Continuing to Legislate during the Pandemic

Sixteen Vermont senators physically returned to the State House on Wednesday to vote on a temporary Senate rules change to allow the body to vote remotely. The House already instituted a similar rule change two weeks ago, although it hasn’t had a final remote vote to implement the change, which requires three-quarters’ support from the body. The sixteen senators – enough members to create a quorum – sat scattered around the Senate Chamber and adjoining rooms to vote unanimously on the rule change which allows all future senate committee and floor votes to occur remotely and which expires at the convening of the 2021 legislative session. Until Wednesday’s measure was approved, a quorum of Vermont senators was still required to gather in Montpelier to pass legislation out of the chamber.

As we reported last week, the Senate has pending legislation that addresses emergency medical services as well as evictions and foreclosures. Those two topics, closely tied to the COVID-19 crisis, were voted out of committee and have moved on to the Senate floor – albeit, remotely.

Committees in both chambers continue to discuss a variety of COVID-19 matters while trying to make sense of COVID-19 federal funding legislation, which is proving to be complicated and has led to more questions than answers as to how the state may use the funds. Some committees are looking at other housing matters, unemployment insurance, workers’ compensation and potential “hero pay” or “hazard pay” for certain essential workers. Others are discussing broadband, elections, school needs, property taxes, and, of course, the state of the state budget.

The frequency of Senate, House, and Joint Rules committee meetings has slowed as the procedural and parliamentary rule matters – such as allowing remote voting – have largely been sorted out. Both Senate and House leadership continue to direct committees to focus on COVID-19 related legislation. This week, they did just that as the state prepares for the apex of the pandemic’s bell curve. Legislative leadership expressed how important it is to allow the governor, agency and department secretaries and commissioners, as well as other officials directly involved with navigating the crisis to focus on the crisis at hand.
Where We Are in Week 14

On Thursday, the VLCT Board of Directors utilized GoToMeeting, a web-hosted service, to meet in its first ever remote meeting. The sole purpose of the meeting was to get a sense of how board members and their communities are responding to the COVID-19 crisis. The initiatives they presented are diverse. Burlington is staffing a resource and recovery center that features a host of information categories from food accessibility to business guidance and includes a mechanism that provides property tax relief in the face of requests the city knows are coming. Winooski is hosting weekly leadership calls to check in with constituent groups. Montpelier is participating in a regional command center structure. Along with all other cities and towns, Montpelier is anticipating losses of revenues from local option taxes, parking fees, and, potentially, payments in lieu of taxes (which are funded from 30 percent of local option taxes) and property tax revenue downturns. While working with neighboring towns and schools to offer food delivery, the town of West Fairlee has also discovered that they need to upgrade their technology infrastructure. All board members are seeing huge increases in volunteer efforts to help those in need during the crisis, and many are offering furlough or split shifts to their employees.

The board discussion highlighted the multitude of directions in which local officials are being pulled right now and where assistance from the federal and state governments is needed and needed soon. Topping that list is direction on how the $1.25 billion that the federal government is sending to Vermont — ostensibly by April 24 — may be spent and how much of that money will be made available to local governments.

Advocacy staff are continuing to bring the most important issues to the legislature on an ongoing basis. As readers know from their own experience in these recent chaotic weeks, the list of needs keeps evolving. On Thursday, in response to a request from the Senate Finance Committee, your Advocacy staff sent an updated list to the committee. The committee is scheduled to take up municipal issues next Tuesday. Please let us know what you believe would be most helpful at this time and how the legislature can act to make your jobs more reasonable.

Resources
• Burlington’s Resource and Recovery Center
• Memo to Senate Finance Committee (April 9, 2020)

Electronic Signatures

Last week, your Advocacy staff asked the Senate Government Operations Committee to clarify that municipalities may use electronic signatures in order to sign documents. Legislative staff told the committee that, in fact, local government officials already have that authority, as the committee’s letter on page 4 explains. VLCT’s Municipal Assistance Center concurs with this opinion.

My Turn, April 10, 2020

As we all work, go to school, and hunker down at home to reduce the impact of the COVID-19 crisis, some surprising opportunities to connect with Vermont’s decision makers have been created. Three weeks in to Governor Scott’s “Stay Home, Stay Safe” executive order, legislators are figuring out the technology for remote meetings and even remote voting. Local legislative bodies, held to the highest of standards for transparency by the Open Meeting Law, are going through the same steep learning curve.

If you have an adequate internet connection or cell phone service, you may now watch any legislative committee meeting in real time from your home instead of driving to the State House and sitting in cramped meeting rooms for the privilege of listening to discussions that result in measures that direct all of our lives. The current situation has proved to be a tremendous advance in transparency at the State House and demonstrates that remote meetings can happen in every legislative committee. The newly informed public may now draw its own conclusions from what it sees and hears. It is also an equalizer, as those who are in the State House on a daily basis are no more able to buttonhole legislators in the hallways than is the general public. And incidentally, it is good for the planet, as the
carbon emissions from hundreds of cars driving to Montpelier each day are eliminated. Judging from the number of views on some of the legislative committee hearings, Vermonters appreciate the current open window into how legislative business is conducted and laws are made.

I realize it is a big “if” to presume that people have adequate internet or cell service – I’m among the 23 percent of Vermont addresses, according to the Public Service Department, who don’t. As Vermont eventually moves on from the COVID-19 crisis into a new economy (it may not be pretty but it will happen), high-speed broadband connectivity across the state and among all socio-economic sectors must be a priority. Equally important, universal access to legislative deliberations in the House and Senate chambers and in individual committee rooms when legislators reconvene must continue. That likely will require teleconferencing capacity in all committee rooms in the State House. It is a worthwhile investment that will benefit all Vermonters well into the future.

We cannot let the progress that technology offers for citizen participation to lapse and reflexively return to the well-trodden path of face to face meetings and communication in the State House. We must instead seize the opportunity that the COVID-19 crisis has thrust upon us to ensure to all Vermonters the transparency of and access to the legislative process in our post-emergency future.

Karen Horn, Director, Public Policy & Advocacy
Vermont League of Cities and Towns
Khorn@VLCT.org
To: Vermont League of Cities and Towns; Vermont Association of Development and Planning Agencies

From: Sen. Jeanette White, Chair and Sen. Anthony Pollina, Vice Chair  
Senate Committee on Government Operations

Date: April 2, 2020

We are writing to explain our response to concerns raised by municipalities and regional planning commissions relating to electronic signatures and transactions occurring during the COVID-19 state of emergency. On March 31, 2020, the Senate Committee on Government Operations heard testimony concerning the authority of municipalities and other political subdivisions to execute transactions using electronic signatures. Based on that testimony, the Committee determined that municipalities and other political subdivisions likely possess sufficient authority to execute transactions using electronic signatures and that no action was necessary to provide further authority during the COVID-19 response.

Municipalities and other political subdivisions of the State have general authority to use electronic signatures. The Uniform Electronic Transactions Act (UETA) provides governmental agencies with the authority to use electronic signatures for transactions. The UETA expressly includes municipalities and regional planning commissions within the definition of “governmental agencies” that are authorized to use electronic signatures. The general authority provided to governmental agencies covers “actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.” The UETA further provides that “[i]f a law requires a signature, an electronic signature satisfies the law.”

After considering the general scope of the UETA, the Senate Committee on Government Operations was satisfied that municipalities and municipal officers have sufficient authority to use electronic signatures for transactions. Unless statute specifically requires that a municipal officer physically execute a document, it is likely that UETA grants express authority for municipalities to electronically execute transactions. Accordingly, the Senate Committee on Government Operations declined to take action to grant temporary authority for political

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1 9 V.S.A. § 272(a). NOTE: Certain transactions are excluded from the UETA in 9 V.S.A. § 272(b), including wills, transactions concerning adoption and divorce, and court orders.
2 9 V.S.A. § 271(10) (“Governmental agency”). See also 9 V.S.A. § 271(13) (“person” includes a “governmental agency”) and (9) (“electronic signature means an electronic [...] process attached to [...] a record, and executed or adopted by a person with the intent to sign the record”).
3 9 V.S.A. § 271(17).
4 9 V.S.A. § 276(d).
subdivisions to use electronic signatures during the declared state of emergency due to COVID-19.

Municipalities and other political subdivisions should consult with their counsel and consider the express limitations of the UETA and other substantive law governing transactions. The UETA may not apply to every transaction that a governmental agency may be authorized to execute.