

No. 130. An act relating to miscellaneous amendments to municipal law.

(H.856)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Municipal Elections and Appointments * * *

Sec. 1. 17 V.S.A. § 2651a is amended to read:

§ 2651a. CONSTABLES; APPOINTMENT; REMOVAL

(a)(1) A town may vote by Australian ballot at an annual meeting to authorize the ~~selectmen~~ selectboard to appoint a first constable, and if needed a second constable, in which case at least a first constable shall be appointed.

(2) A constable so appointed may be removed by the ~~selectmen~~ selectboard for just cause after notice and hearing.

(3) When a town votes to authorize the ~~selectmen~~ selectboard to appoint constables, the ~~selectmen's~~ selectboard's authority to make such appointments shall remain in effect until the town rescinds that authority by the majority vote of the ~~legal~~ registered voters present and voting at an annual meeting, duly warned for that purpose.

(b) Notwithstanding the provisions of subsection (a) to the contrary, a vote to authorize the ~~selectmen~~ selectboard to appoint constables shall become effective only upon a two-thirds vote of those present and voting, if a written protest against the authorization is filed with the ~~legislative body~~ selectboard at least 15 days before the vote by at least five percent of the voters of the ~~municipality~~ town.

(c) The authority to authorize the selectboard to appoint the constable as provided in this section shall extend to all towns except those that have a charter that specifically provides for the election or appointment of the office of constable.

Sec. 2. 17 V.S.A. § 2651b is amended to read:

§ 2651b. ELIMINATION OF OFFICE OF AUDITOR; APPOINTMENT OF
PUBLIC ACCOUNTANT

(a)(1) A town may vote by ballot at an annual meeting to eliminate the office of town auditor.

(2)(A) If a town votes to eliminate the office of town auditor, the selectboard shall contract with a public accountant, licensed in this State, to perform an annual financial audit of all funds of the town except the funds audited pursuant to 16 V.S.A. § 323.

(B) Unless otherwise provided by law, the selectboard shall provide for all other ~~auditor~~ auditor's duties to be performed.

(3) A vote to eliminate the office of town auditor shall remain in effect until rescinded by majority vote of the ~~legal~~ registered voters present and voting, by ballot, at an annual meeting duly warned for that purpose.

(b) The term of office of any auditor in office on the date a town votes to eliminate that office shall expire on the 45th day after such vote or on the date upon which the selectboard enters into a contract with a public accountant under this section, whichever occurs first.

(c) The authority to vote to eliminate the office of town auditor as provided in this section shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of town auditor.

Sec. 3. 17 V.S.A. § 2651c is amended to read:

§ 2651c. LACK OF ELECTED LISTER; APPOINTMENT OF LISTER;
ELIMINATION OF OFFICE

(a)(1) Notwithstanding any other provisions of law to the contrary and except as provided in subsection (b) of this section, in the event the board of listers of a ~~municipality~~ town falls below a majority and the selectboard is unable to find a person or persons to appoint as a lister or listers under the provisions of 24 V.S.A. § 963, the selectboard may appoint an assessor to perform the duties of a lister as set forth in Title 32 V.S.A. chapter 121, subchapter 2 until the next annual meeting.

(2) The appointed person need not be a resident of the ~~municipality~~ town and shall have the same powers and be subject to the same duties and penalties as a duly elected lister for the ~~municipality~~ town.

(b)(1) A town may vote by ballot at an annual meeting to eliminate the office of lister.

(2)(A) If a town votes to eliminate the office of lister, the selectboard shall contract with or employ a professionally qualified assessor, who need not be a resident of the town.

(B) The assessor shall have the same powers, discharge the same duties, proceed in the discharge thereof in the same manner, and be subject to the same liabilities as are prescribed for listers or the board of listers under the provisions of Title 32.

~~(2)~~(3) A vote to eliminate the office of lister shall remain in effect until rescinded by majority vote of the ~~legal~~ registered voters present and voting at an annual meeting warned for that purpose.

~~(3)~~(c) The term of office of any lister in office on the date a town votes to eliminate that office shall expire on the 45th day after the vote or on the date upon which the selectboard appoints an assessor under this subsection, whichever occurs first.

~~(4)~~(d) The authority to vote to eliminate the office of lister as provided in this ~~subsection~~ section shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of lister.

Sec. 4. 17 V.S.A. § 2651d is amended to read:

§ 2651d. COLLECTOR OF DELINQUENT TAXES; APPOINTMENT;

REMOVAL

(a)(1) A municipality may vote at an annual or special municipal meeting to authorize the legislative body to appoint a collector of delinquent taxes, who may be the municipal treasurer.

(2) A collector of delinquent taxes so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) When a municipality votes to authorize the legislative body to appoint a collector of delinquent taxes, the legislative body's authority to make such appointment shall remain in effect until the municipality rescinds that authority by the majority vote of the ~~legal~~ registered voters present and voting at an annual or special meeting, duly warned for that purpose.

Sec. 5. 17 V.S.A. § 2651e is amended to read:

§ 2651e. MUNICIPAL CLERK; APPOINTMENT; REMOVAL

(a)(1) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal clerk.

(2) A municipal clerk so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the municipal clerk shall remain in effect until rescinded by the majority vote of the ~~legal~~ registered voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a municipal clerk in office on the date a municipality votes to allow the legislative body to appoint a municipal clerk shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a municipal clerk under this section, whichever

occurs first, unless a petition for reconsideration or rescission is filed in accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the municipal clerk as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal clerk.

Sec. 6. 17 V.S.A. § 2651f is amended to read:

§ 2651f. MUNICIPAL TREASURER; APPOINTMENT; REMOVAL

(a)(1) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal treasurer.

(2) A treasurer so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the treasurer shall remain in effect until rescinded by the majority vote of the ~~legal~~ registered voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a treasurer in office on the date a municipality votes to allow the legislative body to appoint a treasurer shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a treasurer under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed in accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the treasurer as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal treasurer.

* * * Local Incompatible Offices * * *

Sec. 7. 17 V.S.A. § 2647 is amended to read:

§ 2647. INCOMPATIBLE OFFICES

(a)(1) An auditor shall not be town clerk, town treasurer, selectboard member, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, cemetery commissioner, or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of official duties be eligible to hold office as auditor.

(2) A selectboard member or school director shall not be first constable, collector of taxes, town treasurer, assistant town treasurer, auditor, or town agent. A selectboard member shall not be lister or assessor.

(3) A cemetery commissioner or library trustee shall not be town treasurer, assistant town treasurer, or auditor.

(4) A town manager shall not hold any elective office in ~~the~~ that town or town school district.

(5) Election officers at local elections shall be disqualified as provided in section 2456 of this title.

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* * * Smoking on Municipal Grounds * * *

Sec. 8. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

(a) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited in:

(1) the common areas of all enclosed indoor places of public access and publicly owned buildings and offices;

(2) all enclosed indoor places in lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, including sleeping quarters and adjoining rooms rented to guests;

(3) designated smoke-free areas of property or grounds owned by or leased to the State or a municipality; and

(4) any other area within 25 feet of State-owned buildings and offices, except that to the extent that any portion of the 25-foot zone is not on State property, smoking is prohibited only in that portion of the zone that is on State property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

* * *

* * * Animal Pounds * * *

Sec. 9. 20 V.S.A. chapter 191, subchapter 2 is amended to read:

Subchapter 2. Pounds and Impounding

Article 1. General Provisions

§ 3381. MAINTENANCE OF POUNDS

(a)(1) Each organized town shall maintain as many good and sufficient pounds as it may need for the impounding of ~~beasts~~ animals liable to be impounded.

(2) The pound may be kept in an adjacent town if the adjacent town consents and the poundkeeper may be a resident of an adjacent town.

(b) Each town may regulate the operation of its pounds except as to matters regulated by ~~statute~~ law.

§ 3382. ~~PENALTY FOR FAILURE TO MAINTAIN POUND~~

~~If a town, for the term of six months at one time, is without such pound, it shall be fined \$30.00. [Repealed.]~~

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Sec. 10. LEGISLATIVE COUNCIL; CONFORMING REVISIONS;

20 V.S.A. CHAPTER 191, SUBCHAPTER 2; REPLACE “BEAST”
WITH “ANIMAL”

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace “beast” with “animal” and “beasts” with “animals” throughout 20 V.S.A. chapter 191, subchapter 2 (pounds and

impounding), provided the revisions have no other effect on the meaning of the affected statutes.

* * * Assistant Town Clerks * * *

Sec. 11. 24 V.S.A. § 1171 is amended to read:

§ 1171. DUTIES OF ASSISTANT CLERK

(a) ~~Such~~ The assistant clerk shall be sworn and is authorized to perform the recording and filing duties of the town clerk, to issue licenses and certified copies of records, and, in the absence, death, or disability of the town clerk, is further authorized to perform all other duties of ~~such~~ the clerk.

(b) ~~If there is a vacancy in the office of town clerk dies,~~ the authority of the assistant town clerk to perform the duties of the town clerk shall continue until a successor is appointed by the selectboard under section 963 of this title.

* * * Municipal Managers * * *

Sec. 12. 24 V.S.A. § 1236 is amended to read:

§ 1236. POWERS AND DUTIES IN PARTICULAR

The manager shall have authority and it shall be his or her duty:

* * *

(4) To have charge and supervision of all public town buildings; and repairs thereon, ~~and repairs of buildings of the town school district upon requisition of the school directors;~~ and all building ~~done~~ undertaken by the town ~~or town school district,~~ unless otherwise ~~specialy voted~~ provided for by the selectboard, shall be done under his or her charge and supervision.

* * *

(8) To supervise and expend all special appropriations of the town, as if the same were a separate department of the town, unless otherwise ~~voted~~ provided for by the town selectboard.

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* * * Municipal Finances * * *

Sec. 13. 24 V.S.A. chapter 51 is amended to read:

CHAPTER 51. FINANCES; ACCOUNTS AND AUDITS

Subchapter 1. Taxes

* * *

§ 1533. TOWN BOARD FOR THE ABATEMENT OF TAXES

(a) The board of civil authority, with the listers and the town treasurer, shall constitute a board for the abatement of town, ~~town school district,~~ and current use property taxes and water and sewer charges.

(b) The act of a majority of a quorum at a meeting shall be treated as the act of the board. This quorum requirement need not be met if the town treasurer, a majority of the listers, and a majority of the selectboard are present at the meeting.

* * *

§ 1535. ABATEMENT

(a) The board may abate in whole or part taxes, water charges, sewer charges, interest, or collection fees, or any combination of those, other than

those arising out of a corrected classification of homestead or nonresidential property, accruing to the town in the following cases:

(1) taxes or charges of persons who have died insolvent;

(2) taxes or charges of persons who have ~~removed~~ moved from the State;

(3) taxes or charges of persons who are unable to pay their taxes or charges, interest, and collection fees;

(4) taxes in which there is manifest error or a mistake of the listers;

(5) taxes or charges upon real or personal property lost or destroyed during the tax year;

(6) the exemption amount available under 32 V.S.A. § 3802(11) to persons otherwise eligible for exemption who file a claim on or after May 1 but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed;

(7), (8) [Repealed.]

(9) taxes or charges upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof; or closure of the mobile home park in which the mobile home was sited, pursuant to 10 V.S.A. § 6237.

(b) The board's abatement of an amount of tax or charge shall automatically abate any uncollected interest and fees relating to that amount.

(c) The board shall, in any case in which it abates taxes or charges, interest, or collection fees accruing to the town, or denies an application for abatement, state in detail in writing the reasons for its decision.

(d)(1) The board may order that any abatement as to an amount or amounts already paid be in the form of a refund or in the form of a credit against the tax or charge for the next ensuing tax year, or charge billing cycle and for succeeding tax years or billing cycles if required to use up the amount of the credit.

(2) Whenever a municipality votes to collect interest on overdue taxes pursuant to 32 V.S.A. § 5136, interest in a like amount shall be paid by the municipality to any person for whom an abatement has been ordered.

(3) Interest on taxes or charges paid and subsequently abated shall accrue from the date payment was due or made, whichever is later. However, abatements issued pursuant to subdivision (a)(5) of this section need not include the payment of interest.

(4) When a refund has been ordered, the board shall draw an order on the town treasurer for ~~such~~ payment of the refund.

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Subchapter 3. Orders Drawn by ~~Selectboard~~ Municipal Bodies

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§ 1622. TOWN ORDERS; RECORD

(a)(1) The chair of the selectboard shall keep or cause to be kept a single record of all orders drawn by the board showing the number, date, to whom payable, for what purpose, and the amount of each ~~such~~ order.

(2) All other officers authorized by law to draw orders upon the town treasurer shall keep or cause to be kept a like record.

(b) Such records shall be submitted to the town auditors annually on or before February 1.

(c) If the records of orders named in this section are made by an assistant clerk, the assistant clerk shall not be the town treasurer; or the ~~wife or husband~~ spouse of such the town treasurer; or any person acting in the capacity of clerk for the town treasurer.

§ 1623. SIGNING ORDERS

(a) The selectboard may do either of the following:

(1) Authorize one or more members of the board to examine and allow claims against the town for town expenses and draw orders for such claims to the party entitled to payment.

(A) Orders shall state definitely the purpose for which ~~they are~~ each is drawn and shall serve as full authority to the treasurer to make the payments.

(B) The selectboard shall be provided with a record of orders drawn under this subdivision (1) whenever orders are signed by less than a majority of the board; ~~or,~~

(2) Submit to the town treasurer a certified copy of those portions of the selectboard minutes, properly signed by the clerk and chair or by a majority of the board, showing to whom and for what purpose each payment is to be made by the treasurer. The certified copy of the minutes shall serve as full authority to the treasurer to make the approved payments.

(b) This section shall apply to all municipal public bodies authorized by law to draw orders on the municipal treasurer.

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Subchapter. 5. Auditors and Audits

* * *

§ 1684. TRUST ASSETS; INDEBTEDNESS

The auditors shall make a detailed statement showing:

(1) ~~The~~ the condition of all trust funds in which the town is interested ~~with~~ and a list of the assets of such funds, including the account of receipts and disbursements for the preceding year;

(2) ~~What~~ what bonds of the town ~~or town school district~~ are outstanding ~~with~~ and the rate of interest and the amount thereof; and

(3) ~~What interest bearing~~ what interest-bearing notes or orders of the town ~~or town school district~~ are outstanding ~~with~~ and the serial number, date, amount, payee, and rate of interest of each, and the total amount thereof.

* * * Penalties for Municipal Violations * * *

Sec. 14. 24 V.S.A. § 1974 is amended to read:

§ 1974. ENFORCEMENT OF CRIMINAL ORDINANCES

(a)(1) The violation of a criminal ordinance or rule adopted by a municipality under this chapter shall be a misdemeanor.

(2) The criminal ordinance or rule may provide for a fine or imprisonment, but no fine ~~may~~ shall exceed ~~\$500.00~~ \$800.00, nor may any term of imprisonment exceed one year.

(3) Each day the violation continues shall constitute a separate offense.

* * *

Sec. 15. 24 V.S.A. § 2201 is amended to read:

§ 2201. THROWING, DEPOSITING, BURNING, AND DUMPING

REFUSE; PENALTY; SUMMONS AND COMPLAINT

(a)(1) Prohibition. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, or cause, or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing in or on lands or waters of the State outside a solid waste management facility certified by the Agency of Natural Resources.

* * *

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than ~~\$500.00~~ \$800.00.

(1) This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a municipal attorney, a solid waste management district attorney, an environmental enforcement officer employed by the Agency of Natural Resources, a grand juror, ~~or~~ a designee of the legislative body of the municipality, or ~~by~~ any duly authorized law enforcement officer.

(2) If the throwing, placing, or depositing was done from a snowmobile, vessel, or motor vehicle, except a motor bus, there shall be a rebuttable presumption that the throwing, placing, or depositing was done by the operator of ~~such~~ the snowmobile, vessel, or motor vehicle.

(3) Nothing in this section shall be construed as affecting the operation of an automobile graveyard or salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

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Sec. 16. 24 V.S.A. § 2297a is amended to read:

§ 2297a. ENFORCEMENT OF SOLID WASTE ORDINANCE BY TOWN,
CITY, OR INCORPORATED VILLAGE

(a) Solid waste order. A legislative body may issue and enforce a solid waste order in accordance with this section. A solid waste order may include a directive that the respondent take actions necessary to achieve compliance with the ordinance, to abate hazards created as a result of noncompliance, or to restore the environment to the condition existing before the violation and may include a civil penalty of not more than ~~\$500.00~~ \$800.00 for each violation and in the case of a continuing violation, not more than \$100.00 for each succeeding day. In determining the amount of civil penalty to be ordered, the legislative body shall consider the following:

- (1) the degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violation;
- (2) whether the respondent has cured the violation;
- (3) the presence of mitigating circumstances;
- (4) whether the respondent knew or had reason to know the violation existed;
- (5) the respondent's record of compliance;
- (6) the economic benefit gained from the violation;
- (7) the deterrent effect of the penalty;
- (8) the costs of enforcement;

(9) the length of time the violation has existed.

* * *

(e) Contents of proposed order. A proposed order shall include:

* * *

(5) if applicable, a civil penalty of not more than ~~\$500.00~~ \$800.00 for each violation and in the case of a continuing violation, not more than \$100.00 for each succeeding day.

* * * Municipal Planning and Development Bylaws * * *

Sec. 17. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(G) A residential care home or group home to be operated under ~~state~~ State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property, ~~except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.~~ This subdivision (G) does not require a

municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot.

* * *

* * * Road Commissioner Compensation * * *

Sec. 18. 32 V.S.A. § 1225 is amended to read:

§ 1225. TOWN ROAD COMMISSIONER

The compensation of a town road commissioner shall be fixed by the selectboard, ~~shall not be less than \$2.00 per day for time actually spent, and shall be paid out of the Transportation Fund.~~

Sec. 19. [Deleted.]

* * * State Holidays * * *

Sec. 20. 1 V.S.A. § 371 is amended to read:

§ 371. LEGAL HOLIDAYS

(a) The following shall be legal holidays:

New Year's Day, January 1;

Martin Luther King, Jr.'s Birthday, the third Monday in January;

~~Lincoln's Birthday, February 12;~~

~~Washington's Birthday~~ Presidents' Day, the third Monday in February;

Town Meeting Day, the first Tuesday in March;

Memorial Day, the last Monday in May;

Independence Day, July 4;

Bennington Battle Day, August 16;

Labor Day, the first Monday in September;

Columbus Day, the second Monday in October;

Veterans' Day, November 11;

Thanksgiving Day, the fourth Thursday in November;

Christmas Day, December 25.

* * *

* * * Effective Date * * *

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Date Governor signed bill: May 16, 2018