

2022 Weekly Legislative Report

#9

February 25, 2022

Next week the legislature takes a break for Town Meeting, and we too will take a break from our Friday report. But this week, we report on proposed changes to public safety dispatching, an omnibus housing bill, municipal ordinance authority, work by the Budget Adjustment Conference Committee, qualified immunity for law enforcement personnel, possession of a firearm in a hospital, environmental justice, forestlands and use value, and what the Senate Finance Committee is doing today. The New Bills table tallies five.

You can always check our two webpages to track the 2022 bills that especially affect municipalities: [bills introduced in the House](#) and [bills introduced in the Senate](#). We update these cumulative lists every Friday so you can follow bills as they travel through the appropriate State House committees. Scroll to the end to see the newest additions.

To read this report:

- Under "This Week's Articles," simply click on any of the article titles to have the article expand so you can read it.
- As the legislative session progresses, go to our [Legislative Reports page](#) to revisit this issue and find other weekly legislative reports.
- Here is a [PDF of the full report](#).

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[Town Meeting](#)

Next week is town meeting. Beyond the work that you, as local officials, do to ensure that Town Meeting 2022 proceeds seamlessly, please remember that the legislature is taking its annual one-week break. Legislators will be back home and, hopefully, taking advantage of the time off to meet with you. We wish you a peaceful, orderly, and participatory town meeting in whatever format your town has chosen and whenever you hold it. If you're wondering what your neighbors' town meetings will look like, you need look no further than VLCT's [2022 Vermont Town Meeting Day Preview](#).

When legislators return to the State House on March 8 (and we expect they will physically return to the capitol building), they will have until Friday, March 11, to get bills out of the last policy committee if the legislation is to have a chance of passing this biennium. Therefore, you can expect a rush of bills, activity, and long calendars that week! Money bills – the Capital Bill, the Tax Bill, and budgets – are granted an additional week of committee deliberation.

This week, our legislative report focuses on those issues that are in play and about which your legislators need to hear from you. Let them know what *your* legislative priorities are and how the bills they are considering would affect your municipality. If you need some background, read about education funding, qualified immunity, environmental justice, transportation budgets, housing, and municipal governance in today's report.

For some of you, this edition of our weekly report will be the last you will receive as an elected local official. Some of you are choosing to retire, while the voters may decide to retire others of you. Still others will decide to take your intimate knowledge of local government and run for the legislature in the fall.

VLCT's Board of Directors and staff sincerely thank you for your service to your community and to Vermont local governance, especially during these difficult pandemic years. Our system of government demands of our municipal officials a tremendous breadth of knowledge, dedication, and engagement as well as countless hours of work. Occasions arise when we ask ourselves whether our service and contributions are worth the time and sacrifice. Know that they are. Know that you are the keepers of responsive local government and of democracy.

We have said many times that local government is the level of government closest to the people. Indeed, “they are the people. Local government workers – police, firefighters, teachers, sanitation workers, EMTs, social workers, clerks – are us, our family, friends and neighbors.” [Bob Melville, [Civic Way](#)]

[Major Changes Proposed to Public Safety Dispatching](#)

Over the past several weeks, Public Safety Commissioner Michael Schirling presented to the Senate and House Appropriations committees his Transition to Statewide Regional Emergency Communications, a proposal that would upend and restructure public safety dispatching – that is where your E-911 call goes, who answers it, and where the call is sent for a response. Dispatching has a long and storied history in Vermont. For decades, dozens of proposals and reports have recommended changing how dispatching occurs across all public safety sectors. Very few of them resulted in any measurable changes, however this Department of Public Safety (DPS) proposal is serious enough to be included in the governor’s budget proposal, with an [\\$11 million appropriation](#) to get the restructuring measure off the ground. All communities need to pay close attention to this proposal as it would likely affect every emergency medical services (EMS), fire, and police agency.

The proposal would transition the entire state to a regional emergency dispatch system. Further, it would end the current practice of the state providing dispatching services to non-state public safety agencies and switch those users to a regional dispatching center. The state currently dispatches approximately 100 nonprofit, municipal and county EMS, fire, and law enforcement agencies. Over a 24 to 36 month period, those agencies would have to transition to contracting with regional providers for dispatching services from either an existing dispatch provider or a new one. DPS envisions the new communication centers would be dispersed to various geographical areas of the state. Both existing and new centers would vie for funding from the \$11 million proposed in the governor’s budget. This money would fund the initial transition and operational costs for agencies moving from state to regional services or to existing dispatch centers that will become de facto regional centers. DPS would provide technical assistance during this transition.

Local officials have serious concerns with this proposal before they can support it. For example, DPS needs to provide a complete inventory of the agencies and departments affected by the proposal. The department also needs to disclose the names and numbers of agencies that currently receive part-time dispatching services from the state. A complete

understanding of the current DPS budget for dispatching would help inform everyone about what the department's future budget should be and for regional dispatch centers, as well as how departmental savings would be applied once the state gets out of the business of dispatching for non-state entities. The costs of running dispatching services will continue beyond this 24-to-36-month period, yet there is *no* proposal for the state to provide any funding to help regional centers once the transition is complete. All agencies and municipalities need to know how the \$11 million will facilitate this transition and how that money would be allocated. Most importantly, agencies and municipalities need to know what entities would need to run these regional centers, or even if they will be operational within this very narrow timeframe. Those affected have had little input into the proposal and rather have been forced to simply accept that the proposal is moving forward. Communities have not even been apprised of what the impact on municipal, county, and non-profit budgets – both near term and into the future – will be.

Right now, the \$11 million proposal will be reviewed only in the budget process, and only by the two Appropriations committees. However, the Rural Caucus met with the commissioner this week and raised a number of questions from the perspective of small towns that hopefully will be answered before the proposal is finalized.

This proposal is not merely a line item in a department's overall budget, but rather a significant shift in how emergency dispatch services would be provided across the state. Please take time during the upcoming week-long town meeting break to discuss the issue with your legislators. Express your concerns about the effects of the proposal's cost-shifting and also with the lack of community input into the proposal itself.

Resource for this article:

- [Transition to Statewide Regional Emergency Communications](#)

[Omnibus Housing Bill](#)

Late last year, the VLCT Board of Directors named housing as a top priority ahead of the 2022 session, and several committees in the legislature are currently addressing the issue from a number of different angles. This week, the Senate Economic Development, Housing and General Affairs Committee continued to work on its omnibus housing bill, S.226. The bill continued to morph as sections of it were added while others were dropped. The committee

has agreed that the bill is a work in progress and innovative ideas would be discussed, even if not included in the final language.

As of Thursday evening, S.226 included provisions of H.511– a bill introduced but not yet taken up by the House – to encourage housing in compact settled areas. The proposal would make several changes to statute to facilitate housing development, including expanded exemptions from Act 250 for priority housing projects in designated areas. According to its purpose section, “small scale and infill developers are critical to rural and community revitalization in locations where development is not occurring and is necessary to meet the full range of housing needs.” The bill would allow development to take place in neighborhood development areas – including in flood hazard and fluvial erosion areas that already have development and are suitable for infill development as defined in the [Vermont Flood Hazard Area and River Corridor Rule](#). If these areas are included, local bylaws must ensure that any new infill development will occur outside flood hazard areas and will not contribute to fluvial erosion hazards within the river corridor, and that river corridors outside the neighborhood development area will also be protected.

Still under consideration is language that would repeal the requirement for municipal or community wastewater to serve the neighborhood development area. Municipal bylaws for neighborhood development areas and new town centers would need to provide for four or more dwelling units per acre for all identified residential uses (without counting accessory dwelling units), or at least an equal density to the surrounding neighborhood. The definitions of “priority housing project” and “mixed income housing” in Act 250 would be amended to be more permissive of housing development. No Act 250 permit would be required for a priority housing project in a designated center.

The bill includes a number of innovative ideas to help people stay in and improve their homes. It would, for example, provide the Department of Housing and Community Development (DHCD) with:

- \$5 million to start a program of grants up to \$10,000 for purchase and closing costs for first-generation homebuyers;
- \$3 million for grants of up to \$20,000 to owners of manufactured housing communities to complete small-scale capital needs to facilitate homes being placed on vacant lots;

- \$1 million for small grants for minor rehabilitation or accessibility projects to improve 250-400 existing manufactured homes;
- \$1 million for grants of up to \$15,000 to homeowners to pay for foundations, slabs, site preparation, or utility connections to vacant lots on manufactured home communities;
- \$5 million for matching funds of up to \$5,000 per employee for costs an employer with 25 or more employees would incur to provide housing for its workforce;
- \$5 million to incentivize identifying commercial properties that could be efficiently converted to residential use, with grants of up to \$50,000 per project for the purchase, rehabilitation; and conversion of those properties; and
- \$15 million to pass through to the Vermont Housing Finance Agency to establish a Missing Middle Income Home Ownership Development Program for development subsidies to construct or rehabilitate owner-occupied homes.

In recognizing the statewide economic disruption the pandemic caused, active tax increment financing districts would be granted a three-year extension on the district's period for incurring debt.

The bill would create a new program under Municipal Planning Grants – Municipal Bylaw Modernization Grants – to facilitate housing choice, affordability, and opportunity in smart growth areas, and would appropriate an additional \$650,000 for the program.

Current law establishes the Municipal and Regional Planning Fund, which is composed of 17 percent of the revenue from the property transfer tax and any other monies appropriated to the fund. The law stipulates that, of the available funds, ten percent must be disbursed to the Vermont Center for Geographic Information, 70 percent to performance contracts with regional planning commissions, and 20 percent to municipalities for Municipal Planning Grants. In the draft bill, the new Municipal Bylaw Modernization grant dollars would be available to DHCD “for the reasonable and necessary costs of administering the fund, not to exceed ten percent of total program funds.” No similar dunning of regional planning commission dollars is contemplated in the bill.

Downtown and Village Center Tax credits for redeveloping properties would be available to developers in designated village centers and neighborhood development areas. The total amount of available tax credits would be increased from \$3 million to \$5 million.

Finally, the bill would establish an Accessory Dwelling Unit Navigation Center to help municipalities and homeowners develop accessory dwelling units and a portion of VHIP funds would be dedicated to incentivizing development of accessory dwelling units with grants of up to \$50,000.

H.226 is not finalized yet. The committee will likely revisit the bill when they return from the Town Meeting week break.

Resource for this article:

- [Senate Economic Development Work Group Summary of S.226 Draft Provisions](#)

[Municipal Ordinance Authority](#)

On Thursday, the Senate Government Operations Committee voted unanimously to approve [S.181](#), a bill that makes miscellaneous changes to municipal laws. The bill, which VLCT supports, expands ordinance authority to provide more robust local jurisdiction in specific areas of law. The different measures are grouped generally into three categories: ordinance authority under 24 V.S.A. § 2291, voter approved authority, and legislative body authority without voter approval.

The bill would authorize municipalities to:

- regulate sidewalks installation, traffic calming devices, storm drains, and public improvements, and authorize speed limits as low as 15 m.p.h.;
- regulate blighted properties and establish property maintenance standards;
- remove abandoned or leaking boats from waters of the state;
- permit local voters to approve a local option tax without involving a charter change;

- permit local voters to adjust the number of members on development review boards and zoning boards of adjustment;
- permit local voters to authorize the recall of local officials;
- permit selectboards and communities to elect or appoint non-town voters or residents to hard-to-fill municipal positions or if suitable candidates are not available;
- allow a municipality to apply general law if a previously passed charter provision is no longer preferred by the voters;
- permit municipalities to use cemetery funds to improve property ;
- allow a town to hinge town zoning permit approval on receipt of other town permit approvals (condition precedent) such as sidewalks, sewer/water, building codes, and signals;
- enable municipalities to eliminate the office of constable and delegate the responsibilities of any non-law enforcement constable to another local official;
- codify emergency provisions adopted during the COVID-19 pandemic and authorize those provisions during all-hazard events and declared states of emergency; and
- repeal 19 V.S.A. § 312, which currently prevents the commingling of town highway taxes with other municipal funds.

VLCT is grateful to the committee for their unflagging support of local government and for addressing the concerns raised by towns and cities across Vermont. The bill now heads to the Senate floor for second reading and consideration when the legislature returns from its town meeting break.

[Budget Adjustment Conference Committee](#)

On Thursday, the Budget Adjustment Conference Committee agreed on a strike-all amendment to H.679, the budget adjustment bill, meaning that the committee voted out an entirely new version of the bill. (A conference committee consists of three members appointed by the House Speaker and three members appointed by the Senate President Pro Tem to work out the differences between the House and Senate versions of a bill.) The compromise bill, which is on the House Calendar for action today, would increase appropriations by \$367 million, or five percent more than the FY22 budget passed in May. The General Fund accounts for \$111 million of that amount. Together, H.679 and S.210 would appropriate an additional \$114.3 in American Rescue Plan Act (ARPA) funds. S.210 is the rental housing inspection and housing incentive bill that was introduced last month to address the concerns the governor expressed when he vetoed S.79, another rental housing bill, last July.

The conference committee's bill one-time expenditures would:

- provide \$30 million General Fund and \$25 million ARPA state fiscal recovery funds for housing and increased shelter capacity;
- shift \$20 million from H.679 to S.210 to fund the Vermont Rental Housing Incentive Program;
- add \$300,000 to support public, educational and governmental services;
- add \$250,000 for Municipal Planning Grants;
- add eight positions and \$200,000 to the Cannabis Control Board; and
- pay off \$19.9 million in outstanding Transportation Infrastructure Bonds with money from the Federal Highway Administration and federal Transportation Fund.

ARPA money will also target retention and recruitment efforts for the Department of Corrections, childcare, and Vermont Veterans' Home staff; support for the Vermont Foodbank; workforce training programs; and support for the Working Lands Enterprise Initiative. It reserves \$86 million in the General Fund to use as state matches for programs

funded through the federal Infrastructure Investment and Jobs Act.

[Law Enforcement Immunities](#)

After a two-week hiatus, the Senate Judiciary Committee this week returned to [S.254](#), a bill that would end qualified immunity for all law enforcement officials and expose them to civil suits alleging constitutional, statutory, or common law violations. The committee appears to be split about whether or not to move the bill forward. They agree that if the bill were to come out of the committee, its parameters would be significantly narrowed from the introduced version. Today, Senate Judiciary heard a rewritten draft of the bill that would, as Committee Chair Sen. Dick Sears said, codify a recent Vermont Supreme Court case, *Gregory W. Zullo v. State of Vermont*, (2019 VT 1, No. 2017-284) as it applies to constitutional violations, ensure that it applies to municipal law enforcement officers, and adjust language to limit the likelihood of “frivolous lawsuits.” The committee will review the bill again when they return from the annual town meeting week break. Caps on liability, such as limiting personal liability exposure for individual law enforcement officers, will also be up for consideration when the committee revisits the bill.

VLCT strongly believes that the legislature should not pass S.254. Instead, focus should be placed on fully implementing and resourcing the legislative policy decisions that have been enacted over the past several years, measures that help strengthen and professionalize law enforcement across the state. The legislature would serve all Vermonters and law enforcement best by improving Act 56 of 2017, the Professional Regulation of Law Enforcement Officers, and by providing funds to the Vermont Criminal Justice Council to modernize, train, and professionally regulate law enforcement officers.

This week, VLCT President and South Burlington City Manager Jessie Baker wrote [Understanding the Importance of Qualified Immunity](#), which explains VLCT’s position on qualified immunity and our concerns with the negative fallout that will result if it is removed, and which expresses our continued support for constructive law enforcement reform measures.

[Elsewhere in the State House](#)

S.30, Possession of Firearms in A Hospital. On Wednesday, Governor Scott vetoed S.30. As originally written, the bill would have prohibited the possession of firearms at childcare facilities, hospitals, and publicly owned buildings used for essential government functions –

which included municipal buildings – unless the firearm was possessed by a law enforcement officer, a department or agency of the U.S., or the state or its political subdivision.

As passed by the House and Senate, the prohibition would apply to hospitals only. It would also prohibit the transfer of a firearm to another person if the transfer requires a background check under state or federal law and the licensed dealer facilitating the transfer has not been provided with a unique identification number for the transfer by the National Instant Criminal Background Check System.

The legislature needs to decide whether to try to override the governor's veto, to write a bill that addresses his concerns, or to allow the veto to stand.

The governor's February 22 [letter to the secretary of the senate](#) lays out his reasons for the veto.

H.697, Forestlands and Use Value. Today, the House passed H.697, the bill that would create a new category of forest lands eligible for the Use Value Appraisal Program (also known as "Current Use"). The program allows property owners to pay property taxes based on the value of agricultural or forestry land as it is currently used for production of wood or food, instead of on its fair market value. The state pays towns the difference between the fair market value and the current use value from the General Fund.

The bill would allow an "ecologically significant treatment area" to be passively managed to increase carbon sequestration and carbon storage and enhance wildlife biodiversity. The focus of the designation would be on old forests. An amendment from the Ways and Means Committee would require the Commissioner of Forests, Parks and Recreation to issue a report on standards for managing reserve forestland eligible for participation, as well as a summary of how an owner of enrolled forestland would shift a designation between productive and reserve forestland. By 2024, the Commissioner of Taxes would need to submit a report to the legislature that examines the strategies and rates for valuation of all land in the Use Value Appraisal Program, and recommends how to ensure that the fiscal return to landowners and the state is consistent among uses of the different categories of enrolled land.

Senate Finance. This afternoon, the Senate Finance Committee is taking time to review a new version of the Pupil Weighting bill and vote it out of the committee. That bill won't have a number until it is voted out as a committee bill. Briefly, the bill would adjust pupil weights beginning in FY24 and establish a five-year transition period. It would create a seven-member

Education Fund Advisory Committee to monitor the education funding system, analyze and recalibrate pupil weights and categorical aid amounts, and annually make recommendations regarding whether or not those weights should be revised. The committee would have the administrative, technical and legal assistance of the Department of Taxes, Agency of Education, Joint Fiscal Office, Legislative Council and Office of Legislative Operations. The bill would also add staff to the Agency of Education, and require a performance audit from the state auditor regarding implementation of the legislation.

The committee is also planning to review and possibly vote out H.701, the cannabis fee bill, today. The only amendment currently under consideration would change the effective date of those sections of the bill that relate to medical cannabis fees to July 1, 2022.

S.148, Environmental Justice. Today, the Senate Natural Resources and Energy Committee voted out S.148, the environmental justice bill. It will be on the Senate Notice Calendar when they return from next week's Town Meeting recess.

The bill would require every agency in the State of Vermont to create and adopt a community engagement plan by 2025 that describes how it will engage with environmental justice populations and overburdened or underserved communities as it evaluates new and existing activities and programs. Each plan would need to align with principles developed by a new 12-member Interagency Environmental Justice Committee and consider recommendations of a new 15-member Advisory Council on Environmental Justice. Agencies would need to submit summaries to the council that detail all complaints alleging environmental justice issues or Title VI violations and any action the agency has taken to resolve those complaints.

By 2024, listed agencies would need to direct investments to environmental justice populations and overburdened or underserved communities with the goal of providing at least 55 percent of those benefits to them. An environmental justice population would be defined as "a census block group in which the annual median household income is not more than 80 percent of the statewide annual median household income, persons of color and indigenous peoples comprise at least six percent of the population, or at least one percent of households have limited English proficiency."

Agencies that would need to consider the cumulative environmental burdens include Transportation, Natural Resources, Commerce and Community Development, Agriculture Food and Markets, and Education; as well as the Public Utility Commission; the Natural

Resources Board; and the departments of Health, Public Safety, and Public Service. They would also have to consider access to environmental benefits when making decisions about the environment, energy, climate, and public health projects, facilities, infrastructure, and funding. The agencies would also need to submit annual reports summarizing actions taken to incorporate environmental justice into their policies or determinations, rulemaking, permit proceedings, or project review.

The new advisory council would provide independent recommendations to both the agencies and the General Assembly. The new Interagency Environmental Justice Committee would also be created to coordinate state agency implementation of an Environmental Justice State Policy and advise the legislature. Both councils would incorporate the Guiding Principles for a Just Transition developed by the Just Transitions Subcommittee of the Vermont Climate Council in their work.

The Agency of Natural Resources would be directed to consult with the Interagency Environmental Justice Committee to develop a mapping tool to depict environmental justice populations and measure environmental burdens.

The bill includes \$3 million to implement the legislation and hire staff.

[New Bills](#)

Number Summary

Current Location

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| H.712 | Relating to Vermont Community Broadband Fund grants, would expand the definition of “eligible provider” to include a municipality that is not part of a communications union district and that contracts with an internet service provider that agrees to provide universal broadband service to all unserved and underserved locations in the municipality. | House Energy and Technology |
| H.713 | Would provide that an eligible employee may take leave under Vermont’s Parental and Family Leave Act to recover from the employee’s own serious injury or to care for a family member with a serious injury. | House Gen., Housing, and Military Affairs |

Number Summary**Current Location**

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| <u>H.714</u> | Would establish a special fund to help municipalities make improvements to blighted properties. | House Government Operations |
| <u>H.715</u> | Would establish the Clean Heat Standard to reduce Vermont's greenhouse gas emissions from the thermal sector. The standard would be administered by the Public Utility Commission with help from the Clean Heat Standard Technical Advisory Group and the Equity Advisory Group. | House Appropriations |
| <u>H.716</u> | Would adjust the methodology for computing the first year special education grant payment under Act 173 (2018) and delay the implementation of State Board of Education rules 2362 and 2362.2.5 (special education rules) until July 1, 2023. | House Ways and Means |