

2022 Weekly Legislative Report #16

April 22, 2022

Today's report, which *may* be the last regularly scheduled one of the session, focuses on H.740, a.k.a. the Big Bill. Elsewhere in the State House brings readers up to date (at least as of noon on Friday; things are changing faster than ever now) on charter change legislation, law enforcement accountability, pupil weighting, rental housing and inspection, economic development, Act 250, the expungement of criminal records, and qualified immunity. We also invite local officials to help write VLCT's Municipal Policy for the 2023-2024 biennium.

You can always check our two webpages to track the 2022 bills that especially affect municipalities: [bills introduced in the House](#) and [bills introduced in the Senate](#). We update these cumulative lists every Friday so you can follow bills as they travel through the appropriate State House committees. Scroll to the end to see the newest additions.

As the legislative session progresses, go to our [Legislative Reports page](#) to revisit this issue and find other weekly legislative reports.

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This Week's Articles

H.740, the Big Bill – and, the Beginning of the End

On Wednesday, the Senate passed its budget revisions to the appropriations bill, H.740, also known as the Big Bill. The legislation proposes a budget totaling \$8.3 billion, including \$333 million in American Rescue Plan Act (ARPA) State Fiscal Recovery funds and \$113 million from the ARPA Capital Projects Fund.

In addition to the budgeted items in H.740, the Senate Appropriations Committee anticipates that additional bills will drive up expenditures by another \$164 million. [H.159](#) would appropriate \$55 million for economic development initiatives. [H.492](#), which moves Act 250 appeals from the Environmental Division of the Superior Court to an Environmental Board, would cost \$384,000 for new staff positions. H.510 contains a child tax credit and a Social Security income exclusion, which, as tax expenditures, would cost \$6.9 million. [H.518](#), the municipal energy resilience and fuel switching bill, would be appropriated \$35 million, and the

source of that funding would shift from the ARPA Capital Projects Fund to the ARPA State Fiscal Recovery Fund, which may provide more flexibility in respect to the projects that could be funded.

When all bills are accounted for, the Senate budget would appropriate \$8.3 billion, whereas the governor and House budgets would appropriate \$8.2 billion (albeit not to the same things).

On Thursday, the Senate passed its version of H.740. A conference committee is being appointed to work out the differences between the two chambers' bills. The conference committee is made up of three members from the House and three from the Senate. On Thursday, the House appointed Rep. Mary Hooper, Chair of the House Appropriations Committee, and Representatives Peter Fagan and Kimberly Jessup.

Senate passage of the budget bill typically signals the end game for Vermont's legislative biennium. As such, it generates a frenzy of activity on bills throughout the State House, which includes last-minute efforts to insert pet priorities into multiple bills that might pass or secure a place for them in the appropriations bill. Alternatively, legislation may be held hostage until a bill containing one chamber's priorities is released. It is, without fail, a head-spinning time of year.

Meanwhile, the governor has expressed his lingering concerns about his priorities that were left on the legislative cutting room floor, despite the fact that the governor, House, and Senate are in agreement for much of the budget.

Some of the priorities funded by the Senate include:

- \$11 million for regional first responder dispatch development;
- \$95 million for broadband;
- \$205 million for climate (weatherization, EV charging, flood-vulnerable property buyouts);
- \$94 million for water-related issues including \$11 million for mobile home low-income wastewater improvement, three-acre stormwater compliance, rural public infrastructure;
- \$70 million to the Vermont Housing & Conservation Board and S.226 (the housing bill);
- \$250,000 to extend VLCT's ARPA Assistance and Coordination Program model to a Federal Funding Assistance Program that would help municipalities access programs and funds in the Infrastructure Investment and Jobs Act.
- \$117 million for economic development and workforce development, including provisions of H.159, which passed the Senate on Thursday.

A table of municipal priorities in the budget is below.

Resources for this article:

- [H.470 Summary](#)
- [List of One-Time ARPA and General Fund Appropriations](#)

H.740 – Appropriations FY23 Table (in millions of dollars)

Budget Item	Act 83 Adjustment FY22	Governor Proposed FY23	House Passed FY23	Senate Passed FY23
(GF) Homeowner Rebate (B137)	\$18.60	\$16.50	\$16.50	\$16.50
(GF) Renter Rebate (B138)	9.50	9.50	9.50	9.50
(GF) Tax Dept. Reappraisal and Listing (B139)	3.31	3.39	3.39	4.20
(GF) Municipal Current Use (B140)	17.82	17.80	17.80	17.80
(LOT 30%) PILOT State Buildings (B142)	9.75	9.75	10.56	10.58
(LOT 30%) PILOT Montpelier (B143)	0.18	0.18	0.18	0.18
(LOT 30%) PILOT Correctional Facilities (B144)	0.04	0.04	0.04	0.04
(GF) Special Investigative Units (B206)	2.10	2.16	2.16	2.16
(GF One Time, USF) E-911 Board (B235)	4.46	4.59	3.29	4.59
(SF) Cannabis Control Board (B240)	0.85	1.56	3.39	3.49
(GF, EF, FF, Other) Education Finance & Admin. (B500)	34.23	35.81	35.81	35.81
(EF) Special Education Formula Grants (B502)	229.00	208.07	208.07	208.07
(EF) State-Placed Students (B503)	17.00	17.50	17.50	17.50
(GF, EF) Flexible Pathways (B504.1)	9.14	9.34	9.14	9.29
(EF) Adjusted Education Payment (B505)	1,502.05	1,561.66	1,561.66	1,561.66
(EF) Education Transportation (B506)	20.48	21.79	21.79	21.79
(EF) Small Schools Grants (B507)	8.10	8.20	8.20	8.20
(EF) Essential Early Education Grant (B510)	7.05	7.51	7.51	7.51
(EF) Technical Education (B511)	15.51	16.25	16.25	16.25
(GF, EF) Teachers' Retirement System (B514, E514) ¹	189.65	198.27	187.27	187.27
(GF EF) Retired Teachers' Health/ Medical (B515, E515) ²	35.09	29.60	44.71	44.71
(GF, Inter-Dept. Transfer) ANR Lands PILOT (B701)	2.62	2.66	2.66	2.66
(Property Transfer Tax) Municipal Planning Grants (D100)	0.46	0.87	0.87	0.87
(TF) Town Highway Structures (B911, E911)	12.67	6.33	7.20	6.33
(TF, FF) Better Roads Program (B912)	0.41	0.41	0.41	0.41
(TF) Town Highway Class 2 Roadway (B913)	15.30	7.65	8.60	7.65
(TF, TIB, FF) Town Highway Bridges (B914) ³	14.88	28.57	29.16	29.16
(TF) Town Highway Aid (B915)	27.11	27.78	27.84	27.84
(TF) Town Highway Class 1 Supplemental (B916)	0.13	0.13	0.13	0.13
(TF) Town Highway Non-federal Disaster Aid (B917)	1.15	1.15	1.15	1.15
(TF, FF) Town Highway Federal Disaster Aid (B918)	0.18	0.18	0.18	0.18
(TF, FF, Special) Municipal Mitigation Assistance (B919)	8.29	6.45	6.45	6.45
(TF, GF) Town Highway Aid Supplement (B1100.a.5) ⁴				
(ARPA) CUDs/Broadband (B1105 G 500) ⁵	150.00	95.00	69.38	96.60
(GF, ARPA) Climate Response Investments ⁵ (G600)	54.50	161.50	171.26	170.46
(ARPA) Water and Sewer (G700) ⁵	100.50	72.00	112.24	99.24
(GF, one time) IDEAL ⁶	0	0.22	0.22	0.22
(GF, one time) Public Safety Transition to Regional Dispatch Services	0	11.0	11.0	11.00
<p>1. \$187,273,782 is the state General Fund contribution and \$6,887,869 is due from local school systems or educational entities. Of the annual contribution, \$34,342,965 is the normal contribution and \$159,818,686 is the accrued obligation, which equals \$194,161,651. Subtract \$6,887,869 to arrive at the \$187 million annual contribution.</p>				

2. In 2021, the Appropriations Bill transferred responsibility for \$14 million of normal health care benefits to the Education Fund, replicating action taken in 2018 to transfer normal obligation for teachers' retirement to the Education Fund. Of the \$44.7 million, \$151,100,000 is the normal contribution and \$35,106,128 is the accrued liability contribution.
3. This amount does not include local match dollars.
4. An additional \$7 million in Town Highway Aid is funded with one-time dollars.
5. One-time items funded with ARPA in FY22 are paid with a mix of funds in H.740.
6. IDEAL (Inclusion, Diversity, Equity, Action, Leadership) Program to support municipalities in promoting the named municipalities.

CRF = Coronavirus Relief Fund

EF = Education Fund

LOT = 30% local option tax share remitted to state

TF = Transportation Fund

ARPA = American Rescue Plan Act

GF = General Fund

FF= Federal Funds

PILOT = Payment in lieu of taxes

TIB = Transportation Infrastructure Bond

USF= Universal Service Fund

Citations in parentheses refer to the section in the budget bill where those items are found.

Elsewhere in the State House

The final stretch of Vermont's legislative biennium is upon us. The session may end as soon as May 6, but May 13 is more likely – *unless* the legislature needs to return to address bills the governor has vetoed. In that event, the legislature would likely return in early June.

At this point in the session, our Weekly Legislative Reports begin to lose their usefulness, because as soon as we write about a bill, it changes. Therefore, this is likely the last of our Friday publications for 2022. We may send you a Legislative Alert, which would appear in your email in-basket on any day of the week. These alerts will ask you to contact your legislators to urge action for or against a bill. In the meantime, we anticipate one or two more Advocacy Chats (May 2 and May 16), followed in June by our annual Legislative Wrap-up, which summarizes the session's legislation that affects local officials.

For the moment, here is what is happening elsewhere in the State House.

Charters. The legislature has again been busy with charter legislation this week.

- The Springfield charter in [H.447](#) is heading back to the Senate Government Operations Committee for review of a second House-proposed amendment that made adjustments to the charter's [property maintenance ordinance authority](#). The committee will either concur with the proposal or ask that a committee of conference be assembled to negotiate this sticking point.
- The Senate Government Operations Committee began reviewing [H.744](#), a bill that would implement a ranked-choice voting system for Burlington city council races. The committee also began to debate H.741, the City of St. Albans charter amendment bill that would convert the city clerk and city treasurer positions from elected to appointed offices. The committee will continue its review of both bills next week.
- House Gov. Ops. also voted out [H.743](#), a bill that makes various governance changes and cleans up language in the Town of Hardwick's charter. The committee will likely also vote out [H.745](#), the Montgomery charter, today. That charter change would implement a local option tax for sales, meals and alcoholic beverages, and for rooms. The charter specifically states the town will use the

local option tax revenues for the Sewer Reserve Fund to help repay a debt obligation related to the construction of a municipal wastewater system in the town center and village. The bill now heads to the House Ways and Means Committee for approval of the taxes.

Law Enforcement Accountability. Two weeks ago, the House Government Operations Committee began its review of [S.250](#), a bill that makes various amendments to law enforcement legislation. The committee heard from various individuals and organizations, including VLCT, which testified in support of the legislation. The bill requires law enforcement agencies to annually report to the legislature all of their roadside stop data, how they collect and use the data, how accessible it is, and if additional criteria are needed. The bill also mandates the Vermont Criminal Justice Council to maintain a database of potential impeachment information concerning law enforcement officers. S.250 also directs the Joint Legislative Justice Oversight Committee to report if any deceptive and coercive interrogation tactics are used by Vermont law enforcement with the goal of improving interrogation practices in the future.

The committee will likely continue taking testimony next week.

Pupil Weighting. On Thursday, the House Ways and Means Committee voted out S.287, the bill that would update pupil weights. The committee decided to implement the pupil weighting system instead of enacting a cost allocation model. (See [Legislative Report No. 15](#).) Implementing the pupil weighting system was supported by the Vermont School Boards Association, the Vermont Superintendents Association, the Agency of Education, and VLCT. S.287 is currently in the House Appropriations Committee, which is discussing the cost implications of the legislation. The bill would implement the new pupil weights beginning in FY25. Cost estimates are unpredictable because local voters adopt their own school budgets, as the April 21 [Joint Fiscal Office Fiscal Note](#) indicates. The bill would change tax capacity for most school districts and towns, and how individual districts would accommodate those changes is uncertain. Because the Joint Fiscal Office has not issued an Education Fund Outlook that reflects the S.287 changes since March 17, there is no spreadsheet itemizing the changes due to the House Ways and Means version of S. 287. Vermont's property tax burden has reliably been the fourth or fifth highest in the nation, and the state's per-pupil cost is likewise third or fourth highest in the nation according to the [Education Data Initiative \(Public Education Spending in Vermont\)](#). How to address the ever increasing education property tax burden is a problem that the legislature must solve.

Rental Housing and Inspection. This week, the House General, Housing and Military Affairs and Appropriations committees voted out S.210 (rental housing registry and rental housing inspection) and S.226 (comprehensive housing). S.210, which passed second reading on the House floor today, would implement a statewide rental housing registry. It would also transfer the primary responsibility for rental housing inspections from the local health officer to the Department of Public Safety, which would administer a complaint-driven rental housing inspection program, except in municipalities that administer their own inspection program. It includes \$20 million for the new Vermont Rental Housing Investment Program, which would provide grants and loans of up to \$50,000 per unit to weatherize units, bring units up to code, or build new ones. Of that amount, \$1 million would be set aside to help build accessory dwelling units. S.226, currently in the House Appropriations Committee, includes \$20.4 million for manufactured home improvement and replacement, missing middle home ownership, consumer assistance, and a residential construction contractor registry. (Missing middle income housing is a range of dwelling units that are affordable to potential owners, who, according to S.226, have a household annual income that does not exceed 120 percent of area median income.) Another \$5 million would be for matching grants to large employers to provide employee housing and down payment assistance for first generation homebuyers.

Economic Development. [H.159](#), the comprehensive economic and workforce development bill, passed the Senate on Thursday and was sent to the House Ways and Means Committee. The bill includes a four-year pilot program for a project-based tax increment financing (TIF) program that would allow up to four TIF projects. A project would need to incur no more than \$5 million in debt and would need to provide for housing, accomplish remediation of a brownfield, include at least one entirely new business, or enhance

transportation. On Tuesday, VLCT held a press conference to release its [independent analysis of Vermont's TIF Program](#).

Act 250. S.234. the comprehensive zoning and Act 250 bill, was voted out of House Natural Resources and is currently in Ways and Means. The legislation eliminates the duplicative state permitting process for connections to municipal wastewater and water facilities. It also expands the definition of priority housing projects for Act 250, but it does not exempt all development in designated areas. It expands Act 250 jurisdiction over forest blocks, connecting habitat, and development in one-acre towns by a person on more than one tract of land, and gives special consideration for the manufacturer and delivery of wood products. It would include the provisions of [H.492](#) that take jurisdiction to hear appeals of Act 250 decisions out of the Environmental Division of the Superior Court and return it to an Environmental Review Board. Moving jurisdiction over appeals of Act 250 decisions was supported by VLCT at the time that shift was made. Restoring jurisdiction of appeals to the Natural Resources or Environmental Board is opposed by thirty signatories to a [letter to the Senate Natural Resources and Energy Committee](#), including Vermont Mayors Weinberger, Allaire, Smith, Watson, Monette, Chabot, and Lott. S.234 as passed by House Natural Resources is [summarized here](#).

Expungement and Sealing of Criminal Records. On Thursday, the Senate passed H.534, a bill that makes various amendments to expungement laws. The House-passed version of the bill focused almost exclusively on sealing certain criminal history records, while the Senate version focuses instead on expunging those records. The Senate saw the sealing process as being beneficial in only limited circumstances and in fact diluted the intent of the process already in law. The Senate's version permits the expungement of all misdemeanor offenses except those that are particularly nefarious or have a violent or sexual nature. Only a handful of non-violent and non-sexual felonies are expungable in this version.

The last section of H.534 addresses the expungement of municipal violation records. Under current law, civil ordinances are not expungable, and relatively minor violations that are at or below misdemeanor level stay on the public record and can't be expunged. The bill proposes to expunge these violations after three years, but only if no subsequent tickets are issued for related offenses during this time. This provision does not apply to zoning violations. Vermont's first expungement laws went into effect twelve years ago, but municipal ordinance violations were never included in them. VLCT supports this provision of H.534, as this is the first time expungement will be possible to persons with lingering municipal violation records.

The bill now heads back to the House Judiciary Committee, which will review the Senate's proposal of amendment.

Qualified Immunity. This week, the Senate Judiciary Committee voted out [S.254](#), a bill that addresses qualified immunity as it applies to law enforcement officers. The committee concurred with the House proposal to mandate the Office of Legislative Counsel to study and report to the legislature on the topic by this November. The study would include violations of civil rights in Vermont and in the state court system as well as those at the U.S. Court of Appeals for the Second Circuit – the federal circuit court for Vermont. Among other topics, the report would address the level of specificity required for the statute to be considered clearly established law pursuant to a qualified immunity analysis, and the different remedies under state and federal laws. The report would also include a survey of states that maintain a central database of all final judgments and settlements paid by law enforcement agencies for allegations of officer misconduct.

The committee is proposing a [further amendment to the bill](#) that would require all law enforcement agencies to maintain a record of all final judgements and settlements paid by the agency for court claims related to alleged violations of state constitutional rights.

The bill must get Senate approval – maybe as soon as today – before it heads to the House Judiciary Committee for further consideration.

Meantime, we want to thank all of you for joining us on the wild ride that has been the 2021-2022 COVID biennium!

VLCT Policy Committees

Do actions in the State House sometimes make you wonder what legislators did to local governments again? Do you have ideas for how to make local government function better, or acquire the financial and technical support it needs? Have you ever wondered where VLCT's Municipal Policy comes from? We can't answer the first question, but the third one is easy: You – our member local officials – write the policy!

Every two years, after the biennium ends and as legislators swing onto the campaign trail, local officials volunteer to join one of five VLCT policy committees to develop a strong and focused legislative agenda for the next biennium – in this instance, 2023-2024. Developing the Municipal Policy is a crucial element of VLCT's support for local government because, as has been especially evident in this COVID biennium, the actions of the Vermont Legislature and Congress have enormous impacts on local government.

With support from your Advocacy staff, the different sections of the policy are developed by five committees: Finance and Intergovernmental Affairs (FAIR), Public Safety, Transportation, Quality of Life and Environment, and Water Resources. The committees meet once or twice during the summer to develop the policy and then recommend it to the VLCT Board of Directors. After the board reviews it, typically at their September meeting, the policy is forwarded to all VLCT members for debate and adoption at the annual meeting at Town Fair. During the ensuing legislative biennium, we may ask for committee members to share their expertise as testimony before legislative committees.

This year, Advocacy staff will send draft policy proposals to the committee members ahead of the summer meetings, which will be held in June and July. These drafts are simply to spur discussion of the many changes that occurred during the 2021-2022 COVID biennium and what topics need to be addressed in the next session.

Please complete and submit this [policy committee nomination form](#) if you are interested in serving on a committee. We look forward to your insight and your lived experience on the front lines of local government as we plan for the next biennium.