



Weekly Legislative Report

The Vermont League of Cities and Towns' **Weekly Legislative Report** is published each Friday during Vermont's legislative session.



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The Transportation Bill

The House Transportation Committee is currently putting the finishing touches on this year's transportation bill. Local officials who attended a joint hearing of both transportation committees at Local Government Day strongly endorsed a gas tax increase to fund municipal transportation programs, however the House committee ultimately decided not to take up that proposal this year. The committee did, however, agree to increase funding for Town Highway Aid by \$1,102,710. The bill also would expand the potential uses of the Town Highway Aid Program beyond town highway construction, improvement, and maintenance and bicycle routes to sidewalks. The governor's proposal of \$25,982,744 continued a years-long streak of level funding, so the 4.2 percent increase to \$27,085,454 is most welcome!

The bill includes language that allows the Agency of Transportation (VTTrans) to cancel a municipal capital project upon the request of a municipality, provided that notice of the cancellation is included in the agency's annual proposed transportation program.

The formula for allocating specific percentages funds to public transit purposes would be repealed, and VTTrans would be directed to distribute federal funds to public transit systems through an annual competitive program that implements public transportation policy goals, advances economic development objectives, and achieves – where possible – geographic balance in funding. Policy goals include:

- providing basic mobility for transit dependent persons,
- expanding public transit service in rural areas and increasing ridership statewide,
- access to employment including creation of demand-response service,
- mitigating congestion to preserve air quality,
- decreasing greenhouse gas emissions,
- sustaining the highway network, and
- advancing economic development objectives.



subdivision (even a two-lot subdivision) or commercial or industrial development over one acre if such is within a ‘critical resource’ area, ... meaning a river corridor, significant wetland, land at or above 2000 feet, a ridgeline, land characterized by slopes greater than 15 percent and shallow depth to bedrock.”

The bill would also shift appeals of Act 250 decisions from the Environmental Division of the Superior Court to a newly re-created Vermont Environmental Review Board (VERB). As well, VERB would be responsible for Act 250 administration, rulemaking, enforcement, enhanced designation decisions for municipalities, regional plan approval, mapping approvals, and Agency of Natural Resources permits. Staffing needed to sustain all those responsibilities would be considerable. While we have heard complaints over the years about the Environmental Court being cumbersome, slow, and not particularly easy to navigate, attorneys who frequently work on Act 250 and land use cases testified *against* creating a new board that makes the rules, administers the rules, enforces the rules, and hears appeals of decisions made pursuant to its rules.

As we have stated previously, the process in the bill for winning “enhanced designation” – and, thus, exemption from Act 250 – in designated areas sets a bar that is much higher than even the comprehensive application and approval process which towns go through today to achieve a designation from the Downtown Development Board. Both the administration’s proposal and the committee draft bill would impose additional requirements on cities and towns to qualify for enhanced designation. The committee draft would require municipalities to assume responsibility for reviewing projects’ compliance with Act 250 criteria – not only in the designated centers but municipality wide, which would include critical habitat, forest blocs, connecting habitat, rural and working lands.

Much more work needs to be done to unravel all the concerns and issues raised in this draft bill. In no way is it either a streamlining of the land use permitting process or a reduction in redundancy of effort to get projects permitted. Local officials should continue to make sure that their representatives understand the details of the legislation. They should also continue to watch this report for developments in the committee discussion and be prepared to involve themselves in the discussion by calling on their legislators.

Clerk Fees

Recently, a group consisting of members from the Vermont Municipal Clerks’ and Treasurers’ Association (VMCTA), Vermont Bankers Association (VT Bankers), Vermont Bar Association (VBA), and Vermont Association of Realtors (VAR) met to discuss a request to increase the fees charged by town clerks for various services they provide to the public. The meeting was in response to a proposed fee increase request. (See [Weekly Legislative Report No. 4](#)). The request was made because most town clerk fees have not been increased in at least ten years and also due to last year’s Act 155 , which requires VLCT and VMCTA to submit (1) an annual report on fees collected and requested over the next three years, (2) an assessment of each fee in existence, and (3) a summary of any new fee requests.

On Tuesday, the House Government Operations Committee took up the draft bill, which proposes to:

- increase the fees for town clerk recording services;
- require each town to establish a Restoration and Preservation Reserve Fund for the restoration, preservation, digitization, and conservation of municipal records;
- require that the town fee report include a summary of the monies allocated from each town’s Restoration and Preservation Reserve Fund for the digitization of records;
- require land surveyors to submit a digital copy of a survey plat to the Vermont Center for Geographic Information at the time the official plat is filed with a town clerk;

- require a survey plat to be recorded when a parcel is subdivided or when the boundaries of a parcel are changed;
- specify the time at which a state tax lien is deemed “filed” with a town clerk;
- require towns to bear the costs associated with notifying a filing entity that an instrument has been indorsed and indexed; and
- establish that an instrument is deemed recorded when it is delivered to the town clerk with the required fee and supporting documents; and that the clerk has noted the date it was received, the names of parties, date and type of instrument, and the date of recording in a day book, printed index, or digital index that is open to public inspection.

These proposals developed from a meeting between VMCTA, VT Bankers, VBA, and VAR. While there was general agreement of much of the draft bill’s proposed language, some sticking points that still to be worked out. One major recurring issue mentioned during testimony was the need for uniformity throughout all of Vermont’s town offices. This bill addresses some aspects of uniformity, and the presidents of VMCTA and VT Bankers assured the committee they are committed to addressing that issue by implementing a uniform system of best practices for recording and ensuring that all documents are filed so they are searchable.

A second concern is the exact time when a document is actually recorded. Section 7 of the bill proposes that a town clerk must record a document within 10 days following his or her endorsement of a document. After this time frame was debated, a suggestion was made to limit the time frame to seven days because of the concern of an unspecified time frame for recording a mortgage lien.

VMCTA representatives told the committee that in order for clerks to know if they have received a lien notification, they need to constantly check a portal provided by the Vermont Tax Department. But clerks do not receive any prior notification of whether they have a lien waiting. The current draft bill does not specify a time for recording a mortgage lien because there is no reliable broadband in many places in Vermont. The committee voted out the bill on Thursday afternoon.

Hangin Banners over Highways

[H.292](#) proposes to allow towns to legally do something that they may have been doing anyway for quite some time – hang banners announcing events over a road.

Vermonters have long been proactive about preserving the natural beauty of their state. In 1968, the state passed a landmark anti-billboard law. Despite the law being amended on multiple occasions, Vermont’s billboard-free landscape has been a stark contrast to vistas in other states ever since.. The law, found in 10 V.S.A § 488 of Chapter 21, prohibits erecting or maintaining outdoor advertising visible to the traveling public unless it is a sign compliant with a particular set of criteria found in the chapter. There are exemptions – seventeen of them, to be exact. H.292 proposes to add an eighteenth – banners erected by a city, town or village over a highway right-of-way.

The bill defines a banner as “a sign that is constructed of soft cloth or fabric or flexible material such as vinyl or plastic cardboard.” The bill outlines the following provisos for towns erecting banners over a highway right-of-way:

- The banner may be up for no longer than 21 days if it announces a civic campaign, drive or event.
- Banners may not advertise businesses.
- The bottom of the banner must be at least 14 feet 6 inches above the surface of the highway.
- The banner must be securely fastened with breakaway fasteners.



the public benefit; provides for the Housing Board of Review to adopt and enforce ordinances relating to mediating landlord-tenant issues.

- [H.206](#), **Montpelier** (voter approved November 6, 2018). Authorizes the city to regulate, license, or prohibit point-of-sale distribution of non-reusable plastic bags, straws, and similar plastic products.
- [H.207](#), **Montpelier** (voter approved November 6, 2018). Provides for a person who is a legal resident of both the U.S. and Montpelier to vote in city elections.
- [H.508](#), **Bennington** (voter approved June 5, 2018). Eliminates the office of constable; revises the authority to regulate solid waste; grants the authority to regulate intrusive technologies such as drones, adopts bylaws, rules, or ordinances necessary for the well-being of the town and do not conflict with U.S. laws or the Vermont Constitution; provides for the selectboard to transition the volunteer fire department to a paid or combination paid and volunteer fire department upon an affirmative vote of fire department members; authorizes the selectboard to consolidate or dissolve departments, commissions, and committees as necessary to perform municipal services; if a selectboard member is absent from four consecutive warned selectboard meetings or half of the meetings in a six-month period, the office is deemed vacant and the selectboard is authorized to fill the vacancy; authorizes the selectboard to amend the Bennington Downtown Improvement District following a public hearing; allows for voters to adopt local option tax for meals, rooms, alcohol, or sales.
- **Montpelier** (voter approved March 5, 2019). Authorizes the adoption of ordinances enforcing minimum energy efficiency standards and disclosure requirements for existing and new commercial and residential properties that are generally consistent with state, federal, and other energy efficiency standards and reporting systems.
- **Burlington** (voter approved March 5, 2019). Creates a new Department of Permitting and Inspections that combines the functions of the existing planning and zoning department, inspections division of public works, and code enforcement officer; expands the boundaries of the downtown improvement district; establishes a nonprofit entity to manage the district; creates a special assessment fee on certain non-residential properties to address the purposes of the district and provides a ten-year sunset if not renewed; amends non-residential personal property tax classifications and repeals the city’s non-residential personal property tax as of July 1, 2026, or sooner if the city council so votes.
- **South Burlington** (voter approved March 5, 2019). Authorizes the city council to impose a 0.5 percent tax on short-term car rentals.

The NLC Congressional City Conference

This week, three VLCT staff members attended the 2019 National League of Cities (NLC) Congressional City Conference in Washington, D.C. This annual conference features a myriad of networking opportunities, presentations, panel discussions, and training events that give local officials the tools they need to be better leaders by focusing on common issues that cities and towns throughout the U.S. face.

NLC staff briefed state municipal league attendees on relevant legislative and Supreme Court activity and updated them on what state and local governments can expect from Congress and the Court this year. VLCT staff also sat in on a plethora of presentations and roundtables that discussed federal transportation funding, broadband policy, how municipalities can holistically manage water infrastructure, what 21st century home rule looks like in different states, how communities make opportunity zones work for everyone, and local perspectives on opioid addiction.



VLCT Advocacy staff was fortunate to meet with staff members from the offices of Senators Bernie Sanders and Patrick Leahy’s and from Representative Welch. We spoke generally about the need for robust, long-term infrastructure investments and advocated for three major legislative initiatives:

1. An infrastructure package and timely reauthorization of the Fixing America’s Surface Transportation (FAST) Act. Congress needs to develop and pass legislation that rebuilds America’s infrastructure in partnership with local governments in the long term; that improves our water, broadband, and transportation systems; and that invests in training a workforce that can maintain, build, and strengthen our infrastructure.
2. A bipartisan proposal in the House of Representatives for the Water Quality Protection and Job Creation Act (not yet introduced) will propose the reauthorization of and be the single largest increase for the Clean Water State Revolving Fund (SRF) program. The Clean Water SRF program is essential for communities to provide clean and safe water for residents and businesses. The bill extends the authorization for sewer overflow control grants to enable communities to better manage their wet weather flows and invest in green infrastructure and water and energy efficiency projects.
3. In response to the loss of state and local tax exemptions for advance refunding bonds in the President’s Tax Cuts and Jobs Act of 2017, we expressed support for the Investing in Our Communities Act that will soon be introduced in the House of Representatives. Local governments own and maintain the lion’s share of the nation’s infrastructure. By restoring this essential tax exemption, cities, towns, and villages across the country will be able to refinance their debts to achieve lower interest rates, which in turn will save local taxpayer dollars and free up capital for additional infrastructure investments.

VLCT was encouraged to hear unanimous support from our congressional delegation for legislation that supports robust, long-term infrastructure investments. Unfortunately, Congress as a whole has not prioritized these pieces of legislation, and Vermont and the rest of the country will have to wait longer for help and simultaneously adjust to less ambitious investments in future legislation.

The NLC Congressional City Conference was an excellent networking and educational event that allowed VLCT to directly advocate for the necessary resources and policy positions that reach beyond what state and local laws, taxes, and resources can ever provide. Both state and local governments of Vermont depend on these federal monies and partnerships to provide the basic needs and functions of governments to Vermonters, businesses, and visitors to our state.

New Bills

BILL NUMBER	SUMMARY OF NEW BILLS	CURRENT LOCATION
H.513	Would establish measures designed to support broadband deployment in unserved and underserved areas in Vermont.	House Ways and Means
H.514	Would make numerous substantive and administrative changes to Vermont’s tax laws by permitting the creation of merged property assessment districts to match merged school districts; moving the collection and administration of the fire safety insurance tax, the direct placement insurance tax, and the surplus lines tax from the Department of Financial Regulation to the Department of Taxes; and change the current use lien system, the definitions of household income and homestead, tobacco taxes, and higher education investment plans.	House Ways and Means

Serving and Strengthening Vermont Local Governments

BILL NUMBER	SUMMARY OF NEW BILLS	CURRENT LOCATION
H.517	Would remove the cost of property tax adjustments from the Education Fund and finance that cost out of the General Fund. Would alter the eligibility for property tax adjustments so that taxpayers with similar incomes would have more similar benefits.	House Ways and Means
H.518	Would allow law enforcement agencies to keep information regarding citizenship and immigration status confidential to a greater extent than the model fair and impartial policing policy requires.	House Judiciary
H.520	Would remove the 500 kW cap on net metering projects for school districts and municipalities.	House Energy and Technology
H.523	Would make miscellaneous changes to the Municipal Employees', State Employees', and Teachers' Retirement Systems; would create the Law Enforcement Retirement Benefits Study Committee.	House Government Operations
S.143	Would expand membership eligibility in the Vermont Municipal Employees' System to county sheriff's department employees.	Senate Government Operations
S.145	Would prohibit racial profiling, redefine the operational structure and process of the Human Rights Commission, and require community justice centers to provide education regarding the Human Rights Commission complaint process.	Senate Judiciary
S.147	Would establish that the offices of Secretary of State, Auditor of Accounts, and Attorney General are incompatible offices, provide that a person may be a candidate in the general election for only one incompatible office; and require the Secretary of State to provide on the general election ballot the one incompatible office for which a person will be a candidate if the person fails to choose one such office from among the multiple incompatible offices for which the person was validly nominated.	Senate Government Operations
S.152	Would require employers to provide employee contact information in relation to an effort to organize a collective bargaining unit; provide for the automatic deduction of union dues from members' paychecks; permit unions to meet with new employees for the purpose of providing them with information regarding union membership; amend the law related to the use of state grant funds in relation to union organizing; and establish a good cause standard for termination of employment in Vermont.	Senate Economic Development, Housing and General Affairs

