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H.856

Introduced by Representatives LaClair of Barre Town, Bancroft of Westford,  
Devereux of Mount Holly, Gannon of Wilmington, Gardner of  
Richmond, Harrison of Chittenden, Higley of Lowell,  
Kitzmiller of Montpelier, Myers of Essex, and Read of Fayston

Referred to Committee on

Date:

Subject: Municipal government; miscellaneous

Statement of purpose of bill as introduced: This bill proposes to make  
miscellaneous amendments to municipal law, including in the areas of  
municipal elections and appointments, powers and duties of certain municipal  
officers, smoking on municipal grounds, town highways, municipal finances,  
penalties for municipal violations, and appeals from property appraisals.

An act relating to miscellaneous amendments to municipal law

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

2 \* \* \* Municipal Elections and Appointments \* \* \*

3 Sec. 1. 17 V.S.A. § 2640 is amended to read:

4 § 2640. ANNUAL MEETINGS

5 (a)(1) A meeting of the legal voters of each town shall be held annually on  
6 the first Tuesday of March for the election of officers and the transaction of  
7 other business, and it may be adjourned to another date.

8 (2) When a municipality fails to hold an annual meeting, a subsequent  
9 warning for a ~~subsequent~~ meeting shall be issued immediately, and at that  
10 meeting all the officers required by law may be elected and its business  
11 transacted.

12 (b) When a town so votes, it may thereafter start its annual meeting on any  
13 of the three days immediately preceding the first Tuesday in March at such  
14 time as it elects and may transact at that time any business not involving voting  
15 by Australian ballot or voting required by law to be ~~by ballot and to be~~ held on  
16 the first Tuesday in March. A meeting so started shall be adjourned until the  
17 first Tuesday in March.

18 \* \* \*

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

2 § 2651a. CONSTABLES; APPOINTMENT; REMOVAL

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

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

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

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

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

2       § 2651b. ELIMINATION OF OFFICE OF AUDITOR; APPOINTMENT OF  
3                   PUBLIC ACCOUNTANT

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

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

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

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

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

19          (c) The authority to vote to eliminate the office of town auditor as provided  
20       in this section shall extend to all towns except those towns that have a charter

1 that specifically provides for the election or appointment of the office of town  
2 auditor.

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

4 § 2651c. LACK OF ELECTED LISTER; APPOINTMENT OF LISTER;

5 ELIMINATION OF OFFICE

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

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

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

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

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

5            ~~(2)~~(3) A vote to eliminate the office of lister shall remain in effect until  
6 rescinded by majority vote of the ~~legal~~ registered voters present and voting at  
7 an annual meeting warned for that purpose.

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

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

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

17        § 2651d. COLLECTOR OF DELINQUENT TAXES; APPOINTMENT;

18                                REMOVAL

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

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

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

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

9 § 2651e. MUNICIPAL CLERK; APPOINTMENT; REMOVAL

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

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

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

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

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

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

7 Sec. 7. 17 V.S.A. § 2651f is amended to read:

8 § 2651f. MUNICIPAL TREASURER; APPOINTMENT; REMOVAL

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

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

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

17 (c) The term of office of a treasurer in office on the date a municipality  
18 votes to allow the legislative body to appoint a treasurer shall expire 45  
19 calendar days after the vote or on the date upon which the legislative body  
20 appoints a treasurer under this section, whichever occurs first, unless a petition



1 for reconsideration or rescission is filed in accordance with section 2661 of this  
2 title.

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

7 \* \* \* Local Incompatible Offices \* \* \*

8 Sec. 8. 17 V.S.A. § 2647 is amended to read:

9 § 2647. INCOMPATIBLE OFFICES

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

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

20 (3) A cemetery commissioner shall not be town treasurer.



1 session need not be taken, but if they are, the minutes shall, notwithstanding  
2 subsection 312(b) of this title, be exempt from public copying and inspection  
3 under the Public Records Act. A public body ~~may~~ shall not hold an executive  
4 session except to consider one or more of the following:

5 \* \* \*

6 (2) the negotiating or securing of real estate purchase, sale, or lease  
7 options;

8 \* \* \*

9 \* \* \* Smoking on Municipal Grounds \* \* \*

10 Sec. 10. 18 V.S.A. § 1742 is amended to read:

11 § 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

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

14 \* \* \*

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

17 \* \* \*





1 Sec. 12. 19 V.S.A. § 310 is amended to read:

2 § 310. HIGHWAYS, BRIDGES, AND TRAILS

3 (a) A town shall keep its class 1, 2, and 3 highways and bridges in good  
4 and sufficient repair during all seasons of the year, except that based on safety  
5 considerations for the traveling public and municipal employees, the  
6 selectboard shall, by ~~rule adopted under 24 V.S.A. chapter 59, and after~~  
7 ~~following the process for providing notice and hearing in section 709 of this~~  
8 ~~title~~ resolution adopted at a duly warned public meeting, have authority to  
9 determine whether a class 2 or 3 highway; or section of highway; should be  
10 plowed and made negotiable during the winter. A property owner aggrieved  
11 by a decision of the selectboard may appeal to the ~~transportation board~~  
12 Transportation Board pursuant to subdivision 5(d)(9) of this title.

13 \* \* \*

14 \* \* \* Animal Pounds \* \* \*

15 Sec. 13. 20 V.S.A. chapter 191, subchapter 2 is amended to read:

16 Subchapter 2. Pounds and Impounding

17 Article 1. General Provisions

18 § 3381. MAINTENANCE OF POUNDS

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



1 copies of records, and, in the absence, death, or disability of the town clerk, is  
2 further authorized to perform all other duties of ~~such~~ the clerk.

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

6 \* \* \* Municipal Managers \* \* \*

7 Sec. 16. 24 V.S.A. § 1236 is amended to read:

8 § 1236. POWERS AND DUTIES IN PARTICULAR

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

10 \* \* \*

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

16 \* \* \*

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

20 \* \* \*





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

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

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

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

12           (7), (8) [Repealed.]

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

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

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



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

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

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

9           § 1623. SIGNING ORDERS

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

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

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

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

19           (2) Submit to the town treasurer a certified copy of those portions of the  
20 selectboard minutes, properly signed by the clerk and chair or by a majority of  
21 the board, showing to whom and for what purpose each payment is to be made

1 by the treasurer. The certified copy of the minutes shall serve as full authority  
2 to the treasurer to make the approved payments.

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

5 \* \* \*

6 Subchapter. 5. Auditors and Audits

7 \* \* \*

8 § 1684. TRUST ASSETS; INDEBTEDNESS

9 The auditors shall make a detailed statement showing:

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

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

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



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

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

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

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

19 \* \* \*

1 Sec. 20. 24 V.S.A. § 2297a is amended to read:

2 § 2297a. ENFORCEMENT OF SOLID WASTE ORDINANCE BY TOWN,  
3 CITY, OR INCORPORATED VILLAGE

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

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



1 (8) the costs of enforcement;

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

3 \* \* \*

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

5 \* \* \*

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

9 \* \* \* Road Commissioner Compensation \* \* \*

10 Sec. 21. 32 V.S.A. § 1225 is amended to read:

11 § 1225. TOWN ROAD COMMISSIONER

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

15 \* \* \* Property Appraisal Appeals \* \* \*

16 Sec. 22. 32 V.S.A. § 4404 is amended to read:

17 § 4404. APPEALS FROM LISTERS AS TO GRAND LIST

18 (a) Within 14 days after the date of notice thereof, a person aggrieved by  
19 the final decision of the listers under the provisions of section 4221 of this title,  
20 may appeal in writing therefrom to the board of civil authority, by lodging his  
21 or her appeal with the town clerk, who shall record the same in the book

1 containing the abstract of individual lists. The grounds upon which ~~such~~ the  
2 appeal is based shall therein be briefly set forth.

3 (b)(1) The town clerk forthwith shall call a meeting of the board to hear  
4 and determine such appeals, which shall be held at ~~such~~ a time, not later than  
5 14 days after the last date allowed for notice of appeal, and at ~~such~~ a place  
6 within the town as that he or she shall designate.

7 (2) Notice of ~~such~~ the time and place shall be given by posting a  
8 warning therefor in three or more public places in ~~such~~ the town; and by  
9 mailing a copy of ~~such~~ the warning, postage prepaid, to each member of the  
10 board, the agent of the town to prosecute and defend suits, the chair of the  
11 board of listers, and ~~to~~ all persons so appealing.

12 (c)(1) The ~~Board~~ board shall meet at the time and place so designated, and  
13 on that day and from day to day thereafter shall hear and determine ~~such~~ the  
14 appeals until all questions and objections are heard and decided.

15 (2)(A) Each property, the appraisal of which is being appealed, shall be  
16 inspected by a committee of not less than three members of the board ~~who~~. At  
17 least one lister shall be allowed to attend the inspection. The committee shall  
18 report to the board within 30 days from the hearing on the appeal and before  
19 the final decision pertaining to the property is given.

20 (B) If, after notice, the appellant refuses to allow an inspection of the  
21 property or attendance of at least one lister as required under this subsection,

1 including the interior and exterior of any structure on the property, the appeal  
2 shall be deemed withdrawn.

3 (3) The board shall, within 15 days from the time of the report, certify in  
4 writing its notice of decision, with reasons, in the premises, and shall file ~~such~~  
5 the notice with the town clerk, who shall thereupon record the same in the  
6 book wherein the appeal was recorded and forthwith notify the appellant in  
7 writing of the action of ~~such~~ the board, by certified mail.

8 (4)(A) If the board does not substantially comply with the requirements  
9 of this subsection and if the appeal is not withdrawn by filing written notice of  
10 withdrawal with the board or deemed withdrawn as provided in this  
11 subsection, the grand list of the appellant for the year for which appeal is being  
12 made shall remain at the amount set before the appealed change was made by  
13 the listers; except, if there has been a complete reappraisal, the grand list of the  
14 appellant for the year for which appeal is being made shall be set at a value  
15 ~~which~~ that will produce a tax liability equal to the tax liability for the  
16 preceding year.

17 (B) The town clerk shall immediately record the same in the book  
18 wherein the appeal was recorded and forthwith notify the appellant in writing  
19 of ~~such~~ the action, by certified mail. Thereupon the appraisal so determined  
20 pursuant to this subsection shall become a part of the grand list of such person.

