



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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House Passes Watered-Down Education Bill

On Thursday, the House gave its final approval to [H.361](#), a bill which started out as the vehicle attempting to bend the curve of state education property tax increases. As passed by the House, it will still only be through the immense effort of school boards and local voters that such savings in state property tax bills will be achieved. There are spending caps, but only if statewide school spending increases exceed 2.95 percent annually, despite school enrollment numbers continuing to decline. The caps would not even kick in until the 2018 school budgets.

H.361 calls for a new layer of school governance called "integrated education systems" that need to be formed from enough school districts to total at least 1,100 students in prekindergarten through grade 12. Currently, only 15 Vermont school districts are that large. The "preferred structure" for this new layer would be an "Education District, which is [a] supervisory district ... that is responsible for the education of all resident prekindergarten through grade 12 students," but a single school district to deliver actual education to all those students isn't required, and there are many exceptions. If the voters of any districts required to consolidate haven't approved a plan to become part of an integrated education system by November 30, 2017, the Secretary of Education will propose how those districts would be folded into integrated systems. That proposal would be approved in some form by the State Board of Education by September 1, 2018. Towns officials worried about whether their particular district is subject to this "realignment" effort should contact the Vermont School Boards Association to learn of its fate.

The best that the Joint Fiscal Office (JFO), which is charged with the unenviable task of trying to show if there will be any savings at all to property taxpayers as a result of these mergers, could do was to state that "*if* efficiencies achieved through consolidation enabled districts to collectively increase the State's average pupil-to-staff ratio from 4.7 to between 4.8 and 4.9, education spending could be reduced by \$32 to \$54 million annually." (Emphasis added; note that it's a big "if.") What JFO doesn't say is that if schools districts as they exist today could accomplish the same reduction in their workforce, they could save the same amount of money; nor does JFO state the likelihood of the mergers actually accomplishing such savings if they go through.

Meanwhile, grants subsidizing the continued operation of very small schools are continued through June of 2019 and are still available to a limited number of such districts even beyond that date. This provision was approved by the House during the same week that the Vermont Department of Education released a study titled "[When is Small Too Small? Efficiency, Equity and the Organization of Vermont Public Schools](#)" that shows that "consolidation of very small districts and schools as

exist in Vermont can lead to long-run cost savings, as well as improved equity in access to curricular and co-curricular opportunities.” Also continued but scaled back is a “hold-harmless” provision which protects districts from the impacts of rapidly declining enrollment.

H.361 does beef up incentives for districts to voluntarily join together to create these integrated education systems, including merger support grants, tax rate incentives, and building construction grant repayment forgiveness.

As mentioned above, the House-approved school spending caps won't be triggered until the year following a year in which the total education spending statewide exceeds 2.95 percent – the percentage of school spending that went up this year in budgets approved in March. That increase still resulted in an increase in state education property taxes of \$16 million, an increase that can continue even as the number of students being educated continues to drop. The bill only authorizes the caps to be imposed (if triggered) for fiscal years 2018 and 2019.

The bill sets the state education property tax rates for school budgets already voted at town meeting this year. The base homestead education property tax rate will remain unchanged from last year at \$.98. The base rate on household income will rise from 1.8 percent to 1.94 percent. Both of these rates are adjusted by school district spending levels per student – an average of 54 percent higher than those base rates. JFO projects those actual average rates (before being further adjusted by the individual municipality's common level of appraisal for the property tax rate) will be \$1.51, up one cent from last year. The households paying on income will see the average rate rise from 2.76 percent of household income to 2.99 percent. The House-passed bill also increases the nonresidential state property tax rate by one penny to \$1.525.

In previous *Reports*, we reported to you that the original version of H.361 contained a “hard” spending cap on school budgets: [if a town approves a budget] *that is 2.0 percent in excess of the equalized per pupil education spending amount adopted in the previous year's budget, then the budget shall be deemed to have failed to pass.* That raised several concerns from school officials: e.g., high spending towns could actually increase their budgets (measured by the increase in dollars per pupil) more than districts that had already restrained spending; and small schools facing a major expense increase are less able to absorb those when expenses are measured on a per pupil basis. Given that the number of students statewide continues drop (despite the addition of many new “pre-kindergarten” children being added to the definition of “equalized pupils” due to the new state mandate on school districts to provide such services), the two percent cap on a per pupil basis would have meant that the statewide total education spending would be something less than two percent a year for the time such cap was in place (proposed for the school fiscal years of 2017 through 2019).

The House-passed version of the bill tries to address those concerns. Like any effort to infuse fairness into the statutes, it is more complex. The cap is still two percent, but it now (1) is the greater of a two percent increase in total education spending of the district or its spending per pupil and (2) is now adjusted to reflect its current level of spending per pupil. Districts with declining enrollment could increase their total education spending (not their total school budget, but that's an explanation for another time) by two percent (adjusted as detailed below) and be within the cap. Districts which are growing in the number of students served could increase their spending by the cap on a per pupil basis.

The two percent cap is adjusted by the “district spending index,” defined in the amendment as “a district's education spending per equalized pupil in the prior year, divided by the statewide average education spending per equalized pupil in the prior year.” For example, let's say that the statewide spending per pupil is \$14,000. A district spending \$15,000 is seven percent higher than the average. By dividing two percent by 1.07, you get a spending cap of 1.867 percent. The district could then spend the greater of an increase of 1.867 percent in its total education spending or its per pupil spending. The Joint

Fiscal Office estimated that if the spending cap as proposed were in effect for the school budgets voted this year, the most they could have increased statewide was 3.1 percent – coincidentally, just over that trigger point included in the bill.

Also as we have previously reported, the bill changes the mechanics of how the state homestead tax rates necessary to support spending are calculated – it doesn't lower or increase the actual amount of property taxes to which people will be subjected – and changes the way the school board needs to present its budget article to the voters. One change of note in the final version of the House-passed bill is how the legislature is supposed to treat “unfunded state mandates.” In the original bill, the legislature couldn't even consider any bill that increased the education property tax rate (unless it wanted to and put the words “notwithstanding what we said before” in front of the new mandate). The final version requires that the legislature appropriate from the General Fund “the total dollar amount required for supervisory unions and school districts to perform all new unfunded mandates imposed upon them.” The term “unfunded mandate” is defined as “a State statute or rule that requires a supervisory union or school district to perform certain actions for which no new source of funding or funding mechanism is provided.” Perhaps that will prove to be an obstacle to the unceasing efforts to pass more and more costs onto the property tax.

The VLCT Board of Directors had voted to support the original version on H.361. It will be meeting on Thursday, April 9, to consider what its position is on this revised version as it heads to the Senate for its consideration. It is hard to see any kind of property tax relief coming from H.361 in its current form, certainly not within the next three or four years. Municipal officials concerned with the lack of movement to control state property taxes should let their senators know what they need to do.

Contact Steve Jeffrey at 1-800-649-7915 or sjeffrey@vlct.org.

Water Quality Bill Passes the House

[H.35](#), the bill to clean up and preserve the waters of the state, passed the House on Thursday by a vote of 133 to 11, with five representatives absent. The bill next goes to the Senate Natural Resources and Energy Committee, which has been working on its own version of legislation, [S.49](#), over the past several weeks.

As was mentioned in Wednesday's [Legislative Alert](#), H.35 would create a new permit to apply to all municipal highways, with annual permit fees of \$2000 per municipality to support state administration, education, and enforcement. The Agency of Transportation's [Better Back Roads Program](#) estimates up to 75 percent of all roads in Vermont need erosion control improvement.

The bill would require permits for any size impervious surface that the Secretary of the Agency of Natural Resources determines is appropriate and require maintenance of pre-development runoff characteristics “as nearly as possible.” Impervious surfaces within municipal borders include sidewalks, parking lots, and rooftops. Municipalities will have to reduce erosion along stream banks within their borders.

H.35 would eliminate the existing statute that requires the Department of Environmental Conservation (DEC) to pay for 100 percent of the capital costs to reduce phosphorus discharges from wastewater treatment facilities.

H.35 would add adherence to policies and actions in DEC basin plans to the list of goals in 24 V.S.A. Chapter 117 that regional plans must address. The bill would double existing fees, institute new fees, expand fees to municipalities, and change the methodology for calculating fees. The fees would raise approximately \$1.5 million in additional revenues in FY16 to pay for 13 new DEC positions. Much if not most of that cost will be borne by municipal property taxpayers and sewer and water system users. All

those fees are in the bill as it passed the House.

DEC estimates that, in addition to current funding, it will need:

- \$4.1 million for agriculture grants, staffing for DEC, Agency of Agriculture, Food and Markets, and Ecosystem Restoration grants in FY16.
- \$1.8 million for capital projects and \$360,000 for Agency of Transportation staffing in FY17.
- \$7.4 million in FY18.
- \$7.7 million in both FY19 and FY20.
- \$6.8 million in FY21.
- \$5 million in FY22.

H.35 would capitalize a Clean Water Fund to pay to implement projects with a “Clean Water Surcharge” of 0.2 percent on the property transfer tax, excluding the first \$100,000 of property value for primary residences and the first \$110,000 for Vermont Housing and Finance Agency loans, raising an estimated \$5,700,000 in new revenue in FY16. The surcharge would sunset on July 1, 2021. In the first three years of the fund, assistance to municipalities for complying with water quality requirements would be prioritized. H.35 would include a report on establishing fees based on parcels or impervious surfaces and addressing collection of those fees by January 15, 2016.

A Senate Agriculture Committee version of S.49 includes a per parcel fee instead of the property transfer tax to raise the money needed to capitalize the Clean Water Fund. It would exempt from the per parcel fee all tax-exempt properties. It would also require municipal billing and collection, despite testimony from the President of the New England Municipal Resource Center that his organization could bill and collect the per parcel fee for the Department of Taxes, which would be an elegant solution to concerns from both that department and local officials. The bill also includes the fees on municipalities.

Tell your senators that municipal budgets have already been passed and they did *not* include new permit fees payable to DEC for 13 new staff members. Tell them that, at the very least, requirements for municipalities to have to pay new and increased permit fees should be delayed by one year. Legislators also need to understand that leaving intact the statute that requires the DEC to pay all of the cost of phosphorus removal infrastructure at wastewater treatment plants means those funds would be included in capital bills, as is the case now, and which is an arrangement that works well.

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

Capital Bill Seeks House Approval

On Thursday, the Capital Bill, [H.492](#), passed second reading by the full House. The bill is expected to win final approval today.

Unlike the Transportation Bill or the Appropriations Bill, the Capital Bill appropriates dollars on a two-year timeframe. The bill would authorize \$158,659,861 in spending. However, no more than \$85,363,028 would be appropriated for projects in FY16. The remainder would fund projects in FY17 and allow for adjustments based on the spending that actually takes place in the first year. In this way the Senate Institutions committee and House Corrections and Institutions Committee have been able to smooth out project expectations and spending.

H.492 would authorize the issuance of general obligation bonds in the amount of \$144 million. In addition, reallocations of other money from previous capital budgets, sales of land, and like sources, equal \$3,100,765; unissued bonds from 2014 equal \$11,559,096.

\$144,000,000	General Obligation Bonds
3,100,765	Reallocations and Transfers
<u>11,559,096</u>	2014 Unissued Bonds
\$158,659,861	Total Authorized Spending

The House Corrections and Institutions Committee was very attentive to the need for capital dollars to finance stormwater infrastructure projects in the next two years (and in the future). For many years the committee has also made it a priority to leave no federal pollution control revolving loan fund dollars on the table, making every effort to provide the match required to use all of Vermont's allocation. The statute, 24 V.S.A. § 4753, authorizes ten revolving loan funds for various aspects of pollution control planning and construction, drinking water planning, construction, source protection and emergencies, solid waste planning and facility construction, wastewater, and potable water design and construction.

Projects eligible for pollution control revolving loan fund money include upgrades to wastewater treatment facility processes and units or refurbishment, increases in capacity at those facilities, combined sewer flow abatement, new facilities, stormwater treatment, improvements to reduce infiltration and inflow to collection systems, and on-site sewage systems.

The Department of Environmental Conservation Ecosystem Restoration Program, another cornerstone of stormwater management efforts, is also funded out of the capital budget. The program acts to reduce sediment and nutrient pollution, such as algae blooms that cause phosphorus, from runoff into streams and rivers.

In FY16, the \$4.8 million authorization to the Vermont Housing and Conservation Board (VHCB) includes directions to use at least \$1.5 million for water quality improvement projects. And in FY 2017, the \$2,800,000 for VHCB should include \$1 million in water quality improvement projects.

A new provision in H.492 would allow loan forgiveness under certain circumstances for engineering and design costs associated with a drinking water state revolving loan fund undertaken on behalf of a household that was involuntarily disconnected from a water supply system.

H.492 would also allow for a loan to be repaid with a municipal bond of up to 30 years or the projected useful life of a project – whichever is less – except for certain potable water supply loans.

A table with authorizations for the capital bill that affect local governments is on page 7.

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

Planning Bill on House Floor

This week, the State House has seen much activity on tremendously complex and potentially expensive legislation. One such bill is [H.367](#), a planning bill that the House Natural Resources and Energy Committee sent to the floor. The House gave preliminary approval to the bill yesterday, and final approval is expected today.

H.367 would require municipal plans to be adopted or re-adopted within ten years instead of five years, as current law requires. Local officials strongly support this particular initiative.

The bill would provide for a regional planning commission (RPC) to consult with its member municipalities twice over a ten-year period instead of over eight years, as is now the case. Under current law, the RPC confirms that a municipality is engaged in a continuing planning process that is consistent with the planning goals established in Chapter 117 of Title 24. H.367 would mandate a new consultation and reporting system for assessing progress in plan implementation.

Although not clear in the bill, it seems the above referenced consultation needs to take place at the five-year mark. H367 would require the RPC to consider (and presumably determine) whether or not a municipality is implementing its plan as part of the new interim review process. “In order to retain confirmation of the planning process, a municipality must document that it has reviewed and is actively engaged in a process to implement its adopted plan” with an interim report. The report is to include any amendments, the status of the plan’s implementation program, and a proposed timeline for the next plan amendment.

The RPC would confirm that a municipality has undertaken actions to implement the plan by considering activities of local boards and commissions with respect to preparation or adoption of bylaws and amendments, capital budgets, supplemental plans or other actions, programs, or measures undertaken or scheduled to implement the adopted plan. The sanctions in current law for plans that are not confirmed would also apply to the interim consultation process. According to current law, if the RPC doesn’t approve the municipal planning process, (1) the municipal plan will be subject to review by the Commissioner of Housing and Community Development for provision of affordable housing; (2) state agency plans don’t need to be compatible with the municipality’s approved plan; (3) the municipality may not levy impact fees; and (4) the municipality will not be eligible to receive additional funds from the municipal and regional planning fund.

When the municipal planning commission goes to readopt its plan at the ten-year mark, it would need to:

- consider its interim report,
- engage in community outreach and involvement,
- consider consistency both with the state planning goals and required plan elements, and with the plan’s elements, goals, objectives, and community standards,
- address compatibility with the regional plan, and
- establish a program for implementing the plan.

All statutes that currently dictate the responsibilities of the planning commission remain in effect.

The bill would take effect for plans adopted or re-adopted after July 1, 2015.

Local officials testified that a ten-year horizon for adoption or re-adoption of municipal plans would enable planning commissions – which are made up of volunteers – to work on implementing plan priorities or focus on particular elements, such as resiliency in the face of flooding, implementing stormwater management projects, or developing clear community standards for siting of energy facilities. By requiring something like RPC approval of implementation efforts and reports on progress in implementing plans, H.367 relieves municipal workloads in one area while increasing them in others.

Assuming final passage by the House today, H.367 will mostly likely move to the Senate Natural Resources and Energy Committee for consideration and action. Local planning officials should urge their senators to eliminate the new additional authority of RPCs to confirm municipal planning processes as part of an interim review. Rather, the legislation should ensure that a collaborative “check-in” and conversation between the RPC and the local board is held to address areas where municipalities are doing well and areas where RPC assistance at the local level would be welcome.

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CAPITAL BILL TWO-YEAR (FY 2016-2017)¹

Agency/Department	Line Item	Passed in 2013 FY014-FY15	Governor Recommend FY16-FY17	House Passed FY16-FY17
Dept. of Taxes	Orthophotographic Mapping	200,000	250,000	250,000
Agency of Commerce and Community Development	Historic Preservation Grants (1:1 match)	450,000	0	400,000
	Human Services and Educational Facilities Grants	450,000	0	400,000
	Recreational Facilities Grants	450,000	0	400,000
	Historic Barns, Ag. Grants (1:1 match)	450,000	0	400,000
	Cultural Facilities Grants (1:1 match)	450,000	0	400,000
	Regional Economic Development	450,000	0	400,000
Department of Education	State Aid for School Construction	17,116,080	4,057,688	3,975,500
	Construction Aid for District Consolidation	0	3,000,000	300,000
Agency of Natural Resources	Clean Water State/EPA Revolving Loan Fund Match	2,681,600	2,600,000	2,600,000
	Pownal Wastewater Treatment Facility	530,000	530,000	530,000
	Municipal Pollution Control Grants ²		0	392,258
	Water Supply Revolving Loan Fund	4,100,000	4,288,834	4,288,834
Ecosystem Restoration Program	Ecosystem Restoration and Protection Grants	4,323,732	7,500,000	7,500,000
	Waterbury WWTF Phosphorus Removal	3,440,000	379,929	379,929
	Dam Safety and Hydrology	400,000	1,288,580	1,288,580
Agency of Agriculture, Food and Markets	Best Mgmt Practices on farms and Conservation Reserve Enhancement Program	1,200,000	3,200,000	3,552,412
Rural Fire Protection Taskforce	Dry Hydrant Program	200,000	250,000	250,000
Vermont Housing and Conservation Board ²			5,600,000	7,600,000
1. Generally, half of the two-year capital bill funds are allocated in year 1 and half in year 2. 2. Items were reported differently in 2013-2014 bill.				