

# 2023 Weekly Legislative Report #15

The State House is entering the last few innings of the legislative session, and things are getting a bit unpredictable – particularly for a legislative session with the largest percentage of new members in memory. At this point, legislators are expecting to adjourn May 12 or 13. As we move toward the end of the session, you may receive two more regular *Weekly Legislative Reports*.

Expand All

## [State House Accelerates Toward Adjournment](#)

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The concept of “Crossover”, whereby a bill is dead for the session if it is not voted out of the last committee of reference by a date certain, seems to be out the window. Committees are continuing work on draft bills. There are bills still being introduced, and they are not only municipal charter bills. Senate “morning” committees are shutting down in the next week or so. At the same time, committees are working to finalize bills that have come to them from the other chamber. And interestingly in some instances, leadership is having a bit of difficulty keeping their members in line.

Our report today consists of short updates of a number of bills. As we move toward the end of the session, you may receive two more regular *Weekly Legislative Reports*. Thereafter, additional reporting would be stale almost as soon as you received it. We may send you a legislative Alert if we need assistance from you, the local officials doing the hard work in your cities, towns, and villages.

**Thank** you for **all** you do **every** day.

## [Public Safety Dispatching Moves Forward](#)

For over a month, the Senate Finance Committee has worked on and off reviewing [S.139](#), a bill that came from the Senate Government Operations Committee that would completely overhaul how Vermont runs emergency communications and dispatch statewide. For over forty years, the state has struggled to develop a statewide, regional dispatching system, and S.139 was intended to resolve that issue by taking the hardest first step. The bill as it came out of the Senate Government Operations attempts to touch every aspect of emergency communications rather than taking a piecemeal or tiered approach to solving this vexing problem.

The Senate Finance Committee is leaning heavily into a multi-year, tiered approach for addressing the funding and costs aspects of the bills' implementation. Although the committee does not have an updated draft of S.139, the following represents the suggestions the committee has identified as the direction in which they'd like to move forward. This committee is considering breaking up the bill and implementation approach into four different paths: inventorying the current regional dispatch services; designing a new, modern statewide public safety communications system; determining long-term funding for a new, modern system; and determining where current funding will be allocated in the short-term.

## Inventory

The committee seems to agree that the first step should be for the state to conduct an inventory of all aspects of regional dispatch services currently in place, including but not limited to an inventory of facilities, equipment, personnel, technology, communications systems and networks, operations, catchment areas, and response agencies. The inventory would identify municipalities facing the greatest challenges with respect to the provisions of dispatch services as well as municipalities that would be most affected by (a) no longer being served by state-run dispatching services and (b) the corresponding new financing mechanism for the continuation of those services. This data gathering would have to be done by hired consultants with expertise in this area, since no state agency or department currently has this level of expertise. It appears the E-911 Board is the favored state entity to oversee this first step.

## Design

The second step, which could run simultaneously with the first step, is to design a statewide public safety communications system, comprising an integrated E-911 system and a dispatch system. The system would incorporate standards and procedures to ensure it is reliable, secure, efficient, interoperable, and universally accessible by all persons throughout Vermont. The design of a governance model is necessary to ensure effective state and regional oversight, management, and continuous improvement of the system. The design would also include the development of costs estimates for such a system, including operation and capital costs, but not the long-term funding and financing issues – which will fall to the third step. Similar to the inventory step, the state would need to hire consultants with appropriate experience and expertise to develop this design. Given the state, regional, and local impacts of this stage, there would need to be significant stakeholder input which may involve an advisory committee comprised of various affected entities and persons. The committee recognizes that this design will likely be the hardest step in the process.

## Long-Term Funding

The third step of implementation is an analysis of options and a proposal for sustainable and equitable funding source(s) to run the system into the future. This long-term funding model would consider budgets that currently fund regional dispatch; potential funding streams at the state, local, and federal levels; population and call volumes of each municipality; current funding shortfalls for the E-911 system; and stakeholder input through public hearings or other mechanisms. It's unclear what entity would be responsible for this step yet. However, it is a vitally important step and will certainly require stakeholder buy-in, given the potential impacts on local and state budgets.

## Short-Term Funding

Perhaps the clearest step in the process is the one related to short-term funding. There are two potential pots of money available to finance the first three steps outlined above. Nine

million dollars in federal Congressionally Directed Spending was appropriated to the Department of Public Safety (DPS) to support Vermont's transition to a modernized, regional communications network. However, the Commissioner of DPS testified that in recent weeks the department has learned that this funding is not guaranteed and may not be available given the timing restraints tied to the funding. The good news is that the state FY24 budget carries forward \$11 million of unexpended funding from FY23 of state General Fund money to assist in the inventory, design, and financing of a statewide emergency communication system. It appears the Senate Appropriations Committee is anxious to get a recommendation from both the Senate Finance and Government Operations Committees to identify more specifically how this \$11 million should be allocated in this year's budget.

## Potential Effect on Dispatching for Non-State Emergency Providers

In addition to these steps, the committee has also stated an interest in amending the bill to include a sunset date whereby the state will discontinue dispatching for non-state entities. The suggested sunset date floated in committee was December 31, 2026. The committee recognizes that those local, county, and non-profit entities that rely on state dispatching services will need time to consider alternative options and to budget the necessary funds to contract with an existing dispatching entity. VLCT strongly encourages municipalities to review where the local emergency responders that serve the community are dispatched from, particularly for fire and EMS services. If your agency or an agency you use to provide those **services** are listed as **being dispatched by the Vermont State Police at either the Westminster or Williston Barracks**, you or your service provider **would have to contract directly with a non-state dispatching service**. A list of the affected agencies and municipalities can be found on pages 52-53 of the [Regional Dispatch Working Group Report from December 1, 2022](https://legislature.vermont.gov/assets/Legislative-Reports/Regional-Dispatch-Working-Group-Report-12012022-Act-185-Section-E.209.1.pdf). <https://legislature.vermont.gov/assets/Legislative-Reports/Regional-Dispatch-Working-Group-Report-12012022-Act-185-Section-E.209.1.pdf>

## Municipal Element of Certain Proposed Long-Term Funding

One of the biggest issues VLCT has with the S.139 as passed out of the Senate Government Operations Committee is the long-term funding model proposed that would have all

municipalities paying for the statewide system with local budgets and on the municipal property tax. VLCT always has great concerns when unfunded mandates are imposed on local budgets. In [VLCT's 2023-2024 Municipal Policy's Guiding Principles](#) we oppose all unfunded mandates and cost shifts to local governments. We support locally initiated and approved regionalization of services and resources to provide public safety services. That said, our policy also states that we support regionalized public safety initiatives. The proposal to create a statewide oversight of dispatch without local approval and with funding on the backs of local budgets, is in direct conflict with these positions adopted by VLCT's membership in October, 2022.

In the interest of moving conversations forward, and in recognition that a funding model may not be immediately adopted under the proposal being considered in the Senate Finance Committee, VLCT remains engaged and hopeful that a pared down version of S.139 moves forward. Over the years it has become increasingly clear that the State Police would be moving forward with shedding non-state agencies from their dispatching services and that those agencies and municipalities would have to join the over 200 others that already contract out for dispatching services, funded by local municipal budgets. Requiring all agencies to contract out for dispatching creates some level of parity between municipalities for funding dispatching services. However, it will not be easy for many agencies, especially those EMS services that already struggle to keep their doors open and their ambulances on the road. Local governments contracting with these EMS providers should prepare for future budgets to absorb the costs of these services, which will certainly be passed down to the communities they serve.

VLCT remains very concerned that although S.139 states that "protecting public safety and welfare is an essential function of State government," funding the system would be on the backs of local governments that would not have any control over its design, implementation, and future operations. It is one thing to pay for dispatching services for local police, EMS, and fire agencies, but it is an entirely different issue to remove all local control and authority at the local level and then turn around and require municipalities to fund a state enterprise.

The committee will likely continue their work on S.139 next week, and VLCT is looking forward to seeing a new draft and providing testimony to improve local government's positioning in a final statewide emergency communications system.

[Municipal Charters](#)

## **Town of Brattleboro (H.386)**

On Wednesday, the House passed [H.386](#), a proposal that would amend the charter of the Town of Brattleboro to allow 16- and 17 –year-olds to participate in municipal government by voting at local elections and annual meetings 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 bill heads to the Senate Government Operations Committee for consideration.

## **Town of Berlin (H.504)**

The House Government Operations and Military Affairs Committee voted out [H.504](#), a charter amendment proposal from the Town of Berlin that would change the office of town clerk from an elected position to an appointed one. It would also authorize the town treasurer to waive the personal property or inventory tax when the total assessed value of personal property or inventory is \$1,650 or less, with selectboard authorization. Most municipalities no longer levy personal property and inventory taxes, but some municipalities do assess such taxes under charter authority. Additionally, most municipalities with such taxes levy them on commercial enterprises and the inventory those entities keep.

The charter will be on the House floor next week.

## **City of Rutland (H.505)**

The House Government Operations and Military Affairs Committee voted out [H.505](#), a charter amendment proposal from the City of Rutland that would authorize the Board of Aldermen to assess a one percent tax on sales. The charter would restrict the use of revenues from a sales tax to funding a capital improvement reserve fund in the city; to reduce the deficit in any underfunded pension; or to finance the construction, reconstruction, or repair of city buildings, streets, sidewalks, or other infrastructure.

The bill now heads to the House Ways and Means Committee for further consideration.

## Town of Springfield (H.271)

The Senate Government Operations Committee made swift work of [H.271](#), a charter amendment proposal from the Town of Springfield this week. The amendment only makes minor technical corrections, and the committee passed out the bill Thursday with no amendments. If, as expected, no amendments are added on the Senate floor, it will soon head to Governor Scott for signature.

### [Law Enforcement Training](#)

The Senate Government Operations Committee spent the majority of Thursday reviewing two bills that propose several updates to law enforcement training and policy adoption mandates.

[H.476](#) would require all law enforcement agencies to adopt a statewide Domestic Violence Involving Law Enforcement Model Policy. That policy must be updated by the Law Enforcement Advisory Board by January 1, 2024. It would add two items to the list of unprofessional conduct of certified law enforcement officers:

- attempting to, or causing physical harms to a family or household member, or placing a family member or household member in fear of imminent serious physical harm, and
- violating the Domestic Violence Involving Law Enforcement Model Policy.

In both instances, both on- and off-duty conduct would qualify as a violation.

Lastly, the bill would require the Vermont Criminal Justice Council (VCJC) to collect and annually report aggregate data regarding domestic and sexual violence and complaints of unprofessional conduct resulting in the filing of charges or stipulations or the taking of disciplinary action.

The second bill, [H.482](#), focuses on fair and impartial policing and broader professional regulations. It proposes to amend statute to remove the minimum number of hours mandated for fair and impartial policing training and instead require law enforcement to demonstrate competency in fair and impartial policing in order to maintain their certification. The VCJC must report to the legislature on how successful the new competency standard for fair and

impartial training is.

H.482 would mandate that the VCJC adopt rules with respect to Advanced Roadside Impaired Driving Enforcement training and law enforcement certification. The bill would amend the law related to roadside stop data collection and add that the date, time, and location of stops be collected and tracked. Lastly, the bill would mandate that prior to hiring a law enforcement officer a hiring agency must have access to all previous employers' performance reviews of the potential hire. Currently this information is only required from the officer's most recent employer.

Lastly, the bill sets a new deadline of July 1, 2025, for the VCJC to finally adopt the rules regarding alternate routes to law enforcement certification – aside from the training provided at the Vermont Police Academy. The VCJC was supposed to already have such rules but has been unable to meet this requirement outlined under 20 V.S.A. § 2355. VLCT fully supports this initiative. It is vitally important that the state find additional and alternate law enforcement training opportunities that meet the modern needs of the communities that law enforcement serves in addition to the needs of potential recruits interested in the career path.

The committee took testimony on both bills and will continue reviewing them in the coming weeks.

[Elsewhere in the State House](#)

### **Municipal Technical Assistance Program Is Up and Running!**

The legislature appropriated \$3 million to the Agency of Administration for grants to municipalities for technical assistance in securing state and federal funds. The grants are intended to assist communities with high need and lower capacity for accessing and applying for funds. The agency took time to develop an index to evaluate needs across the state. Communities in the top 25 percent of the needs assessment are pre-approved for funding.

### **The following towns (sorted by county) are pre-approved for Municipal Technical Assistance.**

- **Addison:** Goshen, Granville, Hancock, Panton, Waltham, Whiting
- **Bennington:** Readsboro, Rupert, Sandgate, Searsburg, Woodford
- **Caledonia:** Groton, Kirby, Newark, Ryegate, Sheffield, Stannard, Sutton, Wheelock



- **Essex:** Bloomfield, Brunswick, Canaan, Concord, East Haven, Granby, Guildhall, Lemington, Lunenburg, Norton, Victory
- **Grand Isle:** Isle La Motte
- **Lamoille:** Belvidere, Waterville
- **Orange:** Chelsea, Topsham, Vershire, Washington, West Fairlee
- **Orleans:** Albany, Brownington, Holland, Irasburg, Lowell, Westfield
- **Rutland:** Benson, Ira, Middletown Springs, Mount Tabor, Pawlet, Pittsfield, Tinmouth, West Haven
- **Washington:** Plainfield, Roxbury, Worcester
- **Windham:** Athens, Brookline, Halifax, Wardsboro
- **Windsor:** Baltimore, Bridgewater, Reading

Learn about the [Municipal Technical Assistance program](#).

#### **Housing S.100, H.68, H.111**

S.100 was in the House General and Housing Committee until late Thursday, when the committee restored funding for housing programs and voted it out on a vote of 8-4. House leadership restricted that committee to addressing the money portions of the bill and directed them not to address the zoning or Act 250 portions of the bill.

On Wednesday, Representative Elder offered an amendment to address Act 250 in the House General and Housing Committee. That amendment would establish that in a municipality with permanent zoning and subdivision bylaws, the construction of four or fewer housing units would not be counted toward determining Act 250 jurisdiction over any project. That would reflect the requirement in S.100 as passed by the Senate, that requires towns to allow multi-unit dwellings with four or fewer units in areas served by sewer and water infrastructure. It would allow a developer to construct housing projects with 24 units within five miles of each other within five years, for three years, in those towns with zoning and subdivision bylaws. And the bill would exempt from Act 250 the construction of improvements for 24 or fewer units of housing. The proposal of an amendment in the House General and Housing Committee generated an impassioned discussion about committee jurisdictions, leadership directives, the need to represent constituents, and process in the House generally

on both Wednesday and Thursday.

Informally on Wednesday, the House Environment and Energy Committee started to take testimony on both S.100 and H.68, a housing bill that has hung on their wall all session. The bill that VLCT had initially supported, the workforce housing bill H.111, has not yet been taken up.

On Thursday, VLCT testified in House Energy and Environment urging for legislation that will:

- eliminate Act 250 jurisdiction for priority projects in designated areas,
- increase the number of units that can be built before Act 250 is triggered to 25 in all designated areas including village centers with adopted zoning and subdivision bylaws – regardless of how far one project is from another or how many years have lapsed between projects,
- establish that in municipalities with zoning and subdivision bylaws the construction of four or fewer housing units shall not count toward determining Act 250 jurisdiction over any other project,
- eliminate the ability of “any ten people” to appeal a zoning permit,
- incorporate the amendments proposed by the Vermont Planners Association that would provide flexibility in implementing new local zoning mandates,
- authorize municipalities to assume authority for issuing state permits for connections to wastewater or water supply facilities, and
- establish a system for delegating Act 250 criteria review to local governments that adopt bylaws addressing Act 250 criteria and demonstrate capacity to administer Act 250 locally – thereby eliminating duplicative and expensive permits that cost developers time and money.

On Friday, the VLCT Executive Director and advocacy staff met with the Speaker of the House to make these requests on behalf of the member cities and towns.

The Rural Caucus is poised to recommend an amendment that would propose similar amendments to those of Representative Elder, to whatever Housing Bill is moved in the House Environment and Energy Committee.

The bill now resides in House Environment and Energy.

**Resources for this topic:**

- [VLCT Testimony in House Environment & Energy](#)
- [VHFA Presentation to House Environment & Energy](#)
- [Department of Housing and Community Affairs Presentation to House Environment & Energy](#)
- [Letter from VLCT Executive Director Ted Brady to Speaker of the House Jill Krowinski](#)

**Reappraisal – H.480**

The Senate Government Operations Committee took up H.480, the reappraisal bill, on Tuesday.

Currently, because of the surge in property values, approximately 130 towns are under orders from the Division of Property Valuation and Review (PVR) to reappraise. And, quite simply, there are not the people to conduct those reappraisals. Under current law, PVR is required to order a reappraisal if a CLA for a town is below 85 percent or above 115 percent or has a coefficient of dispersion greater than 20.

The bill would eliminate the Common Level of Appraisal (CLA) as a trigger for a reappraisal being ordered. It would direct PVR to put towns on a schedule to reappraise every six years. The bill as passed by the House would establish a state reappraisal office as part of the current appraisal and litigation assistance program on July 1, 2026. The state would thereafter conduct reappraisals of each municipality's grand list properties. An appropriation of \$2.5 million would be committed to PVR each year for the purpose of statewide reappraisals.

The bill would allocate \$100,000 each year from the Education Fund to PVR for assessment education of assessors and listers.

A study/progress report is due to the legislature by December 15, 2023, from the Department of Taxes, on the first six months of implementation of the office of statewide reappraisals and defining new categories of homestead and non-homestead property that apply to both the municipal and statewide education grand lists and property taxes. An implementation plan and progress report on the first 18 months of implementation of the statewide system to conduct reappraisals is due to the legislature by December 15, 2024. That report is to include recommended legislative language to define categories of property and integrating those definitions into municipal and education grand lists by 2025.

Your advocacy staff testified in the Senate Government Operations Committee that the studies should be returned to the legislature before the result of a statewide reappraisal office is presumed and that references to establishing that office should be removed from the bill. Local officials are in support of putting towns on a regular schedule for reappraisal and of conducting comprehensive studies of the system and how to improve it for the future.

On Wednesday, the [Vermont Association of Listers and Assessors](#) adopted the following statement regarding H. 480:

*H.480 An act relating to property valuation and reappraisals*

*Parts of the H.480 we do?Not?Support:*

- *PVR taking responsibility of contracting or conducting property reappraisals before the Department has undertaken its study and implementation plan deliverables and reported back to the legislature.*
- *Removing ownership of the grand list from the municipality to the state.*

*Parts of H.480 we Support:*

- *Reappraisals conducted on a regular schedule.*
- *VALA requests representation on any study related to H-480*

## Section 248a Telecommunications Facilities – H110

The Senate Finance Committee took up H.110 on Thursday. As that “very simple” bill passed the House, it extended the sunset for telecommunication providers to opt to apply to the Public Utility Commission (PUC) for a certificate of Public Good instead of seeking permits from the local Development Review Board or Zoning Commission and Act 250. If no action is taken, the authority for an applicant to choose to go to the PUC would expire on July 1, 2023. H.110 would extend the deadline to July 1, 2026. On the other end of the spectrum, the threat is always that a law allowing applicants to choose to go to the PUC would be made permanent.

There was substantial discussion at the committee about the inaccessibility and opacity of the PUC hearing and decision-making process as well as the fact that it is set up for attorneys and certainly not for the lay person or volunteer planning commission or development review board member. That has been the difficult experience of many local officials venturing into the PUC Certificate of Public Good process. The discussion on Thursday came with a request for the legislature to direct the PUC to conduct a stakeholder process that would inform changes to make the PUC process more user friendly for the local officials who participate in the process only when an application from a telecommunications company proposes a site in their community.

The Senate Finance Committee is likely to extend the sunset for at least one more year and is considering having a stakeholder group or PUC workshop or study committee review the process.

### **The law today is 30 VSA 248a:**

*(b) (5) “Substantial deference” means that the plans and recommendations referenced under subdivision (c)(2) of this section are presumed correct, valid, and reasonable.*

*(c) (2) Unless there is good cause to find otherwise, substantial deference has been given to the plans of the affected municipalities; to the recommendations of the municipal legislative bodies and the municipal planning commissions regarding the municipal plans; and to the recommendations of the regional planning commission concerning the regional plan. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations to which substantial deference is required under this subdivision (2) on an*

*ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.*

*(d) Existing permits. When issuing a certificate of public good under this section, the Commission shall give due consideration to all conditions in an existing State or local permit and shall harmonize the conditions in the certificate of public good with the existing permit conditions to the extent feasible.*

### **Tax Increment Financing**

On Thursday, the House Ways and Means Committee voted out S.94, the bill that started life as a Barre City Tax Increment Financing (TIF) district bill and which we wrote about last week in the Elsewhere section of [Weekly Legislative Report #14](#).

The bill includes creation of a five-member task force on economic development incentives to conduct hearings and consider current state funded economic development incentive programs, models from other parts of the country. The Joint Fiscal office would staff the task force and hire one or more consultants to assist in the research. A report would be due to the legislature by January 15, 2024.

The bill would also create a Study Committee on Financing Public Infrastructure Improvements to make recommendations for new long-term programs or methods to finance infrastructure improvements that would serve a public purpose, incentivize community development, facilitate development of housing, and reverse declining grand list values in Vermont municipalities. The sixteen-member study committee, which would include a member appointed by VLCT, would consider how to align state and federal programs into one streamlined rural infrastructure assistance program and would also consider how to expand or harmonize existing infrastructure programs. The study committee report would be due December 15, 2023.

S.94 would also grant the TIF extension requests from Barre City and Hartford.

## [New Bills of Interest to Municipalities](#)

<b>Number</b>	<b>Summary</b>	<b>Current Location</b>
<a href="#">H.504</a>	Charter amendment Town of Berlin	House Floor
<a href="#">H.505</a>	Charter Amendment City of Rutland	House Floor
<a href="#">H.506</a>	Charter Amendment City of Burlington election boundaries	H. Government Operations and Military Affairs
<a href="#">H.507</a>	Charter Amendment City of Burlington polling places	H. Government Operations and Military Affairs
<a href="#">H.508</a>	Charter Amendment City of Burlington ranked choice voting	H. Government Operations and Military Affairs
<a href="#">H.509</a>	Charter Amendment City of Burlington voter qualification	H. Government Operations and Military Affairs
<a href="#">S.142</a>	Eligibility Requirements for Law Enforcement Officers	S. Government Operations
<a href="#">S.143</a>	Civil Rights Reform, Law Enforcement , Correctional Services	S. Judiciary
<a href="#">S.145</a>	Community Resilience and Disaster Mitigation Fund	S. Government Operations
<a href="#">S.146</a>	Permitting of Indirect Discharges	S. Natural Resources & Energy

[A New Way to Reach Your Advocates!](#)

**VLCT members** can now pose questions to us via the new **Municipal Access Portal** at our website, [vlct.org](http://vlct.org). Just log in and use the Ask a Question page, which you can find in several places (e.g., by clicking on Contact at the top of our website or selecting “Ask a Question” under Programs and Quick Tools in the main menu).

**Here are all the steps:**

1. Log in at [vlct.org/login](http://vlct.org/login).
2. Click any [Ask a Question](#) button/link.
3. In the form’s Category drop-down list, select Advocacy.
4. In the Topic drop-down list, select Other.
5. Fill out the rest of the form and press the Submit button in the lower right corner.

You can also direct questions to other VLCT departments by choosing a different Category, such as Legal Inquiry or Federal Funding Assistance. You will soon notice that the Topic options vary based on which category you select. To track questions you have submitted, click the person/user icon at the top of the homepage to open your Member Dashboard, then navigate to the **Contact Us** section at the bottom of the left side grey menu. You can see your history as well as start a new question from that section of the MAP.