



WEEKLY LEGISLATIVE REPORT

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The *Weekly Legislative Report*, a publication of the Vermont League of Cities and Towns, is issued each Friday during Vermont’s legislative session.

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Water Quality – Who Pays? (Part II)

Over the past few weeks, every aspect of [H.35](#), the Water Quality Improvement bill, has been debated, not only in the House Fish, Wildlife and Water Resources Committee but also in the House Agriculture, Transportation, Natural Resources and Energy, and Ways and Means committees. In the Senate, similar attention has been given to another water quality improvement bill, [S.46](#). No one denies the need to put in place the practices and infrastructure improvements to clean up Lake Champlain as well as discharges to the Connecticut River (owned by New Hampshire) and other waters of the state.

There will be new obligations on agriculture to address stormwater through permits, training and certifications, enforcement, and new Accepted Agricultural Practices with which farms will need to be in compliance, as well as beefed up Best Management Practices, which will be applied as the need arises. A substantial amount of money will be made available to help meet those agricultural mandates. In January, the Natural Resources Conservation Service announced a grant of \$14 million from the federal government’s Regional Conservation Partnership Program to pay to implement projects to reduce nutrient runoff from farms and forest. Last August, the State of Vermont received a \$45 million grant from the U.S. Department of Agriculture for similar projects.

The funding picture for municipalities is less clear. They will be asked to implement – and pay for –most of the stormwater infrastructure projects to address town highways and impervious surfaces, training, education, and outreach that the legislation envisions. The price tag for all that work is north of \$100 million per year for each of the next ten years, according to the Agency of Natural Resources’ “[Water Quality Remediation, Implementation, and Funding Report](#)” of 2012. But how are these obligations to be funded? Without assistance from the state – or maybe the Environmental Protection Agency, which will impose these obligations through the Lake Champlain Total Maximum Daily Load– those new mandates to clean up the waters of the state will be financed by the property tax. What part of the “No to higher property taxes!” din did the legislature not hear during last fall’s election campaign? Much of that resentment was focused on the state’s education property taxes, but all property taxes come in one bill. It now appears that the state is adding more and more to that total amount by increasing the municipal side of the equation as it has the education portion.

The state administration first suggested an impervious surface fee on commercial and industrial property only in the Lake Champlain watershed. It also proposed a \$30 per ton tax on fertilizer. Local officials supported the impervious surface fee or a per-parcel payment as long as it was applied statewide to all parcels and collected

by the Department of Taxes. They supported the fertilizer tax as well. In the past few weeks, it seemed that those two options – as well as a VLCT-initiated proposal for a temporary gas tax while prices are low – fell off the table, in lieu of haphazard consideration of all manner of taxing and fee options. The one fee option that has been a constant in this year’s discussion has been new, expanded, and increased permit fees imposed on municipalities totaling \$1.5 million on top of the \$1 million already collected to fund additional staff at the Agency of Natural Resources. (See [Weekly Legislative Report No. 6.](#))

The chair of the House Fish, Wildlife and Water Resources Committee has consistently maintained that funding must be available to help local governments pay for new programs under H.35. Following an intensive discussion last Monday, it seems that the funding picture may be getting clearer. In that committee – as well as across the State House hall in the House Natural Resources and Energy Committee – a proposal is emerging to raise \$13 million for water quality remediation efforts. It may include a fertilizer tax, a feed and grain fee, a per-parcel fee on impervious cover at commercial enterprises, a room and meals tax increase, an alcohol tax increase, a gas tax, or a combination thereof. Local officials support raising revenues through state assessments such as these that are collected at the state level. These fees or taxes must be applied statewide to all parcels or users. H.35 contemplates allocating the resulting dollars with the advice of a Clean Water Fund Board, which in the most recent version of the legislation includes representation from local governments.

It is a significant relief to local officials that the legislature is seriously considering where it will find the money to pay for the ambitious cleanup agenda that is proposed by the Agency of Natural Resources and required by the EPA.

Local officials need to keep urging their legislators to find some source other than the property tax and sewer user fees to pay for this hugely expensive initiative. Let them know your concerns about those funding sources and your support for alternative revenues now under consideration.

Contact Karen Horn at 1-800-649-7915 or khorn@vlct.org.

Public Safety-Related Legislation: Marijuana, Guns, and Controlled Substances

This week saw the introduction of [S.95](#), a bill that proposes to legalize marijuana use for those over the age of 21 while maintaining civil penalties for underage users. The bill would establish a Marijuana Control Board within the Department of Public Safety that would be responsible for making rules and administering registrations for marijuana establishments. S.95 would allow nonprofit dispensaries to register with the board and permit municipalities to prohibit or regulate “the number, time, place, manner, or operations of marijuana establishments.” The bill retains criminal penalties for operating a motor vehicle under the influence of marijuana and prohibits smoking marijuana in public places. See [Weekly Legislative Report No. 6](#) for background on legalizing marijuana issues in Vermont and a description of the [RAND Report](#) on marijuana legalization.

The bill would also establish excise taxes of \$40.00 per ounce on marijuana flowers, \$15.00 per ounce on any other marijuana plant parts, and \$25.00 on each immature marijuana plant sold by a cultivator. The bill defines marijuana exclusively so as not to include any oil or derivative from the plant; it does not address the regulation of tetrahydrocannabinol (THC), the principal psychoactive constituent of cannabis. S.95 proposes to distribute the resulting revenues to initiatives focused on public education about the safety risks of alcohol, tobacco, and marijuana, as well as criminal justice programs and substance abuse safety programs. In addition to the proposed Senate bill, the House Government Operations Committee has reserved several hours on six consecutive Fridays to hear testimony and further discuss what the legalization of marijuana would look like in Vermont and how it could best be implemented. VLCT

opposes the legalization of marijuana because questions about its impact on the ability of law enforcement to address drug-related crime – which is a continuing and significant threat to Vermont’s quality of life – have not been answered.

Last month, [S.31](#), a bill relating to possessing and transferring firearms, was introduced and sent to the Senate Judiciary Committee. (The House version of the bill, [H.230](#), was introduced this week.) The bill proposes to enact a state law that replicates the federal that prohibiting a person convicted of a violent crime from possessing a firearm. It further requires the court administrator to report to the National Instant Criminal Background Check System when a person has been hospitalized and determined to be a danger to him or herself or others or has been found not responsible for a crime by reason of insanity or incompetent to stand trial due to a mental illness. After a period of five years, an individual banned from possessing a firearm could petition the court for relief.

Vermont law ([13 V.S.A. § 5301\(7\)](#)) defines “violent crime as stalking, domestic, aggravated, and sexual assault, lewd or lascivious conduct, murder, manslaughter, assault and robbery, arson causing death, maiming, kidnapping, unlawful restraint, reckless endangerment, violation of an abuse order, driving under the influence or negligently operating a vehicle in a way that results in death or serious injury, leaving the scene of an accident with serious bodily injury or death, burglary in an occupied dwelling, human trafficking, sexual exploitation of children, and felony drug possession.

A person convicted of a violent offense possessing a firearm would face imprisonment of up to two years or a fine of up to \$1000. S.31 would also require that a background check be conducted on a proposed purchaser before a firearm could be sold (with exceptions being if the sale is to a law enforcement agency, member of the armed forces, or between family members which includes, “spouse, parent, stepparent, child, stepchild, sibling, stepsibling, grandparent, or grandchild.”)

VLCT supports only the part of the bill that would prohibit “a felon from possessing a firearm so that such an offense may be prosecuted under state law in addition to federal law” (as expressed in the 2015 VLCT Municipal Policy, Section 3.07 C). VLCT takes no position on the other sections of the bills currently under consideration.

A third bill, [H.252](#), also introduced this week, would establish an Agency of Controlled Substances to administer and enforce the laws relating to alcohol, tobacco, therapeutic cannabis, the state lottery, games of chance, horse racing, motor racing and boxing. The agency would include the current Departments of Liquor Control and State Lottery (i.e., the Lottery Commission). It does not contemplate expanding the legal uses of marijuana at this time.

It appears unlikely that either of these two public safety bills will be enacted this year, although much consideration will be given by various committees in the House and Senate. Local officials with thoughts on these bills should contact and share their sentiments with their senators and representatives.

Contact Chloe Collins at 1-800-649-7915 or ccollins@vlct.org.

Local Government Day in the Legislature 2015

Wednesday, February 18, appeared to be a fine day to visit the State House at least from the perspective of the local weather: no snow fell, the sun shone brightly, and the temperature was borderline balmy (i.e., it was above zero, a seeming novelty for Montpelier this winter). And 150 local officials *did* visit, making the annual pilgrimage to the capital city for Local Government Day. The morning began at the Capitol Plaza Hotel and Conference Center with welcomes from Montpelier Mayor John Hollar and Tammy Legacy, President of the Vermont Municipal Clerks’ and Treasurers’ Association (VMCTA) and VLCT Board member. Following a preview of the day’s planned events, attendees broke into three groups to

hear about the issues being discussed in the State House.

Agency of Transportation Deputy Secretary Christopher Cole discussed transportation funding both in Vermont and Washington, D.C., by talking about extensions of the national “Moving Ahead for Progress in the 21st Century” (MAP-21) Act. Enacted in 2012 and set to expire September 30, 2014, the act was funded at \$105 billion for federal fiscal years 2013 and 2014, including \$82 billion for road, bridge, bicycle, and walking improvements. An extension through May 31, 2015, was signed into law last summer. Vermont has traditionally fared quite well under federal transportation authorization acts. Now Congress is faced with passing a reauthorization of federal surface transportation programs. President Obama proposed a “Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act” (GROW America Act) for a six-year \$478 billion reauthorization. Jeff Munger, Transportation Policy Advisor to U.S. Senator Bernie Sanders, was on hand to answer questions about what a reauthorization might mean for Vermont.

VLCT Executive Director Steven Jeffrey discussed amendments to the Open Meeting Law that was passed last session and how discussions are proceeding in the Senate Government Operations Committee. A draft proposal would amend the law with respect to voting protocol and notice of meetings when members of a public body participate electronically, posting of meeting minutes and how long those minutes need to remain posted, and enforcement of the law.

Karen Richard, Colchester Town Clerk and Chair of the VMCTA Legislative Committee, discussed proposals for same-day voter registration, open meeting, public records, training, and fees, to name a few of the subjects covered. This discussion followed up on her excellent testimony in the Senate Government Operations Committee on Tuesday in which she explained the early voting laws and practices in Vermont that are not in place in many other states. She indicated that directing clerks to offer both early voting and same-day voter registration would extend the election process on both sides of Election Day and leave the entire process more vulnerable to fraud.

Armed with up-to-date information, local officials walked to the State House to participate in a joint hearing of the House and Senate Transportation committees for local officials, which legislators host every year. Local officials discussed the pending obligations for stormwater management on roads and whether a temporary increase in the gas tax while prices are low would be a reasonable source of funding to support stormwater-related infrastructure projects. The speakers emphasized the struggles of their towns when it comes to funding regular transportation network maintenance and the desperate need for a new revenue source.

In a meeting of the House Natural Resources and Energy Committee, legislators heard from local officials about the difficulties of complying with Act 148, the Universal Recycling Law, and proposals for amending its mandates and pricing requirements. (See *Weekly Legislative Report No. 7*'s “Talking Points” for details on both discussions.) And several local officials joined State House Curator David Schutz for a tour of Vermont’s historic and beautiful capitol building. One learns so much on a Schutz-led State House excursion!

Legislators, some of whom are new to the State House this year, joined local officials for lunch at the Capitol Plaza where Governor Shumlin spoke of his political roots as a selectman in Putney and calling for action on education funding, stormwater management, and funding of health care. John Cushing, retiring town clerk and aspiring selectperson, was on hand to receive VLCT’s Lifetime Achievement Award for his 46 years of service as Milton’s Town Clerk and Treasurer – his dedication to local government and governance extends well beyond the borders of his town. Attendees gave him a standing ovation as he accepted his award and reminded us that the purpose of public officials is to serve the public, to strive to help someone’s life better every day. (John was later honored in the House Chamber of the State House with [Concurrent House Resolution 43](#).)



Essex-Caledonia Representative Connie Quimby greets John Cushing.

The House and Senate Government Operations committees hosted a joint hearing in the Senate Chamber in the afternoon to discuss same-day voter registration, Open Meeting Law amendments, and governance and charter changes. Also, the House Education Committee heard testimony from several representatives of the Vermont Assessors and Listers Association on property appraisal matters under consideration as part of the committee's attempt to reform education governance and funding.

We want to thank everyone who traveled to Montpelier on Wednesday to make Local Government Day a success. Thanks also to all of the legislators who listened to local officials and frankly discussed the many matters before them that affect local governments.

Contact Karen Horn at 1-800-649-7915 or khorn@vlct.org.

Session Nears Halfway Point

We are eight weeks into the first year of the 2015-2016 legislative biennium, essentially halfway through the 2015 session. The pace will quicken in the next few weeks as committees struggle to resolve looming budgetary crises and plow through all the initiatives on which action is demanded. According to House rules, the deadline to introduce bills is Friday, February 27. House bills in "short form" – those with only a subject line and description – and committee bills may be introduced at any time. "Crossover" deadlines have already been established. All bills must be out of the last non-money committee by Friday, March 13. Bills sent to the Appropriations and Finance committees in the Senate and Appropriations and Ways and Means committees in the House must be out of those committees a week later.

Readers may expect a flurry of activity next week as legislators work to get their big bills out of committee in time for the Town Meeting break, the week of March 1, and in time to discuss them with *you* at Town Meeting, Tuesday, March 2nd.

BILL NUMBER	NEW BILLS SUMMARY	CURRENT LOCATION
H.213	Would require that county budgets prepared by assistant judges be approved by a majority of selectboards within the county representing a majority of the county population.	House Government Operations
H.217	Would require the Secretary of Natural Resources to delegate authority to a municipality to permit new or modified service connections to an existing municipally-owned water or sewer main, provided that (1) the municipality only issues permits for connections if it owns both the water main and the sewer main at the site of the connection; (2) the municipality notifies the secretary of any new connection; (3) the municipality has hired, appointed, or retained a licensed designer; and (4) the municipality assumes liability for the design and certification of the new service connection.	House Fish, Wildlife & Water Resources
H.221	Would permit a court to place a defendant on administrative probation as part of a deferred sentence; prohibit sentencing a juvenile to life without parole; amend conditions of pretrial release to eliminate release to a responsible adult and permit monetary bail only in cases where a court finds the defendant is a flight risk; and expand administrative probation to all nonviolent misdemeanors and permit a court to order it for nonviolent felonies.	House Corrections and Institutions
H.222	Would establish a two cent per gallon royalty on all groundwater or spring water withdrawn or extracted for bottling as drinking water. Half of the collected royalties would be deposited in the Working Lands Enterprise Fund and half would be deposited in the Ecosystem Restoration Program fund for use on projects or programs that improve water quality in Vermont.	House Ways and Means
H.232	Would impose a registration fee for farm trucks and agricultural custom service vehicles registered under 23 V.S.A. § 367(f) that is one-half the registration fee for motor trucks of the same weight, and that incremental revenues from these registration fees be deposited in the Vermont Working Lands Enterprise Fund.	House Transportation
H.235	Would impose an excise tax on sugar-sweetened beverages, and to direct revenue from the tax to the State Health Care Resources Fund and to the Vermont Healthy Weight Initiative Fund.	House Ways and Means
H.245	Would add Crohn's disease, colitis, glaucoma, and amyotrophic lateral sclerosis to the conditions that qualify for the therapeutic use of cannabis, and waive the requirement for patients with chronic, debilitating, lifelong medical conditions to submit a medical verification form upon application for the renewal of a registration card.	House Human Services
H.248	Would revise the air pollution statutes to allow the Agency of Natural Resources to (1) require the registration of certain emission sources that emit less than five tons per year; (2) make additional funds available for future programs to address emissions from wood-burning technologies by removing the minimum funding requirement for the outdoor wood-fired boilers exchange program; (3) require the disclosure of emission and monitoring data; (4) reduce the lead time required for submitting an operating permit renewal application; and (5) enforce rules adopted to carry out the Regional Greenhouse Gas Initiative.	House Natural Resources & Energy
H.249	Would allow a regional planning commission to enter into an agreement with its member municipalities to create a regional council of governments, which would help those municipalities in planning for common needs.	House Government Operations
H.250	Would prohibit a person convicted of a violent crime from possessing a firearm. Would require that a criminal background check be conducted on the proposed purchaser before a firearm could be sold unless the sale is between immediate family members, by or to a law enforcement agency, or by or to a law enforcement officer or member of the U.S. Armed Forces acting in the course of his or her official duties.	House Judiciary
H.252	Would establish the Agency of Controlled Substances to administer and enforce the laws relating to alcohol, tobacco, therapeutic cannabis, the State Lottery, games of chance, horse racing, motor racing, and boxing.	House Government Operations

BILL NUMBER	NEW BILLS SUMMARY	CURRENT LOCATION
H.253	Would add post-traumatic stress disorder to the list of qualified medical conditions for therapeutic use of cannabis and also to waive the six-month professional-patient relationship requirement for veterans diagnosed with post-traumatic stress disorder provided the patient provides a documented diagnosis from the U.S. Department of Veterans' Affairs.	House Human Services
H.257	Would set a cap on statewide education spending growth and authorize the Agency of Education to award a limited number of waivers to school districts with extraordinary spending needs.	House Education
H.259	Would authorize the Commissioner of Motor Vehicles to issue a permit for the use of red or amber signal lights on law enforcement vehicles, and the use of one blue light on a fire department or EMS vehicle, provided the light is mounted so as to be visible primarily from the rear of the vehicle.	House Transportation
H.261	Would prohibit requiring the disclosure of criminal history record information on an initial employment application, though an employer could inquire as to an applicant's criminal history record during an interview or thereafter.	House Gen., Housing and Military Affairs
H.262	Would require that informational material provided in connection with a school district's proposed budget include information distinguishing between administrative spending and instructional or programmatic spending at both the district and supervisory union levels.	House Education
H.263	Would expand Vermont's publicly funded tuition system by providing vouchers to all Vermont student to be used at any approved, nonsectarian independent or public school in Vermont or an adjacent state or country. Receiving public schools could not require that publicly funded students pay an additional amount as tuition, but could assess fees and other charges that nonpublicly funded students would also be required to pay.	House Education
H.267	Would require that warnings for proposed school district budgets identify the amount of the total budget that is attributable to expenditures assessed by the supervisory union.	House Education
H.268	Would approve the adoption of and codify the charter of the Town of Franklin and approve the merger of Franklin Fire District No. 1 into the Town of Franklin.	House Government Operations
H.269	Would allow soils that are otherwise legally categorized as solid waste that contain low levels of polycyclic aromatic hydrocarbons (PAHs), select metals, or other potentially hazardous materials that have been excavated during development or redevelopment projects located in downtowns or village centers be transported to another location with similar levels of PAHs and metals as opposed to being transported and disposed of at a certified waste management facility.	House Natural Resources & Energy
H.271	Would direct the state executive and legislative branches to give deference to an approved regional plan or a federally prescribed comprehensive economic development strategy in the event a major employer announces a plant closure, relocation, or other significant change in activity that will impact the number of jobs or wages in the region.	House Commerce & Econ. Development
S.90	Would shorten the late filing period for taxpayers who do not file homestead declarations or property tax adjustment by the statutory deadline of April 15. The bill shortens the period when a late filed homestead declaration or property tax adjustment will be accepted from October 15 to May 15.	Senate Finance
S.94	Would allow a municipality to vote to authorize its legislative body to appoint its municipal clerk or treasurer.	Senate Government Operations
S.99	Would double fines for speeding in a properly designated school zone.	Senate Transportation
S.100	Would provide that a municipality or solid waste management district serving less than 1,000 households shall not be required to provide more than two events per year for the collection of non-regulated hazardous waste.	Senate Natural Resources & Energy

Upcoming Hearings of Importance to Local Officials

Public hearings for the governor's proposed FY 2016 budget.

Tuesday, Feb. 24, 2:30-3:30 p.m., and Wednesday, Feb. 25, 9:30-10:30 a.m.

House Appropriations Committee, Room 11.

Sign up with Theresa Utton-Jerman at 802-828-5767 or tutton@leg.state.vt.us or in Room 40.