



March 9, 2016

Honorable Jeannette White, Chair
Senate Government Operations Committee
Vermont State House
115 State Street
Montpelier, VT 05633-5301

Re: S.184, an act relating to establishing a State Ethics Commission

Dear Senator White:

I am writing on behalf of the 246 member cities and towns of the Vermont League of Cities and Towns (VLCT), to respond to new language proposed to S.184. VLCT maintains that new statutory language mandating that all towns, cities, and incorporated villages have conflict of interest policies is unnecessary, and addressing ethics and conflicts of interest matters at the local level is best done with education, and at the discretion of each individual community. VLCT further maintains that any mandate imposed on local governments with regard to enactment of conflict of interest policies or regulations, must be accompanied by similarly robust mandates on the executive and legislative branches of government.

If the legislature mandates all towns, cities, and incorporated villages adopt conflict of interest policies, VLCT proposes the language below be considered to accomplish that intent.

Thank you for the opportunity to comment on the new language proposed for S.184. We look forward to working with the committee on this matter moving forward.

Sincerely,

Gwynn Zakov, Esq., Municipal Policy Advocate
Public Policy and Advocacy

Sponsor of:

VLCT Employment
Resource and Benefits
Trust, Inc.

VLCT Municipal
Assistance Center

VLCT Property and
Casualty Intermunicipal

Sec. ***. 24 V.S.A. § 1984 is amended to read:

§ 1984. CONFLICT OF INTEREST PROHIBITION

(a) ~~A~~ The legislative body of each town, city, or incorporated village, by majority vote of those present and voting at an annual or special meeting warned for that purpose, may shall adopt a conflict of interest ~~prohibition policy~~ for its elected and appointed officials which shall contain:

- (1) A definition of "conflict of interest."
- (2) A list of the elected and appointed officials covered by such ~~prohibition policy~~.
- (3) A method to determine whether a conflict of interest exists.
- (4) Actions that must be taken if a conflict of interest is determined to exist.
- (5) A method of enforcement against individuals violating such ~~prohibition policy~~.

(b) Unless the ~~prohibition policy~~ adopted pursuant to subsection (a) of this section contains a different definition of "conflict of interest," for the purposes of a ~~prohibition policy~~ adopted under this section, "conflict of interest" means a direct personal or pecuniary interest of a public official, or the official's spouse, household member, business associate, employer, or employee, in the outcome of a cause, proceeding, application, or any other matter pending before the official or before the agency or public body in which the official holds office or is employed. "Conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or pecuniary interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision.

(c) Nothing in this section shall apply to:

(1) a town, city, or incorporated village that on the effective date of Sec. *** had adopted a conflict of interest prohibition pursuant to the provisions of 24 V.S.A. § 1984 that were in effect prior to the effective date of Sec. ***; or

(2) a town, city, or incorporated village that on the effective date of Sec. *** had adopted a conflict of interest policy pursuant to 24 V.S.A. § 2291(20) that were in effect prior to the effective date of Sec. ***, so long as that conflict of interest prohibition otherwise complies with the requirements of 24 V.S.A. § 1982(a) as set forth in Sec. ***; or

(3) a town, city, or incorporated village that has conflict of interest provisions in a duly adopted municipal charter; or

(4) a town, city, or incorporated village board, council, commission, or committee that has adopted the Municipal Administrative Procedure Act pursuant to 24 V.S.A. § 1202, as set forth in 24 V.S.A. chapter 36, which includes compliance with 12 V.S.A. § 16(a), regarding disqualifications for interest for persons acting in a judicial capacity; or

(5) appropriate municipal panels with rules of ethics adopted pursuant to 24 V.S.A. § 4461(a).

Sec. ***. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

~~(20) To establish a conflict of interest policy to apply to all elected and appointed officials of the town, city, or incorporated village. [Repealed.]~~

Sec. ***. EFFECTIVE DATE

The provisions of 24 V.S.A. § 1984 as amended, shall take effect on July 1, 2018.