Oppose Citizen Right of Action in H. 559, Section 12

Legislative Action Alert, May 8, 2018. H.559 is a bill that would make numerous amendments to environmental statutes, some of which would be helpful to municipalities, but none of which must pass. The bill is currently in the Senate Appropriations Committee.

Section 12 of the bill contains language that would establish a citizen right of action for a “person” to commence civil action against “any person alleged to be in violation of any statute, permit, certification, rule, permit condition, prohibition or order.” The term “any person” in this instance includes a municipality. The citizen right of action was initially included in S.260, a bill to develop the parameters for funding and administering clean water laws in the long term. That bill (House version) no longer contains citizen rights of action.

Citizen suits are enabled under the federal Clean Water Act, and the Conservation Law Foundation is currently using that law to appeal nine new wastewater treatment facility permits issued by the Agency of Natural Resources. Those permits are designed to significantly reduce phosphorus discharges from those facilities.

Municipalities, the State of Vermont, and the private sector all agree that cleaning up the waters of the state is the goal, it will take time to do so, and the funding at every level is inadequate. Local officials understand better than most that there are competing needs for scarce resources that include mandates to address not only water quality but also public safety and law enforcement, elections integrity, transportation networks, planning and economic development, and waste management.

It makes no sense for the legislature to extend citizen rights of action to state law and thereby turn over prioritization of water quality – and the way in which permits, orders and rules are administered – to anyone who “alleges a violation” against a town or the state. The result will be significant diversions of funds to defending suits and away from accomplishing the job of cleaning up the waters of the state.

Urge your senators to delete from H.559 Section 12, the Citizen Right of Action.

To contact your legislators, find their email on the legislative website [1], or call the Sergeant at Arms at 802-828-2228 to leave a message. And please copy Karen Horn [2] with any correspondence you generate. Thank you.
Links
[2] mailto:khorn@vlct.org