



WEEKLY LEGISLATIVE REPORT

February 13, 2015

Inside This Issue

- 2 Education Reform Bills Emerge
- 4 Natural Burial Grounds
- 5 New Bills
- 6 LGD Talking Points

The *Weekly Legislative Report*, a publication of the Vermont League of Cities and Towns, is issued 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
Website www.vlct.org

Follow VLCT Advocacy on



Steven E. Jeffrey
Executive Director

Karen B. Horn
Director, Public Policy & Advocacy

Chloe V. Collins
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 <http://legislature.vermont.gov> for legislators' email addresses.

Solid Waste Management – Act 148

In 2012, the Vermont Legislature passed Act 148, the Universal Recycling Law. Some of the deadlines imposed by the legislation are fast approaching, and municipal officials around the state are finding that meeting them is virtually impossible, particularly in the manner dictated by the Act. The deadlines for accepting recyclables at no extra charge, removing food scraps, and leaf and yard waste from the waste stream, and imposing variable rate pricing based on volume or weight of trash, for example, are posted at www.anr.state.vt.us/dec/wastediv/solid/documents/UR_Timeline_Summary.pdf.

There are ten solid waste management districts in Vermont as well as five solid waste alliances and “groups,” 14 towns with adopted individual solid waste implementation plans, and only four towns without approved plans. Since 1987, when Act 78, the state's previous comprehensive solid waste law, was adopted, cities and towns have devised strategies to manage solid waste, recyclables, and difficult waste streams that fit their specific geographic and demographic situations. Many of those strategies would change at great expense to residents and businesses, especially in rural areas, if all the provisions of Act 148 are left in place.

Last year, the legislature tasked the Solid Waste Management Program of the Agency of Natural Resources to convene a Solid Waste Infrastructure Advisory Committee to evaluate the sufficiency of the existing solid waste infrastructure to manage and process increased volumes of recyclables and organic materials that potentially will be generated when Act 148 is fully implemented. (Its goal is to achieve a 50 percent diversion rate of recyclables and organics from the waste stream.) The committee identified gaps in recycling collection facilities in the Northeast Kingdom and the Upper Valley and Springfield regions, and composting facilities in Rutland and the Upper Valley. The capital cost to provide those facilities, including trucks and containers, is estimated to be \$45,467,477.

Revenue options the committee considered were a solid waste service fee on collection and drop-off services that would raise \$5.4 million annually. A tax of 5¢ per disposable bag was also proposed. Of the resulting revenues, the report proposed that \$100,000 from the existing Solid Waste Management Assistance Fund be set aside to fund planning and feasibility studies in the gap areas at a ratio of 25 percent grant to 75 percent match from grantees.

Last month, VLCT hosted a solid waste workshop that was attended by many solid waste district officials, state solid waste staff, local officials, and directors of alliances and independent towns. The workshop generated several recommendations for action, including:

- Municipalities, alliances, groups, and districts should be able to offset costs of recycling and organics processing with assessments, sticker fees, property taxes, or any other funding mechanism that works in their circumstances.
- The state requirement for individuals to separate food residuals by July 1, 2020, should be eliminated.
- Municipalities, alliances, and districts should retain the discretion to determine the appropriate number of household hazardous waste collection days for their member towns. Each collection event is reported to cost from \$5,000 to \$8,000 in rural areas.
- Municipalities and public places should be accorded flexibility to determine the appropriate number and placement of recycling bins relative to trash receptacles.
- There should be flexibility in the deadline to separate leaf and yard waste from the waste stream that takes into consideration the proximity of processing facilities.

The House Natural Resources and Energy Committee, which initiated a roundtable discussion last winter that led to the creation of the Solid Waste Infrastructure Advisory Committee, will hold a hearing on solid waste next Wednesday, and **Local Government Day** attendees plan to be there. Local officials who are concerned about complying with Act 148 should plan to attend, too.

Contact Karen Horn at 1-800-649-7915 or khorn@vlct.org.

Education Reform Bills Emerge


Legislation that reforms how public education is delivered and paid for has begun to take shape in the House and Senate Education committees. On Thursday, February 5, the chair of the House Education Committee put before the committee a [draft bill](#) (no number yet) that primarily addresses the delivery side. It addresses school district governance and mergers, small school grants and “phantom students,” district hiring authority, and some funding mechanism tinkering.

The first section of the bill would merge all school districts in supervisory unions into a single supervisory district by July 1, 2018, unless certain actions were taken. The mergers would take place unless the school board finds it “inadvisable,” a finding that is confirmed by the voters and approved by the state Board of Education. Exempted from the mergers would be interstate school districts (two on the Connecticut River), school districts that voluntarily merge to form union districts prior to July 1, 2017, and “nonoperating” school districts – those that do not operate a school and pay tuition for all their eligible students.

Another section prohibits school districts from paying tuition for students to attend out-of-state schools, unless the district pays tuition to those schools for all the students in one or more grades, for all technical education students, or for residential placement for special education students.

Two components of Act 60 that many point to as promoting the retention of schools despite shrinking enrollment are the “small schools grant” and the “average daily membership [ADM] hold-harmless,” which would be eliminated under the bill. The draft bill phases out the small school grant (which basically gives more money to schools with fewer than 100 students) over two years for all but schools with fewer than 20 students per grade, unless the state determines the school is geographically isolated or a currently-eligible district merges with at least one other to form a regional education district (RED). The ADM hold-harmless that basically protects districts in which enrollments are falling more than 3.5 percent a year would be scaled back and then phased out over three years.

The bill devolves some of the personnel authority from the school board and superintendent to the superintendent and principals. It tinkers with the formula by which state property tax rates are set



(without doing anything to lower the amount of such property taxes required) and how the school budget warning article is worded. A summary prepared by the Legislative Council states that the bill also “alters the computation of income sensitivity adjustments so that [they] are based on the house value, tax rate, and household income for the calendar year the claim is made, rather than the prior year’s variables.” Of concern to municipal officials is a note the draftspersons have included in the bill which states that this section “may require language moving up property tax assessment date from April 15 [sic] to an earlier date.” Hopefully, at least local listers will be involved in determining whether this is necessary and how it might come to pass.

An interesting section of the bill (Section 18) requires the Joint Fiscal Office to prepare a fiscal note on any legislative proposal that would increase the education property tax rate. “If the fiscal note prepared under this section confirms that the proposed legislation shall have the effect of increasing the education property tax rate, then the proposed legislation as then-drafted shall be withdrawn from consideration and shall not be voted upon by any committee, the House or the Senate.” The section is only in effect from passage (assuming this bill passes) until its repeal on July 1, 2016, but it is an attempt to respond to the issue of state mandates pushing up property taxes.

Lastly, the House draft bill tasks the Agency of Education with proposing a new funding model for special education.

Meanwhile, the Senate Education Committee is looking at a draft bill (also no number) that is based largely on the governor’s proposals in his budget speech (see [Weekly Legislative Report No. 3](#)). That version leads off with the new mandate prohibition, stating that “[i]f proposed legislation shall have the effect of adding new or expanded responsibilities to school districts or supervisory unions, or . . . , have the effect of increasing costs for school districts or supervisory unions, then the proposed legislation as then-drafted shall be withdrawn from consideration and shall not be voted upon by a committee, the House or the Senate.”

The governor’s/Senate bill then basically does the same as the House bill in phasing out the small school grants and the ADM hold-harmless. It does not include any default school district mergers like the House version, but would allow a school board and voters of any district to merge with a union school district or a pre-K-grade 12 district with at least twice as many resident students simply by being approved by the state Board of Education. It also moves around personnel authority among school boards, superintendents, and principals, but also appears to give to the superintendent the unilateral authority to “negotiate and enter into contracts for health insurance for all employees of the supervisory union and its member districts.” This potentially takes health insurance out of the collective bargaining process and would no longer require the school districts to get the permission of the teachers union to pick the health insurance for the school work force. Finally, the bill has a lengthy section dealing with education quality standards and data collection and publication.

Back in the House, another bill, [H.127](#), has been introduced that would reform how education is paid for locally. According to the [testimony](#) of one of the eight bill sponsors, it would:

- replace the current variable state residential education property tax rate with a much lower fixed residential property tax rate that, like the nonresidential rate now, would be uniform across the state;
- allow residential rental units to be taxed at the lower residential property tax rate, rather than the non-residential tax rate;
- implement an education income tax structure that would vary according to local school spending; and
- eliminate the income sensitivity, property tax rebate, and renter rebate programs as they would no longer be necessary due to the lower residential property tax rate.

The sponsors believe that such changes would improve the transparency and accountability of the education funding system. H.127 is currently under consideration by the House Education Committee.

VLCT has only taken a position on the state mandate prohibition. For decades, our Municipal Policy has supported it as one of the tenants of our legislative agenda, and yesterday, VLCT staff testified in that regard to the House Education Committee. We are also aware that this proposal will have a tough time getting through the legislature as it seriously ties legislators' hands from doing stuff they love to do. It will also be difficult to enforce, given that the legislature and administration know that they can simply overrule themselves by saying "notwithstanding" when they pass a new mandate. Despite that limitation, it would be a great help to have such words in the law books to point to when the next crop of legislators interested in passing new mandates comes to power.

As far as either Education Committee bill resulting in what municipal officials are looking for – a reduction in the amount of state education property taxes imposed – we see little of value. We do hope, however, that these bills become part of a larger, more immediate effort to respond to taxpayers' cries for property tax reductions in the 2015 legislative session.

Contact Steve Jeffrey at 1-800-649-7915 or sjeffrey@vlct.org.

Natural Burial Grounds

[H.25](#), a bill to allow for "natural burial grounds," was taken up by the House General, Housing and Military Affairs Committee this week. The bill would define a natural burial ground as "land designated for the burial of un-embalmed human remains, including cremated remains, in a manner that permits the remains to decompose in the earth." The number of natural burial grounds around the country is increasing and these burial grounds may be certified by the national Green Burial Council based on the management and conservation practices to which the agency owning the burial ground commits.

Cemeteries and other interment places are recorded in the land records, although current law provides for burial of a person on his or her property and those places are not always recorded. Vermont allows for the burial of un-embalmed remains under current law. While natural burials are a potentially environmentally friendly option for burial, H.25 raises almost as many questions as it answers. The bill does not address several important issues for municipalities, such as what happens when a natural burial ground is not mapped, lacks a perpetual care fund, or is proximate to water supplies and waters of the state.

The committee has not yet made a decision regarding the legislation. However, it was given much to think about before taking action. Interested local officials can find testimony on the bill on the committee's [webpage](#).

Contact Karen Horn at 1-800-649-7915 or khorn@vlct.org.

NEW BILLS

BILL NUMBER	SUMMARY	CURRENT LOCATION
H.159	Would require that all abandoned swimming pools be drained and completely enclosed by a five-foot wall, fence, or barrier.	House Gen., Housing and Military Affairs
H.165	Would prohibit municipalities from enacting any ordinance, resolution, or other enactment relating to the possession, ownership, transportation, transfer, sale, purchase, carrying, licensing, or registration of a knife or knife-making components.	House Fish, Wildlife & Water Resources
H.169	Would allow municipalities to adopt land use bylaws for the purpose of regulating commercial building facades in designated areas to ensure the facades are not left in a state of disrepair.	House Commerce & Econ. Development
H.172	Would prohibit, with certain exceptions, operation of vehicles equipped with studded snow tires on Vermont highways other than from November 20 to April 20.	House Transportation
H.184	Would adjust certain Executive Branch fees, including solid waste haulers and Act 250.	On Action Calendar; third reading ordered
H.187	Would ensure that employees accrue a minimum number of hours of paid sick time annually and prohibit employers from penalizing employees who use their accrued sick time.	House Gen., Housing and Military Affairs
H.188	Would allow insurers to sell individual and small group health benefit plans outside the Vermont Health Benefit Exchange.	House Health Care
H.190	Would require a district to present its proposed budget to the voters as an amount of per equalized pupil spending. Approval by the voters of the proposed per equalized pupil spending would have the effect of approving the entire proposed budget.	House Education
H.194	Would approve amendments to the charter of the Town of St. Johnsbury.	House Government Operations
H.198	Would increase the amount of waste that a municipally owned unlined landfill may receive to 5,000 tons per year of waste for disposal.	House Natural Resources & Energy
H.199	Would require that electric generation and natural gas facilities conform to the municipal and regional plans for the area in which they will be located. Would direct the Public Service Board to give greater weight to evidence presented by a municipal legislative body, municipal or regional planning commission, or resident of a municipality in which an electric generation or transmission or natural gas facility will be located.	House Natural Resources & Energy
H.206	Would require notaries public to be commissioned and regulated by the Office of Professional Regulation.	On Notice Calendar
S.70	Would require a seller or transferor of real property to provide the buyer or transferee notice of the status of how sewage from the property is treated. Failure to provide the required notice could subject the seller or transferor to liability for the cost of bringing a wastewater treatment system on the property into compliance with permitting requirements.	Senate Natural Resources & Energy
S.74	Would allow the electorate of a school district or municipality to vote on whether employees of the school district or the municipality may strike during a labor dispute. Would make binding arbitration the default mechanism for resolving labor disputes in school districts and municipalities that do not vote to permit strikes.	Senate Education
S.79	Would require a town vote for each property exempt from the statewide education property tax.	Senate Finance
S.81	Would prohibit, with certain exceptions, operation of vehicles equipped with studded snow tires on Vermont highways other than from November 20 to April 20.	Senate Transportation
S.85	Would require that solar generation plants seeking a certificate of public good from the Public Service Board comply with setback and screening requirements adopted by the municipality.	Senate Finance
S.86	Would allow an individual electric customer account to be enrolled in more than one group net metering arrangement at one time.	Senate Finance

Local Government Day in the Legislature

Wednesday, February 18, 2015

Talking points for the House and Senate Transportation and Government Operations committees, House Natural Resources and Energy Committee, and your legislators.

Urge your legislators to lower state education property taxes this year. Tell them that money must be made available to implement mandated stormwater management projects to avoid new increases in property taxes. Oppose \$1.5 million in new fees on cities and towns to support 13 new stormwater management positions at the Department of Environmental Conservation.

11:00-12:00, House and Senate Transportation Hearing (Room 11)

- VLCT proposes a temporary increase in the gas tax when retail gas prices fall below a certain figure. This would help pay for forthcoming mandates to address stormwater management on town highways. There is currently no other funding proposal to help municipalities pay for stormwater projects on roads (\$10.5 million per year). Voice your support for the proposal. (See [VLCT Weekly Legislative Report No. 5](#)).
- Town highway aid has been essentially flat for several years. Regular maintenance and upkeep as well as compliance with Town Road and Bridge standards require increased funding over time.

11:00-12:00, House Natural Resources and Energy Committee (Room 44)

Solid waste management and universal recycling.

VLCT hosted a Solid Waste Management workshop on January 28 that highlighted problems with Act 148, Vermont's new Universal Recycling Law. More than 100 workshop attendees as well as the VLCT Board of Directors urge the legislature to:

- Delete the 2020 requirement for individuals to separate food residuals and amend the mandate to separate leaf and yard waste to accommodate management in rural environments.
- Provide an option to offset waste management and recycling costs with property tax or other assessments, not just variable pricing.
- Retain the option to manage solid waste through an alliance, group, or individual town as long as the goals of Act 148, as amended, are achieved.
- Provide flexibility in conducting surveys of waste disposal, placement of recycling receptacles in public places, and the number of household hazardous waste days.

2:00-3:00, Senate and House Government Operations committees (Senate Chamber)

- Support open meeting law amendments proposed by VLCT, including postponing the website posting mandate (See [VLCT Legislative Reports No. 1](#) and [No. 6](#)).
- Explain the impact of same-day voter registration.
- Speak to self governance proposals that enable municipalities to make decisions about their government structure and function without legislative approval as well as your charter changes.
- Oppose consolidating the E 911 Board in the Department of Public Safety and making it advisory.
- Oppose the proposal to close the public service answering points (PSAPs) in Derby and Rutland.