

House Calendar

Thursday, March 31, 2011

86th DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Favorable with amendment

H. 443

An act relating to the state's transportation program.

(Rep. Brennan of Colchester will speak for the Committee on **Transportation.**)

Rep. Helm of Fair Haven, for the Committee on **Appropriations**, recommends the bill be amended as follows::

in Sec. 13, by striking subdivision (a)(5) in its entirety and inserting in lieu thereof a new subdivision (a)(5) to read:

(5) After consulting with the joint transportation oversight committee, such other paving, roadway, or bridge projects as determined by the secretary.

(Committee Vote 10-0-1)

Amendment to be offered by Rep. Krebs of South Hero to H. 443

moves that the bill be amended in Sec. 24, subsection (a), after the words "a representative of the Vermont League of Cities and Towns designated by the league." by inserting the following: "a representative of the Vermont Society of Land Surveyors designated by the society."

Favorable

H. 446

An act relating to capital construction and state bonding.

(Rep. Emmons of Springfield will speak for the Committee on **Corrections and Institutions.**)

Rep. Johnson of South Hero, for the Committee on **Appropriations**, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

NOTICE CALENDAR
Favorable with Amendment
H. 155

An act relating to property-assessed clean energy districts

Rep. Cheney of Norwich, for the Committee on **Natural Resources and Energy**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 3255 is amended to read:

§ 3255. COLLECTION OF ASSESSMENTS; LIENS

(a) Special assessments under this chapter shall constitute a lien on the property against which the assessment is made in the same manner and to the same extent as taxes assessed on the grand list of a municipality, and all procedures and remedies for the collection of taxes shall apply to special assessments.

(b) Notwithstanding subsection (a) of this section, a lien for an assessment under subchapter 2 of this chapter shall be subordinate to all liens on the property in existence at the time the lien for the assessment is filed on the land records, shall be subordinate to a first mortgage on the property recorded after such filing, and shall be superior to any other lien on the property recorded after such filing. In no way shall this subsection affect the status or priority of any municipal lien other than a lien for an assessment under subchapter 2 of this chapter.

Sec. 2. REDESIGNATION

24 V.S.A. chapter 87, subchapter 2 is redesignated to read:

Subchapter 2. Property-Assessed Clean Energy Assessments

Sec. 3. 24 V.S.A. § 3261 is amended to read:

§ 3261. PROPERTY-ASSESSED CLEAN ENERGY ASSESSMENT DISTRICTS; APPROVAL OF VOTERS

(a)(1) In this subchapter, “district” means a property-assessed clean energy district.

(2) The legislative body of a town, city, or incorporated village may submit to the voters of the municipality the question of whether to designate the municipality as a property-assessed clean energy assessment district. In a

~~clean energy assessment~~ district, only those property owners who have entered into written agreements with the municipality under section 3262 of this title would be subject to a special assessment, as set forth in section 3255 of this title.

(b) Upon a vote of approval by a majority of the qualified voters of the municipality voting at an annual or special meeting duly warned for that purpose, the municipality may incur indebtedness for or otherwise finance projects relating to renewable energy, as defined in 30 V.S.A. § 8002(2), or to eligible projects relating to energy efficiency as defined by section 3267 of this title, undertaken by owners of ~~real property~~ dwelling, as defined in Section 103(v) of the federal Truth in Lending Act, within the boundaries of the town, city, or incorporated village.

Sec. 4. 24 V.S.A. § 3262 is amended to read:

§ 3262. WRITTEN AGREEMENTS; CONSENT OF PROPERTY OWNERS;
ENERGY SAVINGS ANALYSIS

(a) Upon an affirmative vote made pursuant to section 3261 of this title and the performance of an energy savings analysis pursuant to subsection (b) of this section, an owner of ~~real property~~ a dwelling, as defined in Section 103(v) of the federal Truth in Lending Act, within the boundaries of a ~~clean energy assessment~~ district may enter into a written agreement with the municipality that shall constitute the owner's consent to be subject to a special assessment, as set forth in section 3255 of this title. Entry into such an agreement may occur only after January 1, 2012. A participating municipality shall follow underwriting criteria, ~~consistent with responsible underwriting and credit standards~~ as established by the department of banking, insurance, securities, and health care administration, and shall establish other qualifying criteria to provide an adequate level of assurance that property owners will have the ability to meet assessment payment obligations. A participating municipality shall refuse to enter into a written agreement with a property owner who fails to meet the underwriting or other qualifying criteria.

* * *

(c) A written agreement shall provide that:

* * *

(2) ~~At~~ Notwithstanding any other provision of law:

(A) At the time of a transfer of property ownership ~~excepting~~ including foreclosure, the past due balances of any special assessment under this subchapter shall be due for payment, but future payments shall continue as a lien on the property.

(B) In the event of a foreclosure action, the past due balances described in subdivision (A) of this subdivision (2) shall include all payments on an assessment under this subchapter that are due and unpaid as of the date the action is filed, and all payments on the assessment that become due after that date and that accrue up to and including the date title to the property is transferred to the mortgage holder, the lien holder, or a third party in the foreclosure action. The person or entity acquiring title to the property in the foreclosure action shall be responsible for payments on the assessment that become due after the date of such acquisition.

(3) A participating municipality shall disclose to participating property owners ~~the~~ each of the following:

(A) The risks associated with participating in the program, including risks related to the failure of participating property owners to make payments and the risk of foreclosure.

(B) The provisions of subsection (h) of this section that pertain to prepayment of the assessment.

(d) A written agreement or notice of such agreement and the analysis performed pursuant to subsection (b) of this section shall be filed with the clerk of the applicable municipality for recording in the land records of ~~the~~ that municipality and shall be disclosed to potential buyers prior to transfer of property ~~of~~ ownership. Personal financial information provided to a municipality by a participating property owner or potential participating property owner shall not be subject to disclosure as set forth in 1 V.S.A. § 317(c)(7). If a notice of agreement is filed instead of the full written agreement, the notice shall attach the analysis performed pursuant to subsection (b) of this section and shall include at least each of the following:

(1) The name of the property owner as grantor.

(2) The name of the municipality as grantee.

(3) The date of the agreement.

(4) A legal description of the real property against which the assessment is made pursuant to the agreement.

(5) The amount of the assessment and the period during which the assessment will be made on the property.

(6) A statement that the assessment will remain a lien on the property until paid in full or released.

(7) The location at which the original or a true, legible copy of the agreement may be examined.

* * *

(g) ~~In the case of~~ With respect to an agreement ~~with the resident owner of a dwelling, as defined in Section 103(v) of the federal Truth in Lending Act~~ under this section:

(1) the assessments to be repaid under the agreement, when calculated as if they were the repayment of a loan, shall not violate ~~chapter 4 of Title 9~~ 9 V.S.A. §§ 41a, 43, 44, and 46-50.

(2) the maximum length of time for the owner to repay the ~~loan~~ assessment shall not exceed 20 years; and

(3) the maximum amount to be repaid for the project, including the participating property owner's contribution to the reserve fund under subsection 3269(c) of this title, shall not exceed \$30,000.00 or 15 percent of the assessed value of the property, whichever is less.

(h) There shall be no penalty or premium for prepayment of the outstanding balance of an assessment under this subchapter if the balance is prepaid in full.

Sec. 5. 24 V.S.A. § 3266 is amended to read:

§ 3266. INTERMUNICIPAL AGREEMENTS

Two or more municipalities, by resolution of their respective legislative bodies or boards, may establish and enter into agreements for:

(1) incurring indebtedness or otherwise financing projects under this subchapter; or

(2) pooling loss reserve funds under this subchapter, if each such municipality has determined under subdivision 3269(a)(2) of this title to establish a reserve fund separate from the fund created under subdivision 3269(a)(1) of this title.

Sec. 6. 24 V.S.A. § 3267 is amended to read:

§ 3267. ELIGIBLE ENERGY EFFICIENCY PROJECTS; ASSISTANCE TO MUNICIPALITIES

Those entities appointed as energy efficiency utilities under 30 V.S.A. § 209(d) ~~shall:~~

(1) Shall develop a list of eligible energy efficiency projects and shall make the list available to the public on or before July 1 of each year; and

(2) Shall provide information concerning implementation of this subchapter to each municipality, within the area in which the entity delivers

efficiency services, that requests such information, and shall contact each such municipality that votes to establish a district to offer this information.

Sec. 7. 24 V.S.A. § 3268 is amended to read:

§ 3268. RELEASE OF LIEN

(a) A municipality shall release a participating property owner of the lien on the property against which the assessment under this subchapter is made upon:

~~(1) Full~~ full payment of the value of the assessment; ~~or~~

~~(2) Demand from a party who has filed an action for foreclosure on a participating property.~~

~~(b) If a municipality releases a participating property owner of a lien upon demand from a party who has filed an action for foreclosure and the participating property owner redeems the property, the municipality shall reinstate the lien on the property against which the assessment under this subchapter is made.~~

~~(c) Notice of the a release or reinstatement of the a lien for an assessment under this subchapter shall be filed with the clerk of the applicable municipality for recording in the land records of the that municipality.~~

Sec. 8. 24 V.S.A. § 3269 is amended to read:

§ 3269. RESERVE FUND

~~(a)(1) A participating municipality may create a reserve fund~~ is created for use in paying the past due balances of an assessment under this subchapter in the event of there is a foreclosure upon an assessed the property subject to the assessment and the proceeds resulting from the foreclosure are, after all superior liens have been satisfied, insufficient to pay those past due balances. The reserve fund shall comply with the provisions of subsections (b) through (e) of this section and shall be administered by and in the custody of the entity described in subsection (f) of this section.

~~(2) Each municipality that establishes a district under this subchapter shall participate in the reserve fund created by subdivision (1) of this subsection unless the municipality chooses to establish a separate reserve fund administered through means other than the entity described in subsection (f) of this section. A municipality may establish such a separate reserve fund by resolution of its legislative body. Any such separate reserve fund shall comply with subsections (b) through (e) of this section.~~

~~(b) The reserve fund shall be funded by participating property owners at a level sufficient to provide for the payment of any past due balances on~~

assessments under this subchapter and any remaining principal balances on those assessments described in subdivision 3262(c)(2) of this title in the event of a foreclosure upon a participating property and the costs of administering the reserve fund and shall only be used to provide for such payment and administration.

(c) The contribution of each participating property owner to the reserve fund shall be included in the special assessment applicable to the property and shall be subject to section 3255 of this title. From time to time, the commissioner of banking, insurance, securities, and health care administration shall determine the appropriate contribution to the fund in accordance with subsection (d) of this section. A determination by the commissioner under this subsection shall apply to the reserve fund contribution for an assessment concerning which a written agreement under section 3262 is signed after the date of the commissioner's determination and shall not affect the reserve fund contribution for an assessment concerning which such an agreement was signed on or before the date of the commissioner's determination.

~~(b)~~(d) The reserve fund shall be capitalized in accordance with standards and procedures approved by the commissioner of banking, insurance, securities, and health care administration to cover expected foreclosures and fund administration costs based on good lending practice experience. Interest earned shall remain in the fund. The administrator of the reserve fund shall invest and reinvest the moneys in the fund and hold, purchase, sell, assign, transfer, and dispose of the investments in accordance with the standard of care established by the prudent investor rule under chapter 147 of Title 9. The administrator shall apply the same investment objectives and policies adopted by the Vermont state employees' retirement system, where appropriate, to the investment of moneys in the fund.

~~(e)~~(e) The municipality shall disclose in advance to each interested property owner the amount of that property owner's required payment into the reserve fund. Once disclosed, the amount of the reserve fund payment shall not change over the life of the assessment.

(f) An entity appointed under 30 V.S.A. § 209(d)(2) to deliver energy efficiency programs to multiple service territories shall administer the reserve fund created under subdivision (a)(1) of this section.

(1) The entity's costs of administering the reserve fund shall be considered costs of operating the districts under section 3263 of this title.

(2) In the event of foreclosure on a property that is subject to a special assessment and is in a district that participates in the reserve fund administered by the entity, the entity's obligation shall be to disburse, at the direction of the

municipality, moneys from the reserve fund to apply to the past due balances of the assessment. In no event shall other moneys received or held by the entity be available to meet this obligation or the payment of balances on an assessment.

(3) The entity shall keep an accurate account of all activities and receipts and expenditures under this subsection. An audit of the reserve fund administered by the entity shall be conducted as part of any periodic audit of the electric efficiency fund established pursuant to 30 V.S.A. § 209(d)(3).

Sec. 9. 24 V.S.A. § 3270 is added to read:

§ 3270. STATE PACE RESERVE FUND

(a) The state PACE reserve fund is established to be held in the custody of and administered by the state treasurer. The purpose of the state PACE reserve fund shall be to reduce, for those districts for which the entity described in subsection 3269(f) of this title administers the loss reserve fund, the risk faced by an investor making an agreement with a municipality to finance such a district.

(b) The treasurer may invest monies in the fund in accordance with 32 V.S.A. § 434. All balances in the fund at the end of the fiscal year shall be carried forward and shall not revert to the general fund. Interest earned shall remain in the fund. The treasurer's annual financial report to the general assembly under 32 V.S.A. § 434 shall contain an accounting of receipts, disbursements, and earnings of the fund.

(c) At the direction of the treasurer, a sum shall be transferred to the fund from moneys deposited into the energy efficiency fund pursuant to 30 V.S.A. § 209(d)(7) (capacity savings payments) and (8) (revenues from the sale of carbon credits).

(1) For a given year, the sum transferred under this subsection shall be:

(A) Five percent of the total amount of those assessments concerning which owners of real property, in the districts described in subsection (a) of this section, are expected to enter into written agreements pursuant to section 3262 of this title during the year; and

(B) Such additional amount, if any, that is necessary to meet the full amount of payments reasonably expected to be made from the state PACE reserve fund during that year.

(2) When directing a transfer under this subsection, the treasurer shall notify the commissioners of finance and management and of public service, the chair of the public service board, and the entity described in subsection 3269(f)

of this title. Monies shall not be disbursed from the state PACE reserve fund until necessary resources are transferred to the fund.

(d) Moneys deposited to the state PACE reserve fund and any interest on moneys in that fund shall be used for the sole purpose of paying claims as described in subsections (e) and (f) of this section. In no event shall any moneys received or held by the state of Vermont, other than moneys deposited into the state PACE reserve fund or interest on moneys in that fund, be available to meet this obligation or the payment of a remaining past due balance or any other obligation under this subchapter.

(e) In this section, "remaining past due balance" means that amount, if any, of a past due balance on an assessment under this subchapter that exists:

(1) Immediately following foreclosure on a property in a district that participates in the loss reserve fund administered by the entity described in subsection 3269(f) of this title; and

(2) After the application, to the past due balances of the assessment on that property, of the proceeds available from the foreclosure, net of superior liens, and of the assets of that loss reserve fund.

(f) The obligation of the state PACE reserve fund shall be to fund 90 percent of a remaining past due balance, upon presentation of a claim and application acceptable to the treasurer and the entity described in subsection 3269(f) of this title, provided that the total amount of all such funding from the state PACE reserve fund shall not exceed the smaller of the following:

(1) \$1,000,000.00.

(2) The funds available pursuant to subsection (d) of this section.

(3) Five percent of the total of all assessments under this subchapter in the districts that participate in the loss reserve fund administered by the entity described in subsection 3269(f) of this title.

Sec. 10. UNDERWRITING CRITERIA; ADOPTION

On or before December 31, 2011, the commissioner of banking, insurance, securities, and health care administration shall adopt criteria and standards pursuant to Sec. 4 of this act, 24 V.S.A. § 3262(a), and determine the participating property owner's contribution to the loss reserve fund and adopt standards and procedures pursuant to Sec. 8 of this act, 24 V.S.A. § 3269(c) and (d).

Sec. 11. EFFECTIVE DATES

(a) This section and Secs. 3 (property-assessed clean energy districts) and 10 (underwriting criteria; adoption) of this act shall take effect on passage.

(b) Secs. 1, 2, and 4–9 of this act shall take effect on January 1, 2012, except that in Sec. 4, 24 V.S.A. § 3262(a) (written agreements) shall take effect on passage.

(Committee Vote: 11-0-0)

Rep. Masland of Thetford, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Natural Resources and Energy** and when further amended as follows:

First: By striking Sec. 5 (intermunicipal agreements; pooling loss reserve funds) in its entirety and inserting in lieu thereof “Sec. 5. [Deleted.]”

Second: In Sec. 8, 24 V.S.A. § 3269 (reserve fund), by striking subdivision (a) in its entirety and inserting in lieu thereof:

(a) A ~~participating municipality may create~~ a reserve fund ~~is created~~ for use in paying the past due balances of an assessment under this subchapter in the event of that there is a foreclosure upon ~~an assessed~~ the property subject to the assessment and the proceeds resulting from the foreclosure are, after all superior liens have been satisfied, insufficient to pay those past due balances. The reserve fund shall comply with the provisions of subsections (b) through (e) of this section and shall be administered by and in the custody of the entity described in subsection (f) of this section. Each municipality that establishes a district under this subchapter shall participate in the reserve fund created by this subsection.

(Committee Vote: 9-0-2)

Amendment to be offered by Reps. Marcotte of Coventry and Cheney of Norwich to H. 155

First: After Sec. 9, by inserting Sec. 9a to read:

Sec. 9a. 24 V.S.A. § 3271 is added to read:

§ 3271. MONITORING; COMPLIANCE; UNDERWRITING CRITERIA

The department of public service created under 30 V.S.A. § 1 shall monitor and evaluate, for compliance with the underwriting criteria, standards, and procedures established under subsections 3262(a) (underwriting criteria for assessments) and 3269(c) and (d) (underwriting standards and procedures; loss reserve fund) of this title, all activities to which those criteria, standards, and procedures apply that are undertaken by an entity appointed under 30 V.S.A. § 209(d)(2) to deliver energy efficiency programs. The department shall consult with the department of of banking, insurance, securities, and health care administration in performing these tasks. The department of public service

may combine its tasks under this section with monitoring and evaluation of an energy efficiency entity conducted pursuant to 30 V.S.A. § 209(d) or (e).

Second: In Sec. 10, at the end of the Sec., by inserting: Prior to adoption, the commissioner of banking, insurance, securities, and health care administration shall consult with the commissioner of public service concerning the development of such criteria, standards, and procedures.

H. 259

An act relating to increasing the number of members on the liquor control board

Rep. Andrews of Rutland City, for the Committee on **General, Housing and Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 101 is amended to read:

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF LIQUOR CONTROL; LIQUOR CONTROL BOARD

(a) The department of liquor control, created by section 212 of Title 3, shall include the commissioner of liquor control and the liquor control board.

(b) The liquor control board shall consist of ~~three~~ five persons, not more than ~~two~~ three members of which shall belong to the same political party. Biennially, with the advice and consent of the senate, the governor shall appoint a person as a member of such board for ~~the term of six years~~ a staggered five-year term, whose term of office shall commence on February 1 of the year in which such appointment is made. The governor shall biennially designate a member of such board to be its chairman.

Sec. 2. TRANSITIONAL PROVISIONS

Of the two new member positions on the liquor control board, the governor shall appoint one member for a three-year term and one member for a five-year term.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

(**Committee Vote: 8-0-0**)

Rep. Acinapura of Brandon, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **General, Housing and Military Affairs**.

(**Committee Vote: 10-0-1**)

H. 420

An act relating to the office of professional regulation

Rep. Evans of Essex, for the Committee on **Government Operations**, recommends the bill be amended as follows:

First: After Sec. 11, by adding a new section to be Sec. 11a to read:

Sec. 11a. 26 V.S.A. chapter 67 is amended to read:

CHAPTER 67. HEARING AID DISPENSERS

* * *

Subchapter 2. Administration

§ 3287. ADVISOR APPOINTEES

(a) The secretary shall appoint three licensed hearing aid dispensers and one member of the public to serve as advisors in matters related to hearing aid dispensers. ~~One~~ Of the licensed hearing aid dispensers, one member shall be an otolaryngologist; one shall be an audiologist; and one shall be a hearing aid dispenser who is neither an otolaryngologist nor an audiologist. ~~They~~ The public member shall be an individual with significant hearing impairment who uses a hearing aid regularly. The members shall be appointed as set forth in 3 V.S.A. § 129b and shall serve at the pleasure of the secretary.

(b) The director shall seek the advice of the ~~hearing aid dispensers~~ advisors appointed under this section in carrying out the provisions of this chapter. Such members shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for this purpose.

* * *

Second: In Sec. 12, section 3322, by striking subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

§ 3322. USE OF LICENSE NUMBER

(a) Each licensee or registrant shall be assigned a license or registration number which shall be used in a report, a contract, engagement letter, or other instrument used by the licensee or registrant in connection with the licensee's or registrant's activities under this chapter. The license number shall be placed adjacent to or immediately below the title the licensee is entitled to use under this chapter, ~~and the~~ The licensed appraiser shall ensure that the registration number and the appraiser's fee for appraisal services shall appear adjacent to

or immediately below the appraisal management company's registered name on documents supplied to clients or customers in this state.

(**Committee Vote: 10-0-1**)

Rep. Clarkson of Woodstock, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

(**Committee Vote: 11-0-0**)

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 108

House concurrent resolution congratulating the winning teams at the 4th annual Jr. Iron Chef VT competition

H.C.R. 109

House concurrent resolution congratulating the 2011 Barre Blades Pee Wee B hockey team on winning the Vermont State Amateur Hockey Association championship

H.C.R. 110

House concurrent resolution congratulating Amanda Eldridge on winning the 2010 Positive Youth Sports Alliance of Essex's coach of the year award

H.C.R. 111

House concurrent resolution congratulating Meigan Clark on winning the 2011 Vermont state spelling bee

H.C.R. 112

House concurrent resolution honoring the women and girls associated with the Wells River Congregational Church

H.C.R. 113

House concurrent resolution congratulating the 2011 Norwich University Cadets NCAA Division III championship women's ice hockey team

H.C.R. 114

House concurrent resolution congratulating the 2011 Poultney High School Blue Devils Division IV championship basketball team

H.C.R. 115

House concurrent resolution congratulating the 2011 Windsor High School Yellow Jackets Division III championship girls' basketball team

H.C.R. 116

House concurrent resolution congratulating the 2011 Middlebury Union High School Tigers Division II championship boys' ice hockey team

H.C.R. 117

House concurrent resolution commemorating the 30th anniversary of the Medicare hospice program

H.C.R. 118

House concurrent resolution congratulating the 2011 Lamoille Union High School Lancers Division II girls' basketball championship team

H.C.R. 119

House concurrent resolution congratulating the Winooski High School Spartans Division III championship boys' basketball team

For Informational Purposes

Anyone interested in the latest submitted list of Legislative Reports may do so by going to our website (www.leg.state.vt.us) and click on Reports submitted to Legislature.

Public Hearings

March 31, 2011 - 6:00 - 8:00 PM - House Chamber - Senate Committee on Health and Welfare - S. 57. Health Care Reform

Thursday, April 7, 2011 - Room 11 - 6 - 8 PM - Senate Health and Welfare Committee - S. 57 Health Care Reform - Business and Provider Hearing