

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 181 entitled “An act relating to authorizing miscellaneous regulatory
4 authority for municipal governments” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

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

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

9 § 2291. ENUMERATION OF POWERS

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

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

15 * * *

16 (4) To regulate the operation and use of vehicles of every kind including
17 the power: to erect traffic signs and signals; to regulate the speed of vehicles
18 subject to 23 V.S.A. chapter 13, subchapter 12; to implement traffic-calming
19 devices, to regulate or exclude the parking of all vehicles; and to provide for
20 waiver of the right of appearance and arraignment in court by persons charged

1 with parking violations by payment of specified fines within a stated period of
2 time.

3 * * *

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

8 * * *

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

14 * * *

15 (24) Upon the determination by a municipal building inspector, health
16 officer, or fire marshal that a building within the boundaries of the town, city,
17 or incorporated village is uninhabitable or blighted, to recover all expenses
18 incident to the maintenance of the uninhabitable or blighted building with the
19 expenses to constitute a lien on the property in the same manner and to the
20 same extent as taxes assessed on the grand list, and all procedures and
21 remedies for the collection of taxes shall apply to the collection of those

1 expenses; provided, however, that the town, city, or incorporated village has
2 adopted rules to determine the habitability of a building, including provisions
3 for notice in accordance with 32 V.S.A. § 5252(3) to the building's owner
4 prior to incurring expenses and including provisions for an administrative
5 appeals process.

6 * * *

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

8 § 1420. VESSELS; ABANDONMENT PROHIBITED; REMOVAL AND
9 DISPOSITION OF ABANDONED VESSELS

10 * * *

11 (c) Abandonment of vessels prohibited.

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

18 * * *

19 (d)(1)(A) Removal of abandoned vessel. Upon request from a law
20 enforcement officer or at ~~his or her~~ the Secretary's own initiative, the Secretary
21 shall promptly cause the removal and safe storage of a vessel that is abandoned

1 as described in subdivision (a)(1) of this section, unless the vessel is to be
2 removed by a federal agency. If removal is requested by a law enforcement
3 officer, the Secretary shall make reasonable efforts to determine if the vessel
4 qualifies as abandoned. In addition, the Secretary shall have the authority to
5 take actions as may be necessary to eliminate risks to public health or safety
6 caused by the condition of the vessel.

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

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

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

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

17 * * *

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

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

3 § 2645a. CHARTERED MUNICIPALITIES; VOTE TO SUSPEND

4 CHARTER AUTHORITY AND RELY ON GENERAL

5 MUNICIPAL LAW

6 (a) A municipality may propose to suspend for 3 years specific authority
7 granted in the municipality’s charter and instead use later-enacted general
8 municipal authority granted to all Vermont municipalities by the General
9 Assembly, provided that the proposal is approved by the voters at any annual
10 or special meeting warned for that purpose.

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

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

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

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

2 § 2646a. TOWN OFFICERS; TOWN VOTE TO ALLOW ELECTION OF
3 NONRESIDENTS

4 (a)(1) Notwithstanding section 2646 of this subchapter, a municipality may
5 propose to allow nonresidents to be elected or appointed town officers, except
6 for members of the legislative body of the municipality. For all of the
7 municipality’s boards, commissions, and other public bodies, the majority of
8 the members of the municipal bodies shall be residents of the municipality.

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

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

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

15 § 2651a. CONSTABLES; APPOINTMENT; REMOVAL; ELIMINATION
16 OF OFFICE

17 * * *

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

20 (2) If a town votes to eliminate the office of constable, the selectboard
21 shall appoint a town officer to discharge the constable’s duties, if any, subject

1 to 24 V.S.A. § 1936a. The town officer shall proceed in the discharge of the
2 constable’s duties in the same manner and be subject to the same liabilities as
3 are established by law for constables.

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

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

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

12 § 2668. RECALL OF LOCAL OFFICIALS

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

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

19 (c) When a petition is submitted in accordance with subsection (b) of this
20 section, the legislative body shall call a special meeting within 60 days from
21 the date of receipt of the petition or include an article in the warning for the

1 next annual meeting of the municipality if the annual meeting falls within the
2 60-day period, to determine whether the voters will remove the elected
3 municipal officer.

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

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

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

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

12 § 138. LOCAL OPTION TAXES

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

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

20 ~~(2) a municipality opting to impose a local option tax may do so prior to~~
21 ~~July 1, 1998 to be effective beginning January 1, 1999, and anytime after~~

1 ~~December 1, 1998 a local option tax shall be effective beginning on the next~~
2 ~~tax quarter following 90 days' notice to the Department of Taxes of the~~
3 ~~imposition; and~~

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

5 ~~(A) the education property tax rate in 1997 was less than \$1.10 per~~
6 ~~\$100.00 of equalized education property value; or~~

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

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

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

18 (1) a one percent sales tax;

19 (2) a one percent meals and alcoholic beverages tax;

20 (3) a one percent rooms tax.

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* * *

(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 determine which of the appointed members shall 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:

1 (A) is not more than 50 miles per hour; however, after considering
2 neighborhood character, abutting land use, bicycle and pedestrian use, and
3 physical characteristics of the highways, the legislative body of a municipality
4 may vote to set the maximum speed limit, without an engineering and traffic
5 investigation, at not more than 50 miles per hour nor less than 35 miles per
6 hour, on all or a portion of unpaved town highways within its boundaries,
7 unless otherwise posted in accordance with the provisions of this section; or
8 (B) is not less than ~~25~~ 15 miles per hour.

9 * * *

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

11 § 961. VACANCY OR SUSPENSION OF OFFICER'S DUTIES

12 * * *

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

1 Sec. 12. 18 V.S.A. § 5361 is amended to read:

2 § 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

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

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

8 § 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

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

12 * * *

13 (b) A municipality may adopt a bylaw that:

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

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

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

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

3 § 312a. MEETINGS OF PUBLIC BODIES; STATE OF EMERGENCY

4 (a) As used in this section:

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

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

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

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

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

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

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

18 (3) An affected public body of a municipality may post any meeting
19 agenda or notice of a special meeting in two publicly accessible designated
20 electronic locations in lieu of the two designated public places in the

1 municipality, or in a combination of a designated electronic location and a
2 designated public place.

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

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

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

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

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

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

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

20 § 4404. APPEALS FROM LISTERS AS TO GRAND LIST

21 * * *

1 (c)(1) The board shall meet at the time and place so designated, and on that
2 day and from day to day thereafter shall hear and determine such appeals until
3 all questions and objections are heard and decided. Each property, the
4 appraisal of which is being appealed, shall be inspected by a committee of not
5 less than three members of the board who shall report to the board within 30
6 days from the hearing on the appeal and before the final decision pertaining to
7 the property is given. If, after notice, the appellant refuses to allow an
8 inspection of the property as required under this subsection, including the
9 interior and exterior of any structure on the property, the appeal shall be
10 deemed withdrawn. The board shall, within 15 days from the time of the
11 report, certify in writing its notice of decision, with reasons, in the premises,
12 and shall file ~~such~~ the notice with the town clerk who shall thereupon record
13 the same in the book wherein the appeal was recorded and forthwith notify the
14 appellant in writing of the action of such board, by certified mail. If the board
15 does not substantially comply with the requirements of this subsection and if
16 the appeal is not withdrawn by filing written notice of withdrawal with the
17 board or deemed withdrawn as provided in this subsection, the grand list of the
18 appellant for the year for which appeal is being made shall remain at the
19 amount set before the appealed change was made by the listers; except, if there
20 has been a complete reappraisal, the grand list of the appellant for the year for
21 which appeal is being made shall be set at a value that will produce a tax

1 liability equal to the tax liability for the preceding year. The town clerk shall
2 immediately record the same in the book wherein the appeal was recorded and
3 forthwith notify the appellant in writing of ~~such~~ the action, by certified mail.
4 Thereupon the appraisal so determined pursuant to this subsection shall
5 become a part of the grand list of ~~such~~ the person.

6 (2) During a declared state of emergency under 20 V.S.A. chapter 1, a
7 board of civil authority within a municipality affected by an all-hazards event
8 shall not be required to physically inspect any property that is the subject of an
9 appeal. If the appellant requests in writing that the property be inspected for
10 purposes of the appeal, a member or members of the board shall conduct the
11 inspection through electronic means. If the appellant does not facilitate the
12 inspection through electronic means, then the appeal shall be deemed
13 withdrawn.

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

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 appeals nor shall an appellant, ~~his or her~~
20 the appellant’s servant, agent, or attorney be eligible to serve as a member of
21 the board while convened to hear and determine any appeals. However, listers

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

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

4 § 4467. DETERMINATION OF APPEAL

5 (a) Upon appeal to the Director or the court, the hearing officer or court
6 shall proceed de novo and determine the correct valuation of the property as
7 promptly as practicable and to determine a homestead and a housesite value if
8 a homestead has been declared with respect to the property for the year in
9 which the appeal is taken. The hearing officer or court shall take into account
10 the requirements of law as to valuation, and the provisions of Chapter I,
11 Article 9 of the Constitution of Vermont and the 14th Amendment to the
12 Constitution of the United States.

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

19 (c)(1) If the appeal is taken to the Director, the hearing officer may inspect
20 the property prior to making a determination, unless one of the parties requests
21 an inspection, in which case the hearing officer shall inspect the property prior

1 to making a determination. Within 10 days of the appeal being filed with the
2 Director, the Director shall notify the property owner in writing of ~~his or her~~
3 the Director’s option to request an inspection under this section.

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

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

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

15 § 5152. DISCONNECTIONS PROHIBITED; STATE OF EMERGENCY

16 (a) Notwithstanding this chapter or any provision of law to the contrary, a
17 municipality; a person who is permitted as a public water system pursuant to
18 10 V.S.A. chapter 56 and who provides another person water as a part of the
19 operation of that public water system; or a company engaged in the collecting,
20 sale, and distribution of water for domestic, industrial, business, or fire
21 protection purposes that is regulated by the Public Utility Commission under

1 30 V.S.A. § 203(3) shall be prohibited from disconnecting any person from
2 services during a declared state of emergency under 20 V.S.A. chapter 1,
3 provided that:

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

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

9 (b)(1) A violation of subsection (a) of this section by a municipality or a
10 person who is permitted as a public water system pursuant to 10 V.S.A.
11 chapter 56 may be enforced by the Agency of Natural Resources pursuant to
12 10 V.S.A. chapter 201.

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

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

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

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

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

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

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

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

14 * * * Repeal * * *

15 Sec. 19. REPEAL

16 19 V.S.A. § 312 (use of town highway funds) is repealed.

17 * * * Effective Date * * *

18 Sec. 20. EFFECTIVE DATE

19 This act shall take effect on July 1, 2022.

1 (Committee vote: _____)

2

3

Senator _____

4

FOR THE COMMITTEE