

2023 Weekly Legislative Report

#14

Concerning the Appropriations Bill (H.494), of particular interest to local governments is the discussion about revolving loan funds for water infrastructure funding and pollution control. This is intertwined with the need to allocate matching funds so the State can take full advantage of federal funding opportunities that span fiscal years 2024-2027.

Everyone should be able to read this report at vlct.org. To find certain other materials and register for the next Advocacy chat, VLCT members need to log in to the new [Municipal Access Portal](#).

Capital and Appropriations Bills

The House passed H.493 last week. H.493 would authorize the State Treasurer to issue general obligation bonds in the amount of \$108 million to fund the capital appropriations in this two-year capital budget.

Appropriations related to the newly renamed Capital Infrastructure Reserve Fund were included in the appropriations bill, H.494. That reserve fund (initially named the Capital Expenditure Cash Fund) was created in 2022 for the purpose of using general funds to defray the costs of future capital expenditures that would otherwise be paid for with state general obligation bonding and debt service. The House-passed bill would direct the Secretary of Administration to recommend capital projects to be funded from the Capital Infrastructure Reserve Fund for FY25 by December 15, 2023.

This week, the Senate Institutions Committee took up the bill. The total amount that Governor Scott recommended be put in the Capital Infrastructure Reserve Fund to address multiple agencies' needs equaled \$62 million. Administration officials argued that putting those funds aside now, when they are available and revenues to the state are strong, would offset future bonding obligations.

Of particular interest to local governments is the discussion about revolving loan funds for water infrastructure funding and pollution control – and the match that will be required to draw down all the funds that are available to the state. Largely due to the unique level of funding

available in the next several years from the Bipartisan Infrastructure Law (BIL) and the Infrastructure Investment and Jobs Act (IIJA) as well as the technical assistance available to towns, municipalities have taken action, and the Department of Environmental Conservation is seeing a higher level of readiness to move on projects than is typical. Sixteen towns passed bonds totaling \$14.3 million.

Agency of Natural Resources Secretary Julie Moore testified on Tuesday that Vermont has an opportunity to access \$320 million in clean water and drinking water infrastructure funding from the IIJA between now and FY27. In order to draw down that amount of money in the next four fiscal years, the state would need to provide \$27 million in match dollars. That amount of money would support more than 80 wastewater and 30 drinking water projects across the state, according to the secretary.

The secretary further noted that sixteen pollution control projects were approved via municipal bond votes and expect to be ready to proceed in FY24. The total bond amount for those projects is \$110,056,385, and the required match is \$14,281,520. Beyond that, the agency has received 123 applications for pollution control or drinking water projects. Many are projects that people have been clamoring for over the course of many years, such as combined sewer overflow correction projects, wastewater system upgrades, water supply main replacements, and new village systems. They are in various stages of conceptualization and design, and to our knowledge have not yet been submitted for bond votes.

The administration's concern is that while the capital bill provides the required match for FY24 and FY25, as it has done for the two years of every capital bill in recent memory, the match is not provided for FY26 and FY27. Given that a match of \$11 million in each year might be required whereas in an ordinary year the budgeted match is \$3.8 million on average, the agency is concerned that the capital bill would fall short in FY26 and FY27.

The House-passed capital bill appropriated \$32 million to the Capital Infrastructure Reserve Fund in response to the administration's request for \$62 million. The House Corrections and Institutions Committee Chair assured local governments that the match funds would be there when they are needed in FY26 and FY27, and it is true that the match has been provided when needed in the past.

Municipalities are working hard to take advantage of the funding that is available from the IIJA and the BIL. State agencies, regional commissions, and the VLCT Federal Funding

Assistance Program are working hard to assure that as many projects as possible are implemented. Should all 120 projects come to fruition in the next four or five years, Vermont will need more dollars to match those funds and take advantage of the once in a lifetime opportunity than it has ever needed before. The state does need to plan for the possibility that those match dollars are needed when the economy heads to an anticipated downturn and state revenues are not as strong as they are today.

Below is a table of items of interest to local governments. Please note that total numbers do not add up as the items here are only those of interest to local governments (and keep in mind that this capital bill as it relates to set-asides is more difficult to follow than is generally the case).

H. 493 Capital Bill Items of Concern to Local Government (in millions of dollars)

Item	Governor Recommend	House Passed		
	FY24	FY25	FY24	FY25
Cultural Facilities Grant Program	0.30	0.30	0.30	0.30
Historic Preservation Grants	0.40	0.40	0.30	0.30
Recreational Facilities Grants	0.30	0.30	0.30	0.30
Human Services/Educational Facilities	0.15	0.15	0.15	0.15
Regional Economic Development	0.30	0.30	0.30	0.30
State Match Supplemental Clean Water and Drinking Water				
State Revolving Loan Fund (SRLF)	27.00	0	0	0
capitalization grants ^{1, 2}				

State Match IIJA for Drinking Water SRF ²	0	0	9.7	
State 20% Match federal Drinking Water State Revolving Fund (SRF) capitalization grants	0.18	2.21	0.18	2.21
Clean Water SRF	0.33	TBD	0.33	TBD
Municipal Pollution Control Grants ^{1,2}		10.00	4.00	0
Agriculture Water Quality Grants	2.20	0	2.20	0
VT Housing Conservation Board Water Quality	2.8	0	2.8	0
Clean Water FY 25 Request	0	10.00	0	10.00
Dry Hydrant Program Grants	0.10	0.10	0.15	0.15
One Time General Fund to CECF ^{1,2}	62.00			

Table Notes:

1. Governor-recommended one-time General Fund to Capital Expenditure Cash Fund (CECF).
2. House-passed one-time General Fund expenditures for state match to Infrastructure Investment and Jobs Act (IIJA) in H.494, Appropriations bill.

Resources for this article:

- [Testimony by Agency of Natural Resources Secretary Julie Moore to Senate Institutions](#)
- [Agency of Natural Resources Projects Submitted for Funding Consideration in Clean Water and Drinking Water Revolving Loan Funds](#)

- [Agency of Natural Resources Five Year Federal Grants and State Match Summary](#)
- [Agency of Natural Resources Amended Intended Use Plan 2022](#)

[Labor and Employment Legislation](#)

A few weeks ago, as the legislature was working furiously to meet the crossover deadline, the Senate passed two bills that would greatly impact employment law and labor rights in Vermont. S.102 would greatly expand workers' rights to organize and collectively bargain, and S.103 would amend employment laws related to workplace discrimination. The bills were rushed through the Senate Committee on Economic Development, Housing, and General Affairs, and VLCT hopes the House will be more deliberate in the review of these pieces of legislation.

In [S.102](#), VLCT has concerns with the provisions of the bill that would employ what is commonly known as a "card check" means of labor organization. The current, long-standing right to secret ballot elections on whether to join a labor organization would no longer be the preferred means for labor organizing. With a "card check" law, once 50% plus one employee sign a petition to join a labor organization, that labor organization will automatically become the exclusive representative of those employees and, from there forward, they would be represented by that union. This will become the preferred method of unionizing because it skips the need for an election and, once enough signatures are gained, the certification is automatic. This process is less democratic than the secret ballot election process currently in place, as it forces employees to make their positions public when they may not want to. Moreover, it does not necessarily give employees and employers the opportunity to exchange ideas and opinions about the merits of collective bargaining and joining specific labor unions, and it does not impose any re-election requirements whereby employees can decertify through the same card check process.

VLCT is concerned that municipal leaders may not have the opportunity to voice their positions to employees in this process and hear the voices of employees who may not be among the 50% plus one employee who choose to organize in a specific way. Under current law, an election by secret ballot gives employees the opportunity to fully inform themselves, ask questions, and receive feedback from both employers and labor organizers. VLCT sees this as a more democratic process.

The next piece of legislation – [S.103](#) – focuses largely on writing employment law that addresses unlawful employment practices and workplace discrimination. The bill proposes to amend employment discrimination law and redefine “harassment” as one event, rather than one severe event or a series of pervasive events, the standards that currently exist under decades of case law. The bill removes the “severe” or “pervasive” standard and creates a new standard whereby a single, minor incident or perceived slight will trigger litigation with claims of discriminatory harassment – rather than employer human resources (HR) intervention. Employment attorneys that represent both employees and employers have weighed in on the bill, expressing concern that the new standard would create a tremendous amount of litigation and turn the judiciary into the HR department for the entire state.

The House General and Housing Committee were assigned the bills, and we anticipate the committee taking them up soon after they finish review of the S.100 housing bill.

Resources for this article:

- [Current, unofficial, draft of S.102](#)
- [Current, unofficial draft of S.103](#)

[Pension Divestment from Fossil Fuels](#)

The House Government Operation and Military Affairs Committee took their first look at [S.42](#), a bill that began in the Senate and addresses divestment from fossil fuels in state retirement pensions, including in the Vermont Municipal Employees’ Retirement System (VMERS). The bill as passed by the Senate represents a negotiated compromise that included the environmental advocates, the State Treasurer, the Vermont Pensions Investment Commission (VPIC) and the Senate Government Operations Committee. VPIC and the VMERS Board both objected to the bill as introduced because it would prohibit VPIC from investing in the fossil fuel industry after July 1, 2031, and force VPIC to remove assets, thereby reducing expected returns by 50 basis points or more and requiring material increases in pension contributions.

The bill now takes a phased-in approach to state divestment of fossil fuels for state, teacher, and municipal pensions. It states that it is the intent of the legislature that by December 31,

2030, the Vermont Pension Investment Commission divest the holdings of all three state pension systems from the fossil fuel industry. Further, by December 31, 2040, VPIC must divest from any private investments that contain assets in the fossil fuel industry.

The bill charges VPIC, in consultation with the State Treasurer, to complete a review of the carbon footprint of the holdings of the three retirement systems by December 15, 2023, and report the finding to the legislature and the Joint Pension Oversight Committee (JPOC) by February 15, 2024. VPIC must then develop a plan to divest any holdings identified in that review in accordance with sound investment criteria and consistent with fiduciary obligations. This includes consideration of any expected increased funding requirements for the actuarially determined employer contribution and administrative costs. The bill does make exceptions for divestment for de minimis fossil fuel company investments and private investments that contain fossil fuel company stock, securities, or other obligations of any fossil fuel company or subsidiary, affiliate, or parent of any fossil fuel company. VPIC must submit this plan to the legislature and the JPOC by September 1, 2024. The bill specifically allows the Speaker, Senate Pro Tem, and members of the House Government Operations and Military Affairs and Senate Government Operations Committees to meet after the close of this session to receive and review the report.

Beginning in 2025 and in incremental years thereafter until January 15, 2041, VPIC must report to the legislature and the JPOC on:

- the composition and percentage of exposure of any investments that are exempt from the divestment plans (de minimis and private investment), and
- a summary of the fee impact and any instance of excessive charges or demands related to the rebalancing of the funds consistent with implantation of the divestment mandates in S.42.

All three pension systems would contribute proportionate amounts to appropriate \$127,000 to VPIC to support the work needed to fulfil the obligations of the bill. The VMERS share is just under \$20,000. The House Government Operations Committee will take substantive testimony from interested parties in the coming weeks.

[Municipal Charters](#)

It is that time of year when the legislature starts focusing more energy on municipal charter review. Municipal charters are treated differently than most other bills in the legislature and can move between chambers after the “crossover” deadline. That is why towns and cities don’t see much movement of charter bills until the crossover deadline has passed.

The House Government Operations and Military Affairs Committee spent a good deal of time reviewing several municipal charters this week. Here is a short review of the charters that have passed out of committee:

Village of Alburgh (H.150)

[H.150](#) would amend the charter of the Village of Alburgh to move the positions of village clerk and village treasurer to appointed positions and allow the offices to be filled by non-residents of the village. The charter passed the House this week and heads to the Senate Government Operations Committee for review.

Town of Springfield (H.271)

[H.271](#) would amend the charter of the Town of Springfield. The charter amendments are largely technical corrections and clarifying language, with no substantive changes proposed. The charter passed the House this week and heads to the Senate Government Operations Committee for review.

Town of Barre (H.418)

[H.418](#) would amend the charter of the Town of Barre to remove the three elected town lister offices and assigns all the lister duties to the town assessor. The town assessor will continue to be an appointed position. The charter also proposes to convert the office of town constable from an elected to an appointed office. The selectboard may prohibit the constable from exercising any law enforcement authority or may condition the exercise of that authority upon

the constable being certified to exercise that level of authority under 20 V.S.A. 2358. The charter passed the House this week and heads to the Senate Government Operations Committee for review.

Town of Shelburne (H.489)

[H.489](#) would amend the charter of the Town of Shelburne to authorize the town to adopt a one percent local option tax on sales, meals and alcoholic beverages, and rooms. The charter is on the House floor and will head to the Senate Government Operations Committee early next week.

Town of Ludlow (H.488)

[H.488](#) would adopt a new charter for the Town of Ludlow. The charter would give the selectboard the sole authority to warn Town Meeting articles by floor vote or by the Australian Ballot system of voting. The charter is on the House floor and will head to the Senate Government Operations Committee early next week.

Town of Middlebury (H.495)

[H.495](#) would amend the charter of the Town of Middlebury to convert the office of town treasurer from an elected position to an appointed position. The charter is on the House floor and will head to the Senate Government Operations Committee early next week.

Town of Brattleboro (H.386)

[H.386](#) would amend the charter of the Town of Brattleboro to allow youth voters aged 16 and 17 years old to participate in municipal government by voting at local elections and annual meeting and running for offices in the Town of Brattleboro. In the previous biennium, this charter amendment was vetoed by the Governor, and the legislature was unable to override the veto. The Town of Brattleboro is trying once again to get the legislature to consider the

charter. The House Government Operations and Military Affairs Committee passed the bill out of committee, and it heads to the House floor for review early next week.

The House Government Operations and Military Affairs Committee continues to review several other municipal charters including charters from the towns of Lyndon and St. Johnsbury and from the cities of Winooski and Burlington. It is likely the committee will continue to review these and other pending municipal charters in the coming weeks.

[Elsewhere in the Statehouse](#)

S. 60 Local Option Tax

The Senate finally passed S.60 on Wednesday. That bill would extend authority to all towns to adopt local option taxes without securing approval from the legislature. The bill passed with the Senate Finance Committee amendment stating that the General Assembly authorizes a municipality to assess any local option tax that was approved by the voters at the municipality's 2022 municipal meeting. Thus, if S. 60 and the general authorization for adoption of local option taxes is passed, South Hero will also be authorized to implement the previously voted local option tax. S.60 goes next to the House Ways and Means Committee.

S.94 Tax Increment Financing

Our sympathies to Barre City. The simple bill to extend the timeline for Barre City to incur debt and retain the municipal and education tax increment is now a strike all bill containing amendments to the Tax Increment Financing (TIF) Program and the Vermont Economic Progress Council (VEPC).

VLCT does not generally weigh in on the VEPC. However, S.94 as currently drafted would authorize the Auditor of Accounts to attend VEPC executive sessions. We are concerned that changing the rules to allow persons who are not members of a public body to attend executive sessions will set a damaging precedent. People should be specifically invited by vote of the

public body. To do otherwise will have a chilling effect on necessary conversations held in executive sessions and demonstrate a basic distrust of the members of the public body.

[The amendment to S.94](#), which had one hour of testimony from legislative staff on Tuesday, substantially amends the law pertaining to all TIF districts in ways that would be seriously damaging to those districts. It also creates a study committee and contains a study of options for financing public infrastructure improvements, with a report due to the legislature by December 15, 2023.

[Join Us on April 17 at 11 AM for the Advocacy Chat!](#)

The next Advocacy Chat is Monday, April 17 at 11 AM.

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