) and the Federal Highway Administration; there is also proposed language for assisting those federal aid town highways that help towns in meeting the match requirements, lowering the town’s share of the local match from 20 percent to 10 percent by increasing the state match. This language was initiated by the governor in his 2013 Budget Address, and VLCT testified in support of this language.

The current draft T-Bill also amends the statutory language concerning state aid for town highway structures, allowing the grant program to fund alternative projects that eliminate the need for a bridge, culvert, or other structure by providing access through other means (e.g., laying out a road that connects to another bridge further up- or down-stream). This language will allow municipalities to design and fund projects that would allow for bridges damaged by Tropical Storm Irene (or future disasters) to be shut down or closed if it is in the public interest. Such an increase of options for towns in the grant program is certainly welcome.

The language of the draft T Bill also provides support for the Accelerated Bridge Construction (ABC) Program (which was discussed in [Weekly Legislative Report No. 5](#)), allowing town highway bridge projects that close a bridge in order to allow for ABC to pay 5 percent, not the usual 10 percent, as a local share of the project cost. This also reduces overall costs and speeds construction by not having to build temporary bridges. Other local share costs for existing bridge rehabilitation projects are also reduced if the municipality closes the bridge for the duration of the project with this new language. VLCT testified in support of this language.

While the T-Bill is subject to change, there is a lot of positive news for municipalities that will be relieved to hear that the state is helping in so many ways to help pay the burdensome amounts of money for projects due to the impact of the recent floods and Tropical Storm Irene. VLCT will continue to follow this bill very closely, testifying in favor of language that reduces the onerous burden of infrastructure

rehabilitation costs to our members. Stay tuned to future *Weekly Legislative Reports* for further developments.

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## Local Government Day

There were clear sidewalks, mild temperatures, and partly sunny skies for Local Government Day in the Legislature on Wednesday, February 15, and approximately 150 local officials from every corner of the state attended the event. The day began with welcoming comments from retiring Montpelier Mayor Mary Hooper and President of the Vermont Municipal Clerks' and Treasurers' Association Sandy Pinsonault. Then, Sue Minter, Disaster Recovery Officer, talked briefly about updates on the flood recovery process; Steve Jeffrey, VLCT Executive Director, discussed municipal education property taxes; and Dave Sichel, Deputy Director of Risk Management Services, gave his perspective on the current health insurance legislation to groups of interested officials. Local officials proceeded to the State House, where they met with Transportation, Ways & Means, and Government Operations committees and toured the building with the State House Curator.

Some local officials testified about a range of issues that are under discussion in the State House, including education funding and state collection of the education property tax, lessons learned from Tropical Storm Irene and the spring floods, transportation funding in 2012 and 2013, handling public records and vital records requests, requirements for open meeting, and health care. Their comments reflected the 2012 VLCT Municipal Policy Priorities, which is archived at [www.vlct.org/assets/Advocacy/Municipal\\_Policy/2012\\_priorities.pdf](http://www.vlct.org/assets/Advocacy/Municipal_Policy/2012_priorities.pdf).

Over lunch at the Capitol Plaza, Lieutenant Governor Phil Scott thanked local officials for their spectacular efforts to provide help and maintain hope in the wake of Tropical Storm Irene's devastation last summer. He emphasized that recovery is a long road to negotiate, and lots of Vermonters are still struggling to get back to a normal way of life. He thanked the governor for his response to last year's weather-related disasters and for his commitment – along with that of the legislature – to helping Vermonters rebuild. He also commented favorably on the tradition of Town Meeting and citizen involvement in government in Vermont – government that is accessible but where local offices often go unfilled. Lieutenant Governor Scott is clearly a believer in local government who understands how central the municipal experience is to our Vermont way of life.

We again want to thank all of the local officials who made the trip to Montpelier to meet with their legislators in formal committees, over lunch, and in the hallways of the State House. And please thank your legislators for taking the time to meet with you and other local officials to discuss the issues of importance to municipalities as we all head to Town Meeting next month.

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## Unpaid Municipal Tickets

On Monday, February 13, the House Judiciary Committee took up H.634, a bill to provide for a civil contempt proceeding and collection of unpaid municipal fines by a collection agency. This is the remedy that is today available for failure to pay fines ordered by the Judicial Bureau for violations of state statutes coming before the Judicial Bureau, except for parking violations and other violations of municipal ordinances. It is a remedy that has proven very effective at collecting unpaid fines for the state.

Under current law pertaining to municipal ordinance violations, a municipality may seek enforcement of

unpaid fines assessed by the Judicial Bureau by:

- a. recording a lien on any property the defendant may have in that town;
- b. seeking enforcement in small claims court; or
- c. seeking enforcement through a contempt proceeding of the criminal division of the superior court.

Each of these remedies is ineffective and can easily be ignored by a defendant without any real consequence. On the other hand, the courts have found that referring unpaid fines to a collection agency is *very* effective, and towns and their taxpayers would benefit greatly having this alternative available to them.

Local officials strongly support H.634 and should make their legislators aware of the benefits of its passage.

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## County Budgets

S.116 is a bill that addresses changes in probate court and is not, by its subject, of particular importance to cities, towns, and villages. However, Section 4 of the bill addresses county budgets, which are paid through an assessment to each town in a county that is added to that municipality's property tax. There is no mechanism in statute for voting on a county budget. The county budget is prepared by the two assistant judges in each county, who present the budget to the municipalities in a hearing and thereafter adopt it unilaterally.

As a result of the judicial restructuring process of 2010, the state took over many of the responsibilities of county budgets and assistant judges. As a result, last year county budgets were reduced by a total of \$1.6 million, although those savings were somewhat unevenly distributed around the state. The current statute regulating the county budget and tax provides for assistant judges to keep an operating reserve fund that at any time shall not exceed an amount equal to 10 percent of the current budget. Likewise, the statute allows assistant judges to keep a capital construction reserve fund, which shall not at any time exceed 50 percent of the current budget. The assistant judges asked the Senate Judiciary Committee to increase the allowable percentage for an operating reserve fund to 15 percent of the current budget. They also requested that the allowable percentage for a capital reserve fund be increased to 75 percent of the current budget presented for that year. Their concern is that with reduced budgets overall (and at least reduced operating budget obligations), their reserve funds might be inadequate for their perceived needs. In a couple of instances, capital reserve funds already exceed the 10 percent limit because overall county budgets have been reduced.

Both the 10 to 15 percent increase for operating reserve funds and the 50 to 75 percent increase for capital reserve funds have been voted out favorably by the Senate Judiciary Committee and are in S.116 on the Senate Floor ready for second reading by the full Senate, perhaps as early as today (February 17). Bills are read the first time when they are introduced and then (usually) referred to committee for consideration. Once out of committee, the bill needs to be read and approved twice by each chamber before going to the governor. The second reading gives legislators the opportunity to understand the bill and propose any further amendments before a vote is held on passage in that chamber. The questions the chambers vote on are "Shall the bill be read a third time?" and then, usually the following legislative day, "Shall the bill pass?"

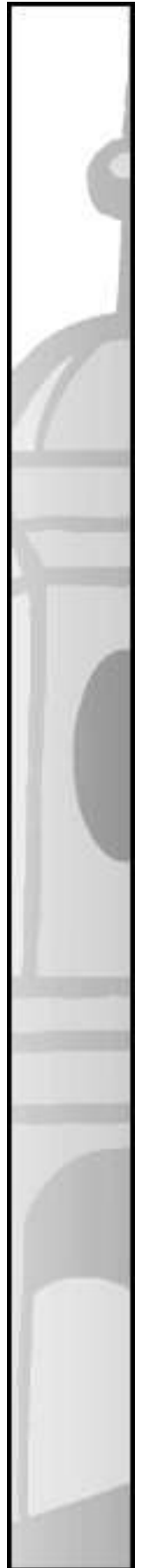
It is prudent fiscal policy to put in place reserve funds that will at least partially cover unforeseen expenses or long-term capital needs, such as the maintenance of court houses, which are generally

historic buildings. Assistant judges may bond for capital projects, but in that instance – as in every municipality or school district – the bond needs to be put before the voters. As well, in some instances the state capital budget has funded capital projects in county court houses, particularly when the state uses a portion of the facility.

Local officials have argued for years that county budgets need to be put to a vote. Proposals have included one vote per municipality or one vote per municipality, House representative, and senator from that district. None of those proposals has ever made any headway in the legislature. In this session, local officials suggested that future increases of reserve funds over the current statutory limit be put to such a vote or that reserve funds that currently exceed the statutory limit because of reduced budgets overall be grandfathered. Neither of those suggestions has been included in S.116.

VLCT believes S.116 is an excellent vehicle to address the need of more voter or local government control of county budgets. Town and school expenditures are all subject to voter approval, and even the state budget needs approval of 180 legislators and the governor. Is it right that two people have such authority over the county budget? It may be too late to address this in the Senate, but please contact your House members and ask them to amend S.116 to allow for such control.

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**Capital Bill Two-Year (FY 2012-2013) Recommended Budget Adjustment  
Line Items Important to Municipalities**

<b>Agency/ Department</b>	<b>Line Item</b>	<b>As Passed FY 2012</b>	<b>As Passed FY 2013</b>	<b>Total Final Passage</b>	<b>Governor's Recommended Changes FY13</b>	<b>Governor's Recommended Adjustments 2013 Total</b>
Dept. of Information and Innovation	Vt. Telecomm. Authority, Broadband Development	10,000,000	0	10,000,000	No difference	0
Dept. of Taxes	Orthophotographic Mapping	100,000	100,000	200,000	No difference	100,000
Agency of Commerce and Community Development	Historic Preservation Grants (1:1 match)	225,000	225,000	450,000	-75,000	150,000
	Human Services and Educational Facilities Grants	225,000	225,000	450,000	-75,000	150,000
	Recreational Facilities Grants	225,000	225,000	450,000	-75,000	150,000
	Historic Barns, Ag. Grants (1:1 match)	225,000	225,000	450,000	-75,000	150,000
	Cultural Facilities Grants (1:1 match)	225,000	225,000	450,000	-75,000	150,000
	Agricultural Fair Capital Projects	225,000	225,000	450,000	-75,000	150,000
Agency of Natural Resources	Clean Water State/EPA Revolving Loan Fund Match <sup>1</sup>	1,000,000	2,000,400	3,000,400	-500,000	1,500,400
	Pownal wastewater treatment facility	500,000	500,000	1,000,000	No difference	500,000
	Combined Sewer Overflow (ARRA FY11)	210,000	375,000	585,000	No difference	375,000
	Water Supply Revolving Loan Fund	3,061,713	2,733,140	5,794,853	-700,000	2,033,140
Ecosystem Restoration Program	Ecosystem Restoration and Protection Grants	2,500,000	2,500,000	5,000,000	No difference	2,500,000
	Waterbury WWTF Phosphorus Removal	2,700,000	0	2,700,000	No difference	0
	Dam Safety and Hydrology	325,000	0	325,000	No difference	0
Ecosystem Restoration Program	Best Mgmt Practices on Vt. farms and water quality buffer program	1,300,000	1,200,000	2,500,000	No difference	2,250,000 <sup>2</sup>
Rural Fire Protection Taskforce	Dry Hydrant Program	100,000	100,000	200,000	No difference	100,000
Housing and Conservation Board	Building and Conservation Projects	4,000,000	0	4,000,000	No difference	0

1. Amount in 2012 budget column includes administrative support.  
2. \$250,000 to be subtracted from FY12.

Note: This table reflects this year's adjustment to last year's two-year Capital Budget. All final numbers are being reviewed by the House Committee on Corrections and Institutions, and are subject to change.