

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred House
3 Bill No. 856 entitled “An act relating to miscellaneous amendments to
4 municipal law” respectfully reports that it has considered the same and
5 recommends that the Senate propose to the House that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 * * * Municipal Elections and Appointments * * *

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

10 § 2651a. CONSTABLES; APPOINTMENT; REMOVAL

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

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

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

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

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

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

12 § 2651b. ELIMINATION OF OFFICE OF AUDITOR; APPOINTMENT OF
13 PUBLIC ACCOUNTANT

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

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

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

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

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

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

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

13 (2)(3) A vote to eliminate the office of lister shall remain in effect until
14 rescinded by majority vote of the ~~legal~~ registered voters present and voting at
15 an annual meeting warned for that purpose.

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

20 (4)(d) The authority to vote to eliminate the office of lister as provided
21 in this ~~subsection~~ section shall extend to all towns except those towns that have

1 a charter that specifically provides for the election or appointment of the office
2 of lister.

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

4 § 2651d. COLLECTOR OF DELINQUENT TAXES; APPOINTMENT;

5 REMOVAL

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

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

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

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

17 § 2651e. MUNICIPAL CLERK; APPOINTMENT; REMOVAL

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

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

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

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

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

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

16 § 2651f. MUNICIPAL TREASURER; APPOINTMENT; REMOVAL

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

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

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

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

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

15 * * * Local Incompatible Offices * * *

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

17 § 2647. INCOMPATIBLE OFFICES

18 (a)(1) An auditor shall not be town clerk, town treasurer, selectboard
19 member, first constable, collector of current or delinquent taxes, trustee of
20 public funds, town manager, road commissioner, water commissioner, sewage
21 system commissioner, sewage disposal commissioner, cemetery commissioner,

1 or town district school director; nor shall a spouse of or any person assisting
2 any of these officers in the discharge of official duties be eligible to hold office
3 as auditor.

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

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

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

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

13 * * *

14 * * * Smoking on Municipal Grounds * * *

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

16 § 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

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

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

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

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

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

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

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

14 (7), (8) [Repealed.]

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

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

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

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

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

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

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

18 * * *

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

4 * * * Penalties for Municipal Violations * * *

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

6 § 1974. ENFORCEMENT OF CRIMINAL ORDINANCES

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

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

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

13 * * *

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

15 § 2201. THROWING, DEPOSITING, BURNING, AND DUMPING

16 REFUSE; PENALTY; SUMMONS AND COMPLAINT

17 (a)(1) Prohibition. Every person shall be responsible for proper disposal of
18 his or her own solid waste. A person shall not throw, dump, deposit, or cause,
19 or permit to be thrown, dumped, or deposited any solid waste as defined in
20 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing in or on

1 lands or waters of the State outside a solid waste management facility certified
2 by the Agency of Natural Resources.

3 * * *

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

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

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

17 (3) Nothing in this section shall be construed as affecting the operation
18 of an automobile graveyard or salvage yard as defined in section 2241 of this
19 title, nor shall anything in this section be construed as prohibiting the
20 installation and use of appropriate receptacles for solid waste provided by the
21 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;

- 1 (7) the deterrent effect of the penalty;
- 2 (8) the costs of enforcement;
- 3 (9) the length of time the violation has existed.

4 * * *

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

6 * * *

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

10 * * * Municipal Planning and Development Bylaws * * *

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

12 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

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

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

17 * * *

18 (G) A residential care home or group home to be operated under ~~state~~
19 State licensing or registration, serving not more than eight persons who have a
20 disability as defined in 9 V.S.A. § 4501, shall be considered by right to
21 constitute a permitted single-family residential use of property, ~~except that no~~

1 ~~such home shall be so considered if it is located within 1,000 feet of another~~
2 ~~existing or permitted such home.~~

3 * * *

4 * * * Road Commissioner Compensation * * *

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

6 § 1225. TOWN ROAD COMMISSIONER

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

10 * * * Property Appraisal Appeals * * *

11 Sec. 19. 32 V.S.A. § 4404 is amended to read:

12 § 4404. APPEALS FROM LISTERS AS TO GRAND LIST

13 (a) Within 14 days after the date of notice thereof, a person aggrieved by
14 the final decision of the listers under the provisions of section 4221 of this title,
15 may appeal in writing therefrom to the board of civil authority, by lodging his
16 or her appeal with the town clerk, who shall record the same in the book
17 containing the abstract of individual lists. The grounds upon which ~~such~~ the
18 appeal is based shall therein be briefly set forth.

19 (b)(1) The town clerk forthwith shall call a meeting of the board to hear
20 and determine such appeals, which shall be held at ~~such~~ a time, not later than

1 14 days after the last date allowed for notice of appeal, and at ~~such~~ a place
2 within the town as that he or she shall designate.

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

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

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

16 (B) If, after notice, the appellant refuses to allow an inspection of the
17 property or attendance of at least one lister, or both, as required under this
18 subsection, including the interior and exterior of any structure on the property,
19 the appeal shall be deemed withdrawn.

20 (3) The board shall, within 15 days from the time of the report, certify in
21 writing its notice of decision, with reasons, in the premises, and shall file ~~such~~

1 the notice with the town clerk, who shall thereupon record the same in the
2 book wherein the appeal was recorded and forthwith notify the appellant in
3 writing of the action of ~~such~~ the board, by certified mail.

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

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

17 (d) Listers and agents to prosecute and defend suits wherein a town is
18 interested shall not be eligible to serve as members of the board while
19 convened to hear and determine ~~such~~ those appeals nor shall an appellant, or
20 his or her servant, agent, or attorney be eligible to serve as a member of the
21 ~~Board~~ board while convened to hear and determine any appeals. However,

1 listers and agents to prosecute and defend suits wherein a town is interested
2 shall be given the opportunity to defend the appraisals in question.

3 * * * State Holidays * * *

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

5 § 371. LEGAL HOLIDAYS

6 (a) The following shall be legal holidays:

7 New Year's Day, January 1;

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

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

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

11 Town Meeting Day, the first Tuesday in March;

12 Memorial Day, the last Monday in May;

13 Independence Day, July 4;

14 Bennington Battle Day, August 16;

15 Labor Day, the first Monday in September;

16 Columbus Day, the second Monday in October;

17 Veterans' Day, November 11;

18 Thanksgiving Day, the fourth Thursday in November;

19 Christmas Day, December 25.

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* * * Effective Date * * *

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE