

S.181

An act relating to authorizing miscellaneous regulatory authority for
municipal governments

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

* * * Ordinance Authority Subject to Permissive Referendum * * *

Sec. 1. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and
convenience, a town, city, or incorporated village shall have the following
powers:

(1) To set off portions of public highways of the municipality for
sidewalks and bicycle paths and to regulate their installation and use.

* * *

(4) To regulate the operation and use of vehicles of every kind including
the power: to erect traffic signs and signals; to regulate the speed of vehicles
subject to 23 V.S.A. chapter 13, subchapter 12; to implement traffic-calming
devices, to regulate or exclude the parking of all vehicles; and to provide for
waiver of the right of appearance and arraignment in court by persons charged
with parking violations by payment of specified fines within a stated period of
time.

* * *

(6) To regulate the location, installation, maintenance, repair, and removal of utility poles, wires and conduits, water pipes or mains, storm drains, or gas mains and sewers, upon, under, or above public highways or public property of the municipality.

* * *

(13) To compel the cleaning or repair of any premises that in the judgment of the legislative body is dangerous to the health or safety of the public and to establish standards for the maintenance of all premises within the municipality to protect the health and safety of the public or to prevent injury to other properties in the vicinity.

* * *

(24) Upon the determination by a municipal building inspector, health officer, or fire marshal that a building within the boundaries of the town, city, or incorporated village is uninhabitable or blighted, to recover all expenses incident to the maintenance of the uninhabitable or blighted building with the expenses to constitute a lien on the property in the same manner and to the same extent as taxes assessed on the grand list, and all procedures and remedies for the collection of taxes shall apply to the collection of those expenses; provided, however, that the town, city, or incorporated village has adopted rules to determine the habitability of a building, including provisions for notice in accordance with 32 V.S.A. § 5252(3) to the building's owner

prior to incurring expenses and including provisions for an administrative appeals process.

* * *

Sec. 2. 10 V.S.A. § 1420 is amended to read:

§ 1420. VESSELS; ABANDONMENT PROHIBITED; REMOVAL AND
DISPOSITION OF ABANDONED VESSELS

* * *

(c) Abandonment of vessels prohibited.

(1) Civil violation. A person shall not abandon a vessel on public waters or immediately adjacent land. A person who violates this subdivision shall be subject to civil enforcement under chapters 201 and 211 of this title and, in any such enforcement action, the Secretary or municipality may obtain an order to recover costs specified in subdivision (d)(1) of this section incurred by the Agency of Natural Resources or the municipality.

* * *

(d)(1)(A) Removal of abandoned vessel. Upon request from a law enforcement officer or at ~~his or her~~ the Secretary's own initiative, the Secretary shall promptly cause the removal and safe storage of a vessel that is abandoned as described in subdivision (a)(1) of this section, unless the vessel is to be removed by a federal agency. If removal is requested by a law enforcement officer, the Secretary shall make reasonable efforts to determine if the vessel

qualifies as abandoned. In addition, the Secretary shall have the authority to take actions as may be necessary to eliminate risks to public health or safety caused by the condition of the vessel.

(B) A municipality shall have the authority granted to the Secretary in subdivision (A) of this subdivision (d)(1) and may remove a damaged and leaking vessel from public waters, provided that:

(i) the municipality reports the presence of the abandoned vessel to the Secretary; and

(ii) the municipality reports the presence of the abandoned vessel to the owner of the vessel, if possible.

(C) A municipality shall have the authority to issue civil penalties and impound a vessel when exercising the authority granted pursuant to subdivision (B) of this subdivision (d)(1).

* * *

* * * Municipal Authority Subject to Voter Approval * * *

Sec. 3. 17 V.S.A. § 2645a is added to read:

§ 2645a. CHARTERED MUNICIPALITIES; VOTE TO SUSPEND

CHARTER AUTHORITY AND RELY ON GENERAL

MUNICIPAL LAW

(a) A municipality may propose to suspend for 3 years specific authority granted in the municipality's charter and instead use later-enacted general

municipal authority granted to all Vermont municipalities by the General Assembly, provided that the proposal is approved by the voters at any annual or special meeting warned for that purpose.

(b) The proposal may be made by the legislative body of the municipality or by petition of five percent of the voters of the municipality. The proposal shall specifically identify and contain the later-enacted general law that the municipality proposes to use in lieu of the charter provision.

(c) If the proposal is approved by a majority of voters at an annual or special meeting warned for that purpose, then the municipal clerk shall certify the results of the vote to the House and Senate Committees on Government Operations.

(d) Annually on or before November 15, the Office of Legislative Counsel shall prepare a list of the charter provisions that are subject to a repeal review pursuant to this section.

Sec. 4. 17 V.S.A. § 2646a is added to read:

§ 2646a. TOWN OFFICERS; TOWN VOTE TO ALLOW ELECTION OF
NONRESIDENTS

(a)(1) Notwithstanding section 2646 of this subchapter, a municipality may propose to allow nonresidents to be elected or appointed town officers, except for members of the legislative body of the municipality. For all of the

municipality's boards, commissions, and other public bodies, the majority of the members of the municipal bodies shall be residents of the municipality.

(2) The proposal must be approved by the voters at any annual or special meeting warned for that purpose.

(b) The proposal may be made by the legislative body of the municipality or by petition of five percent of the voters of the municipality. The proposal shall identify the town office that may be filled by a nonresident.

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

§ 2651a. CONSTABLES; APPOINTMENT; REMOVAL; ELIMINATION OF OFFICE

* * *

(d)(1) A town may vote at an annual meeting to eliminate the office of constable.

(2) If a town votes to eliminate the office of constable, the selectboard shall appoint a town officer to discharge the constable's duties, if any, subject to 24 V.S.A. § 1936a. The town officer shall proceed in the discharge of the constable's duties in the same manner and be subject to the same liabilities as are established by law for constables.

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

(4) The term of office of any constable in office on the date a town votes to eliminate that office shall expire on the 45th day after the vote or on the date upon which the selectboard appoints a law enforcement officer under this subsection, whichever occurs first.

Sec. 6. 17 V.S.A. § 2668 is added to read:

§ 2668. RECALL OF LOCAL OFFICIALS

(a) Any elected municipal officer may be removed from office subject to the procedure for voter-initiated petition contained in this section.

(b) A petition for a vote on the question of recalling an elected municipal officer shall be signed by not less than 25 percent of the active registered voters of the municipality and presented to the legislative body or the clerk of the municipality.

(c) When a petition is submitted in accordance with subsection (b) of this section, the legislative body shall call a special meeting within 60 days from the date of receipt of the petition or include an article in the warning for the next annual meeting of the municipality if the annual meeting falls within the 60-day period, to determine whether the voters will remove the elected municipal officer.

(d) When the petition is approved by the voters at the special or annual meeting, the elected municipal officer named in the petition shall cease to hold the office.

(e) A vacancy resulting from the recall of an elected municipal officer shall be filled pursuant to 24 V.S.A. chapter 33, subchapter 6.

(f) A recall petition shall not be brought against an individual elected municipal officer more than once within any 12-month period.

Sec. 7. 24 V.S.A. § 138 is amended to read:

§ 138. LOCAL OPTION TAXES

~~(a) Local option taxes are authorized under this section for the purpose of affording municipalities an alternative method of raising municipal revenues to facilitate the transition and reduce the dislocations in those municipalities that may be caused by reforms to the method of financing public education under the Equal Educational Opportunity Act of 1997. Accordingly:~~

~~(1) the local option taxes authorized under this section may be imposed by a municipality;~~

~~(2) a municipality opting to impose a local option tax may do so prior to July 1, 1998 to be effective beginning January 1, 1999, and anytime after December 1, 1998 a A local option tax adopted pursuant to this section shall be effective beginning on the next tax quarter following 90 days' notice to the Department of Taxes of the imposition of the tax; and~~

~~(3) a local option tax may only be adopted by a municipality in which:~~

~~(A) the education property tax rate in 1997 was less than \$1.10 per \$100.00 of equalized education property value; or~~

~~(B) the equalized grand list value of personal property, business machinery, inventory, and equipment is at least ten percent of the equalized education grand list as reported in the 1998 Annual Report of the Division of Property Valuation and Review; or~~

~~(C) the combined education tax rate of the municipality will increase by 20 percent or more in fiscal year 1999 or in fiscal year 2000 over the rate of the combined education property tax in the previous fiscal year.~~

(b) If the legislative body of a municipality by a majority vote recommends, the voters of a municipality may, at an annual or special meeting warned for that purpose, by a majority vote of those present and voting, assess any or all of the following:

- (1) a one percent sales tax;
- (2) a one percent meals and alcoholic beverages tax;
- (3) a one percent rooms tax.

* * *

Sec. 8. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

* * *

(c) In the case of an urban municipality or of a rural town where the planning commission does not serve as the board of adjustment or the development review board, members of the board of adjustment or the

development review board shall be appointed by the legislative body, the number and terms of office of which shall be determined by the legislative body subject to the provisions of subsection ~~(a)~~(b) of this section. The municipal legislative body may appoint alternates to a planning commission, a board of adjustment, or a development review board for a term to be determined by the legislative body. Alternates may be assigned by the legislative body to serve on the planning commission, the board of adjustment, or the development review board in situations when one or more members of the board are disqualified or are otherwise unable to serve. Vacancies shall be filled by the legislative body for the unexpired terms and upon the expiration of such terms. Each member of a board of adjustment or a development review board may be removed for cause by the legislative body upon written charges and after public hearing. If a development review board is created, provisions of this subsection regarding removal of members of the board of adjustment shall not apply.

* * *

(f) Notwithstanding subsections (b) and (c) of this section, a municipality may vote at an annual or special meeting to change the number of members that may be appointed to a board of adjustment or development review board.

(1) The proposal to change the number of members serving on a board may be brought by the legislative body or by petition of five percent of the voters of the municipality.

(2) If the number of members on a board is reduced, the legislative body shall use a lottery system to determine the members that remain in office.

Sec. 8a. 24 V.S.A. § 4322 is amended to read:

§ 4322. PLANNING COMMISSION; MEMBERSHIP

(a) A planning commission shall have not less than three nor more than nine voting members. All members may be compensated and reimbursed by the municipality for necessary and reasonable expenses. At least a majority of the members of a planning commission shall be residents of the municipality.

(b) The ~~selectboard~~ legislative body of a rural town, or not more than two elected or appointed officials of an urban municipality who are chosen by the legislative body of the urban municipality, shall be nonvoting ex officio members of a planning commission. If a municipality has an energy coordinator under chapter 33, subchapter 12 of this title, the energy coordinator may be a nonvoting ex officio member of the planning commission.

(c) Notwithstanding subsection (a) of this section:

(1) for an appointed planning commission, the legislative body may change the number of members that may be appointed to the commission; and

(2) for an elected planning commission, a municipality may vote at an annual or special meeting to change the number of members that may be elected to the commission.

(d) Notwithstanding subsection 4323(c) of this subchapter, if the number of members on an appointed or elected planning commission is reduced, the legislative body shall use a lottery system to determine the members that remain in office.

* * * Authority of Legislative Body without Voter Approval * * *

Sec. 9. 18 V.S.A. § 5361 is amended to read:

§ 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

A town may vote sums of money necessary for purchasing, holding, improving, and keeping in repair suitable grounds and other conveniences for burying the dead. The selectboard may make necessary regulations concerning public burial grounds and for fencing and keeping the same in proper order.

Sec. 10. 23 V.S.A. § 1007 is amended to read:

§ 1007. LOCAL SPEED LIMITS

(a)(1) The legislative body of a municipality may establish, on the basis of an engineering and traffic investigation, a speed limit on all or a part of any city, town, or village highway within its jurisdiction, which:

(A) is not more than 50 miles per hour; however, after considering neighborhood character, abutting land use, bicycle and pedestrian use, and

physical characteristics of the highways, the legislative body of a municipality may vote to set the maximum speed limit, without an engineering and traffic investigation, at not more than 50 miles per hour nor less than 35 miles per hour, on all or a portion of unpaved town highways within its boundaries, unless otherwise posted in accordance with the provisions of this section; or

(B) is not less than ~~25~~ 15 miles per hour.

* * *

Sec. 11. 24 V.S.A. § 961 is amended to read:

§ 961. VACANCY OR SUSPENSION OF OFFICER'S DUTIES

* * *

(e) When a member of a municipal legislative body fails to attend within a one-year period the minimum number of meetings established by the legislative body in an annual attendance policy, the legislative body may deem the member's office vacant. The legislative body shall afford the member the opportunity to demonstrate that the absences were due to a reasonable basis established in the attendance policy. An annual attendance policy may only be established by unanimous resolution of the legislative body and shall be renewed by the legislative body annually.

Sec. 12. [Deleted.]

Sec. 13. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

(a) Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

* * *

(b) A municipality may adopt a bylaw that:

(1) prohibits the initiation of construction under a zoning permit unless and until all required municipal permits have been issued; or

(2) establishes an application process for a zoning or subdivision permit, under which an applicant may submit a permit application for municipal review, and the municipality may condition the issuance of a final permit upon the issuance of all other required municipal permits.

* * * Emergency Provisions for the Operation of Government * * *

Sec. 14. 1 V.S.A. § 312a is added to read:

§ 312a. MEETINGS OF PUBLIC BODIES; STATE OF EMERGENCY

(a) As used in this section:

(1) “Affected public body” means a public body:

(A) whose regular meeting location is located in an area affected by a hazard; and

(B) that cannot meet in a designated physical meeting location due to a declared state of emergency pursuant to 20 V.S.A. chapter 1.

(2) "Hazard" means an "all-hazards" as defined in 20 V.S.A. § 2(1).

(b) Notwithstanding subdivisions 312(a)(2)(D) and (c)(2) of this title, during a declared state of emergency under 20 V.S.A. chapter 1:

(1) A quorum or more of an affected public body may attend a regular, special, or emergency meeting by electronic or other means without designating a physical meeting location where the public may attend.

(2) The members and staff of an affected public body shall not be required to be physically present at a designated meeting location.

(3) An affected public body of a municipality may post any meeting agenda or notice of a special meeting in two publicly accessible designated electronic locations in lieu of the two designated public places in the municipality, or in a combination of a designated electronic location and a designated public place.

(c) When an affected public body meets electronically under subsection (b) of this section, the affected public body shall:

(1) use technology that permits the attendance and participation of the public through electronic or other means;

(2) whenever feasible, allow the public to access the meeting by telephone; and

(3) post information that enables the public to directly access and participate in meetings electronically and shall include this information in the published agenda for each meeting.

(d) Unless unusual circumstances make it impossible for them to do so, the legislative body of each municipality and each school board shall record any meetings held pursuant to this section.

(e) An affected public body of a municipality shall continue to post notices and agendas in or near the municipal clerk's office pursuant to subdivision 312(c)(2) of this title and shall provide a copy of each notice or agenda to the newspapers of general circulation for the municipality.

Sec. 15. 32 V.S.A. § 4404 is amended to read:

§ 4404. APPEALS FROM LISTERS AS TO GRAND LIST

* * *

(c)(1) The board shall meet at the time and place so designated, and on that day and from day to day thereafter shall hear and determine such appeals until all questions and objections are heard and decided. Each property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board who shall report to the board within 30 days from the hearing on the appeal and before the final decision pertaining to the property is given. If, after notice, the appellant refuses to allow an inspection of the property as required under this subsection, including the

interior and exterior of any structure on the property, the appeal shall be deemed withdrawn. The board shall, within 15 days from the time of the report, certify in writing its notice of decision, with reasons, in the premises, and shall file ~~such~~ the notice with the town clerk who shall thereupon record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of the action of such board, by certified mail. If the board does not substantially comply with the requirements of this subsection and if the appeal is not withdrawn by filing written notice of withdrawal with the board or deemed withdrawn as provided in this subsection, the grand list of the appellant for the year for which appeal is being made shall remain at the amount set before the appealed change was made by the listers; except, if there has been a complete reappraisal, the grand list of the appellant for the year for which appeal is being made shall be set at a value that will produce a tax liability equal to the tax liability for the preceding year. The town clerk shall immediately record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of ~~such~~ the action, by certified mail. Thereupon the appraisal so determined pursuant to this subsection shall become a part of the grand list of ~~such~~ the person.

(2) During a declared state of emergency under 20 V.S.A. chapter 1, a board of civil authority within a municipality affected by an all-hazards event shall not be required to physically inspect any property that is the subject of an

appeal. If the appellant requests in writing that the property be inspected for purposes of the appeal, a member or members of the board shall conduct the inspection through electronic means. If the appellant does not facilitate the inspection through electronic means, then the appeal shall be deemed withdrawn.

(3) As used in this subsection, “electronic means” means the transmittal of video or photographic evidence by the appellant at the direction of the board members conducting the inspection.

(d) Listers and agents to prosecute and defend suits wherein a town is interested shall not be eligible to serve as members of the board while convened to hear and determine such appeals nor shall an appellant, ~~his or her~~ the appellant’s servant, agent, or attorney be eligible to serve as a member of the board while convened to hear and determine any appeals. However, listers and agents to prosecute and defend suits wherein a town is interested shall be given the opportunity to defend the appraisals in question.

Sec. 16. 32 V.S.A. § 4467 is amended to read:

§ 4467. DETERMINATION OF APPEAL

(a) Upon appeal to the Director or the court, the hearing officer or court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in

which the appeal is taken. The hearing officer or court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States.

(b) If the hearing officer or court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the hearing officer or court shall set ~~said~~ the property in the list at a corresponding value. The findings and determinations of the hearing officer shall be made in writing and shall be available to the appellant.

(c)(1) If the appeal is taken to the Director, the hearing officer may inspect the property prior to making a determination, unless one of the parties requests an inspection, in which case the hearing officer shall inspect the property prior to making a determination. Within 10 days of the appeal being filed with the Director, the Director shall notify the property owner in writing of ~~his or her~~ the Director's option to request an inspection under this section.

(2) During a declared state of emergency under 20 V.S.A. chapter 1, a hearing officer shall not be required to physically inspect any property that is the subject of an appeal. If the appellant requests in writing that the property be inspected for purposes of the appeal, the hearing officer shall conduct the inspection through electronic means. If the appellant does not facilitate the

inspection through electronic means, then the appeal shall be deemed withdrawn.

(3) As used in this subsection, “electronic means” means the transmittal of video or photographic evidence by the appellant at the direction of the hearing officer conducting the inspection.

Sec. 17. 24 V.S.A. § 5152 is added to read:

§ 5152. DISCONNECTIONS PROHIBITED; STATE OF EMERGENCY

(a) Notwithstanding this chapter or any provision of law to the contrary, a municipality; a person who is permitted as a public water system pursuant to 10 V.S.A. chapter 56 and who provides another person water as a part of the operation of that public water system; or a company engaged in the collecting, sale, and distribution of water for domestic, industrial, business, or fire protection purposes that is regulated by the Public Utility Commission under 30 V.S.A. § 203(3) shall be prohibited from disconnecting any person from services during a declared state of emergency under 20 V.S.A. chapter 1, provided that:

(1) the state of emergency is declared in response to an all-hazards event that will cause financial hardship and the inability of ratepayers to pay for water or sewer services; and

(2) the all-hazards event does not require the water or sewer service provider to disconnect services to protect the health and safety of the public.

(b)(1) A violation of subsection (a) of this section by a municipality or a person who is permitted as a public water system pursuant to 10 V.S.A. chapter 56 may be enforced by the Agency of Natural Resources pursuant to 10 V.S.A. chapter 201.

(2) A violation of subsection (a) of this section by a company engaged in the collecting, sale, and distribution of water for domestic, industrial, business, or fire protection purposes that is regulated by the Public Utility Commission under 30 V.S.A. § 203(3) may be enforced by the Public Utility Commission pursuant to 30 V.S.A. § 30.

(c) A ratepayer shall remain obligated for any amounts due to a water or sewer service provider subject to this section. The ratepayer shall have a minimum of 90 days after the end of the declared state of emergency to pay the amounts due.

Sec. 18. 20 V.S.A. § 47 is added to read:

§ 47. MUNICIPAL DEADLINES, PLANS, AND LICENSES; EXTENSION

(a) During a state of emergency declared under this chapter, a municipal corporation may:

(1) extend any statutory deadline applicable to municipal corporations, provided that the deadline does not relate to a license, permit, program, or plan issued or administered by the State or federal government; and

(2) extend or waive deadlines applicable to licenses, permits, programs, or plans that are issued by the municipal corporation.

(b) During a state of emergency declared under this chapter, any expiring license, permit, program, or plan issued by a municipal corporation that is due for renewal or review shall remain valid for 90 days after the date that the declared state of emergency ends.

* * * Repeal * * *

Sec. 19. REPEAL

19 V.S.A. § 312 (use of town highway funds) is repealed.

* * * Effective Date * * *

Sec. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2022.