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H.241

Introduced by Representatives Kitzmiller of Montpelier and Lewis of Berlin
Referred to Committee on
Date:
Subject: Municipal charters; solid waste district; Central Vermont Solid Waste
Management District
Statement of purpose of bill as introduced: This bill proposes to approve
amendments to the charter of the Central Vermont Solid Waste Management
District.

An act relating to the charter of the Central Vermont Solid Waste
Management District

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

Sec. 1. 24 App. V.S.A. chapter 403 is amended to read:

CHAPTER 403. CENTRAL VERMONT
SOLID WASTE MANAGEMENT DISTRICT

Subchapter 1. Creation and Powers

* * *

§ 2. PURPOSE

The District is created and shall exist for the purpose of providing for the
efficient, economical, and environmentally sound resource recovery, waste

1 ~~reduction, recycling, or disposal of solid waste generated by member~~
2 ~~municipalities and their residents. The means of disposal may include~~
3 ~~collection, transportation, resource recovery, recycling, land disposal, or any~~
4 ~~combination of these.~~

5 * * *

6 § 5. POWERS

7 Except as otherwise provided or limited in this chapter, the District shall
8 have the following powers:

9 (1) Except as provided in section 6 of this chapter, to operate, cause to
10 be operated, or contract, or any combination of these, for the operation of any
11 and all facilities for the collection, transportation, resource recovery, recycling,
12 and disposal of solid waste, and to determine and make proper charges for
13 such services.

14 (2) To purchase, sell, lease, own, acquire, convey, mortgage, improve,
15 and use real and personal property in connection with the purpose of the
16 District.

17 (3) To hire and fix the compensation of employees.

18 (4) To sue and be sued.

19 (5) To enter into contracts for any term or duration.

20 (6) To contract with architects, engineers, financial and legal
21 consultants, and other experts for services.

1 (7) To contract with individuals, corporations, associations, authorities,
2 and agencies for services.

3 (8) To provide solid waste management, resource recovery, or solid
4 waste disposal services for the member municipalities, its inhabitants, and its
5 businesses, and for ~~such~~ others as its facilities and obligations may allow.

6 (9) To contract to pay for solid waste disposal services on the basis of
7 guaranteed amounts, whether delivered for disposal and accepted for disposal
8 or not, of solid waste, with payments based on ~~such~~ guaranteed amounts,
9 whether actually disposed of or not, which payments may be variable and may
10 be determined by formulae expressed in such contracts.

11 (10) To contract with the State of Vermont, the United States of
12 America, or any subdivision or agency for services.

13 (11) To contract with any member municipality for the services of any
14 officers or employees of that municipality useful to it.

15 (12) To promote cooperative arrangements and coordinated action
16 among its member municipalities.

17 (13) To make recommendations for review and action to its member
18 municipalities and other public agencies ~~which~~ that perform functions within
19 the region in which its member municipalities are located.

20 (14) To exercise any other powers ~~which~~ that are necessary or desirable
21 for dealing with resource recovery or solid waste problems of mutual concern,

1 and ~~which~~ that are exercised or are capable of exercise by any of its member
2 municipalities.

3 ~~(15) To exercise the power of eminent domain within the District or
4 within any municipality that has withdrawn from the District, provided that the
5 property or site to be taken by eminent domain shall have been considered, by
6 official action of the Board of Supervisors, as a potential site or sites for a
7 resource recovery facility during the 12-month period immediately preceding
8 the date of withdrawal.~~

*(15) To exercise the power of eminent domain upon the approval of a
majority of the legislative bodies of the member municipalities.*

9 (16) To borrow money and issue evidence of indebtedness as provided
10 by 24 V.S.A. chapter 53 or other provisions of law authorizing general
11 obligations or revenue debt, including 10 V.S.A. chapter 12 and 24 V.S.A.
12 chapter 19.

13 (17) To establish a budget and assess member municipalities in
14 accordance therewith.

(18) To levy ~~taxes~~ *assessments*, surcharges, and other fees consistent
with legislative authority.

15 (19) To appropriate and expend monies.

16 ~~(19)~~(20) To establish sinking funds for the retirement of bonded or other
17 indebtedness.

1 ~~(20)~~(21) To establish capital reserve funds for public improvements in
2 furtherance of its purposes.

3 (21)(22) Subject to such limitations as may be imposed by law, to
4 regulate the collection, transportation, resource recovery, recycling, and
5 disposal of solid waste generated within or without the District.

6 (22)(23) To enact and enforce any and all necessary or desirable
7 regulations for the orderly conduct of the government and for carrying out the
8 purpose of the District.

9 (23)(24) To accept and administer gifts, grants, and bequests in trust or
10 otherwise for the purpose of the District.

11 (24)(25) To exercise all powers incident to a public corporation.

12 ~~(26) To grant franchises or establish collection districts, exclusive or~~
13 ~~nonexclusive, for the purposes of: the collection of recyclable materials;~~
14 ~~composting, resource recovery, or disposal of solid waste.~~

*(26) To grant nonexclusive franchises or establish collection districts for
the purposes of: the collection of recyclable materials; composting; resource
recovery; or disposal of solid waste.*

15 § 5a. SOVEREIGN IMMUNITY

16 The District shall have the benefit of sovereign immunity to the same extent
17 that the State of Vermont does. The District shall provide liability and other
18 insurance for itself and the members of the Board of Supervisors. The District

1 shall hold harmless and indemnify all members of the Board of Supervisors
2 from all claims of every kind and nature arising out of or connected with
3 duties as supervisors, excepting only willful negligence and criminal conduct.

4 § 6. TRANSPORTATION AND COLLECTION SITE

5 Each member municipality, either directly or through independent parties,
6 ~~shall be responsible for providing~~ may provide one or more collection sites for
7 the solid waste or recoverable materials generated within ~~such~~ the member
8 municipality and for the transportation of ~~such~~ solid waste or recoverable
9 materials to the District facility, together with all costs incident thereto. In the
10 event that any member municipality does not wish to institute its own
11 collection system for delivery of the solid waste to the facility designated by
12 the District, then the Board of Supervisors may provide for collection and
13 transportation as provided in subdivision 5(1) of this chapter.

14 § 7. RESPONSIBILITY TO ACCEPT SOLID WASTE

15 (a) The District becomes responsible for providing a system for ~~solid waste~~
16 ~~disposal~~ resource recovery, as delineated in subsection (b) of this section,
17 when the Board of Supervisors declares the disposal system operational.

18 (b) The District ~~shall~~ may provide a system for resource recovery and
19 disposal of all solid waste generated by residential and commercial activities,
20 tires, and metal goods generated within the member municipalities. The
21 District may provide for the disposal of solid waste from industrial activities

1 within a member municipality. The District may provide for the disposal of
2 ~~sludge biosolids~~ through contract with a member municipality, ~~provided the~~
3 ~~sludge is disposed of at no cost to the other member municipalities.~~ The
4 District may provide for the resource recovery or disposal of any or all
5 demolition and construction waste or yard wastes, or both, from any member
6 municipality. ~~Finally, the District may contract with a nonmember~~
7 ~~municipality or a private entity for the disposal of solid waste generated~~
8 ~~outside the boundaries of the District, provided the contract will not increase~~
9 ~~the cost of solid waste disposal to the member municipalities.~~

10 Subchapter 2. Board of Supervisors

11 § 8. AUTHORITY

12 The legislative power and authority of the District and the administration
13 and the general supervision of all fiscal, prudential, and governmental affairs
14 thereof shall be vested in a governing body known as the Board of
15 Supervisors, except as specifically provided otherwise in this chapter. The
16 Board of Supervisors may appoint and employ a General Manager and other
17 personnel as it deems necessary for the conduct of business of the District.
18 The General Manager oversees all aspects of the District, in accordance with
19 the Central Vermont Solid Waste Management District's mission statement.
20 The General Manager shall be responsible to the Board for the administration
21 of the District and for carrying out the policies of the Central Vermont Solid

1 Waste Management District. The powers and duties of the General Manager
2 shall be specified by the Board of Supervisors.

3 * * *

4 § 10. APPOINTMENT

5 Annually, on or before the last Monday in March, the legislative branch of
6 each member municipality shall appoint its representative to the Board of
7 Supervisors. Appointments shall be in writing, signed by the chair of the
8 legislative branch, and presented to the Clerk of the District. The legislative
9 branch, by majority vote, may remove its approved representative during the
10 one-year term for stated reasons. In addition, each legislative body ~~shall~~ is
11 encouraged to appoint an alternative representative to the Board of Supervisors
12 who shall act as the appointed representative during his or her absence. The
13 clerk of the member municipality shall certify to the Clerk of the District the
14 name of the persons appointed as representative and alternate.

15 * * *

16 § 13. SPECIAL MEETINGS

17 Special meetings of the Board of Supervisors may be called at any time by
18 the Chair or ~~shall~~ may be called by the Clerk ~~upon written request of a~~
19 ~~majority of the members of the Board of Supervisors.~~ Except in case of
20 emergency, each member of the Board of Supervisors shall be given at least 24
21 hours' notice of any special meeting of the Board of Supervisors by notice in

1 person, by telephone, or by written notice delivered personally, mailed, e-
2 mailed, or left at ~~such~~ a member's usual place of residence.

3 § 14. QUORUM

4 For the purpose of transacting business, the presence of members whose
5 accumulated votes represent more than 50 percent of the total number of
6 accumulated votes of all members who have at that time appointed
7 representatives to the Board of Supervisors and the presence of more than 50
8 percent of the membership of the Board of Supervisors shall constitute a
9 quorum. However, a smaller number may adjourn to another date. Any action
10 adopted by a majority of the votes cast at a meeting of the Board of
11 Supervisors at which a quorum is present shall be the action of the Board of
12 Supervisors, except as otherwise provided in this chapter.

13 § 15. VOTING

14 (a) Except as otherwise provided in this chapter, each member of the Board
15 of Supervisors shall be entitled to cast one vote for every 1,000 population, or
16 part thereof, in the municipality ~~which such~~ that the Supervisor represents;
17 provided, however, no member municipality ~~nor~~ or supervisor shall be entitled
18 to more than 20 votes, regardless of the population of ~~such~~ the municipality.
19 A member of the Board of Supervisors may not split its votes. The
20 determinations of population shall be made based upon the latest census
21 provided by the Vermont ~~Planning Office~~ Department of Health.

1 Except as otherwise provided in this chapter, Roberts Rules of Order, as
2 amended, shall govern at all meetings. The Board of Supervisors may adopt
3 ordinances relating to the district, its powers, and other related subjects
4 pursuant to the procedures of 24 V.S.A chapter 59.

5 § 19. COMPENSATION OF MEMBERS OF BOARD OF
6 SUPERVISORS

7 Each member municipality ~~shall~~ may pay to its representatives to the Board
8 of Supervisors such reimbursement of expenses as it ~~shall~~ may determine
9 reasonable.

10 Subchapter 3. Officers

11 * * *

12 § 21. BOND

13 Prior to assuming their offices, all officers shall post bond in such amounts
14 as shall be determined by resolution of the Board of Supervisors. The cost of
15 such bond shall be borne by the District.

16 * * *

17 § 25. CLERK

18 The Clerk of the District shall be appointed by the Board of Supervisors,
19 ~~shall not be a member of the Board,~~ and shall serve at ~~it's~~ the pleasure of the
20 Board of Supervisors. The Clerk shall have the exclusive charge and custody
21 of the public records of the District and the Seal of the District. The Clerk

1 shall record all votes and proceedings of the District, including meetings of the
2 District and meetings of the Board of Supervisors, and shall cause to be posted
3 and published all warnings of meetings of the District. The Clerk shall prepare
4 all warnings of meetings of the District as required by section 46 of this
5 chapter. Following approval of the Board of Supervisors, the Clerk shall cause
6 the annual report to be distributed to the legislative branches of its member
7 municipalities. The Clerk shall prepare and distribute any other reports
8 required by laws of the State of Vermont and resolutions or regulations of the
9 Board of Supervisors. The Clerk shall perform all of the duties and functions
10 incident to the office of secretary or clerk of a body corporate. The Clerk,
11 with the approval of the Board of Supervisors, may appoint an Assistant Clerk.

12 § 26. TREASURER

13 The Treasurer of the District shall be appointed by the Board of
14 Supervisors, ~~shall not be a member of the Board, and shall have the exclusive~~
15 ~~charge and custody of the funds of the District and shall be the disbursing~~
16 ~~officer of the District.~~ The Treasurer, with the approval of the Board of
17 Supervisors, may appoint an Assistant Treasurer. When authorized by the
18 Board of Supervisors, the Treasurer ~~may~~ shall sign, make, or endorse in the
19 name of the District all checks and orders for the payment of ~~money~~ monies
20 and pay out and disburse the same ~~and receipt therefor.~~ The Treasurer shall
21 ~~keep a record of every note or bond issue by the District and of every payment~~

1 ~~thereon of principal and interest and, if coupons are taken up, shall cancel and~~
2 ~~preserve them. The Treasurer shall keep correct books of account of all the~~
3 ~~business and transactions of the District and such other books and accounts as~~
4 ~~the Board of Supervisors may require. The Treasurer shall render a statement~~
5 ~~of the condition of the finances of the District at each regular meeting of the~~
6 ~~Board of Supervisors and at such other times as shall be required of the~~
7 ~~Treasurer. The Treasurer shall prepare the annual financial statement and the~~
8 ~~budget of the District for distribution, upon approval of the Board of~~
9 ~~Supervisors, to the legislative bodies of the member municipalities. The~~
10 ~~Treasurer shall do and perform all of the duties appertaining to the office of~~
11 ~~treasurer of a body politic and corporate. The Treasurer shall settle with the~~
12 ~~auditors within 60 days of the end of the fiscal year, at such other times as the~~
13 ~~Board of Supervisors may require, and upon retirement from office. Upon~~
14 ~~retirement from office, the Treasurer shall immediately pay over to the~~
15 ~~successor all of the funds belonging to the District, and at the same time~~
16 ~~deliver to the successor all official books and papers be a nonvoting member~~
17 ~~of the Executive Board.~~

18 § 26a. GRAND JUROR

19 The Board of Supervisors may appoint a grand juror who shall inquire into
20 any person's offenses under the District's regulations or applicable law and
21 present them to the proper authority. If the Attorney General or a State's

1 Attorney is unwilling to prosecute the offenses, the grand juror may do so. For
2 these purposes, the grand juror shall have the same authority within the
3 District as a State's Attorney. The grand juror shall not be a member of the
4 Board of Supervisors.

5 * * *

6 § 31. COMPENSATION OF OFFICERS

7 Officers of the District ~~shall~~ may be paid such compensation or
8 reimbursement of expenses, or both, as ~~shall~~ may be determined by the Board
9 of Supervisors.

10 * * *

11 § 33. ASSISTANT OFFICERS

12 ~~The Board of Supervisors annually shall appoint an Assistant Clerk and an~~
13 ~~Assistant Treasurer who shall have the responsibilities of and discharge the~~
14 ~~duties of the Clerk and Treasurer in their absence or incapacity or in the event~~
15 ~~there shall exist a vacancy in such office. The Assistant Clerk and Assistant~~
16 ~~Treasurer shall also exercise such other duties as the Board of Supervisors~~
17 ~~shall delegate to them. [Repealed.]~~

18 § 33a. DELEGATION TO DISTRICT STAFF

19 If the Board of Supervisors authorizes, the District may delegate duties to
20 the District staff when necessary and appropriate to aid the officers.

21 Subchapter 4. Fiscal Affairs

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§ 37. LIMITATIONS OF APPROPRIATIONS

Actions or resolutions of the Board of Supervisors for the annual appropriations of any year ~~shall~~ may not cease to be operative at the end of the fiscal year for which they were adopted, except as otherwise provided by the laws of the State of Vermont. Appropriations made by the Board of Supervisors for the various estimates of the budget as defined in subsection 35(a) of this chapter ~~shall~~ may be expended only for such estimates, but by majority vote of the Board of Supervisors, the budget may be amended from time to time to transfer funds between or among such estimates, except as otherwise limited by this chapter. Any balance left or unencumbered in any such budget estimate, or the amount of any deficit at the end of the fiscal year, ~~shall~~ may be included in and paid out of the operating budget and appropriations in the next fiscal year.

§ 38. INDEBTEDNESS

(a) Short-term borrowing. The Board of Supervisors may borrow money through the issuance of notes of the District for the purpose of paying current expenses of the District. Such notes must mature within one year. The Board of Supervisors may also borrow money in anticipation of assessment to each member municipality in an amount not to exceed 90 percent of the amount assessed for ~~each~~ that year, and may issue notes of the District which must

1 mature within one year. The Board of Supervisors may also borrow money in
2 anticipation of grants-in-aid from any source and any revenues other than
3 assessments through the issuance of notes of the District. Such notes must
4 mature within one year, but may be renewed as provided by general law. The
5 Board of Supervisors may also borrow money in anticipation of bond proceeds
6 which have been authorized as provided in this chapter. These notes shall be
7 issued as provided in 24 V.S.A. chapter 53.

8 * * *

9 § 39. SINKING FUND

10 The Board of Supervisors may establish and provide for a sinking fund,
11 however denominated, for the retirement of bond issue or other debt, or to
12 provide security for its payment. When so established, it ~~shall~~ may be kept
13 intact and separate from other monies at the disposal of the District, and ~~shall~~
14 may be accounted for as a pledged asset for the purpose of retiring or securing
15 such obligations. The cost of payments to any sinking fund ~~shall~~ may be
16 included in the annual budget of the District.

17 * * *

18 Subchapter 5. Special District Meetings

19 * * *

20 § 44. PUBLIC HEARINGS

21 Not less than three nor more than 14 days prior to any special meeting

1 called by the Board of Supervisors, at least one public hearing shall be held by
2 the Board of Supervisors at which time the issues under consideration shall be
3 presented and comments received. ~~Notice of such public hearing shall include~~
4 ~~the publication of a warning in a newspaper of general circulation in the~~
5 ~~District at least once a week, on the same day of the week, for three~~
6 ~~consecutive weeks, the last publication not less than five nor more than 10~~
7 ~~days before the public hearing.~~ Public hearings shall be warned by the
8 publishing of a notice in a newspaper of general circulation within the District
9 not more than 25 days and at least 15 days prior to the meeting.

10 * * *

11 Subchapter 6. Miscellaneous

12 § 54. WITHDRAWAL OF MEMBER MUNICIPALITY

13 A member municipality may withdraw from the District upon the terms and
14 conditions specified below:

15 (1) Withdrawal prior to the District incurring bonded indebtedness or
16 entering long-term contracts.

17 (A) The Board of Supervisors shall not enter into any long-term
18 contract, or call a special meeting on incurring long-term debt for a period of
19 18 months from the date of establishment of the District.

20 (B) No member municipality may withdraw from the District for a
21 period of one year from the date of establishment of the District.

1 This chapter may be amended by petition of five percent of the voters of the
2 District under the provisions of subchapter 5 of this chapter or by the Board of
3 Supervisors under this section. The Board of Supervisors may, by a majority
4 vote, adopt a resolution stating its intent to amend the chapter. A written copy
5 of the resolution, stating the wording and purpose of the amendment and the
6 date of the meeting scheduled to act on the amendment, shall be delivered,
7 including mail or e-mail, to the legislative branches of each member
8 municipality and mailed, e-mailed, or left at the usual place of residence of
9 each member of the Board of Supervisors by the Clerk of the District at least
10 10 business days prior to the meeting scheduled to adopt the amendment. The
11 amendment may be adopted by majority vote of the Board of Supervisors at
12 the meeting scheduled to act on the amendment, unless a majority of the
13 legislative branches of the member municipalities request, in writing, that the
14 Board of Supervisors hold a special District meeting to vote on the
15 amendment. If the amendment is adopted by the Board of Supervisors or by
16 the voters of the District, the Clerk of the District, within 10 days after the vote
17 of adoption, shall certify to the Secretary of State each proposal of
18 amendment, showing the facts as to its origin and the procedure followed
19 pursuant to section 51 of this chapter, relating to reconsideration and recession
20 of vote, shall apply to an amendment adopted by a vote of the Board or the
21 voters under this section. The Secretary of State shall then proceed as with

1 municipal charter amendments under 17 V.S.A. § 2645. The amendment shall
2 become effective upon affirmative enactment of the proposal, either as
3 proposed or as amended by the General Assembly. This chapter may be
4 amended from time to time in the manner as provided, but no such amendment
5 shall be made ~~which~~ that shall substantially impair the rights of the holders of
6 any bonds or other notes or other evidence of indebtedness or substantially
7 affect any obligations under long-term contracts of the District then
8 outstanding or in effect, or the rights of the District to procure the means for
9 payment, continuation, or termination thereof.

10 * * *

11 § 59. DEFINITIONS

12 As used in this chapter:

13 (1) “Solid waste” ~~means any discarded garbage, refuse, metal goods,~~
14 ~~tires, demolition and construction waste, yard waste, and other discarded~~
15 ~~materials, possessing no value to the producer in its present form where it is~~
16 ~~located, produced by normal residential, commercial, and industrial activities~~
17 shall have the same meaning as set forth in 10 V.S.A. § 6602.

18 (2) “Solid waste from residential activities” includes any solid waste
19 generated by a household or apartment, including, food waste, packaging,
20 newspaper, and other paper products, glass, cans, and plastic.

21 (3) “Solid waste from commercial activities” shall include any solid

1 waste generated by retail and wholesale establishments, including food waste,
2 corrugated container board, metals, and plastics.

3 (4) "Solid waste from industrial activities" includes any solid, semi-
4 solid, or liquid waste generated by an industry as part of the production
5 process. Solid wastes generated by employees and similar in composition to
6 that generated by residential or commercial activities are excluded from this
7 definition.

8 (5) ~~"Sludge"~~ "Bio-solids" means solids and semi-solids generated by a
9 wastewater treatment plant. Notwithstanding any provision of this chapter, the
10 District shall have the power to impose and collect a surcharge or special
11 assessment for the collection, storage, and disposal of ~~sludge~~ bio-solids.

12 (6) "Tires" means all rubber, belted, and ~~nonbelted automobile and truck~~
13 nonbelted vehicle tires.

14 (7) ~~"Demolition and construction~~ Construction and demolition waste"
15 means ~~all solid waste generated in~~ , as used in this chapter, waste derived from
16 the construction or the demolition and construction of buildings, roadways, or
17 structures, including stumps, brush, clean wood, treated or painted wood,
18 plaster, sheetrock, boards, bricks, mortar, concrete, and roofing materials paper
19 and shingles, insulation, glass, stone, soil, flooring materials, brick, masonry,
20 mortar, incidental metal, furniture, and mattresses. Construction and
21 demolition waste shall not include asbestos waste, regulated hazardous waste,

1 hazardous waste generated by households, hazardous waste from conditionally
2 exempt generators, or any material banned from landfill disposal under
3 10 V.S.A. § 6621.

4 (8) ~~“Yard waste” means grass clippings, leaves, and brush~~ “Leaf and
5 yard residual” means source separated, compostable untreated vegetative
6 matter, including grass clippings, leaves, kraft paper bags, and brush, which is
7 free from noncompostable materials. It does not include such materials as pre-
8 and postconsumer food residuals, food processing residuals, or soiled paper.
9 Leaf and yard residual does not include leaf and yard materials handled by a
10 resident on-site.

11 (9) “Metal goods” means discarded appliances and junk automobiles.

12 (10) “Resource recovery” means the systematic diversion of waste,
13 which was intended for disposal, for a specific next use. It is the processing of
14 recyclables to extract or recover materials and resources or to convert to
15 energy.

16 * * *

17 Sec. 2. EFFECTIVE DATE

18 This act shall take effect on July 1, 2017.