

VLCT NEWS



A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

STRENGTHENING VERMONT LOCAL GOVERNMENT

October 2000

GUBERNATORIAL CANDIDATES VISIT TOWN FAIR

POLLINA, DWYER ANSWER QUESTIONS POSED BY MUNICIPAL OFFICIALS

Anthony Pollina, Progressive candidate for Governor and Ruth Dwyer, Republican candidate for Governor, participated in presentations at the VLCT 2000 Town Fair on September 28, 2000. Both responded to four questions posed by the VLCT Board. Governor Dean arrived too late to participate.

The standing room only audience of over 100 local officials demonstrated that municipal interest in the gubernatorial race is high. The following are the questions that were posed to the candidates and their responses.

Reducing Vermont's Property Tax.

Property taxes in Vermont continue to soar. Even after "income sensitivity" reductions, education taxes are expected to exceed one-half billion dollars for the current school year, seven percent higher than last year. Municipal property taxes account for another \$200 million plus.

What will you do to reduce Vermont's dependence on the property tax if you are elected Governor?

POLLINA: I would agree that we have a serious problem with our over-reliance on property taxes as a mechanism to fund education. I believe that Act 60 has made some serious progress towards its two primary goals – equalizing educational opportunities and reducing property tax burdens for many Vermonters. However, we continue to rely much too heavily on the property tax as a source of education funding, and what I would like us to do is to move away from our reliance on the property tax to a system that would be based more on income and real wealth. Briefly, I would not do away with the statewide property tax but would classify land at different taxation levels according to its use, similar to that done in other states. I would like to eliminate the property tax from Vermont homesteads as the funding mechanism for education and replace it with an income-based tax. It would take some time. I would not repeal Act 60. I would move toward my

plan over the next three years. I see an opportunity for some communities to use local option taxes, but not every town has that opportunity.

DWYER: I didn't vote for Act 60 because I really felt we needed to move off the property tax as a major source of funding for schools. I believe that Act 60 has increased our reliance on the property tax and has also taken away the ability at the local level to control that tax. Both those things are not good about Act 60. During the legislative debate on Act 60, I sponsored an amendment that would have explored the possibility of shifting a major portion of the property tax burden for education onto consumption taxes and asked the state government to fund its own budget at the same amount for two years in a row and to take all state revenues generated above that figure and put it into education for immediate property tax relief. I have no problem with municipal services being funded by the property tax. I do have a problem with education being significantly funded by the property tax.

Enhancing the Role of Cities and Towns in the Governance Decisions of Vermont.
In both legal structure and in practice, Vermont

(Continued on next page)

TOM LOPIZZO ENDS LONG VLCT CAREER

VLCT Group Services Director Tom LoPizzo announced his resignation this month to take a position with the Compensation Funds of New Hampshire. Compensation Funds is the organization that provides insurance programs to New Hampshire's municipalities; Tom will be the Funds' new Director of Membership Services.

Tom's departure on November 17 will leave some big shoes to fill at VLCT. Tom has worked for the League for 21 and a half years, overseeing the infancy of the Unemployment Trust and the creation of the VLCT Health Trust (1982) and the

VLCT PACIF (1987). The Unemployment Trust was just over a year old when Tom started as VLCT's Risk Assistant in 1979. When he came on board in April of that year, there were just three VLCT employees. Today that number stands at 34. Trust membership has also grown – today over 370 Vermont cities, towns, villages, fire districts and other municipal entities are a member of one or more VLCT insurance trusts. One hundred and two are members of all three organizations. Collectively, the three Trusts utilize \$26 million in municipal revenues to provide protection to

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CANDIDATES -

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local governments are not equal partners with the state. Local officials and the voters who elect them cannot make governance decisions affecting their own communities without state permission and are not allowed adequate input into decisions affecting the structure, responsibilities and roles of local government statewide. Examples of this include the requirement that town charter changes be approved by the legislature, that town voters cannot decide to use alternatives to the property tax to fund town services and are not provided adequate tools to address issues such as promoting downtown revitalization and reducing sprawl.

What will you do if elected Governor to assure that local governments are given more autonomy and are equal participants in deciding how Vermont's governmental services are provided and how they are funded? What will you do to make our state and local governments partners in governing Vermont?

POLLINA: We have to get beyond the myth of local control and local "grass roots" democracy and turn that myth into reality. We do have a strong tradition of local democracy, but I have spent enough time in the Legislature to know that sometimes it is difficult for local people to be heard. I am completely dedicated to getting beyond the myth of local democracy and really allow local folks to control their decisions. I would make sure that local planning was well funded and that the resources and expertise were there so that local decisions don't get overturned as we go up the ladder. I support "without a doubt" municipalities obtaining the ability to make more charter changes and local decisions without having to gain legislative approval all the time. I would certainly support the effort to allow local communities to make decisions locally.

DWYER: I do not have a problem with most charter changes being done at the local level rather than having to be approved by the Legislature. The caveat to that would be anything that is constitutional would not be something that I would want the towns to be able to supercede or preempt. There are certainly charter changes that have nothing to do with the Vermont constitutional law and we at this point have to vote on those in the Legislature all the time and that never made any sense to me. I would be happy to look at the statute that forces every single charter change to go through the Legislature, which I do not feel is necessary. The other two big

issues that come up are first I hear town selectboards and planning commissions say that they would like to have a lot more say over how the money is spent on their own town highway and bridge projects when the state is involved. People at the local level often are able to do something pretty inexpensively in a reasonable way using local contractors and the state will come in and by the time they're through you've got a project that costs four times what it should cost. I think we need to change the way we do our Agency of Transportation policy at the local level so that people at the local level have that opportunity to come forward with plans, get that approved and go ahead with it rather than having to jump through all the hoops that we currently have. That also segues to the role of the Agency of Natural Resources in these same projects which often conflicts with the Agency of Transportation. We shouldn't have dueling agencies. On the Act 250 level, I hear a lot at the local level that people feel that they often have things worked out locally, they've already done the homework, they're the people that are impacted by this thing that's going to happen. Then the State comes in and tells them, "no, we don't want to do what you want to do, we're going to do it differently or we're not going to allow it to be done at all." I would reform the Act 250 process so that especially small projects at the local level don't have to go up through the state chain of command. They can be decided at the local level.

Reducing the Cost of Health Care.

Vermont local governments are paying \$93 million of their property tax collections to provide their employees and their dependents with health care insurance. This year, the cost

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CANDIDATES -

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for this insurance rose by between 16% and 31%, depending on the plan in which the government participated.

If elected Governor, what will you do to reduce the cost of health care to cities, towns, school districts and their taxpayers?

POLLINA: I think we have no choice but to develop a system that guarantees that all Vermonters get the health care that they need regardless of their age, condition or whether they work. The current system does not work. It puts a burden on taxpayers. I would move toward a system that relies on a broad-based funding mechanism that guarantees all Vermonters get the health care that they need. I refer to a 1994 study that estimated that such a system could be funded through a two percent income tax surcharge and a seven percent payroll tax. I believe that we could develop a system that would provide care to all Vermonters in a way that would reduce costs for all employers, including cities, towns and school districts. This would allow us as the community of Vermont to have more control over the direction of our health care system and the choices that we make as individuals but also as a state.

DWYER: We have such high health insurance costs because we have no competition. We are down to pretty much Blue Cross or Medicaid and nothing else. I would repeal community rating and would instead fund a high-risk pool. We would allow insurers to risk rate for policy costs, and we would have a high-risk pool in place so that people who

have above-average policy costs because of pre-existing conditions or health factors would be able to get help from the State to pay that excess cost. I would repeal mandates and allow insurers to offer different types of policies to people that contain different, optional coverages and people would be able to make choices about what their policies contain.

Repairing Vermont's Local Bridges.

According to VTrans, there are 391 town-owned bridges that are classified as "structurally deficient." According to a 1998 report by the Joint Fiscal Office, Vermont had more state and local structurally deficient bridges than either New Hampshire or Maine. Repairing and maintaining our bridges is the highest transportation priority of Vermont municipal government.

If elected Governor, what will you do to increase the rate at which "structurally deficient" local bridges are repaired?

POLLINA: Fixing our roads and bridges is a priority and needs to be a priority. I believe that existing roads and bridges need the attention that they deserve before we talk about building more roads and bridges. The sooner we fix roads and bridges, the better off we are because it costs less to maintain roads and bridges and we will not have to repair or replace them. I believe that the state could play a larger role in helping to support maintenance and repair of local roads and bridges, particularly about the property tax burden. I would sit down with local officials and discuss how we shift funding responsibility to make sure that local communities get the support they need to be able to maintain their roads and bridges.

DWYER: This is a big issue. First, we need to keep transportation funds in the Transportation Fund. We need to not fund non-transportation items with transportation dollars. We need to focus the resources we have on repairing our failing bridges and we need to get the money into the hands of the people that spend this money most wisely, municipal officials.

LEAGUE BRIEFS CANDIDATES ON MUNICIPAL ISSUES

Vermont League of Cities and Towns legislative staff are writing candidate bulletins this fall to educate candidates for statewide office about municipal issues. The bulletins are being mailed to candidates for the Legislature and for state and federal office, as well as to VLCT members. They are also located in the Legislative Affairs, Candidates Bulletins section of the VLCT web site, www.vlct.org/html/issues_background.html.

Please take a moment to read the bulletins and ask those running for office about their positions on these issues. The bulletins cover:

- ♦ Law Enforcement
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- ♦ Home Rule
- ♦ Health Care Costs
- ♦ Water

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FAIR MARKET VALUE; ACT 250/TOWN PLANS; ZONING AMBIGUITIES

SALE PRICE VS. TAX ASSESSMENTS – DETERMINING FAIR MARKET VALUE

The Vermont Supreme Court has issued a ruling regarding tax assessments that all listers should review. *In re Barrett/Canfield, LLC v. City of Rutland*, Vt. No. 97-218 (May 2000) the Court held that when certain conditions exist the sale of real property should be used to determine the fair market value of the property for tax assessment purposes.

In *Barrett/Canfield*, two corporations negotiated for months over the sale of a manufacturing plant in Rutland. The negotiations resulted in the sale of the property for approximately \$1.8 million. The City of Rutland appraised the property at approximately \$4 million. The City did not place significant weight on the purchase price in appraising the property because the City was aware that the two parties exclusively negotiated over the property and that the property was never actively marketed.

At trial before the Rutland Superior Court, the taxpayer argued that an appraisal based on the purchase price should apply rather than the City's appraisal, which was more than double the contract price of the property. The Rutland Superior Court disagreed with the taxpayer, ruling that the City correctly determined that the sale price is not indicative of the fair market value of the property because the property was not actively marketed. The Vermont Supreme Court overruled the Superior Court decision and held that market exposure is not a necessary element in establishing a bona fide sale for the purposes of determining a property's fair market value.

The legal principle listers can extract from this decision is that it is not proper to dismiss a sale as indicative of a property's fair market value solely because the property was not actively marketed. Accordingly, listers do not have the discretion to ignore a recent sale of property just because the seller did not negotiate with multiple parties or market the property widely prior to completing the sale.

The decision does not mean, however, that listers must accept every sale of property as that property's fair market value. In its decision, the Court set forth the criteria for determining when the sale of real property should be used to determine the property's fair market value. These factors are as follows:

- ◆The transaction is between a willing buyer and a willing seller;
- ◆The agreement was made in good faith;

property's presumptive fair market value. If one of the criteria is not met, listers should not accept the sale price of the property as its fair market value. Each case is different and the criteria are open for interpretation. For example, it may not be clear that parties bargained in good faith. Accordingly, listers should exercise their judgement based on the criteria set forth by the Court on a case by case basis.

... listers do not have the discretion to ignore a recent sale of property just because the seller did not negotiate with multiple parties or market the property widely prior to completing the sale.

and

- ◆The sale was contemporaneous with the assessment date.

Listers should consider each of these criteria when deciding whether or not to accept the sale price of the property as that

TOWN'S INTERPRETATION OF PLAN UPHELD BY ACT 250

The District 5 Act 250 Commission recently upheld the Town of Roxbury's
(Continued on next page)

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LEGAL CORNER -

(Continued from previous page)

interpretation of its Town Plan in denying a Central Vermont Public Service Corporation (CVPS) after-the-fact application to reconstruct utility lines along Route 12A. *Central Vermont Public Service Corporation and TDS TELECOM, Inc.*, Land Use Permit Application #5W1345 (August 15, 2000). The main issue in the case involved the impact of the project on the scenic qualities of the Route 12A scenic corridor. The Town of Roxbury took the position that installing taller poles with increased infrastructure to support an upgrade from a 12.5 kv system to a 34.5 kv system would have an undue adverse impact on the scenic beauty of Route 12A and violated the town plan.

The Town, represented by the selectboard and planning commission chairs, pointed out to the Commission that its town plan:

- Recognizes Route 12A as a scenic resource;
- Establishes the goals of maintaining the rural character of Roxbury and maintaining its scenic highways; and
- Clearly states that utility poles and lines should be designed to minimize aesthetic impacts.

Based on these provisions of the town plan, the District Commission ruled that the CVPS project did not conform with the community standard for siting utility lines established by Roxbury (Act 250 criterion 8). The Commission also found that the project did not comply with the town plan (Act 250 criterion 10).

The decision is an example of how municipalities can have an impact on the outcome of an Act 250 case by adopting a clear town plan. Because the town plan clearly expressed the importance of Route 12A as a scenic resource and concern about the aesthetic of impact of utility lines, Roxbury was able to convince the District Commission that the CVPS project was not designed to fit into the surroundings of Roxbury.

INTENT AND PLAIN MEANING HELP CLARIFY ZONING AMBIGUITIES

The Vermont Supreme Court reversed a decision by the Environmental Court that a Town of Georgia zoning ordinance was so ambiguous it could not be construed as requiring a permit to convert a camp to a single family dwelling. *In re Appeal of Bernard Roy and Marjorie Gobrecht-Roy*, Vt. No. 2000-012 (September 2000).

The Town of Georgia's ordinance expressly distinguished between two types of residential uses within a lakeshore district – camps, which are permitted uses, and single family dwellings, which are conditional uses. The Town became aware that the owner of a property in this district was seeking to convert a camp to a year round single family residence. The Town informed the property owner that a conditional-use permit was required for the conversion. The property owner applied for a conditional-use permit, variance, change-of-use approval and sewer upgrades. The Town denied the applications and the property owner appealed to the Environmental Court.

The Environmental Court reversed the Town's decision on the grounds that the ordinance did not adequately distinguish between a camp and a single-family dwelling. The Environmental Court's decision was based on the fact that while the ordinance defined a camp, it did not expressly state that camps must be used for seasonal or temporary living and it did not define a single-family dwelling.

The Vermont Supreme Court confirmed the legal principles that ambiguities in regulations are to be resolved in favor of the

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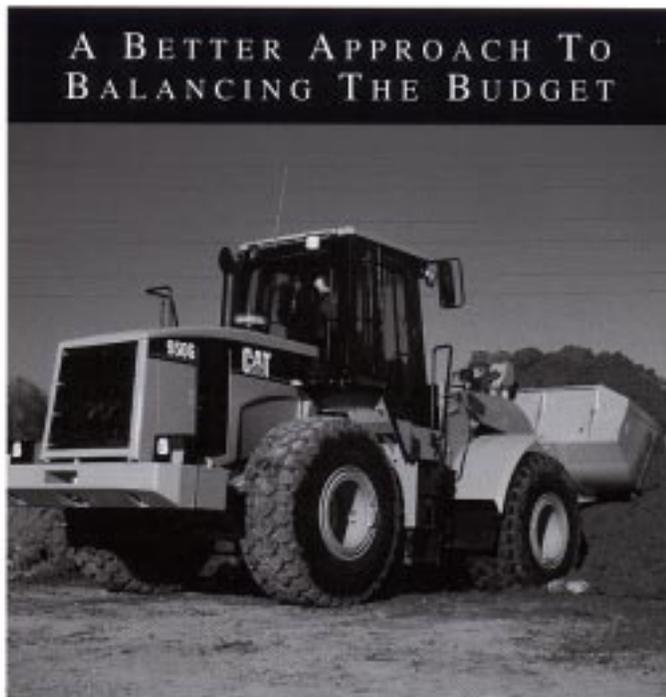
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ASK THE LEAGUE

GRIEVING PAST TAX ASSESSMENT; THE HATCH ACT & POLITICAL ACTIVITY

Can a taxpayer grieve more than the current year's tax assessment?

There is no single provision that clearly states that a taxpayer is restricted to grieving only the current year's property assessment, but that appears to be the intent of the law. In reaching this conclusion, one must consider the entire statutory scheme and specified procedural requirements.

Each year, the listers are charged with the duty of assessing the value of all properties as of April 1. 32 V.S.A. § 3651. Following this assessment, a new grand list book ("abstract") is prepared and placed in the office of the town clerk for inspection by the taxpayers. At the same time, the listers mail notices to the owners of properties that have changed in appraised value. Included is notice of the date, time and place when property owners can appear before the board of listers to grieve, should they disagree with the new assessment. 32 V.S.A. §§ 4111, 3756(d).

The change of appraisal notice only applies to *the current year's* property value as listed in the newly prepared grand list. It does not apply to the assessment of the property for any other year. Because this represents a change from the prior year's assessment, the law provides landowners with the opportunity to contest the assessment *each year*, using the statutory grievance process.

Further support for this interpretation is found in the statutory process for filing grievances. The law sets deadlines by which grievances must be filed and heard by the board of listers (unless otherwise provided by municipal charter). 32 V.S.A. §§ 4111, 4341. A person who files a grievance and is unhappy with the decision of the listers may then appeal that decision to the Board of Civil Authority. 32 V.S.A. § 4404. However, if the taxpayer *does not* grieve first to the board of listers, the deadlines for doing so expire and the grand list is lodged and certified by the listers and selectboard. Under this legal remedy, the taxpayer loses his or her opportunity to grieve for that tax year altogether.

There is no right to grieve tax assessments *retroactively*. 32 V.S.A. §§ 4155-4157.

While not authorized to grieve past years' assessments, other remedies are available to taxpayers. The property owner *may be* eligible to seek relief under the tax abatement process (provided he or she can meet the abatement criteria in 32 V.S.A. § 1535). Taxpayers may also apply to the listers and selectboard for correction of an obvious error or omission in the grand list. 32 V.S.A. § 4261.

A recent newspaper article stated that a police officer in Winooski is prohibited by the Hatch Act from running for a seat in the state House of Representatives. Does the federal Hatch Act apply to state and local employees?

The Hatch Act is a federal law that restricts the political activity of certain employees of federal, state, county or municipal executive agencies. 5 U.S.C. § 7321-7326 and 5 U.S.C. § 1501-1508. An employee covered by the Hatch Act cannot use his or her authority to influence elections, make campaign contributions, or run for office.

Title 5 Section 1501 of the United States Code addresses state and local employees covered by the Hatch Act. According to this provision of the United States Code, individuals principally employed by state, county or municipal executive agencies *in connection with programs financed in whole or in part by loans or grants made by the United States or a*

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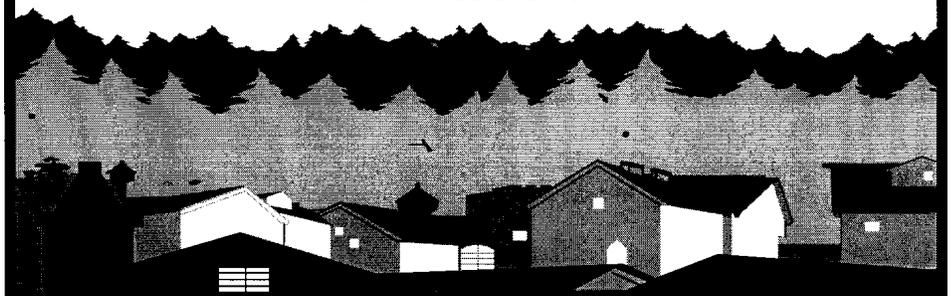
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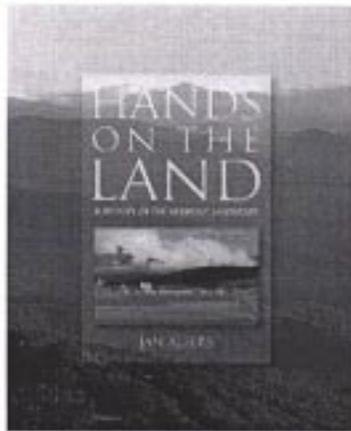
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LEGAL CORNER -

(Continued from Page Five)

property owner and that it must uphold the trial court's construction of zoning regulations unless it is clearly erroneous, arbitrary, or capricious. Notwithstanding these stringent standards, the Court held that the Environmental Court's interpretation of the Town's zoning ordinance was "hypertechnical" and "clearly erroneous."

Specifically, the Court pointed out that, when interpreting zoning regulations, the purpose is to implement the legislative intent of the ordinance and words in the ordinance are to be given their plain and ordinary meaning. The Court concluded that the ordinance tracked the common understanding that camps are to be used for seasonal or temporary living. Accordingly, the legislative intent of the ordinance is clear and unambiguous - structures that are to be used year round in the lakeshore district require a conditional-use permit.

One lesson to be learned from this decision is that ordinances that convey the clear intent of the local legislative body will be upheld even if each element of the ordinance is not defined in detail. While towns should be as clear as possible when writing ordinances, if challenged, the courts must look to the legislative intent and plain meaning of the ordinance before dismissing the ordinance based on a technicality.

MUNICIPAL ATTORNEYS -

ARE YOU WORKING ON AN INTERESTING CASE?

The VLCT Municipal Law Center would like to hear from attorneys around Vermont who are representing municipalities. If you are working on a case that you think would be interesting to other municipal attorneys, please let us know by sending us a copy of the filings and/or decision in the case, or by just calling us to fill us in on the issues.

While Vermont Supreme Court cases are readily available and constitute the definitive word on state law, lower court cases can also be useful if shared amongst municipal attorneys. We'd like to be able to help your colleagues avoid "reinventing the wheel" when they are working on an issue, so keep us posted on your work. Thank you!

ASK THE LEAGUE -

(Continued from Page Six)

federal agency fall under the Hatch Act.

Accordingly, the short answer is that the Hatch Act does apply to certain municipal employees. However, several requirements must be met for the Hatch Act to take effect for a local employee.

First, the employee must be "principally" employed by the executive branch of a municipality. This requirement has been interpreted to mean "that employment to which an individual devotes the most time, and from which he derives the most income." *Smyth v. U.S. Civil Service Commission*, 291 F. Supp. 568 (E.D.Wis 1968). Accordingly, if an employee works 25 hours for the public works department and 30 hours as a private computer consultant, and the employee earns more money as a computer consultant, the Hatch Act probably does not apply.

Second, the employee's responsibilities must be connected with federally funded programs. This provision has been interpreted to mean that if "as a normal and foreseeable incident of his principal position or job" an employee "performs duties in connection with an activity financed in whole or in part by federal funds," that employee is subject to the

Hatch Act. *Special Counsel v. Gallagher*, 44 M.S.P.R. 57 (1990). Thus, a municipal employee who works on programs or projects that receive any federal funds may fall under the Hatch Act.

Municipal employees covered by the Hatch Act are prohibited from being a candidate in any election where any of the candidates in the race are representing a political party. 5 U.S.C. § 1503. Accordingly, the Hatch Act prohibits covered municipal employees from running for the state house of representatives or senate. However, a covered municipal employee could seek a local elective office as long as no candidate seeking the office is representing a political party.

Finally, school board members and teachers are not subject to the Hatch Act. The federal law specifically exempts individuals employed by "an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof ..." 5 U.S.C. § 1503(4)(B). This exemption clearly includes teachers and other school employees. School board members appear to be covered under this exemption as well. However, because school board members are really volunteers, they probably do not qualify as employees under the Hatch Act.

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LOSS PREVENTION NOTES

A monthly column by the VLCT Property and Casualty Intermunicipal Fund (PACIF)



IS YOUR MUNICIPALITY RECEIVING ALL THE MONEY IT SHOULD?

When dealing with insurance related losses, is your municipality recovering the money it should? Vermont League of Cities and Towns Property and Casualty Intermunicipal Fund (VLCT PACIF) can help!

When property that is owned by a PACIF member and is listed for coverage becomes damaged, PACIF will make payment for the damages less the deductible. If this property damage was a result of the actions of a third party and if that third party has been identified, PACIF will then attempt to recover the amount of those damages, including the deductible, for our members. This process is called subrogation and is a common practice among all insurance companies, self-insurance

pools and funds. However, PACIF takes this process one step further.

Often property that is not typically covered by insurance, such as guardrails or trees, becomes damaged. Although PACIF is not able to make payment for these damages, we will still attempt to recover the damages from the responsible third party or their insurance carrier. PACIF knows our members are busy and may not have the time to make repeated calls or write the numerous letters often necessary to receive payment for these damages.

In addition to subrogation, PACIF will assist our members in recovering money through the Vermont Victim Assistance

Program if the member was a victim of a crime. A victim is defined as one who sustains physical, emotional or financial injury as a result of a crime or act. Examples are: a police cruiser is struck by an individual who is arrested for DUI, or a building is broken into and property is stolen. One purpose of the Vermont Victim Assistance Program is to reduce the financial consequences of the crime to the victim. The process is simple. Victims are sent a victim impact statement, which helps the judge decide what the defendant may have to pay the victim for damages because of the crime. This payment is called restitution. Although it is not a requirement that this statement be completed, without it, restitution may not be ordered. When completing the statement, include the cost of the damaged or stolen property and attach copies of bills or other proof of damages.

(Continued on next page)

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MONEY -

(Continued from previous page)

Often the property that was damaged or stolen was covered by PACIF and payment was made to our members. The impact statement requests only damages that were not paid for by insurance because insurance companies are not entitled to restitution. However, PACIF is not considered an insurance company. PACIF is a non-profit intermunicipal fund and therefore restitution is permitted. Since this is the case, we ask our members to forward correspondence they receive from the Vermont Victim Assistance Program to our office. PACIF will attempt to recover not only the damages paid to our member, but also our member's deductible.

NOTE: The Vermont Victim Assistance Program is administered by the Vermont Center for Crime Victim Services. This Center can help VLCT PACIF member law enforcement agencies better serve their citizens and meet statutory requirements for agencies to assist victims of crimes. (13 V.S.A. § 5314) Training is available to law enforcement agencies through a project called Victim Services 2000. This program is part of the basic training for new recruits at the Vermont Police Academy, and is also good towards the required training hours for officers. For more information, call Suzanne Gruending at 802/879-5604.

If you have any questions regarding subrogation or restitution, or would like more information about VLCT PACIF, feel free to contact the claim staff at 800/649-7915.

VLCT ACTIVITIES REPORT AVAILABLE

VLCT is preparing its 2000 Activities Report for mailing to municipal auditors, clerks and treasurers. The Activities Report is made available for municipalities to include in their town reports if they wish.

The League provides the report so voters can learn about how VLCT membership benefits their municipality. We hope an informed voter will be one who supports the VLCT dues item in the municipal budget!

The 2000 Activities Report should reach your municipality by mail in late October or early November. It will also be available on diskette, via e-mail or from the VLCT web site (www.vlct.org, go to the What's New section on the home page).

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VLCT UNVEILS *POLICE POLICIES AND PROCEDURES MANUAL*

We are pleased to announce the availability of the *Model Adult and Juvenile Police Policies and Procedures Manual* to Vermont police departments. The development of this extensive manual was made possible by funding from the Vermont Children and Family Council's Juvenile Justice Delinquency Prevention Program. VLCT contracted with Pietro J. Lynn, Esq. to create the model policies, which he wrote after extensive research. Sources for the *Manual* include the International Association of Chiefs of Police, Vermont Rules of Criminal Procedure, Vermont Statutes Annotated for Juvenile Procedures and many other publications dealing with law enforcement policy issues.

The manual provides 32 sample police policies and procedures including arrest and citation procedures, evidence control policy, search and seizure, and use of force. Included in the *Manual* is a thorough policy on juvenile enforcement and custody, and every sample policy makes specific reference to how juveniles should be handled.

The *Manual* is available as a hard copy in a three-ring binder with the 32 sample policies separated by tabs. This format should make updating the manual very simple. VLCT will also provide the manual on disk, to allow departments to customize it for the benefit of their agency. **The cost for the hard copy manual is \$15.00 and \$10.00 for the disk.** Please call VLCT at 800/649-7915 to place an order.

PACIF ANNUAL RENEWALS IN THE MAIL

A fall rite of passage here at VLCT is the mailing of the huge stack of renewal packets to the cities, towns, villages and other local government entities that are VLCT PACIF members.

This year 228 packets were mailed in early October. They contain applications for municipalities to fill out to renew their property and casualty insurance through VLCT PACIF. **The renewal applications are due back at the VLCT office on November 9, 2000.**

Also included in the packets are property and vehicle lists and a workers' compensation payroll estimate sheet. It is important that local officials take the time to review these documents to make sure that they accurately list the municipal property and payroll obligations covered by VLCT PACIF. This year the packet also contains a questionnaire seeking information for the Public Risk Database Project. VLCT PACIF has agreed to participate in a demonstration for the Project, which is collecting data for a national claims database. When complete, the database will be useful to municipalities seeking to compare, for instance, their accident rate per mile of paved roads to other municipalities across the country. Claims trouble spots will be more apparent when using the comparative data provided by the Project.

Thank you for your cooperation in returning the renewals by November 9. Please call the VLCT office if you have any questions about your PACIF renewal.

LOPIZZO - (Continued from Page One)

municipalities and their employees.

Vergilio Bonacorsi, former Barre Mayor and member of the VLCT Unemployment Trust Board since its inception, spoke for all VLCT staff, Trust Board members and municipal officials and employees Tom served over the years when he said, "Tom's hard work, skills and personal qualities were instrumental in the development and success of the Trusts. His heart and soul are in these organizations and will remain, even as he goes on to new challenges. We will miss him tremendously."

The League will begin recruiting for a new Director of Group Services later this month. Dave Sichel, Deputy Director of Group Services, will assume the position of Acting Director of Group Services until the position is filled permanently.

We at VLCT will greatly miss Tom's easy-going manner, his concern for the well-being of his co-workers and VLCT members, and, perhaps most of all, his penchant for stirring up spirited lunchroom political debates. Goodbye Tom, and good luck!

VLCT MUNICIPAL CLERK FEE POSTER

The VLCT Municipal Law Center distributed an updated Municipal Clerk Fee schedule to all VLCT members in July. A reprint of the poster, correcting several errors, is now available at no cost to VLCT members and can be picked up at the Municipal Officers Management Seminars (MOMS). Please stop by the VLCT Municipal Law Center booth at the MOMS and pick up your new Municipal Clerk Fee schedule.



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VLCT Co-SPONSORS TEACHERS' SEMINAR

PROJECT CITIZEN BRINGS CIVICS TO THE CLASSROOM

The Vermont League of Cities and Towns and the Vermont chapter of We The People ... Project Citizen recently offered a seminar on local government to central Vermont middle school teachers. The seminar, "Growing Student Citizens," represented the first time that VLCT met directly with teachers to discuss how the obligations of citizenship and local government service might be presented in the classroom.

We The People... Project Citizen is funded in part by the U.S. Department of Education and is administered by the Center for Civic Education and the National Conference of State Legislators. In Vermont, Bill Haines, a teacher recently retired from Montpelier High School and chair of the Worcester selectboard, is the face of Project Citizen. The focus of the Project Citizen curriculum is local government and it is also highly interactive, both attributes that make a VLCT connection attractive.

On September 22, nine teachers attended the seminar (Rock Point School; Northfield Middle School; U-32 High School; Milton Junior High School; Lamoille Union Middle School; Stowe Middle School; and Twinfield Union School). Montpelier City Manager Bill Fraser and Governor Howard Dean came to kick off the day and participate in discussions about government at the local level, voting, campaigns, elections, Act 60 and health care. It was an exceptional conversation for a sitting governor on the campaign trail to have with a small group of teachers!

In the classroom, Project Citizen helps students develop an agenda of items affecting local government and then devise a plan to solve the problems identified. Ideally, students present their solutions to the local selectboard or planning commission with the hope that the solutions might be implemented. Along the way, students develop portfolios reflecting their activities which are sent to a state and then to a national competition in Washington, DC.

VLCT staff discussed the difference between a "public policy" and a "public issue." That took some thinking! Black's Law Dictionary defines a public policy as "principles and standards regarded by the legislature or by the courts as being of fundamental concern to the state and the whole of society." The basic standard for a policy is that "a person should

not be allowed to do anything that would tend to injure the public at large." Upon reflection, that is the standard that underpins most local regulation, be it animal control, police protection, environmental protection or land use regulation. Workshop participants talked about how students might select a fundamental concern and then which issues they might use to address the concern.

At lunch teachers met with Steve Jeffrey, VLCT Executive Director, and staff of the Vermont Legislative Council to learn about resources that might be available to them as

they implement the Project Citizen curriculum in Vermont.

Throughout the day, participation was enthusiastic and the ideas flew fast and thick around the room. Because Project Citizen was involved, teachers actually received a stipend for attending the workshop as well as text books and pay for substitute teachers while they were gone. VLCT and Project Citizen expect to offer a similar workshop to all Vermont middle school teachers in the next year with the hopes that the subjects of citizenship, serving in the public arena, and responsibilities as members of a democratic society will creep back into Vermont's secondary school curriculum. Do not be surprised if a student calls you and asks to make a presentation to your board! Please take the time to hear them out. They may have a fabulous new idea! And, hopefully, they'll join you on the board in a few years!



Governor Howard Dean spoke last month to teachers and local officials gathered for a workshop on local government. VLCT and We the People ... Project Citizen sponsored the workshop, and hope to offer it to middle school teachers around the state next year.

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TOWN FAIR 2000

SUCCESSFUL RETURN TO ONE-DAY FORMAT DRAWS OVER 800 PARTICIPANTS

VLCT ANNUAL MEETING: FUNDING EDUCATION AND HEALTH CARE

2001 MUNICIPAL POLICY

No one could accuse local official delegates to the 2000 VLCT Annual Business Meeting of shirking the important issues. Like the voters in this election year, they were concerned with how Vermont taxpayers can continue to pay for rising education and health care costs. Topics that were debated and decided upon included a new VLCT position on education finance (see related story) and support for specific proposals to contain the rising cost of health insurance.

This year, 92 cities and towns designated voting delegates to attend and participate in the development of the *2001 Municipal Policy* and to elect VLCT's new leadership slate. Debate was energetic and informed, with some very close votes deciding what issues VLCT will pursue when the 2001 Legislature convenes.

VLCT members approved a legislative platform that calls on the state to stop mandating health benefit coverages that drive the cost of health insurance up. It also calls on the state to begin to fund its commitments made to provide health benefits through Medicaid. Without adequate funding, providers shift the costs they aren't reimbursed for to those who have insurance, driving up those costs. Lastly, it calls on the Legislature to "seriously consider" the effects that a universal health care system would have on the costs and quality of health care.

Members also adopted positions on a myriad of other topics in the areas of transportation, public safety and environmental quality.

2000-2001 VLCT BOARD OF DIRECTORS

Due to a vacancy in the position of Vice-president created this summer when **John Hall** of St. Johnsbury left to run for State Auditor, President **Peter Clavelle**, Mayor of Burlington, agreed to run for a second one-

(Continued on next page)

VLCT WEIGHS IN ON COMING EDUCATION FINANCE DEBATE

The three leading candidates for Governor have proposed making changes to our education funding system. Proposals range from what some would call "tinkering" to repeal and replacement with tax sources ranging from an income tax to a gross receipts tax.

Given this election year momentum, it is likely that education financing will again emerge as a major topic in the 2001 legislative agenda. At the 2000 Annual Business Meeting at Town Fair last month, VLCT members

(Continued on next page)

AND THE WINNER IS ... TOWN FAIR PLOW RALLY, AWARDS AND RAFFLE RESULTS

Plow Rally

1st Place - **Town of Duxbury**

David Quenneville

Skip Smith

Also winners of the Homer Sabourin Safety Award

2nd Place - **Town of Dover**

Danny Brown

Bob Holland

3rd Place - **Town of Ludlow**

Dave Norton

Ronald Tarbell

Highway Persons of the Year

Wayne Kathan -

Warren - Towns under 2500

Jeffrey Williams -

(Town Unknown) - Towns between 2500 and 6000

Municipal Person of the Year

John Hall

Manager, St. Johnsbury (resigned)

Town Government Award

Stephan Morse

President, Windham Foundation, Grafton

Town Citizenship Award

Graham Govoni, Esq.

Morristown Rescue Squad; Chair, Hyde

Park Development Review Board

Lifetime Achievement Awards

Betty Wheeler

Manager, Middlebury (resigned)

Theodor Friedman

Selectperson, Winhall (resigned)

Raffle Winners

Each raffle was worth \$100 to the winner! Thank you to the raffle sponsors Blue Cross Blue Shield of Vermont, William M. Mercer, Inc., Jon-Jay Associ-

ates, and Delta Dental Plan of Vermont.

Mitch Berkowitz, Manager, Colchester

Jon Scott, Zoning Administrator, Enosburg Falls

Dennis Roberts, Road Crew, Derby Line Village

Susan Hill, Clerk/Treasurer, Essex Junction Village

Wayne Gifford, Road Crew, Killington

Cynthia Flannigan, Assistant Clerk/Treasurer, Topsham

Gail Fallar, Clerk/Treasurer, Tinmouth

Pat Dodge, Lister,

Weathersfield
Sylvia Tosi, Clerk, East Montpelier
Ray Belair, Zoning Administrator, South Burlington





TOWN FAIR 2000

EDUCATION FUNDING -

(Continued from previous page)

adopted a new policy guiding the Board of Directors and staff through this debate. *Our major objective is to assure that any education finance system used results in a substantially reduced role for property tax funding.*

The position adopted sets forth “the principles and goals that Vermont municipal officials believe should be used by the legislature when evaluating and considering changes to our state and local tax system and educa-

tion funding structure.” In addition to calling for the substantial reduction in property tax reliance, these principles and goals include:

- ♦ Stronger community decision-making, including the ability to make decisions on the nature and level of educational spending and local taxation.
- ♦ A state and local tax structure and education finance system that is based on the taxpayer’s ability to pay and the local government’s ability to collect taxes. Specifically, VLCT supports the use of broad-based state tax revenues to equalize and lessen the tax burden on individuals and communities with limited resources.
- ♦ Protecting Vermont’s vulnerable state and local economies.
- ♦ Keeping it simple.
- ♦ Partnership and cooperation between state and local government. The members stressed their hope that changes made will be the result of a cooperative and inclusive process involving all the parties significantly affected.



The VLCT Annual Meeting drew over 100 people to debate and vote on the League’s legislative platform for the 2001 Legislature.

ANNUAL MEETING -

(Continued from previous page)

year term. He was elected VLCT President for 2001, the third time he has been so elected - Peter also served as President in 1978 when he was the Town Manager in Castleton and City Manager in Winooski. The new VLCT Vice-president is **William Shepeluk**, Municipal Manager of Waterbury. Current board members reelected to another term include **Jane Chadwick**, selectperson from

Dover (appointed to a board vacancy just this spring); **William Finger**, who recently moved from being the Town Manager in Shelburne to assuming the same position in Middlebury; **Larry Kempton**, selectperson from Franklin and newly-appointed Town Administrator in Highgate; and **Susan Spaulding**, Town Manager of Chester. Newly elected to the Board was **Stephen Willbanks**, selectperson from Strafford.

After the elections, VLCT staff and the Board will begin meeting with the Governor-elect and potential legislative leaders to craft specific proposals. VLCT is also meeting with representatives of school organizations to determine whether a cooperative effort among the local government organizations is possible and productive. We will keep you posted.



The third annual Municipal Officials’ Golf Outing attracted 82 golfers the afternoon before Town Fair. Mother Nature provided a perfect fall day at the Green Mountain National Golf Course.

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JUDICIAL BUREAU REVERSES POLICY ON OVERWEIGHT VEHICLE FINES

A municipality that enforces state overweight vehicle laws on town highways may now keep the fines imposed in such cases by the Vermont Judicial Bureau. Previously, the Judicial Bureau retained the fines for state use, even though the municipality did the work of enforcing the laws.

The Vermont Judicial Bureau changed its policy after being contacted by the VLCT Municipal Law Center. VLCT Staff Attorney Elizabeth Turner wrote to the Bureau last month to ask that it reconsider its interpretation of the overweight vehicle enforcement statutes. Law Center staff felt that the Bureau's position (that a town must have a local overweight vehicle ordinance in place in order to keep the fines) was based on an incorrect reading of 23 V.S.A. § 1391a(d).

Turner wrote, "when describing how the fine monies shall be distributed, Subsection (d) quite clearly specifies that in the case of town highways and town enforcement, the money ... goes to the town." On the issue of local weight limit ordinances, she added, "the absence of a requirement for an ordinance in 23 V.S.A. § 1391a implies that the Legislature did not intend that municipalities must adopt a weight limit ordinance in order to collect the fine monies for enforcement under 23 V.S.A. § 1391a." Turner also pointed out that there is no statutory authority in Vermont for municipal governments to adopt local weight limit ordinances.

The Bureau now will remit the fine money to the enforcing municipality, less the per case \$6.00 administrative charge specified in § 1391a(d). Good work, VLCT Law Center!

PERMITTING REMINDER UNDERGROUND STORAGE TANKS AT WASTEWATER TREATMENT FACILITIES

The Vermont Agency of Natural Resources (ANR) recently notified all municipal wastewater treatment plants of registration and permitting requirements for their underground storage tanks.

Tanks that contain oil or diesel for heating a wastewater treatment facility do not need to be registered or permitted. However, if the oil or diesel fuel in those tanks is used for any other purpose (for example, operating the heat exchanger for the anaerobic digester) they are required to have a permit. Underground tanks that store heating oil, gasoline or diesel fuel that is used to run emergency generators must be also be permitted. Finally, those underground tanks that are used to store non-petroleum chemicals, such as alum or sodium hypochlorite, need permits as well.

Permitted tanks must have corrosion protection and overflow and spill prevention devices, among other requirements. If your municipality has an underground gasoline or diesel tank at its highway garage, you should already be familiar with these requirements. If you have questions, contact June Middleton at ANR, tel., 802/241-3871.

CONGRATULATIONS! 1999 TOWN REPORT WINNERS

The results of the University of Vermont Extension Service's annual Town Report contest are out, and the League is delighted to add to kudos already given. *Congratulations to the winners and thanks for a job well done!*

Over time, town reports have become much more than a simple financial balance sheet of local government's income and expenditures. Today's town report is a detailed chronicle of each year's challenges, successes and failures. Most importantly, it provides a historic record of the citizens that are unique to each Vermont community.

Creating an exemplary town report is not easy. It takes creativity, hard work and time. Copies of the award-winning 1999 reports will be on display at the 23rd Annual Municipal Officers' Management Seminars held around the state from October 17th – November 1st. We hope to see you there.

1999 Town Report Winners, Judged Summer 2000

Outstanding	Morristown	Merit	Hartford	South Hero
Dover	Newbury	Addison	Hartland	Stockbridge
Montpelier City	North Hero	Braintree	Highgate	Sudbury
Newfane	Pittsfield	Bridport	Leicester	Swanton Town
Springfield	Pittsford	Burlington	Middlebury	Wheelock
Stowe	Poultney	Calais	Middlesex	Worcester
Strafford	Putney	Cavendish	Panton	
Washington	Richmond	Charlotte	Peacham	
	Town	Chelsea	Plainfield	
Excellent	Starksboro	Cornwall	Pomfret	
Barre City	Tinmouth	Coventry	Reading	
Brandon	Townshend	Dummerston	Richford Town	
East Montpelier	Tunbridge	Elmore	Ripton	
Grafton	Westford	Enosburg Falls Village	St. Albans City	
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Huntington		Fayston	Shelburne	
Manchester		Grand Isle		

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Solid Waste Supervisor. Hartford, Vermont, a growing community located in the Upper Connecticut River Valley, seeks qualified, enthusiastic applicants for this leadership position managing a comprehensive Solid Waste Management Complex, including a recycling facility, a municipal solid waste transfer area, an education center, a household hazardous waste center and a construction and demolition debris collection and processing area. Demonstrated knowledge of and experience in solid waste operation and administration with a minimum of seven years of relevant technical and supervisory experience. The successful candidate will possess excellent written and interpersonal communication abilities. This position requires a highly motivated individual working directly with the day-to-day operations of the facility. Any combination of education and experience demonstrating the above knowledge and skills will be considered. Outstanding benefits

package and minimum starting salary of \$14.88/hr. Cover letter, resume and three references to Michael Lavalla, Director of Public Works, address below. Also seeking part-time **Recycling Attendant.** Valid driver's license is required. High school education and basic reading, writing and math skills are necessary. Ability to perform some heavy lifting and to work outside in a variety of conditions. Availability on Mondays and Saturdays is required. Applications and information may be obtained at the Public Works Office at the Town of Hartford Municipal Building, 171 Bridge Street, White River Jct., VT 05001. Tel., 802/295-3622, fax, 802/295-6382, web, www.hartford-vt.org, e-mail, mlavalla@hartford-vt.org. EOE.

Highway Foreman. The Town of St. Albans seeks candidates for the position of Town Highway Foreman. The Highway Foreman is responsible for planning, schedul-

ing and implementing highway construction projects, maintenance and repair of highway and public works-related activities. The Highway Foreman works under the general supervision of the Town Administrator and the policies and procedures as set forth by the Board of Selectmen. Applicants must be a high school graduate or equivalent, with two additional years of education in a technical school and/or seven years of practical experience in the planning, construction or maintenance of public works. A current CDL is required. Interested persons may obtain a job description by contacting the Town Administrator's Office at 802/527-8346. Resumes with at least three letters of reference may be forwarded to: Town of St. Albans, Att: Town Administrator, P.O. Box 37, St. Albans Bay, VT 05481 or may be submitted to the town clerk's office during business hours. Deadline to apply is November 15, 2000. Salary is commensurate with education and/or experience.

Calendar

Cell Phone Tower Placement and Design. Monday, October 30, 2000, Martin Memorial Hall, Ascutney. This evening workshop, sponsored by the Connecticut River Watershed Council, is designed for local officials and citizens who are dealing with proposals to build towers in their communities. A panel of experienced state and local officials with backgrounds in planning, historic preservation and state law will make a presentation and answer questions. For more information, contact David Deen, 802/869-2792, www.ctriver.org.

Community Planning Tools for Vermont. Wednesday, November 1, 2000, Capitol Plaza Hotel, Montpelier. The UVM Center for Rural Studies and several regional planning commissions will sponsor this half-day conference on two newly developed GIS-based mapping tools. For more information, contact sholmber@zoo.uvm.edu or call 802/656-4277.

West Nile Virus - An Interdisciplinary

Panel Discussion. Wednesday, November 1, 2000, Carpenter Auditorium, University of Vermont, Burlington. This morning panel discussion is designed for public policy staff, health officials and citizens concerned with the effects of West Nile Virus on the public and the environment. To register, call the University of Vermont Division of Continuing Education, 802/656-2088, or e-mail profprog@zoo.uvm.edu.

Special Topics in Planning and Zoning. Thursday, November 9, 2000, Suzanna's Restaurant, Lague Inn, Berlin. Sponsored by the VLCT Municipal Law Center, this annual workshop will focus this year on the tools available to municipalities to deal with the impacts of development. Sessions will include regulating stormwater, building caps, sewer allocation, impact fees, planned residential and planned unit development, and high elevation development. For more information, call VLCT at 800/649-7915 or e-mail info@vlct.org.



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