

*Gwynn Zakov, Municipal Policy Advocate
Vermont League of Cities and Towns
Senate Government Operations Committee
Re: S.184, An act relating to establishing a State Ethics Commission
January 12, 2016*

24 V.S.A. § 2291:

“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.”

24 V.S.A. § 1984:

(a) A town, city, or incorporated village, by majority vote of those present and voting at an annual or special meeting warned for that purpose, may adopt a conflict of interest prohibition 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.
- (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.

(b) Unless the prohibition adopted pursuant to subsection (a) of this section contains a different definition of "conflict of interest," for the purposes of a prohibition 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. (Added 1999, No. 82 (Adj. Sess.), § 2.)

24 V.S.A. 4461(a):

“Development review procedures

(a) Meetings. An appropriate municipal panel shall elect its own officers and adopt rules of procedure, subject to this section and other applicable state statutes, and shall adopt rules of ethics with respect to conflicts of interest. Meetings of any appropriate municipal panel shall be held at the call of the chairperson and at such times as the panel may determine. The officers of

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the panel may administer oaths and compel the attendance of witnesses and the production of material germane to any issue under review. All meetings of the panel, except for deliberative and executive sessions, shall be open to the public. The panel shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the clerk of the municipality as a public record. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the panel, and any action of the panel shall be taken by the concurrence of a majority of the panel.”

24 V.S.A. §§ 1201-1210 – Municipal Administrative Procedures Act:

[The authority of a town to adopt MAPA by vote of an individual quasi-judicial board, vote of the town or vote of a legislative body which requires adherence to 12 V.S.A. § 61(a) concerning conflicts of interest for contested hearings in Title 24, Chapter 36]

§ 1203:

“Local boards shall comply with the provisions of 12 V.S.A. § 61(a) when they conduct contested hearings and make findings under this chapter. For purposes of this section, prohibitions referring to those within the fourth degree of consanguinity or affinity shall refer to the person's spouse, as well as to the person's and the spouse's: parent, child, brother, sister, grandparent, or grandchild. (Added 1993, No. 232 (Adj. Sess.), § 44, eff. March 15, 1995.)

12 V.S.A. § 61(a), Disqualification of Judges, Jurors, And Attorneys:

“(a) A justice of the supreme court, judge, juror or other person shall not act in a judicial capacity in or as trier of a cause or matter in which he has been retained or acted as an attorney or counsel, or is interested in the event of such cause or matter, or is related to either party, if a natural person, within the fourth degree of consanguinity or affinity, or if a corporation, to any officer, director, trustee, or agent thereof within such degree; nor shall he be permitted to appear as attorney or counsel in a cause in which he has acted in such capacity or as trier; but he shall not be disqualified from so acting in a cause or matter in which a railroad corporation is a party by reason of being a taxpayer in a town which owns stock in such railroad corporation.”

2014 VLCT Municipal Census:

“Does your municipality have a conflict of interest policy for any of the following? (Check all that apply)” The following numbers of members (of the 153 who responded to the survey) checked the boxes as follows:

- Employees – 45 (29%)
- Legislative body – 57 (37%)
- Other elected officers – 31 (20%)

68 municipalities checked one or more of the boxes; so that 44% of the 153 responding municipalities have at least one conflict of interest policy.