

## MEMBERS of HOUSE GOVERNMENT OPERATIONS COMMITTEE

My name is Jeanette White, lover of local control, ex Selectboard member and Chair of SGO.

Thank you for letting me share my thought on this bill.

Having worked on the original ethics bills and the creation of the Ethics Commission, I know that it has long been a desire by some to enact legislation to regulate municipal ethics and conflicts of interest. There are reasons why this was not included as was pointed out by Maureen Dakin. I was surprised to see this come up this year as a committee bill. The first time I saw it listed was Jan 1, 2024 with no testimony until January 16. Since then it has been on the agenda 6 times I believe.

Of those 6 times the Ethics Commission has testified 9 times, the Connecticut Ethics Commission twice, and of all the municipalities in Vermont they have only been heard from a total of 7 times (twice from VLCT and only two separate municipalities – three more as of today).. But the small towns and other types of municipalities have not been represented. It took a long time and much testimony to create state policies, this seems very rushed and for the most part it is simply adjusting the state policy without the recognition that municipalities are different from the state and they themselves are very diverse.

This bill would cover all municipalities. I believe that the main concern here is with cities and town, that will be where I will focus my comments. The state is imposing yet another requirement on towns while continuing to deny them the right to make their own decisions about issues affecting them. Gary Briggs from Lunenburg said it very well. A separate but somewhat related issue.

Some specific concerns.

- 1) 1 VSA 126 is used as the definition of municipality. The definition is city, town, town school district, incorporated school, fire district, incorporated village and “all other government incorporated units”. This could include, in addition to those specifically defined, CUDs, water sewer districts, EMS districts, natural resource conservation districts, rural economic infrastructure districts, solid waste management districts, stormwater utility districts – these are some of the incorporated entities defined in 24 VSA 121 for specific purposes but since the definition here is 1 VSA 126 that say “all others” that seems to be inclusive. So all would seem to be covered except schools. Not sure of the rationale for exempting them..

- 2) The definition of municipal employee is “anyone performing services....with or without compensation....intermittent, temporary.” This could include the HVAC person who fixes the furnace or the volunteer who cleans up the recycling bins. It also includes me – I am doing some volunteer writing for Putney without compensation but it is a service. And I represent Putney on our local EMS service, another service. This definition seems extremely broad.
  
- 3) I am concerned about the section on guidance. It says any individual may ask for guidance. The state policy was made clear that the guidance was only available to the person affected. This seems to give the general public the ability to ask for guidance. My understanding was guidance was to a particular person, and if there seemed to be one area where there was a lot of concern the Commission could write an advisory. Here both refer to “any individual”. Unless the policy has changed this needs to be addressed.
  
- 4) The section on recusal is a bit dense and complex. But the record keeping could prove to be a huge burden to the municipality. First it requires a senior employee to be the person in charge. There are a number of towns whose only employees are part time town clerks and road crews. Would you define as senior the longest serving employee or highest rank (and is a new town clerk more senior than a long serving road foreman?) It also says the records have to be kept “for the duration of the officer’s service plus a minimum of five years”. I was on the Selectboard for 9 years. Would my forms have to be held for 14 years?
  
- 5) Training – must be done within 120 days of election and every three years thereafter. This could be very confusing for those who are elected and re-elected to one or two year terms. If one year terms would they have to get retrained within 120 days every election? If they don’t do the training are they unelected? Or would they be prohibited from running again? And who would impose these sanctions. I don’t believe the state has any authority to, and most municipalities do not have recall provisions. In fact I believe the general statutes do not give permission for a town to have a recall provision unless they have a charter that is approved by the GA.
  
- 6) While I certainly encourage training for our officers, most of them are volunteers. Most Selectboard members are poorly compensated – some not at all, and most other municipal offers receive no compensation. They spend countless hours trying to do the business of the town and now they will have to go to more training. VLCT offers training to all

officers – many take it. And while I do think we need more training on Open Meeting and Public Records, I wonder if they should be included in the ethics training any more than things like Elections training, procurement policies, zoning issues, etc.

- 7) Public servant is referred to in the definition of domestic partner. Yet there is no definition of public servant. Are they the same as municipal officer, municipal employee, volunteer?
  
- 8) Under the definition of Municipal officer it says “one who exercises the function or executes the authority – then it says “any member of a public body (with no definition of public body) It does say any other appointed member. Does this include advisory only bodies? The assumption here is that any committee, even if it has no legislative, executive or quasi judicial function would qualify as a municipal officer. I am not sure that a purely advisory position would qualify as a municipal officer.
  
- 9) Preferential treatment – a little confusing. It cannot be given because of the person’s wealth, position, or status or personal relationship. So by listing these does it mean that preferential treatment could be given by, say whether or not one lived in the village, was on town water, lived on a dirt or paved road, had kids in school, owned a large tract of land, posted or didn’t post land?
  
- 10) Benefit from contracts – “municipal officer shall not benefit from contract” includes family members, etc. Remember, Municipal officer is everyone on any board, commission or committee. This could be difficult in all municipalities but especially so in small towns. An example - the town is going to host a pig roast. There is only one company (owner run) that does this but the owner is a member of the town’s Diversity and Equity committee. So, the town would have to go through a bidding process even though there is no one else to do it. I won’t even try to address this as it relates to other types of municipalities.

A few follow up thoughts. The report from the Ethics Commission listed stakeholders of a municipal ethics policy as Secretary of State, VLCT and municipal residents. The actual municipal officers were not listed as stakeholders nor were they considered even though they are the ones this bill will directly impact.

It might be a good idea before imposing this on municipalities to find out how many already have a code of ethics and conflict of interest policy. Those who do have probably used the model from VLCT as a starting point and have debated how it applies to their situation. That process is much more meaningful and involves the actual people debating the issues rather than simply checking a box on a state form. And just a thought – what would happen if the town simply ignored this, or had a policy that they had worked on but didn't fully align with this one? What would happen to the town? It seems largely unenforceable.

A suggestion – VLCT has a model policy. Perhaps the Ethics Commission could work with them to update that model policy. This might be more helpful and welcomed by the towns than an unenforceable requirement.

I realize the impetus for this is to address some of the issues arising around the state and to hold our public officers accountable and create transparency. But I believe it needs more input from municipalities, their attorneys, their volunteers, their employees and officers, etc. before it is ready for prime time.

Thank you and I am happy to answer any questions.