



To: Members of the House Transportation Committee
From: Karen Horn, Director, Public Policy and Advocacy
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Date: April 4, 2019
Re: H. 364

Thank you for the opportunity to testify on H. 364. The bill would prohibit VTrans and railroads operating over state owned railroad property from requiring exploitative contracts as conditions of accessing property to provide benefits to assure the public health and safety.

Cities and towns have long been concerned about the use of VTrans and railroad authority to force agreements that indemnify the state and railroad from any liability regardless of negligence on the part of the state or railroad.

In 2017 when the situation regarding the City of Rutland's work to increase neighborhood fire protection came to our attention, we asked VTrans for any agreements between municipalities or corporations, VTrans, and any railroad with facilities in Vermont that pertains to installation, management, operation of water, sewer, electric, gas, or other proposed or existing infrastructure within the railroad right of way including beneath railroad or highway crossings. While admittedly a broadly phrased request, we were surprised to hear on November 22, that the estimate for providing that information would cost \$7,444. As a result, we cannot tell you how many such agreements cities and towns have signed.

VLCT insures most towns for liability. That insurance would not cover negligence of a third unrelated party, and thus a city or town would have no coverage in those situations. I would be surprised if an insurance policy would cover such a circumstance.

The practice of requiring towns to assume all liability for not only their own potential negligence but also that of VTrans or the railroad, is simply wrong. VTrans requires these agreements because it can.

We urge you to pass H. 364 to remedy this situation.

Thank you for the opportunity to testify.