

2023 Weekly Legislative Report

#3

This week, legislative committees spent their time hearing introductions from agencies about their areas of jurisdiction, agency leadership and legislative contacts, and priorities for 2023. Think of it as State Government 101. Katie Buckley, VLCT's Federal Funding Assistance Program Director, [gave a presentation](#) on the American Rescue Plan Act (ARPA)'s direct aid to local governments. And H.42, which would extend temporary alternative procedures for annual municipal meetings and electronic meetings of public bodies, was discussed in committees. While the bill made progress, **VLCT is certain it will not make it through the legislative process and on to the Governor's desk before the temporary law sunsets this Sunday, January 15. Therefore, all municipal public bodies must revert to the "normal" Open Meeting Laws in 1 V.S.A. §§ 310–314 and hold all meetings in either a hybrid format or fully in-person. Until further notice, please conduct and notice all meetings accordingly.**

[Governor Presents His Budget](#)

On Thursday, January 20 at 1:00 PM, Governor Scott will deliver his budget address to a legislative Joint Assembly.

This budget address will flesh out the priorities that the governor outlined in his inaugural address around housing, mental health, broadband, and building professional capacity in rural communities that will allow them to access grant opportunities. The Budget Adjustment Act, which would amend the adopted state budget for the current fiscal year, is already under consideration in the House Appropriations Committee.

On Thursday, the Rural Caucus composed a statement supporting the governor's focus on rural and underserved communities and his recommendations for the Budget Adjustment Act. The administration is proposing \$3M to provide Vermont's rural communities with technical assistance in applying for and utilizing available ARPA funds.

[Introductions and Committee Orientations](#)

This week, legislative committees spent their time hearing introductions from agencies about their areas of jurisdiction, agency leadership and legislative contacts, and priorities for 2023. Think of it as State Government 101.

As well, the House and Senate Government Operations Committees invited your advocacy staff to introduce VLCT to the committee and testify on the Open Meeting and Town Meeting bill that the House Government Operations Committee voted out on Wednesday (see associated article in this report). We provided the committees with the VLCT Municipal Priorities, linked below, and urged members to contact us with any questions or concerns.

In a first that we can remember, the Ways and Means Committee held an introductory meeting on Municipal Revenue on Wednesday. Staff from Legislative Counsel, the Joint Fiscal Office (the latter being somewhat new to municipal finance), and the Tax Department provided information about whence municipalities derive their revenues and how they are constrained from exercising any authority not granted to them by the legislature. In his introductory remarks, Legislative Counsel stated that the Vermont courts have determined that Vermont is a pure Dillon's Rule state. According to [*Principles of Home Rule for the Twenty-First Century*](#), "today, a few states – Alabama, Delaware, Indiana, Kentucky, Mississippi, Nevada, North Carolina, Vermont, and Virginia – have constitutions that do not directly delegate (or direct their legislatures to delegate) police power to local governments, leaving the scope of local authority to their state legislatures." In other words, those are the purest Dillon's Rule states.

The conversation proved enlightening to legislators who may not have previously considered why all but 25 local governments have access to only one tax revenue source, the property tax, and how that limits municipal capacity to deliver services to local constituents. In fact, towns and cities never have the financial or professional means they need to accomplish all the work that the legislature has assigned to them or that their constituents demand. We hope to continue the conversation about providing resources to local governments with the Ways and Means Committee and other committees in the coming weeks.

Following that general orientation, Katie Buckley, VLCT's Federal Funding Assistance Program Director, [gave a presentation on the American Rescue Plan Act](#) (ARPA)'s direct aid to local governments. She thanked members for their funding to set up the VLCT Federal Funding Assistance Program and discussed how support from the program is helping towns

to implement projects. At the same time, the availability of ARPA aid throws into relief the limitations of those communities that do not have the resources to organize for meaningful change, potentially to spend ARPA dollars within the federally required timeframes, or to take advantage of federal programs to help frame and complete priority projects. There will be much more discussion of these issues as the legislature proceeds and the Rural Caucus, in particular, shines a light on the unique needs of smaller towns in more rural areas.

Resources for this article:

[VLCT Municipal Priorities](#)

[Joint Fiscal Office Municipal Revenue Sources](#)

[Joint Fiscal Office – Municipal Fiscal Support](#)

[Remote Meetings and Town Meeting Day 2023](#)

On Wednesday, the House Government Operations and Military Affairs Committee unanimously voted out a bill to extend temporary laws adopted during the COVID-19 pandemic to allow for fully remote meetings of public bodies and allow local legislative bodies to make temporary adjustments to Town Meeting Day processes and procedures. Representatives from the Regional Planning Commissions and the Vermont Municipal Clerks' and Treasurers' Association as well as VLCT Advocacy staff testified in favor of the proposed legislation. As sponsored by the committee, [H.42](#) proposes extending several temporary provisions until July 1, 2024.

Remote Meetings

A major VLCT legislative priority this legislative session is to amend the Open Meeting Law and make fully remote meeting options a long-term, voluntary option for public bodies. These temporary laws adopted during the COVID-19 pandemic have allowed all state, regional, and local public bodies – of which there are thousands – to meet safely and remotely when warranted. However, this Sunday, January 15, 2023, this temporary law will sunset. Over the past three years, state agencies, departments, and local governmental entities have used

remote meetings, leading to increased public participation and access, increased transparency, and safer and more flexible meeting options. Remote meetings have allowed members of public bodies and members of the public to attend meetings during flu season and COVID variant outbreaks and to attend meetings held in regions of the state far from home. They have also allowed people to hold meetings and keep quorums during inclement weather, while recovering from illness, or simply when childcare and eldercare duties prevented in-person attendance. Vermonters have grown accustomed to remote meetings via Zoom, Microsoft Teams, and other platforms.

The House Government Operations and Military Affairs Committee leadership expressed willingness to extend remote meetings temporarily until next year, but a permanent amendment to the Open Meeting Law will require a much deeper dive into the law with robust testimony and legislative review. In the interest of time, a temporary extension was deemed appropriate this year, and therefore VLCT supports the legislation and looks forward to continuing these discussions next year in the second year of the biennium.

Town Meeting Day

In recent weeks, VLCT also heard from a number of selectboards requesting that temporary COVID-19 adjustments to the Town Meeting Day and annual meeting processes and procedures – provided in [Act 77](#) and [Act 79](#) – be extended beyond 2023. The temporary laws sunset in 2022, and the legislature needs to renew temporary provisions to provide any flexibility to towns and cities as they plan their 2023 annual meetings. VLCT supports extending the provisions in these acts to again:

- allow local legislative bodies to move to Australian ballot voting for those communities traditionally voting from the floor,
- allow local legislative bodies to move the date of Annual Town Meeting, and
- authorize selectboards to hold the informational hearing in preparation for Town Meeting remotely.

VLCT Advocacy staff testified in support of these temporary provisions and also stated that local legislative bodies and local voters need to have serious discussions on whether a permanent move to Australian ballot voting is appropriate. Continued extension of this authority beyond 2024 will not be helpful in most instances, and voters should choose whether to exercise this authority permanently as set forth in § 17 V.S.A. 2680(a). VLCT would welcome discussing whether to permanently amend statute next year to allow towns and cities to move the date of Town Meeting Day beyond the strict date requirements in § 17 V.S.A. 2640 and supports allowing informational hearings preceding Town Meeting Day to be held remotely. These accommodations are not currently permitted under § 17 V.S.A. 2680(h).

Crucial Timing Details

VLCT is very appreciative of the committee's leadership and voting H.42 out of committee in an expedited manner. The House Ways and Means Committee amended a provision of the bill that does not relate to municipal government, and the bill will head to the House floor early next week, then to the Senate, and lastly to the Governor for signature. VLCT Advocacy Staff will testify next Wednesday to the Senate Government Operations Committee in support of the bill. **The bill will not make it through the legislative process and on to the Governor's desk before the temporary law sunsets this Sunday, January 15. Therefore, all municipal public bodies must revert to the "normal" Open Meeting Laws in 1 V.S.A. §§ 310 – 314 and hold all meetings in either a hybrid format or fully in-person. Until further notice, please conduct and notice all meetings accordingly.**

VLCT hopes Senate leadership will expedite the passage of H.42 and forward it to the Governor for final approval so remote meetings can resume in short order. This year, the first day for legislative bodies to warn the town meeting (40 days before town meeting) falls on January 26 for towns that hold Town Meeting on the first Tuesday in March. VLCT is optimistic that H.42 will become law before this date, creating less disruption to the Town Meeting preparation and warning process.

Please continue to let your legislators know you support these temporary, voluntary provisions of law, and briefly explain how they may benefit your town or city directly. And as always, thank legislators for their support and prioritizing passage of this bill so early in the session.

[Broadband Progress In Vermont](#)

The new Environment and Energy Committee has been hearing from agencies, departments, and boards all week regarding the extensive subject areas over which the committee has jurisdiction. Testimony came from the Agency of Natural Resources (ANR) and its departments, the Department of Public Safety, Vermont Community Broadband Board, Vermont Communications Union District Association, and, on Friday morning, the Natural Resources Board (Act 250). Many of the subjects, such as Act 250 and ANR permits, significantly affect local governments. One stands out in terms of the effort and funding that has been dedicated to its deployment – broadband.

Legislative Counsel provided a comprehensive orientation to the subject, including what the term “broadband” covers – the transmission of wide bandwidth data over a high-speed internet connection, not dial-up – the goal of universal connection in Vermont, the timeline of initiatives, and emerging issues as Vermont connects more addresses.

The goal is to provide access to broadband capable of at least 100/100 Mbps to every E-911 business and residential location in Vermont by the end of 2024. To date, 18.6 percent of addresses (58,314 locations) lack access to 25/3 Mbps, and 69.7 percent of addresses (218,272 locations) lack access to 100/100 Mbps. Does your address fall into one of those categories?

In 2021, Vermont invested \$150 million in American Rescue Plan Act (ARPA) funds in broadband, and in 2022 followed that up with an additional \$95 million. Legislation also facilitated both the creation of eight communications union districts, whose membership totals 188 towns, and their efforts to extend broadband service throughout Vermont.

One of the issues highlighted in the presentation is that the Public Utility Commission’s authority to consider applications for certificates of public good for interconnected telecommunications facilities will expire on July 1, 2023, and thereafter authority for land use related permitting would be at the municipal level.

[Bills of Interest to Municipalities](#)

Number Summary

**Current
Location**

<u>H.29</u>	Would expand jurisdiction under the existing Vermont Flood Hazard Area and River Corridor Rule to all development within a flood hazard area or mapped river corridor.	H. Environment & Energy
<u>H.30</u>	Would establish as State policy that wetlands shall be regulated and managed by the State to produce a net gain of wetlands acreage.	H. Environment & Energy
<u>H. 31</u>	Would establish a moratorium on the issuance of an aquatic nuisance control permit by the Secretary of Natural Resources authorizing use of pesticides, chemicals other than pesticides, or biological controls until one year after completion of an assessment by a study committee	H. Environment & Energy
<u>H.36</u>	Would exempt small municipalities from the requirement in 24 V.S.A. § 4382 for the municipal plan to include forest blocks and habitat connectors on the municipal land use plan map.	H. Environment & Energy
<u>H.39</u>	Would create a local revenue distribution working group to study and propose a new structure for the State to distribute revenues to municipalities, considering the differential between the ability of municipalities to raise funds locally, including any existing local option taxes; the tax base represented by the municipal grand list; and the local tax rates.	H. Ways & Means
<u>H.42</u>	Would extend temporary alternative procedures for annual municipal meetings and electronic meetings of public bodies.	H. Ways & Means
<u>H.44</u>	Would allow towns with a population of 2,400 or fewer to vote to establish a local option tax. Those towns would receive, after reduction for the costs of administration, a percent of the local option tax revenue collected within the town's jurisdiction.	H. Ways & Means
<u>H.46</u>	Would approve dissolution of Colchester Fire District No. 3 and transfer of its assets and liabilities to the Champlain Water District as voted March 29, 2022.	H. Government Operations and Military Affairs

<u>H.47</u>	Would require all solar panel installers to have an approved recycling plan for the solar panels and give the Public Utility Commission authority to approve recycling plans.	H. Environment & Energy
<u>H.48</u>	Would 1. establish a Landfill Siting Commission to evaluate a new site for the location of a landfill; 2. establish the Vermont Materials Management Council to assist the Secretary of Natural Resources in long-term management of solid waste in the State; 3. ban from landfill disposal in the State landfill leachate, septage, or sludge generated by a facility without a certification from the Secretary of Natural Resources or lacks approval from the Secretary of Natural Resources for disposal at a landfill; 4. establish a Landfill Closure and Planning Account in the Waste Management Assistance Fund to close existing landfills, plan for new landfills, and remediate contamination caused by landfills in the State. The Landfill Closure and Planning Account would be funded by increases on the tax on solid waste facilities and an increase on the tax on hazardous waste.	H. Environment & Energy
<u>H.49</u>	Would require the State Treasurer to establish a statewide voluntary retirement system for voluntary firefighters not eligible to join the Vermont State Employees' Retirement System or the Vermont Municipal Employees' Retirement System.	H. Government Operations and Military Affairs
<u>S.4</u>	Would amend laws to reduce crimes of violence associated with juveniles and dangerous weapons, establish a grant program for communities suffering from increased violence associated with illegal drug use, gang activity, or human trafficking to obtain financial assistance to support community outreach and intervention, violence prevention, and reducing demand for illegal drugs.	S. Judiciary
<u>S.5</u>	Would establish the Clean Heat Standard to reduce Vermont's greenhouse gas emissions from the thermal sector.	S. Natural Resources and Energy

[S.12](#)

Would permit employees to elect a collective bargaining representative through card check elections.

S. Economic
Development
Housing &
General Affairs

[Contributors](#)

The *Weekly Legislative Report* is authored by

Karen Horn, VLCT Public Policy & Advocacy Director

Gwynn Zakov, VLCT Municipal Policy Advocate

Editing and proofreading provided by

Ione L. Minot, Content Specialist