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Rep. Michael McCarthy, St. Albans
Vermont State House
115 State Street
Montpelier, VT 05633-5301

via email

March 11, 2024

Re: Committee Bill Pre-Emptying Local Authority on Ethics

Dear Rep. Michael McCarthy, Chair of Government Operations and Military Affairs Committee and Committee Members,

We appreciate being allowed to testify and thank the members for their comments about the thoroughness of our ethics policy and ethics framework in the Town of Colchester. We agree with the committee that ethics is extremely important. However, we disagree with this committee bill.

We met with the Colchester Representative about this bill Friday, March 11. Here are some of our comments from that meeting on Draft 4.3 of the Municipal Ethics Bill and a suggestion for an edit to the bill.

1) This is a committee bill. No legislators outside the committee have seen or read the proposal. Friday is crossover. This bill must be finalized and passed by the committee, put on notice and passed by the House by Friday, unless rules are suspended. If rules are suspended there is even less time for legislators to educate themselves on this reach into municipal government operations.

2) Overlapping companion bill. It is clear this is a companion bill to the other ethics bill coming out of committee. The other ethics bill greatly expands the Ethics Commission's jurisdiction and powers. It also contains the money and staff for the Ethics Commission to implement this bill. (The companion bill goes well beyond what the original bill intended in 2017 when passed.) Legislators need to carefully consider the companion bill as it affects State Government.

3) Section 1991 - Impact of Municipal Ethics Bill. This bill effects prudential committees, regional governments of all types (transportation, water, solid waste, planning, development, parks, etc.), and local government from planning commissions, development review boards, conservation commissions, recreation boards, to library trustees. Do the fire districts and regional

governments and library trustees know that? How many mobile home parks in VT are incorporated villages? Do they know about this bill? Did members from any of these entities give testimony or input?

School districts, which are equal to and separate from municipal government in State law—but which receive three times the taxpayer funding—are not included. This seems an odd exclusion.

4) Section 1991 - Incomplete Definitions in Bill. Under the definitions section, Legislative Body, Municipal employee, and Municipal officer are all treated the same under the policy despite their different roles, responsibilities, authorities and ethical risks in different forms of municipal government. The definition of employee is incredibly expansive and would include someone who worked for one hour or a consultant in a very limited capacity. Colchester's approach with two different polices for elected/appointed officials and paid staff more clearly delineates the roles, responsibilities and requirements for ethical conducted than a canned catch all for everyone.

5) Section 1995 - Training. We do not support the liaison concept. If the State of Vermont wants to become responsible for municipal ethics, it should become fully responsible and not include municipal government in its approach. This will be time consuming and confusing for all. Likewise, training and record-keeping will be time-consuming task for municipalities. We suggest that the Commission be charged with all record-keeping of their policy. The effective date of this bill is Jan. 1, 2025 and May 1, 2025 is the date that all initial training needs to be completed. This is a very short time frame and should be extended.

6) Section 1998 - Local Ethics and Personnel Polices. This section clearly overrides local ethics and personnel policies. While it allows for local policies in excess of the state policy, it will not be practical to have local and state ethics policies. Who determines if a conflict exists between the state and local codes? If we retain a local ethics policy, we will have both a local and statewide ethics policies, state and local boards to hear complaints, state and local training, state and local reporting on training, and state and local process and procedures.

7) Costs - This is an unfunded mandate with local and statewide costs, including the costs of defense against complaints. The complete costs of this legislation and all of its impacts should be clearly disclosed and borne by the Ethics Commission, not by local government or through the State Department of Personnel.

8) Non-Compliance. This bill has no penalties or repercussions for non-compliance. Any individual or municipal can just ignore this bill with no consequences.

As a consideration to communities that have ethics policies and effective frameworks in place, we request the following language to draft 4.3,

“24 V.S.A. § 1998

(c) A municipality shall be exempt from the entirety of this chapter upon submitting a letter from its legislative body to the State Ethics Commission by December 31st of each year certifying that the municipality has adopted an ethics policy and framework that does not conflict with the provisions of this chapter. Such letter may be sent by email or regular mail, and may include a copy of the municipal ethics policy.

(d) The State Ethics Commission may provide non-exempt municipalities a model ethics policy or other resources.”

Thank you for your consideration.

Sincerely,

Pam Loranger

Pamela Loranger
Selectboard Chair

Maureen P. Dakin

Maureen P. Dakin
Selectboard Member

cc:

Government Operations and Military Affairs Committee Members

Rep. Matthew Birong, Vice Chair - Vergennes
Rep. Mark Higley, Ranking Member - Lowell
Rep. Lucy Boyden, Clerk - Cambridge
Rep. Seth Chase - Colchester
Rep. Lisa Hango - Berkshire
Rep. Philip Jay Hooper - Randolph
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Rep. Chea Waters Evans - Charlotte

Colchester Representatives: Pat Brennan, Curt Taylor, Sarita Austin and Seth Chase