



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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INSIDE THIS ISSUE:

Budget Shortfalls and Local Options.....	1	Law Enforcement Decertification	4
Appointment Option for Clerks and Treasurers	2	Local Government Day	4
Abandoned Properties.....	3	Summary of New Bills	6

Budget Shortfalls and Local Options

Creating a working a state budget with all of its moving parts, including the interplay of both revenues and appropriations, is a tremendously difficult task and takes the entire session to complete. In fact, its completion and attendant budget passage typically signals that the legislative session is over.

This year, the task of the House Ways and Means and Senate Finance committees is particularly difficult. The governor's Education Fund proposal was already rejected and his administration has as yet not offered a fall-back position. Additionally, January's Consensus Revenue Forecast – which the administration and legislature agree to as a basis from which to build a budget for the next fiscal year – was not adhered to by the administration with respect to anticipated Medicaid caseload and expenditure estimates. In a letter to the committee on February 8, the governor stated that inasmuch as Medicaid spending fell below consensus estimates over the last 15 months, his budget proposal would reserve \$10 million of the General Fund dollars needed. [According to the Joint Fiscal Office](#), Medicaid accounts for 27 percent of total overall health spending and 31.6 percent of the total budget.

This week, the Ways and Means Committee heard about the following issues:

Education Fund and Overall Shortfall. The governor's budget proposal transferred a \$35 million shortfall to the Education Fund when it proposed moving retired teachers' healthcare and teachers' retirement pensions to the Education Fund. According to the Joint Fiscal Office, items that put pressure on the proposed budget – after accounting for those program transfers to the Education Fund, the governor's proposed budget reductions, and program and revenue increases – total more than \$67 million. It will take a while for the Ways and Means Committee to sort out [that issue](#).

Local Option Taxes. There here are some savings in various budget items. Municipalities that have adopted local option taxes, which the Tax Department collects in 16 of 18 municipalities, may see a significant reduction in the fee they must pay for the department to administer those collections. The Tax Department's proposal is to reduce the fee from \$\$5.96 per return (of the entity paying the tax) to \$2.83 because the new VTax software that the Tax Department is implementing resulted in significant

efficiencies at the department “The result is more revenues to municipalities and the Payment in Lieu of Taxes (PILOT) system equaling approximately \$365,000. Municipalities pay 70 percent of the administration fee and the PILOT program pays 30 percent. [The adjustment](#) would return \$255,000 to municipalities and save the PILOT fund approximately \$110,000 per year.

House Ways and Means Committee members inquired about what would happen to the tax that Amazon agreed to voluntarily pay in municipalities with local option taxes. Although Tax Department staff said that they could not address the situation of an individual tax payer, they expected that a company selling items over the internet would pay local option taxes on products sold to persons in towns that have a local option sales tax in place.

Upon hearing the Tax Department’s testimony, committee members also suggested diverting the funds no longer spent on administering collection of local option taxes to implementing additional portions of the state’s VTax system. There have been proposals in prior years to divert revenues from the local option tax system to General Fund purposes other than the PILOT fund. Those proposals have been defeated. Statute would need to change or the infamous “notwithstanding” clause would need to be invoked in order for the legislature to transfer revenue from local option taxes voted and raised at the local level, to the state General Fund.

Miscellaneous Tax Bill. This week, the committee also took testimony on the miscellaneous tax bill, which generally contains technical changes to tax statutes designed to make them more comprehensible or easier to administer. This year’s proposal would require the Commissioner of Taxes to provide information on “effective tax rates” and “common level of appraisal” on the property tax bill as well explain how those adjustments work in relation to the education property tax that appears on a property tax bill. It would also allow municipalities to create unified assessment districts for the common assessment of property in towns in unified districts that are merging as a result of Act 46, the school consolidation legislation.

Fee Bill. Finally, there is a fee spreadsheet and a proposed fee bill that would include the local option tax administration fee reduction. True to the governor’s word, the spreadsheet indicates that fees would not be increased in any quarter, the first time we can remember that ever happening.

There is much to solve in the budgeting puzzle. The description here does not even include provisions for paying for the Vermont Clean Water Fund mandates. Those conversations are ongoing in the house Natural Resources, Fish and Wildlife Committee. More on that next week.

Appointment Option for Town Clerks and Treasurers

On Tuesday, the House Government Operations Committee took testimony on [H.42](#), a bill that would let voters authorize selectboards to appoint town clerks and treasurers. State law currently only allows for town clerks and treasurers to be elected. In recent years, several towns have had to go through the long and cumbersome process of adopting or amending a municipal charter to secure the authority to appoint either a clerk or treasurer, whose positions are becoming more professional and their workloads more demanding. Most municipal operations today approach the \$1 million mark and the related fiscal responsibilities have grown equally in complexity. Smaller communities also have the additional problem of finding willing and qualified candidates to fill these positions.

H.42 would also make the offices of town treasurer and collector of delinquent taxes incompatible, a provision that VLCT does not support. It is common in Vermont for the collector of delinquent taxes and treasurer to be the same person. Current statute already specifies the duties that must be fulfilled for each office, and it is unclear what problem this new prohibition would solve for communities. VLCT staff, town treasurers, and collectors of delinquent tax collectors voiced opposition to this provision recently in a committee hearing. They suggested that if there are concerns over the handling of monies and the overall administration of duties of particular officers, a more prudent option would be to change those areas of state law to ensure that correct checks and balances exist and that the job duties spelled out in statute align with best management practices for those offices.

The committee will take up this bill again soon, giving consideration to these concerns. We hope that H.42 will move forward with the language regarding incompatible offices deleted, thus giving municipalities more options with how the offices of town clerk and town treasurer are filled.

Abandoned Properties

Over the last couple of years, the Town of North Troy has had to address a situation that many towns face – how to handle abandoned properties, particularly in downtowns and village centers. These are generally buildings that have fallen into significant disrepair, often when owners simply walked away from them, and that pose a hazard to the community in terms of both public health and public safety. They can frequently end up being used for illegal activities as well.

In North Troy, the property in question went to tax sale for unpaid taxes. The health officer secured the building to prevent trespassers from entering the dilapidated and unsafe structure. He then suggested that the town recover its costs of securing the building (i.e., the materials used to close up the building) in a tax sale. However, current law does not allow for those costs to be included in the lien of taxes due.

This session, two bills – [S.13](#) in the Senate and [H.13](#) in the House – have been introduced to allow municipalities to recover the costs of remediating an abandoned property. After discussion with representatives from the Vermont Bankers Association in the Senate, S.13 was amended to specify which costs would be allowed in the case of a property going to tax sale for non-payment of taxes. The bill voted out of the Senate Government Operations Committee would provide for the town to recover “expenses actually and reasonable incurred by the town in securing a property for which property taxes are delinquent, against illegal activity and fire hazards, to be paid to the town clerk, provided that the expenses shall not exceed 20 percent of the uncollected tax.”

S.13 also stipulates that the municipality “may secure the property against illegal activity and potential fire hazards after giving the mortgagee or lien holder of record written notice at least ten days prior to such action.” That would give the lien holder ten days to secure the property on its own.

S.13 is on the Senate Calendar for today, February 10. After passage, it will be sent to the House Government Operations Committee, which has already taken testimony. Local officials attending Local Government Day in the Legislature on Wednesday should express their support for S.13.

Law Enforcement Decertification

Over the past few years, many attempts have been made to establish the professional regulation of law enforcement officers to ensure that “bad cops” are prevented from performing law enforcement functions and preventing them from serving next to officers who perform their duties with the utmost professionalism. Vermont municipalities should not have to worry about unprofessional police officers being recycled from one agency to another, with little information available about any past conduct that may be of concern.

Last summer and fall, law enforcement officials and agencies met to draft language, much of which is included in [H.22](#), a bill that updates the professional regulation of all law enforcement officers in the state. This week, the House Government Operations Committee took testimony from an array of law enforcement officials that included municipal police chiefs. With a few minor changes to language, H.22 addresses many of the concerns from law enforcement officials that impeded its passage in years prior.

The bill proposes that:

- new hires in law enforcement agencies and departments must disclose the reasons they are no longer employed by a previous agency, and verification must be made to previous agency of employment;
- designated unprofessional conduct would be defined and categorized by the severity of offense;
- agencies and departments would have an effective internal affairs program to address complaints, conduct investigations, and put policies and civilian review processes in place;
- agencies and departments would have to report unprofessional conduct to the Vermont Criminal Justice Council; and
- sanctions may be imposed on law enforcement officers who engage in unprofessional conduct, including a written warning, suspension, and decertification.

H.22 is legislation that is long overdue, and VLCT expects that it will continue to wend its way through both chambers and ultimately be signed into law this year. Local officials should urge their representatives to support this bill.

Local Government Day

VLCT’s Local Government Day in the Legislature will take place next **Wednesday, February 15th**. More than 100 local officials have already registered to attend, and many legislators plan to join us for lunch. This year, Local Government Day is co-sponsored by the Municipal Clerks’ and Treasurers’ Association, the Green Mountain Water Environment Association, and the Vermont Assessors and Listers Association. You can still register to attend at www.vlct.org/events-news-blogs/event-calendar/local-government-day/.

Morning break-out sessions at the Capitol Plaza include a budget round-up from Steve Klein from the Joint Fiscal Office; a discussion of the Vermont Clean Water Act implementation by Agency of Natural Resources Deputy Secretary Peter Walke; and a review of the property transfer tax returns by Doug Farnham, Director of Property Valuation and Review.

Senate President Pro Tem Tim Ashe, who launched his political career with a stint on the Burlington City Council, will address local officials during lunch. Directly thereafter, VLCT will hold a special meeting to vote on amending the process for adopting the municipal policy at the annual meeting. There

is still time for your town to designate a voting delegate if it has not yet done so. You can download the voting delegate form [here](#).

Twenty-seventeen is the first year of a new biennium, and almost a third of the legislators are new to the State House. As such, they welcome the opportunity to learn from their constituents how the issues they are addressing will affect municipal matters back home. At Local Government Day, you'll be able to meet them and see them in action as they debate issues in committee meetings – including joint meetings of the Transportation and Government Operations committees – and hearings in the House Natural Resources, Fish and Wildlife and House Ways and Means committees.

The Transportation committees are keen to hear suggestions from you about how the municipal roads permit that addresses stormwater from roads might work. Timely issues in the Government Operations committees include conflict of interest policies, law enforcement and public safety, the flexibility to govern at the local level, municipal charters, and abandoned properties. (See related article on page ___.) The Ways and Means Committee oversees revenues of the state and policy regarding the property tax, tax increment financing districts (TIFs), increases for statutory fees at the local level, and local option taxes. And the Natural Resources, Fish and Wildlife Committee is responsible for cleaning up the waters of the state as well as land use and Act 250, waste management and other environmental issues, hazardous materials handling, and hunting and fishing seasons.

When not focusing your attention on legislation, you may prefer to tour the State House with State Curator and raconteur extraordinaire David Schutz – or simply take time to meet your VLCT staff and network with your colleagues from around the state.



Local Government Day 2015 Luncheon

There is much legislation to discuss with your legislators in advance of Town Meeting Day – and Town Meeting Day itself has been the subject of quite a bit of controversy this year. If you *really* want to come to Montpelier prepared, you can review previous legislative reports, the 2017 VLCT Municipal Policy and Priorities, as well as various Advocacy Webinar updates on the [Advocacy page](#) of the VLCT website.

Before you head home, join us in the House Chamber for a reading of a resolution recognizing VLCT's 50 years of service to local governments. Later, in the State House cafeteria, help us celebrate VLCT's 50th anniversary with cake. Your VLCT staff will be serving!

Local Government Day is VLCT's *most* productive day in the State House for local officials because you are there to discuss municipal issues with your legislators. Please join us next Wednesday!

VLCT Legislative Testimony

Testimony by VLCT Advocacy staff this week in the State House included:

Committee

House Natural Resources, Fish and Wildlife
House Government Operations

Senate Government Operations
House Energy and Telecommunications

House General, Housing and Military Affairs

Issues

Clean Water Fund
appointment of clerks, abandoned property,
investing municipal cemetery funds
law enforcement, abandoned property
sunsetting the ability of the PSB to handle
telecom applications and to notify adjoining
property owners of projects ([H.50](#), [H.51](#))
burials



BILL NUMBER	SUMMARY OF NEW BILLS	CURRENT LOCATION
H.195	Would amend Vermont law as it pertains to the bylaws of cooperative insurance companies, group life insurance, and Vermont medical examiner liability.	House Commerce and Econ. Development
H.196	Would create a Family Leave Insurance Program within the Department of Labor that will provide employees with 12 weeks of paid family leave funded by contributions from employers and employees. Would amend Vermont's existing family leave law to make it applicable to all employers.	House Gen., Housing and Military Affairs
H.197	Would provide workers' compensation coverage for mental conditions that result from workplace conditions that are a characteristic of a particular occupation.	House Health Care
H.198	Would authorize the Commissioner of Motor Vehicles to issue a permit for the use of one blue light on a fire department or EMS vehicle, provided the light is mounted so as to be visible primarily from the rear of the vehicle.	House Transportation
H.200	Would expand the list of qualifying crimes for expungement in statute to include a violation of the possession, sale, or dispensation of LSD.	House Judiciary
H.201	Would extend the length of time that a child may remain at a shelter designated by the Commissioner for Children and Families from seven to 21 days.	House Human Services
H.204	Would amend standards relating to the care of domestic pets, including standards for programs intended to reduce the number of cats without homes, such as capturing, spaying or neutering, vaccination, and return of unowned cats.	House Agriculture and Forestry
H.209	Would reform various land use and environmental permit processes.	House Nat. Resources, Fish and Wildlife
H.211	Would require public water systems to provide notice of drinking water quality violations; require monitoring of cyanobacteria outbreaks in the State to be conducted between June 1 and November 1 annually; require pollution abatement facilities to implement electronic or automatic reporting; and require the Secretary of Natural Resources to submit to the General Assembly a strategy for reducing the land application of septage and sludge in the state.	House Nat. Resources, Fish and Wildlife
H.215	Would create a tax increment financing district in the Town of Bennington.	House Ways & Means
H.219	Would allow, instead of require, the Agency of Human Services to implement the Vermont spaying and neutering program through a contract with a qualified organization.	House Agriculture and Forestry

BILL NUMBER	SUMMARY OF NEW BILLS	CURRENT LOCATION
H.222	Would authorize the Public Service Board to investigate outages occurring within the Enhanced 911 system.	House Energy and Technology
H.224	Would create a new crime of organized retail theft.	House Judiciary
H.228	Would promote public safety by protecting Vermont residents from compulsory collection of personally identifying information, or dissemination of that information for purposes of establishing a mandatory federal registry or database.	House Judiciary
S.73	Would create an interagency commission to investigate the negative impacts from employee misclassification in Vermont on workers' compensation rates, unemployment insurance contributions, and State tax revenues, and recommend changes to Vermont's workers' compensation, unemployment insurance, tax, and other laws to improve the clarity and consistency of the laws relating to employee classification. Would permit the Attorney General to enforce complaints of employee misclassification under the workers' compensation and unemployment insurance laws.	Senate Economic Development, Housing and General Affairs
S.74	Would replace the current excess spending penalty with a system that penalizes education spending above the statewide per pupil average but rewards education spending below that average.	Senate Education
S.75	Would prohibit the transport of additional aquatic plants and nuisance species to or from waters of the State; require visual inspection of vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment for aquatic plants and nuisance species when leaving a water of the State; require a boat to be cleaned in a boat wash prior to launching in a lake or pond if a boat wash facility is located at the lake or pond and the boat is being transported from another water. Would allow for enforcement of the prohibition on transport of aquatic plants and aquatic nuisance species in both the Judicial Bureau and the Environmental Court.	Senate Natural Resources and Energy
S.76	Would require the State to compensate cities and towns for property tax overpayments resulting from a State board or court decision; would also divide equitably litigation expenses and attorney's fees incurred in property tax appeals between towns and the State.	Senate Government Operations
S.78	Would require a constable to remit quarterly 15 percent of the civil process fees he or she receives to the State Treasurer for deposit into the General Fund, and to monthly report to the selectboard regarding his or her service of civil process.	Senate Government Operations
S.79	Would promote public safety by protecting Vermont residents from compulsory collection or dissemination of personally identifying information for purposes of establishing a mandatory federal registry or database.	Senate Judiciary