



# 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:

H.211: Water Quality.....1	VLCT's Municipal Policy Committees ..... 4
H.494: Transportation.....2	Summary of New Bills ..... 5
H.42: Appointing Clerks and Treasurers.....3	Policy Committee Nomination Form ..... 6
Special Purpose Districts .....4	Special Purpose Districts Table..... 7

## H.211: Water Quality

This week, the House Natural Resources, Fish and Wildlife Committee took up [H.211](#), a bill that – once again – addresses water quality. After all of the laws passed in the last two years plus the ongoing work and expenditure of millions of dollars to address water quality, much of this new proposed legislation is simply unnecessary.

H.211 would require the Agency of Natural Resources (ANR) to develop standard health effects language that would be provided to the public in case a public water system violates a drinking water standard or regulation. It would require that within one hour of discovery of such a violation, a system operator would need to post an alert on a publically accessible electronic network, mobile application, or other electronic media designated by the agency secretary. The operator could delay posting for up to four hours if he or she had to stop the violation, but the operator would have to inform the secretary and the health officers of affected municipalities within 12 hours of the violation.

The commissioner of health and the ANR secretary would be directed to conduct monitoring for cyanobacteria in waters of the state between June 1 and November 1 of each year. Cyanobacteria are responsible for the blue-green algae blooms which tend to grow in calm waters and on warm days. Cyanobacteria monitoring currently takes place on many lakes and ponds in the state and is conducted largely by volunteers, generally from mid-June through mid-September – and, in some locations, longer.

The bill would require a discharge permit for a wastewater treatment facility to install and operate electronic or automatic equipment to monitor the facility for unpermitted discharges or other violations at the time that the permit for the facility is renewed (permits run for five years) or by January 1, 2019, whichever comes first, upon the presumption that current detection methodologies are inadequate. H.211 as introduced contains no appropriation to cover the cost of that new technology.

Many Vermont wastewater treatment systems were designed and permitted to allow for overflows in intense storms, and those overflows indicate that the system overall is being protected in those circum-

stances. Since 1990, the number of outfalls (i.e., the place where a drain discharges in storm situations) for combined sewage has been reduced from 171 to 63 individual overflow points in only 16 municipalities. Act 86, passed last year, required the state to implement a new wastewater discharge website for the benefit of the public, requiring (1) combined sewer overflow (CSO) notification within one hour of discovery, (2) a full report within 12 hours, as well as (3) permanent signage at CSO outfalls. Vermont's Department of Environmental Conservation (DEC) adopted a CSO rule last September that specifies how notifications will be made.

The final sections of H.211 would direct the state to develop a cost effective strategy to phase out land application of sludge and septage by January 15, 2018. Many municipal wastewater treatment systems accept and process septage pumped from septic systems in places not served by wastewater treatment facilities. The land application of biosolids is a heavily regulated management technique for the byproducts of wastewater treatment facilities, and in some situations allows for the treatment facility to continue to accept septage.

Last month, DEC submitted an updated 110-page report to the legislature titled "Wastewater Treatment, Sludge and Septage Management in Vermont," which discusses the health risks, the management techniques and the benefits of land application.

On Wednesday, the water quality superintendent of Essex Junction's Wastewater Treatment Facility testified to the committee that *every* Vermonter produces septage and sludge (a.k.a., biosolids) – no exceptions. And it is the responsibility of Vermonters to manage that waste. Currently, there are three options for managing sludge and septage: landfilling (Vermont has one landfill), land applying (incorporating highly regulated and tested biosolids materials as soil amendments in designated and access controlled farm fields), or sending materials out of state. H.211 would eliminate the option of land applying at the same time that wastewater treatment facilities are being asked to process more waste as a result of Act 64 (the comprehensive water quality legislation of 2015) and the total maximum daily loads of Lake Champlain and the Connecticut River.

Farm fields where biosolids are applied are separate from other areas and must include groundwater test wells that are sampled annually as well as testing of the biosolids to determine proper rates of application, generally via injection eight inches below the surface of the ground to ensure that the nutrient rich material does not run off the land to waters of the state. According to the Vermont Rural Water Association, a nonprofit trade association of water and wastewater systems in Vermont, the land application of biosolids is a scientifically-derived recycling method that provides for the slow release of that fertilizer, builds soil organic matter, increases water holding capacity, reduces the potential for soil erosion, sequesters carbon in the soil, and conserves landfill space, all of which are goals of numerous state environmental programs designed to improve Vermonters' environment.

Passing H.211 would do a significant disservice to municipalities struggling to comply with Acts 64 and 86 (the CSO statute), which were both passed last year. Since time is running out for the 2016 session, H.211 may remain only as a topic of discussion this year. If that changes, however, we'll let you know.

## **H.494: Transportation**

On Thursday afternoon, the Senate passed [H.494](#), the transportation bill, out of the Senate and returned it to the House Transportation Committee for review. The House Transportation Committee had made a concerted effort to increase the amount of money from the state transportation budget to municipali-

ties. That strong message was heard in the Senate Transportation Committee as well, with only a slightly different approach.

Much of the transportation budget, as reported in our [Weekly Legislative Report No. 10](#), remains intact, with a slight increase in funding for municipalities. The Department of Motor Vehicles (DMV) testified before the Senate Transportation Committee regarding the cost savings of issuing only one (rear) license plate instead of two. Noting that the “Vermont Strong” license plate on the front of a vehicle has provided an exemption to the two-plate law for five years, the Senate questioned whether front license plates are necessary. Testimony from public safety officials indicated there was little to no adverse impact on public safety from a single, rear license plate.

The Senate reallocated \$200,000 in spending from the DMV to the Town Highway Class 2 Roadway Program, thanks to the projected cost saving from the one-plate requirement. Additionally, by December 1, 2017, the commissioner of DMV must provide the Senate and House Appropriations and Transportation committees with an updated analysis of the savings in FY18 from requiring a single license plate. If the savings exceed \$200,000, the Administration’s 2018 budget adjustment proposal must include an increase in spending authority for the Town Highway Class 2 Roadway Program, and a proportionate decrease in DMV spending authority.

The proposals of amendment from the Senate are headed back to the House Transportation Committee for review; a conference committee may be necessary to work out the few minor differences from each committee.

VLCT is encouraged to see both committees looking seriously at the disparities between state and local transportation funding. The increased focus on local transportation funding from the state highway budget and federal appropriations is long overdue. We look forward to continuing these positive discussions with both the Agency of Transportation and the legislature.

## **H.42: Appointing Clerks and Treasurers; Municipal Audit Penalties**

[H.42](#), a bill that would allow town voters to authorize their selectboards to appoint town clerks or treasurers, is heading for conference committee (that is, a committee whose purpose is to resolve disagreements on a particular bill). The section of the bill concerning the authorization of selectboards to appoint town clerks or treasurers was not a point of contention in the Senate, and both chambers agree that *that* part of the bill should remain. It was the penalties provision of H.42 that created confusion and points of contention among the senators.

The proposed penalty provision made a town official personally liable for a civil penalty in the amount of \$100 per day for willfully refusing or neglecting to submit his or her books, account, vouchers, or tax bills to the town auditors or to the town’s public accountant. The Senate raised concerns over the administration and mechanics of how this penalty provision would be enforced. They questioned what form of notice would have to be given to an official in violation of this provision, and how such a notice would be delivered. They were also concerned about the timing of enforcing such a penalty: How many days would be appropriate before a penalty was assessed? Concerns were also raised about what level of authority certain town officials should have to assess such a penalty and the appropriateness of having such powers vested in, for example, town auditors or public accountants.

After debating the issue, the Senate removed the penalty provision from H.42 and sent the bill back to the House Government Operations Committee. That committee felt strongly that a penalty provision should remain, and yesterday requested that the disagreement be resolved by a Committee of Conference, comprising three members of the House and three of the Senate.

VLCT supports both the appointments and penalties provisions of H.42, and we believe that the Committee of Conference will produce suitable enforcement language for the penalties provision to ensure that the bill is passed this year.

## Special Purpose Districts

Last week, we wrote about the potential for rural economic development infrastructure (REDI) districts, which could enable the financing, owning, and maintaining of infrastructure that provides economic development opportunities in rural areas. The House is moving ahead with including that option for addressing rural development and incorporating it in the omnibus economic development bill, [S.135](#). VLCT supports adding it to the toolbox for rural municipalities that are attempting to improve their economies. As part of the discussion, VLCT staff created a spreadsheet of special purpose districts that are in statute today. Each special district responds to a specific need or set of circumstances, from secondary education to special assessment districts to waste management.

This week, the House Government Operations Committee also took up several charter changes, including [H.241](#), a bill that would amend the charter of the Central Vermont Solid Waste District. H.241 is an example of why cities and towns – when they enter into agreements for special (and generally single) purpose districts – need to pay attention to the activities of the district and require their appointed representatives to report regularly to the local legislative bodies of the member municipalities. Municipalities are the only general purpose units of government other than the state. They must balance the many demands for services of local government and special districts with the priorities of citizens and their ability to pay. At the local level, no other government entity will do that.

The Central Vermont Solid Waste District, as is the case with many districts, may amend its charter by vote of the governing board of the district. They did so according to the provisions of their duly adopted charter. The proposed charter change includes the authority to levy taxes – an amendment that representatives of member municipalities who are on the board voted to adopt but that many local legislative bodies in those same member municipalities seemed to have been unaware of.

As the REDI districts are proposed, bylaws would need to be sent to the local legislative body prior to approval, and that is appropriate. Similar requirements are part of many other districts. The table on page 7 shows the range of districts enabled in statute (though there may be others in other sections of statute). The REDI districts will provide an opportunity to address infrastructure needs in rural areas that should spur economic growth and revitalization. In the context of special districts, this option responds to yet one more specific need at the local level.

## VLCT's Municipal Policy Committees

VLCT's five committees meet each summer to develop policy recommendations for the next legislative session. The committees – Finance and Intergovernmental Relations, Transportation, Public Safety, Quality of Life and Environment, and Water Quality – are only as good as its members, the dedicated

and innovative local officials who serve on them! Please join us to develop action items for the membership's consideration and adoption and for implementation in the 2018 legislative session. Topics may include finance, municipal governance, clerks and treasurers; law enforcement, emergency management, ambulance service and fire safety; land use, the environment, health care, quality of life; stormwater, local highways, "complete streets," capital funding; wastewater, stormwater, combined sewer overflow, and Waters of the State.

A nomination form is on page 6 of this *Weekly Legislative Report*.

## VLCT Legislative Testimony

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

**Committee**

House Energy and Technology

House Government Operations

Senate Government Operations

Senate Natural Resources and Energy

**Issues**

Public Service Board and its proceedings ([S.52](#)) and economic development legislation ([S.135](#)) and economic development ([S.135](#)) and Central Vt. Solid Waste Mgmt. District charter amendment ([H.241](#)) investing town cemetery funds ([H.5](#)) holding municipalities harmless from liability for hazardous material releases from landfills ([S.11](#))



BILL NUMBER	SUMMARY OF NEW BILLS	CURRENT LOCATION
<a href="#">H.533</a>	Would eliminate Vermont's sales and use tax by reducing it by 1% each year for six years. Would impose a fee on corporations distributing fossil fuels that emit carbon dioxide pollution. The fee would be increased over a six-year period to replace the revenue forgone from the elimination of the sales and use tax in a revenue-neutral manner. Nonprofits and municipalities would be exempt from the carbon fee.	House Ways and Means
<a href="#">S.148</a>	Would exempt Vermont from the observance of daylight saving time.	Senate Economic Development, Housing and General Affairs



# 2018 VLCT LEGISLATIVE POLICY COMMITTEE NOMINATION FORM

Please copy this form if you are submitting more than one nomination.

I hereby submit the name of \_\_\_\_\_ for consideration by the VLCT Board of Directors for membership on the

- Finance, Administration and Intergovernmental Relations (FAIR) Committee (*finance and governance, clerks, treasurers*)
- Public Safety Committee (*law enforcement, emergency management, ambulance service and fire safety*)
- Quality of Life and Environment Committee (*land use, the environment, health care and quality of life*)
- Transportation Committee (*relations with VTrans, stormwater and local highways, complete streets, capital funding*)
- Water Quality Committee (*Wastewater, stormwater, combined sewer overflow, Waters of the State*)

Please complete the following information for the nominee

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Municipality represented \_\_\_\_\_

Municipal position held \_\_\_\_\_

Years position held \_\_\_\_\_

Other municipal positions held \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Interest in committee \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Person filling out form \_\_\_\_\_

Position \_\_\_\_\_ Municipality \_\_\_\_\_

**Please return form by Friday, May 12, 2017, to:**

Karen Horn  
VLCT  
89 Main Street  
Montpelier, VT 05602

Or email to Karen Horn, [khorn@vlct.org](mailto:khorn@vlct.org).



District Type	Purpose	Special Purpose Districts					
		May Use Property Tax	May Use Eminent Domain	Governance	May Cross Municipal Lines	Lender/Partner Attractiveness	Public Grant Eligible
<b>Municipalities (Cities Towns Villages)</b>	General purpose governments	Yes	Yes	Local legislative body	No	Depends upon project	Yes
<b>Union Municipal Districts (24 V.S.A. Ch. 121)</b>	Schools, waste management, recreation, mosquito control etc.	Exercise any powers capable of exercise by any participating municipalities and necessary for dealing with problems of mutual concern.		Board of directors, prudential committee etc depending upon charter	Yes	Depends upon project	Yes
<b>Telecommunications Union Municipal District</b>	Telecommunications	No	No	Established in Title 30	Yes	Depends upon project	
<b>Special Assessment Districts</b>	Public improvement benefiting a limited area of a municipality	Assessment apportioned among properties to be benefited	No	Local legislative body	No	Depends upon project	Assume that local legislative body applies
<b>Inter-municipal Service Agreements (RPC)</b>	Multi-town municipal services	No	No	Specified in bylaws	Yes	Depends upon project	Yes
<b>Inter-local Contracts</b>	Various municipal services	May exercise any powers consistent with law to carry out purpose of contract		Depends upon contract	Yes	Depends upon project	Yes
<b>Consolidated Water District</b>	Potable water supply	Uses water rates and property taxes		Depends upon charter or bylaw	Yes	Depends upon project	Yes
<b>Consolidated Sewer District</b>	Wastewater treatment	Uses sewer rates and property tax		Depends upon charter or bylaw	Yes	Depends upon project	Yes
<b>Mass Transit Authority</b>	Public transit	Apportion to each member municipality	Yes	Board of commissioners: 2 from each town	Yes		
<b>Property Assessed Clean Energy</b>	Energy efficiency or renewable retrofits	No: financed by participating owners	No	Local legislative body or bodies	Yes	Efficiency Vermont is partner	Property owners' incentives
<b>District Fire Mutual Aid</b>	Fire protection	Within limits of available funds or municipal appropriations	No	Depends upon bylaws	Yes	Depends upon project	Yes
<b>Fire District</b>	Water supply, fire protection, sewage, parks, sidewalks, various other purposes	Yes	Yes	Prudential committee	Yes	Depends upon project	Yes
<b>Central Vermont Public Safety Authority</b>	Public safety	Assessment to member towns	Yes	Two members/town + 3 at large members	Yes	Depends upon project	Yes
<b>Tax Increment Financing District</b>	Infrastructure to spur economic development	Up to 75% of newly generated property taxes for up to 20 years	Local Legislative body has this authority	Administered by local legislative body	No	Yes	Yes
<b>REDI Districts</b>	Economic development	No	No	Governing board of 4-8 appointed by local legislative body	Yes	Yes	Yes