

# **Advocacy Updates: Build Resilient Communities**



VLCT has identified climate change and disaster response as a key topic to follow during the 2024 legislative session. Check back for the latest updates on this issue. Or, view our [Weekly Legislative Reports](#) page to see everything we're following.

The June 10, 2024 entry below is a portion of our complete [2024 Legislative Wrap-Up](#).

### **The Portion of the 2024 Legislative Wrap-Up Related to This Topic – June 10, 2024**

## **S.160 (Act 82) – State Education Property Tax Abatement for Flood Damaged Property**

*Effective Date February 7, 2024.*

S.160 was the first flood relief bill of the session to pass. It was signed into law on February 7, 2024.

- This act allows a municipality to receive reimbursement of education property tax payments owed for properties that were considered lost or destroyed due to severe storms and floods in an area that was declared a federal disaster between July 1 and October 15, 2023.
- To be eligible for reimbursement for a property, the municipality must have abated education taxes in proportion to municipal taxes.



- Municipalities must complete eligible abatement by November 15, 2024 (an extension from the original date of April 15, 2024).
- For tax years 2023 and 2024, disaster relief payments are excluded from household income for calculating a homestead property tax credit.

## H. 839 (Act 87) – Fiscal Year Budget

### Adjustment

*Effective Date March 13, 2024.*

Act 87 includes important flood relief for communities impacted by last year's floods. A total of **\$22.5 million** in flood relief was appropriated to over 100 communities affected by flooding according to this impact found on pages 778-779. formula found on pages 778-779.

- Appropriations in Act 87 helped to support the local share of the match required for FEMA Public Assistance awards. In the end, FEMA will cover 90 percent (90%), the state will cover almost eight percent (8%) and municipalities will be on the hook for approximately two percent (2%).
- \$6.25 million appropriated in Act 87 will fund Local Economic Impact Grants based on damage reported to FEMA Individual Assistance (IA) and Public Assistance (PA), respectively. The distribution of funds between IA and PA is



based on [this allocation chart](#).

If you are interested in more details, you can review all of [VLCT's updates throughout the session](#) on Flood Recovery.

## **S.213 – The Flood Safety Act**

*Amends 10 V.S.A. § 752, § 754, § 755, § 901, § 916, § 918, § 919, § 1266, § 1274, § 1253(d) and chapter 43, 47 and 24 V.S.A. § 2291, § 4302, § 4382, § 4413, § 4414, § 4424.*

*Dam Safety Revolving Fund, Dam Registration Report, and Dam Design Rules) effective on passage; all other effective July 1, 2024, with conforming amendments to municipal river corridor planning effective on January 1, 2028, and municipal compliance with the State Flood Hazard Area Standards effective on January 1, 2026.*

This act is a direct response to last year's intense flooding. It attempts to reduce flood impacts by regulating what type of development occurs in "river corridors", where most flood damage and associated expenses occur. The bill also addresses the protection of wetlands, which reduce flood impacts, and tackles dam safety, a concern of many communities that either suffered or were threatened by dam failures during the July 2023 flooding.

Governor Scott allowed S.213 to become law without his signature, citing concerns about the effects on roughly 45,000 parcels and 209,000 acres



statewide. He also expressed frustration with the legislature's "practice of passing complex and significant policies without appropriate consideration of whether they can even be implemented." Throughout the session, he indicated he was likely to veto S.213 due to existing capacity concerns and staffing shortages at the Agency of Natural Resources (ANR) due to implementation challenges from recent climate change legislation (Climate Council, Clean Heat Standard, Global Solutions Warming Act) and the increased costs and increased staffing needed at ANR to fully implement S.213.

**Provisions of the bill that will affect municipalities:**

- Charges ANR with **mapping** river corridor areas starting in 2026. This includes identifying areas suitable for development that are located within existing settlements and that will not cause or contribute to increases in fluvial erosion hazards.
- Requires ANR to adopt rules **regulating new development** in river corridor areas by July 1, 2027, including requirements and process for a municipality to be delegated the State's permitting authority for development in a mapped river corridor *when* the development is not exempt from municipal regulation *and when* the municipality has adopted an ordinance or bylaw under 24 V.S.A. chapter 117 that has been approved by the Secretary and that meets or exceeds the requirements established under State rule.
- Requires ANR, by January 1, 2026, to establish a set of flood hazard area **standards** for municipalities to adopt for enrollment in the National Flood Insurance Program (NFIP).



- Creates a study committee on state administration of the NFIP to review and recommend how to **reduce vulnerability to inundation flooding**, including how and to what scale to shift responsibility for the administration and enforcement of the NFIP from individual municipalities to the Vermont Department of Environmental Conservation.
- Transfers regulation of most dams to Department of Environmental Conservation and **updates procedures for dam safety inspections** including public notice of unsafe dams and an annual report on dam safety to the legislature.
- Creates a **dam safety revolving loan fund** for both emergency and nonemergency projects.
- Creates a Study Committee on Dam Emergency Operations Planning to review and recommend how to improve **regional emergency action planning** for hazards caused by dam failure, including how to shift responsibility for emergency planning from individual municipalities to regional authorities, how to improve regional implementation of dam emergency response plans, and how to fund dam emergency action planning at the regional level.
- Charges ANR with producing a report on whether and how to establish criteria for waiving, reducing, or mitigating ANR permit fees for persons of low income or other criteria.



## S.310 – Natural Disaster Government

### Response, Recovery, and Resiliency

*Amends 20 V.S.A. § 48; 20 V.S.A. § 49; 32 V.S.A. § 8557; 10 V.S.A. § 10; 20 V.S.A. § 2; 20 V.S.A. § 6; 20 V.S.A. § 31; 20 V.S.A. § 32; 20 V.S.A. § 41; 24 V.S.A. chapter 101; 24 V.S.A. § 3679; 24 V.S.A. chapter 97; 20 V.S.A. § 50; 30 V.S.A. § 7055; 20 V.S.A. § 4; 20 V.S.A. § 1; 20 V.S.A. § 8; 20 V.S.A. § 9; 20 V.S.A. § 11; 20 V.S.A. § 13; 20 V.S.A. § 17; 20 V.S.A. § 26; 20 V.S.A. § 30; 20 V.S.A. § 34; 20 V.S.A. § 39; 20 V.S.A. § 40.*

*Effective Dates: July 1, 2024, except that Sec. 21 (related to language services in disasters) shall take effect on July 1, 2025.*

Signed by the governor on May 30, 2024, this is the omnibus disaster planning bill in which legislators attempted to address the lessons learned from the July 2023 flooding. It makes **large and small changes to the way the state prepares for and responds to disasters, including:**

- Creating the Community Resilience and Disaster Mitigation Grant Program at the Department of Public Safety to provide municipalities with grants for technical assistance and project implementation related to climate adaptation and response. The fund received a \$3.5 million infusion in the Big Bill.
- Increased funding for the Vermont Fire Service Training Council by \$300,000 (paid for by insurance fees).



- Increased funding for EMS training by \$300,000.
- Authorizing the Treasurer to use up to 2.5 percent (2.5%) of the State's cash on hand to finance climate infrastructure and resilience projects.
- Expanding the definition of "first responder" to include public works employees and others to ensure they are included in emergency preparedness planning. The legislature debated extending first responder death benefits to public works officials, but that was not included in the final bill.
- Adding local libraries, arts and culture organizations, regional development corporations, local business organizations, and community-based emergency or charitable food providers to the list of nonvoting members of regional emergency management committees.
- Establishing the chair of a municipality's legislative body as the emergency management director in the event of a vacancy.
- Directing Vermont Emergency Management (VEM) to amend the local emergency plan template to include siting of local and regional emergency shelters.
- Directing VEM to create a written after-action report of the July 2023 flooding response, including an evaluation of "the adequacy of early warning and evacuation orders, designated evacuation routes and emergency shelters, the ability to provide food and water where it is needed, the present system of local emergency management directors in wide-spread emergencies and the State's present emergency communications systems."





- Consolidating the authority to create stormwater utilities and stormwater utility rates in the same statute as wastewater systems. This includes language allowing stormwater rates to be set: "based on an average area of impervious surface on residential property within the municipality" and be used for "stormwater management, control, and treatment; flood resiliency; floodplain restoration; and other similar measures."
- Establishing the Urban Search and Rescue Team.
- Directing the E-911 Board to figure out how to use VT-Alerts more effectively in disasters.
- Directing VEM to provide language assistance services during an all-hazards event.
- Amending emergency powers of the governor.

### **Bills to Watch as the Biennium Draws to a Close – May 10, 2024**

Please see the relevant bills listed in [this May 10, 2024 summary](#).

### **Municipal Flood Abatement Relief Extended to 11/15/24! – Apr 25, 2024**



This week the House concurred with a [Senate Amendment to H.861](#), an unrelated health care bill, adding Section 3 which extends – from April 15, 2024 to November 15, 2024 – the period a municipality is eligible for reimbursement of State education property tax payments owed. This extension, in a bill that has passed both the House and the Senate, will be a relief to many of the most flood-impacted municipalities and property owners, as they were struggling to meet the April 15, 2024, deadline enacted in the original Flood Abatement Bill, S.160.

This will amend current law enacted in S.160 by allowing the Commissioner of Taxes to approve “an application by a municipality for reimbursement of State education property tax payments owed under 32 V.S.A. § 5402(c) and 16 V.S.A. § 426. To be eligible for reimbursement under this section, prior to November 15, 2024, a municipality must have abated, in proportion to the abated municipal tax, under 24 V.S.A. § 1535 the State education property taxes that were assessed on eligible property, after application of any property tax credit allowed under 32 V.S.A. chapter 154”.

For background and history on S.160, see the February 9 entry on this page.

### **Summer Flood Relief Approved, ERAF Helps Municipalities, Economic Impact Funding Approved – Mar 1, 2024**

### **Fiscal Year 2024 Budget Adjustment Act Provides Flood Relief and Municipal Support**



[H.839](#), the Fiscal Year 2024 Budget Adjustment Act, is nearing final approval by the legislature today and is expected to be signed by Governor Scott next week. The bill's [Committee of Conference](#), consisting of three members from each chamber's Appropriations Committee, worked out their respective bodies' differences in the annual budget adjustment bill. The House and Senate had different approaches and funding levels for municipal flood relief. In the end, they agreed to a [formula](#) (pages 778-779) that will provide **\$22.5 million** in flood relief to over 100 communities impacted by flooding.

#### **Local Share (Match) and Emergency Relief and Assistance Fund (ERAF)**

After months of nail biting on how much local share would be required for FEMA Public Assistance awards *and* how much of that local share the state would cover for municipalities, we finally have answers (and more)! The split on the federal and local cost share is 90% federal (FEMA) and 10% local – **great news! And it gets better**, thanks your efforts: VLCT advocacy, the legislature, and the governor have agreed that state government will cover 78% of the local share, meaning municipalities will only be on the hook for the rest. Think of it this way: FEMA covers 90%, the state of Vermont covers 7.8%, and you cover 2.2%.

#### **Local Economic Impact Grants**

Recognizing that municipalities are still struggling with fiscal impacts of the 2023 floods, the legislature and the governor appropriated \$6.25 million for Local



Economic Impact Grants. This is split into two tranches. One, in the amount of \$3.25 million, is based on the FEMA Individual Assistance (IA) reported damages. Only four municipalities will qualify for these funds. The second, in the amount of \$3.0 million, is based on the FEMA Public Assistance (PA) reported damages. The formulas for distribution are spelled out in the bill as is with this restriction: "Monies from these grants shall not be expended on FEMA-related projects."

The Joint Fiscal Office created [this spreadsheet](#) for an **estimated** breakdown of funds. It is far from finished (it contains a lot of rounding) and will be cleaned up once it falls into the hands of the Agency of Administration for next steps, but it will give you a sense of what you might expect. As we learn more about how these funds will be accessed and distributed, you will be the first to know.

### **First Flood Relief Bill Has Been Signed into Law – Feb 9, 2024**

**S.160, an act relating to state education property taxes and flood-related damage, was signed into law on February 7 by Governor Phil Scott.** As we reported in our January 11 update, this bill reimburses municipalities for certain state education property tax payments if they granted property tax abatements to property owners for damage caused by flooding. The new law, which has not yet been assigned an Act number, also excludes federal disaster relief payments from household income when calculating the homestead property tax credit.



This law will require the Commissioner of Taxes to approve applications from municipalities for reimbursement of state education property tax payments for “eligible properties” prior to April 15, 2024. VLCT and others pushed to move this date further out, but in the end the legislature stuck to the original construct of [S.160](#).

“Eligible property” means property lost or destroyed due directly or indirectly to severe storms and flooding in an area that was declared a federal disaster between July 1, 2023, and October 15, 2023, provided the loss or destruction resulted in one or more of the following:

1. a 50 percent or greater loss in value to the primary structure on the property,
2. loss of use by the property owner of the primary structure on the property for 60 days or more,
3. loss of access by the property owner to utilities for the primary structure on the property for 60 days or more,
4. condemnation of the primary structure on the property under federal, state, or municipal law, as applicable.

In addition, **municipalities will be eligible for reimbursement of interest** expenses on funds borrowed to make state education property tax payments for abated eligible properties. Boards of abatement may reconsider any decision they have made between April 1, 2023, and February 7, 2024 (the date of passage of the act).



The act also makes this closing statement: "The General Assembly recognizes the public service provided by boards of abatement and encourages boards to create procedures to treat all claims for property tax abatements due to the severe storms and flooding uniformly."

VLCT will be working with the Department of Taxes to spread the word, ensure ease of access, and provide technical assistance as needed.

### **The Initial Flood of Flood-Related Bills – Jan 11, 2024**

Since before the session started, we have been working hard to ensure that the needs of our members who are affected by significant flood damage are addressed in the state house. We have been asking for the following at every opportunity:

- Provide relief to municipalities for tax abatement of flood-damaged properties.
- Revise the 50 percent substantial damage threshold and include full municipal and education tax reimbursement.
- Provide affected municipalities with all local matching funds required for FEMA Public Assistance projects regardless of Emergency Relief and Assistance Fund rating.
- Award revenue loss funding to affected municipalities to fully recover from this summer's floods.



- Fund the Flood Resilient Communities Fund, continuing the municipal-level mitigation work that is not eligible for FEMA.
- Support better emergency preparedness coordination at the state and local levels.

### **Urgent FY24 Budget Adjustment Flood Relief**

[In this memo](#), Barre and Montpelier Representatives Peter Anthony, Conor Casey, Kate McCann, and Jonathan Williams requested that the [House Appropriations Committee](#) include \$15 million in Flood Recovery Lost Revenue Grants for municipalities and \$10 million for the Flood Resilient Communities Program in the mid-year Budget Adjustment Act. View their recent testimony in [Senate Committee on Economic Development, Housing and General Affairs](#) and please let your representatives on the [House Appropriations Committee](#) know how important municipal flood recovery funding is to you.

### **Omnibus Flood Recovery, Relief and Resiliency Bill**

[H.723](#) the omnibus and comprehensive flood bill, proposes to enact multiple provisions related to statewide flood recovery and improved future flood preparedness and resilience. Most notably for VLCT members, it proposes to reimburse municipalities for education property tax that was abated due to flooding, and it would establish and fund a Flood Recovery Revenue Loss Grant Program for municipalities.



The omnibus flood bill also proposes to

- fund municipal culvert upsizing and replacement,
- fund floodproofing of wastewater facilities,
- create and fund a Flood Recovery Assistance Program for non-profit and for-profit businesses,
- fund the Flood Resilient Communities Program,
- fund flood recovery groups,
- fund flood-impacted housing rehabilitation, and
- require a variety of flood-related planning and coordination.

VLCT is in strong support of this bill and the funding appropriated to help our communities recover.

### **Tax Abatement for Flood-Impacted Properties**

Several bills have been introduced in response to the summer's floods. [H.541](#) and the companion [S.160](#) proposes to reimburse municipalities for certain state education property tax payments if they granted property tax abatements to property owners for damage caused by flooding. These bills also propose to exclude federal disaster relief payments from household income when





calculating the homestead property tax credit. Both these bills largely address the challenges VLCT raised with similar relief legislation after Tropical Storm Irene. It's likely [S.160](#) will be the vehicle to advance, and it is moving quickly. VLCT supports its passage as soon as possible to provide certainty to communities around flood related property tax abatements. If you have specific concerns or questions on H.541 or S.160, please send them to [advocacy@vlct.org](mailto:advocacy@vlct.org).

### **Establishing Climate, Emergency, Resilience, Infrastructure, and Mitigation Funds**

[H.105](#) proposes to create a Community Resilience and Disaster Mitigation Grant Program and a Community Resilience and Disaster Mitigation Fund at the Department of Public Safety. This bill proposes to appropriate \$15 million to start the fund and increases the assessment on certain insurance company premiums for the ongoing support of the Community Resilience and Disaster Mitigation Fund. It would also use some of the new insurance assessments to support the Emergency Services Special Fund and the Vermont Fire Training Council.

[H.586](#) proposes to amend or enact multiple provisions related to improved flood protection and climate resilience in the state. The bill would also establish or authorize additional activities for the financing of climate mitigation, adaptation, and resilience projects. This bill would also create and fund a Climate Infrastructure and Resilience Fund and a new board with positions to staff and administer.



[H.627](#) proposes multiple provisions related to state-level emergency response and emergency preparedness. This bill proposes to ...

- Establish the Resilient Communities Fund to provide financial assistance to municipalities in the state to plan for and respond to flood risk, fire risk, environmental hazards, and acute disasters and also to finance projects, such as property buyouts and reconstruction, to reduce the risk from flooding, climate and environmental hazards, and other disasters.
- Direct the Division of Vermont Emergency Management to identify resiliency investment areas within municipalities where additional funding is needed to address the risks from floods and other environmental or human-made hazards or disasters.
- Require the Secretary of Administration to conduct a study to identify gaps and assess the need for alignment of regional and local responsibilities for the conduct of disaster response, disaster recovery, and climate resilience planning in order to improve the speed and effectiveness of disaster response in the state.
- Require the Secretary of Natural Resources to adopt rules that establish requirements for issuing and enforcing permits for development within a flood hazard area or a mapped river corridor in the state.
- Authorize the Department of Public Safety to create the State Urban Search and Rescue Team to provide for the rapid response of trained professionals to emergencies and other hazards occurring in the state.



## **Resilience Planning, Dam Safety, and Wetlands and River Corridor Regulations**

[H.568](#) proposes to rename the Municipal Planning Grant Program at the Agency of Commerce and Community Development as the Municipal Planning and Resilience Grant Program to provide financial assistance to municipalities and regional planning commissions in the identification and implementation of climate resilience projects.

[S.213](#) proposes to amend provisions related to wetlands, river corridor development, and dam safety.

- The bill would establish as State policy that wetlands shall be regulated and managed to produce a net gain of wetlands acreage. The Secretary of Natural Resources would be required to amend wetlands rules to incorporate the "net gain" policy, and the Vermont Significant Wetlands Inventory maps would have to be updated and revised annually.
- This bill would also require amendment to the existing Vermont Flood Hazard Area and River Corridor Rule to adopt requirements for issuing and enforcing permits for development within a flood hazard area or a mapped river corridor in the state.
- In addition, the bill would amend the Unsafe Dam Revolving Fund to be the Dam Safety Revolving Fund to provide loans for emergency and nonemergency funding of dam repair.
- The bill also proposes that the owner of a dam or the owner of land on which a dam is located be held strictly, jointly, and severally liable for harm



caused by the breach of a dam, provided that *either* the dam has been classified as a significant or high hazard potential dam *or* the person who owns legal title to a dam or the owner of land on which a dam is located is not in full compliance with dam safety rules.

We will continue to follow these bills and update you on their progress throughout the session. If you have questions, concerns, or requests, please let us know at [advocacy@vlct.org](mailto:advocacy@vlct.org).

### Legislative Preview 12/15/23

[Read the Preview](#)

### Fall Advocacy Update

[Read the Fall Update](#)

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