



Weekly Legislative Report

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Local Governments: The *Real* Losers in the Cannabis Tax Game

Last week, we [reported](#) that House committees were once again taking up [S.54](#), a bill that would regulate the production and sale of cannabis and cannabis products. The House Government Operations Committee made several significant changes to the bills that included recommendations from the Natural Resources, Agriculture, and Health Care committees. Although not all of VLCT's concerns were addressed, we do sincerely appreciate the diligent work of the House Government Operations Committee and the consideration they gave to local government's needs and concerns. The committee voted the bill out last Friday. This week, the House Ways and Means Committee received it and immediately began working on the tax portions of the bill. Much to our dismay, that is where the wheels really fell off from the perspective of local governments.

The Gov Ops' version of S.54 included a "cannabis local option tax of two percent of the sale price on each retail sale in the municipality of cannabis and cannabis products, including food and beverages." Last December, the VLCT Board of Directors called for a local cannabis tax to be set at one-third of the state's taxation amount, whatever that amount ended up being. VLCT Advocacy staff have conducted extensive research to learn about issues faced by local governments in other states that have legalized the retail sale of cannabis. Based on that information, the board voted that this local taxation level is fair and reasonable. The following examples come from the National Conference of State Legislatures and Tax Policy Center:

Colorado

- Local government receive 10% of the state retail tax of 15%
- Local government can levy a local option retail tax up to 8% or a cultivator tax

Illinois

- Local government general sales tax applies (between 0% and 4.75%)
- Local government can levy a cannabis sales tax up to 3.75%
- Local governments receive 8% of state tax revenues to fund public safety and training initiatives

Massachusetts

- Local governments can levy local option excise tax up to 3% on retail sales
- Local government may assess local impact fees to cannabis establishments
- State revenues fund public safety and municipal police training initiatives

Oregon

- Local government receive 20% (10% city/town; 10% county) of the state 17% retail sales tax
- Local government can levy a local option excise tax up to 3%

VLCT had hoped the Ways and Means Committee would accept the proposal of the House Government Operations Committee and honor local officials' request to provide similar revenue sharing and local taxing authority to Vermont's cities and towns. Under the House Ways and Means Committee proposal, local governments receive no share of state tax revenues and no local taxation authority specific to cannabis. Instead, the committee approved access to a state 14 percent excise tax and the existing 6 percent sales tax on top of that. For those 15 municipalities that already have in place a local option sales tax, the committee said the tax would extend to cannabis sales. The committee seemed to believe that towns and cities in Vermont – unlike any other state – will not incur significant from hosting retail operations and should not need to reap benefits from any generated revenue to cover those costs. Ways and Means Committee Chair Janet Ancel did say that the Education Fund would receive a small boost in funding because statute requires that 100 percent of the state sales tax is dedicated to the Education Fund. City and town budgets receive a benefit from that small boost.

On Friday, Representative Ancel told VLCT Advocacy staff that it would make sense to ask the Cannabis Commission created by S.54 to consider providing a share of licensing fees for cannabis enterprises in the same way that a share of liquor fees are shared under current law. Those fees could apply to growers, producers and retail establishments.

VLCT believes that the local option tax is the appropriate mechanism for providing municipalities the certainty that they will have access to a revenue stream to support the costs that come with a legalized retail marketplace in Vermont. We urge you to contact your House representatives to voice your opposition to the Ways and Means Committee proposal, which effectively ignores local option taxes except in the 15 towns that already have them. **Express your support for the House Government Operations Committee local option tax language.** Explain to them that communities that host operations must be guaranteed a local option cannabis tax to cover their costs, and that the revenue could help fund local law enforcement, EMS, and rescue service contracts and departments. Now that local road and bridge projects are receiving historically low funding from the state, your transportation budget needs all the help it can get. Please also take the opportunity at Local Government Day on February 13 to speak frankly and directly to your legislators about your communities' needs. It is our only opportunity for a fair and adequate taxing authority in a commercial cannabis marketplace if the bill becomes law this year.

The Continuing Roll-Out of Vermont's Universal Recycling Law

In 2012, the Vermont Legislature unanimously passed Act 148, a universal recycling and composting law that, ever since, has been rolling out in phases. This week, the Senate Natural Resources and Energy Committee took testimony on organics (i.e., food scraps) and recycled glass in preparation for a follow-up waste management bill, which has yet to be numbered. Last year, the Senate passed two bills that made changes to the act: S.113 (Act 69), the single use product law, and S.160 (Act 83), which changed the food scrap hauling requirements that go into effect this July.

The Act 148 timeframe:

- July 1, 2014. All transfer stations must accept recyclables. Generators of two tons or more of food scraps per week must divert the material to a certified composting or anaerobic digestion facility if one exists within 20 miles.
- July 1, 2015. Statewide unit-based pricing based on volume or weight takes effect. Recyclables are banned from landfills. Public buildings must offer residential recycling collection. Generators of one ton or more of food scraps per week must divert the material to a certified composting or anaerobic digestion facility if one exists within 20 miles.

- July 1, 2016. Leaf, yard, and clean wood debris are banned from landfills. Generators of one-half ton of food scraps or more per week must divert the material to a certified composting or anaerobic digestion facility if one exists within 20 miles.
- July 1, 2017. Transfer stations must accept food scraps. Generators of one-third ton or more of food scraps must divert the material to a certified composting or anaerobic digestion facility if one exists within 20 miles.
- July 1, 2020. Food scraps are banned from landfills. Commercial haulers must offer separate collection of food scraps to nonresidential customers and apartment buildings with four or more residential units and deliver them to a certified composting or anaerobic digestion facility. Commercial haulers are *not* required to offer food scrap collection if another area hauler provides that service.

That leaves single- to three-unit residential customers with the following options to comply with the disposal ban: manage it at home in a backyard compost; take the food scraps to a drop-off center or nearby compost facility; or pay someone to pick it up.

In the Senate committee, Department of Environmental Conservation (DEC) Program Manager Cathy Jamieson testified again this week that DEC staff will not be “trash police,” that is, they will not be opening trash bags to identify lawbreakers. Instead, compliance will focus on the larger food scrap generators of one-third ton or more per week within 20 miles of a processing station. Their goal is voluntary compliance, but the Agency of Natural Resources does have enforcement authority. ANR is working with the solid waste districts and local television and radio stations to get the word out about the new food scrap ban. Solid waste districts are selling compost bins at a 50 percent discount using pass-through money provided by ANR.

The discussion then proceeded to the equally challenging issue of glass waste. Recently, a major glass recycler in Massachusetts closed, which is indicative of the diminishing market for recycled glass. Still, some investors are exploring practical and lucrative new uses. Rob Conboy, CEO of Glavel, Inc., a Burlington-based recycled glass manufacturing company, told the committee of his firm’s new technology that converts ground-up waste glass into an aggregate that can be used as a gravel substitute. Conboy testified that in Europe the gravel sized “Glavel” has been successfully used as fill under buildings and in transportation projects.

Wayne Symonds, Vermont Agency of Transportation (VTTrans) Highway Division Director and Chief Engineer, also testified before the committee. In recent months, he said, the agency has been hearing a lot about the possibility of using recycled glass as road sub-base. In order to do that, the glass must meet the VTTrans construction standard of <1% contamination. Additionally, cheap (that is, dirty) sand for winter road maintenance contributes to stormwater contamination by introducing phosphorus-laden silt and small particles. Crushed glass “sand” could provide a cleaner substitute. This raises a fundamental question: Since glass is made *from* sand, can it be used *in place of* sand?

Currently, VTTrans specifications for road construction materials allow up to 10 percent of ground glass, but questions remain whether the materials recovery facilities (MRFs, rhymes with Smurfs) of the Chittenden and Rutland County solid waste districts can meet the <1 percent contamination level (which is primarily paper) required to meet the highway construction standard. The term of art for this standard is the “sand borrow standard.” Symonds testified that the used glass market is ripe for economic development since clean sand currently costs VTTrans \$40 per yard. The University of Vermont is in the process of testing the glass specification to see if the <1 percent contamination level is a valid assessment – or an arbitrary number - to determine if the glass can perform to the sand borrow standard.

Also testifying was Kim Crosby, Casella Waste Management Environmental Compliance Officer. She said that recycled glass from the Rutland County MRF is currently shipped by rail to North Carolina, but that Casella hopes to install a glass crusher to increase the value of the material and end this costly removal process. The new equipment specific to glass crushing would cost between \$1 and \$1.5 million. Once the crushed glass is proven to be consistent with the sand borrow standard, VTTrans will approve the material for use on Vermont roads.

Finding a useful new life for discarded products is good for both the state's economy and environment. The food scrap ban will provide business opportunities for targeted haulers and new processing facilities. The potentially innovative new uses for recycled glass are both exciting and clearly needed. Local officials – who, by law, are ultimately responsible for waste management – should watch what the Senate committee gleans from this general discussion on food scraps and recycled glass. VLCT, too, will be watching and we will keep readers apprised of any new developments.

Cybersecurity

This week, the House Energy and Technology Committee took testimony on [H.692](#), a bill that would require cyber security training for municipal officials that access state information technology systems. VLCT advocacy staff testified on H.692 on Wednesday.

As introduced, the bill would require the secretary of the Agency of Digital Services (ADS) to inventory and identify any municipality [whose employees or officers] have access to add, delete, update or change data in the state-owned information technology system. Within thirty days of the inventory being completed, the agency would need to notify the municipality that it must complete cybersecurity awareness training. The agency would provide the training, and the bill appropriates \$250,000 in FY21 to do so. According to the ADS secretary, initial training would be brief but provided on an ongoing basis since that is the best way to keep people aware of potential threats current. The bill would also establish that if the municipality does not complete the training within 90 days, the state would prohibit the municipality from accessing any state-owned system.

Last summer, VLCT Advocacy staff met with the Joint Information Technology Committee to discuss cybersecurity vulnerabilities at the state, in towns and in the legislature. Humans are the biggest vulnerability of any information technology system and, as local officials are all too aware, cities and towns are constant targets for cyber attacks. Advocacy staff agreed with the Joint Information Technology Committee that the state needs to protect its information technology systems and it is therefore reasonable to require training from those who access them.

Resources

- [List of Recommendations from the Joint Information Technology Oversight Committee](#)

Elsewhere in the State House

S.243. On Wednesday, the Senate Health and Welfare Committee took testimony on emergency service provider wellness as they took up [S.243](#), a bill that would establish an Emergency Service Provider Wellness Commission. The commission, made up of twenty-one members, would research how to best serve the health and wellness of Vermont's public safety emergency service providers and then make recommendations to the legislature. The bill would also increase the scope of revenue sources to fund the Emergency Medical Services Fund that funds the Department of Health's Emergency Medical Services office to, in turn, provide better data collection and EMS training and education. The bill would also mandate, for the first time in history, that the state pay to license and train EMS providers to better align with the financial support the state has provided to law enforcement and fire services for decades.

The committee heard from representatives from the departments of Public Safety, Fish and Wildlife, and Corrections, as well as from volunteer EMS providers, the Burlington Fire Department, and VLCT. All testified in favor of the bill and shared stories that demonstrated the overwhelming need for mental wellness support for our first responders, especially those in rural communities. The committee seemed very supportive and will be taking more testimony from first responder agencies. Corrections Commissioner James Baker testified that the bill has the support of both the governor and Secretary of Human Services Michael Smith.

VLCT is excited to see S.243 as well as and other EMS-related bills receive serious attention this session.

H.760. The budget adjustment bill was on the House calendar again this week. [H.760](#) was passed by the House in the middle of January and proposals of amendment were returned to the House from the Senate last Friday. Typically, the budget adjustment bill is passed fairly early in each session and makes course corrections in the current fiscal year budget to keep it in balance. As well, the budget adjustment gives us a preface of the fiscal condition of the state and the budgetary demands going into the next fiscal year.

Governor Phil Scott recommended that the Agency of Human Services’ budget increase to \$4,235,123,215, including additions of \$3 million to the Department of Corrections and of \$162,000 to support the cost of restoring the 2-1-1 call line to 24/7 availability through the end of the current fiscal year. The budget adjustment would authorize the state auditor to establish one new senior auditor position. The auditor testified to the Appropriations Committees that tax incremental financing (TIF) auditing obligations required additional staff and that the position is supported with revenues from TIF audit bills to subject cities and towns. The law requires the state auditor to conduct performance audits of municipal TIF programs at regular intervals.

We expect the budget adjustment bill to be passed next week.

S.278. On Thursday, the Senate Institutions Committee voted out [S.278](#), a bill relating to the [State Energy Management Program](#). We are carefully following this bill and are pleased to see it move forward.

The state has used the program to reduce state government’s total energy consumption across its facilities and operations, expand the share of energy that comes from renewable sources, and reduce greenhouse gas emissions to address climate change. The program is housed in the Department of Building and General Services (BGS), but because the department does not overlap with local governments, cities and towns have not been a part of the program. S.278 would change that and enable BGS to provide support, technical advice, and project management to municipalities, state colleges, hospitals, school districts and health care facilities that receive state funding. The bill heads to the Senate floor next week.

New Bills

BILL NUMBER	SUMMARY OF NEW BILLS	CURRENT LOCATION
H.891	Would impose a residency requirement for the owner of a short-term rental property.	House Gen., Housing, and Military Affairs
H.909	Would require the Agency of Education or the Joint Fiscal Office to calculate and report on the cumulative under- and overtaxing that resulted from inequitable and inadequate student equalized pupil weighting from 2000-2018.	House Education
H.910	Would add a poverty weight, population density student weight, and a geographic necessity weight to the weightings used to calculate equalized pupils.	House Education
H.911	Would require the Agency of Education to identify the costs in student outcomes related to inadequate funding through inequitable and inadequate equalized pupil weights from 2000-2018.	House Education
H.912	Would prohibit any changes to the education tax finance mechanism until such time as the Pupil Weighting Factors Report, dated December 23, 2019, has been fully considered and its recommendations acted on by the General Assembly.	House Education
H.916	Would create a Vermont Green New Deal Fund to curb climate change by funding energy conservation programs such as weatherization, thermal efficiency, renewable heating systems, public transportation, and the use of electric vehicles. The fund would be funded with revenue raised by an income tax surcharge on high incomes.	House Ways and Means

BILL NUMBER	SUMMARY OF NEW BILLS	CURRENT LOCATION
S.315	Would transfer from the Secretary of Agriculture, Food and Markets to the Secretary of Natural Resources all authority to administer and enforce water quality requirements on farms in Vermont.	Senate Agriculture
S.337	Would allow, for a period of three years, energy efficiency entities to use a portion of their budgets on programs to reduce greenhouse gas emissions in the thermal and transportation sectors.	Senate Finance

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