

Response from the Department of Libraries to S.220: An act relating to Vermont's public libraries

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*** * * Findings and Intent * * ***

Sec. 1. FINDINGS AND INTENT p. 2 line 4

The Department notes that the Findings and Intent refers to school and academic libraries, but the bill is almost entirely focused on public libraries.

*** * * Licensing of Electronic Literary Products * * ***

§ 162. ELECTRONIC LITERARY PRODUCTS; UNENFORCEABLE CONTRACTS p 5, line 10

The Department appreciates the strong support that the bill's proponents have offered to Vermont's academic, public, and school libraries with relation to the procurement of eBooks and eAudiobooks.

However, the Department is concerned about the potential unintended consequences of this bill, including:

- The effect of this bill upon existing contracts for eBooks and eAudiobooks held by the Department of Libraries and other academic, public, and school libraries in the state;
- The effect of this bill upon existing contracts for Databases and learning platforms that *include* eBooks and eAudiobooks held by the Department of Libraries and other academic, public, and school libraries in the state;
- The potential for decreased availability of eBooks and eAudiobooks not only to libraries but also to the general public in Vermont due to this legislation; and
- Concerns that may arise from the publishing industry (authors, publishers, distributors, etc) in response to this legislation.

The Department's concern is that the proposed legislation could have the effect of decreasing access to eBooks and eAudiobooks in our state. Vermont's market share is very small, and publishers may choose to absorb the loss of sales to libraries and Vermonters rather than comply with this legislation.

*** * * Library Policies; Selection and Retention of Library Materials * * ***

Sec. 3. 22 V.S.A. § 67 is amended to read:

§67 PUBLIC LIBRARIES; STATEMENT OF POLICY: USE OF FACILITIES AND RESOURCES p.7, line 19

The Department supports the intention of the proposal and recommends this edit to minimize confusion about the role of the library staff: "...it is necessary that the *public library board* adopt policies..."

Sec. 4. 22 V.S.A. § 69 is added to read:

§ 69. PUBLIC LIBRARIES; SELECTION AND RECONSIDERATION OF LIBRARY MATERIALS p.8, line 7

The Department supports the intention of the proposal.

Sec. 5. 22 V.S.A. § 606 is amended to read:

§ 606. OTHER DUTIES AND FUNCTIONS p.8, line 16

The Department supports.

*** * Confidentiality of Library Records; Minors * * ***

Sec. 6. 22 V.S.A. § 172 is amended to read:

§ 172. LIBRARY RECORD CONFIDENTIALITY; EXEMPTIONS p.9, line 6

The Department supports aligning the age of library record confidentiality with existing law related to health care decisions by minors.

*** * * Library Consultant; Positions * * ***

Sec. 7. LIBRARY CONSULTANT POSITIONS; AGENCY OF EDUCATION AND DEPARTMENT OF LIBRARIES

p.9, line 16

The Department supports Governor Scott's FY2025 budget, which does not include the positions enumerated in this section.

*** * * Training and Education for Library Staff * * ***

Sec. 8. 22 V.S.A. § 606 is amended to read:

§ 606. OTHER DUTIES AND FUNCTIONS p.10, line 5

The Department supports.

*** * * Public Safety * * ***

Sec. 9. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING p.10, line 16

The Department supports.

Sec. 10. 13 V.S.A. § 4004 is amended to read:

§ 4004. POSSESSION OF DANGEROUS OR DEADLY WEAPON IN A SCHOOL BUS OR, SCHOOL BUILDING, PUBLIC LIBRARY, OR ON SCHOOL PROPERTY p. 11, line 11

The Department does not have an opinion on this amendment at this time and questions the constitutionality of the proposed change given that public libraries are public facilities.

*** * * Library Governance * * ***

Sec. 11. 22 V.S.A. § 105 is amended to read:

§ 105. GENERAL POWERS p.13, line 2

The Department supports the intention of the proposal and recommends this edit to minimize confusion about the role of the library staff: "...it is necessary that the *public library board* adopt policies..."

Sec. 12. 22 V.S.A. § 141 is amended to read:

§ 141. ESTABLISHMENT AND MAINTENANCE p.14, line 1

The Department supports and notes that this section applies only to *municipal* public libraries and to incorporated public libraries with which municipalities contract for library service and does not address municipal funding of incorporated libraries that serve their citizens.

Sec. 13. 22 V.S.A. § 142 is amended to read:

§ 142. APPROPRIATIONS p.14, line 12

The Department supports and notes that this section applies only to *municipal* public libraries and to incorporated public libraries with which municipalities contract for library service and does not address municipal funding of incorporated libraries that serve their citizens.

Sec. 14. 22 V.S.A. § 143 is amended to read:

§ 143. TRUSTEES p.15, line 1

The Department supports and notes that this section applies only to *municipal* public libraries.

*** * * Department of Libraries * * ***

Sec. 15. 22 V.S.A. § 606 is amended to read:

§ 606. OTHER DUTIES AND FUNCTIONS p.16, line 7

The Department supports.

Sec. 16. 22 V.S.A. § 612 is added to read:

§ 612. RULES; MINIMUM STANDARDS FOR VERMONT PUBLIC LIBRARIES p.16, line 17

What is the Legislature's goal with this section? What would the impact be if a library didn't comply with minimum standards established by the Department? Formal rulemaking is a significant amount of work for the Department.

Statute that empowers the Department to encourage best practices through model policies and recommended levels of service would provide more flexibility and responsiveness and avoid unenforceable standards.

The Department suggests that changes to legislation focus on empowering it to develop model policies and service levels outside the framework of rulemaking.

The Department recommends avoiding legislative standards and rules that could negatively impact municipalities and threaten the existence of small public libraries by placing an additional financial burden upon them.

If this section is included, the Department recommends a more general statement such as "relevant topics to ensure provision of library service to Vermonters" rather than a specific list.

(1) require all public libraries to adopt policies governing intellectual freedom, collection development, materials reconsideration, and programming;

S.220 addresses this topic, so there would be no need for the Department engage in rulemaking on this topic.

(2) require that public library policies shall be developed and adopted within a nondiscrimination framework that explicitly prohibits discrimination;

S.220 addresses this topic, so there would be no need for the Department engage in rulemaking on this topic.

(3) establish minimum standards for the public availability of information technology at public libraries;

The Department supports the recommendation of minimum standards for the public availability of information technology at public libraries and would prefer to make that recommendation outside the formal rulemaking process.

(4) establish continuing education requirements for public library trustees;

The Department supports the continuation of existing courses for library trustees but does not support the establishment of continuing education requirements for public library trustees.

This requirement would increase the Department’s workload significantly. There are 187 public libraries in the state, and each has at least 5 board members. This means that the state has at least 935 public library trustees. The trustees join and leave boards at irregular intervals and come in at all different levels of education. Tracking compliance of individual trustees with continuing education requirements would be extremely challenging for the Department and could potentially negatively impact community members’ willingness to serve on their library board.

There is no requirement of continuing education for library staff in the state, so this training for trustees would be uneven.

(5) establish recommendations for:

Establishing recommendations does not require the Rulemaking process as public libraries are not obliged to follow recommendations. The Department suggests that changes to legislation focus on empowering it to develop model policies and service levels outside the framework of rulemaking.

(A) library building specifications, meeting rooms, collections sizes, and programming levels based on community population;

The Department does not support the inclusion of this level of specificity and recommends a more general statement such as “relevant topics to ensure provision of library services to Vermonters.”

(B) the regular inspection of library buildings and property;

The Department does not support the inclusion of this item as municipalities are already responsible for the regular inspection of places of public accommodation.

(C) facility maintenance and improvement plans; and

The Department does not support the inclusion of this level of specificity, which is likely to place a financial burden on small, rural libraries.

(D) minimum municipal funding for public libraries.

The Department does not support. Funding for public libraries is a matter of municipal taxation. The Department is not in a position to determine the impacts of any minimum municipal funding requirement upon the other programs and services of a municipality. The Department’s position is that any specific per capita funding requirements for public libraries would be best addressed by the municipalities and the Legislature.

***** Appropriations *****

Sec. 17. APPROPRIATIONS p. 17, line 18

The Department supports Governor Scott’s FY2025 budget, which does not include the sums enumerated in this section.