



WEEKLY LEGISLATIVE REPORT

March 27, 2015

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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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House Gives Preliminary Approval to Budget; Most Municipal Programs Spared ... So Far

On Thursday, the Vermont House of Representatives gave its preliminary approval to [H.490](#), the FY16 state budget bill. The line items that impact municipalities remain largely unscathed despite having appeared on several potential hit lists as the House Appropriations Committee struggled to bring proposed spending down to match the lack of growth in state revenues. H.490 increases state General Fund expenditures by 4.8 percent. The budget bill was accompanied by a new state revenue bill ([H.389](#)) that increases state income tax revenues by \$33.2 million by limiting deductions that filers who itemize those deductions can claim.

The amount of the gap between what would be spent if the state increased its spending at the same rate that demands are growing and the amount that the state's revenue system generates, varied throughout the early session. New revenue forecasts lowering projections and the discovery of assumptions of cuts and new revenues made in the Governor's proposed budget that the legislature could not accept account for some of the confusion. The most widely quoted budget gap figure was \$113.2 million. And that was just on the state General Fund side of the ledger. The Transportation Fund is also projected to be short \$6 million from what had been expected due to dropping fuel prices cutting into state gasoline tax revenues.

The table on [page 6](#) shows the results of the House version of H.490 on municipal priority line items. Two items of interest were increased from the Governor's proposal in January. First is the payment in lieu of taxes (PILOT) for state buildings. This line item is not funded by state taxes at all, but rather from 30 percent of funds generated from local option sales and rooms and meals taxes that cities and towns have imposed upon themselves through local votes. The House increased this line item, maybe because Colchester voters recently approved a charter provision implementing a one percent sales and rooms and meals tax in their town and Woodstock voters approved a one percent rooms and meals tax. This means not only will those two towns get to keep 70 percent of the taxes collected, but also there will be more revenue to be shared with cities and towns hosting state buildings. Colchester's charter still needs legislative approval before the tax becomes effective, but Woodstock is authorized to levy the tax due to language that was part of Act 60 when it was passed to mitigate the impact on towns, which saw the biggest increases in school property taxes at the time.

The second increase of interest to local officials is in the General Fund transfer to the Education Fund, the General Fund being the second largest contribution to school funding after the state property tax. By law, the legislature is mandated to increase that figure by an inflation factor every year. This year, that figure is

supposed to be \$303.34 million. The Governor included only \$300.38 million in support for schools. We explored his arguments for short-funding schools in [Weekly Legislative Reports No. 3](#) and [No. 4](#). The Governor also significantly cut the Corrections Department's education program and subjected Current Use program enrollees to a greater property tax burden. He then reaped the savings for state coffers instead of property taxpayers by reducing the General Fund transfer to the Education Fund. Neither of his two initial proposals is included in any legislation (although there is a small cut in the appropriation to the Corrections education program), and the full General Fund transfer amount was included in the House bill. The bill funds the state Veterans Home in Bennington from funds other than a diversion of state lottery proceeds from the Education Fund, which the administration had also proposed. The municipal Current Use reimbursement is also fully funded.

The Agency of Natural Resources' PILOT reimbursement is frozen for another year at about last year's level. We discussed the possibilities of how this line item could have been cut even further from where it should be in [Weekly Legislative Report No. 10](#).

One state cut that affects local governments was actually proposed outside of the budgeting process – the closure of two state public safety answering points (PSAPs). The legislature addressed this proposal in H.490, and town officials should be very worried about what it suggests. (See article on page 4.) In addition to cutting back on the E-911 call answering capabilities the state offers, the bill states that the county assistant judges may contract with the Commissioner of Public Safety to “provide dispatching functions, at a public safety answering point, paid for at the local level as part of the county budget.” VLCT believes that if towns wish to pay for dispatch services through their property taxes, town officials should make that call, as they may do today, and not allow two side judges to do it. This is simply another example of the state shifting its budget woes onto the property tax without any local governmental say in the matter.

There is new language in the bill “notwithstanding” the statute that says Education Funds may only be used for local schools, concerning their use for the dual enrollment program that pays college tuition for high school students taking college courses. VLCT is still trying to understand the implications of this new use of y property taxes paying for college education. We will share our findings with you when we get a handle on it.

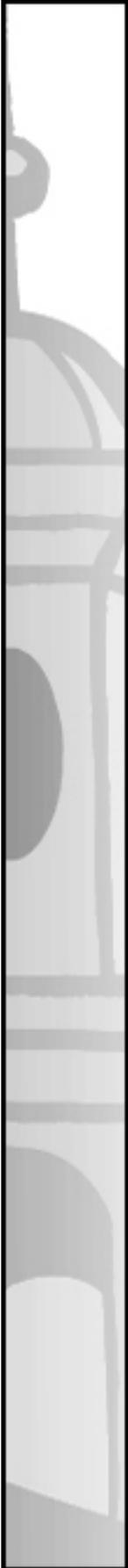
The budget does not include any funding to address the state's health care initiatives or to pay to clean up the state's waterways. Those issues will be of substantial interest to municipal officials when they emerge from committees.

H.490 will be in for a full day of debate and amendments today (Friday, March 27th). If passed, it will go to the Senate where we will be in for another rough ride. Stay tuned!

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Hearing on Siting of Renewable Energy Facilities

On Tuesday, the House and Senate Natural Resources and Energy committees held a public hearing on the siting of energy facilities. Room 11, the largest room in the State House (except for the House Chamber), overflowed with Vermonters who traveled from every corner of the state to tell legislators how energy generation facilities, particularly solar arrays in the last several years, are being permitted by the Public Service Board (PSB) and built, often without consideration for abutting property owners and the impact the construction has on the local community. The Public Service Department (PSD) testified that the amount of wind and solar energy generated in Vermont has increased from about 20 megawatts of capacity installed or permitted in 2010 to more than 200 megawatts today. The department's description of the PSB Certificate of Public Good permitting process is posted [here](#).



Virtually every person who testified supported renewable energy. Yet there was significant divergence of opinion about whether the concerns of municipalities or abutters were addressed by project developers, be they local or out of state, or by the PSB. Public hearing comments are posted [here](#).

A common theme was that the PSB thwarts municipalities seeking to address the energy and land use components of their plans when projects are proposed

In Vermont, if a municipality adopts a municipal plan, it must include “an energy plan, including an analysis of energy resources, needs, scarcities, costs and problems within the municipality, a statement of policy on the conservation of energy, including programs, such as thermal integrity standards for buildings. to implement that policy, a statement of policy on the development of renewable energy resources, a statement of policy on patterns and densities of land use likely to result in conservation of energy...” 24 V.S.A. § 4382 (a) (9). The section was originally added to statute in the 1970s. Municipalities that have recently addressed energy conservation goals, clear community standards, and renewable energy development in their plans include Burlington, Calais, Clarendon, Concord, East Montpelier, Hubbardton, Hyde Park, Ira, Londonderry, Middlesex, Moretown, Morristown, Newark, New Haven, Pittsford, Poultney, Richmond, Sutton, Waitsfield, Williston, and Windham.

For several years, local governments have raised the issue of what standing those plans have in the PSB process. At last year’s VLCT Annual Meeting, the membership adopted the following position.

4.06 E. Accord automatic party status to host municipalities in Section 248 proceedings. In the Certificate of Public Good (CPG) process, the Public Service Board (PSB) should give “substantial deference” to municipal concerns and determinations by holding hearings in any municipality potentially affected by a proposed project. The PSB should include all local decisions concerning the project within the PSB docket, formulate areas of inquiry based on concerns raised in the local hearing process, and require any decision to address local concerns raised in local determinations and adopted municipal plans.

At least one bill, [H.377](#), would implement these provisions.

As the PSD representative indicated, the pace of development of solar arrays in particular has picked up considerably in the last three years. A two-megawatt (MW) solar installation financed in October at Cornell University consisting of 6,778 solar panels on 11 acres is expected to produce 2,388,357 kilowatt-(kW) hours in its first year (<http://www.solsystemscompany.com/blog/2014/10/01/2mw-of-solar-energy-admitted-into-cornell-university/>). Solar developments this large have a tremendous impact on their surroundings and ought to be subject to some regulations that honor the concerns of the community.

In some towns, therefore, the applications are not for small installations. They may be good proposals. They may even be municipal proposals. But they should, however, be obligated to address the siting criteria that have been incorporated in adopted municipal plans. This year, some of the fairly large proposals before the PSB are noted in the table on page 4.

Urge your legislators to take up the issue of siting in the context of H.377 and allow local voices to be heard in the energy siting permit process.

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

Town	Size	Company
Bennington	2 MW	West Chester Community Solar
Bennington	2 MW	Chelsea Solar LLC
Bondville	2.2 MW	Vermont Solar Farmers LLC
Bridport	2 MW	Bridport Solar Holdings LLC
Fair Haven	8 kw	Renewable Generation
Middlebury	2.2 MW	Champlain Valley Solar Farm LLC
Poultney	496 kW	Renewable Generation LLC
Proctor	500 kW	Proctor GLC Solar LLC
Rutland	2.3 MW	Rutland Renewable Energy LLC
Rutland	1 MW	Charter Hill Solar
Springfield	500 kW	Vermont Allsun Solar IV, LLC
Springfield	500 kW	WE46 Precision Drive, LLC (net metered)

PSAP Consolidation Delayed

The PSAP (public safety answering point) consolidation “solution” included in [H.490](#), the FY16 appropriations bill, is a good news/bad news story. First, the good news. In response to the outcry heard at the PSAP public hearing to the House and Senate Government Operations committees on March 17th (see [VLCT Legislative Report No. 11](#)), the House Appropriations Committee has approved a measure to put off the decision to consolidate four PSAPs into two until next September. This measure gives the Commissioner of Public Safety a chance to consult with local and regional entities, including legislators, to search for funding solutions.

The bad news is that language included in H.490 could give county side judges huge new authority to unilaterally include services to be provided for by county government funded by the municipal property taxes – and, potentially, very soon. As mentioned in the article on page 1, Section E.208.4 of the bill (found at page 140 of the [bill](#) as introduced) included the following: “if agreement is reached with a regional group on or before September 15, 2015, the Commissioner of Public Safety shall contract with the **assistant judges, acting on behalf of a county** of the State under this section, **to provide dispatching functions**, at a public safety answering point, **paid for at the local level as part of the county budget.**” [Emphasis added.] The “regional group” referred to comprises “state legislators, assistant judges, municipal officials, and emergency representatives for the areas served by the dispatching functions of the State-operating public safety answering points.”

Municipal officials are aware that the two side judges unilaterally adopt the county budgets (after holding a required public hearing) and then are authorized by 24 V.S.A. § 133 to “*make and deliver to the county treasurer a written order directing the treasurer to issue, on or before March 1 following, the statements required by 32 V.S.A. § 4965, and warrants to the several treasurers of the towns for the collection of a tax sufficient to pay such indebtedness and estimated expense.*” Unlike every other expense on the municipal property tax, it is *not* subject to town voter approval.

Back to the good news of temporarily extending state funding of its PSAPs, Section E. 208 of the budget puts aside \$425,000 to continue funding at current levels the four PSAPs in Derby, Rockingham, Rutland, and Williston until September 15, 2015. By then, the Vermont Enhanced 911 Board must report to the Secretary of Administration and the Joint Fiscal Committee on the number of 911 call centers and dispatch positions needed to meet the current requirements, the average cost per position, and ways to provide 911 services to the state that optimize cost-effectiveness.

At the Republican caucus on Tuesday, legislators discussed the delay, saying that extending the deadline to September provides the necessary time for public input.

Testimony in the Senate Committee on Government Operations on Tuesday also addressed PSAPs.



Representatives from the Department of Public Safety spoke in support of consolidation. Dispatchers from PSAP centers voiced concerns about eliminating the 14 positions targeted in the consolidation proposal and the loss of local knowledge, reiterating issues that were front and center at the PSAP hearing. There was no testimony surrounding the new provisions introduced by the House Appropriations Committee.

As initially approved by the House, H.490 says that by May 15, 2015, the Commissioner of Public Safety must report to the Joint Fiscal Committee on the costs required to support the current level of dispatching services at the four state-operated PSAPs in Derby, Rockingham, Rutland, and Williston. The commissioner is to consider dispatch calls for municipal police departments, constabularies, emergency medical services, and fire and rescue departments but not 911 calls. The commissioner will also meet with the regional groups and determine “whether each regional group can calculate the cost of dispatch services and whether they would like to contract for dispatch services with the State.” If an agreement is reached with a regional group (municipal officials are only part of this group) by September 15, 2015, the commissioner would contract with the assistant judges to add this cost to the county budget. Revenues raised through the county budget, which is an assessment on municipal property taxes, would be remitted to the Commissioner of Public Safety for deposit in a new Dispatch Fund. That money would be available to fund the PSAPs.

VLCT appreciates that the delay gained by the Appropriations Committee’s measure would provide time for the commissioner to consult with affected municipalities, law enforcement, and emergency services assistant judges and legislators. However, shifting the costs of dispatch to the county tax – which is the already severely stressed property tax – is no solution. If the commissioner’s regional consultation is sincere and verifies concerns about safety, response time, and dispatch accuracy, then requiring that funding come from the municipal property tax is circular at best and a “Catch 22” situation at worst.

Contact your representatives. Urge them to support recommendations for PSAP coverage that come from the regional consultations through state revenues and not through property taxes or a budget approved by two side judges.

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

This Week’s Legislative Tidbits

Water Quality. In the Senate, [S.49](#), the bill to clean up waters of the state, is under discussion in the Agriculture and Natural Resources and Energy committees. In many respects S.49 is similar to the House bill, [H.35](#), with one significant difference. The Senate Agriculture Committee has been discussing a per parcel fee instead of the property transfer tax increase that the House Ways and Means Committee voted out and that was wending its way through House committees this week. H.35 was recommitted to the House Fish, Wildlife and Water Resources Committee on Thursday. We expect H.35 to be on the House calendar for debate early next week.

The Senate Agriculture Committee’s per parcel fee would be \$25 for parcels up to 25 acres, plus \$1 for every acre over 25, except for forest lands. The proposal under discussion on Thursday in Senate Agriculture would not apply the per parcel fee to any property tax-exempt properties. Rather it would mandate the billing and collection of the fee by municipalities on their property tax bills although the President of New England Municipal Resource Center (NEMRC) testified via telephone to that committee that NEMRC could do the billing for the Department of Taxes, thus taking that responsibility off the backs of municipal officials.

Urge your Senators to support state or NEMRC billing and collecting of a per parcel fee.

Transportation. Yesterday, the Transportation bill, [H.488](#), passed the House by a vote of 138 to 3. (See

[Weekly Legislative Report No. 11](#) and budget table line items on page 6.)

Same-Day Voter Registration. Also yesterday, the Senate gave preliminary approval to [S.29](#), the bill providing for election day voter registration. (See [Legislative Report No. 11](#).) The effective date of the legislation was amended from April 1, 2016, to January 1, 2017.

Guns. On Thursday, the Senate passed [S.141](#), a bill that relates to the possession of firearms. (See [Legislative Report No. 11](#).)

Open Meeting Law. On Wednesday, the Senate Government Operations Committee voted 5-0 for a very watered down version of the VLCT-supported Open Meeting Law amendments. (See [March 20, 2015 VLCT Legislative Update](#)). It is still uncertain whether the Senate Rules Committee will allow it to be acted upon by the full Senate for passage to the House, as the committee reported the bill out after the crossover date.

Education Reform. [H.361](#) as proposed by the House Education Committee (and proposed to be amended by the Ways and Means Committee as reported in [Weekly Legislative Report No. 11](#)) has now been approved by the House Appropriations Committee as well. Commencing Tuesday, it will be up for action by the full House. The only amendment offered by the last committee was to transfer the source of the \$300,000 funding from the General Fund to the property tax through the Education Fund for a legislative study of whether the state should change its Act 68 funding system “notwithstanding” the statute that says that “Upon withdrawal of funds from the Education Fund for any purpose other than those authorized by this section, 32 V.S.A. chapter 135 (education property tax) is repealed.”

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

Municipal Funding Priorities in FY 2016 Budget (in Millions), House Appropriations Recommend, H.490					
Budget Line Item	FY15 Approved	FY16 Governor's Recommend	House Appropriations Recommend	FY 16 House Approps. Recommend \$ Change from FY15 Final	FY 16 House Approps. Recommend \$ Change from FY16 Gov. Rec.
Homeowner Rebate – Municipal	\$15.72	\$18.20	\$18.20	\$2.48	\$0.00
Renter Rebate – Municipal	\$2.67	\$2.91	\$2.91	\$0.24	\$0.00
Current Use – Municipal	\$14.00	\$14.58	\$14.98	\$0.98	\$0.40
PILOT 0150 State Buildings ¹	\$5.80	\$5.80	\$6.40	\$0.60	\$0.60
PILOT – Montpelier ¹	\$0.18	\$0.18	\$0.18	\$0.00	\$0.00
PILOT – Corrections Facilities ¹	\$0.04	\$0.04	\$0.04	\$0.00	\$0.36
Special Investigative Units	\$1.67	\$1.68	\$1.68	\$0.01	(\$0.00)
General Fund Transfer to Education Fund ²	\$295.82	\$300.38	\$303.34	\$7.52	\$2.97
General Fund Support of Teachers' Retirement System	\$72.85	\$76.10	\$73.10	\$0.25	(\$3.00)
General Fund Support of Retired Teachers' Health Benefits	\$8.25	\$12.58	\$15.58	\$7.33	\$3.00
PILOT – ANR Lands	\$2.35	\$2.29	\$2.29	(\$0.06)	\$0.00
Town Highway Structures ³	\$6.33	\$6.33	\$6.333	\$0.00	\$0.00
Local Technical Assistance Program (a.k.a., Vt. Local Roads)	\$0.40	\$0.39	\$0.39	(\$0.01)	\$0.00
Class 2 Highway Paving and Rehabilitation	\$7.25	\$7.25	\$7.25	(\$0.00)	\$0.00
Town Bridge Grants ⁴	\$15.56	\$21.63	\$21.63	\$6.07	\$0.00
Town Highway Aid Program	\$25.98	\$25.98	\$25.98	\$0.00	\$0.00
Town Highway Aid Program – Class 1 Supplemental	\$0.13	\$0.13	\$0.13	(\$0.00)	\$0.00
State Aid for Nonfederal Disasters	\$1.15	\$1.15	\$1.15	\$0.00	\$0.00
State Aid for Federal Disasters	\$1.44	\$1.44	\$1.44	\$0.00	\$0.00
Municipal Mitigation Grant Program	\$0.87	\$0.65	\$0.65	(\$0.22)	\$0.00
Total Local Highway Aid	\$59.11	\$64.95	\$64.96	\$5.85	\$0.01
TOTAL	\$478.46	\$499.69	\$503.66	\$25.20	\$4.33

1. Figures for all years are all from local options tax sharing and no state monies.
2. 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.
3. 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.
4. Includes state and federal aid only, no local match.