Legislative Biennium Part II is Fast Approaching

The second half of the 2017-2018 biennium begins on January 3. With committees already well established, we can expect legislators to get right to work. The deadline for senators to introduce new bills was December 8; for House members, it’s January 15.

Legislators will not lack for work this year as they try to fulfill promises they made to their constituents ahead of the 2018 campaign season, which will start the minute the session is gavelled to a close, typically in May. As local officials well know, many of those initiatives, whether new or continuations of earlier efforts, affect local governments. You who serve in local government are our strongest advocates, and legislators need to hear from you about how the actions they are considering will affect your cities, towns, and villages.

In a severe case of chickens coming home to roost, the Secretary of the Agency of Education recently announced a probable increase of up to 9 cents in the education property tax. The Joint Fiscal Office explained in a November 9 memo that the increase is due to seven factors: a requirement to replenish the Education Fund surplus that was used in FY18; the use of the stabilization reserve in FY18; an expected 3 percent growth in education spending in FY19; anticipated increases in teachers’ health insurance premiums; depletion of local school district reserves to avoid education tax penalties in FY18; transfers of teacher pension “normal contribution” costs (as opposed to accrued liabilities due to historic underfunding of the state’s obligation) to the Education Fund in FY18; and underfunding of special education aid in FY18. (The Joint Fiscal Office summarizes the information in its draft Preliminary Outlook for Education Tax Rates in FY19.)

Last spring, legislators called for summer study committees to report on numerous issues, seven of which directly affect local governments: Act 250 and land use; water quality funding; Clean Water Fund investment strategies; short-term rentals; tax increment financing (TIF) and economic development; access to the Public Utilities Commission; education student counts; and fair and impartial policing. As well, many
reports that are required each year from various state agencies are beginning to filter in, and four commissions created by Governor Scott are working to develop recommendations on opioid addiction, outdoor recreation, climate change action, and recreational marijuana legalization. All of the reports can be found at [http://legislature.vermont.gov/reports-and-research/find/2018](http://legislature.vermont.gov/reports-and-research/find/2018). VLCT Advocacy staff and representatives from local government sit on several of those committees.

Throughout the fall, legislative committees held hearings on law enforcement (Senate Government Operations), the rural economy (House Rural Development Caucus and Senate Agriculture), deploying a first responder network in Vermont (House Energy and Technology), and (of course) developing the budget (House Appropriations).

If you thought the 2018 legislative session would be easy, think again. Rest assured, however, that your VLCT Advocacy staff is always here to help! Be sure to read the *Weekly Legislative Reports* that we will publish on Friday afternoons throughout the session. We still print and surface-mail a few hundred paper copies, but thousands more local officials receive them in their email mailboxes, where they have instant access to sometimes crucial hyperlinked references. We also post each issue on our website, [www.vlct.org](http://www.vlct.org).

Please watch for legislative alerts throughout the session and tune in to our monthly VLCT Advocacy Webinars, which take place on the first Monday of the month at 12:00 noon. You can also follow us on Facebook and Twitter.

Call or email us with your questions, your rants, your requests for legislative action, or if you plan to meet with your legislators. (Earlier this month, VLCT Advocacy staff joined local meetings with legislators in Highgate, Hyde Park, Killington, Chester, and Pittsfield.) And it isn’t too soon to plan to join us for Local Government Day in the Legislature, scheduled for Thursday (new day!), February 15.

Que les jeux commencent!

**Facing Down the Budget Gap**

Vermont’s executive branch is in the final stages of developing its budget proposal for FY19. The process began with the [FY 2019 Budget Instructions](http://legislature.vermont.gov/reports-and-research/find/2018) that the Division of Budget and Management provided to agencies and departments last September, and will culminate in the governor’s budget address in mid-January. The Budget Instructions included an admonition to filter level-funded budget requests through the prism of the governor’s strategic priorities (economic growth, affordability, and help for the most vulnerable Vermonters), keep the revenue crunch in mind while pursuing innovation, and assume level funding from the federal government – an iffy assumption as we hear more from Washington, D.C. Highlighting Vermont’s ongoing budgetary problem, the instructions read, “Initial analysis indicates a deficit
between anticipated revenue, based on the most recent consensus forecast accepted by the Emergency Board in July, and current service expenditures. While this follows the pattern of recent years, we’re entering the ninth year of an economic expansion and revenue growth is disappointingly sluggish considering the stage of the economic cycle. Expenditures are still growing faster than our ability to fund them."

A bit about the Federal Budget. The federal fiscal year, FY18, began on October 1. Since then, the federal government had operated under a continuing resolution that was scheduled to run out on December 8. Congress passed another continuing resolution that bought an additional two weeks – until December 22 – for budget negotiations. Tax reform legislation is currently in conference committee and is likely to be passed the week of December 18, then sent to the President for his signature. Rep. Janet Ancel, chair of the House Ways and Means Committee, said that her committee would probably spend much of the upcoming session deciphering the effects of the bill, for it contains numerous provisions that would negatively affect local governments – and Vermonter’s. One issue of concern is whether or not the legislation will continue any sort of deduction on federal tax returns for state and local taxes. Discussions are moving swiftly, and one way to stay current on issues affecting municipalities is through the National League of Cities’ updates, posted on http://nlc.org.

Vermont’s Budget Gap. At the end of November, the administration indicated that personal income tax revenues are $6.4 million below economic forecasts for the current fiscal year (FY18). Overall revenues are $12.43 million lower than last year. The projected gap between current obligations and revenues in the General Fund is $48 million for FY19. This is particularly concerning this year because, as we wrote above, we do not know what adjustments might be made to the federal budget that may affect the amount of money available to Vermont. The state budget gap was not unanticipated, however and a bit of history is in order.

Last November, the Joint Fiscal Office estimated that the gap between projected spending and available revenues would be between $55 and $75 million in FY18. Budget gaps were $176 million in FY12, $50.6 million in FY13, and, in November 2014, projected to be $99 million. By December 2015, the projected budget adjustment need for FY16 was $40 million, including $36 million of Medicaid-related adjustments. For FY17, that figure was $58.5 million, including $53 million of Medicaid pressure. These amounts do evolve throughout the year as revenues and expenses fluctuate. However, addressing budget deficits has been a constant consideration for the Vermont Legislature and Administration ever since the Great Recession (December 2007 to June 2009).

In FY18, the state budget totaled $5.8 billion, of which $2.03 billion is federal money and $1.35 billion is from the Education Fund. According to the Joint Fiscal Office, the total budget has grown an average of 4.1 percent since FY12 – even as deficits were predicted at the beginning of every session. Education property taxes, projected to grow 3.52 percent in the next fiscal year, totaled $1.223 billion in 2016, and have grown an average of three percent annually in each of the last ten years. In 2016, municipal property taxes totaled $470 million and have grown an average of four percent in the last ten years, according to the Vermont Division of Property Valuation and Review’s 2017 Annual Report.

Education Property Tax. Since the writing of the FY 2019 Budget Instructions to state agencies, the Secretary of Education indicated that the education property tax might increase by as much as nine cents. On November 30, Commissioner of Taxes Kaj Samson submitted a letter to the legislature (required each year) that forecast a property dollar equivalent yield, an income dollar equivalent yield, and a nonresidential tax rate to support all expected education fund uses and the statutory five percent reserve fund. Total education fund spending is expected to increase from $1348.4 billion to $1.395.9 billion (+3.52%); at the same time, equalized pupil counts are expected to decline from 87,745 to 87,427.
The projected yields are:

<table>
<thead>
<tr>
<th>Homestead Yield and Non-Residential Rate</th>
<th>FY 2018 (for comparison)</th>
<th>FY19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homestead property</td>
<td>$10,160</td>
<td>$9,842</td>
</tr>
<tr>
<td>Income</td>
<td>$11,990</td>
<td>$11,862</td>
</tr>
<tr>
<td>Non-residential property rate</td>
<td>1.535</td>
<td>$1.629</td>
</tr>
</tbody>
</table>

If forecast yields and rates were to be adopted, the average FY19 education property tax rates would be:

<table>
<thead>
<tr>
<th>Tax Rates</th>
<th>FY 2018 (for comparison)</th>
<th>FY19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homestead</td>
<td>$1.50</td>
<td>$1.594</td>
</tr>
<tr>
<td>Income</td>
<td>2.55%</td>
<td>2.65%</td>
</tr>
<tr>
<td>Non-residential</td>
<td>1.535</td>
<td>1.629</td>
</tr>
</tbody>
</table>

A combination of factors has contributed to the projected increase in education property tax rates:

- the return of $26 million from the FY17 Education Fund surplus to taxpayers through lower education tax rates;
- the use of $9 million from the Education Fund stabilization reserve to lower education tax rates in FY18;
- a projected growth of three percent in education funding in FY19 that would increase spending by more than $39 million;
- a projected increase in teachers’ health insurance premiums;
- the potential of school district deficits due to the mandate that assumed teachers’ health insurance savings will be recaptured;
- the use of local reserves to meet per-pupil spending targets imposed by Act 46;
- transferring the “normal” cost of teachers’ pensions to the Education Fund;
- an anticipated growth in special education aid in FY19 to cover shortfalls in FY18; and
- the continued slow growth in the property tax base.

Additional Obligations. During the 2018 session, we expect the legislature to address issues that it has identified as priorities for the state, including:

- outstanding funding needs it created in years past, such as Act 64’s mandate to clean up the waters of the state;
- addressing substance abuse treatment objectives and health care initiatives;
- implementing energy planning legislation;
- providing state assistance in appeals of property assessments;
- establishing an Ethics Commission in conformance with last year’s ethics legislation;
- spurring rural economic development;
- easing housing shortages; and
- meeting state capital budgeting needs.

In any legislative session, representatives and senators arrive with initiatives that they would like to see passed, and most of them require their own funding sources. Twenty-eleven will be no exception.

Once the governor gives his budget address in January, the detailed budget will be delivered to legislators. All money bills start in the House – thus the House Appropriations Committee, which began meeting
December 18, will take the lead on the budget process. We’ll report on how the administration and legislature will resolve next year’s state budget needs versus the lack of funds to meet them. Remember that all politics is local – as are taxpayers’ pockets – so please take time to remind your legislators that municipal budgets are tight, that municipal property taxes equal approximately one third of all property taxes collected, and that shifting obligations to the severely overburdened property tax is not an acceptable option in Vermont in 2018.

Self-Governance

Vermont Municipal Governance. Vermont is one of five pure Dillon’s Rule states. The others are Alabama, Mississippi, New Hampshire, and Virginia. These states subscribe to the position Iowa Supreme Court Justice John Dillon espoused in 1872: Municipal corporations may exercise only those powers specifically granted to them in statute or governance charter, or those powers “that are necessary and essential to the declared purposes of the municipal corporation.” Vermont statutes specifically grant municipalities the authority to carry out certain endeavors, mandate them to carry out a list of responsibilities that expands every year, and pre-empt them from addressing other priorities. Fifty-six cities and towns have adopted governance charters at the local level and secured approval for them from the legislature. Another 46 incorporated villages have governance charters. These legislatively approved charters enable municipalities to deviate from general statute in specific instances when the legislature grants permission.

Every year, voters approve charter amendments that have been passed in other municipalities and that fall squarely within the realm of municipal government best practices, but are not authorized in general statute. And every year, those charter amendments need to be submitted to the legislature for their review, possible amendment, and approval, although most legislators who vote on them have no connection to the petitioning town or any particular expertise in municipal government. (Legislators may also amend charters on their own, without voter approval.) Not all locally voted charter amendments have been ratified at the legislature, and it has not always been the case that the House and Senate were respectful of locally voted decisions. The table below indicates the number of charter amendments approved (many with legislative amendments) and the number rejected in recent years.

<table>
<thead>
<tr>
<th>Legislative Session</th>
<th>Municipal Charters Approved</th>
<th>Charters Not Acted Upon</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>2016</td>
<td>10</td>
<td>3</td>
</tr>
<tr>
<td>2015</td>
<td>12</td>
<td>3</td>
</tr>
<tr>
<td>2014</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td>2013</td>
<td>9</td>
<td>2</td>
</tr>
</tbody>
</table>
A more effective way for cities and towns to incorporate governance changes approved by the voters is through a revised charter amendment process that respects the will of local voters, harnesses creativity at the local level, achieves constructive change, and builds real partnerships with local governments.

During the 2018 session, local officials plan to propose a change to statute whereby municipal charter proposals would be deemed enacted if the General Assembly failed to act upon or amend them by a two-thirds majority vote of each house within a specified number of days from entrance on the Notice Calendar of both chambers. As well, the legislature should only be allowed to act on voter-approved charter amendments. An alternative idea is to designate set days on the calendar of the Senate and House Government Operations Committees to take up municipal charters and moving them out of committee. Do you have any other suggestions? Please let us know. All ideas are welcome!

**Water Quality**

The biggest question for legislators with respect to water quality for 2018 is how to pay for cleaning up the waters of the state mandated by Act 64, the Vermont Water Quality Act of 2015.

The new Municipal Roads General Permit will take effect next July. New stormwater rules are expected to be released for comment any day now. In November, the Department of Environmental Conservation (DEC) hosted hearings for the public to comment on clean water implementation plans in both the southern and northern sections of Lake Champlain. The DEC also held public meetings in which they presented the Lake Memphremagog, Coaticook, and Tomifobia Rivers Tactical Basin Plans. The Environmental Protection Agency’s recently approved Lake Memphremagog Total Maximum Daily Load (TMDL) 1 calls for a 29 percent reduction in phosphorus flowing to that lake. In September, the DEC issued draft National Pollutant Discharge Elimination System (NPDES) permits for six municipal wastewater treatment facilities. The Conservation Law Foundation appealed five of them, despite the fact they were deemed consistent with the Vermont Lake Champlain Phosphorous TMDL and the Agency’s TMDL Phase I Implementation Plan. As well, the DEC is expected to soon issue the Municipal Separate Storm Sewer System (MS4) 2 general permit.

Last spring, the governor signed Act 73, which established a water quality funding working group to develop recommendations for “equitable and effective” long-term funding methods to support clean water efforts in Vermont and recommend legislation. The working group, which included a member from VLCT, was assisted by a seven-member advisory council that included representatives from the Vermont Mayors Coalition and the Vermont Municipal Clerks’ and Treasurers’ Association. The group issued a report to the legislature on November 15.

According to that report, the state invested approximately $29 million a year in clean water efforts in FY16 and FY17. The legislature appropriated $51 million for clean water efforts in FY18, the current fiscal year, and $55 million in FY19 (an amount subject to amendment if necessary this coming session).

The report contains seven recommendations, the most significant being to utilize existing state revenues and financial instruments to fund clean water through FY21. “The Act 73 Working Group recommends that the Legislature maintain a Capital Bill clean water investment of $15 million a year through the next

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1 A TMDL is a plan to restore impaired waters that identifies the maximum amount of a pollutant that a body of water is permitted to receive while still meeting water quality standards.
2 An MS4 is a system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned by a public entity that discharges to waters of the state.
biennium (FY20-21). In years beyond FY21, to estimate the amount of revenue that will need to be raised, the Working Group assumed the annual capital investment would be between $10 and $12 million per year. The Act 73 Working Group also recommends that the Legislature maintain its Clean Water Fund spending at a minimum level of $4 million a year.” (p. 47) The report also discussed difficulties inherent in assessing and collecting a per-parcel fee or a fee based on square feet of impervious surface and suggested that further study of a third option – such as establishing a water quality authority to collect revenues and fund projects – would be appropriate. The 2018 VLCT Municipal Policy endorses exploring such an alternative.

Act 84, also signed by the governor last session, directed the Clean Water Fund Board – which is still made up exclusively of agency secretaries and commissioners – to submit a report to the legislature. The report lists all clean water initiative programs and projects which receive funding and the amount of the investment. By next January, the board is to review and recommend Clean Water Act implementation programs for the FY19 capital budget report. The report also lists projects that were funded or obligated as of October 2017 and that total $16.9 million.

The 2018 session will feature much more about the funding of the Vermont Clean Water Act. One bill establishing a Clean Water Authority is already being drafted. Estimates of costs to implement the host of water cleanup programs across three agencies will have to be adjusted as actual project design, scoping, implementation, operating and maintenance expenses are realized. Local officials are paying attention: more than 80 attended a municipal roads workshop hosted by VLCT earlier this month. We will keep you up to date on all those developments and more.

**Transportation**

Of the 15,840 total road and highway miles in Vermont, only 2,709 are maintained solely or in part by state government – the rest are maintained by Vermont local governments. Local government expenditures for transportation exceed half of most municipalities’ annual budgets. The state as whole relies on municipalities to operate, preserve, and maintain roads, bridges, and public rights-of-way in a cost-effective and environmentally responsible manner. It is imperative that sufficient money be dedicated to local transportation infrastructure to support municipal transportation needs to promote commerce, tourism, road safety, environmental conservation, stormwater management, and economic growth.

**Competing Needs and Clean Water.** In recent years, decisions made in the legislature concerning municipal transportation funding and technical support have focused on clean water initiatives. Given the sense of urgency the state feels about needing to comply with state and federal clean water act mandates, it makes sense that more focus on helping towns maintain and upgrade roads to prevent runoff from reaching our waterways would take center stage. That said, most of the money going to help towns with these initiatives has been borrowed from
existing programs normally dedicated to other projects such as paving, complete streets projects, sidewalks, and bicycle or pedestrian facilities. The simple reality is that the ongoing transportation needs in communities does not go away because other matters take precedence. New permanent funding sources, solely dedicated to clean water initiatives, is the only long-term solution.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Town Hwy Structures</th>
<th>Town Hwy Class 2 Roadway</th>
<th>Town Hwy Aid</th>
<th>Town Hwy Class I Supplemental</th>
<th>Municipal Mitigation Assistance¹</th>
<th>Town Highway Bridges¹</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>$5.83</td>
<td>$7.25</td>
<td>$24.98</td>
<td>$0.13</td>
<td>$1.14</td>
<td>$16.78</td>
</tr>
<tr>
<td>2013</td>
<td>$6.33</td>
<td>$7.25</td>
<td>$25.98</td>
<td>$0.13</td>
<td>$1.26</td>
<td>$19.30</td>
</tr>
<tr>
<td>2014</td>
<td>$6.33</td>
<td>$7.25</td>
<td>$25.98</td>
<td>$0.13</td>
<td>$1.55</td>
<td>$15.55</td>
</tr>
<tr>
<td>2015</td>
<td>$6.33</td>
<td>$7.25</td>
<td>$25.98</td>
<td>$0.13</td>
<td>$0.87</td>
<td>$15.56</td>
</tr>
<tr>
<td>2016</td>
<td>$9.48</td>
<td>$7.25</td>
<td>$25.98</td>
<td>$0.13</td>
<td>$0.65</td>
<td>$21.63</td>
</tr>
<tr>
<td>2017</td>
<td>$6.33</td>
<td>$7.65</td>
<td>$25.98</td>
<td>$0.13</td>
<td>$2.90</td>
<td>$18.82</td>
</tr>
<tr>
<td>2018</td>
<td>$6.33</td>
<td>$7.85</td>
<td>$25.98</td>
<td>$0.13</td>
<td>$7.78²</td>
<td>$15.76</td>
</tr>
</tbody>
</table>

1. Includes federal funds
2. Includes $1.1 million from Clean Water Fund

Municipalities have always had to compete with each other when trying to secure grant funding for local transportation projects. According to the Agency of Transportation (VTrans), on average, only about half of municipal grant applicants are approved for funding in many grant categories. As projects that were once discretionary now become mandatory under the Municipal Roads General Permit (MRGP), the needs of local governments will increase greatly, yet the money available to towns and cities has generally remained flat. Early cost estimates from towns that have started to implement the MRGP indicate that the impact on local budgets will be significant – with or without state and federal funding. As every town is suddenly tasked with implementing the MRGP, competition for grant funding will increase, as will the price tag of many projects. There will be winners and there will be losers, and municipalities that cannot secure state funding will have to increase transportation appropriations out of already stressed local budgets.

Collaboration, Flexibility, and Efficiencies. State and local governments could not operate efficiently without each other’s help. Local officials are better able to understand the ins and outs of the local road systems than state officials, and often are better suited to find the most cost-effective and streamlined way to repair, maintain, and manage local roads. However, because local governments lack the technical and financial resources of the state, it is essential that both entities work together, share resources, and know when to provide flexibility to allow the other to take the lead.

Communication between state agencies and their divisions needs to improve to ensure consistency in policy and regulatory implementation, oversight, and enforcement. The state needs to eliminate any redundant oversight of municipal projects, expedite permitting processes, and tailor project reviews to the size and impact of proposals. Simplifying and streamlining funding and program administration will help maximize available state and federal dollars and also alleviate burdensome processes that oftentimes are unnecessary.

The Municipal Roads Grants-in-Aid Pilot Program that the Agency of Natural Resources (ANR) instituted in 2017 is one example of this collaborative, flexible, and efficient approach to state and local cooperation. The program provided municipalities with money to help implement best management practices on municipal roads to help achieve water quality goals. It was implemented quickly, efficiently, and without
undue administrative or oversight burdens placed on towns and cities. No grant applications were necessary. Municipalities could simply sign a letter of intent that specified the expectations under the pilot program. With the help of regional planning commissions, municipalities needed to show a minimum 20 percent local match, which could include in-kind contributions such as local labor, staff time, and use of road equipment. Examining the number of hydrologically connected road segments in municipalities that needed treatment to come up to mandated clean water road standards, the state was able to get money to communities very quickly to get projects up and running. Over 70 percent of Vermont’s towns and cities submitted letters of intent; $2.1 million was subsequently distributed to them. Within a few short months, municipalities were able to successfully start and finish projects and use in-kind funding to meet the requisite local match. The $2.1 million was only able to bring 30 miles of roads into compliance with the MRGP, a sobering example of how much more money will be needed to fully implement the permit. Still, local officials hope that the state will continue to support these types of programs in the future.

The state must continue to adequately fund both VTrans’ Municipal Assistance Bureau (MAB) and its Better Roads Program to help municipalities receive training and technical assistance. Both the MAB and the Better Roads Program are excellent examples of how the state can provide valuable technical expertise and training. When VTrans and ANR partner with municipalities and other agencies, it enhances the asset management/project priority programs to ensure the participation of local officials in selecting projects.

**Mental Health, Drugs, and Corrections**

Vermont is one of the safest states in the nation, however it is not immune to the trends of drug abuse, violence, and crime that threaten the wellbeing of residents everywhere. An illegal opiate and prescription drug problem continues to affect communities across the state. Drug trafficking and abuse drive petty crimes, drain our resources in mental health, first responder, and health care institutions, and strain the people and communities that work to address the fallout from drug addiction.

To address these strains on communities and our public safety officials, communication and coordination between state and local government is key. The Department of Corrections (DOC) must inform local officials of the circumstances of any offender’s release to a community and DOC must then provide reasonable supervision and access to support services that ensure the safety of both them and the community. Programs designed to combat Vermont’s drug culture must be implemented in a coordinated fashion between state agencies and municipal governments, and state-sponsored initiatives that address addiction must be supported by scientific, evidence-based models. Increased support in communities for presently unmet social services must relate to short- and long-term mental health and addiction care. Municipalities need the resources and authority to respond to local public health and opioid addiction-induced crises in appropriate ways. A concerted effort to provide opioid addiction treatment on demand, without delay, and with sufficient funding sources provided is long overdue.

**Law Enforcement Reimagined.** This past fall, the Senate Government Operations Committee hosted a series of public forums across the state discuss law enforcement issues with communities. As a result, the committee is expected to introduce a committee bill that will address many of the issues that arose during these well attended public forums. One potential impact may be a significant overhaul of law enforcement
and public safety administration and services. Among the potential topics of consideration are law enforcement training, recruitment and retention, Vermont State Police coverage at the municipal level, data collection and sharing, and regionalization of dispatch services.

**Training, Recruitment, Retention.** The most challenging internal issue facing public safety agencies across the country is the capacity to recruit, hire, equip, train, and retain personnel. Law enforcement agencies in particular have difficulty recruiting police officers given the current environment in and around the policing profession. Competition for new and old talent is fierce, and the costs to train, recruit and retain officers are high. The legislature may look to the Criminal Justice Training Council to create new and flexible training options for law enforcement, such as replacing some overnight training requirements at the Police Academy with training available in other locations in the state that doesn’t require extended stays at the academy. This may also be an opportunity to examine current training mandates and determine if they need to be updated to align with current police training needs and best practices. The legislature could also provide tuition credits to municipalities that contribute instructors or training assistants to the academy, and also allow agencies to be reimbursed for training and certification costs if an officer leaves for a different agency.

The legislature needs to provide comprehensive support for all law enforcement, fire safety, and emergency services. When energetic, dedicated, and smart citizens are willing and able to volunteer for local squads or seek to become certified law enforcement officers, it is imperative that the state and local governments do everything they can to provide the support and resources needed to ensure that they succeed.

**Regionalization and Dispatch.** Municipalities handle law enforcement coverage in many ways. Some have police departments, some contract out for services from other agencies, and others completely forgo law enforcement coverage outside basic Vermont State Police coverage. There is wide variety in the willingness or means to pay for coverage, as well as in the expectation that communities have for law enforcement services in their communities. There are also disparities in how much municipalities across the state pay for dispatch services – some pay nothing and rely on dispatch by the Vermont State Police, while others pay tens or even hundreds of thousands of dollars for those services.

In response to the patchwork of law enforcement coverage across the state, there may a strong push from the committee to increase access to law enforcement services at the local level. It is unclear, however, what the legislature may propose to ramp up “access” to law enforcement services in underserved areas, or how to level the playing field between municipalities that pay more than others. With regard to dispatch services, the legislature may move to wean the state from providing dispatch services to towns altogether. This would then require all towns to assume or contract with other agencies to provide dispatch for their town. There may also be an additional push to move towards regionalized dispatch services across the state.

It is unclear which, if any, of these efforts will gain traction this year. Even less clear is what the details of such proposals may look like. We will therefore follow any related legislative activity carefully.

**Act 250 and Land Use**

Act 47, passed last spring, created the “Commission on Act 250: the Next 50 Years,” a six-member legislative committee that was tasked with examining a broad list of issues relating to Act 250 and issuing a report by December 15, 2018. Act 69, also passed last session, put in place a number of measures that are supposed to spur innovation and new business and economic growth in the state, including increasing the number of tax increment financing (TIF) districts to 14, a number that is limited by statute. Bennington
has the most recent TIF approved in the wake of that change. That law also increased Vermont Occupational Safety and Health Administration penalties as well as the threshold number of units in a priority housing project that would trigger Act 250 jurisdiction. A third act, Act 77, created a Rural Economic Development Initiative in the Vermont Housing and Conservation Board to promote economic development in small towns.

The issues of economic development, Act 250, and land use regulation are seldom taken up together in legislative committees because of the way in which committee jurisdiction is defined. The two subjects are inextricably linked, however, and the perception of Vermont as a heavy-regulation state prevails in many quarters, both in and outside of the state.

Issues on which the Act 250 Commission is taking testimony include:
- the general jurisdiction of Act 250,
- agricultural water quality and Act 250,
- updating Act 250 to address climate change,
- the use of the Act 250 process to delay or derail a project,
- resource-based jurisdiction, and
- moving wind regulation to Act 250 jurisdiction.

In November, VLCT Advocacy staff testified before the Act 250 Commission that 213 of Vermont’s 246 cities and towns currently have adopted plans and land use regulations in place. These regulations were created in accordance with the provisions of Title 24 Chapter 117 – the Municipal and Regional Planning and Development Act – by 2,300 planning and zoning commission and development review board members. As of 2016:
- 204 cities, towns, and incorporated villages had adopted zoning bylaws to implement those plans;
- 150 cities, towns, and incorporated villages had adopted subdivision bylaws; and
- 120 cities, towns, and incorporated villages had replaced zoning boards of adjustment with development review boards.

Vermont law also directs action from municipalities – as both as regulators and regulated entities – with respect to transportation, water quality and flood protection, public health, emergency management, hazard mitigation, environmental protection, renewable energy and efficiency, and code enforcement. All have implications for land use, and many are subject to Act 250 jurisdiction as well as permits or plans from state agencies. Earlier this month, VLCT staff testified that the commission needs to assess where redundancies in permitting occur and act to reduce their occurrences. VLCT staff hope to also testify regarding municipal energy planning efforts and the interaction between Public Utility Commission consideration of municipal energy plans and Act 250 interest in energy issues.

Municipal officials, with input from the public, envision, vet, develop, and adopt comprehensive plans and the regulatory regimes that implement them. Act 250 jurisdiction that is applied to the same projects largely – though not entirely – duplicates the local process. This creates additional expense for developers, municipalities, and interested parties and lengthens the time of the permitting process, thereby increasing the opportunity for opponents to raise objections and often produces contrary permit decisions.
In towns with both zoning and subdivision regulations, Act 250 jurisdiction applies to any commercial project on ten or more acres of land and any subdivision that creates ten or more lots within a radius of five miles of any point on any involved land within a continuous period of five years. The number of housing units in a priority housing project that may be built before Act 250 is triggered is now tied to a municipality’s population. In this regard, the legislature has already determined that cities and towns that have adopted land use regulations, or are of a certain size, have demonstrated their ability to have sole jurisdiction over projects that affect their communities. In the 2018 Municipal Policy, adopted by our members, VLCT calls on the legislature to delegate responsibility for Act 250 decisions on projects with local impact to those municipalities with adopted and approved plans and zoning and subdivision bylaws that demonstrate both the ability and willingness to assume responsibility for its administration.

As of this writing, the commission has not taken up that recommendation. Since the commission, as previously noted, is not due to produce a final report until 2018, local officials need to continue to raise this issue throughout this legislative session – and during the campaign season that will follow.

**Energy Regulation and Planning**

It was a busy summer for the Public Utilities Commission (PUC) and for energy matters in general. At the same time that the three-member commission got a new name (it was formerly the Public Services Board), it gained a new chairperson, Anthony Roisman, for a six-year term. In an interview with *Seven Days*, Roisman said that his job is to “… make the board more accessible to the public,” a change in direction that is sorely needed at the commission. The PUC regulates the siting of electric, telecommunications, and natural gas infrastructure through the Certificate of Public Good permitting process. It also supervises the rates, quality of service, and financial management of public utilities in the state.

Regional commissions and towns are working to develop enhanced energy plans in conformance with Act 174, signed by the governor in 2016. Energy plans that are certified will receive “substantial deference” in the CPG process when there is a procedure seeking permission to site an energy generation facility. To date, the commissioner of the Department of Public Service (DPS) has certified enhanced energy plans for the Bennington County Regional Commission, the Northwest Regional Planning Commission, and the Two Rivers Ottauquechee Regional Commission. The one municipal enhanced energy plan, submitted by the Town of New Haven to the department was rejected. (Municipal plans may be submitted directly to the DPS through July 1, 2018).

Last month, PUC Commissioner Sarah Hofman attended the 23rd Conference of the Parties to the U.N. Framework Convention on Climate Change in Bonn, Germany, as part of a U.S. Climate Registry delegation that included representatives from eight states and the governors of California, Oregon, Washington, and Virginia. Hofman said her presence there reflected Vermont’s commitment to the goals of the 2015 Paris Agreement, to which all nations are party and from which the President has said the U.S. will withdraw. Last June, Governor Scott, Mayor Weinberger of Burlington, and many organizations,
including VLCT, joined the newly created Vermont Climate Pledge Coalition. Municipalities can join the coalition and track pledges and actions on the Community Energy Dashboard.

Also in November, the PUC adopted a rule establishing standards for sound produced by wind generation facilities.

The DPS has submitted to the legislature – or will submit before the end of the year – several reports that were required by last session’s Act 53:

- actions affecting the deployment of energy storage, including recommendations for prudent deployment of storage in Vermont “within the pursuit of a clean, efficient, reliable and resilient grid in the most cost effective manner for taxpayers” (the Energy Storage Report Pursuant to Act 53 of 2017).

- a report on progress DPS has made in implementing recommendations of the Access to Public Utility Commission Working Group, which was created in 2016 (due Dec. 15, 2017); and

- a report from the secretary of state on any exemptions of the PUC from the Open Meeting Law that recommends whether it should continue to have a complete exemption or a circumscribed exemption (due Dec. 15, 2017).

It wouldn’t be a bad idea for legislators to let well enough alone for one session, at least with respect to amending laws dealing with planning for and siting of energy facilities. Instead, they should wait to see how the regional and municipal planning processes proceed, how meaningful PUC granting of substantial deference will be when siting decisions are being made, and how improved access for the public rolls out.

You are Your Town’s Best Advocate

To be an effective leader and participant in your town, you must recognize the significant role the Vermont Legislature plays in regulating and funding the activities of local government. As a Dillon’s Rule state, Vermont is one of only four states in the country that cannot exercise local action or govern without explicit grants from the legislature. Therefore, it is imperative that you represent the priorities of your hometown and region to your legislators. A third of current legislators have served at the local level in some capacity. The others may not always recognize the effects that legislation has on municipalities unless they hear about them from local officials. More legislators than you might think tell us they never hear anything from local government officials in their districts. Almost one-third of the 1,155 bills that were introduced during the last biennium affected municipalities. You need to create opportunities to influence legislative action that affects the quality of life and economic success of your city or town. VLCT is an enthusiastic advocate for local government; nonetheless, we need your help in delivering the local government message and telling your own local story to legislators.

To help you effectively advocate for your municipalities during the 2018 legislative session, we offer these few suggestions:

- Legislative Tracking. Visit the Vermont State Legislature website, http://legislature.vermont.gov/, and follow daily legislative activity. You can read House and Senate Calendars and Journals, track current bills and new drafts, and committee activity, read testimony, and find contact information on each of your senators and representatives.
• **Communicate with your legislators.** You are a constituent with a message, so speak up! Once you find you legislators’ contact information – email addresses and phone numbers – communicate with them on issues important to you. Be specific in your requests, make your points succinctly, and be sure to give the local angle in telling your story. Be honest, accurate, and credible, because it is your insight, expertise, and credibility that earn you a seat at the table. And don’t forget to say “thank you.”

• **Timing is Everything.** Every bill goes through a committee process and, along the legislative way, contacting the right person at the right time is crucial. Read VLCT’s *Weekly Legislative Report* and watch for timely Legislative Alerts and Updates that we send out during the session.

• **Be a Resource.** Don’t be afraid to offer your expertise on matters that affect you the most. Write letters or offer testimony to committees when practicable. On certain issues, you are the expert, and you can be a key influencer of policy. Contact information for both committee assistants and committee members are under the Committee tab on the Vermont State Legislature website.

• **Follow-up.** Legislators read their local newspapers and digital news sources, so **use the media.** Write an opinion piece. Seek an interview opportunity to get your point across to the public as well as the legislature. Write thank-you notes in the form of a letter to the editor in your local paper.

• **Be our Best Friend.** Be sure to contact VLCT Advocacy staff with any questions or insights that you have. Let us know when you meet with your legislator, and invite us to a selectboard meeting. We are here to help you!

### Summer Studies

Reports from summer study committees, as well as those required of agencies on an annual basis, have been rolling in to the legislature since early October. Whereas some reports are not due from study committees until next year, others will hopefully be taken up during the upcoming session. A few required reports, however, will not be submitted – including one from the Agency of Education that would evaluate the criteria to determine weighted long-term membership of a school district. (Students are given different weights according to grade level and other criteria when the Agency of Education counts them.) You can read all of the submitted reports on the [Legislative Reports page](#) of the legislative website.

Seven study committees focused on issues important to municipal officials:

**Act 73** called for the attorney general – after consulting with VLCT, property owners, and other interested parties – to study approaches to help municipalities with expenses incurred during litigation on property valuation determinations.

**Act 65** required the Agency of Agriculture, Food and Markets and the Department of Public Safety to make various recommendations regarding the legalization of marijuana, including:

- who should be responsible for testing marijuana-infused products;
- approved methods, frequency, and estimated costs of testing;
- the certification of independent testing entities if they were used; and
- how to implement a weights and measures program for medical marijuana dispensaries.

The report contains a proposed framework for implementing and developing medical marijuana and marijuana-infused products to ensure proper labeling.

**Act 76** created a working group within the Department of Health to make recommendations regarding the effect of short-term rentals on revenues of the state; necessary precautions to protect health and safety
of the transient, travelling, or vacationing public; policies implemented in other places regarding short-term rentals; and alternative definitions of short-term rental. Staff from the Department of Health met with local officials early in the fall to discuss how towns – especially resort towns, which are seeing a tremendous growth in Airbnb and other internet-based short-term rental units – are regulating that growth.

**Act 73** established a water quality funding working group to develop recommendations for “equitable and effective” long-term funding methods to support clean water efforts in Vermont and recommend legislation. The working group, whose six members include a member of VLCT, was assisted by a seven-member advisory council that includes a representative of the Vermont Mayors Coalition as well as one from the Vermont Municipal Clerks’ and Treasurers’ Association and appointed by that association’s executive board. (See article on Water Quality.)

**Act 84** directed the Clean Water Fund Board – still made up exclusively of agency secretaries and commissioners – to submit a report to the legislature that listed all clean water initiative programs and projected which of them will receive funding and the amount of the investment.

**Act 53** compels the Public Utilities Commission to submit a report by December 15, 2017, on any progress made in implementing recommendations of the Access to Public Service Board Working Group. Another report, submitted last month, summarized actions affecting deployment of energy storage, identified jurisdictional issues regarding deployment of storage, identified regulatory structures to foster energy storage, and assessed potential methods for fostering cost-effective solutions for energy storage. Act 53 also mandated a report due by December 15 that tasked the secretary of state to report on Open Meeting Law exemptions of the PUC and recommend whether the commission should continue to have a complete exemption or a circumscribed exemption.

**Act 69** required a committee – comprising members of the Joint Fiscal Office, the Department of Taxes, the Agency of Commerce and Community Development, and the Vermont Economic Progress Council, as well as a consulting legislative economist and the state auditor – to report on the use of tax increment financing (TIF) districts and other policy options to help municipalities in funding infrastructure that encourages economic development and Vermont’s capacity to use TIF districts in the future. The report, due by January 15, 2018, must also include recommendations for a sustainable statewide capacity for TIF districts or other economic development tools and impacts on the state’s fiscal health.

### Receiving the Report

Last session, nearly three thousand local officials (an increase from the year before) were emailed a link to the *Weekly Legislative Report* soon after it was written each Friday morning. Another five hundred and some (way down from the previous year) received paper copies in their mailboxes the following Saturday or Monday. We also delivered 180 paper copies to the State House (somehow, that number never seems to change!) when legislators convened there on Tuesday mornings. We say this every year, but we are convinced that reading the *Weekly Legislative Report* online is a great idea. You get the news quickly and conveniently and are able to instantly access related online information via hyperlinks embedded in the articles. Plus it'll reduce our printing and mailing costs. The cupboard at [www.vlct.org/advocacy/weekly-legislative-reports/](http://www.vlct.org/advocacy/weekly-legislative-reports/) is currently half-full of the issues of the 2017-2018 legislative biennium. We also link to the *Weekly Legislative Report* via Facebook and Twitter at VLCT Advocacy.

To view the emailed Report, you will need Adobe Reader installed on your computer. You can download a free copy of the software at [http://get.adobe.com/reader/](http://get.adobe.com/reader/).
VLCT emails the *Weekly Legislative Report* to all municipal officials for whom we have current email addresses. If you are a municipal official who did *not* receive the *Report* directly but want to receive it by email, please send an email message to wlr@vlct.org with “subscribe email” in the subject line. Include your name, municipality or organization, municipal position or title, and email address in the message. There is no charge to be added to the email distribution list. Municipal officials who do not automatically receive the *Report* – or anyone, for that matter – can read it online at the above URL.

Once again, please consider going all-electronic this year.