



# WEEKLY LEGISLATIVE REPORT

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

<b>VLCT</b> 89 Main Street, Suite 4 Montpelier, VT 05602-2948  Tel. 802-229-9111 Fax 802-229-2211 Email <a href="mailto:info@vlct.org">info@vlct.org</a> Web <a href="http://www.vlct.org">www.vlct.org</a>	Follow VLCT Advocacy on <a href="#">facebook</a> <a href="#">twitter</a>  <b>Karen Horn</b> , Public Policy and Advocacy Director <b>Gwynn Zakov</b> , Municipal Policy Advocate <b>David Gunn</b> , Editor  To contact your legislators, find their email addresses on the legislative website ( <a href="http://legislature.vermont.gov">http://legislature.vermont.gov</a> ) or call the Sergeant-at-Arms (802-828-2228).
--	--

## INSIDE THIS ISSUE:

The End of the Session Draws Nigh.....	1	Water Funding.....	3
Economic Development (S.135) .....	2	Ethics (S.8).....	5
Waste Management.....	2	Act 250 Legislation (H.424).....	5
Law Enforcement Professional Conduct (H.22) .....	3	Revising the PSB Process (S.52).....	6

## The End of the Session Draws Nigh

The 2017 legislative session is slated to end on May 6. Or thereabouts. That gives legislators two more weeks to finish work on a multitude of bills before going home. In these last couple of weeks, keeping track of legislation is difficult and information is often unreliable, as legislators' jockeying to get pet provisions attached to any available bill intensifies. Thus, it is quite likely that some initiatives you may have thought were put to rest for the session will rise, phoenix-like, from their ashes. The discussion of marijuana legalization is one example, while others, which not so very long ago looked like sure bets, will slide off the table for unexplained reasons.

Today's *Weekly Legislative Report* – the last one of the session – includes a summary of bills that are important to municipalities, where they are in the process, and our prognosis for their passage. To date, the House has passed 80 bills of House origin, and the Senate has passed 23 Senate bills. Six of the 23 bills that passed both chambers have been already signed into law. Many of those bills would affect local governments. Look for summaries of all passed legislation in our annual *Legislative Wrapup*, which we will publish following the conclusion of the session.

If an issue relevant to municipalities arises during the next two weeks, we may email you a Legislative Alert that summarizes the issue and VLCT's position on it, and ask you to contact your legislators to either urge passage of it or to defeat it, if it is a particularly damaging proposal.

Because 2017 is the first year of the legislative biennium, bills that are not passed this session will be alive again come January 2018. As a result, few issues are truly put to rest.

Meanwhile, local officials can help shape VLCT's legislative platform for 2018 by serving on one of our five policy committees. More information is on the legislative platform page of our website, <http://www.vlct.org/advocacy/legislative-platform/>. Send us your nomination! We look forward to hearing from you.

## Economic Development

[S.135](#), the omnibus economic development legislation that passed the Senate, is now officially in the House Commerce and Economic Development Committee. That committee farmed out sections of the bill to other committees of jurisdiction. A few provisions of the bill would be particularly helpful to local governments seeking to spur economic growth in both rural and thickly settled environments. The bill includes authorization to enact rural economic development infrastructure (REDI) districts which were developed largely in the House Energy and Technology and Government Operations committees. A local legislative body could establish a REDI district for a portion of or all of a town upon petition of 20 or more voters. The districts would be formed to finance, own, and maintain infrastructure that provides economic development opportunities in rural and under-resourced areas. Bylaws would need to be sent to the local legislative body prior to approval by the district and the legislation is clear that the district would not be authorized to use taxes or eminent domain.

S.135 would also:

- establish a public retirement program that businesses could voluntarily join for their employees or that self-employed people could join;
- require the Agency of Natural Resources to reach out to cities and towns regarding their ability to be delegated authority to permit a municipal water or wastewater line to be connected to subdivided land, buildings, or campgrounds;
- increase income limits for eligibility for affordable housing programs to encourage not only affordable but also workforce housing;
- amend – or, for municipalities whose populations are greater than 10,000, eliminate – the Act 250 jurisdictional thresholds for priority housing projects in downtown development districts and also require them to meet enhanced energy efficiency codes; and
- increase Downtown and Affordable Housing tax credits.

S.135 provides for the authorization of two additional tax increment financing (TIF) districts in each county, not to exceed 14 new districts between the date the bill is enacted and July 1, 2024. No new TIF could be established in a municipality until all the debt from any current TIF district is retired. Seven municipalities (Bennington, Brattleboro, Middlebury, Montpelier, Newport City, Rutland City, Springfield, and St. Johnsbury) are interested in using TIF to finance the infrastructure needed to encourage growth in their downtowns. Most of them have not seen significant new development in decades.

The bill, already passed by the Senate, next goes to the House Ways and Means Committee, which has sometimes looked askance at the concept of TIF, despite its demonstrated success in Vermont. Little time remains for that committee's consideration, passage in the House, and resolving any differences between the House and Senate versions prior to the end of the session.

Local officials who are interested in the possibility of using the TIF or the REDI or who are seeking incentives to build housing in designated areas should contact their representatives to express their support for S.135.

## Waste Management

Last week, we wrote about special municipal districts authorized in statute and proposed amendments to the governance charter of the Central Vermont Solid Waste Management District (CVSWMD) ([H.241](#)). The CVSWMD is a waste management district organized pursuant to the union municipal district statute. This week, VLCT staff testified to the House Government Operations Committee in opposition to a proposal to authorize CVSWMD to “levy taxes” as well as to a proposal to authorize the district to exercise eminent domain in a municipality that has left the district if a site in the departed town was under consideration in the previous 12 months. We testified that a larger problem is the tenuous connection between a board of supervisors, whose members are appointed by the local legislative body,

and those local legislative bodies when important decisions that affect the revenues and services provided to the municipality are under consideration. Nor is this problem specific to waste management districts. The Government Operations Committee may want to consider these issues in the 2018 session, when there is more time.

Also of concern to waste management are the looming deadlines for banning food scraps from the waste stream. The waste management law (Act 148, passed in 2012) requires that any person or business whose process produces more than 18 tons of food residuals annually must send them to a location that specifically manages food residuals by July 1, 2017, and all persons must do so by July 1, 2020. The requirement is particularly problematic for rural municipalities that rely on small business haulers for waste collection. Many of those small haulers do not have the capacity in their trucks to separately collect and handle recyclables, food scraps and waste. Benson Selectperson and VLCT Board member Sue Janssen was especially vocal about the impossible position in which this waste management mandate put small towns. Not much has changed in the year since her death, except maybe that legislators now better understand the difficulties that the law presents.

It's possible that the legislature will still address the food residuals deadlines this session. In fact, in every year since Act 148 was passed and the problems with managing food residuals was raised, legislators have essentially said, "we'll cross that bridge when we get to it." Local officials for whom the deadline poses a problem should urge their legislators to eliminate the 2017 and 2020 deadlines for handling food residuals.

## **Law Enforcement Professional Conduct**

The Senate Government Operations Committee may soon pass out [H.22](#), a bill that updates the professional regulation of all law enforcement officers in the state. Although there has been consensus between law enforcement officials and other interested parties as to most components of the bill, labor rights advocates have voiced concerns over some portions of the bill, such as how unprofessional conduct might be handled by the Vermont Labor Relations Board and how their actions would relate to Criminal Justice Training Council hearings and decisions regarding decertification. . The committee will likely address these concerns and further amend H.22. With little time left in the session as well as concerns from the House Government Operations Committee as to new language from the Senate, this bill will likely go to conference committee to work out the most contentious differences.

Local officials should urge their senators and representatives to support H.22.

## **Water Funding**

The House and Senate Institutions committees have worked hard this session alongside the appropriations and transportation committees to address funding to implement the Vermont Clean Water Act of 2015 (Act 64). According to the 2017 Treasurer's Report on Clean Water, Vermont needs to spend an average of \$82 million per year in each of the next 20 years to meet the state's Tier 1 federal and state clean water commitments. The state currently spends roughly \$32 million per year on clean water obligations. The FY18 budget proposes to invest \$23 million additional on clean water, for a total investment of \$55 million. Tables showing current proposed funding are on page 4.

<b>Clean Water Appropriations by Agency</b>		
	<b>FY18 Gov Budget Total (03- 14-2017)</b>	<b>FY18 As Passed House</b>
Agency of Natural Resources	26,169,116	24,811,616
Agency of Transportation	19,522,342	19,522,342
Agency of Agriculture, Food and Markets	5,722,000	5,722,000
Agency of Commerce/Community Development	460,000	460,000
Vermont Housing and Conservation Board	2,750,000	3,800,000
Clean Water Fund Reserve (10%)	500,000	500,000
<b>Total</b>	<b>55,123,458</b>	<b>54,815,958</b>

<b>Clean Water Appropriations by Fund</b>		
	<b>FY18 Gov Budget Total (03- 14-2017)</b>	<b>FY18 As Passed House</b>
Capital Bill	21,844,116	21,936,616
Clean Water Fund	5,000,000	5,000,000
Transportation Funds (federal and state)	17,422,342	17,022,342
General Fund	822,000	822,000
Clean Water State Revolving Fund (federal)	10,000,000	10,000,000
Other	35,000	35,000
<b>Total</b>	<b>55,123,458</b>	<b>54,815,958</b>

<b>Clean Water Appropriations by Agency and Program</b>		
	<b>FY18 Gov Budget Total (03- 14-2017)</b>	<b>FY18 As Passed House</b>
<b>Agency of Natural Resources</b>		
Nonpoint Sources: Clean Water Initiative Program (CWIP) – Ecosystem Restoration Grants	9,090,000	8,090,000
Municipal Loans: Clean Water State Revolving Fund (CWSRF)	11,200,000	11,000,000
Municipal Pollution Control Grants	5,844,116	5,686,616
Other	35,000	35,000
	<b>26,169,116</b>	<b>24,811,616</b>
<b>Agency of Transportation</b>		
Municipal Roads: Stormwater Grants and Payments	11,382,342	11,382,342
State Highways and VTrans Non-Road Developed Lands: Stormwater Compliance	8,140,000	8,140,000
	<b>19,522,342</b>	<b>19,522,342</b>
<b>Agency of Agriculture, Food and Markets</b>		
Agriculture: Clean Water Grants and Contracts	5,347,000	5,347,000
AAFMM Operational Funds for Clean Water	375,000	375,000
	<b>5,722,000</b>	<b>5,722,000</b>
<b>Agency of Commerce and Community Development</b>		
	460,000	460,000
<b>Vermont Housing and Conservation Board</b>		
	2,750,000	3,800,000
<b>Clean Water Fund Reserve (10%)</b>		
	500,000	500,000
<b>Total</b>	<b>55,123,458</b>	<b>54,815,958</b>

## Ethics

The House Government Operations Committee is winding up its discussions of [S.8](#), a bill that would establish a State Ethics Commission as well as standards of governmental ethical conduct for certain government officers, officials, and employees. The bill largely addresses governmental ethical conduct and regulations at the state level, however there will be mandates on municipalities as well.

The version of S.8 that passed the Senate mandates that all towns in Vermont adopt conflict of interest policies by 2020. That date was delayed several years to ensure that towns have time to draft, review, vote, educate, and train local officials on new policies or ordinances.

The House Government Operations Committee discussed not only keeping these mandates but going one step further. It wants the Secretary of State's office, the newly created State Ethics Commission, or both, to track complaints of any alleged violation of governmental conduct at the municipal level. The committee believes that tracking and inventorying complaints alleged against municipal officials will give the legislature a better understanding of the types of complaints made against local officials, officers, and employees. The information compiled by the Secretary of State or State Ethics Commission would then be reviewed by the legislature, which would then determine if any further steps are needed.

The House Government Operations Committee chair wants to vote out S.8 from committee on Tuesday, April 25. The Senate may accept the proposals of amendments, but will likely ask for a conference committee to work out any differences between the two chambers.

## Act 250 Legislation

The 2017 legislative session began with the introduction of a slew of bills that would affect Act 250, including several that would transfer the siting considerations of renewable energy projects to the Act. They have all boiled down to [H.424](#), which passed the House and is now under consideration in the Senate Natural Resources and Energy Committee. That bill would create a commission titled the Commission on Act 250: the Next 50 Years.

The commission would review the vision for Act 250, which was adopted in the 1970s, to ensure that, over the next 50 years, Act 250 will continue to support Vermont's economic, environmental, and land use planning goals. The commission would also review the history and implementation of land use planning in Vermont, including municipal and regional planning. It would examine the interface between Act 250 and other current permit processes at the local and state levels.

The most recent version of the bill notes that the Natural Resources Board (NRB) has convened its own working group on Act 250. Its members are drawn from the state agencies of Commerce and Community Development and Natural Resources with assistance from Agriculture Food and Markets, and Transportation but not from the affected private sector, municipalities, or regional commissions. The NRB working group is to make recommendations by this October. The legislative commission would consider the NRB working group findings as part of its investigation of Act 250 and land use planning. The legislative commission would include three members of the House and three members of the Senate plus one legislator jointly appointed. The commission would conduct a more inclusive process than the NRB by providing for the appointment of "advisors to the commission". Those advisors would include the NRB chair; an environmental organization representative and an environmental scientist; representatives of the regional planning commissions, the Vermont Planners'

Association, and business organizations; elected local government officials, the chair of the Environmental Law Section of the Vermont Bar, the secretaries of the agencies of Natural Resources, Agriculture Food and Markets, Commerce and Community Development, Transportation; and a current or former district commissioner. The commission would report to the legislature by December 15, 2018.

H.424 includes an appropriation of \$25,000 to undertake a public discussion, professional assistance, and presentations to assist the commission in its deliberations. Even though it would address local planning issues, the commission would be made up solely of state legislators.

## Revising the PSB Process

[S.52](#) is a bill that would revise the process for the Public Service Board (PSB) and the Department of Public Service (PSD) to address issues from municipalities and citizens when considering applications to site facilities in the state. It would also address a number of other issues that affect the PSB and PSD but don't directly relate to municipalities. The bill has passed the Senate and is currently in the House Energy and Technology Committee.

The current version of the bill would provide for municipalities to hold a public hearing on a proposal and require both the applicant and a PSD representative to attend. The municipalities could also ask the department to retain experts to review the proposed facility. The PSD would then make recommendations to the PSB on the application based upon the comments and information provided at the hearing. The department would also have discretion to hire experts if it believes that action is necessary.

The bill also revises the timelines for applicants to provide copies of completed applications to municipalities, the department, and the agencies of Natural Resources and Transportation in order to provide more time for local governments and citizens to respond to the applications. The PSB would have to derive areas of inquiry from the comments made at the public hearing and address each inquiry in its Certificate of Public Good permit decision. The PSD would be required to investigate any complaints it receives about permitted facilities and be authorized to issue administrative citations for violations of permit conditions. The PSB could open its own investigation of a citation and would be the appeal route for a person who wants to contest the citation. S.52 would also change the name of the Public Service Board to Public Utilities Commission to reduce any confusion between the board and the department.

The provisions in S.52 are likely to provide some relief in terms of time and voice to municipalities seeking to participate in a PSB permitting process. While S.52 moves significantly in the right direction, the overall process will continue to be legalistic, expensive for participants, and difficult to navigate.

## VLCT Legislative Testimony

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

<u>Committee</u>	<u>Issues</u>
House Government Operations	economic development and REDIs ( <a href="#">S.135</a> ), Central Vt. Solid Waste Mgmt. District charter amendment ( <a href="#">H.241</a> ), and ethical conduct ( <a href="#">S.8</a> )
Senate Finance	PSB jurisdiction of telecommunication facilities ( <a href="#">H.50</a> )