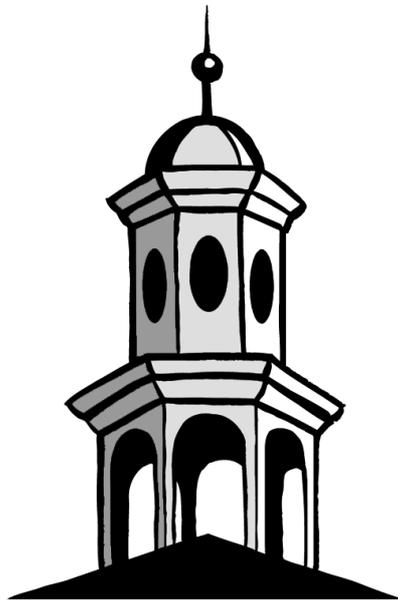


# HANDBOOK FOR VERMONT MUNICIPAL TREASURERS



**VERMONT LEAGUE  
OF CITIES & TOWNS**

---

Duties and Responsibilities  
2002



Vermont League of Cities and Towns  
89 Main Street, Suite 4  
Montpelier, VT 05602-2948

(802) 229-9111, telephone  
(800) 649-7915, toll-free  
(802) 229-2211, fax  
info@vlct.org, email  
www.vlct.org, world-wide web

### On-line Handbook Notice

This handbook is an on-line publication of the Vermont League of Cities and Towns Municipal Assistance Center.

Please be aware that the electronic versions of VLCT handbooks are not exact reproductions of the paper versions. Page numbers may have changed. Use the Bookmarks or the PDF search function to find information. If printing, use the page numbers from the PDF navigation at the bottom of the screen – not the numbers from the physical paper version.

Subject to the copyright provisions outlined below, this handbook can be downloaded and saved (open and “save as”) onto individual computers to facilitate faster access and convenience. Once a handbook is saved to an individual computer, on-line time will be cut down and printing all or part of a handbook can occur on an as-needed basis.

Copyright © 2002 by the Vermont League of Cities and Towns. All rights reserved. Except as permitted under the Copyright Act of 1976, no part of this publication may be reproduced or distributed in any form or by any means or stored in a database or retrieval system without the prior written permission of the Vermont League of Cities and Towns; however, municipal officials in the state of Vermont are granted permission to store, reproduce and distribute this publication for official use.

# TABLE OF CONTENTS

<b>INTRODUCTION</b> .....	v
<b>I GENERAL INFORMATION</b>	
A Role of the Treasurer .....	1
B Election .....	1
C Term of Office .....	2
D Vacancy in the Office .....	2
E Incompatible Offices.....	2
F Notice to State Treasurer .....	2
G Oath of Office .....	2
H Official Bond .....	3
I Assistant Treasurer.....	3
J Neglect of Duty, Wrongful Acts, Lawsuits .....	3
K Compensation .....	4
L Social Security Withholdings .....	4
M Vermont Municipal Employees' Retirement System .....	5
N Benefits .....	5
O Office Hours and Access to Records .....	6
P Fundraising .....	7
<b>II RELATIONSHIP WITH OTHER TOWN OFFICES</b>	
A Overview.....	8
B Relationship with the Selectboard .....	8
C Treasurer as Tax Collector; Relationship with Tax Collector .....	11
D Treasurer as CDT; Relationship with the CDT.....	12
E Relationship with Town Clerk.....	13
F Relationship with Town Auditor .....	13
G The Town Report .....	14
H Relationship with Cemetery Commissioners.....	15
I Relationship with Water Commissioners.....	16
J Relationship with Sewer Commissioners .....	17
K Relationship with Appointed Commissions and Committees .....	17
L Relationships with Trustees of Public Funds, Trustees of Public Money .....	17
M Relationship with Bookkeepers and Finance Officers.....	18
N Relationship with Town Manager.....	18
O Relationship with Libraries.....	18
<b>III FUNDS</b>	
A Town General Fund .....	20
B Town Highway Fund .....	20
C School Funds.....	20
D Special Funds	
1 Reserve Funds.....	20
2 Sinking Funds .....	20
3 Trust Funds .....	21

4	Cemetery Funds .....	21
5	Library Funds.....	21
6	Enterprise Funds .....	21
<b>IV</b>	<b>SIGNING ORDERS/PAYING SALARIES</b>	
A	Who Can Sign Orders and Warrants?.....	22
1	Cemetery Commissioners .....	22
2	Trustees of Public Lands.....	23
3	Water Commissioners .....	23
4	Sewer Commissioners.....	24
5	Library Trustees .....	24
6	Fire Districts.....	25
7	Board of Tax Abatement.....	26
B	Who May Sign Checks if the Treasurer’s Office is Vacant?.....	26
C	Duty to Pay Officers; Insufficient Funds .....	26
D	State and County Taxes .....	27
E	Salaries, Stipends, Overtime .....	27
F	Purchasing Policies and Purchase Orders	
1	Purchasing Policy.....	27
2	Purchase Order System .....	28
<b>V</b>	<b>SOURCE OF REVENUE</b>	
A	Taxes.....	30
B	Payment in Lieu of Taxes .....	30
C	Grants .....	31
1	Single Audit Act .....	31
D	Rental of Town Property.....	32
E	Trust Funds .....	32
F	Trustees of Public Money .....	32
G	Investments .....	33
H	Arbitrage .....	33
1	Arbitrage Requirements .....	33
I	Fees and User Fees.....	34
J	Re-Appraisal Money from State .....	34
K	Copies of Documents .....	34
L	Property Transfer Tax .....	35
M	Rabies Control Program.....	35
N	Fines and Impoundment Fees .....	36
O	Permits .....	36
P	Impact Fees .....	36
Q	Special Assessments .....	36
R	Enterprise Funds .....	37
1	Water and Sewer Systems.....	37
2	Recreation Programs .....	37
3	Housing Authority .....	37
S	Revolving Loan Funds.....	37
T	State Aid for Highways.....	38

U	Local Option Tax .....	38
V	Emergency Management Funds.....	38
W	Fundraisers.....	39
<b>VI</b>	<b>SCHOOL DISTRICT TREASURERS</b>	
A	General Law.....	40
B	Town Treasurer as School District Treasurer .....	40
C	Property Taxes for Schools.....	40
D	The Treasurer and the School Board .....	42
E	Arbitrage .....	43
F	Special Education Funding .....	44
G	Deficit at the End of the Fiscal Year.....	44
<b>VII</b>	<b>TREASURER and UNION SCHOOL DISTRICT</b>	
A	General Law .....	45
B	Officers .....	45
C	Vacancies .....	45
D	Powers, Duties and Liabilities; Bonding .....	45
E	Budget .....	45
F	Books and Papers to an Officer's Successor.....	46
G	Expenses and Budget .....	46
H	Member District's Obligation to Pay the Union District .....	46
I	Bonds and Other Debt.....	46
<b>VIII</b>	<b>FINANCIAL RECORDS</b>	
A	What is GASB?.....	47
B	Responsibility of the Treasurer .....	48
C	City Accounts.....	49
<b>IX</b>	<b>TAXES</b>	
A	Record of Taxes Voted .....	50
B	Tax Appeals .....	50
C	Tax Abatement.....	51
D	Interest on Overdue Taxes .....	52
E	Discounts for Early Payment .....	52
F	Penalty for Delinquent Payment .....	53
G	Tax Bills.....	54
H	Current Use Program .....	55
I	Local Option Taxes .....	55
J	Warrants for Delinquent Taxes .....	55
K	Payment of Taxes by Credit Card.....	56
L	Tax Exemptions .....	57
M	Glebe Lands .....	57
N	The Absconding Delinquent Taxpayer .....	58
O	The Tax Year .....	58

<b>X</b>	<b>BUDGET</b>	
	A Development of the Budget .....	59
	B School Budget and General Laws .....	59
	C Town Budget and General Laws.....	60
	D Highway Budget .....	60
	E School Budget.....	61
	F Budget Deficit.....	61
	G Budget Surplus.....	62
	H Explaining the Budget.....	62
	I Capital Budget .....	63
	J Calendar year versus Fiscal Year Budgeting	
	1 Pros and Cons of Fiscal versus Calendar Year .....	63
	2 How to Change .....	64
<b>XI</b>	<b>BORROWING</b>	
	A Bonding.....	66
	B Short Term Borrowing without Bonding.....	67
	C Borrowing in Anticipation of Taxes	
	1 Municipal Corporations – General Law .....	67
	2 School Districts.....	67
	D Borrowing when No Budget has been Adopted .....	68
	E Town and School District Borrowing from Each Other .....	68
	F Tax Increment Financing .....	68
	G Lease Purchase.....	69
<b>XII</b>	<b>TREASURER OF THE SUPERVISORY UNION</b>	
	A Election; Term of Office.....	70
	B Removal from Office .....	70
	C Compatible Offices; Bonding .....	70
	D Duties .....	70
	E Audits.....	70
<b>APPENDICES</b>		
1	Municipal Officials’ Table of Authority.....	71
2	Chart of Incompatible Offices .....	75
3	Technical Resources .....	77
4	Trustees of Public Funds/Public Money .....	81
5	Sinking Funds and Reserve Funds .....	83
6	Overview of Grant Application Process .....	85
7	“When is it permissible for a town to act as a commercial entity?” .....	91
8	Open meeting and public records laws narrowly construed .....	91
9	GASB 34.....	93
10	Internal Controls Checklist for Town Government Financial Officers .....	99
	<b>INDEX.....</b>	<b>103</b>

## INTRODUCTION

Welcome to the world of the municipal treasurer! If you are a treasurer, you know that the job has many facets, and that how well you fulfill the responsibility you have assumed is key to the well being of your community.

The Vermont League of Cities and Towns (VLCT) is pleased to introduce this first edition of the *Handbook for Vermont Municipal Treasurers*. Its purpose is to provide municipal treasurers with a comprehensive guide to their positions in a format that is easily referenced so as to find answers as specific questions arise. Its focus is on the statutory role of the municipal treasurer in Vermont. Accordingly, it summarizes the important Vermont statutes that define the treasurer's responsibilities and legal role in Vermont municipalities. The handbook also addresses questions that arise relating to the treasurer's relationship with other local officials.

Subjects are arranged according to issue areas. The appendices include additional sources of information, such as an internal controls checklist for town government financial officers that was developed by the State Auditor's Office.

VLCT is aware that there are numerous technical and accounting issues that the municipal treasurer must know in order to fulfill the requirements of his or her position. While this handbook touches upon some of these issues and provides references for finding information to address them, its focus is *not* on technical and accounting issues.

VLCT would like to thank Libby Turner for her extensive work in drafting this handbook. As always, she did a terrific job.

Reasonable efforts have been made to insure that the information provided herein is accurate and complete. However, VLCT makes no warranty, express or implied, or representation that such information is suitable for any particular purpose or may be relied upon for any specific act, undertaking or course of conduct.

We hope that this handbook will be a source of information for those who currently hold the office of treasurer or who might seek the office in the future, and also for any citizen interested in the intricacies of the position of the municipal treasurer.

Karen B. Horn  
Director, Membership & Legislative Services  
VLCT  
November 2002

## **I. GENERAL INFORMATION**

### **A. ROLE OF THE TREASURER**

The town treasurer plays a vital role in Vermont municipal government. The town treasurer is a key player in keeping the town's financial accounts, investing town money, keeping a record of the taxes voted and paying the bills when orders to do so are properly submitted. An equally important role is the largely unwritten one of interacting with other town officials to insure that the town finances run smoothly. When the local school district does not elect its own treasurer, the town treasurer also assumes the duties of treasurer of the school district. Put simply, the town treasurer handles the finances and keeps the accounts for the municipality.

A question that frequently arises with regard to the role of the treasurer is whether the treasurer is responsible for all funds allocated to and disbursed by the various departments and entities that exist within Vermont municipalities, including town libraries, cemeteries and water and sewer commissioners. As discussed in detail in this handbook, the general rule is that it is the treasurer's responsibility to account for and handle all town money. However, there are some gray areas when it comes to money allocated to the departments referenced above. See Chapter II for analysis of these legal issues and advice on how towns should proceed when such questions of authority arise. See also the Municipal Official's Table of Authority in Appendix 1.

### **B. ELECTION**

At the annual town meeting, the treasurer is elected for a one-year term, unless the town votes that he or she shall be elected for a three-year term. When the town has voted for a three-year term, that shall remain in effect until the voters decide by a majority of those present and vote to return to a one-year term. The only requirement for being elected to any local office in Vermont is that the person be a legally qualified voter in the town. 17 V.S.A. § 2646. There is no prerequisite that a candidate for the position of town treasurer have accounting or bookkeeping experience. However, such knowledge and experience is crucial for the town treasurer to perform the job effectively.

If the election is conducted by Australian ballot, it is subject to 17 V.S.A. § 2682, which provides that:

- if no person files a petition to run for the office, and if no one is elected by write-in for the office, the selectboard shall appoint a treasurer to serve until the next annual meeting.
- 30 votes or 1% of the registered voters (whichever is less) is required in order to be elected by write-in ballot.
- if there is a tie vote, a run-off election must be warned and held as provided in the statute. 17 V.S.A. § 2682.

### **C. TERM OF OFFICE**

An elected treasurer serves until the next annual meeting and until a successor is chosen. 17 V.S.A. § 2646. If no one is elected treasurer at town meeting, a majority of the legislative body of a town may appoint someone to serve as treasurer until the next town meeting. 17 V.S.A. § 2682(a). As noted above, at the annual town meeting, the treasurer is elected for a one-year term, unless the town votes that he or she shall be elected for a three-year term. 17 V.S.A. § 2646(3).

### **D. VACANCY IN THE OFFICE**

If a vacancy in the office of treasurer occurs because of resignation, death, insanity, or removal from town, the local legislative body shall arrange to have a new treasurer appointed or elected at a special meeting under the provisions of 24 V.S.A. §§ 961-963. There is no specific time frame for filling the vacancy, but the appointment must be made “forthwith,” which means immediately, or in a reasonable time, considering the circumstances. *Black’s Law Dictionary*.

### **E. INCOMPATIBLE OFFICES**

A treasurer may not be an auditor, selectperson or school director for the town. Neither the treasurer’s spouse nor anyone assisting the treasurer in his or her official duties may be the town auditor. A town manager cannot hold any elective office in the municipality in which he or she serves as manager. 17 V.S.A. § 2647. However, the above restrictions do not apply to towns that have fewer than 25 legal voters. 17 V.S.A. § 2648.

Town officers who have authority to draw orders on the town treasurer shall keep or cause to be kept a record of those orders. If an assistant clerk keeps that record, that assistant clerk shall not be the town treasurer, the wife or husband of the town treasurer or any person acting in the capacity of the town treasurer. 24 V.S.A. § 1622.

See Appendix 2 for a chart of incompatible offices.

### **F. NOTICE TO STATE TREASURER**

It is the responsibility of the town clerk to send the name of the town treasurer to the state treasurer on or before July 1 of each year. 24 V.S.A. § 1166.

### **G. OATH OF OFFICE**

Strangely, there is no requirement for the town treasurer to take an oath of office. However, a village treasurer “shall be sworn.” 24 V.S.A. § 1306. The general oath found in 12 V.S.A. § 5813 may be used. Note that “swear” may be replaced by “affirm” and “So help you God” may be replaced by “Under the pains and penalties of perjury.”

## **H. OFFICIAL BOND**

The treasurer and an assistant treasurer who has been appointed by the selectboard must each be bonded. If they also serve in those offices for the town school district, they must be bonded for those offices separately. 24 V.S.A. § 832. In contrast, if the assistant treasurer is appointed by the treasurer, no bond is required because the treasurer who appointed the assistant will be held responsible for the acts and omissions of the appointee. 24 V.S.A. § 1573.

The requirement for bonding also applies to treasurers of municipalities that have trustees (villages) and prudential committees (fire districts) under authority of 32 V.S.A. §4643. Treasurers of supervisory unions shall have bonds as set by the supervisory union board. 16 V.S.A. § 322. (See also Chapter XII, Section C.)

When officials are required to have bonds, the municipality must pay for the bonds. 24 V.S.A. § 835. The purpose of the bonding requirement is to protect the municipality from the possible wrongdoing or misappropriation of its officers. Accordingly, the selectboard often sets the bond at the amount of money that the treasurer is likely to have control over at any particular time. However, the board is not limited by statute as to the amounts in which the bonds may be set. As a result bonds may be set at as low as zero and as high as the board feels appropriate. If the officer fails to provide the required bond ten days after he or she is requested to do so, that office shall be deemed vacant. 24 V.S.A. § 832.

## **I. ASSISTANT TREASURER**

A town or city treasurer *may* appoint an assistant treasurer, for whose acts and omissions he or she will be held responsible. The treasurer also “may revoke any such appointment at any time.” 24 V.S.A. § 1573. That wording indicates that the appointee may be removed summarily, without cause and without a hearing or other due process.

The legislative body of a town or city may, by written request, direct the treasurer to appoint an assistant. If no appointment is made within 10 days, the legislative body may then appoint an assistant and may revoke that appointment at any time. 24 V.S.A. § 1573. Again, this may be a summary removal of the appointee without any need to show cause.

As noted above, if the treasurer appoints the assistant, no bond is needed, because the treasurer will be held responsible for any acts or omissions. But, when the legislative body appoints the assistant, a bond is required.

## **J. NEGLIGENCE OF DUTY, WRONGFUL ACTS, LAWSUITS**

When a lawsuit is brought against a town or school district treasurer, it must be brought in the name of the town or district. The municipality must pay the reasonable legal fees of the officer “when the officer was acting in the performance of his duties and did not act with malicious intent.” 24 V.S.A. § 901.

A treasurer may be fined not more than \$100 for failure to perform a lawful duty. 24 V.S.A. § 902. That could be interpreted to mean that a \$100 fine for failure to send out tax bills would really be \$100 per tax bill. So if the town had 1,000 tax bills, the penalty could be \$100,000. We are not aware of a situation where a municipal treasurer has been forced to pay such a fine. However, it is possible under the law for the fine to be imposed.

Twenty-four V.S.A. § 903 protects a municipal treasurer from liability for paying money out “in accordance with a vote of such corporation, whether such vote was valid or not.” The exact meaning of this is not clear, and there is no applicable case law to shed light on the full meaning and application of this provision. As worded, it appears to mean only a vote by the voters. (For example, the town votes at the annual meeting to give \$500 to community action.) However, it might be possible to stretch the language to mean a vote by the selectboard. (For example, the board votes/agrees to pay \$300 for clean-up of an illegal trash dump in town.) In any case, it may be used to provide some protection to the treasurer when paying a bill authorized by a warrant or order.

If the action or inaction of an official rises to the criminal level, he or she may be “imprisoned not more than one year or fined not more than \$1,000 or both.” 13 V.S.A. § 3006. (Oddly, this statute applies to officials of towns, villages and school districts but not cities.) The same penalties may be imposed when a member of a board or commission willfully neglects his or her duty. 13 V.S.A. § 3007. For example, a treasurer serving on the board of tax abatement could be prosecuted for criminal neglect of duties arising from board decisions.

## **K. COMPENSATION**

Ordinarily, the town votes to compensate the treasurer with a salary of a specific amount. 24 V.S.A. § 932. If the voters fail to set a salary, the selectboard may set the treasurer’s compensation. 24 V.S.A. § 933. Note: If the treasurer is also the collector of current taxes, he or she is entitled to be paid the collection fee of one percent of all taxes paid, computed on actual cash receipts after deduction of discounts, unless the town by vote fixes his or her compensation otherwise. 32 V.S.A. § 1672.

## **L. SOCIAL SECURITY WITHHOLDINGS**

Social Security must be withheld from a municipal treasurer’s compensation. For questions concerning Social Security withholding requirements *for municipal employees and officers only*, call the Retirement and Social Security Division of the Vermont State Treasurer’s Office at (800) 642-3191. You may also contact the IRS at 315-793-8171.

## **M. VERMONT MUNICIPAL EMPLOYEES’ RETIREMENT SYSTEM**

Participation in the Vermont Municipal Employees’ Retirement System (VMERS) is required for all municipalities that:

- as of June 30, 1975, did not have in effect a retirement plan other than Social Security; and
- had voted prior to June 30, 1975 *not to participate* in VMERS.

Elected treasurers of towns that participate in VMERS are required to be members of VMERS if they work 24 or more hours per week and 1,040 or more hours in a year.

Several different VMERS plans are available. Contributions and benefits vary depending on the plan. For more information concerning VMERS, contact the Vermont State Treasurer's Office at (802) 828-2305, or toll-free at (800) 642-3191. Another resource is the VMERS Board of Trustees' informational booklet.

## **N. BENEFITS**

There is no legal requirement that any employer, including a municipality, provide health coverage, pensions sick, leave, vacation time or other benefits associated with employment to employees or elected officials. It is up to each town to determine whether to provide benefits to all or some of its elected officials. As with all appropriations, the town may only provide benefits if the voters approve the expenditure for benefits as part of the budget adopted at town meeting.

In addition, under 24 V.S.A. § 1121(a) the selectboard may adopt personnel rules that address issues such as employee benefits. It is an open question of law whether or not personnel rules apply to elected officials because elected officials are not employees of the selectboard – they really answer to the voters.

VLCT's advice is that if the selectboard sets the salary for the treasurer, if money has been budgeted for health benefits for that position and if the personnel policy states that all town employees are entitled to certain benefits, the selectboard should provide these benefits to the elected treasurer. While no suit has been brought in Vermont on this issue, our sense is that courts would not look favorably on a town's decision to exclude elected officials from benefits that are accounted for in the personnel policy and provided for in the budget.

Because almost all treasurers are elected, certain benefits generally will not apply to them. For example, treasurers are not subject to sick leave or vacation requirements in town personnel policies. As elected officials, the treasurers serve at the pleasure of the voters and are not required to work any set amount of days or hours in a given term. If the voters are not satisfied with the quality or quantity of the treasurers work the remedy is for the voters to vote that treasurer out of office. Accordingly, if the treasurer is paid a salary that salary must be paid regardless of the amount of time a treasurer works in a particular week.

Certainly, treasurers that receive hourly wages have an interest in working set hours to ensure they will be compensated. However, hourly workers by definition are only paid for the time on the job. Accordingly, sick leave and vacation time does not apply in this situation either.

With regard to health benefits in particular, a municipal treasurer who works more than 17½ hours a week may be eligible for health, life or disability insurance coverage through VLCT's Health Trust. If the municipality he or she works for is a member of the Trust, that town provides health benefits for employees and officials through the Trust. For more information,

call the Vermont League of Cities and Towns at (802) 229-9111 or (800) 649-7915, or Blue Cross/Blue Shield of Vermont at (802) 223-6131.

## **O. OFFICE HOURS AND ACCESS TO RECORDS**

No state statute mandates the office hours of a Vermont municipal treasurer. The treasurer, therefore, has the authority to set those hours, which are usually determined by the amount of work to be done. Because the treasurer is an elected official, like selectboard members, the selectboard members have no authority to mandate the hours that the treasurer must keep or how to perform the job. The treasurer is not an employee of the selectboard – although, as discussed in this handbook, it is essential for the effective running of town government for the treasurer and selectboard to work together.

In smaller municipalities, the treasurer may not even have regular office hours or a conventional office. In large municipalities there may be a bookkeeper or an accounting department in addition to the town treasurer.

Files and records maintained by the municipal treasurer are public records that are subject to the Vermont public records law. 1 V.S.A. §§ 315-320. In addition to the public records law, Title 24 requires that the treasurer's records be available for public inspection, upon proper request, at all reasonable hours. 24 V.S.A. § 1165.

Under Vermont's public records law, any person has the right to inspect public records and to request copies of them, sometimes for a fee and sometimes for the actual cost of the copy. Section 317 of the public records law defines public agency and public record. It should be read carefully, especially since public records are defined in the negative (i.e., they are defined as everything *except* a long list of "non-public" records). Some documents exempt from this law that may be in the custody of the treasurer are certain tax returns and related documents and information relating to personal finance.

When there is a question of whether or not to grant public access to a document, our advice is to get a legal opinion. You can contact your municipal attorney, or VLCT members may call our Municipal Law Center at 800-649-7915 to obtain a legal opinion. A person denied access to public records may take the case to superior court, where the court will review the request *de novo* (that is, the court reviews the case anew, without deference to the previous ruling). If the complainant prevails substantially, the court may assess attorney fees and litigation costs against the town.

## **P. FUNDRAISING**

It is common practice for certain town departments, such as town fire departments and town libraries, to engage in fundraising activities. While it is legal for town departments to fundraise, all money that is raised cannot be disbursed unless approved by a town official authorized to sign orders and unless a check is signed by the treasurer. Fundraising money is not taxpayer money raised through the budget – it is town money, raised by town departments on behalf of the town to provide town services. Because it is town money, it must be accounted for in the town report

and subject to all of the accounting and auditing requirements of other town funds. In general, town departments may not create their own accounts with fundraising money and spend it at will. (See discussion regarding cemetery commissions [II-H] and libraries [II-O] herein.) The departments are not separate legal entities from the town and as a result they have no independent legal authority to hold accounts and disburse money.

## **II. RELATIONSHIP WITH OTHER TOWN OFFICERS**

### **A. OVERVIEW**

As previously noted, the relationship between the treasurer and other elected and appointed officials and town departments is the source of confusion and debate in some Vermont municipalities. The VLCT Law Center is frequently asked:

- Must the town treasurer serve as the library treasurer?
- Must the town treasurer serve as the cemetery commission and water and sewer commission treasurer?
- Can the selectboard replace the treasurer with a bookkeeper?
- Can/must the treasurer release money if an order is signed by an authorized official, but the treasurer believes that the expenditure is illegal?
- What are the legal consequences for the treasurer if money is illegally disbursed?

This chapter will answer these questions and discuss the legal relationship between the treasurer and other municipal officials.

### **B. RELATIONSHIP WITH THE SELECTBOARD**

The duties and responsibilities of a municipal treasurer are defined by statute. As long as the treasurer maintains records that are lawful, clear and accurate from an accounting perspective, the selectboard does not have the power to require him or her to conform to the board's ideas or methods of record keeping. 24 V.S.A. § 872, Annotation 13 D.

Because the treasurer, like a selectboard member, is an elected official, the selectboard has no authority to remove or demote the treasurer if the board disagrees with the treasurer or is not satisfied with his or her performance. In Vermont, there is simply no legal mechanism for removing any local elected official, unless that authority is granted by municipal charter. Moreover, there is no authority for the town to vote to appoint rather than elect the treasurer (as it may do with a constable, for example).

Notwithstanding the lack of removal authority over local elected officials in Vermont, the selectboard does have options available to address concerns it may have regarding the town treasurer's performance. Some of the most common actions that selectboards take with regard to the town treasurer are listed below. But first, it's worth stating the obvious. The first step that the selectboard and treasurer should take if there is a disagreement is to meet to discuss the perceived problem. It has been our experience that, 99% of the time, both board members and treasurer have the best interest of the town in mind when they disagree on how town finances are managed. Often a meeting between the board and the treasurer can address concerns about methods and practices employed by the treasurer to manage town finances.

It is important to note that if the entire board meets with the treasurer, the meeting probably does not qualify for an executive session. Because the treasurer is an elected official and not a true town employee, the personnel action allowance for executive session would not apply. If the

board wants to address sensitive issues with the treasurer initially in private, it can appoint one member of the board to meet with the treasurer outside of a meeting. However, any action that the board may take with regard to the treasurer must occur at an open meeting. Of course if the town and treasurer are involved in a lawsuit or the board wishes to discuss a privileged communication from its attorney regarding the treasurer, the board would be authorized to go into executive session. As a general rule, always check with your town attorney or the VLCT Law Center before making any decisions with regard to executive sessions that involve an elected official.

If the issue is that the treasurer does not have the necessary tools to do the job, we recommend that the board offer appropriate assistance to help the treasurer perform his or her duties. If specific technical training is needed and desired, the Vermont Municipal Clerks and Treasurers' Association has a mentoring program and may be able to provide some assistance directly or make recommendations for outside professional help. Other references for training opportunities are listed in Appendix 3 of this handbook.

With the above in mind, following are the actions that may be taken by the selectboard that relate to the position of town treasurer:

1. The selectboard may by written request direct the treasurer to appoint an assistant. 24 V.S.A. § 1573. The purpose of hiring the assistant is to provide help to the treasurer on a routine basis with various accounting tasks as assigned by the treasurer. VLCT interprets the statute to allow the selectboard to appoint an assistant only if the treasurer has not appointed an assistant within 10 days of a request by the selectboard. If the treasurer hires an assistant on his or her own volition, it is the treasurer who chooses, supervises and may discharge the assistant. VLCT interprets the statute to allow the selectboard to choose who will be the assistant if it directs the treasurer to make the appointment and the appointment is not made by the treasurer. This issue is not clear in the statute and thus this is an open legal question that must be decided by the courts or addressed by the Legislature. However, it is clear that if the treasurer does not appoint the assistant as requested in 10 days the selectboard has the authority to make the appointment and revoke it at any time. Moreover, in VLCT's opinion under all circumstances it is the treasurer, not the selectboard, who assigns work to the assistant. This is also an open question of law.
2. The selectboard has the authority to hire a bookkeeper under its general responsibility for the affairs of the town. Some boards choose to hire a part-time or full-time qualified bookkeeper to take over routine accounting tasks performed by the treasurer such as:
  - compiling payroll data and preparing checks
  - preparing and mailing out tax bills
  - posting to journals or ledgers
  - reconciling individual account balances
  - compiling operational costs records and reports
  - operating computing, calculating, check-writing and other office machines
  - assisting in preparation of unit or departmental budgets and in maintaining budget control, and
  - assisting in preparation and issuance of vouchers and checks for state or federal grants.

This list is not intended to be all-inclusive and will vary from town to town. In addition, it is crucial to note that if the board hires a bookkeeper, the board may not force the treasurer to relinquish any of his or her statutory duties. Accordingly, if the treasurer refuses to cede any responsibility to the hired bookkeeper, there is nothing that the selectboard can do about it. As a result, hiring a bookkeeper is only truly successful if an agreement between the treasurer and board is reached. If the board insists on hiring a bookkeeper, even though the treasurer opposes it, all the bookkeeper may do is duplicate the treasurer's efforts in terms of tracking town finances.

3. The selectboard may require the treasurer to settle the town accounts with the town auditor at any time. 24 V.S.A. § 1578. The purpose of this action is to obtain an independent review of the state of town finances.
4. To express dissatisfaction with the treasurer, the selectboard may propose less money in the budget for the town treasurer's salary if the town sets his or her salary, or lower the salary if the town fails to set it. While it's an open question of law, VLCT does not interpret the law to allow the selectboard to adjust the treasurer's salary mid-year as a means of expressing its concern with the treasurer's performance. The statutes allow the board to set the treasurer's salary if the voters don't. 24 V.S.A. § 933. This indicates the board may set the salary once at the beginning of the year. To allow the board to adjust the treasurer's salary mid-year in response to performance would, in effect, treat the elected treasurer like an employee who is under the control and direction of the board. As previously noted, the treasurer is an independent elected official who is not required to answer to the board. Like all elected officials, the treasurer ultimately must answer to the voters.
5. The ultimate remedy that the selectboard may pursue if it is dissatisfied with the treasurer is to campaign against the treasurer's re-election. The board may also seek a one-year rather than a three-year term for the treasurer, if the town has previously voted to extend the treasurer's term to three years. 17 V.S.A. § 2646(3).
6. If your town has a governance charter, it may establish a different legal relationship between the treasurer and the selectboard. Accordingly, be familiar with your town's charter.
7. If your town has a manager form of government, the manager will have many of the responsibilities of the selectboard with regard to interacting with the treasurer. While the selectboard is still responsible for signing orders, the manager is responsible for the general affairs of the town. In addition, the manager is responsible for the accounting for town departments – although the treasurer still is responsible for maintaining the official town books. See 24 V.S.A. § 1236 for a complete list of the responsibilities of the town manager.
8. The selectboard can and should include money in the budget for the treasurer to attend trainings. Many of the treasurer's duties are technical and require training and continuing education to keep current with accounting and investment trends. VLCT recommends that all towns consider and budget for the treasurer's training needs each year.

The treasurer's primary function is to keep the accounts of the town (and school, if applicable) from the moment the money is collected to the moment it is paid out or invested. The treasurer may pay out money only on an order from the selectboard or other authorized officers. See Chapter IV for a detailed discussion of preparing and managing orders to disburse town money.

In addition, as the person responsible for accounting for town funds, the treasurer will play an integral role in:

- preparation of the annual proposed budget;
- preparation of a report of actual cash expenditures;
- short-term borrowing;
- application for/use of gifts and grants; and
- investment decisions.

### **C TREASURER AS TAX COLLECTOR; RELATIONSHIP WITH TAX COLLECTOR**

The town collector of current taxes may be elected or appointed. 17 V.S.A. § 2646 (8); 32 V.S.A. § 4799. There is no statutory reason that the treasurer cannot also serve as tax collector. If the town has a town manager, the voters may decide to have him or her act as tax collector. 24 V.S.A. § 1236 (10). Since the town manager cannot hold any elective office in the town or school district, the manager could not personally be elected to the office of tax collector, but would hold that office as part of the town manager position. 17 V.S.A. § 2647.

When the town votes to have its treasurer serve as the collector of current taxes, the proper officers (generally the selectboard) must make and deliver all tax bills to the treasurer. 32 V.S.A. § 4791. The treasurer must mail the tax notices to the taxpayers at least 30 days before the tax due date that was established by the voters. The notice must state when the taxes are payable, and must notify the taxpayer about any available prepayment discount. If the town did not vote a specific date for the payment of taxes, or if the treasurer does not mail the notice at least 30 days before that due date, the due date becomes 30 days from the date of mailing the notice to the taxpayers. 32 V.S.A. § 4792.

Although it is not a statutory requirement, it is a good idea to inform taxpayers if tax payments must be in the hands of the collector on the due date, or if a postmark of that date will suffice. VLCT recommends that the town specify in its vote at town meeting setting the tax due date whether taxes are due upon actual receipt or when postmarked, and up to what time of day taxes will be accepted. Tax due dates became an issue in many towns when mail was delayed as a result of the terrorist attacks of September 11, 2001. The best way to deal with this issue is to have the voters decide when taxes are deemed received. While in our opinion establishing such a policy is the purview of the tax collector, in the spirit of cooperation we recommend that the tax collector consult with the selectboard prior to establishing the policy. Finally, note that in our opinion tax abatement is not a proper remedy to provide relief to individuals penalized because their tax check was lost in the mail.

When the treasurer is not the collector of current taxes, the collector must turn the money over to the treasurers of the town and the school district when requested to do so by the selectboard. He

or she must also submit the tax book and list to the treasurer for examination. 24 V.S.A. § 1531. Annually, on or before February 1, the tax collector shall pay over all of the money collected to the town and school treasurers and settle the accounts with them. 24 V.S.A. § 1532. Both the treasurer and the collector of taxes shall keep a separate account of each tax bill, including endorsements of payments and abatements. 24 V.S.A. § 1580.

The treasurer must keep a record of the amount of taxes voted for highways, schools, special departments (if any) and the general fund. These amounts shall be taken directly from the tax bills if the treasurer is the tax collector and from the tax collector's receipts if the treasurer is not the tax collector. 24 V.S.A. § 1574.

When the treasurer is the collector of taxes, he or she must notify the director of the amount of delinquent taxes outstanding within 10 days of the date they were due. The director may also request other related information. 32 V.S.A. § 5165. The "director" here is the director of the Division of Property Valuation and Review. 32 V.S.A. § 3007.

#### **D. TREASURER AS COLLECTOR OF DELINQUENT TAXES; RELATIONSHIP WITH THE COLLECTOR OF DELINQUENT TAXES**

The treasurer may also serve as collector of delinquent taxes. Within 15 days of the date or dates on which taxes become delinquent, the treasurer must issue a warrant for the amount of unpaid taxes. 32 V.S.A. § 4793(a). (For example, if taxes are to be paid in two installments, due on August 15 and November 15, a bill must be issued for those unpaid on each date.) However, taxes do not become officially delinquent until after the final payment is due. Accordingly, interest may be charged after the first installment is missed if the voters approve the charging of interest, but penalties may not be levied until after the final installment is due. The voters may also vote to have the warrant issued in less than 15 days. 32 V.S.A. § 4793(b). The form of the warrant to be issued for collection of town and other taxes is found in 32 V.S.A. § 4913. When computing time for the warrant the term "days" means *calendar* days rather than business days. 32 V.S.A. § 4793(b).

In addition, after the final due date (Nov. 15 in the example above), the treasurer shall deliver to the collector of delinquent taxes a list of those taxes and the names of the delinquent taxpayers. The time limit here is 15 days (or less if the voters have so decided). 32 V.S.A. § 4874.

When the treasurer is also the collector of delinquent taxes, it may seem a little silly for the treasurer to issue notice of overdue taxes to him or herself. However, this is a statutory requirement and must be accomplished.

The treasurer must accept full payment of overdue taxes after the due date but before the warrant is issued, so long as the payment includes the collectors fee and accrued interest. This is done for the benefit of the collector of delinquent taxes, and the treasurer must turn over these taxes, fees and interest to the collector of delinquent taxes when the warrant is issued. 32 V.S.A. § 5142(b).

For more complete information on delinquent tax collection see VLCT's *Handbook for Collectors of Delinquent Taxes* (2<sup>nd</sup> edition, 1999).

VLCT cautions against having the treasurer (or anybody else) serve as both tax collector and collector of delinquent taxes. While such a practice is legal, if these positions are paid by fees collected it may create a perceived conflict of interest. The conflict is that by law if other compensation is not set, the tax collector receives 1% of all taxes paid and collector of delinquent taxes receives an 8% fee on all delinquent accounts. By naming the same person to both positions, it creates the potential for the appearance of a conflict.

## **E. RELATIONSHIP WITH TOWN CLERK**

There is nothing in the law that prohibits a person from being both municipal treasurer and clerk. In fact it is common to find one person performing both functions in many Vermont towns, although he or she must run for those two offices separately. 17 V.S.A. § 2456. In 1999, this was the case in almost 170 Vermont municipalities. Often the officer is referred to as the "clerk-treasurer." For more information on the duties and responsibilities of a town clerk, see the *VLCT Handbook for Municipal Clerks* (2<sup>nd</sup> edition, 2000) and the *VLCT Handbook for Vermont Town Officers* (2<sup>nd</sup> edition, 1999).

## **F. RELATIONSHIP WITH TOWN AUDITORS**

Every town officer must settle with the auditors at least 25 days before town meeting, even though the treasurer must also settle with the auditors *five* days previous to each annual town meeting. 24 V.S.A. §§ 992 & 1578. VLCT believes that the 25 day requirement is to ensure that all town officers settle before the end of the fiscal year and the 5 day settlement requirement is to ensure that the treasurer settles with the auditors in the event that the treasurer is not reelected at town meeting. If the treasurer refuses or neglects to settle with the auditors, he or she shall not be eligible for reelection. 24 V.S.A. §§ 992 & 1681. *Willful* neglect may result in criminal sanctions of a \$1000 fine, a year in prison or both. 13 V.S.A. § 3006.

In the case of the treasurer who is also treasurer of the town school district, he/she must settle the school district accounts 25 days before the annual school district meeting. 24 V.S.A. §§ 992 & 1681.

The audit that is mandated not fewer than 25 days prior to town meeting shall include:

- the account which the treasurer is required to keep with the [tax] collector;
- the tax accounts of the collector;
- trust accounts where the town or any town officer is trustee or where the town is the sole beneficiary;
- accounts related to town or town school district indebtedness; and
- accounts of any special funds in the care of any town or town school district official.

24 V.S.A. § 1681.

Notice for this meeting to conduct the audit must be posted or published 10 days in advance. The town auditors and the school board may agree not to do an audit of school accounts which have been audited by a public accountant. 24 V.S.A. § 1681.

In addition, the treasurer must settle with the auditors any time that the selectboard requires it and when the treasurer retires from office. 24 V.S.A. § 1578.

The auditors also have independent authority to order examination of the accounts under 24 V.S.A. § 1686. A treasurer “who *willfully* refuses or neglects to submit his books, accounts, vouchers or tax bills to the auditors upon request, or to furnish all necessary information in relation thereto...” is ineligible to run for reelection and shall be subject to other penalties – a fine of \$1000 or up to a year in prison or both. 13 V.S.A. § 3006.

Towns may vote to eliminate the office of auditor. 17 V.S.A. § 2651b. If the office is eliminated, the selectboard must contract with a licensed public accountant to perform the annual audit of books required under 24 V.S.A. § 1578. Therefore, the treasurer would have to settle the accounts with the public accountant instead of the elected auditors and the public accountant will then have the same authority as that of the elected auditors.

## **G. THE TOWN REPORT**

The auditors (or the selectboard, if the office of auditor has been eliminated) are responsible for issuing the annual town report, which must be distributed to the legal voters of the municipality at least 10 days prior to the meeting. 24 V.S.A. § 1682. The contents of the report must include:

- a detailed statement of the financial condition of the town;
- a detailed statement of the financial condition of the school district;
- a classified summary of receipts and expenditures;
- a list of all outstanding orders and payables more than 30 days past due;
- any existing deficit;
- the report and budget of the supervisory union as required by 16 V.S.A. § 261a (10); and
- such other information as the town shall direct.

24 V.S.A. § 1683.

The report should be prepared in accordance with generally acceptable accounting practices. See Chapter 8 for information on keeping financial records and the consequences associated with failing to follow generally acceptable accounting practices.

Note that the information in the town report is for the *fiscal* year. All school districts operate on a fiscal year July 1 through June 30. Other municipalities have a fiscal year of January 1 through December 30, unless the municipality votes otherwise. 24 V.S.A. § 1683 (b & c).

The question arises every year if the town report can include a list the names of delinquent taxpayers and the amounts they owe. There is no statute stating this with certainty, but 24 V.S.A. § 1683 (a) seems to assume that lists of delinquent taxpayers may be included, because it exempts certain military personnel from being listed as delinquents if they have notified the treasurer that they should not be listed or identified. Therefore, if the treasurer or collector of

delinquent taxes is asked to provide a list of delinquent taxpayers and their obligations for the purpose of being published in the town report, that list must not include any military personnel who are exempt under 32 V.S.A. § 4609 and who have notified the town in writing that they did not want to be listed.

## **H. RELATIONSHIP WITH CEMETERY COMMISSIONERS**

Generally, town cemetery matters are the responsibility of the selectboard. However, the voters may decide to put the town's public cemeteries under the charge of cemetery commissioners. 18 V.S.A. § 5373. That board then becomes responsible for the care and management of the town's cemeteries.

Monies received by the town for cemetery purposes shall be paid to the treasurer, unless the donor specifies that it be handled differently. The treasurer shall give a receipt for the money. The receipt shall be recorded in the town clerk's office, showing the amount received, the time, and the specific purpose the money is to be used for. 18 V.S.A. § 5384 (a). In VLCT's opinion, even if the donor directs that money be paid to someone other than the treasurer, the treasurer must still ultimately account for the money because it is public funds.

Money received by the cemetery commission may be invested by the treasurer, with the approval of the selectboard or cemetery commissioners. 18 V.S.A. § 5384 (b). Note, however, that if the town elects trustees of public funds, those trustees shall oversee the investment of the cemetery money that is part of trust or perpetual care funds that are often established to cover cemetery costs. 18 V.S.A. § 5384 (b).

The town treasurer or trustee of public funds must keep a separate account of each trust fund and report annually to the town on those funds. 18 V.S.A. §§ 5385-5386.

The voters may appropriate money for the operation and maintenance of cemeteries in town. 18 V.S.A. § 5361. When a cemetery falls into disrepair they may make repairs and draw up to \$500 per year from the town treasury for that use. 18 V.S.A. § 5362. If "a person not having known estate" is buried in a town cemetery and has no marker or headstone in place after three years, the town shall pay for a suitable marker or headstone. 18 V.S.A. § 5371.

The cemetery commissioners may arrange to sell cemetery lots by deed. Those lots are exempt from taxation. 18 V.S.A. § 5376. Proceeds from sale of the lots are paid to the town treasury and kept in a special fund. Those funds are used to maintain, embellish or improve the cemetery unless the town votes to sell lots on condition that the proceeds go into a trust, and that only the income from the trust shall be used. 18 V.S.A. § 5377.

The town may also accept property or money to be used or held in trust for care of the cemetery. 18 V.S.A. §§ 5382-5383.

## **I. RELATIONSHIP WITH WATER COMMISSIONERS**

If a town has a municipal water system, it may vote to have an appointed or elected board of three to five water commissioners who shall be responsible for the system. These commissioners may be members of the selectboard. 17 V.S.A. §§ 2649-2651.

These water commissioners are the supervisors of the town's water department. It is their responsibility to establish the water rates and all the rules and regulations for the control and operation of the department.

All the rents and receipts received by the water department for commercial and residential water use within the town must be used:

- to repay the principal and interest on the water bonds;
  - for repairs and the general management of the department; and
  - to establish a reserve fund established under authority of 24 V.S.A. § 2804.
- 24 V.S.A. § 3313.

Every bond issued by the town for water purposes under the provisions of 24 V.S.A. §§ 3309 and 3310 must be signed by the town clerk and treasurer. Records must be kept of these bonds, when they were issued, the amounts, when they are due, and when payments were made. 24 V.S.A. § 3314.

When a water system user is delinquent in either a special assessment or in charges, rates or rent for use of the water system, that debt shall create a lien against the property. That lien may be collected as a delinquent property tax under 32 V.S.A. § 5061. 24 V.S.A. § 3306. In addition, a water and sewer disconnect process can be imposed for delinquent water and sewer charges. 24 V.S.A. Chapter 129. Note that prior to disconnecting a rate payer the municipality must consider whether terminating service will create a health hazard. To that end the Vermont Department of Health may contact municipalities to discourage disconnections.

## **J. RELATIONSHIP WITH SEWER COMMISSIONERS**

The statutes regarding "sewage systems" and "sewage disposal systems" are contained in Chapters 97 and 101 of Title 24 of the Vermont Statutes Annotated. Commissioners are described in 24 V.S.A. §§ 3506 & 3614. Delinquent charges for sewage systems or disposal systems create a lien against the property. That lien may be collected as a delinquent property tax under 32 V.S.A. § 5061. 24 V.S.A. §§ 3504, 3612. . In addition, a water and sewer disconnect process can be imposed for delinquent water and sewer charges. 24 V.S.A. Chapter 129.

## **K. RELATIONSHIP WITH APPOINTED COMMISSIONS AND COMMITTEES**

A municipality may have a number of appointed bodies such as conservation commissions, planning boards, recreation committees, etc. When these commissions or committees use public moneys, they must be accountable. *Therefore, the treasurer should have a record of their*

*receipts and expenditures, and those records will be subject to the annual audit.* Moreover, the treasurer may not write checks for these commissions or committees unless authorized by a town official authorized to draw orders. See Chapter IV for information on officials with the authority to draw orders.

#### **L. RELATIONSHIP WITH TRUSTEES OF PUBLIC FUNDS AND TRUSTEES OF PUBLIC MONEY**

Trustees of public funds shall be elected from among the legal voters at the annual meeting if the town so directs. 17 V.S.A. § 2646(12). The duty of the three trustees is to manage real or personal property held by the town in trust for any purpose. 24 V.S.A. § 2431. This includes trust funds to be used, for example, for charitable, educational and cemetery purposes but excludes “United States public money.” (See Section L below.) With regard to investments, if trust money is established to pay for costs such as cemetery costs the Trustee of Public Funds will be responsible for investing the money. (See Section H above.) If your municipality does not elect a trustee of public funds, then the treasurer and selectboard will be responsible for investing the money. There is some overlap of responsibility for cemetery funds among trustees, cemetery commissioners and town treasurers. 18 V.S.A. Chapter 121, Subchapter 2. It appears that if trustees of public funds are elected, they have primary responsibility for the investment of funds and for the annual reporting on them.

The trustees must report to the town the results of their handling of investments and any income received. 24 V.S.A. § 2434.

Towns which “retain possession of a portion of the surplus funds of the United States under the Act of 1836” must elect a trustee of public money. 17 V.S.A. § 2646 (13). If there are towns out there with such funds and trustees, an accounting of those funds should appear in the annual town report. (For more information on these trustees, see Appendix 4.)

#### **M. RELATIONSHIP WITH BOOKKEEPERS AND FINANCE OFFICERS**

Many municipalities have bookkeepers, finance officers or finance departments. Unless the municipality has a governance charter that says otherwise, the treasurer will still have statutory duties and responsibilities. For example, the treasurer, with the approval of the selectboard, is responsible for investing town funds. He or she *shall* keep a record of taxes voted, keep accounts which are open to public inspection, serve on the board of abatement, etc.

#### **N. RELATIONSHIP WITH THE TOWN MANAGER**

A town may elect to hire a town manager who then acts under the authority given by 24 V.S.A. Chapter 37. The manager’s powers include “all of the accounting,” to “supervise and expend all special appropriations,” and “collect all taxes ... if the town so votes.” However, the town manager does not have authority to perform duties “committed to the care of any particular officer,” such as the treasurer. Therefore, he or she cannot take over investment, appoint an assistant town treasurer, draw orders or sign checks.

## O. RELATIONSHIP WITH LIBRARIES

Town treasurers throughout Vermont have very different relationships with the libraries in their towns. This is mostly due to the fact that not all libraries are “town” libraries. Many public libraries are privately run and funded, primarily through private endowments and donations. While individual towns typically make an annual appropriation to these public libraries at town meeting, the treasurer has no responsibility for managing these funds as they are clearly not town money.

Even when libraries are truly “town” libraries, treasurers throughout the state deal with such libraries differently. It is first vital to understand the type of library that exists in your town before pondering the treasurer’s responsibility for the library money. A library is only a town library if it has been established in accordance with 22 V.S.A. § 141(a). We recommend that you review the statute and your town records to determine if a true “town library” exists in your municipality.

In the case of a town library, the Supreme Court, in *Hartford Board of Library Trustees, v. Town of Hartford*, recently ruled that the Legislature intended library trustees “to have control over the library’s budget to manage the affairs of the library. The Court also mentioned that overlapping duties of municipal entities require “‘a spirit of cooperation’ for the efficient daily administration of a town. ... In this way, library trustees and town managers across the State of Vermont can agree to a wide variety of power-sharing schemes that best suit the needs of each particular town.” *Farmer v. Haley*, 100 Vt. at 80, 135A at 14. It seems that library trustees should be able to handle library money themselves or draw orders instructing the treasurer to pay their bills, as they choose.

### III. FUNDS

#### A. TOWN GENERAL FUND

The Vermont statutes describe the municipal budget as those sums of money “to be appropriated for laying out and repairing highways [the highway fund] and for other necessary town expenses [the general fund].” 17 V.S.A. § 2664. In other words, all towns will have a general fund, a highway fund and a school fund. In addition, some towns may have enterprise funds to fund the operation of different municipal enterprises, for example utilities, user fees and impact fees.

#### B. TOWN HIGHWAY FUND

The highway fund is clearly set apart from other town expenses. Not only is it described separately in 17 V.S.A. § 2664, but 19 V.S.A. § 312 specifies that “funds raised from highway taxes shall not be used for any [other] purpose....” Highway funds left over at the end of the year must be carried forward and used for their original purpose the next year. They cannot be used to make up a deficit in the general fund.

#### C. SCHOOL FUNDS

In most towns, school funds can be divided into money for the town school district and money for the union school district. At the town school district annual meeting “the electorate shall vote such sums of money as it deems necessary for the support of schools.” 16 V.S.A. § 428. That money is assessed and collected by the town on its grand list.

#### D. SPECIAL FUNDS

- 1. Reserve funds** must be approved by the voters at a Town Meeting or a special meeting. When established by the voters, reserve funds set aside money to be used for a *specific purpose*. 24 V.S.A. § 2804. Reserve funds are not “slush” funds. They must be kept in a separate account and can only be used for the stated purpose of the fund. Examples of reserve funds include but are not limited to funds to purchase highway equipment, conduct town-wide reappraisals or make repairs and renovations to town property. Once established, money in a reserve fund may be expended by the selectboard for its stated purpose without further voter approval. Any money not spent in a reserve fund annually carries over to the next year. This is in stark contrast to general fund money. A surplus in the general fund will not carry over from year to year. However, highway fund money *does* carry over and must be used for highway purposes. Reserve funds must be kept in separate accounts and the funds are subject to the annual audit of town money. 24 V.S.A. § 2804. See also Appendix 4.
- 2. Sinking funds** are monies set aside to retire a debt. Sinking funds must be approved by the voters at a town meeting or a special meeting. The money has already been spent via a bond issue or other debt instrument and the town has appropriated a certain amount of money

towards paying off that debt. It cannot be used for anticipated future expenses. Sinking funds are subject to the annual audit of town money. 24 V.S.A. § 1777. (See also Appendix 5.)

3. **Trust funds** are properties or funds legally transferred to the town by an outside party – via a legal trust document – that directs that the town hold the property in trust to be used for a specific purpose. For example, trust funds to be used for town cemetery maintenance or improvements are common. Frequently, only the income from the trust can be used; the principle must be kept intact. Each trust fund must be kept in a separate account. Trust funds are subject to the annual audit of town money.
4. **Cemetery funds.** The town may appropriate money for care and improvement of town cemeteries. These funds are usually meant for annual on-going operational expenses. The selectboard or cemetery commissioners may also sell lots and use the receipts from those sales as allowed under 18 V.S.A. §§ 5376-77. There may also be special trust funds for the cemetery. Separate accounts must be kept for the various receipts and funds. Cemetery funds are subject to the annual audit of town money. (See also Chapter II.)
5. **Library funds.** The town may appropriate money each year for the town library. The library trustees may also raise money by fines, sales, donations or other fundraisers. In our opinion, money raised outside of the budget appropriation may be spent by the town library trustees without selectboard approval. However, the money should be accounted for as part of the annual audit. See 22 V.S.A. § 144. See also page 18 herein for a discussion of the library trustees’ relationship with the treasurer. The statutes themselves are not clear about who is treasurer for the library. There may also be trust funds established for the benefit of the library. If there are library trustees, they must report on the condition and management of the library annually. 22 V.S.A. § 144. If this is truly a town-owned library, all receipts and expenditures are subject to audit. If the town appropriates a lump sum donation to a private library, expenditures will not be subject to audit.

A municipality may vote at an annual or special meeting to borrow money through a bonding process to fund capital improvements to “any privately-owned municipality-supported library situated within the municipality for use of residents of the municipality.” 24 V.S.A. § 1752a.

6. **Enterprise funds.** This is a general term for municipal functions that are wholly or partially self-supporting, such as water and sewer departments, electric utilities and recreation departments. Statutes that give control of water and sewer funds to their respective commissioners include 24 V.S.A. §§ 3313, 3348, 3507 & 3615-16. However, most enterprise funds are not specifically mentioned in the statutes, even though they are public monies and must be strictly accounted for.

## IV. SIGNING ORDERS/PAYING SALARIES

### A. WHO CAN SIGN ORDERS AND WARRANTS?

The selectboard has implied authority to sign orders under 24 V.S.A. §§ 1576, 1621 & 1622. These statutes are narrowly written and do not clearly vest the selectboard with the general authority to draw orders on the treasurer. However, under general Vermont law, the selectboard has the responsibility for any duties that are not assigned to any other town officer. 24 V.S.A. § 872. In VLCT's opinion, this general authority combined with more recent changes to the manner in which the legislative body may approve orders clearly vests authority in the selectboard to sign orders, unless the statutes specifically designate an official other than the selectboard with the authority to draw orders.

While Vermont statutes provide authority to certain town departments to receive and, in some instances, spend money, in VLCT's opinion this does not vest authority in these departments to draw orders on the treasurer. Planning and conservation commissions are good examples of municipal departments that are authorized to receive and spend money where, in our opinion, those departments must still go through the selectboard and treasurer prior to actually spending the money.

To approve orders, generally, the board must meet and, by a majority of the total number of members of the board, vote to authorize the treasurer to disburse money. 1 V.S.A. § 172. However, under a recent change to Vermont statutes, the selectboard may vote to authorize one or more members to examine and approve the payment of certain town expenses. This delegation often makes it easier for the treasurer and selectboard to coordinate in order to authorize the payment of town bills. Orders drawn by one selectboard member must state definitely what the order is for and a record of those orders paid by the authority of less than a majority of the board must be presented to the board for its information. 24 V.S.A. § 1623 (1). The purpose of this requirement is to provide a clear record that the entire board may review to ensure that orders have been properly drawn.

Another alternative available to authorize the treasurer to disburse town money is for the board to submit a certified copy of the pertinent minutes of a board meeting to the treasurer, showing to whom and for what purpose a payment may be made. 24 V.S.A. § 1623 (2). Based on the minutes, the treasurer may then issue a check.

It is important to note that the statutory authority to implement alternate means of signing orders applies to the municipal selectboard and to bodies that under Vermont law exercise the power of the selectboard (e.g., cemetery commissions and village trustees). 24 V.S.A. § 1623; 1 V.S.A. § 139.

**1. Cemetery Commissioners.** When a municipality votes to place its public burial grounds under the care of elected cemetery commissioners, those commissioners "shall ... exercise all the powers, rights and duties with respect to such care and management and all responsibility on the part of the selectmen shall cease." 18 V.S.A. § 5373. Under that statute, cemetery

commissioners have the authority to sign orders for the use of cemetery funds. However, if trustees of public funds are elected under 17 V.S.A. § 2646 (12), they have control of any “real and personal estate ... held in trust for any purpose, including cemetery trust funds, unless the person giving the same otherwise directs....” 24 V.S.A. § 2431.

The short explanation of control of cemetery money is that whoever controls the cemetery – selectboard or cemetery commissioners – controls the cemetery monies, except that *if there are cemetery trust funds* and *if there are elected trustees of public funds*, those trustees control those trust funds.

If the cemetery commissioners sign orders, they are required to keep a record of those orders showing the number, date, to whom payable and the amount. 24 V.S.A. § 1622.

**2. Trustees Of Public Funds.** Elected trustees of public funds have control of all property held in trust by the town. Their powers and duties are spelled out in 24 V.S.A. § 2432 and include:

- *directing* the use of the income from trust funds;
- *entering* into deeds and contracts on behalf of the town;
- *leasing*, selling or conveying real estate held in trust;
- *lending* or other wise investing funds;
- *holding*, purchasing, selling, assigning, transferring or disposing of any securities or investments in which the trust funds have been invested, as well as the proceeds of such investments.

If the trustees sign orders, they are required to keep a record of those orders showing the number, date, to whom payable and the amount. 24 V.S.A. § 1622.

**3. Water Commissioners.** A municipality may vote to elect water commissioners or allow the selectboard to appoint them, unless there is no municipal water department for the commissioners to supervise. 17 V.S.A. §§ 2646 (17), 2651 (b). The selectboard may appoint its own members as water commissioners. 17 V.S.A. § 2651 (b).

Water commissioners have supervisory powers over the water department, including setting the rates and charges for water usage. The commissioners have the authority to establish a reserve fund from monies received, to be used for financing major projects or to be used as matching funds. Otherwise, the money received must be used for operational expenses and payment of principle and interest on existing bonds. 24 V.S.A. § 3313. Overdue charges, rates or rents for water usage create a lien on the property and may be collected as a tax lien under 32 V.S.A. § 5061. 24 V.S.A. § 3306.

The statutes are not completely clear about the powers of the commissioners versus the municipality /selectboard/voters. It does seem clear that the water commissioners can set rates and charges, handle the day-to-day cash flow of receipts and expenditures and propose the establishment of a reserve fund. 24 V.S.A. § 3313. Thus, it follows that they probably have statutory authority to signs orders and warrants for the treasurer to issue checks.

In addition to charges for usage, the municipality may levy taxes on the grand list, issue bonds and borrow money to enable it to operate the water department. 24 V.S.A. § 3308. These powers are given to the voters under other statutes, so they are not under the control of the water commissioners.

Finally, all of the financial information about the municipal water system will be subject to the annual audit. Regardless of who signs orders, the municipal treasurer must have the entire record to turn over to the auditors. When municipalities set up a water department with a board of commissioners, VLCT advises them to be careful to delineate the powers of the commissioners as applied to financial matters. Specify who can approve and sign orders for day-to-day expenses, for loan payments and for bond payments. Designate where the invoices and receipts shall be kept.

If the water commissioners sign orders, they are required to keep a record of those orders showing the number, date, to whom payable and the amount. 24 V.S.A. § 1622.

**4. Sewer Commissioners.** There are sewage system commissioners and sewage disposal commissioners made up of the selectboard, village trustees, prudential committee of a fire or lighting district, or mayor and board of aldermen of a city. 24 V.S.A. §§ 3506, 3614. Because those bodies have authority to sign orders acting as the legislative body, they also have authority to sign as sewer commissioners.

However, the legislative body may vote to appoint a separate body as the board of sewage system commissioners and then designate that board to serve also as the board of sewage disposal commissioners. 24 V.S.A. § 3506 (b).

The VLCT Law Center advises municipalities to either:

- have the legislative body of the municipality serve as the sewer board, so that it clearly has authority to sign orders; or
- if they appoint a separate board of sewage system/sewage disposal commissioners, to establish a written policy which clearly states who has authority to sign orders for expenditure of money related to sewage or sewage disposal finances.

Again, all of these records must be available for audit, so they must be in the hands of the treasurer. The body that signs the orders is required to keep a record of those orders showing the number, date, to whom payable and the amount. 24 V.S.A. § 1622.

**5. Library Trustees.** A municipal library is one that is established by a town, city or incorporated village for the use of its residents and which is supported in whole or in part by public funds. 22 V.S.A. §§ 101, 141. Trustees may be elected or appointed and “shall have full power to manage the public library..., control and manage property which shall come into the hands of the municipality by gift, purchase, devise or bequest for the use and benefit of the library.” 22 V.S.A. § 143 (a). The plain language of the statute seems to indicate that the trustees may either:

- handle the library’s money, keep their own accounts and pay their own bills, or
- turn the library’s account over to the treasurer and then sign orders directing the treasurer to pay their bills.

In either case, the trustees shall report to the annual town meeting on “the management and expenditure of monies as have come into their hands.” 22 V.S.A. § 144. Thus, the money is subject to audit at the end of the year.

To be clear, VLCT’s interpretation of the statute is that library trustees may draw orders on the town treasurer. If library trustees sign orders, they must keep a record of them showing the number, date, to whom payable and the amount. 24 V.S.A. § 1622. Regardless of who issues orders or acts as treasurer, all library monies must be accounted for and audited annually.

A caveat regarding libraries: Some libraries seem to operate partially on town funds that do not really belong to the town. Their trustees are not appointed by the selectboard or elected by the voters, but operate on the “we’ve always done it this way” principle. Our best advice is to treat the money for this type of library as a lump sum donation to a non-profit.

A municipality may vote at an annual or special meeting to borrow money through a bonding process to fund capital improvements to “any privately-owned municipality-supported library situated within the municipality for use of residents of the municipality.” 24 V.S.A. § 1752a. This should be handled like any other bond vote under 24 V.S.A. Chapter 53.

**6. Fire Districts.** A town may establish a town-wide fire district or one or more fire districts within the town. A town-wide fire district is under the management of the selectboard, which serves as a board of fire commissioners. 20 V.S.A. § 2543. Obviously, that board could sign orders for the town treasurer.

A fire district made up of only a part of the town is governed by an elected three-person prudential committee. The district also elects a clerk, treasurer and collector of taxes. 20 V.S.A. § 2485. These officials may or may not be the same as the town clerk, treasurer and collector of taxes. It is up to the voters of the fire district.

The prudential committee of a fire district has the powers listed in 20 V.S.A. § 2601, which includes the authority to “expend such sums ... as the fire district may vote.” This indicates that the prudential committee may write orders for the fire district treasurer to pay expenses.

Fire *districts* are completely different from fire *departments*. A fire department may be established as a department of the town to provide fire protection. Town fire departments are not separate legal entities from the town. 24 V.S.A. §§ 1951, *et seq.* As departments, they have no independent authority to draw orders on the treasurer. Under Vermont law, non-municipal volunteer departments may be established to serve municipalities. These departments typically receive a lump sum appropriation from a town. 20 V.S.A. § 2921. The volunteer organization is a separate legal entity that may spend the appropriation and other money it raises without additional town oversight. Municipalities may attach conditions to the annual appropriation

made to non-municipal volunteer fire departments, or sign a contract that delineates services the fire department will provide to the town in return for the money spent.

**7. Board Of Tax Abatement.** When the board of tax abatement determines that a tax refund, rather than a tax credit, should be given, the board has authority to issue an order for the treasurer to pay the refund to the taxpayer. If the town charges interest on overdue taxes, the same rate of interest must be paid on the amount abated, dating from the date that the tax was due or paid, whichever is earlier. 24 V.S.A. § 1535(d).

## **B. WHO MAY SIGN CHECKS IF THE TREASURER’S OFFICE IS VACANT?**

There is no clear authority for the selectboard to sign checks for the town if the office of treasurer is vacant. If an assistant treasurer has been appointed that person is the only official who may sign checks when the treasurer vacates office. The selectboard must fill the vacancy under authority of 24 V.S.A. § 963 as quickly as possible to facilitate the continued management of town funds.

## **C. DUTY TO PAY ORDERS; INSUFFICIENT FUNDS**

The treasurer has a duty to pay orders that are drawn by a properly authorized town official. As noted in Chapter I, Section J, there are statutes to protect the treasurer from liability for issuing checks on illegally drawn orders. If the orders are not paid on demand, interest will accrue from the time the demand was made. The treasurer shall keep a record of such unpaid orders. 24 V.S.A. § 1576.

If the treasurer receives an order to pay a bill and finds that there are insufficient funds to cover that amount, he or she “shall forthwith notify the selectmen and the officer drawing the same.” 24 V.S.A. § 1576. For example, in the case of a cemetery commissioner’s order, both the selectboard and the cemetery commissioners must be notified as soon as possible.

When a demand is made upon a city, town, town school district or incorporated village for payment, and funds are not available to make the payment, the municipal entity must assess a tax to raise the money to make the payment. 24 V.S.A. § 1538.

## **D. STATE AND COUNTY TAXES**

County taxes are set each year by the assistant judges, without individual towns in the county voting. Warrants for the taxes due from each town, apportioned on the equalized grand list of the county, shall be sent to the town treasurers on or before March 1. The tax is payable on or before July 5. The selectboard must draw an order for the amount of the tax so the treasurer can pay it. 24 V.S.A. §§ 133-136.

The Legislature has the authority to impose a state or county tax. When it does so, the state or county treasurer issues a warrant to the town treasurers. They, in turn, present the warrant to the selectboard, which then draws an order so that the treasurer can pay the tax. 32 V.S.A. § 4731.

For information on state education tax (Act 60), see Chapter VI, Section C.

## **E. SALARIES, STIPENDS, OVERTIME**

Salaries for employees and elected officials who are salaried must have all withholding taxes, social security and FICA withheld as for any other employee. This also applies to people paid by fees or penalties, such as town clerks and collectors of delinquent taxes. At the end of the year, 1099 forms or W-2 forms must be issued. The only exception is for Social Security and FICA for election workers who earn less than \$1,100 per year.

Employees who work more than 40 hours per week must be paid overtime at one and one-half times their regular hourly pay, according to the federal Fair Labor Standards Act. As an alternative, they may be given compensation time instead (at a rate of one and one-half times the extra hours worked). There are exceptions and special cases for some kinds of employees. For more information, see VLCT's *Handbook for Vermont Selectboards* (2<sup>nd</sup> Edition, 1999) and VLCT's *Personnel Handbook* (available 2003).

## **F. PURCHASING POLICIES AND PURCHASE ORDERS**

**1. Purchasing Policy.** There is no requirement that towns purchase through a bid process. This is in contrast to state government and school districts, which are required to follow a bid process.

The selectboard *may* adopt a purchasing policy. In a large municipality, such a policy is advisable because of the complexity of government and the need for a standard procedure. In a small municipality, it's advisable because of the need to provide a fair and consistent system in cases where local suppliers or contractors are also municipal officers or are related to municipal officers. The temptation for the selectboard to automatically award municipal contracts to themselves or relatives may lead to real or perceived conflicts of interest and favoritism. A clearly stated policy and procedure for purchasing goods or services will help prevent such conflicts.

Factors which should be addressed in a purchasing policy include:

- conflict of interest;
- how to advertise or notice requests for bids or proposals (posting, publishing);
- what is exempt from the bid system (e.g. legal services, insurance, or purchases less than a certain dollar amount);
- when the board can waive the bid process (e.g. emergencies, sole supplier available);
- what, if any, preference for local suppliers;
- what, if any, preference based on prior experience with the bidder;
- clear specifications for the service or product to be bid;
- provision of insurance or performance bond required;
- provision of warranty required;
- gifts, rebates and gratuities for town employees and officers are not allowed;
- regular, recurring purchases and charge accounts; and
- bidding procedure with time and place parameters.

The VLCT Municipal Law Center has a number of sample purchasing policies on file and will supply copies on request. In addition, VLCT and Vermont Local Roads published *Contracting for Municipal Projects* (2001), a guide for the bidding of constructing projects contracts, and the Agency of Commerce and Community Affairs has information regarding preparing bids on its web site, <http://www.vermontbidsystem.com/>.

**2. Purchase Order System.** Some Vermont municipalities use an “encumbrance” or purchase order system in conjunction with their normal purchasing and accounting procedures. Most of the financial management software applications that are specifically designed for municipalities will offer a purchase order feature.

Purchase orders can be extremely useful for elected officials and municipal administrators for many reasons, such as:

- the purchase order represents a financial obligation on behalf of the community;
- a purchase order may be required by some vendors;
- use of a purchase order assures that purchases have been reviewed and approved by appropriate authorities before a financial obligation is made;
- purchase orders, used with an encumbrance system, will enable municipal officials to determine the current status of budgeted expenditures, even before invoices are actually received or paid for outstanding purchases (accounting reports can be set up to display [1] total budget, [2] total expenditures to date, [3] total encumbered (orders made but goods or invoice not received), and [4] remaining unencumbered balance); and
- purchase orders confirm, in a written format, the cost, quantity, specifications and delivery location for goods and services.

Purchase orders can be a useful tool to help officials maintain a good handle on planned and actual expenditures as they relate to the authorized municipal budget.

For comprehensive information on bidding contracts, go to the Vermont Department of Economic Development’s web site, <http://www.thinkvermont.com.>

## V. SOURCES OF REVENUE

### A. TAXES

Property taxes are the major source of revenue for municipalities. Property value is assessed by the listers. The total of all the properties and their values for tax purposes is the grand list for the municipality. For information on tax appraisal, exemptions, etc., see *The Vermont Lister's Handbook*, published by the Vermont Dept. of Taxes, Division of Property Valuation and Review (802-828-5860) or at their web site [www.state.vt.us/tax/contact4.htm](http://www.state.vt.us/tax/contact4.htm).

Taxes to be raised by the municipality include:

- state
- county
- municipal
- school
- highway
- fire district (if applicable).

32 V.S.A. § 4602.

The tax rate is set to raise that amount of anticipated expenses, which will not be covered by money from other sources. The tax rate is expressed as the amount per \$100 of property value. For example, if a tax rate were set at \$2.30, a property worth \$95,000 would be taxed \$2,185 ( $\$2.30 \times \$95,000 \div \$100 = \$2,185$ ).

The tax rate is set by the selectboard. For more information on setting the tax rate, see VLCT's *Handbook for Vermont Selectboards* (2<sup>nd</sup> edition, 1999).

For tax purposes, a property may be taxed at different rates on the "homestead" and on the other real property. "Homestead" is defined in 32 V.S.A. § 5401 (7) and means a principal dwelling owned and occupied by a resident plus up to two acres of surrounding land.

### B. PAYMENT IN LIEU OF TAXES (PILOT)

Because state-owned property is not subject to local property tax, the state pays a grant in lieu of property taxes. Some PILOT payments are for state buildings while others are for land owned and managed by the Agency of Natural Resources. The amount of each grant is based on formulas in 32 V.S.A. §§ 3703, 3708. The amount to be paid is re-determined each year and shall be paid to each eligible municipality on or before October 31. 32 V.S.A. §§ 3706, 3708.

### C. GRANTS

Both towns and school districts may accept grants from federal, state and private sources. Each grant, gift or bequest is different and must be read carefully so that all of the conditions and requirements are understood and the town is sure that it can meet them. Grants are frequently available from state and federal government sources for highways, historic preservation and

planning. These grants can come with extensive record keeping, audit and other reporting requirements that may make them ultimately unworkable for a town.

For conservation purposes, municipalities “may acquire ... real property or any right and interest therein by purchase with any authorized funds, or by donation, devise, exchange or transfer...” under 10 V.S.A. Chapter 155. Property interests may also be acquired by the state under this chapter. In either case, there may be property tax implications in the form of tax exemption or payments in-lieu-of taxes (PILOT).

Grants, gifts and bequests may be available from private or charitable sources from time to time. Again, they must be evaluated individually to be sure that the municipality can comply with any conditions inherent in them. There may be constitutional issues, state statutes or long-term financial considerations that must be weighed before accepting grants, gifts or bequests. There may also be political repercussions, especially where property is acquired by gift or bequest, but over the long term there will be loss of tax income or a cost to the town to maintain the property through tax dollars. In some situations, it would be wise for the town to have an advisory or a binding public vote before accepting an apparent “freebie.”

**1. Single Audit Act.** The Single Audit Act of 1984 (P.L. 98-502) and its 1996 amendments (P.L. 104-156) require any non-federal entities that expend in a year \$300,000 or more in federal grant funds to be audited according to GAGAS (Generally Accepted Governmental Auditing Standards, also known as the “Yellow Book”). If your municipality has received federal funds from only one program and that program does not require a financial statement audit, you may choose to have a program-specific audit conducted, rather than a full audit of your town records. If the auditor issues any findings that require follow-up, the municipality is responsible for responding to those findings with corrective action as outlined by a corrective action plan. Your auditor can assist you with developing such a plan.

The reporting necessary to meet A-133 guidelines is generally done by the auditor. These include the reporting package (financial statements, schedule of federal awards expenditures, summary schedule of prior audit findings, auditor’s report, and corrective action plan), and the data collection form (now done electronically). The data collection form summarizes information about the auditee, the federal programs, and the audit results. This form and one copy of the reporting package are sent to a federal clearinghouse in Indiana. Other copies may need to be submitted depending on grant requirements. Reports must be submitted nine months after the end of the audit period, the end of March for June 30th fiscal year towns, and the end of September for calendar year towns.

The OMB (Office of Management and Budget) Circular A-133 provides detailed guidance and can be found at [www.whitehouse.gov/omb/circulars/a133/print/a133.html](http://www.whitehouse.gov/omb/circulars/a133/print/a133.html) or by calling 202-395-3080.

For more information on community and economic development, see VLCT’s *Handbook for Vermont Selectboards* (2<sup>nd</sup> edition, 1999), Chapter 16. In addition, see Appendix 6 for information on obtaining grants.

## **D. RENTAL OF TOWN PROPERTY**

Towns may acquire property by gift, bequest, purchase, eminent domain or purchase at tax sale. The town may not be in the business of renting property, but it can rent the property or a part of it if that rental is merely incidental to owning it. For example, if there is extra space in the town hall, that space may be rented. If the town acquires property at tax sale, it may rent it during the year-long redemption period, but it cannot keep that property indefinitely as a moneymaker. See the VLCT article on Hinesburg Sand and Gravel case in Appendix 7.

## **E. TRUST FUNDS**

Towns may hold real or personal property in trust for any purpose. Each such trust must be kept in a separate account, and the trustees shall use the income for the purpose for which it was created. They may lease, sell or convey real estate and invest the money received as provided in 24 V.S.A. § 2432. The trustees must be bonded and must report to the town each year on the funds. If any of the trusts belongs to the schools, the trustees must report annually to the state board of education. 24 V.S.A. §§ 2433-2434.

## **F. TRUSTEES OF PUBLIC MONEY**

There is a special category of “public money” which is derived from “surplus funds of the United States under the Act of 1836.” If any town still has any of this surplus money, it must elect a special trustee to manage it. 17 V.S.A. § 2646 (13).

It is certainly historically interesting, if not absolutely fascinating, that the U.S. government actually had surplus funds in 1836-37 and that it felt it could distribute them to the states, keeping only a \$5 million buffer against future expenses. If any surplus money is still out there, keep in mind that the U.S. Secretary of the Treasury probably still has the authority to call for it in amounts not to exceed \$10,000 from any one state, in any one month.

## **G. INVESTMENTS**

Money received by the town treasurer on behalf of the town may be invested and reinvested by the treasurer with the approval of the selectboard. 24 V.S.A. § 1571 (b). Vermont towns handle this investment authority differently. In some towns, the treasurer and selectboard work together to decide how to invest town money. In other towns, the selectboard officially delegates authority to the treasurer to invest money. This delegation may be granted by the board with or without guidelines that the treasurer must follow. How and whether to delegate is a decision that each board must make based on the circumstances of the particular town. Moreover, it is advisable for the selectboard, in consultation with the treasurer, to adopt investment guidelines. Contact VLCT for sample investment guidelines. If the town treasurer is also the school district treasurer, he or she may also invest its funds with the approval of the board of school directors. 16 V.S.A. § 426 (c). The interest from such investments shall go into the town or school district funds. Note that these two provisions do not apply to trust funds, which are under the authority of trustees. 24 V.S.A. § 2432.

## **H. ARBITRAGE**

Arbitrage is the practice of borrowing money at a relatively low interest rate and then re-investing the money at a higher interest rate in order to make a profit. For instance, if you borrow \$500 for a year at 4% interest, you will have to pay back \$520 at the end of the year. If you can lend that \$500 at 6% interest, you will make \$30 interest. The net for you is \$10.

### **1. Arbitrage Requirements**

Prior to the 1986 Tax Reform Act, municipalities generally were able to take advantage of the spread between tax-exempt interest paid on borrowed funds and the interest earned from investing those funds at a higher rate, with no tax consequences. As a tax-exempt entity, a municipality could borrow for its cash needs (generally, tax anticipation notes [TANs] or bond proceeds not yet used) from their local banks at a much lower rate. It could then invest those proceeds in a CD or some other investment vehicle at a higher rate, realizing net earnings from the difference between interest paid and interest earned. This process is called “arbitrage.”

In 1986, Congress enacted Section 148 of the Internal Revenue Code, requiring that these earnings be rebated back to the IRS at the end of every five years or at maturity. In other words, you were no longer allowed to earn money by investing the proceeds of your borrowing. The 8038 forms you’re required to fill out and sign when you issue a TAN or bonds are intended to notify the IRS of the borrowing. There are a couple of exceptions to this ruling: the small-issuer exception, and the two-year spend-down exception.

The small-issuer exception allows municipalities that have issued less than \$5 million (\$10 million for school districts under certain circumstances) in debt during a calendar year to exempt 100% of their earnings from rebate provided they spend the debt or bond proceeds within a six-month period, or up to three years in some circumstances. Proceeds are also exempt from taxes for under \$5 million issuers if spend-down occurs within an eighteen-month period as follows: 15% within the first six months, 60% by the end of twelve months, and 100% by the end of eighteen months.

The other exception is the two-year spend-down exception. Proceeds are exempt from arbitrage rebate if at least 75% of the debt proceeds are to be used for construction expenditures and they are spent down as follows: 10% within six months, 45% by the end of twelve months, 75% by the end of eighteen months, and 100% by the end of two years.

More information in the form of tutorials can be found at the IRS website at <http://www.irs.gov/govt/article/0,,id=96224,00.html>.

See also Chapter VI, section E.

## **I. FEES AND USER FEES**

A number of fees may be kept, in whole or in part, by the towns. As specified by statute, some fees collected by the town clerk may be kept by him or her if the town has decided to compensate the clerk with fees. If the clerk is salaried, all fees must be submitted to the municipality. See VLCT's *Municipal Clerk's Fee Poster*.

## **J. RE-APPRAISAL MONEY FROM STATE**

The State of Vermont shall pay each municipality \$6.00 for each parcel on the grand list each year. This money is to be used only for reappraisal of properties on the grand list and for maintenance of the grand list itself. 32 V.S.A. § 4041a (a). Note that, if the town does not have an acceptable plan for re-appraisal or fails to carry out its plan, the state may withhold funds from the town, including funds such as those for education and transportation. 32 V.S.A. § 4041a (c).

## **K. COPIES OF DOCUMENTS**

Under the public records law (1 V.S.A. §§ 316-320), the public must be given access to all public records. Individuals may also ask for copies of public records, whether they are in electronic or hard copy format. Municipalities may charge the "actual cost" for making copies of public records for people. If the selectboard does not establish the actual cost, the town must use the uniform schedule of charges established by the Secretary of State. 1 V.S.A. § 316 (b-j). The uniform charges are listed on the following page. For updates, refer to the Secretary of State's web page, <http://www.sec.state.vt.us/>.

Following are the maximum fees that may be charged by municipalities where the statutes do not provide otherwise and where the legislative body of the municipality has not set its own fee schedule. The charges are as of 2001.

1. For staff time involved in physically duplicating a record, 23¢ per minute after the first 30 minutes.
2. For senior-level information technology specialists' time spent extracting data from databases or performing similar tasks necessary to comply with a request to create a new public record, 41¢ per minute.
3. For any other staff time for which cost can be charged and collected under this section, 30¢ per minute.
4. For photocopies, 4¢ per single-sided page, 6¢ per double-sided page for pages up to 8½x14".
5. For computer-generated paper copies, 2¢ per page for pages up to 8½x14".
6. For computer diskettes, 88¢ each for 3½" diskettes, 69¢ each for 5¼" diskettes.
7. For compact discs, \$22.08 each for write-once CDRs, \$124.58 for re-writable CDRs.
8. For audio tapes, \$1.25 each.
9. For video tapes, \$2.25 each.

Note that these charges are different from the statutory charges listed in Section I, above. For an interesting court case that deals with open meeting and public records laws, see Appendix 8.

## **L. PROPERTY TRANSFER TAX**

Whenever a property in the state is transferred by deed, a property transfer tax is imposed. The general rule is that the tax is “one and one-quarter percent of the value of the property transferred, or \$1.00, whichever is greater.” 32 V.S.A. § 9602. A number of exemptions are listed in 32 V.S.A. §§ 9602-9603.

When the deed to the property is delivered to the town clerk for recording in the land records, the property transfer tax must be paid to the clerk. 32 V.S.A. § 9605 (a). Not later than 30 days after receipt of the tax, the clerk must forward the amount of tax paid to the commissioner. 32 V.S.A. § 9610 (a).

Note that the clerk also receives a filing fee of \$7.00 in addition to the actual tax. (See Section I, above).

## **M. RABIES CONTROL PROGRAM**

When a town has established a rabies control program, it may impose a surcharge of up to \$10.00 per dog or wolf-hybrid license to fund the program. 20 V.S.A. § 3581 (c).

## **N. FINES AND IMPOUNDMENT FEES**

When municipalities adopt ordinances, zoning bylaws, on-site septic regulations or other similar local laws, they may impose fines for violations. They may also recover a part of the fines imposed for violation of some state laws when a municipal officer has been designated as the enforcing officer. For information about fines, waiver fees and collection of those through ordinance enforcement by the Judicial Bureau system, see VLCT’s *Ordinance Enforcement in the Judicial Bureau Handbook* (2<sup>nd</sup> edition, 2001). Enforcement of zoning bylaws and collection of fines and penalties usually occurs through the Environmental Court or through the Superior Court System. Municipalities should consult their town attorney or the VLCT Law Center for questions about dealing with zoning violations.

There are numerous provisions for fines and impoundment fees for animals running at large. 20 V.S.A. Chapter 191.

## **O. PERMITS**

Towns may charge reasonable permit fees for such things as highway access, building, zoning, subdivision, on-site septic systems, etc. Refer to your own town bylaws and ordinances and fee schedules to determine the fees imposed by your municipality.

## **P. IMPACT FEES**

When a town has an approved municipal plan and a capital budget and plan, it may levy an impact fee as a condition of issuing a zoning or subdivision permit. 24 V.S.A. Chapter 131. The fee *shall* be based on the criteria in 24 V.S.A. § 5203. The money used to offset the costs of a new or existing capital project must benefit the permittees.

There must be an annual accounting of each impact fee. Each fee must be used for the project for which it was intended. If it is not used within six years, the payer of the fee may ask for a refund, and the town must provide it. 24 V.S.A. § 5203 (e).

## **Q. SPECIAL ASSESSMENTS**

A special assessment is a tax assessed against only those properties that will receive a benefit from a public improvement, such as a water or sewer system. This differs from an impact fee because it has nothing to do with a zoning or subdivision permit. For example, if a town plans to extend its sewer line along Maple Avenue, it can impose a special assessment against those properties along Maple Avenue that will benefit from this extended service.

Likewise, the special assessment differs from a property tax because it will be imposed only on selected properties in town, rather than on the entire grand list. 24 V.S.A. Chapter 87.

## **R. ENTERPRISE FUNDS**

This term refers to municipal programs or services, which are partially or totally self-supporting through rates, rentals and other charges. For example:

- 1. Water and sewer systems.** Municipalities may own and operate a water works, water mains and sewers, a sewage system or a sewage disposal system. 24 V.S.A. Chapters 89, 95, 97 & 101. Municipalities may also form consolidated water or sewer districts. 24 V.S.A. Chapters 91 & 105.

These systems are operated by the legislative body or by commissioners. The rates, rentals, and user fees are generally restricted to paying the debts and operating expenses of the system. Overdue charges become a lien against the properties and may be collected using the same methods as those for delinquent taxes.

- 2. Recreation Programs (31 V.S.A. Chapter 5).** Municipalities are authorized by statute to vote to appropriate funds not to exceed four percent of the grand list for purchase of public playgrounds and lands and for the construction and maintenance of buildings and equipment for public recreational purposes. Municipalities may also appropriate monies for free musical entertainments. A municipality's legislative body may establish a department of recreation, a board of recreation or any other appropriate board or commission to manage recreational activities. Additionally, municipalities may provide public recreation opportunities jointly with other municipalities.

- 3. Housing Authorities (24 V.S.A. Chapter 113).** The statute regarding housing authorities states that there is a housing authority in each municipality (city, village or town) that is not activated until or unless the governing body of the municipality by “proper resolution” shall declare that there is a need for the authority to function in the municipality. Once created, the housing authority shall consist of five commissioners appointed by the mayor of a city or governing body of a town.

Housing authorities have considerable power once created by the municipality. They may: employ their own counsel and legal staff; sue and be sued; make and execute contracts and other instruments necessary or convenient to the exercise of the authority’s powers; acquire, lease and operate housing projects; provide for construction, reconstruction, improvement, alteration or repair of any housing project; lease or rent accommodations; acquire real property by eminent domain; invest any funds held in reserve or sinking funds; investigate housing conditions and how to improve such conditions; provide an adequate number of dwelling units for occupation by the elderly; issue bonds and engage in other similar activities.

## **S. REVOLVING LOAN FUNDS**

Special environmental loan funds are available to help municipalities in planning and implementing sewage control, water quality programs and solid waste management. 24 V.S.A. Chapter 120. Generally these loans flow through the Vermont Municipal Bond Bank. 24 V.S.A. Chapter 119. The Vermont Department of Economic Development (802-828-5458) can provide additional information about available revolving loan funds.

## **T. STATE AID FOR HIGHWAYS**

The state appropriates money to towns based on the miles of classes 1, 2 and 3 highways. 19 V.S.A. § 306 (a). There are also funds for engineering services, emergency repairs, and bridge and culvert work, repaving and resurfacing. 19 V.S.A. § 306 (b-h).

Each town shall appropriate a minimum of \$300.00 per mile of class 1, 2 and 3 town highway and must comply with the general provisions of 19 V.S.A. Chapter 3 in order to be eligible for state highway funding. 19 V.S.A. §§ 307-308.

## **U. LOCAL OPTION TAX**

A special local option tax on sales, rooms and meals and alcoholic beverages was put into effect for the years 1999-2004 to minimize the effects of Act 60. A municipality must meet specific criteria in order to impose this tax. 24 V.S.A. § 138 (a) (3). If the legislative body recommends the tax and the voters approve, it may impose:

- a 1% sales tax excluding tax on telecommunications;
- a 1% meals and alcoholic beverage tax; and
- a 1% rooms tax.

24 V.S.A. § 138 (b).

This is in addition to any other local option tax allowed by municipal governance charters or by other statutes. 24 V.S.A. § 138 (f).

The local option tax shall be administered by the state. A percentage of the revenue collected will be returned to the municipality in which it was reported. Payments will be sent to the town quarterly. The municipality must use this revenue for town expenses and *not* for educational purposes. A small percentage will be kept by the state to cover administrative costs. The remaining percentage of the tax collected will go to the state treasurer to be used for the PILOT funds. 24 V.S.A. § 138 (d).

Check this statute when using this handbook because the legal status of the local option tax is likely to change.

## **V. EMERGENCY MANAGEMENT FUNDS**

In disaster situations, such as flooding, federal and state monies may be available. For further information contact Vermont Emergency Management at (800) 347-0488 or (802) 244-8721. Comprehensive information is also available at <http://www.fema.gov/>, the web site of the Federal Emergency Management Agency (FEMA).

## **W. FUNDRAISERS**

It is common practice for certain town departments, such as town fire departments and town libraries to engage in fundraising activities. While it is legal for town departments to fundraise, all money that is raised cannot be disbursed unless authorized by a town official authorized to sign orders and a check is signed by the treasurer. Even though fundraising money is not taxpayer money raised through the budget it is town money – raised by town departments on behalf of the town to provide town services. Because it is town money it must be accounted for in the Town Report and subject to all of the accounting requirements of other town funds. In general, town departments may not create their own accounts with fundraising money and spend it at will (See discussion regarding libraries and cemetery commissions in this handbook). The departments are not separate legal entities from the town and as a result they have no independent legal authority to hold accounts and disburse money.

Note that municipal organizations are allowed by law to raise money by conducting “coin drops” and “games of chance,” such as raffles or bingo. 23 V.S.A. § 1056; 13 V.S.A. § 2143.

## **VI. SCHOOL DISTRICT TREASURERS**

### **A. GENERAL LAW**

“Unless otherwise specifically provided with respect to a class of school district, or in a charter of a city, the laws of [Title 16 of the Vermont Statutes Annotated], the laws pertaining to municipal corporations, and the regulations of the state board [of education] shall apply to all school districts.” 16 V.S.A. § 551. Under Vermont law, a town shall constitute a school district, except that when a town contains an incorporated school district, the town school district shall consist of that part of the town not embraced within the incorporated school district.

### **B. TOWN TREASURER AS SCHOOL DISTRICT TREASURER**

The town treasurer is also the treasurer of the town school district unless the district elects its own treasurer. However, because the town school district’s funding and budget are separate from the town’s, the funds and the records of those funds must be kept separate, even if the treasurer of both bodies is the same person. 16 V.S.A. § 426 (a). In addition, the supervisory union treasurer may be treasurer or deputy treasurer for any school treasurer within his or her supervisory union if so voted by the electors for the school treasurer. 16 V.S.A. § 426(b).

According to 16 V.S.A. § 426(d), the school treasurer “shall keep the financial records of cash receipts and disbursements, and shall make those records available to the board of school directors or the supervisory union board when requested to do so.” Thus, the treasurer controls the financial records of the school district and must accommodate the need of the board to have access (even daily access, if requested) to such information.

It is the school treasurer’s duty to deposit all checks and pay out money drawn on orders of the board. If orders are not paid on demand, the district will be liable for interest on the amount due, accruing from the date on which payment was demanded. 16 V.S.A. § 426 (c). In fact, if a demand for payment is made the school district must assess a tax to raise the money to make the payment if the money is not available in the town funds. 24 V.S.A. § 1538.

The treasurer may invest and reinvest all sums received by the district so long as such investment decisions are made with the approval of the school board directors. 16 V.S.A. § 426(c).

### **C. PROPERTY TAXES FOR SCHOOLS**

The town collects property taxes for both the town and school district. Within 20 days of having received school tax money, the town must transfer the money actually received to the school district’s account. (The 20-day period may be altered by written agreement of the selectboard and the school board.) For example, if the town receives \$500,000 in school tax, it must transfer that to the school. However, when property taxes become delinquent, the town has up to 120 days (but no later than the end of the school year) to pay to the school district “*the balance of the sum of the gross school tax levy....*” 16 V.S.A. § 426 (b). This means that if the town has

received a total of \$750,000 in school tax money but the amount actually levied was \$800,000, the town must send the school district the entire \$800,000, not just the amount received.

In addition to the locally imposed property tax, Act 60 established a state education fund under 16 V.S.A. § 4025.

The tax is “imposed on all nonresidential and homestead property at a rate of \$1.10 per \$100.00 of equalized education property value....” 32 V.S.A. § 5402 (a). The sources of money for the fund and the uses for which it is intended are listed in that statute. The Legislature shall appropriate money from that fund to provide financial support for each equalized pupil. As of 2002, that amount is \$5,448.00 per equalized pupil. Increases will be based on increases in the cumulative price index and, on or before December 15 of each year, the commissioner of Education shall recommend an appropriate level of support grants to school districts for the next school year. 16 V.S.A. § 4011. “Equalized pupil” and a number of other useful terms are defined in 16 V.S.A. §§ 11 and 4001.

On or before June 1, local education budgets which were adopted before May 1 and which are not up for reconsideration shall be reported to the state Department of Education on forms provided by the commissioner. Budgets which are adopted after May 1 shall be reported between 30 and 40 days following adoption or, if a petition for reconsideration is filed, within 10 days after a final budget is adopted. 16 V.S.A. § 4027 (e).

On or before June 30, the commissioner of the Department of Taxes shall determine:

- “the local share property tax percentage a school district which adopts a budget with local education spending in excess of the general state support grant shall collect”; and
  - “how much the district shall pay into or receive from the education fund.”
- 16 V.S.A. § 4027 (b).

The selectboard must then add that tax liability to the local school tax and the local town tax when it is setting the tax rate.

Then, “notwithstanding section 426 of Title 16, the treasurer ... shall by December 1 of the year in which the tax is levied and on June 1 of the following year pay to the state treasurer for deposit in the education fund one-half of the municipality’s property tax liability net payment, as determined by the commissioner of taxes.” 32 V.S.A. § 5402 (c). This means that if your town owes money to the “sharing pool,” it will get a bill from the state commissioner of the Department of Taxes advising how much money is due to the state treasurer, payable on December 1 and June 1, to meet that obligation. The money sent in shall be accompanied by a “return” form prescribed by the state. The town may keep one-half of one percent of the amount the commissioner says is due. “Any remaining balance shall be paid to the school district.” 32 V.S.A. § 5402 (c).

If payments are not sent to the state on time, interest will be assessed at a per diem rate of 8% per annum. If any payment is more than 90 days overdue, *any* state funds due to the municipality shall be withheld. 32 V.S.A. § 5409 (1).

If the municipality fails to send out notices of school taxes due or fails to enforce collection of them, the commissioner of taxes may step in and issue notice, collect the tax or bring a court action to require the town to do so. 32 V.S.A. § 5409 (2 & 3).

If the town grants a tax abatement under 24 V.S.A. § 1535, the commissioner *may* abate in whole or in part on the school taxes, but if he or she does not, the town remains liable for the amount of the abated tax. 32 V.S.A. § 5409 (3)(C).

Payment of too much or too little by the taxpayer to the town shall be handled under 32 V.S.A. § 5409 (5 & 6).

If the town votes to allow a discount for early payment of taxes under 32 V.S.A. § 4773, that will not reduce the amount of tax which the town owes to the state for the education fund. For example, if a taxpayer owes \$500 in school taxes, pays early, and gets a 2% discount (\$10), the town still owes the state \$500, not \$490. That \$10 must come from all of the other taxpayers in town. This also applies to any “similar discount offered by the municipality.” 32 V.S.A. § 5409 (8).

The town’s grand list is not the same as the “education property tax grand list.” See 32 V.S.A. § 5404 for the method of calculation of the education property grand list value. (Note that as of 2001, there is a section 5404 which is in effect *until* fiscal year 2004, and a second section 5404 which will go into effect *in* fiscal year 2004, unless the Legislature changes the law.)

Tax stabilization agreements may or may not apply to the education property tax grand list. 32 V.S.A. § 5404a.

#### **D. THE TREASURER AND THE SCHOOL BOARD**

Two different statutory provisions affect the regulation and control of school finances. Under authority of 16 V.S.A. § 563(8), the school board must “establish and maintain an adequate system of financial disbursement, accounting, control and reporting procedures that ensures that all payments are lawful and in accordance with a budget adopted or amended by the school board.” The board has several options. It may control the system directly or it “may authorize a subcommittee ... or a designated employee of the school board to examine claims against the district for school expenses and draw orders for such as shall be allowed by it payable to the party entitled thereto.” 16 V.S.A. § 563 (8). This means that the treasurer may be receiving orders to pay school district bills from someone other than the board itself. The treasurer must be certain that the bill states the exact purpose for which the money is to be paid and that the person issuing the order has proper authority from the board before paying such bills.

The school board may also choose to vote to pay certain bills and then submit to the treasurer “a certified copy of those portions of the board minutes, properly signed by the clerk and chairman, or [by] a majority of the board, showing to whom, and for what purpose each payment is to be made....” 16 V.S.A. § 563 (8). That certified copy of the minutes would then provide authority for the treasurer to pay such bills.

In addition to the control the school board has over paying bills, 16 V.S.A. § 563(9) authorizes the school board, with the advice and consent of the state auditor of accounts and the commissioner of the Department of Education, to establish a system of accounts for the proper control and reporting of the school finances. 16 V.S.A. § 563(9). Due to this provision, the relationship between the school board and the treasurer differs significantly from the relationship between the treasurer and the selectboard. The selectboard may not tell the town treasurer how to perform his or her statutory duties, but the school board may establish a system of accounting, reporting and other controls. So, although the treasurer has ultimate custodial responsibility over the books, check writing and depositing of checks, these duties must be performed in a manner that is consistent with the accounting procedures, reporting, and other controls as established by the board.

The school board is responsible to the voters and must give them “a report of the conditions and needs of the district school system” at least 10 days prior to the annual meeting. That report includes the district treasurer’s annual report as well as reports of town auditors and/or public accountants, as specified in 16 V.S.A. § 563 (10). The town can vote to eliminate the office of auditor. 17 V.S.A. § 2651b. If it does so, the annual audit must be done by a public accountant. The reports must be available for inspection, and copying and the contents of the reports must comply with 24 V.S.A. § 1683 (a).

Other powers of the school board under 16 V.S.A. § 563 that may impact on the treasurer are:

- preparation of the annual proposed budget, subsection (11);
- preparation of a report of actual cash expenditures, subsection (13);
- mandatory audit of school financial records by an accountant every three years, subsection (17);
- short-term borrowing, subsection (21); and
- application for/use of gifts and grants, subsection (22).

## **E. ARBITRAGE**

Arbitrage is the practice of borrowing money at a relatively low interest rate and then re-investing the money to someone else at a higher interest rate in order to make a profit, as described in Chapter V, Section H.

On a grander scale than the municipal description, if your school district has \$5 million to be used for construction and you can lend that money out for a year before the construction bills are due, you will net \$100,000.

The general law is that municipalities cannot take advantage of the financial benefits that grow out of their tax-free status. However, there are exceptions in the Internal Revenue Code, which allow school districts to use arbitrage as a moneymaking tactic under certain circumstances.

## **F. SPECIAL EDUCATION FUNDING**

The state provides funding for the education of children with special needs. 16 V.S.A. § 2942. The “standard mainstream block grant” is calculated according to the formula in 16 V.S.A. § 2961. There are also funds for “extraordinary services” and “exceptional circumstances”. 16 V.S.A. §§ 2962, 2963a.

School districts and supervisory unions must file a financial report with the commissioner of Education on or before November 15, March 15 and August 1 each year. The report shall describe revenues and expenditures for special education. Failure to do so may result in loss of funding. 16 V.S.A. § 2968.

The state treasurer, on or before Aug. 15, December 15 and April 15, will make payments to the school districts. 16 V.S.A. § 2969.

## **G. DEFICIT AT THE END OF THE FISCAL YEAR**

If the school district ends the year with a deficit, the school board must add enough to the next adopted budget to make up the deficit. (See also Chapter XX, section F.) It must then report that total to the commissioner of Education for purposes of calculating local education spending. 24 V.S.A. § 1523 (b). There are several options for dealing with deficits set forth in 24 V.S.A. § 1523 (c). Consult the statute if your school district or town finds itself in a deficit situation. Note that the school district’s fiscal year ends on June 30. 24 V.S.A. § 1683 (b).

## **VII. TREASURER and UNION SCHOOL DISTRICT**

### **A. GENERAL LAW**

“Unless otherwise specifically provided with respect to a class of school district, or in a charter of a city, the laws of [Title 16 of the Vermont Statutes Annotated], the laws pertaining to municipal corporations, and the regulations of the state board [of education] shall apply to all school districts.” 16 V.S.A. § 551. This of course includes union school districts.

Union school districts are created under 16 V.S.A. Chapter 11, subchapter 4 to afford a method by which school districts can join together to provide education for all children in member towns. A union school district is a separate municipal corporation with all the rights and responsibilities of a local school district.

The general law pertaining to schools also applies to union school districts unless there is a provision in 16 V.S.A. Chapter 11, subchapter 4 which covers a particular situation. 16 V.S.A. § 701a.

### **B. OFFICERS**

A union school district shall elect its own officers, including a treasurer and three auditors. 16 V.S.A. § 706m. The treasurer shall serve a one-year term and each auditor shall serve a three-year term. However, if the supervisory union has a treasurer, that person may be designated as the treasurer of the union school district, in which case there will be no need to elect a treasurer. 16 V.S.A. § 706j (3).

### **C. VACANCIES**

If a vacancy in the office of treasurer of the union district occurs, the board of directors shall appoint a replacement “as soon as practicable.” That appointee shall serve until the district elects a person to serve the remainder of the unexpired term. 16 V.S.A. § 706l.

### **D. POWERS, DUTIES AND LIABILITIES; BONDING**

The powers, duties and liabilities of the treasurer of the union school district are like those of a town school district treasurer. The treasurer shall be bonded for the amount set by the board of directors. Failure to have a bond for 10 days will create a vacancy in the office. 16 V.S.A. § 706q.

### **E. BUDGET**

The union school district board of directors shall prepare an annual report, which must be distributed to the voters at least 10 days prior to the annual meeting. It shall include a treasurer’s report and an auditors’ report. 16 V.S.A. § 706q (c).

## **F. BOOKS AND PAPERS TO AN OFFICER'S SUCCESSOR**

An outgoing officer must make all books and papers of the office available to his or her successor on demand. If he or she refuses to do so for 10 days, he or she must forfeit to the district \$20.00 for each 10 days' neglect. 16 V.S.A. § 706s.

## **G. EXPENSES AND BUDGET**

The expense of operating a union school district is generally based on the proportionate student enrollment, although the member districts may agree otherwise. "Student enrollment" is defined in the statute. 16 V.S.A. § 711.

The board of directors shall prepare a proposed budget for voter approval. After approval, the school board of each member district shall be notified of its district's share. 16 V.S.A. § 711a (a).

If the union district budget is not approved on or before June 30 of any year, the board may borrow funds as authorized in 16 V.S.A. § 566. 16 V.S.A. § 711a (b).

## **H. MEMBER DISTRICT'S OBLIGATION TO PAY THE UNION DISTRICT**

When a district receives notice of its share due to the union district, that becomes a legal obligation and no further vote by the local district is needed. Unless it is otherwise agreed among the members of the union district, the amount owed:

- If derived from tax revenues shall be paid within 20 days of the day on which the taxes become payable;
- If derived from payments made under 16 V.S.A. § 4028 (Act 60 state aid), each installment shall be paid within 20 days of the date when it is received, and the amount so derived as a percentage of the total state aid shall not exceed the percentage that the school district's union school enrollment bears to the district's total enrollment. 16 V.S.A. § 711b (b).

If the voters do not approve a union district budget by June 1, each member district shall pay an amount based on the most recent approved budget and its percentage of the enrollment. 16 V.S.A. § 711b (c).

## **I. BONDS AND OTHER DEBTS**

These shall be voted under authority of 16 V.S.A. §§ 706w, 711d, 711e, and 24 V.S.A. §§ 1751-1788. See also Chapter XI.

## VIII. FINANCIAL RECORDS

### A. WHAT IS GASB?

GASB (pronounced gaz-bee) is the Governmental Accounting Standards Board. It is a private, non-profit organization that develops rules for state and local governments to use when accounting for their finances and reporting their finances to the public. GASB is not an enforcement or regulatory agency, but is recognized as an authority in the field of government finance. Some states have laws that require local governments to comply with GASB standards. Vermont does not require the use of GASB but, when local governments want to borrow or to issue bonds or notes, the lender will expect to see their financial records prepared according to GASB standards. Likewise, when towns and school districts use federal funds for disaster damage repair, highways, special education and hot lunch programs, they may be required to meet GASB standards.

In June 1999, GASB issued Statement No. 34, *Basic Financial Statements – and management’s discussion and analysis – for state and local governments*. This statement enacted many changes in the way local governments should report their finances. Following the provisions of GASB 34 is recommended for all local government units, including towns, public school districts, public libraries and museums, and public employee retirement systems.

The effective date of GASB 34 depends on the total revenues of a municipality during its first fiscal year ending after June 15, 1999. The three categories of phasing are:

- Phase 1 – governments with revenues of \$100 million or more should prepare the new financial statements for all fiscal years ending after June 15, 2002;
- Phase 2 – governments with revenues between \$1 million and \$100 million should prepare the new financial statements for all fiscal years ending after June 30, 2003; and
- Phase 3 – governments with revenues below \$10 million should prepare new financial statements for all fiscal years ending after June 15, 2004.

An important new component of GASB 34 for towns is the need to capitalize and depreciate infrastructure. This means accounting for the value of each highway, bridge, culvert, sewer, etc. in town, even those built or acquired prior to implementation of GASB 34. But, like the effective date for GASB 34 generally, the effective date for infrastructure inclusion is also phased in.

- Those municipalities which are in phases one and two, above, have four extra years; phase three municipalities are not required to report infrastructure retroactively but are encouraged to do so.

For a further analysis of the need to comply with GASB 34 and the possible repercussions of non-compliance, see Appendix 9.

The following GASB user guides are available from [www.gasb.org](http://www.gasb.org):

- *What You Should Know about Your Local Government's Finances: A Guide to Financial Statements*; and
- *What You Should Know about Your School District's Finances: A Guide to Financial Statements*.

The Government Finance Officers Association's new publication, *An Elected Official's Guide to the New Governmental Financial Reporting Model*, also explains GASB 34. It is available at nominal cost through its [www.GFOA.org](http://www.GFOA.org) website. (Click on e-Store, Browse books, click on Accounting [under Departments]. The publication is on page 2.)

## **B. RESPONSIBILITY OF THE TREASURER**

The treasurer must keep records of:

- all receipts (monies, bonds, notes and evidence of debts) paid to the town and school district; and
- all monies paid out for the town and school district.

The accounts must be kept in such a way that they are "open to the inspection of persons interested." 24 V.S.A. § 1571 (a). The public records law in 1 V.S.A. §§ 315-320 also applies and, generally, public documents must be available for inspection or for copying during normal working hours. 1 V.S.A. § 316. "Public records" or "public documents" are defined as "all papers, documents, machine readable materials or any other written or recorded matters, regardless of their physical form or characteristics, that are produced or acquired in the course of [town] business." However, certain documents or types of documents listed in 1 V.S.A. § 317 (b) are exempt from public inspection and copying. Our advice is that you should always review the statute to determine whether a document is exempt from inspection. If you are not sure if a document is exempt after reviewing the statute, consult your town attorney or the VLCT Municipal Law Center.

If the town uses its own copying equipment to make copies for people, it may charge the actual cost of making the copies. It may also charge for the costs of mailing or sending the records by electronic means. 1 V.S.A. § 316 (b). It may also charge for staff time in copying the records if:

- The time exceeds 30 minutes;
- The town has to actually create a public records; or
- The record must be provided in a non-standard format and the time needed to create the copy exceeds 30 minutes.

1 V.S.A. § 316 (c).

If the town's legislative body has not determined the *actual* cost of creating copies, the town must charge the amount set by the Secretary of State. Those charges are available at [www.sec.state.vt.us/municipal/publicaccess/records/fees.html](http://www.sec.state.vt.us/municipal/publicaccess/records/fees.html). See also Chapter V, section K.

There are certain limitations on the town's obligation to provide copies if it does not own copying equipment. 1 V.S.A. § 316 (g).

The term "standard format" of documents is defined in 1 V.S.A. § 316 (h).

There may be times when certain records should be provided only after names of individuals or certain sensitive material has been redacted (or blacked out) from the document. Examples of this would be financial records that mention special education students by name, or salary information that might mention the reason for an employee's medical leave or other sensitive personal information. Note that salary and benefit information of elected or appointed personnel is not exempt from public scrutiny. 1 V.S.A. § 317 (b).

The Legislature leans towards making documents available to the public, based on the Vermont Constitution Chapter I, Article 6, which provides that officers of the government are accountable to the people at all times. The Vermont Supreme Court also interprets that clause of the Constitution very liberally. When in doubt, get a legal opinion before refusing someone access to public records.

### **C. CITY ACCOUNTS**

The governance charters of cities, towns and villages should be consulted for special provisions regarding their treasurers. (Thirty-one cities and towns had governance charters in 2002.) Twenty-four V.S.A. § 1572 provides generally that city "accounting officers ... shall keep uniform accounts in a manner prescribed by the auditor of accounts."

## IX. TAXES

### A. RECORD OF TAXES VOTED

The treasurer must keep a record of the amounts of taxes voted. The statute, 24 V.S.A. § 1574, divides the taxes voted into those for “highways, schools, special departments, if any, and for general town purposes.” In reality, towns and school districts generally vote a budget amount or amounts, which are then used to set a tax rate. 17 V.S.A. § 2664; 16 V.S.A. §§ 428, 511, 711e. The “taxes voted” in this context are the total amount which the town needs to raise through property taxes.

The point is that there are separate accounts: highways, education, general town expenses and special departments. It is obvious that school and town monies are separate, but the separation of general town and highway monies is not widely understood. Not only are funds raised from town highway taxes set aside for highways, if there is any highway money left over at the end of the year it must be carried over and used for the same purpose the next year. 19 V.S.A. § 312. So, if \$2,500 is left in the paving fund, it must be carried over and used for paving the next year. It cannot be used to generally lower the town tax rate. Arguably, the voters may be able to vote to use it for another purpose, but certainly the selectboard does not have the discretion to shift money to the General Fund.

The question arises, *What are the special funds mentioned in 24 V.S.A. § 1574?* It seems clear that a reserve fund (24 V.S.A. § 2804) or a sinking fund (24 V.S.A. § 1777) is a special, separate fund. Trust funds, including cemetery funds, are protected special funds. There may be a distinction between a line item (“\$25,000 for the fire department”) and a special article (“\$9,500 for the fire and rescue squad to purchase a defibrillator”).

What does seem clear is that the voters/taxpayers have a right to know where their money is going. Therefore, the treasurer has a duty to keep a clear record of what the tax dollars are intended for and how they are used, broken down by specific funds.

### B. TAX APPEALS

Any taxpayer has the right to appeal the listers’ valuation of his or her property. The process is lengthy, starting with a grievance to the Board of Listers and proceeding through an appeal to the Board of Civil Authority (BCA) and then on to an appeal to the Vermont Courts or the state appraiser. 32 V.S.A. Chapter 131. For information on the process, see *A Handbook on Property Tax Appeals*, published by the Vermont Division of Property Valuation and Review (PVR). The treasurer is not involved in this process, except to keep track of the eventual outcome for tax purposes. However, if the treasurer is also the municipal clerk, that individual will serve as a member of the BCA.

When the ultimate outcome of the tax appeal is that the appraisal is reduced, the taxpayer is entitled to a credit for any overpayment of taxes, based on the final valuation. The credit shall be applied against the tax for the next tax year. If the credit is not entirely used up in one tax year, it shall be applied to succeeding tax years until it is used up. 32 V.S.A. § 4469.

When the town has voted to collect interest on overdue taxes under authority of 32 V.S.A. § 5136 (a), the same rate of interest must be paid to a taxpayer who has made an overpayment of taxes as a result of winning a tax appeal. This means that, if a taxpayer appeals the appraisal of his property and eventually wins, but has paid all the taxes assessed on the original appraisal, the town must pay him interest on the amount of credit that he has.

### **C. TAX ABATEMENT**

Each municipality has a board of tax abatement. In towns it consists of the members of the board of civil authority plus the listers and the treasurer. 24 V.S.A. § 1533. The quorum requirement for the board of abatement differs from the general quorum rule in Vermont. In Vermont the general rule is a majority of the entire board is necessary to constitute a quorum and a quorum is required to meet and take action. 1 V.S.A. § 172. However, under a statute specific to the board of abatement, a majority of a quorum of the board may act. 24 V.S.A. § 1533. For example, an 11-member board requires 6 members for a quorum. So, if six members meet, a vote of four for and two against a motion will carry and will be held to be an act of the entire board.

Note that the above requirement for a quorum need not be met if a majority of the listers, a majority of the selectboard and the treasurer are present. (For example, the treasurer, two listers and two out of three selectboard members could meet and act for the board.)

Note also that in cities and villages, the treasurer is *not* a member of the board of abatement. 24 V.S.A. § 1537.

Tax abatement is the decision by the town to reduce “in whole or in part taxes, interest and collection fees.” 24 V.S.A. § 1535. It is not permissible to only abate interest and penalties. Note that this is different from tax appeals in that taxpayers come to the board of abatement, not with a complaint about the assessed value of their property, but with a request to the town to reduce or eliminate their tax obligation for one of the statutory reasons set out in 24 V.S.A. § 1535. The town may only abate for the limited statutory reasons set forth in the statute.

Interestingly, the abatement statute does not state exactly how far back an applicant for tax abatement may go for relief. This is a decision to be made at the discretion of the board of abatement, and will depend upon the circumstances of the particular request. For instance, in the case of a person seeking abatement due to his or her inability to pay, the board should look for evidence of the event that triggered the new circumstance, which could then give it a date from which to abate. In another case, an applicant might cite an error made years ago by the listers and ask for an abatement of all subsequent overcharges. In such situations, it is best to be consistent, objective and fair when making decisions. A court will most likely uphold a decision based on facts and made in good faith.

In our opinion, a taxpayer may appeal an abatement decision to Superior Court under Rule 75 of the Vermont Rules of Civil Procedure. Such an appeal would be on the record and difficult to win based on the extremely high standard that the appellant must meet. Nevertheless, because an

appeal is possible, our advice is to tape record the abatement hearings so that a transcript can be created if an appeal is filed.

Abatement is not meant to replace the grievance process for property owners who are dissatisfied with the value placed on their property by the listers. (See Tax Appeals, above.) Finally, municipalities that have charters, should consult them to see if they contain any special provisions regarding abatement.

#### **D. INTEREST ON OVERDUE TAXES**

The voters of a municipality may vote to collect interest on overdue taxes. 32 V.S.A. §§ 4873, 5136 (a). If the town collects taxes in installments, it may charge interest either from the date of each installment or only from the date of the last installment. 32 V.S.A. § 4873. The rate of interest may be not more than 1% per month or fraction thereof for the first three months, and not more than 1½% per month or fraction thereof after that. The decision to charge interest and the amount of interest to be charged shall stay in effect until the town votes otherwise. 32 V.S.A. § 5136 (a).

The meaning of “per month or fraction thereof” was clarified by the Legislature in 1997 when it added, “Such interest shall be imposed on a fraction of a month as if it were an entire month.” It is now clear that one month’s interest is due *on the day after* the tax due date because that single extra day is “a fraction of a month.” If the due date was August 15, interest starts on August 16. It is not clear, however, when the second month’s interest must be charged. VLCT’s position is that under the above scenario, the second month’s interest charge would kick in on September 1<sup>st</sup>. Our reasoning is that the statute provides interest charged “per month or fraction thereof.” A month is not always 30 days and the statute does not indicate that interest is levied 30 days after the interest on the fraction of the month is levied. Accordingly, September 1<sup>st</sup> starts a new month and interest may be charged. We acknowledge that this an open question of law and some towns may not charge the second interest payment until 30 days from the first interest charge lapses. Whatever your practice, be consistent. It is worth noting that if taxes are due on the 1<sup>st</sup> of a month, the question of how to apply this provision becomes a non-issue.

#### **E. DISCOUNTS FOR EARLY PAYMENT**

When the voters of a municipality set the date or dates for payment of property taxes, they may also approve a discount of up to 4% for any taxes paid before that due date. The voters setting the due date and the discount must be done at the same meeting. For example, if the voters set August 20 and November 20 as the dates for payment and allow a 2% discount, a person who pays the first installment before August 20 will get a discount (2% of the amount of that installment) and, if he or she pays the second installment before November 20, he or she will get a discount (2% of the amount of that installment). 32 V.S.A. § 4773.

When the voters have approved a tax discount and a tax payment sent by electronic means or by mail arrives before the due date, the treasurer or tax collector shall deposit the overpayment in the general fund if:

- The payment is for the amount of taxes assessed *before the allowed discount was factored in*;  
and
- The amount of overpayment is \$2.00 or less.

The taxpayer may demand a refund of the overpayment within one year. 32 V.S.A. § 4774.

For example, if a tax installment due was \$100 and the voters had approved a 2% discount, the early taxpayer would owe only \$98. But, if he or she sent in a check for \$100, the excess \$2.00 could be put into the general fund where it would stay unless the taxpayer realized that he or she had paid early and demanded their \$2.00 back. But if the taxpayer accidentally overpaid by sending \$105, the treasurer or collector must return the overpayment. 32 V.S.A. § 4774.

Note that provisions of Act 60 (32 V.S.A. § 5409(8)) undo some of the effect of the early payment tax discount. It provides that, even if the voters approve a discount for early payment of taxes, if the town is a “sending town,” for education property tax purposes, it must still pay to the state the entire amount set by the state. This means that if the town owes \$50,000 to the state in education property taxes, but it collected only \$49,000 because of a 2% discount, it would have to make up that other \$1,000 somehow in order to pay the state the entire \$50,000.

#### **F. PENALTY FOR DELINQUENT PAYMENT**

The collector of delinquent taxes *may* charge a commission of 8% on the amount of the taxes owed. 32 V.S.A. § 1674. Thus, the collector of delinquent taxes has discretion to charge a commission from zero up to a maximum of 8%. However, VLCT takes the position that if the collector of delinquent taxes is paid a salary, the 8% commission belongs to the town and may not be waived. This commission is often referred to as the collector’s “fee” or as a “penalty.” *Note: When taxes are paid in installments, no penalty may be assessed until after the final installment is due. This is in contrast to interest, which may begin to accrue after each installment date. 32 V.S.A. § 1674.*

The delinquent tax collector has no discretion regarding the interest because it has been approved by the electorate and belongs to the town. Where the town has voted to have the town manager collect taxes, he or she may collect the same fees, but those fees shall go into the town treasury and not to the town manager. 24 V.S.A. § 1236 (10).

Note that if the delinquent taxes are paid before the issuance of the warrant, the penalty and interest must also be collected (see Section D, above). 32 V.S.A. § 5142.

#### **G. TAX BILLS**

The selectboard is responsible for making out and delivering the tax bills to the tax collector or to the treasurer, if that officer is also the tax collector. 24 V.S.A. § 1521; 32 V.S.A. § 4791. The tax bill shall comply with the description in 24 V.S.A. § 1521. A warrant shall also be made out for each bill.

The name of each person taxed shall be on the bill. Thus, a property listed in more than one name in the land records should have all of those names on the tax bill. If there has been a change in the name of a person or corporation that owns an interest in the property, that person or corporation should notify the town clerk so the land records can be updated. 27 V.S.A. § 350.

When the undivided real estate of a deceased person is assessed to his or her estate, the executor or administrator is responsible for taxes. If the property is sold or divided, the listers should be notified of the names of the new owners. 32 V.S.A. § 3654. Change in ownership of a property may also occur through a court order in a divorce or annulment action. 15 V.S.A. § 754.

Taxpayers must be given at least 30 days notice of the date(s) set for tax payment. The bills shall include:

- The value of the property as entered on the grand list;
- The tax rate;
- The amount of taxes due;
- The date(s) they are due; and
- Information about any discount available.

32 V.S.A. §§ 4772, 4792.

The voters may set the tax due date at town meeting. 32 V.S.A. §4773. If the voters fail to set the date, or if the treasurer fails to mail the notice of taxes due at least 30 days prior to the date fixed by the voters for payment of taxes, by operation of law the tax due date is 30 days from the date of mailing of notice to the taxpayer. 32 V.S.A. § 4792. VLCT advises that if the voters set the due date, the vote should indicate whether payment is deemed made by the postmark or actual receipt. This will clear up any confusion regarding when taxes are due. In some towns where the voters have not spoken on the acceptance of the postmark date, the collectors have adopted a policy to that effect. The legal authority of the collector (or of any other officer such as the treasurer or selectboard) to adopt such a policy is an open question of law. In the event that you do, however, be clear and consistent in administering the policy – resist the temptation to make exceptions for “hardship” cases.

## **H. CURRENT USE PROGRAM**

The current use program is intended to help property owners maintain productive agricultural and forest lands. 24 V.S.A. § 3751. Property owners apply to the state to have their land entered into the program. If granted, they then pay tax on the value of the property at its current use value rather than at its fair market value. Prior to June 1<sup>st</sup> of each year, the director of PVR shall send each town copies of the notice describing the current use program. The town treasurer or collector of taxes shall include a copy of the notice in each tax bill where applicable. 32 V.S.A. § 3761.

Towns are then reimbursed by the state on November 1<sup>st</sup> for the difference in the loss of tax revenues according to calculations described in 32 V.S.A. § 3760 and made by PVR. Reimbursement may be for the whole amount or, if insufficient funds are available, on a

proportionate basis. Decisions of the director may be appealed in the same manner as tax appeals are made from the board of civil authority.

All records about current use property owners and their properties in the program are subject to the open records law. 32 V.S.A. § 3763.

## **I. LOCAL OPTION TAXES**

A temporary local option tax was authorized by the Legislature to alleviate some of the sudden changes caused by Act 60 in some towns. It may be imposed by vote of the people only from 1998 through 2004. A town may vote to impose a tax on rooms, meals, alcoholic beverages and sales (except telecommunications), in addition to other locally allowed rooms and meals taxes. 24 V.S.A. § 138.

## **J. WARRANTS FOR DELINQUENT TAXES**

Within 15 days after the date on which the final installment is due, the treasurer must issue to the collector of delinquent taxes a warrant against the delinquent taxpayers in the amount of taxes remaining unpaid. This warrant remains in effect until all taxes on it are fully paid or otherwise discharged. A municipality may vote to have the treasurer issue the warrant for delinquent taxes within *less than* the 15-day period. Such vote shall remain in effect until the town votes otherwise. (“Days” here means calendar days, not just business days.) 32 V.S.A. § 4793. In any case, the collector of delinquent taxes may then proceed to collect those taxes. 32 V.S.A. § 4874.

The question arises whether the treasurer must issue a warrant to the collector of delinquent taxes if the treasurer and collector are the same person. Although it may seem like unnecessary busy work, the warrant should be prepared (and delivered to yourself) and properly filed or recorded since it is part of the paper trail needed for tax collection. The lack of evidence of any prescribed step in the process may result in problems with collection or in a court challenge later.

Note that if the treasurer omits the name of a delinquent taxpayer and/or the amount due when issuing the warrant, the treasurer may issue an additional warrant within one year from the date upon which the taxes became delinquent. This means that the collector of delinquent taxes may receive more than one warrant from the treasurer each year. Each warrant received authorizes the collector to proceed with collection, and to charge and collect an 8% commission for doing so. 32 V.S.A. §§ 4794, 1674(2).

**In towns where both the current and delinquent taxes are paid to one “collector of taxes,” that collector may apply the 8% commission on all taxes collected after the final due date as long as the appropriate 30-day notice of the tax due date had been given. 32 V.S.A. § 1674.**

Under prior law, no one seemed to have legal authority to collect taxes between the final due date and the issuance of the warrant to the collector of delinquent taxes. That statutory glitch was corrected with the addition of subsections (b) and (c) to 32 V.S.A. § 5142. Those

subsections provide that, prior to issuance of the warrant, the treasurer or the collector of current taxes may accept, on behalf of the collector of delinquent taxes, full payment of the overdue tax so long as that payment is accompanied by the 8% collection fee and the interest due. All taxes, fees and interest so collected shall then be turned over to the collector of delinquent taxes. (Admittedly, this looks rather silly, as the collector then gives all the money back to the treasurer. However, the reason that it must go through the collector of delinquent taxes and then back through the treasurer is because personal income tax and FICA (Federal Insurance Contribution Act) must be withheld from the amount which goes to the delinquent tax collector.)

## **K. PAYMENT OF TAXES BY CREDIT CARD**

The question of whether towns can accept credit card payment of taxes is somewhat up in the air. First, there is no law that says how taxes must be paid. The implication is that they can be paid by cash, check, money order, credit card, etc.

On the other hand, specific statutes allow the tax and motor vehicle departments and the courts to collect money by credit card. 32 V.S.A. § 3110; 23 V.S.A. § 5; 4 V.S.A. § 741. The implication here is that statutory authority is needed in order to collect taxes, fees and fines by credit card.

In practice, some towns already collect property taxes, interest and penalties by credit card and are pleased with the system. Those towns seem to collect via an intermediary company that charges the taxpayer an additional “user fee,” which the company keeps, while passing along the full amount of the taxes to the town. In other cases, towns have looked into the possibility of credit card payment but have found that there would be a service charge for the town, so they declined to accept credit card payment of taxes.

At this point, there is no explicit law against credit cards, but towns should be sure that they will not be charged a service or user fee. If the town is charged such a fee, voter approval would be required for the selectboard to make the expenditure to pay the fee. Whatever arrangement they make must allow them to collect the full amount of taxes billed. Otherwise, the town (i.e., all the other taxpayers) will have to pay more to make up the difference. Towns contemplating entering into an agreement to accept taxes by credit card should read the proposed contract carefully and consult their town attorney if there are any questions.

## **L. TAX EXEMPTIONS**

There are statutory property tax exemptions, which are usually interpreted by the listers when they are valuing the properties in town. 32 V.S.A. Chapter 125. There are also tax exemptions, which towns may approve, either by public vote or by authority given to the Selectboard by the voters. For example the voters may:

- exempt charitable and fraternal organizations. 32 V.S.A. § 3840;
- approve tax stabilization agreements. 32 V.S.A. §§ 3834, 3846; 24 V.S.A. § 2741;
- exempt factories, quarries & mines. 32 V.S.A. § 3834; and
- exempt airports. 32 V.S.A. § 3837.

Note that some of these exemptions were modified by Act 60, so that while they apply to town taxes they do not apply to the education property tax grand list. 32 V.S.A. §§ 5404, 5404a. This means that if a town exempts a property from taxation, but the statutes say that such exemption does not apply to the education grand list, then the town's total education tax liability will be based on the grand list minus that property. As a result, owners of all of the other properties in town must be taxed enough extra to compensate for the loss of taxes on the exempt property.

For example, if the voters approve a tax-exempt status for A's property which results in \$2000 less tax that A has to pay in school taxes, the tax rate for every other taxpayer will have to go up enough to make up for the \$2,000 that A is not required to pay.

## **M. GLEBE LANDS**

"Glebe lands," or "lease lands," are a type of public land referred to by the Vermont Supreme Court as a "somewhat unusual Vermont institution." *Mikell v. Town of Williston*, 129 Vt. 586, 587 (1971). Many of the original charters for Vermont towns contained reservations of parcels of land for the Church of England (pre-Revolutionary) and for the use of schools, colleges, or the support of the ministry. *Id.* at 587. After the American Revolution and the separation of church and state by the Constitution, lots reserved for the church or the ministry were generally dedicated to the use of schools and the care of such lands was placed in the hands of the respective town selectboards. 24 V.S.A. § 2401; *Spaulding v. Fletcher*, 124 Vt. 318 (1964). Those public lands could be leased and the rents received "shall be annually paid into the treasury of the town." 24 V.S.A. § 2403. The leases of such public lands may be "durable leases, conveying to the lessee ... a lease of the land for 'as long as grass grows and water runs'" or phrases of similar durability. *Id.* at 320. Although 24 V.S.A. § 2404 says that rental money received from land originally dedicated to religious purposes shall be distributed to "religious societies," this requirement has since been declared unconstitutional by the Vermont Supreme Court and the rental moneys must "become part of general revenue of the town." 24 V.S.A. § 2404, Annotation #1, citing *Mikell*.

For many years it was understood that the town could not divest itself of these public lands, but could only lease them. However, 24 V.S.A. § 2406 authorizes towns to sell these lands, with two conditions attached. First, the leaseholder must be given preference as the grantee of the title, and, second, the funds received "shall be kept intact, in trust ... and the income only shall be used for the purposes for which such lands were originally granted." 24 V.S.A. § 2406. This second condition means, for example, that if the town decides to sell a lot which was originally designated for a school for a sale price of \$20,000, this lump sum must be held intact as an endowment. Only the interest from it may be used and, furthermore, the interest must be used for school purposes. Section 2406 also provides that once the land is sold and ceases to be public land, it becomes taxable in the same way as any other land in town.

## **N. THE ABSCONDING DELINQUENT TAXPAYER**

If the treasurer or tax collector believes that a taxpayer whose taxes are unpaid is leaving town, he or she may file a civil action to collect the taxes or the treasurer may proceed using a warrant issued under authority of 32 V.S.A. §§ 4796, 4875.

## **O. THE TAX YEAR**

Property is treated as if it is appraised or valued as of April 1 of each year. Any proration of taxes is presumed to be based on that date. 32 V.S.A. § 4041.

## **X. BUDGET**

### **A. DEVELOPMENT OF THE BUDGET**

The treasurer is probably the most important cog in the system for developing a budget, for without accurate financial records that the treasurer is responsible for preparing, there is no rational basis for the next year's budget. Therefore, next year's budget preparation began with day one of last year's accounting.

Critical pieces of information include:

- Prior years' income and its sources
- Prior years' expenses
- Are we on a cash or accrual basis?
- The capital budget
- Status of the long-term debt
- List/value of capital assets.

There are a number of questions that the legislative body must address when constructing the budget:

- Is the budget compatible with the town plan and capital budget?
- Have we addressed last year's deficits or surpluses?
- If we need to borrow, have we drafted a proper article for town meeting?
- Can we explain the pros and cons and the cost effectiveness of potentially controversial items?
- Have we listened to other town officials who will have to work within this budget?
- Are there groups in town that need to be heard from before we finalize the budget and present it to the voters?
- What are the prospects for taxes and other revenues?
- Have we communicated with the school board/selectboard about joint problems or interests?
- Are there urgent problems that will need to be addressed and funded this year?
- Have there been legislative changes that will impact town or school finances?
- Would you vote for this budget if someone else presented it?

### **B. SCHOOL BUDGET AND GENERAL LAWS**

“Unless otherwise specifically provided with respect to a class of school district, or in a charter of a city, the laws of this title, the laws pertaining to municipal corporations, and the regulations of the state board [of education] shall apply to all school districts.” 16 V.S.A. § 551.

### **C. TOWN BUDGET AND GENERAL LAWS**

When a town adopts a budget, it may do so by voting an amount of money *or* a rate on the dollar of the grand list. 17 V.S.A. § 2664. The budget vote shall be a floor vote of yeas and nays

unless the town has voted to use the Australian ballot system for the budget vote. 17 V.S.A. § 2680 (c). Once the town votes to adopt its budget by Australian ballot, it shall continue to do so until it votes otherwise. When budget and/or other public questions are voted by Australian ballot, a public informational meeting on those questions as mandated in 17 V.S.A. § 2680 (g) must be held. The treasurer may be the person best equipped to answer many of the questions that arise about budget and finance at that meeting. However, each town must decide who will explain the budget at that meeting and how it will be presented.

If the town budget is rejected by an Australian ballot vote, a new budget must be prepared and proposed. The re-vote shall have at least seven days' notice, shall be by Australian ballot and shall be held at the same places as the original vote. 17 V.S.A. § 2680 (c). Note that if you vote the budget by Australian ballot and are required to have an informational meeting, warnings must be posted at least 10 days prior to that meeting. The result is that when the budget re-vote is by Australian ballot, notice must be given at least 11 days prior to the scheduled vote. 17 V.S.A. § 2680 (g).

The general law on reconsideration or rescission of a vote is that an article cannot be reconsidered at the same meeting after discussion of other matters has been begun. 17 V.S.A. § 2661 (a). Practically speaking, this rule is only applicable to open town meetings with voting from the floor. Regardless of the method of voting, reconsideration of an article can be done at one subsequent meeting within the next 12 months by motion of the legislative body or by petition of the voters. However, if the original budget was rejected and the subject for reconsideration is the budget (either with or without different dollar amounts), there is no limit on the number of reconsiderations that may be held until a budget is finally adopted. *Santi v. Roxbury Town School District*, 165 Vt. 476 (1996).

#### **D. HIGHWAY BUDGET**

The statutes treat the highway budget as a separate entity. For example, 17 V.S.A. § 2664 refers to money "appropriated for ... highways and for other necessary town expenses." Also, a surplus in the highway budget must be carried forward for highway use and cannot be used for other purposes. This is in contrast to general town budgets, in which money may not be carried over from year to year unless a reserve fund has been created. 24 V.S.A. § 2804.

State highway aid will not be granted unless the town annually appropriates "at least \$300.00 per mile of class 1, 2 and 3 town highways" and complies with all of the provisions of 19 V.S.A. Chapter 3. 19 V.S.A. §§ 307, 308.

State aid for highways is appropriated according to the scheme in 19 V.S.A. § 306. Aid based on number of miles of highways is distributed quarterly. Annual appropriations are also available that must be applied for. They are usually awarded on a rotating basis to the various municipalities that apply or as emergency funds for disasters. Such grants may require matching funds from the municipalities. 19 V.S.A. § 309b.

## **E. SCHOOL BUDGET**

School district boards shall prepare and distribute annual reports to the electorate and a proposed budget for the next year. The proposed budget must “show all revenues and expenses, and shall state the specific amounts of any deficit incurred in the most recent fiscal year and how that deficit was or will be remedied.” Both the report and the proposed budget shall be distributed at least 10 days prior to the date on which the vote will be held. 16 V.S.A. §§ 563 (10), (11).

A town school district, incorporated school district or union school district “shall vote such sums of money as it deems necessary” at the annual meeting or at a special meeting. 16 V.S.A. §§ 428, 511, 711a. Likewise, the electorate of a school district “shall vote ... a sum of money necessary for the support of public schools; and the board shall determine how the voted sums shall be expended.” 16 V.S.A. § 562 (8). This is in contrast to the statutes regarding town budgets. Seventeen V.S.A. § 2664 vests authority in the voters to vote such “sums of money” to be expended by the town that year. There is no authorization for the selectboard to spend this money as it sees fit. The wording of the statute implies that, unlike the school board, the selectboard is limited in its ability to allocate funds, and may only do so as authorized by the voters at town meeting.

A school district that has not adopted a budget on or before June 30 may borrow money up to 87% of the most recently adopted budget in order to operate the school until a new budget is adopted. 16 V.S.A. §§ 566, 711a.

## **F. BUDGET DEFICIT**

When a school district has a deficit, the board is authorized to borrow money to pay the deficit and related charges. That debt shall be added to the next year’s budget. 16 V.S.A. § 515; 24 V.S.A. § 1523 (b). See also Chapter 6, G.

When towns incur a deficit, there are several ways to retire it. First, the selectboard may opt to convert the deficit to a debt by issuing municipal bonds for that amount. 24 V.S.A. § 1771. Second, the voters may approve a deficit liquidation tax that will generate funds to pay it off. 24 V.S.A. § 1523 (a). Finally, the selectboard, “when making up the next annual tax bill, shall add thereto a tax of five percent or such multiple of five in addition to the tax vote already authorized by law, to be levied on the grand list as will provide sufficient revenue to liquidate such deficit.” 24 V.S.A. § 1623 (a). This third option is mandatory if neither of the other methods is used.

## **G. BUDGET SURPLUS**

The use of surplus funds must be decided by the voters. They cannot be put into some sort of “discretionary fund” or used for some pet project of the selectboard or school board. Obviously, the amount of money voted balanced against the actual amount of money expended does not come out to the penny at the end of the fiscal year. Towns that operate on a calendar year are essentially spending money they don’t have from January 1 to Town Meeting day. School districts and towns that are on a fiscal year of July 1 through June 30 do not know at the time of their March meetings whether they will have a surplus or deficit as of June 30. But, allowing for

such realities, the voters must be told of any significant surplus and given the opportunity to vote on how it will be used.

A special situation regarding a budget surplus is in the highway funds. Any highway funds left over at the end of the year must be carried over in the highway budget and used for the same purpose the following year. 19 V.S.A. § 312. For example, if there was an appropriation of \$70,000 for paving and \$5,000 was left over at the end of the year, that \$5,000 must be carried over and used for highway purposes the next year.

Money that has been put into reserve funds does not count as a surplus. Essentially, the voters have already obligated that money when they voted it into a special fund for a specific use. The money stays in that fund and carries over from year to year.

## **H. EXPLAINING THE BUDGET**

The budget should be presented in a user-friendly format. Nothing will kill a budget faster than the perception by the voters that someone is trying to put one over on them. In addition, the selectboard, treasurer and other officers must be prepared to answer questions. This is especially critical in towns that still hold traditional town meetings and vote from the floor. In those towns the budget can be amended either up or down, sometimes quite dramatically.

There are, however, limits to how far up the budget can be amended. According to Robert's Rules of Order, a motion is not valid unless it is germane to the warned article. *The farther you stray from the warned amount of the budget, the more difficult it is to argue that the motion amending that amount is germane.* But in towns that vote by Australian ballot, disgruntled voters can only reject the budget if they do not get answers to their questions at the informational meeting.

A common question is "What will this do to the tax rate?" For example, if there is a proposal to spend \$50,000 to enlarge the firehouse, someone will always ask, "How will that affect my taxes?" If the treasurer or a selectboard member can explain how that amount is likely to affect the tax rate and how the addition of \$50,000 to the budget will impact a person who owns a \$30,000 mobile home or a person who owns a \$250,000 home, that piece of information will be very helpful to the voters.

Someone else may ask why the old firehouse isn't fine just the way it is. A fire and rescue person should be there who can give a clear, reasonable answer.

## **I. CAPITAL BUDGET**

A capital budget may be adopted by the legislative body with or without input from the planning commission. It is a planning tool that helps to keep annual budgets at a relatively even level. For example, if the municipality looks at its long term debt and its anticipated big capital expenses (new highway equipment, renovations of town building, expansion of the water/sewer system, etc.) over a five-year period, it can plan to pay off one debt before taking on a new one, barring sudden unanticipated expenses. This allows time to accumulate money in a reserve fund

for an anticipated purchase and avoids large “bumps” in the budget caused by the need to purchase a new grader and a new dump truck in the same year.

If the town and school district can each develop a capital budget and then integrate them so that big expense items for the two entities can be staggered, the total annual tax load can be kept fairly level and taxpayers will be more likely to trust the process and to approve budgets.

Obviously, the basis of a good capital budget is accurate information. This includes not only technical knowledge about highway equipment, construction costs and interest rates, but also accurate financial records from the past several years. The new GASB system will help here because it anticipates that towns will develop an inventory of their assets, including infrastructure. Knowing the value, condition, and depreciation figures for those assets will help to predict replacement needs and costs.

## **J. CALENDAR YEAR VERSUS FISCAL YEAR BUDGETING**

**1. The Pros and Cons of a Fiscal versus Calendar Year.** Vermont law mandates that school districts operate on a fiscal year of July 1 through June 30, but allows municipalities to operate on a calendar or fiscal year. 24 V.S.A. § 1683. According to VLCT’s most recent data (*2002 Municipal Census Report*), 44% of Vermont’s municipalities that responded to the survey have switched over to a fiscal year. In addition, 3.3% of those responding operate on a special fiscal year set by their governance charters. Following are some of the advantages and disadvantages of switching from a calendar to a fiscal year.

Reasons to maintain the status quo of a calendar year include:

- a. Inertia, or, “this is the way we have always done it.”
- b. The transition period will require more work.
- c. Depending on how the transition is made, there could be a nine-month gap between the end of the fiscal year and the next town meeting. This may make officials seem less accountable and will make it difficult for voters to discuss expenditures made as long as 21 months before the meeting and plan expenditures up to 16 months in the future.
- d. It will complicate payroll records and income tax reporting that are required to be done by calendar year.

Reasons to switch to a fiscal year include:

- a. The school and town will be on the same time schedule so the budgets will be concurrent.
- b. The voters get to approve the budget in March for the tax year that starts in July. Therefore, no operating expenses are incurred before budget approval. This is in contrast to the calendar year basis where the town operates from January 1 until town meeting with no budget in place.
- c. Tax collection may start soon after the beginning of the fiscal year, thus eliminating the need to borrow money for operating expenses.
- d. Auditors will have more time to do their job as they can audit the books in July and August and prepare the town report by December or January.

- e. Winter highway maintenance costs are in a single year budget cycle.
- f. The town's fiscal year will coincide with the state's fiscal year for highway and other funding, such as Act 60.
- g. There is room to schedule the annual budget vote for May or June, by which time the grand list will have been completed and the Legislature will have adjourned (probably), so that more information will be available about state funding and statutory changes.
- h. If surrounding municipalities are on a fiscal year, intermunicipal agreements with them will be easier.

**2. How to Change.** Note that state statute governs the way (Australian ballot or not) your municipality votes on the question of changing its fiscal year. If your town elects to decide this particular question by Australian ballot, or if it has already voted to decide all public questions by that method, then the vote must be by Australian ballot.

Although there is no specific statute, it is reasonable to conclude from similar voting situations that the town must vote on whether or not to switch over to a fiscal year at one meeting and then vote on the actual budget at a subsequent meeting. For example, a town would hold a special meeting in January 2002 to decide to change to a fiscal year. Then, in March 2002, it would vote on the proposed transition budget or budgets (see below). Or, vote in March 2002 on the usual calendar year budget *and* vote to decide to change to a fiscal year. Then, in March 2003, vote on a January 1, 2003–June 30, 2003 budget and the new fiscal year budget for July 1, 2003 through June 30, 2004. Following are three ways to change from a calendar year to a fiscal year:

**a. Have six consecutive 13-month fiscal years, for example:**

- 1st year .....Jan. 1, 2002 through Jan. 31, 2003
- 2nd year.....Feb. 1, 2003 through Feb. 29, 2004
- 3rd year .....Mar. 1, 2004 through Mar. 31, 2005
- 4th year.....Apr. 1, 2005 through Apr. 30, 2006
- 5th year.....May 1, 2006 through May 31, 2007
- 6th year.....June 1, 2007 through June 30, 2008
- End of transition.....July 1, 2008 through June 30, 2009

This method seems the most confusing, with repeatedly changing fiscal years and the inability to compare the budgets based on seasonal expenses.

**b. Have one 18-month fiscal year:**

- Transition year .....Jan. 1, 2002 through June 30, 2003
- End of transition.....July 1, 2003 through June 30, 2004

This method appears difficult because 18 months of tax money is lumped into one budget. However, spreading the payments out into quarterly payments will make the actual paying of taxes less painful (for example, payments due in August and November 2002 and February and May 2003).

**c. Have one special six-month budget:**

- Special budget.....Jan. 1, 2002 through June 30, 2002
- End of transition.....July 1, 2002 through June 30, 2003

This method would necessitate voting on two separate budgets within a few months time. It may seem very confusing to voters and create a lot of work in a short period of time for town officials.

If you have questions about changing your municipality's fiscal year, please contact the VLCT Municipal Law Center. The Center can answer your questions and put you in contact with other municipalities that have recently changed, so that you may hear first hand about the process.

## XI. BORROWING

### A. BONDING

Municipal corporations may borrow money in several different ways, sometimes depending upon the type of municipality. Borrowing by bonding is available to the many types of municipal corporations listed in 24 V.S.A. § 1751 (a), which includes towns, cities, villages, and school districts. Bonding is not available for ordinary operating expenses but may be used for “improvements,” as defined in 24 V.S.A. § 1751 (3).

An interesting statute allows a municipality to issue bonds for “capital improvements to any *privately-owned municipality-supported library* situated within the municipality for use of residents....” [emphasis added] 24 V.S.A. § 1752a.

Obviously, money borrowed by bond should be used first for the purpose for which it was borrowed. However, if it is not used, or if there is money left over after that purpose has been accomplished, the voters may then vote to spend the money on another project for which they have the power to bond. For example, if the town borrows \$25,000 to purchase new land for a town garage and \$6,000 is left over from that project, the voters could approve the use of that \$6,000 for improvements to the town offices. If money is left over that is not approved by the voters for another use, it automatically goes towards paying off the principle on the bond. 24 V.S.A. § 1753.

Any vote on bonding or alternative uses of money already borrowed by bonding must be done by Australian ballot. 24 V.S.A. § 1786. That statute provides formats for the bond vote ballot which “shall be substantially” followed. Note that the general ballot formats are prescribed in 24 V.S.A. § 1758 (a), but special provisions for school bond votes are provided in 24 V.S.A. § 1758(b).

The general law governing Australian balloting is found in 17 V.S.A. §§ 2680-2687. While the general law in 17 V.S.A. § 2680 (d) says that municipalities that have voted to decide public questions by Australian ballot must hold a public hearing before the vote, a more specific provision in 24 V.S.A. § 1758 (c) requires that a school district *shall* hold an informational meeting before voting on a bond issue. In addition, at that informational hearing, the school board *shall* distribute written information showing what percentage of the costs will not be eligible for state aid.

There are further provisions on bonding as follows:

- interest and payment schedules (24 V.S.A. §§ 1759-1761);
- limit on total indebtedness allowed (24 V.S.A. §§ 1762, 1767);
- taxing authority to pay off bonds (24 V.S.A. § 1764);
- authority to sign bonds, including treasurer’s authority (24 V.S.A. § 1766);
- refunding (refinancing) unpaid orders, notes, bonds, etc. (24 V.S.A. §§ 1771-1772);
- authority of legislative body to take out temporary loans (24 V.S.A. § 1773); and
- the obligation of each treasurer to keep a record of such debts (24 V.S.A. § 1774).

The Vermont Municipal Bond Bank is a quasi-state agency that exists to assist municipalities in having access to bonds at the lowest possible cost. In order to obtain financing through the Bond Bank, a municipality must have voter approval, a favorable opinion from local bond counsel and a recent audit by an independent certified public accountant. For information, contact the Vermont Municipal Bond Bank, 133 State Street, Montpelier, VT 05633-6200, telephone 802-223-2717 or 800-894-2717. The law regulating the Bond Bank is in 24 V.S.A. Chapter 119.

## **B. SHORT-TERM BORROWING WITHOUT BONDING**

Municipalities may borrow through non-bond debt instruments in order to pay for public improvements or to purchase capital assets. The term of such debt shall not exceed the reasonably anticipated life of the improvement or asset. 24 V.S.A. § 1786a. For example, the debt for purchase of a highway truck, which usually must be replaced in four years, could not extend for more than four years, whereas a loan to add on to the town office could have a longer term.

In addition, a recently enacted law clarifies the authority of the selectboard to borrow money to purchase tools and equipment necessary for the repairs of highways and bridges without voter approval. See 24 V.S.A. § 1786a and 19 V.S.A. § 304a(3).

If such a non-bonded debt will be financed for five years or less, it can be approved by the voters at an annual or special meeting. If it is to be financed for more than five years, the procedural bonding requirements of 24 V.S.A. §§ 1755-1757 must be followed. 24 V.S.A. § 1786a.

## **C. BORROWING IN ANTICIPATION OF TAXES**

**1. Municipal Corporations – General Law.** The legislative body of a municipal corporation may borrow money to pay current expenses by the issuance of short-term (less than one year) notes or orders. 24 V.S.A. § 1786. Note that no voter approval is necessary to borrow in anticipation of taxes, although many towns request voter approval via town meeting articles.

A municipality may also borrow money in anticipation of taxes, up to 90% of the taxes assessed, and fund them through short-term (less than one year) notes or orders. 24 V.S.A. § 1786. Note that borrowing up to 90% seems to require voter approval rather than just the approval of the legislative body.

**2. School Districts.** In contrast to the general law for municipal corporations, it appears that the voters of a school district must vote to authorize the school board to borrow money by bond or note, not to exceed the anticipated revenue for the school year. 16 V.S.A. § 562 (9).

## **D. BORROWING WHEN NO BUDGET HAS BEEN ADOPTED**

If no school budget has been adopted by the voters by June 30, the school board may borrow an amount up to 87% of the most recently approved school budget in order to operate the school. 16 V.S.A. §§ 566, 711a. That means that if the 2003 budget has failed but there was an approved

budget for 2002 of \$10,000,000, the school board may borrow \$8,700,000 without voter approval.

When the school board has to borrow money because there is no approved budget, “it [the board] shall determine how all funds shall be expended.” 16 V.S.A. § 711a.

## **E. TOWN AND SCHOOL DISTRICT BORROWING FROM EACH OTHER**

The school board may borrow from the general town fund and the selectboard may borrow from the school fund, without interest, with the approval of the other board. These loans must be secured by signed notes and are payable on demand or within three months from the date of issue. 16 V.S.A. § 429.

Note: This does not mean that the town can slyly shift some of its expenses over to the school district in order to get Act 60 money to pay them. If the commissioner of Education determines that the town has shifted expenses to the school so that Act 60 money has been used for non-education purposes, the town treasurer has 90 days to correct the error by paying the money back. The decision of the commissioner may be appealed to the state Board of Education, then to the superior court and ultimately to the Supreme Court. 16 V.S.A. § 4029.

The school district must report to the commissioner each year the amount of money it paid to or received from the municipality including those for legitimate expenses and any property or in-kind services. 16 V.S.A. § 4029 (f). “Legitimate items of current educational expenses” for which the school district may pay the town include reasonable payments for services performed for the school district by the municipal treasurer, clerk or auditors. 16 V.S.A. § 4029(e).

## **F. TAX INCREMENT FINANCING**

Twenty-four V.S.A. §§ 1891-1900 gives Vermont selectboards the authority to designate tax increment financing districts within their municipalities. Such a district can be utilized by a municipality to raise tax revenues targeted for improvements within (in whole or in part) the district. A municipality may also, with the voters’ approval, borrow against the district’s revenue to finance the improvements. 24 V.S.A. §§ 1894, 1897.

The district works like this: on the first year of its existence, the municipality’s listers or assessor certifies the assessed valuation of all taxable real property within the district. This value is called the *original taxable value* (OTV), and the listers or assessor annually certifies to the selectboard whether this value has increased or decreased, and the proportion which any such increase bears to the total assessed valuation of the real property for that year or the proportion which any such decrease bears to the original taxable value. The tax rate for that district is calculated (for each of the next 10 years) based on the grand list using the OTV. If the value of the properties increases, the taxes gained from this increase (the “tax increment”) are reserved in a special fund by the treasurer for use in the district directly or for debt service on bonds issued for district improvements.

While tax increment financing districts are not widely used by Vermont municipalities, they are helpful in certain situations. Finally, municipalities that have tax increment financing districts under 24 V.S.A. Chapter 53, subchapter 5, may apply to the Vermont Economic Progress Council (VEPC) to expand these districts and to collect and use the taxes collected. 32 V.S.A. § 5404a(f).

## **G. LEASE PURCHASE**

The practice of lease purchase of equipment is a method municipalities use to acquire a piece of equipment – such as a new dump truck – using current operational money rather than borrowing. It necessitates no voter approval for borrowing or bonding. The problem with it is that if the selectboard has signed a five-year lease-purchase agreement and in year two or three the voters decide not to appropriate the money for the next year's lease, the truck goes back to the dealer and the town has nothing to show for it. In light of this possibility, VLCT recommends that multiple-year lease-purchase contracts contain a contingency clause acknowledging the need for annual voter authorization of the lease payment.

## **XII. TREASURER OF THE SUPERVISORY UNION**

### **A. ELECTION; TERM OF OFFICE**

The treasurer of a supervisory union is elected by the board of the supervisory union. He or she is elected for an annual term; if the office becomes vacant, a replacement may then be elected. The normal term of office runs from July 1 through June 30. 16 V.S.A. §§ 322 (a), 324. The board also sets the salary and benefits for the treasurer and the amount of bond required. 16 V.S.A. § 322.

### **B. REMOVAL FROM OFFICE**

The treasurer of a supervisory union may be removed from office for cause by vote of the school directors. 16 V.S.A. § 325. “For cause” means that the treasurer cannot be dismissed summarily but must be provided with notice and an opportunity to be heard.

A majority vote of those directors present and eligible to vote is required to remove the treasurer from office. 16 V.S.A. § 325. The wording “eligible to vote” means that if members of the board are present who have some conflict of interest or reason to recuse themselves, the vote of a majority of those directors actually voting shall be required in order to remove the treasurer from office.

### **C. COMPATIBLE OFFICES; BONDING**

The district treasurer may also be the treasurer or deputy treasurer for any school within the district. When a person serves as deputy treasurer, he or she must have a bond in the same amount and for the benefit of the same obligee as that of the school treasurer with whom he or she works. 16 V.S.A. § 322(b).

### **D. DUTIES**

The duties of the treasurer of a supervisory union are to:

- sign all checks and drafts;
- invest funds in a prudent manner, as directed by the board;
- prepare a balance sheet, at the request of the board; and
- reconcile monthly accounts with the supervisory union bookkeeper.

16 V.S.A. § 322 (c).

### **E. AUDITS**

The supervisory union board shall order an audit to be done by a public accountant annually. Annual reports to the members of the union must include notice that an audit has been performed. 16 V.S.A. § 323.

APPENDIX 1

MUNICIPAL OFFICIALS' TABLE OF AUTHORITY

Process:	Approved by	Processed by	Recorded by	Audited by
<b>Billing</b>				
<i>Current tax bills</i>	Amount to be raised in taxes set by town meeting either as a tax rate (uncommon) or a specific amount to be raised, in which case the legislative body sets rate necessary (17 V.S.A. § 2664)	Legislative body “makes out and delivers” to proper collector <sup>1</sup> (town decides treasurer (common), collector of current taxes or first constable) along with warrant (24 V.S.A. § 1522)	Treasurer (24 V.S.A. § 1523)	Auditor <sup>2</sup> (24 V.S.A. § 1681)
<i>Delinquent taxes</i>	Within 15 days <sup>3</sup> after the due date for taxes, the treasurer must issue and deliver to the delinquent tax collector a warrant for unpaid taxes (32 V.S.A. § 4793)	Notification and payment arrangements are made by collector of delinquent taxes <sup>4</sup>	Collector of delinquent taxes (24 V.S.A. § 5137)	Auditor <sup>2</sup> (24 V.S.A. § 1681)
<i>Sewer bills</i>	Rates and levy are approved by sewer commissioners	Sewer commissioners <sup>5</sup>	Treasurer <sup>6</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)
<i>Water bills</i>	Rates are approved by water commissioners	Water commissioners <sup>5</sup>	Treasurer <sup>6</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)
<i>All other bills</i>	Rates are approved by legislative body	Treasurer <sup>7</sup>	Treasurer <sup>7</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)

**APPENDIX 1**

**MUNICIPAL OFFICIALS' TABLE OF AUTHORITY**

<b>Process:</b>	<b>Received by</b>	<b>Invested by</b>	<b>Recorded by</b>	<b>Audited by</b>
<b><i>Receipts</i></b>				
Current tax receipts	Collector of current taxes <sup>1</sup> (24 V.S.A. § 1528)	Treasurer with approval of the legislative body (24 V.S.A. § 1571(b))	Collector of current taxes <sup>1</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)
Delinquent tax receipts	Collector of delinquent taxes <sup>4</sup> (32 V.S.A. § 4874)	Treasurer with approval of the legislative body (24 V.S.A. § 1571(b))	Collector of delinquent taxes (32 V.S.A. § 5137)	Auditor <sup>2</sup> (24 V.S.A. § 1681)
Cemetery operating receipts	Treasurer (18 V.S.A. § 5384a)	Treasurer with approval of the legislative body or cemetery commissioners <sup>9</sup> (24 V.S.A. § 1571(b))	Clerk (18 V.S.A. § 5384(a))	Auditor <sup>2</sup> (24 V.S.A. § 1681)
Cemetery trust fund receipts	Trustees of public funds <sup>8</sup> (24 V.S.A. § 2431)	Trustees of public funds <sup>8</sup> (24 V.S.A. § 2432)	Trustees of public funds <sup>8</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)
Clerk receipts	Clerk (32 V.S.A. § 1671(5))	Treasurer with approval of the legislative body (24 V.S.A. § 1571(b))	Clerk	Auditor <sup>2</sup> (24 V.S.A. § 1681)
School receipts	School treasurer (16 V.S.A. § 426)	School treasurer with approval of the school board (16 V.S.A. § 426(c))	School district treasurer (16 V.S.A. § 426(d))	Auditor <sup>2</sup> (24 V.S.A. § 1681, 16 V.S.A. 425))
Sewer receipts	Treasurer <sup>6</sup>	Treasurer with approval of the legislative body (24 V.S.A. § 1571(b))	Treasurer <sup>6</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)
Trust fund receipts	Trustees of public funds (24 V.S.A. § 2431)	Trustees of public funds (24 V.S.A. § 2432)	Trustees of public funds	Auditor <sup>2</sup> (24 V.S.A. § 1681)
Water receipts	Treasurer <sup>6</sup>	Treasurer with approval of the legislative body (24 V.S.A. § 1571(b))	Treasurer <sup>6</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)
All other receipts	Treasurer <sup>7</sup>	Treasurer with approval of the legislative body (24 V.S.A. § 1571(b))	Treasurer <sup>7</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)

**APPENDIX 1**

**MUNICIPAL OFFICIALS' TABLE OF AUTHORITY**

<b>Process:</b>	<b>Approved by</b>	<b>Processed by</b>	<b>Recorded by</b>	<b>Audited by</b>
<b><i>Disbursements</i></b>				
Cemetery expenses	Legislative body or cemetery commissioners <sup>9</sup> (18 V.S.A. §§5362, 5372, 5385)	Treasurer <sup>6</sup>	Treasurer/trustees of public funds/cemetery commissioners (18 V.S.A. § 5385, 24 V.S.A. § 2431)	Auditor <sup>2</sup> (18 V.S.A. § 5380)
School expenses	School board or its designee (16 V.S.A. § 563(8))	School treasurer (16 V.S.A. § 426(c))	School treasurer (16 V.S.A. § 426(c))	Auditor <sup>2</sup> (16 V.S.A. § 425, 24 V.S.A. § 1681)
Sewer expenses	Sewer commissioners (24 V.S.A. § 3616)	Treasurer <sup>7</sup>	Treasurer <sup>7</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)
Trust fund expenses	Trustees of public funds (24 V.S.A. § 2432) <sup>10</sup>	Trustees of public funds (24 V.S.A. § 2432) <sup>10</sup>	Trustees of public funds (24 V.S.A. § 2432) <sup>10</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)
Water expenses	Water commissioners (24 V.S.A. § 3313)	Treasurer <sup>7</sup>	Treasurer <sup>7</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)
All other Town expenses	Legislative body (24 V.S.A. § 1621)	Legislative body (24 V.S.A. § 1622)/treasurer <sup>7</sup>	Treasurer <sup>7</sup>	Auditor <sup>2</sup> (24 V.S.A. § 1681)

<sup>1</sup>Duties of the collector of current taxes may be given to treasurer or town manager; if no collector is elected and duties are not assigned to treasurer or town manager, the constable will be the collector.

<sup>2</sup> A town may elect to have an independent auditor serve this function.

<sup>3</sup> A municipality may elect a shorter period in which to issue warrant.

<sup>4</sup> If no collector of delinquent taxes is elected, the constable will be the collector. Delinquent taxes may be collected by the treasurer or collector of delinquent taxes provided that full payment of the delinquency is accompanied by collection fee and any interest. (32 V.S.A. § 5142 (b))

<sup>5</sup> Although not spelled out in the statutes, in practice, sewer and water commissioners may delegate processing of billing, receiving payments and paying bills to the treasurer or an accountant appointed by the legislative body.

<sup>6</sup> Collection of revenue and accounting for sewer and water billing is not spelled out in the statutes, however, in practice it may be done by the treasurer, town manager, or an accountant appointed by the legislative body.

<sup>7</sup> The town manager may assume these duties or an accountant appointed by the legislative body.

<sup>8</sup> If elected, trustees have primary responsibility, otherwise cemetery commissioners or treasurer assumes responsibility.

<sup>9</sup> Town may vote to place its public burial grounds under the charge of cemetery commissioners. If so, all responsibility on the part of the legislative body shall cease. (18 V.S.A. § 5373)

<sup>10</sup> Unless otherwise designated by trusts.

APPENDIX 2

CHART OF INCOMPATIBLE OFFICES

Can a Person Hold Both of These Offices?	Auditor	Selectperson	School Director	Town Manager	Town Treasurer	Election Official & Candidate (Australian Ballot)	Election Official & Candidate (Not Australian Ballot)	School District Employee <sup>1</sup>	Holding a Liquor License in Same Town	Spouse
Town Clerk	No	Yes	Yes	No	Yes	Yes	No	Yes	Yes	
Assistant Town Clerk	No	Yes	Yes	No	Depends <sup>2</sup>	N/A	N/A	Yes	Yes	
Town Treasurer	No	No	No	No	—	No, If Opposed	No	Yes	Yes	
First Constable	No	No	No	No	Yes	Yes	No	Yes	No	
Trustee of Public Funds	No	Yes	Yes	No	Yes	No, If Opposed	No	Yes	Yes	
Road Commissioner	No	Yes	Yes	No	Yes	No, If Opposed	No	Yes	Yes	
Town School District Director	No	Yes	—	No	No	No, If Opposed	No	No	Yes	
Lister	Yes	No	Yes	No	Yes	No, If Opposed	No	Yes	Yes	
Town Agent	Yes	No	No	No	Yes	No, If Opposed	No	Yes	No	
Auditor	—	No	No	No	No	No, If Opposed	No	Yes	Yes	3
Tax Collector, Current	No	No	No	Yes	Yes	No, If Opposed	No	Yes	Yes	
Tax Collector, Delinquent	No	No	No	Yes	Yes	No, If Opposed	No	Yes	Yes	
Grand Juror	Yes	Yes	Yes	No	Yes	No	No	Yes	No	
Justice of the Peace	Yes	Yes	Yes	No	Yes	Yes	No	Yes	No	
Town Manager	No	No	No	—	No	No	No	Yes	Depends <sup>4</sup>	
Inspector of Elections	Yes	Yes	Yes	No	Yes	Yes	No	Yes	Yes	
Selectperson	No	—	Yes	No	No	No	No	Yes	No	

1 Within same supervisory union.

2 See 24 V.S.A. § 1622.

3 A spouse of a town clerk, town treasurer, selectperson, trustee of public funds, town manager, water commissioner, sewer commissioner, first constable, road commissioner, collector of current or delinquent taxes, or town school district director, or any person who assists any of these officers may not be an auditor. 17 V.S.A. § 2647.

4 Depends on whether the Town Manager acts in an investigative or enforcement capacity.

## APPENDIX 3

### TECHNICAL RESOURCES

Besides VLCT and the Secretary of State's Office, a number of other resources are available to assist the treasurer in fulfilling his or her mandated responsibilities.

#### A. PROFESSIONAL ORGANIZATIONS and AGENCIES

***AICPA (Association of Certified Public Accountants)***

The national association of certified public accountants. Products available on-line at <http://www.aicpa.org> or by phone at 888-777-7077.

***AIPB (American Institute of Professional Bookkeepers)***

Provides a monthly newsletter that addresses payroll and tax related issues, access to a member hotline for answers to bookkeeping questions and member discounts on AIPB courses that lead to certification. Membership information available from AIPB, 6001 Montrose Road, Suite 500, Rockville, MD 20852; phone, 301-770-7300; website, [www.aipb.org](http://www.aipb.org).

***APA (American Payroll Association)***

The national association of payroll officers. Provides education, research and publications. Subscription includes the monthly journal, a membership directory and access to the hotline referral service for tax and payroll questions. Products available on-line at <http://www.americanpayroll.org> or by phone at 210-224-6406.

***ASBO (Association of School Business Officials)***

The national association of school business officials. Provides education, research and publications. Products available on-line at <http://www.asbointl.org> or by phone at 703-478-0405.

***GASB (Governmental Accounting Standards Board)***

Governs the accounting standards for government entities. Provides publications, subscriptions and valuable on-line accounting standards information. Basic Subscription includes published Statements, Concepts Statements, Technical Bulletins, Interpretations, and a newsletter Action Report. Products available on-line at <http://www.gasb.org> or by phone at 800-748-0659.

***GFOA (Government Finance Officers Association)***

The national association of finance officials. Provides education, research and publications. Subscription includes the journal Government Finance Review. Products available on-line at <http://www.gfoa.org> or by phone at 312-977-9700.

***GMPA (Green Mountain Payroll Association)***

A chapter of the American Payroll Association. Membership dues contribute to securing accomplished speakers for meetings that are held the 3<sup>rd</sup> Thursday of March, May, July, September and November and defraying meeting and administrative expenses. Website at <http://www.paydata.com/gmpa>.

## APPENDIX 3

### ***State Auditor's Office***

Conducts required state and federal financial audits and special reviews of State programs, and provides technical assistance to state, local and non-profit organizations. Website at <http://www.state.vt.us/sao/> or phone 802-828-2281.

### ***VASBO (Vermont Association of School Business Officials)***

The state association of school business officials. Website at <http://vasbo.19.com/html/links.html>, or phone VLCT at 802-229-9111 for contact information.

### ***Vermont Society of CPAs***

The state association of certified public accountants. Provides training and user group support. On-line at <http://www.vtcpa.org> or phone 802-229-4939.

### ***VTGFOA***

Professional association of Vermont finance officials. Provides training to members. Phone VLCT at 802-229-9111 for contact information.

## B. WEBSITES

### ***Internal Revenue Service – The Digital Daily website: [www.irs.ustreas.gov](http://www.irs.ustreas.gov)***

Forms and publications can be accessed and downloaded. Provides information for individuals, businesses, non-profits, government entities and tax professionals.

### ***FDIC: [www.fdic.gov/index.html](http://www.fdic.gov/index.html)***

Provides information on FDIC insured financial institutions.

### ***Social Security Online: [www.ssa.gov/slge](http://www.ssa.gov/slge)***

For state and local government employers who are responsible for withholding, reporting and paying Social Security and Medicare taxes for public employees.

### ***State of Vermont: [www.state.vt.us](http://www.state.vt.us)***

Provides information on and links to a variety of Vermont issues as well as a search engine to access the Vermont Statutes.

### ***Vermont Department of Taxes: [www.state.vt.us/tax](http://www.state.vt.us/tax)***

Provides information, news and statistics.

## C. PUBLICATIONS

### ***Accounting***

*Financial and Managerial Accounting for Elementary and Secondary School Systems* (1985) by Sam B. Tidwell, CPA. Out of print, but available through Amazon.com at <http://www.amazon.com> or through any used book search service. *(Although this is a publication on school accounting, it is an excellent resource for municipal accountants as well and is highly recommended as a basic municipal accounting primer.)*

## APPENDIX 3

*GASB Statement 34* (1999) by the Governmental Accounting Standards Board, available through GASB. Website, <http://www.gasb.org>; or phone, 800-748-0659.

*Governmental Accounting, Auditing and Financial Reporting (GAAFR)* (2001) by Government Finance Officers Association, available through GFOA. Phone 312-977-9700 or visit on-line at <http://www.gfoa.org>.

*Guide to Implementation of GASB Statement 34* (2000) by the Governmental Accounting Standards Board, available through GASB. Phone 800-748-0659 or visit on-line at <http://www.gasb.org>.

### ***Financial Statements***

*Evaluating Financial Condition: A Handbook for Local Government* (1986) by Sanford M. Groves and Maureen Godsey Valente, available through ICMA. Phone 800-745-8780 or visit on-line at <http://www.icma.org>.

*Moody's on Municipals: An Introduction to Issuing Debt* (1991) by Moody's Public Finance Department, available through Moody's Investors Services, Inc. Visit on-line at <http://www.moody.com/cust/default.asp>, or phone 212-553-0470.

*Municipal Finance Criteria* (1993) by S&P Municipal Finance Department, available through Standard and Poor's. Phone 212-208-1146 or visit on-line at [http://www.standardandpoors.com/index\\_splash.html](http://www.standardandpoors.com/index_splash.html).

*What You Should Know about Your Local Government's Finances* (2000) by Dean Michael Mead, available through GASB. Phone 800-748-0659 or visit on-line at <http://www.gasb.org>.

### ***General Finance***

*Local Government Finance Concepts and Practices* (1991) edited by John E. Petersen and Dennis R. Strachota, available through GFOA. Phone 312-977-9700 or visit on-line at <http://www.gfoa.org>.

*Management Policies in Local Government Finance* (1987) edited by J. Richard Aronson and Eli Schwartz, available through ICMA. Phone 800-745-8780 or visit on-line at <http://www.icma.org>.

*Recommended Practices for State and Municipal Governments* (2001) approved by Government Finance Officers Association, available through GFOA. Visit on-line at <http://www.gfoa.org> or phone 312-977-9700.

### ***Investing***

*Banking Relations: A Guide for Government* (1986) by Rhett D. Harrell, available through Amazon.com at <http://www.amazon.com> or special order through your local bookstore.

### APPENDIX 3

*Investing Public Funds* (1986) by Girard Miller, available through GFOA. Phone 312-977-9700 or visit on-line at <http://www.gfoa.org>.

#### ***Payroll and Accounts Payable***

*1099 Information Reporting: A Compliance Guide for State and Local Governments* (1997) by Government Finance Officers Association, available through GFOA. Phone 312-977-9700 or visit on-line at <http://www.gfoa.org>.

*Taxation of Employee Fringe Benefits, 2<sup>nd</sup> Edition* (1998) by R. Andrew Parker, Jennifer Deutsch, and Alison Wright, available through GFOA. Phone 312-977-9700 or visit on-line at <http://www.gfoa.org>.

#### ***Revenue Collection***

*Collecting Delinquent Revenue* (1995) by M. Corrinne Lawson and Olga Spaic, available through GFOA. Visit on-line at <http://www.gfoa.org>, or phone 312-977-9700.

*Revenue Collection and Administration* (1992) by Ian J. Allan, available through GFOA. Phone 312-977-9700 or visit on-line at <http://www.gfoa.org>.

## APPENDIX 4

### TRUSTEES OF PUBLIC FUNDS; TRUSTEES OF PUBLIC MONEY VLCT Selectboard Handbook, 2<sup>nd</sup> edition, chapter 14, pp. 4-5

**Trustees of Public Funds.** Trustees of public funds shall be elected from among the legal voters at the annual meeting if the town so directs. 17 V.S.A. § 2646(12). The duty of the three trustees is to manage real or personal property held by the town in trust for any purpose. 24 V.S.A. § 2431. This includes trust funds to be used, for example, for charitable, educational and cemetery purposes but excludes “United States public money.” There is some overlap of responsibility for cemetery funds among trustees, cemetery commissioners and town treasurers. 18 V.S.A. Chapter 121, Subchapter 2. It appears that if trustees of public funds are elected, they have primary responsibility for the investment of funds and for the annual reporting on them.

The trustees have the duty and authority to manage public funds, including the authority to:

- apply the income to its designated purpose;
- create deeds and contracts;
- lease, sell or convey real estate and invest the proceeds;
- lend money and hold deeds and mortgages;
- invest in certain bonds and shares; and
- hold, purchase, sell, assign, transfer and dispose of securities and investments and the proceeds of investments.

18 V.S.A. § 5384(b); 24 V.S.A. § 2432.

In some investments the trustees are subject to certain federal and state banking and insurance guidelines.

Each year the trustees shall report to the town or, in the case of school money, to the state board of education the results of their handling of investments and the use of the income from public funds. 24 V.S.A. § 2434. Trustees must be bonded to the satisfaction of the selectboard. Finally, they may prosecute and defend in legal actions involving public funds. 24 V.S.A. § 2433.

**Trustees of Public Money.** Towns which “retain possession of a portion of the surplus funds of the United States received under the Act of 1836” must elect a trustee of public money. 17 V.S.A. § 2646(13). This trustee is not the same as the trustee of public funds discussed above.

In 1836 Congress passed a statute which deposited most of the excess money left in the U.S. Treasury with the states. The law reserved \$5 million for the U.S. and divided the rest of the funds among the states in proportion to their representation in Congress. U.S. Statutes at Large, 5:55, June 23, 1836. In order to accept the money, the states had to pledge to keep the money safe and to repay it “from time to time, whenever the same shall be required ... for the purpose of defraying any wants of the public treasury, beyond the amount of the five millions aforesaid....” *Id.*

States were free to refuse these surplus funds, but it appears that Vermont accepted, because the state legislature provided for distribution of these public moneys to towns that had appointed or

## APPENDIX 4

elected trustees to manage the money. Trustees were charged with reporting to the town at the annual meeting.

Whether any towns still have any of this federal surplus money is questionable. However, it is certainly historically interesting, if not absolutely fascinating, that the U.S. government actually had surplus funds in 1836-37 and that it felt it could distribute them to the states, keeping only a \$5 million buffer against future expenses. If there is still surplus money out there, keep in mind that the U.S. Secretary of the Treasury probably still has the authority to call for it in amounts not to exceed \$10,000 from any one state, in any one month.

## APPENDIX 5

### SINKING FUNDS

Ask the League, *VLCT News*, January 1996

*Our town has set up a special account to pay for operations at our landfill, and funds it not with user fees, but with an annual appropriation. How should a surplus in this account be dealt with at the end of the year? Can it be held over for use by the landfill in future years? Or does it have to be reported in the budget as surplus, to be used in the following year only after approval by the voters?*

It sounds as if your town created a “reserve fund” as authorized under 24 V.S.A. § 2804. A reserve fund is one which is intended for a specific purpose. For example, many towns have reserve funds for equipment or for an anticipated capital expense. The unique feature of a reserve fund is that it is money that may be carried forward into subsequent fiscal years, as opposed to general town funds that must be used “this year” or returned to the voters for their reconsideration. Money in the reserve fund must be kept in a separate account so that taxpayers know where it is and how it is being used.

While the legislative branch is given control over the reserve fund, it must use the money only for the original purpose or go back to the voters to ask for authority to use the fund for a different purpose. For example, if, three years later, you find that there is extra money which is not needed for the landfill, you may return to the voters with an article at a properly warned meeting and ask: Will the voters authorize the use of \$5,000 in unexpended landfill reserve funds for new culverts?, or to help pay off the debt on the town building?, or to reduce this year’s tax rate?

If the town did not create a reserve fund, the special landfill account is simply part of the town’s general fund and cannot, therefore, be carried forward into a subsequent fiscal year without voter approval.

Whether the town has created a reserve fund or not, it is important to remember that if this account is funded solely by fees charged for use of the landfill, in most cases these funds may only be expended to pay the costs associated with the operation of the landfill and the landfill’s indirect costs to the town (for example, the wear and tear on the town’s roads resulting from traffic to and from the landfill).

Note that a reserve fund is not the same as a sinking fund. A sinking fund, 24 V.S.A. § 1777, is a fund to be used to retire a debt or bond and is not to be used for anticipated future expenses.

## APPENDIX 5

### RESERVE FUNDS AND SINKING FUNDS

from *VLCT Selectboard Handbook*, 2<sup>nd</sup> edition, 1999, chapter 14, p. 2

A reserve fund is one which is established by the voters for a special purpose and which may be carried over from year to year.

For example, the town would like to make improvements to the recreation field which will cost about \$30,000. There is a comprehensive plan for the improvements, which will have to be done incrementally over several years. The voters may appropriate the entire amount now for that specific purpose. That money must be put into a special, dedicated account, which will be administered by the selectboard solely for the recreation field.

A second example is the commonly used “equipment fund,” by which voters approve money to be put aside for big ticket items such as dump trucks or graders. The money set aside each year can be invested and accumulate so that the eventual purchase of a \$150,000 item can be accomplished without borrowing and paying interest on the whole amount.

The board should act in a fiscally responsible manner and assure that all money is invested wisely until such time as it is actually needed. The voters, not the selectboard, have the authority to spend money from the reserve fund for purposes other than the original purpose if they so vote at an annual or special meeting. 24 V.S.A. § 2804.

A sinking fund differs from a reserve fund in that it is money appropriated strictly for the retirement of a bond or other debt. 24 V.S.A. § 1777. In other words, the money is allocated for money already spent. Money in a sinking fund must be used for the intended purpose and may not be used for current operating expenses.

## APPENDIX 6

### A OVERVIEW OF GRANT APPLICATION PROCESS

1. Identification of need, problem or opportunity
2. Analysis to determine whether response by town is warranted
3. Analysis of partnering and cooperation
4. Evaluation of human resources that are needed
5. Analysis of financial resources that are needed
6. Research into sources, including grants
7. First contact with resources to determine mutual interest
8. Evaluation of effort versus return or potential return, including timeliness
9. Determination of immediate resources needed to prepare proposal
10. Allocation of resources to prepare proposal
11. Preparation of proposal
12. Internal review of proposal
13. Revision of proposal
14. Approval of proposal
15. Presentation of proposal, lay-out, packaging
16. Submission of proposal
17. Receipt by potential funder of proposal
18. Clarification, providing additional information and negotiation
19. Approval, conditional approval, invitation to resubmit, denial
20. Negotiation of conditions
21. Fulfillment of conditions, including matching funds
22. Grant administration readiness
23. Grant contract
24. Performance of work
25. Receipt of grant funds
26. Accounting for funds
27. Grant activity reporting
28. Problem resolution
29. Grant monitoring
30. Project completion
31. Grant closeout
32. Grant celebration
33. Ongoing monitoring
34. Evaluation

### B. GRANT SOURCES

1. Government
  - a. Federal
    1. Competitive
    2. Entitlement
    3. Discretionary
    4. Special grants, federal non-profits

## APPENDIX 6

- b. State
  - 1. Competitive state funds
  - 2. Appropriation
  - 3. Federal pass-throughs
  - 4. Regional block grants
  - 5. Other
- c. Other jurisdictions
  - 1. State Housing Authority
  - 2. Sustainable jobs fund
  - 3. Housing and Conservation Board
  - 4. Regional Entities
  - 5. Other
- 2. Foundations
  - a. Foundations that grant funds and foundations that use funds
  - b. Local, regional, state focus
  - c. Research: grants library, Christine Graham's book
  - d. National
    - 1. Philanthropic
    - 2. Corporate
    - 3. Other
- 3. Contributions
  - a. Land, buildings, materials, services
  - b. Do you want them?
- 4. Loans
  - a. Revenue bonds
  - b. Government direct loans
  - c. Government loan guarantees
  - d. Regional and local revolving loan funds (RLFs)
  - e. Private loans
- 5. Investments
  - a. Partnerships
  - b. Municipal authorities
  - c. Pass throughs
  - d. Own to sell
  - e. Other
- 6. In-kind resources
  - a. Force labor
  - b. Administrative services
  - c. Donated materials
  - d. Other

## APPENDIX 6

### CITIZEN PARTICIPATION, EXECUTIVE DECISION MAKING

1. Consensus or agreement
2. Establishing priorities
3. Critical mass of support
4. Building coalitions and partnerships
5. Who is in control?
6. Whose money is it?

### GRANTS FOR WHAT?

Economic development, workforce development, affordable housing, brownfield planning and development, eco-park development, water, sewer, telecommunications systems, mapping, environmental discovery, evaluation and remediation, child care, library, public safety, historic preservation, community celebrations, sporting events, well-child clinics, newborn baby evaluation, technical schools, streetlights, youthful offenders, meals-on-wheels, homeless housing, fire hydrants, palm pilots, playground equipment, school books, solar cars, railroad crossings, agency coalitions, building demolition, lakefront park, public parking, cooperative markets, farmers markets, preserve farmland, farming museum, opera house, new houses, buses, sidewalks, walking tours, farm tours, tourist information centers, tree planting. In Vermont, tree planting.

### IS IT WORTH IT?

1. What is the goal?
2. What is the effect?
3. What is the time frame?
4. Who can write it?
5. Who can do it?
6. What is the price?
7. Is it sustainable? Does it need to be sustainable?
8. What would we do without it?

Contact:

Jeff Staudinger  
170 Pleasant Street  
South Royalton, VT 05068  
(802) 763-2506  
jeffstd@aol.com

© 2001 by Jeff Staudinger  
excerpted from VLCT's Workshop on Obtaining Grants, Oct. 2001.

## APPENDIX 7

### ASK THE LEAGUE *VLCT News*, March, 2001

*When is it permissible for a town to act as a commercial entity and provide services or sell materials?*

The short answer is “almost never.” The long answer involves two legal precepts.

First, municipalities are creatures of the state and have only those powers expressly granted by the state or such implied powers as may be incidentally related. Towns clearly have no express power to operate as a business in competition with private enterprise.

This was addressed in *Hinesburg Sand & Gravel v. Town of Hinesburg*, 135 Vt. 484 (1977). In that case, the town was operating a gravel pit and using 10-16% of the gravel for its roads and selling the rest. The court held that this was not an incidental sale of gravel and that “no amount of good faith rationalization can gloss over the fact that the principle activity ... is a private business operation by the Town, in direct competition with [private enterprise].” *Id.* at 486. [Internal quote omitted.] Selling most of the gravel “in tax-free competition” was a mere pretext and was illegal.

The second important consideration is that of liability. When a municipality is performing a governmental function (e.g. maintaining highways, collecting taxes), it is covered by sovereign immunity and is protected from lawsuits for negligence. However, when it steps out of its governmental role and acts in a private or proprietary capacity, it may be held liable in the same manner as a private corporation would when performing the same tasks. So, when a town enters into the business of plowing private driveways or buying goods tax-free or at state contract prices and then selling them in competition with private businesses, it may be sued for damages.

There will always be occasions where towns need to help each other out by sharing or lending a hand. But anything that smacks of competition with private business, especially where the town has the financial advantage of operating on a tax-free basis, will be highly suspect and may cost all parties dearly in the long run.

## APPENDIX 8

### Open Meeting and Public Records Laws Narrowly Construed *VLCT News*, October 2001

The open meeting law and the public records law were the subjects of *Blum v. Friedman...*, *Town of Winhall Selectboard*, Vt. Entry Order No. 2000-341 (Sept. 12, 2001).

Blum lives in a section of Winhall where certain municipal services are provided by the Stratton Corporation, under a contract with the town. The town and Stratton negotiate a contract and then Stratton bills the homeowners directly for the services provided. Blum wanted to be present at a negotiation meeting between the town and the corporation but was told that he could not because the meeting would be held in executive session, which is an exemption from the open meeting law under 1 V.S.A. § 313. The pertinent section, 313 (a)(1), applies to contract negotiations “where premature public knowledge would clearly place the ... municipality ... at a substantial disadvantage.”

The Court agreed that contract negotiations *may* be a legitimate exception to the open meeting law. However, there must be a case-by-case analysis to determine if public attendance will create a substantial disadvantage in a particular situation. In this case, the Court said “it is unclear how [public] access to the negotiation would place the town at a substantial disadvantage since the adversary in the negotiation is already present.”

The Town further argued that Blum did not have standing to bring this case and the lower court had agreed. The Supreme Court said in order to show standing here “that the plaintiff [must] show threat of injury to a protected interest.” Since the subject of the negotiation was the amount of fees and charges which Blum would have to pay to Stratton, his financial interests were at stake and he qualified as a “person aggrieved by a violation of” the open meeting law. He was essentially denied the right to hear what position his elected officials would take regarding the fees and charges that he would have to pay.

The second issue which Blum raised was that he had requested property tax documents in electronic format, under the public documents law, 1 V.S.A. § 316. He was told there was a fee for such documents. He paid the fee but never received the documents.

The lower court had found that the Town did provide some records, but Blum said they were unusable and incomplete. The Supreme Court agreed that the statute does not specifically say that copies of records be “usable,” but they must be “in standard format.” In addition, the records provided must be complete. The lower court was too hasty in dismissing this claim by Blum.

Finally, the Court pointed out that the Town had made a verbal contract with Blum to supply the records as requested for a certain fee. Therefore, even if it was not obligated by statute to provide the records in electronic format, it had voluntarily contracted to do so and it had broken its contract.

This is a clear statement from the Supreme Court that the open meeting and public records laws continue to be interpreted liberally, with the public’s rights in mind.

*Libby Turner, Staff Attorney*

## APPENDIX 9

### **GASB 34 Guide for Vermont Towns A Compilation of the Series from the VLCT News Overview**

#### ***Accounting Standards***

In June of 1999, the Governmental Accounting Standards Board (GASB) issued Statement 34 introducing a revised financial reporting model. Although independent auditors have been following GASB guidelines for a number of years, many local officials find GAAP (Generally Accepted Accounting Procedures) and GASB to be a great mystery. It would be useful to include a brief discussion of the history of accounting guidelines and why they exist, before proceeding with our narrative on Statement 34 specifically.

The American Institute of Certified Public Accountants (AICPA), the professional organization for independent auditors, initially set and monitored standards for private sector businesses and corporations. Independent auditors follow these standards to remain members in good standing with the AICPA. The responsibility for setting GAAP eventually was given to the Financial Accounting Standards Board (FASB), operating under the Financial Accounting Foundation (FAF), an independent non-profit organization. FASB continues to set the guidelines for the private sector.

For public sector guidelines, FAF created FASB's counterpart, the Governmental Accounting Standards Board (GASB). GASB issues periodic statements that define or clarify guidelines. The importance of statement 34 lies in its significant changes from previous standards issued in the prior 33 statements. Incidentally, statements 37 and 38 are also applicable to our current discussion because they were issued to amend or modify certain parts of statement 34. (Note that the Government Finance Officer's Association (GFOA) also publishes what is known as the "blue book" of government accounting standards, incorporating GASB standards.

Why do we have these accounting guidelines? Without some kind of financial standards, there would be no way of monitoring and preventing fraud and maintaining accountability from public officials. In Vermont the fact is that elected officials can enter office with little or no accounting background and are then expected to keep financial records and report financial conditions to the taxpayers for budgets that may be upwards of \$1 million. Municipalities need to make an effort to train their officials and follow accounting guidelines and financial standards.

The federal government or the state does not mandate these standards, but since independent auditors are required to follow them, when you require such an audit you will have to comply with these standards in order to get a clean audit.

#### ***Who Should Comply?***

This begs the question of whether or not you should comply with the GASB standards and GASB 34 in particular. There are a couple of issues here. First, there is no direct legal requirement to comply. However, if you are required to have an independent audit, compliance may be necessary, to the extent that is necessary to receive a clean audit. The AICPA will be issuing some guidance to auditors within the next month or so, letting them know what will constitute issuance of a "clean audit." In other words, what will constitute a qualified or adverse opinion, which then will impact how users of the audit will make decisions?

Two situations that may require a clean audit are:

1. You need to sell bonds through the bond bank or on your own.
2. You have received \$300,000 or more in federal grants.

## APPENDIX 9

If your voters approve purchasing any expensive equipment or building projects that necessitate bond financing, the Bond Bank or other financial institution will probably request one or more years of audited financial statements (audited independently, *not* by your elected auditors). This is generally required in order to provide investors who are purchasing the bonds some assurance that the municipality is in good financial condition and will be able to make all the bond payments.

The Single Audit Act, a federal mandate, requires independent audits for all municipalities receiving \$300,000 or more in federal grants during their fiscal year. There *may* be a legal requirement for Single Audit Act entities to comply with GASB 34. We may know more within the next few weeks.

The most compelling reason to comply with GASB, however, is accountability. The format of the financial reports and the standards applied to government accounting assist municipalities in providing their taxpayers with solid financials that can be analyzed and compared from period to period with relative ease. It also provides comparability across municipalities, something that cannot be accomplished now with the huge variety of reporting formats used throughout the state. Though Vermont municipalities cherish the ability to do things their own way, in the area of accounting, at least, we might agree that this is not always the best course of action! There is less room for error and fraud when specific uniform standards are applied to the accounting process. This adds up to better reporting, more accountability and, hopefully, more informed and supportive taxpayers.

### *The New Model and Compliance Deadlines*

The new GASB financial reporting model has the following changes:

1. Requirement for all funds to report capital assets
2. Requirement to report infrastructure assets
3. Changes in the format of current financial reports
4. Added Government Wide Financial Statements
5. Added Management's Discussion and Analysis

The deadline for compliance depends on your total revenue in the first fiscal year ending after June 15, 1999. That means revenue for either calendar year 1999 or fiscal year 1998-1999 if your year is from July to June. Total revenue should include all governmental and enterprise fund revenue with the exception of extraordinary revenue, defined as revenue that is unusual and infrequent. An example would be a donation of \$25,000 for the General Fund from a wealthy taxpayer.

Municipalities with \$100 million or more in revenue are required to start implementing statement 34 for financial statements with periods beginning after June 15, 2001. Burlington is the only municipality that falls in this category.

Municipalities with revenues between \$10 million and \$100 million must begin implementation with financials for the periods beginning after June 15, 2002. This means towns in this category should start complying in calendar year 2003 or fiscal year 2002-2003 (July 1, 2002), if on a July to June year.

The remaining towns with revenue under \$10 million must begin complying in calendar year 2004 or fiscal year 2003-2004, if on a July to June year. The majority of Vermont towns falls in this category and should begin preparing for the changes this year.

© 2002 by B. Michael Gilbar  
Director, Administrative Services  
VLCT

## APPENDIX 9

### GASB-34 What is It and Why Should I Care? from *VLCT News*, June 2001

#### *What is it?*

In the last year, lots of talk in municipal financial circles has swirled around the subject of GASB-34. GASB is the acronym for the Governmental Accounting Standards Board, an association of financial managers, governmental units, certified public accountants and others who establish standards for governmental accounting. Any local government undertaking a professional audit of its books should follow these standards. GASB is not a regulatory agency of the federal or any state government; rather it is more akin to a professional standard-setting association for self-regulation of its members. GASB Statement 34 – *Basic Financial Statements and Management’s Discussion and Analysis for State and Local Government* – is referred to in shorthand as GASB 34.

In Statement 34, GASB established new standards for annual financial reports for state and local governments (as well as public school districts, public benefit corporations and authorities, public employee retirement systems, public utilities, public hospitals, and public colleges and universities). According to GASB, the statement was developed to make annual reports easier to understand and more useful to people who use governmental financial information to make decisions, such as:

- selectboards, trustees or councilors
- staff
- members of commissions
- investors
- creditors, and
- the public in general.

Using GASB 34 principles is expected to also make it easier to compare data and financial health from one community to another. the tricky part will be getting there – how to address new requirements for quantifying fixed assets and infrastructure (such as roads), deciding what to track and who should complete the different jobs.

#### *Why Should I Care?*

The bottom line with GASB 34 is that there is no *law* that requires municipalities or states to use the new accounting practices, and in fact there is some controversy about whether or not certain states will adopt GASB 34. ***But don’t stop reading yet!***

If your municipality uses a certified public accountant (CPA) for its year-end audit, the CPA will need to conduct a GASB 34 compliance audit, and if financial statements are not GASB 34-compliant, then the auditor will issue an adverse opinion (which might raise some eyebrows among your constituents). If your town expects to bond for projects, the town’s financial statements may need to be GASB 34-compliant. If our town does not expect to bond for

## APPENDIX 9

projects, then GASB 34 would not be an enormous issue for you. The selectboard should probably spend some time considering whether bonding for projects is or is not in their future.

GASB 34 standards are phased in. If dollars in revenues are equal to or greater than \$100 million, then the phase-in date is June 30, 2002. In Vermont, that means that Burlington will be the first municipality to complete all the work entailed to come into compliance with GASB 34. We can all watch them! If dollars in revenues are greater than or equal to \$10 million, then the phase-in date is June 30, 2003. And if dollars in revenues are less than \$10 million, the phase-in date is June 30, 2004.

### *Details, Details*

If your town is going to undertake the effort to make its financial records and audits GASB 34-complaint, reporting for all departments will be affected. Very briefly, major areas that will require changes are as follows:

1. A new section entitled *Management's Discussion and Analysis* will need to be added. The municipality's key financial personnel would provide a general discussion of the most relevant information contained in the financial statement. This information would be subject to review by outside auditors.
2. Government-wide financial statements would need to be issued. The government-wide statement would enable readers to focus on the government as a single economic entity and provide a basis for comparison with other governments.
3. Fund Financial Statements would continue to be required but would focus only on major funds. Capital assets and debt would be incorporated into the government-wide statements.
4. Footnote disclosures would be increased significantly in both number and content required. Included among the new disclosures is a policy for capitalizing assets, a policy for allocating indirect expenses, and a policy for the use of restricted and unrestricted assets.
5. Reporting of *all* the municipality's capital assets, including the calculation of depreciation expense for assets of all funds, is required. In addition, assets relating to the municipality's infrastructure (read *roads, buildings, public lands*) would be reported and assessed in the financial statements.
6. Budgetary comparison schedules would be expanded to include both the original budget as passed by the legislative body, as well as the final budget that includes changes authorized during the year.

## APPENDIX 9

### *What to Do? What to Do?*

Complying with GASB 34 will not be an easy exercise. The City of Burlington has already been working for over a year to put their books in order for the June 30, 2002 deadline. Mike Gilbar, VLCT Director of Administrative Services, is convening a workgroup that includes representation from the Vermont Government Finance Officers Association, Vermont School Boards Association, Vermont Association of School Business Officials, the state Department of Education, and the state Auditor's Office to develop ways they might collaborate in providing education and assistance to municipal and school officials stepping into the world of GASB 34. We will certainly keep municipal officials updated on the group's progress.

For those interested, GASB has published a guidebook entitled the *Guide to Implementation of GASB Statement 34 on Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments, Questions and Answers*. It is not a small book. It may be ordered from the GASB Order Department, 401 Merritt 7, PO Box 5116, Norwalk, CT 06856-5116. For more information, go to the GASB web site at [www.gasb.org](http://www.gasb.org), or call them at 800-748-0659.

© 2001 by Karen Horn  
Director, Membership & Legislative Services  
VLCT  
and  
John Stewart  
City of Burlington

**APPENDIX 10**

© October 2002, Office of the Vermont State Auditor (www.state.vt.us/sao),  
Elizabeth M. Ready, State Auditor. Used by permission.

**INTERNAL CONTROL CHECKLIST FOR VERMONT TOWNS**

This self-assessment checklist has been compiled to assist town managers, treasurers, and auditors to assess their town’s internal control environment for accounting and financial reporting and to provide guidance in implementing controls where weaknesses are perceived. Your town’s system of internal controls includes all of the policies and procedures needed to provide reasonable assurance that your financial information is reliable, that operations within the office are effective and secure, and that you are complying with applicable laws and regulations.

Proceed through the questionnaire, and circle “Y” (Yes) or “N” (No) in response to each question.

After completing the questionnaire, scan down your answers in the “Response” column, noting whether they are aligned to the left or right side of the column. The questions that you have been able to answer on the left side indicate the internal control is in place. Your answers on the right side indicate an internal control weakness. This checklist should give you a good indicator of the number and type of internal controls that might need attention in your operation. Please give your auditor or the Vermont State Auditor’s Office (802-828-2281) a call if you need assistance.

**GENERAL:**

		Res <sup>p</sup> onse		Comments
1.	Is town management aware that internal control is their responsibility?	Y	N	
2.	Does town management show commitment to establishing and maintaining controls?	Y	N	
3.	Do town offices have an organizational chart defining the activities and persons responsible for them?	Y	N	
4.	Are the duties of officials and employees clearly defined and assigned?	Y	N	
5.	Does town management consistently exhibit high ethical and professional standards in its conduct, setting the standard for the entire organization?	Y	N	
6.	Are personnel involved in accounting functions required to take an annual vacation?	Y	N	
7.	Are accounting functions performed by other personnel during the vacation of primary accounting personnel?	Y	N	
8.	Is other staff trained in the accounting functions to provide backup in the case of vacation or other absence of the primary bookkeeping employee(s)?	Y	N	
9.	Is responsibility for accounting duties ever rotated among staff?	Y	N	
10.	Is the town in compliance with state statutes covering incompatible offices? (17 VSA §2647) See VLCT Handbook for Town Officers (p.4)	Y	N	
11.	Is a current, accurate and accessible policy and procedures manual in place, including an official code of conduct or an official set of policies governing employee conduct?	Y	N	
12.	Are the policies governing employee conduct communicated in an effective way to all staff and reviewed with them periodically?	Y	N	
13.	Is confidential or sensitive material (e.g., payroll records and taxes) maintained separately from non-confidential records?	Y	N	
14.	Is insurance coverage reviewed periodically by qualified individuals to determine adequacy?	Y	N	
15.	Does the comprehensive liability policy include liability coverage for all officials and employees?	Y	N	

## APPENDIX 10

16.	Is a budget system (including monthly or quarterly budget reports) used for watching income and expenses?	Y	N
17.	Are cash projections made and periodically compared by management to the operational accounting information?	Y	N
18.	Do surety and/or performance bonds cover all employees/officials who handle town funds? (24 VSA §§832, 1234)	Y	N
19.	Are surety bonds of a sufficient amount, as prescribed and approved by the selectboard? (24 VSA §832)	Y	N
20.	Are authorizations for all bank accounts and check signers updated annually?	Y	N

### FINANCIAL RECORDS

21.	Is any single individual able to a) <i>authorize</i> a transaction, b) <i>record</i> the transaction in the accounting records and c) maintain <i>custody</i> of the assets resulting from the transaction?	N	Y
22.	Is an accounting system in use that allows management to record financial transactions, view the data by category, and create timely reports to maintain accountability for the government's assets?	Y	N
23.	Are detailed cash receipts journals maintained? (24 VSA § 1571(a))	Y	N
24.	Are detailed cash disbursement journals maintained? (24 VSA § 1571(a))	Y	N
25.	Are selectboard records (if separate records other than orders are kept) reconciled with treasurer's records monthly?	Y	N
26.	Are the general ledger and its subsidiary ledgers kept up to date and reconciled monthly?	Y	N
27.	Is a chart of accounts used?	Y	N
28.	Are records properly guarded from fire, theft and manipulation?	Y	N
29.	Is computerized data backed up daily and source documents retained until backup?	Y	N
30.	Is a copy of electronic data properly stored off-site?	Y	N
31.	Are all financial recording documents (receipts, purchase orders) sequentially prenumbered, retained, and accounted for, including spoiled or voided forms?	Y	N
32.	Are automatic duplicates of certain forms (receipts & purchase orders) provided to individuals (e.g., vendors, taxpayers, etc.)?	Y	N
33.	Is the person who does the bank reconciliation authorized to sign checks?	N	Y
34.	Is the bank reconciliation procedure documented?	Y	N
35.	Are bank statements reconciled monthly, preferably within 15 days after the statement date?	Y	N
36.	Does a responsible official, other than the preparer, review completed bank reconciliations?	Y	N
37.	Is the completed bank reconciliation initialed and dated by both the preparer and the reviewer?	Y	N
38.	Are the following monthly procedures currently performed:		
	- Reconcile cash accounts?	Y	N
	- Reconcile accounts receivable to the detail invoices?	Y	N
	- Reconcile payroll withholdings to the payroll reports?	Y	N
	- Reconcile accounts payable subsidiary ledger to actual invoices?	Y	N

## APPENDIX 10

	- Reconcile property tax receipts to property tax receivables?	Y	N	
39.	Are all adjusting entries to the financial statements approved in writing by management?	Y	N	

### CASH RECEIPTS

40.	Is receipt of currency adequately controlled until deposited or remitted to the treasurer?	Y	N	
41.	Is a copy kept of the treasurer's signed and dated endorsement of the tax collector's receipts, payments and any abatements? (24 VSA §§1579, 1580)	Y	N	
42.	Have safeguards been provided to prevent officials or employees from cashing checks payable to the town?	Y	N	
43.	Are monies received by one employee, documented and then deposited by another employee?	Y	N	
44.	Are all monies received by the town turned over intact daily to the person who makes the bank deposit?	Y	N	
45.	Does the treasurer keep separate accounts of all money received as highway or school taxes? (32 VSA §4791)	Y	N	
46.	Does the person who handles cash (receipts, bank deposits, purchases) keep the cashbooks / accounting records?	N	Y	
47.	Are funds received over the counter controlled by sequentially numbered counter receipts?	Y	N	

### PURCHASING

48.	Are selectboard orders: a. Required for all purchases? b. Signed by a majority of the board and dated?	Y Y	N N	
49.	Does the treasurer keep a book recording all pay orders (outstanding payable s) that are not paid? (24 VSA § 1576)	Y	N	
50.	Are the functions of purchasing goods, receipt of goods, and cash payment for goods performed by separate employees?	Y	N	
51.	Are: - Checks pre-numbered? - Unused checks controlled? - Checks prepared and signed by the bookkeeper? - Checks ever written to "Cash"?	Y Y N N	N N Y Y	
52.	Are there adequate procedures for controlling the receipt of all goods and services purchased?	Y	N	
53.	Are materials and supplies inspected for condition and counted when received?	Y	N	
54.	Does invoice processing include a mathematical check of footings, extensions and discounts?	Y	N	

### CASH DISBURSEMENTS

55.	Are all cash disbursements, except petty cash items, made by check?	Y	N	
56.	Are pre-numbered checks used?	Y	N	
57.	If checks are produced manually, is a controlled, mechanical check protector used?	Y	N	
58.	Are checks produced on an automated financial system?	Y	N	
59.	Is all investment activity by the treasurer approved by the selectboard	Y	N	

## INDEX

Abatement, tax .....	51, 52
Absconding delinquent taxpayer.....	58
Access to records .....	6
Accounts, city .....	49
Appeals, tax.....	50, 51
Appointed commissions and committees.....	17
Arbitrage .....	33, 43, 44
requirements.....	33, 34
Assessment, special.....	36
Assistant treasurer .....	3, 9
Audits, treasurer of supervisor union.....	70
Benefits of employment.....	5, 6
Bidding contracts, state.....	29
Board of tax abatement .....	26
Bonding.....	66, 67, 70
Bookkeeper, relationship with .....	18
Borrowing	
in anticipation of taxes .....	67
lease purchase .....	69
tax increment financing.....	68, 69
town and school district borrowing from each other .....	68
when no budget has been adopted .....	68
Budget	
calendar year versus fiscal year .....	63, 64, 65
capital.....	63
deficit .....	61
development of.....	59
explanation of.....	62
highway.....	60, 61
school .....	59, 60, 61
surplus .....	62
town.....	60
Calendar year to fiscal year	
how to change budget to .....	64, 65
Capital budget .....	63
Cemetery commissioners	
relationship with.....	15, 16
rights and duties .....	22, 23
Cemetery funds .....	21
City accounts.....	49
Collector of delinquent taxes, relationship to .....	12
Collector of delinquent taxes, treasurer as .....	12
Commissioner, Department of Taxes .....	41, 42

Compensation .....	4
Copies of documents as source of revenue .....	34, 35
County taxes.....	27
Credit card to pay tax .....	56, 57
Current use program .....	55
Deficit	
at end of fiscal year .....	44
budget.....	61
Delinquent tax, warrant for .....	55, 56
Discount for early payment of tax .....	52, 53
Document	
copy of as source of revenue.....	34, 35
granting public access to .....	6
Duty to pay orders.....	26
Emergency management funds .....	38
Enterprise funds .....	21, 37
Executive session .....	8
Exemption, tax .....	57
Expressing dissatisfaction with treasurer’s work.....	10
Fees and user fees as source of revenue.....	34
Fine as source of revenue.....	36
Fine for failure to perform lawful duty .....	4
Finance officer, relationship with .....	18
Fire district, rights and duties.....	25, 26
Fiscal year, deficit at end of .....	44
Fundraising .....	7, 39
GASB (Governmental Accounting Standards Board) .....	47, 48, 93, 94, 95, 96, 97
General fund, town.....	20
Generally Accepted Governmental Auditing Standards (GAGAS) .....	31
Glebe lands.....	57, 58
Governmental Accounting Standards Board (see GASB)	
Grand list.....	42
Granting public access to a document .....	6
Grants as source of income .....	31
<i>Hartford Board of Library Trustees v. Town of Hartford</i> .....	18
Highway fund, town.....	20
Housing authority as enterprise fund .....	37
Impact fee.....	36
Impoundment fee .....	36
Imprisonment for criminal action .....	4
Incompatible offices.....	2, 75
Interest on overdue taxes .....	52
Investments .....	33
Insufficient funds .....	26
Lawsuits .....	3
Lease purchase .....	69

Library	
funds.....	21
relationship with.....	18
trustees, rights and duties .....	24, 25
Local option tax .....	38, 55
Municipal corporations .....	67
Neglect of duty.....	4
Notice to state treasurer .....	2
Oath of office .....	2
Office hours .....	6
Office vacancy .....	2
Official bond .....	3
Open meeting laws.....	91
Overtime .....	27
Paying salaries .....	22
Payment in Lieu of Taxes (PILOT) .....	30
Penalty for delinquent payment of tax .....	53, 54
Permits as source of revenue.....	36
Property taxes for schools.....	40, 41, 42
Property transfer tax.....	35
Property Valuation and Review, Vermont Department of (PVR) .....	50, 55
Public records laws .....	91
Purchase orders .....	28
Purchasing policy, municipal.....	27, 28
PVR (See Property Valuation and Review)	
Rabies control program.....	35
Reappraisal money from state.....	34
Records, access to .....	6
Recreation programs as enterprise funds .....	37
Rental of town property .....	32
Reserve funds.....	20, 84
Resources, technical.....	77, 78, 79, 80
Revolving loan funds .....	37, 38
Routine accounting tasks .....	9, 10
Salaries and stipends.....	27
School board and treasurer.....	42, 43
School district treasurer	
general law .....	40
town treasurer as .....	40
School	
budget.....	59, 60
districts.....	67, 68
funds.....	20
property taxes.....	40, 41, 42
Selectboard, relationship with.....	8

Sewer commissioners	
relationship with.....	17
rights and duties .....	24
Sewer system .....	37
Short-term borrowing without bonding .....	67
Signing orders .....	22
Single Audit Act of 1984 .....	31
Sinking funds .....	20, 21, 83, 84
Social Security withholding.....	4
Special assessment.....	36
Special education funding.....	44
Special funds	
cemetery funds .....	21
enterprise funds.....	21
library funds .....	21
reserve funds .....	20
sinking funds.....	20, 21
trust funds.....	21
State aid for highways.....	38
State taxes .....	27
Supervisory union, treasurer of (see Treasurer of supervisory union)	
Tax collector	
relationship with.....	11
treasurer as .....	11
Tax	
abatement .....	51, 52
absconding delinquent taxpayer.....	58
appeals.....	50, 51
as source of revenue.....	30
bills.....	54
current use program .....	55
delinquent, warrant for.....	55, 56
discount for early payment.....	52, 53
exemptions .....	57
increment financing .....	68, 69
interest on overdue tax .....	52
local option.....	38, 55
payment by credit card.....	56, 57
penalty for delinquent payment .....	53, 54
record of taxes voted.....	50
tax year.....	58
Term of office .....	2
Town auditor, relationship with .....	13
Town clerk, relationship with .....	13
Town general fund .....	20
Town highway fund .....	20

Town manager, relationship with .....	18
Town property, rental of .....	32
Town report.....	14, 15
Treasurer	
and school board .....	42, 43
as collector of delinquent taxes.....	12
as school district treasurer.....	40
as tax collector .....	11
election of.....	1
responsibility of .....	48, 49
role of .....	1
Treasurer of supervisory union	
audits .....	70
bonding .....	70
compatible offices .....	70
duties .....	70
election.....	70
removal from office .....	70
term of office.....	70
Treasurer's relationship with	
appointed commissions and committees.....	17
bookkeepers and finance officers.....	18
cemetery commissioners .....	15, 16
collector of delinquent taxes .....	12
libraries .....	18
other town offices, summary.....	8
selectboard .....	8
sewer commissioner.....	17
tax collector.....	11
town auditor .....	13
town clerk.....	13
town manager.....	18
trustees of public funds and public money .....	17
water commissioner .....	16
Trustees of public funds	
relationship with.....	17
rights and duties .....	23, 80
source of revenue .....	32
Trustees of public money, relationship with.....	17, 81, 82
Trust funds .....	21

Union school district	
bonds and other debt .....	46
budget.....	45, 46
duties .....	45
expenses .....	46
general law .....	45
liabilities.....	45
member district’s obligation to pay the union district .....	46
officers .....	45
officer’s successor.....	46
powers .....	45
vacancies .....	45
Vacancy, office .....	2
Vermont Municipal Clerks and Treasurers Association.....	9
Vermont Municipal Employees Retirement System (VMERS).....	5
Warrant for delinquent tax .....	55, 56
Water commissioner	
relationship with.....	16
rights and duties .....	23, 24
Water system.....	37
Who can sign orders and warrants? .....	22
Who may sign checks if the treasurer’s office is vacant?.....	26
Wrongful acts.....	4
Yellow Book, The.....	31