Vermont’s New Reality

This week, legislators, local officials, the private sector, and the administration have all been focused on addressing the growing list of needs of Vermonters—many of whom, as recently as last week, could not have imagined that they would need help.

When the legislature left town last Friday, the plan for reconvening was not at all clear because the COVID-19 situation was changing on a daily basis. However, after a few hiccups, both representatives and senators quickly grew adept at hosting remote meetings where the public can listen. They are clearly committed to putting aside partisan differences to get the necessary work done as quickly as possible. We are talking Vermont, after all.

All week, senators held committee meetings via conference calls. And, for the first time, the general public was able to listen to live meetings without having to travel to Montpelier to fit into often cramped meeting rooms in the State House. The same was true of both the governor’s press conferences and House and Senate caucuses. There were a few glitches—despite the best efforts of the legislative IT staff, the teleconferencing software crashed several times, due to the large number of people attempting to listen to the proceedings. As a side note, the increase in transparency in the meetings has been remarkable.

Senate committees met this week. House committees did not, but the House had sent several bills that address the coronavirus to the Senate before adjourning the previous Friday. They include H.742, which may be the vehicle for numerous amendments responding to the crisis. As attention turned on a dime to mitigating the effects of the present global health pandemic, many pre-Town Meeting Day priorities were left to the dust bin, while others are clearly infeasible given the suddenly new budget realities. Senate committees are introducing bills to address health care and payroll needs, prepare for a surge in unemployment claims and an inability of Vermonters to pay bills, forestall housing problems, support emergency medical service providers, support the tourism industry, ensure that local governments may also conduct business from remote locations, and provide telemedicine services, all while keeping everyone as safe as possible in the process.
There are some difficulties. The legislature cannot vote on legislation unless they are physically present. Thus, while Senate committees have worked to get bills ready for passage, they can’t actually vote on them until they reconvene. That is likely to happen next Tuesday or Wednesday. The House will hold token sessions (that is, that require a minimal number of participants and move the calendar ahead) and begin to hold remote committee meetings as well. The hope is that many of the bills designed to immediately alleviate critical problems created by the current directives to practice social distancing and the closure of businesses will be passed and sent to the governor next week.

An excellent source for daily updates is the president pro tem’s Facebook page, facebook.com/tim.ashe.77.

You will find call-in numbers for committee meetings on the agendas for each committee and general announcements on the front page of the General Assembly website, https://legislature.vermont.gov/.

And remember to visit VLCT’s COVID-19 Webpage, which contains a continually evolving list of resources and FAQs to help you do your best work on the front lines of government in these unprecedented times.

Please email any questions or comments to your Advocacy staff, Karen Horn (Khorn@vlct.org) and Gwynn Zakov (Gzakov@vlct.org).

The Open Meeting Law

According to Vermont’s Open Meeting Law (1 V.S.A. §312 (a) (2)(D)) “If a quorum or more of the members of a public body attend a meeting without being physically present at a designated meeting location, the agenda required under subsection (d) of this section shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the public body, or at least one staff or designee of the public body, shall be physically present at each designated meeting location.”

In the last two weeks, this section of law has been enormously problematic for local boards and commissions as town offices have been closed, the president has recommended against gatherings of more than ten people, and social distancing is the new norm. As a result, many local governments have canceled meetings in the short term. This week, the Senate Government Operations Committee drafted legislation that would provide that during the declared state of emergency due to COVID-19, a quorum or more of the members of a public body and their staff may attend a meeting by electronic means without being physically present at a designated meeting location. The bill further stipulated that a physical location available to the public would not be required, that the public could connect to the meeting electronically, and that during a staffing shortage due to COVID-19, a public body may extend the time limit to post minutes to ten calendar days. The public body, however, would need to provide for a telephone connection to the meeting, post information on how to access the meeting electronically, and include that information in the agenda for each meeting. This draft bill will be taken up when the Senate reconvenes next week. We expect the legislation to be passed by the Senate Tuesday or Wednesday and sent to the House for passage possibly as soon as the same day.

Your Advocacy staff encouraged the governor to issue an executive order that waived the physical location requirement for open meeting. We are aware that legislation is a slower and less predictable route than an executive order, but that is not the route Vermont is taking at this point, due to disagreements over whether or not the governor has the authority to change or waive statute. Currently, fifteen states have issued executive orders suspending physical location requirements for open meeting: California, Connecticut, Delaware, Florida, Hawaii, Louisiana, Massachusetts, Michigan, Nebraska, New Mexico, New Jersey, New York, Rhode Island, Utah, and Washington.

The committee is also discussing giving the governor and state agencies the authority to extend other deadlines in the municipal calendar if the need arises during the next several months. If you look at the municipal calendar
hanging in your office (should you be able to get there), you will note that the list of mandated dates for completion of tasks numbers in the hundreds. In addition, time frames to complete hearings and tasks for a wide range of issues (land use permit applications, dog bites complaints, curb cuts, grievance hearings) are established in statute.

That is why we hope this legislation passes next week. Whereas we generally encourage local officials to contact their legislators regarding legislation of such import, we are not doing so today. Your senators are acutely aware of the pressing needs of local officials and are committed to getting helpful legislation passed as soon as possible.

Resource
- Draft Open Meeting Law procedures bill (dr req 20-0948, draft 1.3)

EMS Needs in Response to COVID-19

This week, the Senate Health and Welfare and the Government Operations committees spent a good deal of time talking about Vermont’s response to the COVID-19 pandemic as it relates to our health care system. The Health and Welfare Committee discussed Governor Scott’s Executive Order No. 01-20 – which made the official emergency declaration for the state, pending federal actions by Congress and the President – and H.742, the bill passed by the House on the last day the legislature was in session and which took the first legislative step to address Vermont’s COVID-19 emergency. It became clear to the Senate Health and Welfare Committee that many concerns initially addressed in H.742 are simultaneously addressed in the Executive Order and the fast-changing landscape of the crisis warranted changes to the bill. The committee will continue testimony today and may finalize a committee amendment by day’s end.

The Senate Government Operations Committee focused its discussion on the short-term and long-term needs of emergency medical services (EMS). Across the world, health care providers, including EMS, are trying to respond appropriately and safely to the COVID-19 crisis. Many area services are reporting that they have limited supplies of protective equipment including masks and gowns, and it’s unclear when these supplies will become available again. As long as they are not, mutual aid may not be possible. Call times are already reported as being longer due to extensive decontamination needs. EMS services are hoping to receive emergency funds. Some providers anticipate that an interruption in the typical billing and reimbursement systems and the increased costs of operations due to the COVID-19 crisis will only exacerbate an already stressed system. EMS providers also told the committee that the current call for the National Guard to respond to emergencies is further stressing providers who have many guardsmen and -women working for them, compounding already existing shortages.

As the committee makes further changes to H.742, it may have proposals for the Senate Appropriations and Finance committees or perhaps suggestions for the Health and Welfare Committee later today.

Utilities, Disconnections, and Mutual Aid

This week, the Senate Natural Resources & Energy Committee convened two remote meetings to examine programs, policies, regulations, and rules that directly affect Vermont’s response to the need for essential utilities and services, including electricity, water, sewer and natural gas that have arisen from the COVID-19 pandemic. Early conversations focused on making sure Vermonters continue to receive gas, electric, and telecommunications services regardless of their ability to pay, as many have been furloughed or have even lost their jobs. Thankfully by Wednesday, the Public Utility Commission issued an emergency order directing the state’s regulated utilities to stop any disconnection or residential utility service due to nonpayment of electricity, natural gas, or telecommunications bills. That order will remain in effect until at least April 30, 2020. Thus, the committee did not need to act after all. In fact, many utilities had already informed the state that they had temporarily ceased disconnections prior to the emergency order.
Legislative council, meanwhile, reported that the Environmental Protection Agency has concluded that the risk to public drinking water supplies from COVID-19 is low. The agency also stated that the World Health Organization indicated that there is no evidence to date that COVID-19 has been transmitted through wastewater or sewage.

A pressing concern for many municipalities and their wastewater and drinking water system operators has been the continuation of operations should COVID-19 affect staffing at these facilities. The committee heard from state and local officials about the need for some level of mutual aid capabilities, similar to those that are common with public safety operations such as fire, law enforcement, road crews and emergency medical services.

VLCT’s Risk Management Services has already created a sample agreement for mutual aid between municipalities to help them formalize agreements for shared services when needed in emergency situations such as the COVID-19 pandemic. Additionally, wastewater and drinking water system operators are working to revive the state’s Water and Wastewater Agency Response Network, which provides personnel, equipment, materials, and services to restore critical operations in emergencies. It appears that the legislature does not need to formally act to assist in these mutual aid agreements, and municipalities will work with each other over the coming days and weeks to formalize them.

In fact, it’s too quiet.