



# WEEKLY LEGISLATIVE REPORT

January 17, 2014

## Inside This Issue

- 2 [Proposed Transportation Budget](#)
- 3 [Education Funding Symposium](#)
- 4 [Economic Development](#)
- 5 [Local Govt. Bills in Gov Ops](#)
- 6 [Fee Bill](#)
- 6 [Misc. Tax Bill](#)
- 7 [Cell Phone Use](#)

The *Weekly Legislative Report*, a publication of the Vermont League of Cities & Towns, is published each Friday during Vermont's legislative session.

### VLCT

89 Main Street, Suite 4  
Montpelier, VT 05602-2948

Tel. .... 802-229-9111  
Fax ..... 802-229-2211  
Email ..... [info@vlct.org](mailto:info@vlct.org)  
Website ..... [www.vlct.org](http://www.vlct.org)

Follow VLCT Advocacy on



**Steven E. Jeffrey**

Executive Director

**Karen B. Horn**

Director, Public Policy & Advocacy

**Jonathan Williams**

Associate, Advocacy & Information

**David Gunn**, Editor

To contact your legislator, call the Sergeant-at-Arms at 800-322-5616, fax 802-828-2424, or access the legislative website at [www.leg.state.vt.us](http://www.leg.state.vt.us) for legislators' email addresses.

## Governor Covers All the Bases in Budget Address

In stark contrast to his State of the State speech – in which he limited his comments to the one topic of attacking Vermont's opiate addiction problem – the Governor seemed to have something for everyone in his budget address, which he presented on Wednesday. Two of the first issues he addressed concerned local school spending. First, he announced that if the legislature sends him *“the universal pre-kindergarten bill that passed the House last spring, we will help give all of our kids a strong start.”* Just previous to that statement, he said that the state had obtained a \$37 million grant that might be used to fund at least part of this new mandate in the start-up years. After that, there is no source of funding to provide education to a significant additional number of children, with the default falling on the property tax.

Next, he used his bully pulpit to try to jawbone school boards and voters to constrain school spending. *“There have been reports of significant school budget increases proposed in communities large and small across our state. We all understand the tremendous value we receive from investing in our kids. None of us, however, can afford higher spending and higher property taxes year after year, while our overall student population continues to decline. I urge Vermonters at town meetings across our state this year to carefully scrutinize school budgets that increase per pupil spending and grow faster than our incomes. Look hard to see if you can achieve savings for better outcomes at a lower cost. Remember, you have the power to determine your school budgets, but you can't make a difference if you don't participate.”*

He touted a \$9.5 million growth in the sales tax going to the Education Fund. Part of that tax is to make up for the elimination of the Vermont Yankee Education Tax that the legislature repealed; the rest was natural growth in the amount dedicated to the Education Fund. (State property taxes are projected to increase by over \$61 million based on the current funding formula.)

He said it was time to address the fact that the state has never provided a revenue source to pay for health insurance offered through the state's teacher retirement system, which now costs the retirement plan \$28 million a year and is growing. Though he mentioned a \$2.5 million amount in the budget for this, it will take *“working in partnership to find a responsible fix this session.”* VLCT is very concerned that that “partnership” will require a substantial amount of additional state property taxes. More on that topic next week.

Buried deep in the Governor's proposal – which he says does not include broad-based tax increases – is a proposal to increase the state tax on every claim submitted for payment by health insurance by 80 percent. This is projected to cost employers who pay for their employees' health insurance and individuals purchasing health insurance on their own \$14 million. This also pretty much assures that health

insurance rates next year will rise by almost a full percent as the insurers try to recoup this cost.

The Governor made much of an increase in transportation funding, though little of it will trickle down to municipal roads and bridges, as described in greater detail in the article below.

VLCT will be following the budget debates closely to ensure that municipalities and property taxpayers receive as much help as possible. Next week's *Report* will include our traditional spreadsheet showing the line items of interest to municipal officials.

Contact Steve Jeffrey at 1-800-649-7915 or [sjeffrey@vlct.org](mailto:sjeffrey@vlct.org)

## The FY15 Transportation Budget as Proposed

The FY15 Transportation budget, which the Governor presented to the legislature on Wednesday, is the largest in Vermont history. It totals \$685,679,659, an increase of almost \$33 million, or 5 percent, over the FY14 Transportation budget.

In the early stages of the Governor's budget speech, things sounded good for municipalities, with a \$16.5 million (18 percent) increase to Town Highway Program funds. However, the Town Highway Program portion of the budget really works out to be almost level-funded. The Town Highway Public Assistance Grants line item is the only Town Highway item in the transportation budget containing an increase in dollars –\$19.4 million more than last year, totaling \$48,630,222. Almost all of that money (\$45 million) is federal and tied to Federal Emergency Management Agency (FEMA) projects. According to the Agency of Transportation (VTTrans), much of it is not highway related: \$10 million is allocated to state facilities. Most of the other Town Highway Program funds have been level-funded.

Transportation Budget Town Highway Comparison				
	FY2014 As Passed	FY2015 Governor Recommend	Dollar Change Increase/Decrease	% Change Increase/Decrease
Town Hwy Bridges	\$16,566,597	\$16,482,361	(\$84,236)	-0.5%
Town Hwy Structures	\$6,333,500	\$6,333,500	0	0.0%
Town Hwy Class 2 Roadway Program	\$7,248,750	\$7,248,750	0	0.0%
Town Hwy Nonfederal Disasters	\$1,150,000	\$1,150,000	0	0.0%
Town Hwy Federal Disasters	\$3,600,000	\$1,140,000	(\$2,160,000)	-60.0%
Town Hwy Aid Program	\$25,982,744	\$25,982,744	0	0.0%
Town Hwy Class 1 Supplemental Grants	\$128,750	\$128,750	0	0.0%
Town Hwy Vermont Local Roads	\$400,000	\$400,000	0	0.0%
Municipal Mitigation Grant Program	\$1,551,000	\$871,500	(\$679,500)	-43.8%
Town Hwy Public Assistance Grants	\$29,235,250	\$38,630,222*	\$9,394,972	32%
Total Town Highway Programs	\$92,196,591	\$98,667,827	\$6,471,236	7%
* Does not include the \$10 million allocated for state facilities.				

The Governor's proposed budget allocates fewer dollars to Town Highway Bridges (a 0.5 percent decrease from last year), Town Highway Federal Disasters (almost \$2.2 million, or a 60 percent decrease),



and the Municipal Mitigation Grant Program (a 43.8 percent decrease totaling \$679,500). Except for the \$10 million to state facilities, the breakdown of how Public Assistance funds are being utilized is still unclear. How this money is allocated will determine whether or not the overall Town Highway budget has increased or decreased. In testimony to the Senate Transportation Committee this past week, VTTrans officials admitted that the Transportation budget is not the most appropriate location for the Public Assistance line item in the overall Governor's budget proposal.

VLCT staff will continue to strongly advocate for increases to Town Highway Programs (having already testified to that effect this past week). Our *Reports* will only include the Public Assistance Grants as part of our estimations for Town Highway program funds to the extent that we are sure they are dedicated to local projects. Support for local transportation is needed now more than ever, especially when increased costs to implement road and bridge standards and new stormwater management/erosion control permits are possible. These standards and permits are tied to the Lake Champlain Total Maximum Daily Load that the U.S. Environmental Protection Agency will impose, which will cap the amount of phosphorus allowed to enter Lake Champlain.

Contact Jonathan Williams at 1-800-649-7915 or [jwilliams@vlct.org](mailto:jwilliams@vlct.org)

### **Education Funding Symposium Yields No Easy Solutions**

If there was a phrase that was used more than “everyone has to have skin in the game” at the Education Finance Symposium sponsored by the administration and legislature at St. Michael's College on Tuesday, it was “there are no silver bullets” in the battle to develop an education funding system that accomplishes what everyone wants of such a system. More than one hundred interested parties gathered to listen to seven academics from across the nation who specialized in state education financing systems critique Acts 60/68. The participants then broke up into groups of about thirty to brainstorm the problems of our current structure (if any) and, if there were problems, what were the solutions.

Despite the attempts of the two academics assigned to each group to steer the participants toward constructive consensus, the size of the groups and their composition of strident advocates for education excellence, for equity of educational opportunity, for equity of tax burden, for local control and/or for controlling government expenses and taxes made the task impossible, at least in the eyes of this participant. The groups then reconvened *en masse* to hear the facilitators recap the discussions. One academic who has previously studied Acts 60/68 for the legislature ([http://picusodden.com/wp-content/uploads/2013/09/VT\\_Finance\\_Study\\_1-18-2012.pdf](http://picusodden.com/wp-content/uploads/2013/09/VT_Finance_Study_1-18-2012.pdf)) with assistance from conference participants, will prepare a final briefing paper for the legislature and the administration. This paper will likely be available no later than January 30 – just in time to inform legislative debate on school funding issues.

Though the chorus calling for major changes to Acts 60/68 and/or the governance of our schools is growing, the prevailing sentiment in halls of the State House so far this session is that, although there may be some tinkering, wholesale change is unlikely this year. The following factors are creating stiff resistance to significant changes:

- It is the second year of the biennium.
- Voters seem to be calling for a short legislative session and there are competing issues to address.
- It is an election year.
- There is no extra state money to cushion the “losers” under any new funding scheme.
- There is concern among advocates for the current system that any changes will reduce the equality of opportunity and the level of local control.
- There are no “silver bullet” solutions ready to take off the shelf.

If the 2014 legislative session is to be the one to find the cure to prevent a \$61.6 million increase (6.4 percent) in school property taxes this year to pay for a 3.8 percent increase in school spending when the number of students to educate is dropping another 0.6 percent and when the consumer price index only rose 1.5 percent in 2013, the voters will have to let their legislators know that they can't come home without it.

Contact Steve Jeffrey at 1-800-649-7915 or [sjeffrey@vlct.org](mailto:sjeffrey@vlct.org)

## Designated Downtowns, Growth Centers, and Economic Development

Act 59, passed last year, directed the Department of Housing and Community Development to (1) consider modifying the process of designating certain areas for tax and other incentives to encourage growth in which the state believes development should occur; (2) address the unique circumstances of different municipalities and how to include municipalities of all sizes and growth pressures in the designation programs; (3) provide additional incentives for every designation program; and (4) integrate industrial parks, rural development, and protection of natural resources into the programs. The commissioner of the department convened several stakeholder working groups last summer on the land use topics of agriculture, natural resources, industrial parks, municipalities hosting growth centers and more to generate ideas for legislative changes.

The commissioner presented a summary of the almost finished Act 59 report to the House Commerce Committee week. The summary focused on the most frequently raised issues. At the same time, the newly-minted Commissioner of Economic Development addressed the committee, outlining a Comprehensive Economic Development Strategy (CEDS) funded by the federal government that was launched last summer in Rutland and in which many local officials participated.

As part of the Act 59 process, two needs were identified in all of the working groups: comprehensive and accessible statewide data and information sets and stepped up education and outreach efforts with built in customer service check-ins to ensure the outreach is effective.

Five recommendations were most frequently offered for improving the designation programs:

1. Increase the amount of downtown tax credits available for designated Downtown and Village Centers;
2. Increase funding to the Municipal Planning Grant program;
3. Accelerate state permitting and/or lower fees within designated areas;
4. Create incentives for industrial uses within designated growth centers; and,
5. Modify the triggers for Act 250 in designated Neighborhood Development Areas.

Recommendations for agricultural enterprises along with natural resource protection were broader in scope and far ranging:

- Retain Agency of Agriculture, Food and Markets jurisdiction over farming exemptions, but continue the discussion on how new farm-based agricultural enterprises fit into the definition of farming used in land use permitting.
- Protect large contiguous blocks of farmland and promote the farm economy to ensure farms remain profitable businesses.
- Explore options to address concerns that small small-scale development is fragmenting large forest blocks and critical wildlife habitat.

The CEDS process identified seven key themes:

- 
1. workforce and education;
  2. business environment;
  3. access to capital and financing;
  4. physical infrastructure including antiquated water and sewer systems and lack of access to housing;
  5. social infrastructure, including schools and health care systems;
  6. success in turning innovation into businesses; and
  7. working landscape and tourism.

The next task is to decide how to address these issues, whether by correcting deficiencies or promoting assets. According to the commissioner, stakeholders will reconvene for a “next steps” meeting later this month. Let’s hope that stakeholders include local government officials. And look for many of these proposals to be incorporated in this session’s legislation.

Contact Karen Horn at 1-800-649-7915 or [khorn@vlct.org](mailto:khorn@vlct.org).

## Government Operations Committees Receive Local Government Bills

On Wednesday, the House Government Operations Committee heard from sponsors of several bills that would affect local government. Committee members may decide to hear more testimony on any one of them later in the session.

**H.558** would regulate height, density, loading facilities, traffic, noise, and similar aspects of structures such as churches, schools, state- or community-owned institutions, hospitals, and regional solid waste facilities pursuant to 24 V.S.A. § 4413. It would also enable municipalities to regulate their signs. VLCT will support this bill.

**H. 585** would end the option a municipality has today to contract with the State Police to provide police services. A number of municipalities currently rely on State Police to provide policing services and several of them are in rural parts of Vermont. Providing adequate police services to municipalities around the state is complicated, and we are concerned about the impact of this bill if it were enacted.

**H.587** would repeal the statute, initially enacted in 1880, that allows a selectboard, upon petition, and following a quasi-judicial process, to lay out a right of way across the lands of any person if “necessary for the practical removal of lumber, wood or other material.” That section of law was recently used twice in the Town of Moretown. In the second instance, the selectboard determined that the right of way was not necessary. The petitioner then took the board to court, which has so far resulted in attorney fees of \$4,000. Inquiries VLCT staff have made to towns indicate that the statute is rarely invoked. We are considering recommending that the ability to lay out lumber roads continue, but that selectboards be allowed to delegate their authority to the Commissioner of Forests, Parks and Recreation to make the determination if they so choose.

**H.602** would clearly establish that if a town so ordered, three members of an advisory budget committee could be elected by ballot. Two additional members would be appointed by the selectboard. This bill is purely enabling and we support it.

**S.168**, introduced late last year, is in the Senate Government Operations Committee. It would amend a number of problematic or inconsistent but not controversial sections of statutes that regulate municipal actions. For instance, the bill would clarify that selectboards are not responsible for maintaining Class 4 roads or for maintaining any structure within the Class 4 right of way. It would also make clear that constables may enforce civil municipal ordinances and that a town may require that an assigned 911 address be posted so as to be visible from the road. VLCT supports S.168 and we continue to gather

ideas for additional amendments that would clarify the laws under which municipal officials operate.

If any of these bills is taken up, VLCT staff will follow it. Please contact us with any comments you have on these proposals.

Contact Karen Horn at 1-800-649-7915 or [khorn@vlct.org](mailto:khorn@vlct.org).

## Fee Bill

The Administration unveiled its fee bill this past week. This is the bill that authorizes all fees that the state charges for any purpose. This year, that includes fees for such obscure line items as beehive location reports and archeological storage boxes. Agencies are on a three-year cycle – that is, every three years they must request any fee increases ... or, less frequently, decreases or even eliminations – that they believe are necessary to sustain programs. The three-year cycle is not an ironclad rule but is generally observed in the fee bill. The bill has not yet been assigned a number because it will be formally introduced by the House Ways and Means Committee as a committee bill later in the session.

This year, the Department of Taxes has a few fee proposals. The filing fee for the Current Use Program would rise from \$30 to \$70 to cover the state's cost to review those applications. Property tax appeal filing fees would increase from \$70 to \$120 to partially offset the administration's estimated \$170 cost of appeals. This is the first time the department has estimated the cost of appeals. That fee was last changed in 2006.

There is a placeholder for a firearms storage fee, which would be charged for the storage of firearms that are given up per a court order as part of a court case (frequently a domestic violence case). The fee would be used to repay loans from the Department of Public Safety to build secure spaces. Thursday's testimony on this section before the Ways and Means Committee included a number of local law enforcement agencies.

No fee is proposed for implementing the Lake Champlain Cleanup Plan, which will cost millions of dollars (as noted in [Weekly Legislative Reports 1 and 2](#)). Proposals in other bills, such as H.586, will also be eventually heard in Ways and Means.

That committee will thoroughly scrutinize the bill before recommending it to the full House for its action. The process will then be repeated in the Senate.

Contact Karen Horn at 1-800-649-7915 or [khorn@vlct.org](mailto:khorn@vlct.org).

## Miscellaneous Tax Bill Includes Items of Municipal Interest

Each year, the Department of Taxes prepares a draft bill that includes all sorts of little (and not so little) proposals of amendments to state tax law and presents it to the House Ways and Means Committee. On Thursday, the tax commissioner presented an overview of this year's versions. Documents related to the draft bill are posted at <http://www2.leg.state.vt.us/legdir/committeefinfo.cfm?CommitteeID=202> under "Miscellaneous Tax Bill."

Issues of interest to municipalities include:

- Providing the department a little latitude within its lister and assessor training program as far as designating levels of achievement within the profession.
- Replacing an amendment passed last year that exempted two specific municipally-owned properties located in another municipality with the option for the voters of the host community to decide whether to exempt it from the municipal tax.

- 
- Changing the time period towns have to petition the director of the Division of Property Valuation and Review for a redetermination of their equalized education property valuation from “30 days after the receipt by its clerk” to “35 days after mailing” the notice of original value.
  - Extending from September 1 to October 15 the deadline to file the homestead declaration for state property taxation. (More on this issue later.)
  - Clarifying that the issuance of a corrected tax bill due to the late filing of the homestead declaration (or other state forms) doesn’t give property tax payers any additional time to pay their tax bills past the original due date.
  - Mandating that all solar energy plants are exempt from state and municipal property taxes. Instead, plants with name plate generation capacity of 150 kilowatts (kW) will pay a state tax of eight dollars per kW plant capacity. The tax department is supposed to send 50 percent of the tax generated to the municipality, with the balance being deposited in the state education fund. More on this issue later, but we believe this will take away the authority of municipalities to tax (or exempt) solar generators and is projected to cost the education fund at least \$122,000 a year with similar losses on the municipal side.
  - Increasing the health care claims tax from .999 percent to 1.79 percent. (See budget article on page 1.)

We will determine our position on these issues shortly and keep you apprised of the bill’s progress.

Contact Steve Jeffrey at 1-800-649-7915 or [sjeffrey@vlct.org](mailto:sjeffrey@vlct.org)

### **House Judiciary Presented with Bill to Ban Cell Phone Use in Cars**

The House Judiciary Committee this week took testimony on H.62, a bill that would prohibit the handheld use of any portable electronic device, such as a cell phone, while driving. The bill amends and expands portions of existing state statute, which already prohibits the use of cell phones by minors while operating a motor vehicle, the act of texting while driving, or of using a portable electronic device while driving in a highway work zone. H. 62 would allow hands-free use of cell phones and provide for law enforcement and emergency services personnel to use them in emergency situations.

According to the Governor’s Highway Safety Administration, 12 U.S. states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands prohibit all drivers from using hand-held cell phones while driving. The 2014 VLCT Municipal Policy endorses banning voice communication with a handheld electronic device while operating a motor vehicle for all drivers. It also supports making such violations of the ban a primary offense.

Contact Jonathan Williams at 1-800-649-7915 or [jwilliams@vlct.org](mailto:jwilliams@vlct.org)

BILL NUMBER	NEW BILLS SUMMARY	CURRENT LOCATION
H.578	Would authorize the state to enter into an agreement with an independent financial institution to administer funds from the Vermont Wastewater and Potable Water Revolving Loan Fund for the purpose of making loans to individuals to replace failed wastewater systems or potable water supplies.	House Commerce and Economic Development
H.584	Would replace 24 V.S.A. chapter 53, subchapter 3, regarding municipal authority for parking lots and meters with more general authority for municipal control over parking lots and meters and discretion to use the revenues for any municipal purpose.	House Government Operations
H.585	Would prohibit the creation and renewal of State Police contracts with municipalities to provide police services.	House Government Operations
H.586	Would enact measures to remediate and preserve the waters of the state, including (1) excluding livestock by fencing from entering state waters; (2) requiring the Secretary of Agriculture, Food and Markets to adopt rules regulating manure spreading; (3) requiring farmers and custom applicators to complete annual water quality training; and (4) establishing a Water Resources Preservation Program to fund activities or projects to improve water quality, prevent or repair flood damage, and provide reasonable assurance for implementation of Total Maximum Daily Load plans. (See related articles in <i>Weekly Legislative Reports</i> 1 and 2.)	House Fish, Wildlife and Water Resources
H.587	Would to repeal 19 V.S.A. § 958, which allows a selectboard, upon petition and after following a quasi-judicial process, to lay out a right-of-way through the lands of any person <i>if necessary</i> for the practical removal of lumber, wood, or other material.	House Government Operations
H.590	Would require the owners of dams in Vermont annually to register the dam with the Department of Environmental Conservation (DEC). Would establish a process by which DEC may designate a dam as abandoned and attach a lien on the property on which the abandoned dam is located. Would move jurisdiction to the Public Service Board of any dam subject to an application to provide renewable energy.	House Fish, Wildlife and Water Resources
H.600	Would establish a Clean Water Legacy Fund to support activities that improve the water quality of the waters of the state. Would establish a Working Group on Water Quality Funding to review and recommend to the General Assembly a stable, reliable, and equitable source of financing to support actions that improve the quality of the state's surface waters.	House Fish, Wildlife and Water Resources
H.601	Would appropriate \$100,000 from the General Fund to the Petroleum Cleanup Fund to help the owners of aboveground storage tanks clean up a spill from a tank or to close, replace, or upgrade an aboveground storage tank.	House Fish, Wildlife and Water Resources
H.602	Would enable a municipality to elect and appoint members to a budget committee at its annual meeting.	House Government Operations
H.603	Would clarify the status, after July 1, 2015, of town highways and trails that do not appear on a town highway map but are clearly observable by physical evidence, and define the phrase "clearly observable by physical evidence."	House Transportation
H.604	Would require that net metering credits apply only to energy usage charges and not to the customer charge or energy efficiency charge billed by the electric company.	House Natural Resources & Energy
H.606	Would reduce the current use benefit for landowners who do not make their land available for "recreational uses".	House Natural Resources & Energy
H.612	Would increase the civil penalties for violations of the Gas Pipeline Safety Program relating to the safe transport of gas through gas pipeline facilities.	House Commerce and Economic Development