

To: Senate Committee on Natural Resources and Energy

From: Josh Hanford, Director of Intergovernmental Relations, Samantha Sheehan, Municipal Policy and Advocacy Specialist

Date: March 14, 2025

RE: Municipal Liability

In prior testimony related to [S.29 an act relating to establishing the Chloride Contamination Reduction Program at the Agency of Natural Resources](#) VLCT advocated for action to extend to municipal government the same protections from monetary liabilities that the legislature has enacted for the State. The purpose of this memo is to provide additional information regarding municipal liability.

Response to municipal liability despite Sovereign Immunity

In *Hudson v East Montpelier*, 161 Vt. 168 (1993), the Vermont Supreme Court allowed a lawsuit against a municipal road crew employee for a tort claim alleging negligent road maintenance. The court reasoned that municipal immunity applies to the municipality but not to its employees. Again, in *Morway v Colchester*, the Vermont Supreme Court allowed a claim against an allegedly negligent municipal plow truck driver. Thereafter, in 2003, the legislature enacted [24 V.S.A. § 901a](#).

This provision under Title 24 requires that tort lawsuits against municipal employees be brought instead against the municipality. The liability protection afforded to municipalities under sovereign immunity is largely nullified by the municipality's obligations to indemnify and defend its employees. This is similar to the State's own tort liability exposure under the [Tort Claims Act](#), however, municipalities do not get the benefit of the monetary caps set for State government.

Examples of Vermont Municipal Settlements

In both cases, the Town's insurer was VLCT PACIF.

1. In 2019, the Town of Moretown settled a claim with a plaintiff who alleged that their catastrophic injuries resulted from the negligence of the Town and a town road grader operator in their duty to "keep the road in a reasonably safe condition for all road users" pursuant to State laws, local ordinances, and common law. The plaintiff alleged that the grader operator breached their duties by allowing "deep layers of loose, sandy gravel across sections of the driving surface". The settlement award was \$300,000.
2. In 2018, the Town of Brandon settled a claim with a plaintiff who alleged their catastrophic injuries resulted from negligent acts or omissions by the Town. The settlement award was \$9,100,000, including a cash portion that was due at the time of the settlement in the amount of \$6,660,000.