

Education Legislative Report

March 31, 2020 – Issue #4

General Assembly Responds to COVID-19

The Legislature adjourned on March 13 due to COVID-19 and returned on Tuesday, March 24th in order to address emergency legislation related to the pandemic. Committee meetings have been held by conference call and more recently, through video conferencing being recorded on YouTube. You can watch the committees and find their schedules on the General Assembly website, <https://legislature.vermont.gov/committee/meetings/2020>. The House has passed a rule change allowing for remote voting and it is likely that the Senate will vote on a rule change that would allow lawmakers to send bills to the House or the governor's desk without being present in Montpelier. Voting on the rule change will require at least 16 of 30 senators to return to the State House. At this point, it is unclear when senators will reconvene to vote on the measure. Both chambers have prioritized legislation related to COVID-19; they plan to return to previous issues later in the session, which could extend into the summer.

This report is a summary of legislative action that occurred as a result of COVID-19.

Governor Scott Signs Bills Addressing COVID-19

H.681 “An act relating to government operations in response to the COVID-19 outbreak” was signed by the Governor on 3/30/2020. The bill establishes temporary elections provisions and temporary changes to the Open Meeting Law, in effect during the state of emergency due to COVID-19.

Temporary Elections Provisions

Collection of Signatures Not Required

Notwithstanding 17 V.S.A. § 2681(b), or any other provision of law to the contrary, a person is not required to collect voter signatures in order to have the person's name placed on any ballot in the year 2020, including on any local election ballot.

Temporary Elections Procedures

In the year 2020, the Secretary of State is authorized, in consultation and agreement with the Governor, to order or permit appropriate elections procedures for the purpose of protecting the health, safety, and welfare of voters, elections workers, and candidates in carrying out elections, including: (1) requiring mail balloting by requiring town clerks to

Inside this Report

Table of Contents

General Assembly Responds to COVID-19	1
Governor Signs Bills Addressing COVID-19	1
• H.681	1
• H.742	3
Joint Fiscal Office Draft Issue Brief ..	4
Federal CARES Act.....	4

send ballots by mail to all registered voters; (2) creating early or mail ballot collection stations; (3) permitting municipal clerks to process and begin counting ballots in a 30-day window preceding the day of an election; (4) permitting drive-up, car window collection of ballots by election officials; (5) extending the time for municipal clerks to process and count ballots; and (6) extending voting hours on the day of an election. For any temporary elections procedure the Secretary of State orders or permits under this section, the Secretary must adopt any necessary corresponding procedures that ensure the public can monitor polling places and the counting of votes.

Local Elections By Australian Ballot

17 V.S.A. § 2680(a) requires the voters of a municipality to vote to apply the provisions of the Australian ballot system to the annual or special meeting of the municipality. Under this temporary provision, any municipality may apply the Australian ballot system to any or all of its municipal elections held in the year 2020 by vote of its legislative body. The Secretary of State may waive statutory deadlines or other statutory provisions, or provisions set forth in a school district's articles of agreement, related to a municipal election as necessary in order for a municipality to apply the Australian ballot system to its meeting in the year 2020. This waiver authority applies to statutory provisions set forth in a municipal charter or provisions set forth in a school district's articles of agreement if the waiver is requested by that municipality.

Temporary Open Meeting Law Changes

Designated Meeting Location Not Required

- (1) A quorum or more members of a public body may attend a regular, special or emergency meeting by electronic or other means without being physically present at a designated meeting location.
- (2) The public body is not required to designate a physical meeting location where the public may attend.
- (3) Public body members and staff are not required to be physically present at a designated meeting location.

Public Access to Electronic Meetings

- (1) When a public body meets electronically, it must use technology that permits the attendance of the public through electronic or other means.
- (2) Whenever feasible, the public body must allow the public to access the meeting by telephone.
- (3) Public bodies must post information on how the public may access meetings electronically and must include this information in the published agenda for each meeting.

Recording of Meetings is Required

Each school board is required to record its meetings unless unusual circumstances make it impossible for them to do so.

Extension of Time for Posting of Minutes in Event of Staffing Shortage

In the event of a staffing shortage during the declared state of emergency, a public body may extend the time limit for posting of minutes required by 1 VSA § 312(b)(2) to not more than 10 days from the date of the meeting.

H.742 is an amendment to 21 V.S.A. § 1325 and expands unemployment insurance, stating “The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual...” as a result of several conditions related to COVID-19. Some of the expanded conditions include coverage for individuals who are self-isolating, have been diagnosed with or are suspected to have COVID-19 or individuals who are caring for family members who have symptoms of or have been diagnosed with COVID-19, individuals whose employer has temporarily ceased operation, and individuals who voluntarily separated from their employer to care for a child under 18 years of age because the child’s school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.

H.742 also expands telemedicine, loosens regulations to allow hospitals to build surge capacity, and changes rules so that out-of-state medical providers and those who have retired can practice temporarily in Vermont.

This bill was signed by the Governor on 3/30/2020.

Joint Fiscal Office Presents Draft Issue Brief to Committees

The Joint Fiscal Office issued an [“Updated Draft Issue Brief: Education Finance Issues Raised by COVID-19”](#) on March 26, 2020. The document, which has been presented to several legislative committees, provides a summary of potential effects of the COVID-19 crisis on the Education Fund due to significant reductions in consumer spending, delays of income tax filings and property tax due dates, and deferment of business payments of the sales and use tax and the meals and rooms taxes.

Although schools have been dismissed, they are still operating with regard to childcare for “essential” employees, meal services for any child under 18 years of age, continuing educational services for all students, including those with disabilities and special needs, and cleaning and disinfecting school grounds. The draft brief notes that school budgets for FY20 are set, so any additional expenses during the 2019-2020 school year will require school districts to reallocate existing funds, use reserve funds, or run a deficit that would carry forward into the next school year. This far into the current school year school districts have less flexibility to reallocate funds and are universally thin on reserves. School districts remain eligible for certain Federal and State reimbursements for school meals and the Administration has indicated that school districts that require supplemental funding for child care will also be reimbursed, although the source and amount of this funding is uncertain.

Vermont voters defeated nine school district budgets and an additional nine school districts have not voted on budgets yet; exactly when the public will be able to vote on these school budgets is unknown. If voters are unable to pass a school budget by June 30th school districts can continue to operate by borrowing funds necessary up to 87% of the most recently approved budget.

On a state level, Vermont could experience a cash flow issue if municipalities are not timely in their payments of statewide education property tax to the State. Setting the education tax rate parameters for FY2021 will be difficult due to great uncertainty, however there are default parameters set forth in current law.

At the time of the last update to the JFO Issue Brief, the Federal CARES ACT had not yet passed. On March 25, 2020, Senator Leahy's Office provided this [Congressional Stimulus Bill Summary](#), which includes details about federal education funding. The CARES Act was passed on Friday, March 27, 2020 and will provide financial assistance to public education. See more detail under the CARES Act below.

Federal Emergency Stimulus Bill - CARES Act

The "Coronavirus Aid, Relief, and Economic Security Act" or the "CARES Act" ([H.R. 748](#)), includes \$30.75 billion in stabilization funding for early childhood education, school districts, and higher education; a \$150 billion stabilization fund for States, Tribal governments, and units of local government; \$117 billion for hospitals and veterans' health care; \$11 billion for vaccines, therapeutics, diagnostics, and other preparedness needs; \$4.3 billion for the Centers for Disease Control; \$16 billion for the Strategic National Stockpile; and, \$45 billion for FEMA disaster relief fund, among other things.

More than 80 percent of the total funding provided in the coronavirus emergency supplemental appropriations division of the package will go directly to state and local governments.

The education stabilization funding provides a special set aside, before the below allocations, for outlying areas, Bureau of Indian Affairs (0.5%), and the states that have been hardest hit by the pandemic. If any funding is received under this Fund, each LEA, HEA, State, or other entity shall "to the greatest extent practicable" continue to pay employees and contractors during the period of closures or disruptions.

Vermont's Joint Fiscal Office presented [information on Vermont's allocation of 31.15 million dollars and allowable uses of the funds](#) to the House Committee on Ways and Means on 3/31/2020, highlighting allowable use of funds:

1. Any activity authorized by the ESEA.
2. Coordination of preparedness and response efforts of school districts with the state to improve coordinated responses to prevent, prepare for, and respond to COVID-19.

3. Providing principals with the resources needed to address the needs of their individual schools.
4. Activities to address the needs of low-income children or students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth.
5. Developing and implementing procedures and systems to improve the preparedness and response efforts of local school districts.
6. Training and professional development for staff of school districts on sanitation and minimizing the spread infectious disease.
7. Purchasing supplies to sanitize and clean the facilities of a school district.
8. Planning for and coordinating during long-term closures, including for how to provide meals to eligible students, technology for online learning to all students, and guidance under the IDEA.**
9. Purchasing educational technology (hardware, software, connectivity) for students served by school district that aids in regular and substantive interaction between students and instructors including low-income students and students with disabilities.
10. Providing mental health services.
11. Planning and implementing activities related to summer learning and supplemental after-school programs, including providing classroom instruction or online learning during the summer and addressing the needs (of) all students.
12. Other activities that are necessary to maintain the operation of and continuity of service in school districts and continuing to employ existing staff of the school district.

The entire list of bills introduced can be found on the Vermont Legislature website [here](#).

The full list of education-related bills being monitored can be found [here](#).