



## Vermont State Ethics Commission

### MEMORANDUM

**To:** Christina Sivret, Executive Director  
Vermont State Ethics Commission

**From:** Mark Perrault

**Date:** March 5, 2024

**Subject:** Unfunded mandates in the municipal ethics bill

As you asked, I have reviewed the bill creating a uniform municipal code of ethics to identify any unfunded mandates. The most recent draft of this committee bill (24-9461 – 4.3) is pending before the House Committee on Government Operations and Military Affairs. My conclusion is that the uniform municipal code of ethics proposed in section 3 of the draft bill imposes no significant costs on municipalities.

#### Section 3: Municipal Code of Ethics

##### 24 VSA § 1992 – Conflicts of Interest

This section sets forth specific actions that a municipality and a municipal officer must undertake when a conflict of interest is determined to exist and the officer determines that there is “good cause” to proceed without recusal. However, these actions are not significantly different than the actions required by the conflict of interest policies that municipalities previously adopted under current law. (Section 1 of this bill repeals 24 VSA §1984.)

##### 24 VSA § 1995 – Ethics Training

This section requires municipal officers to complete ethics training, as approved by the State Ethics Commission (SEC), within 120 days of their election or appointment and every three years thereafter. (Section 4 of this bill requires in-office municipal officers to complete ethics training by May 1, 2025.) Although it is not explicit in the draft bill, my understanding is that the SEC will manage the ongoing cost of these trainings rather than municipalities, although municipalities have the option to provide the training themselves or through other approved 3<sup>rd</sup> parties. The training requirement itself is not burdensome and may fall within the existing duties of municipal officers.

In addition, each municipality must designate a senior-level employee as its liaison to the SEC to facilitate the dissemination of information. Serving as a liaison will impose new responsibilities on the liaison including attendance at educational seminars conducted by the SEC. Although it is not explicit in the draft bill, my understanding is that it is to take the form of an optional annual Zoom meeting. However, these responsibilities are not burdensome and may fall within the existing duties of senior-level employees

#### 24 VSA § 1996 – Enforcement and Remedies

This section requires municipalities to designate a municipal officer or body to receive complaints and to "investigate" complaints that allege a violation of the municipal code of ethics. However, the bill does not indicate what such an investigation of misconduct should entail. My understanding is that this provision is not intended to involve any work beyond a municipality's current practices for investigating complaints generally, but the draft bill could be more specific on this point.

While this section imposes no costs on municipalities, it does create work associated with record-keeping and reporting requirements. However, the specific tasks in the draft bill are not burdensome and may fall within the existing duties of city and town clerks or other relevant municipal entities. These administrative tasks include:

- Posting or distributing the code of ethics to all municipal officers
- Making the code of ethics available to the public upon request
- Documenting the completion of ethics training (which may also be recorded by individual municipal officers or their employer)
- Tracking and recording received ethics complaints and their disposition
- Maintaining these records for the duration of an officer's service plus five years
- Providing a summary of complaints and their disposition to the SEC upon request

#### 24 VSA 1997 – Whistleblower Protections

This section allows individuals who disclose misconduct to bring a civil action against municipalities and officers for retaliation experienced for whistleblowing. The bill limits remedies to injunctive relief, reinstatement, back pay and benefits, reasonable attorney fees, and punitive damages not more than \$5,000. Municipal liability insurance may exist or be available to limit financial exposure for violating the statute.

#### 24 VSA §§ 1991, 1993, 1994, and 1998 – Other Provisions

The remaining provisions of the proposed municipal code of ethics impose no significant costs on municipalities.

The bill would become effective on January 1, 2025.