

H.640

An act relating to technical corrections

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 3 V.S.A. § 253 is amended to read:

§ 253. DEPUTY OFFICERS

\* \* \*

(c)(1) The Commissioner of Financial Regulation, with the approval of the ~~governor~~ Governor, shall appoint a Deputy Commissioner of Banking, a Deputy Commissioner of Insurance, a Deputy Commissioner of Captive Insurance, and a Deputy Commissioner of Securities, ~~and a Deputy Commissioner of Health Care Administration~~. The Commissioner of Financial Regulation may remove the deputy commissioners at pleasure and shall be responsible for their acts. The functions and duties that relate to banks and banking shall be in the charge of the Deputy Commissioner of Banking; those that relate to the business of insurance shall be in the charge of the Deputy Commissioner of Insurance; those that relate to the business of captive insurance shall be in the charge of the Deputy Commissioner of Captive Insurance; and those that relate to the business of securities shall be in the charge of the Deputy Commissioner of Securities; ~~and those that relate to health care administration shall be in the charge of the Deputy Commissioner of health care administration.~~

(2) In the case of a vacancy in the Office of the Commissioner of Financial Regulation, one of the deputies appointed by the Commissioner shall assume and discharge the duties of that office until the vacancy is filled or the Commissioner returns.

(d) In case a vacancy occurs in the office of any appointing official who by law is authorized to appoint a deputy, or ~~such the~~ the official is absent, his or her deputy shall assume and discharge the duties of such office until ~~such the~~ the vacancy is filled; or ~~such the~~ the official returns. ~~In the case of a vacancy in the office of the Commissioner of Financial Regulation, one of the deputies appointed by the Commissioner shall assume and discharge the duties of that office until the vacancy is filled or the Commissioner returns. In case a vacancy occurs in the office of the Secretary of Agriculture, Food and Markets, the Deputy Commissioner for administration and enforcement shall assume and discharge the duties of the Secretary until such vacancy is filled, or the Secretary returns.~~

(e)(1) The Secretary of Agriculture, Food and Markets, with the approval of the Governor, shall appoint a Deputy ~~Commissioner for administration and enforcement~~ Secretary. The Secretary of Agriculture, Food and Markets may remove the Deputy ~~Commissioner~~ Secretary at pleasure, and he or she shall be responsible for the Deputy ~~Commissioner's~~ Secretary's acts. The Agency of Agriculture, Food and Markets shall be so organized that, subject to the

supervision of the Secretary of Agriculture, Food and Markets, the functions and duties that relate to administration and enforcement shall be in the charge of the Deputy ~~Commissioner of Administration and Enforcement~~ Secretary.

(2) In case a vacancy occurs in the Office of the Secretary of Agriculture, Food and Markets, the Deputy Secretary shall assume and discharge the duties of the Secretary until such vacancy is filled or the Secretary returns.

\* \* \*

Sec. 2. 3 V.S.A. § 471(m) is amended to read:

(m) The committee may authorize the loan of its securities pursuant to securities lending agreements that provide for collateral consisting of cash or securities issued or guaranteed by the ~~United States~~ U.S. government or its agencies equal to 100 percent or more of the market value of the loaned securities. Cash collateral may be invested by the lending institution in investments approved by the ~~state treasurer~~ State Treasurer. Approval of investments shall be made in accordance with the standard of care established by the prudent investor rule under ~~chapter 147 of Title 9~~ 14A V.S.A. chapter 9.

Sec. 3. 3 V.S.A. § 472(a) is amended to read:

(a) The members of the Vermont ~~pension investment committee~~ Pension Investment Committee established in chapter 17 of this title shall be the trustees of the funds created by this subchapter, 16 V.S.A. chapter 55 ~~of~~

~~Title 16~~, and 24 V.S.A. chapter 125 ~~of Title 24~~, and with respect to them may invest and reinvest the assets of the ~~fund~~ Fund, and hold, purchase, sell, assign, transfer, and dispose of the securities and investments in which the assets of the ~~fund~~ Fund have been invested and reinvested. Investments shall be made in accordance with the standard of care established by the prudent investor rule under ~~chapter 147 of Title 9~~ 14A V.S.A. chapter 9.

Sec. 4. 3 V.S.A. § 479(d) is amended to read:

(d) After January 1, 2007, the State Treasurer may offer and administer a dental benefit plan for retired members, beneficiaries, eligible dependents, and eligible retirees of special affiliated groups and the dependents of members of those groups who are eligible for coverage in the State Employee ~~Group~~ Medical Benefit Plan. The Plan shall be separate and apart from any dental benefit plan offered to Vermont State employees. The original plan of benefits, and any changes thereto, shall be determined by the State Treasurer with due consideration of recommendations from the Retired Employees' Committee on Insurance established in section 636 of this title.

\* \* \*

Sec. 5. 10 V.S.A. § 543(f)(3) is added to read:

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be

used to fund the cost of apprenticeship-related instruction provided by the  
Department of Labor.

Sec. 6. 10 V.S.A. § 905b(18) is amended to read:

(18) study and investigate the wetlands of the State and cooperate with municipalities, the general public, other agencies, and the Board in collecting and compiling data relating to wetlands, ~~propose to the Board specific wetlands to be designated as Class I wetlands,~~ issue or deny permits pursuant to section 913 of this title and the rules authorized by this subdivision, issue wetland determinations pursuant to section 914 of this title, issue orders pursuant to section 1272 of this title, and in accordance with 3 V.S.A. chapter 25, adopt rules to address the following:

\* \* \*

Sec. 7. 10 V.S.A. § 1080 is amended to read:

§ 1080. DEFINITIONS

As used in this chapter:

\* \* \*

(4) “Engineer” means a professional engineer ~~registered~~ licensed under Title 26 who has experience in the design and investigation of dams.

\* \* \*

Sec. 8. 10 V.S.A. § 1087 is amended to read:

§ 1087. REVIEW OF PLANS AND SPECIFICATIONS

Upon receipt of an application, the ~~state~~ State agency having jurisdiction shall employ a ~~registered~~ licensed engineer experienced in the design and investigation of dams to investigate the property, review the plans and specifications, and make additional investigations as it considers necessary to ensure that the project adequately provides for the public safety. The engineer shall report his or her findings to the agency.

Sec. 9. 10 V.S.A. § 1090 is amended to read:

§ 1090. CONSTRUCTION SUPERVISION

The construction, alteration or other action authorized in section 1086 of this title shall be supervised by a ~~registered~~ licensed engineer employed by the applicant. Upon completion of the authorized project, the engineer shall certify to the agency having jurisdiction that the project has been completed in conformance with the approved plans and specifications.

Sec. 10. 10 V.S.A. § 1105 is amended to read:

§ 1105. INSPECTION OF DAMS

The ~~state~~ State agency having jurisdiction shall employ an engineer to make periodic inspections of nonfederal dams in the ~~state~~ State to determine their condition and the extent, if any, to which they pose a potential or actual threat to life and property, or shall ~~promulgate~~ adopt rules pursuant to 3 V.S.A.

chapter 25 of Title 3 to require an adequate level of inspection by an independent ~~registered~~ licensed engineer experienced in the design and investigation of dams. The agency shall provide the owner with the findings of the inspection and any recommendations.

Sec. 11. 10 V.S.A. § 4255(a) is amended to read:

(a) Vermont residents may apply for licenses on forms provided by the Commissioner. Fees for each license shall be:

(1) Fishing license	\$25.00
(2) Hunting license	\$25.00
(3) Combination hunting and fishing license	\$40.00
(4) Big game licenses (all require a hunting license)	
(A) archery license	\$23.00
(B) muzzle loader license	\$23.00
(C) turkey license	\$23.00
(D) <del>second muzzle loader license</del> <u>[Repealed.]</u>	\$17.00
(E) <del>second archery license</del> <u>[Repealed.]</u>	\$17.00
(F) moose license	\$100.00
(G) <u>early</u> season bear tag	\$5.00
(H) additional deer archery tag	\$23.00

\* \* \*

Sec. 12. 13 V.S.A. § 3255(b) is amended to read:

(b) In a prosecution for a crime defined in this chapter and in a prosecution pursuant to sections 2601 and 2602 of this title, for human trafficking or aggravated human trafficking under chapter 60 of this title, or for abuse or exploitation of a vulnerable adult under 33 V.S.A. § 6913(b), if a defendant proposes to offer evidence described in subdivision (a)(3) of this section, the defendant shall prior to the introduction of such evidence file written notice of intent to introduce that evidence, and the Court shall order an in camera hearing to determine its admissibility. All objections to materiality, credibility, and probative value shall be stated on the record by the prosecutor at the in camera hearing, and the Court shall rule on the objections forthwith, and prior to the taking of any other evidence.

Sec. 13. 16 V.S.A. § 1943(a) is amended to read:

(a) The members of the Vermont ~~pension investment committee~~ Pension Investment Committee established in 3 V.S.A. chapter 17 shall be the trustees of the fund created by this subchapter, and with respect to them may invest and reinvest the assets of the ~~fund~~ Fund, and hold, purchase, sell, assign, transfer, and dispose of the securities and investments in which the assets of the ~~fund~~ Fund have been invested and reinvested. Investments shall be made in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9.

Sec. 14. 18 V.S.A. § 7505(a) is amended to read:

(a) In emergency circumstances where a certification by a physician is not available without serious and unreasonable delay, and when personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment, and he or she presents an immediate risk of serious injury to himself or herself or others if not restrained, a law enforcement officer or mental health professional may make an application, not accompanied by a physician's certificate, to any ~~district or superior~~ Superior judge for a warrant for an immediate examination.

Sec. 15. 18 V.S.A. § 7801(a) is amended to read:

(a) A patient who has been ordered hospitalized may apply for discharge to the ~~criminal division~~ Family Division of the ~~superior court~~ Superior Court within which the hospital is located. A patient who has been ordered to receive treatment other than hospitalization may apply for discharge to the ~~criminal division~~ Family Division of the ~~superior court~~ Superior Court which originally entered the order; the ~~court~~ Court in its discretion may transfer the matter, for the convenience of witnesses or for other reasons, to the ~~criminal division~~ Family Division of the ~~superior court~~ Superior Court within which the treatment is centered or in which the patient resides. Applications may be made no sooner than 90 days after the issuance of an order of continued

treatment or no sooner than six months after the filing of a previous application under this section.

Sec. 16. 18 V.S.A. § 7802 is amended to read:

§ 7802. ADMINISTRATIVE REVIEW

The head of the hospital and the board shall cause the condition of every patient to be reviewed as regularly as practicable, but not less often than every six months, and whenever the head of a hospital or the board certifies that the patient is not a patient in need of further treatment, the patient shall be discharged. If requested by the patient all hearings by the board on the issue of granting a discharge shall be on reasonable notice to the patient's attorney who shall be afforded an opportunity to attend. In the absence of any attorney, the board shall notify the ~~criminal division~~ Family Division of the ~~superior court~~ Superior Court and an attorney shall be appointed as provided in section 7111 of this title.

Sec. 17. 18 V.S.A. § 9352(c) is amended to read:

(c) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. The Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to ~~8 V.S.A. § 4089k~~

32 V.S.A. § 10301. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

Sec. 18. 19 V.S.A. § 38(a)(2) is amended to read:

(2) a representative from the Division ~~of~~ for Historic Preservation appointed by the Secretary of Commerce and Community Development;

Sec. 19. 20 V.S.A. § 3817 is amended to read:

§ 3817. RULES ADOPTION AUTHORITY

The ~~agency of agriculture, food and markets~~ Agency of Human Services may adopt rules to implement this subchapter.

Sec. 20. 21 V.S.A. § 2002(3) is amended to read:

(3) “Full-time equivalent” or “FTE” means the number of employees expressed as the number of employee hours worked during a calendar quarter divided by 520. “Full-time equivalent” shall not include any employee hours attributable to a seasonal employee or part-time employee of an employer who offers health care coverage to all of its regular full-time employees, provided that the seasonal employee or part-time employee has health care coverage under either a private or any public plan except ~~VHAP or~~ Medicaid.

Sec. 21. 23 V.S.A. § 3318(c) is amended to read:

(c) The provisions of this subchapter and the rules adopted pursuant to this subchapter shall be enforced by law enforcement officers as defined in section 3302 of this title in accordance with the provisions of 12 V.S.A. chapter 193,

and they may also enforce the provisions of 10 V.S.A. § ~~1266~~ 1454 and the rules adopted pursuant to 10 V.S.A. § 1424. With respect to the provisions of 10 V.S.A. § ~~1266~~ 1454 and the rules adopted pursuant to 10 V.S.A. § 1424, whenever a penalty for a violation of such a rule is not otherwise established, three ~~superior~~ Superior judges appointed by the Court Administrator shall establish a schedule, within the limits prescribed by law, of the penalty to be imposed. Any law enforcement officer who issues a complaint shall advise the defendant of the schedule of penalties and show the defendant a copy of the schedule.

Sec. 22. 23 V.S.A. § 4103(4)(B)(iv) is amended to read:

(iv) farm vehicles, which are vehicles:

(I) controlled and operated by a farmer;

(II) used to transport either agricultural products, farm machinery, farm supplies ~~or both~~, or any of these to or from a farm;

(III) not used in the operations of a common or contract motor carrier; and

(IV) used within 150 miles of the farm.

Sec. 23. 24 V.S.A. § 3269(d) is amended to read:

(d) The ~~reserve fund~~ Reserve Fund shall be capitalized in accordance with standards and procedures approved by the Commissioner of Financial Regulation to cover expected foreclosures and fund administration costs based

on good lending practice experience. Interest earned shall remain in the ~~fund~~ Fund. The administrator of the ~~reserve fund~~ Reserve Fund shall invest and reinvest the ~~moneys~~ monies in the ~~fund~~ 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 ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 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~~ monies in the ~~fund~~ Fund.

Sec. 24. 24 V.S.A. § 3270(c) is amended to read:

(c) At the direction of the Treasurer, a sum shall be transferred to the ~~fund~~ Fund from ~~moneys~~ monies deposited into the Energy Efficiency Fund pursuant to ~~30 V.S.A. § 209(d)(7)~~ 30 V.S.A. § 209(e)(1)(A) (net capacity savings payments) and ~~(8)(B)~~ (net revenues from the sale of carbon credits).

\* \* \*

Sec. 25. 24 V.S.A. § 4306(b)(2) is amended to read:

(2) Disbursement to municipalities shall be awarded annually on or before December 31 through a competitive program administered by the Department of Housing and Community Affairs providing the opportunity for any eligible municipality or municipalities to compete regardless of size, provided that to receive funds, a municipality:

\* \* \*

Sec. 26. 24 V.S.A. § 4471(e) is amended to read:

(e) ~~Vermont neighborhood.~~ Neighborhood development area.

Notwithstanding subsection (a) of this section, a determination by an appropriate municipal panel shall not be subject to appeal if the determination is that a proposed residential development within a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area seeking conditional use approval will not result in an undue adverse effect on the character of the area affected, as provided in subdivision 4414(3)(A)(ii) of this title.

Sec. 27. 24 V.S.A. § 4472(b) is amended to read:

(b) The remedy of an interested person with respect to the constitutionality of any one or more of the provisions of any bylaw or municipal plan shall be governed by the Vermont Rules of Civil Procedure with a de novo trial in the Civil Division of the Superior Court, unless the issue arises in the context of another case under this chapter, in which instance it may be raised in the Environmental Division. In such cases, hearings before the appropriate municipal panel shall not be required. This section shall not limit the authority of the Attorney General to bring an action before the Environmental Division

under section 4453 of this title, with respect to challenges to housing provisions in bylaws.

Sec. 28. 24 V.S.A. § 5062(o) is amended to read:

(o) The Vermont Pension Investment Committee may authorize the loan of its securities pursuant to securities lending agreements that provide for collateral consisting of cash or securities issued or guaranteed by the ~~United States~~ U.S. government or its agencies equal to 100 percent or more of the market value of the loaned securities. Cash collateral may be invested by the lending institution in investments approved by the State Treasurer. Approval of investments shall be made in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9.

Sec. 29. 24 V.S.A. § 5088(5) is amended to read:

(5) A “public transit service” means any fixed route, paratransit, transportation brokerage, user-side subsidy, ~~and~~ or rideshare/ride-match program which is available to any person upon payment of the proper fare, and which is promoted to be available to all members of the public, including those with special needs.

Sec. 30. 30 V.S.A. § 8015(d)(3) is amended to read:

(3) ~~A~~ The Fund may issue a grant in lieu of a solar energy tax credit in accordance with 32 V.S.A. § 5930z(f). Of any Fund ~~moneys~~ monies

unencumbered by such grants, the first \$2.3 million shall fund the Small-scale Renewable Energy Incentive Program described in subdivision (1)(E)(ii) of this subsection.

Sec. 31. 32 V.S.A. § 434 is amended to read:

§ 434. INVESTMENT OF CERTAIN FUNDS

(a)(1) A “Trust Investment Account” is hereby created to maximize the earnings of individual funds by associating them together for common investment.

\* \* \*

(3) The State Treasurer may invest and reinvest the funds in the ~~account~~ Account, 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 ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9. The Treasurer shall apply the same investment objectives and policies adopted by the Vermont State Employees’ Retirement System, where appropriate, to the investment of funds in the Trust Investment Account.

\* \* \*

(b) The State Treasurer may invest and reinvest the monies deposited into the Tobacco Litigation Settlement Fund established by section 435a of this title, and may hold, purchase, sell, assign, transfer, and dispose of the

investments in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9.

Sec. 32. 32 V.S.A. § 1261(a) is amended to read:

(a) Unless otherwise provided, all persons in the employ of the ~~state~~ State when away from home and office on official duties shall be reimbursed for expenses necessarily incurred for travel, subsistence, postage, telephone, telegraph, express, and incidentals which shall be paid out of the ~~biennial~~ appropriation made for the support of their respective departments. Nothing contained herein shall authorize payment to an administrative official or employee, except the Governor, for travel between his or her place of residence and office, or subsistence thereat except for mileage reimbursement when an employee is called in and required to work at any time other than continuously into his or her normally scheduled shift. Compensation for subsistence, travel, and other expenses occurring while conducting business for the State shall be the subject of collective bargaining as defined in 3 V.S.A. § 904(a). Whenever it shall be necessary to effect the transfer of an employee of the State from one official station to another by direction of the head of a department, said employee shall be reimbursed for his or her reasonable and necessary moving expenses actually incurred. However, the reasonableness of ~~said~~ the expense shall be determined by the Commissioner of Finance and Management and no such expense shall be allowed unless the transfer is made

for the convenience of the State and in no event where it is effected for the convenience or at the request of the employee. Such expense when allowed shall be paid out of the ~~biennial~~ appropriation made for the support of the respective departments. When an administrative official or employee works out of his or her home in the usual course of employment rather than out of an office, he or she shall be reimbursed for expenses in the same manner as though he or she were working out of an office and for the purposes of this section, his or her home shall be considered as his or her office.

Sec. 33. CAMPAIGN FINANCE; CONTRIBUTION LIMITS;

TRANSITIONAL PROVISION

Notwithstanding the provisions of 2014 Acts and Resolves No. 90 (campaign finance (S.82)), Secs. 2 (repeal of 17 V.S.A. chapter 59) and 8 (effective dates; transitional provisions), the provisions of 17 V.S.A. § 2805(a), (b), (f), (g), and (h) (limitations of contributions), as administered and enforced by the State immediately prior to the effective date of 2014 Acts and Resolves No. 90, Sec. 2, shall continue to apply to elections in the State from the effective date of 2014 Acts and Resolves No. 90, Sec. 2 until the effective date of 2014 Acts and Resolves No. 90, Sec. 3, 17 V.S.A. § 2941 (limitations of contributions).

Sec. 34. REPEALS

The following are repealed:

(1) 2009 Special Session Acts and Resolves No. 1, Sec. H.7 (directing the Legislative Council to revise the Vermont Statutes Annotated to reflect the redesignation of the Department of Taxes as the Department of Revenue).

(2) 3 V.S.A. § 252 (cost of bonds; blanket bond).

(3) 3 V.S.A. § 3083 (Department of Developmental and Mental Health Services).

(4) 10 V.S.A. § 902(10) (definition of “Panel”).

(5) 10 V.S.A. § 914(e) (wetland determination provision).

(6) 24 V.S.A. § 2408 (land acquired by virtue of the provisions of 24 V.S.A. § 2407).

(7) 30 V.S.A. § 8004(f) (report requirement).

Sec. 35. EFFECTIVE DATE

This act shall take effect on passage.