

House Calendar

Friday, April 02, 2010

88th DAY OF ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 689

An act relating to the Uniform Common Interest Ownership Act

H. 790

An act relating to capital construction and state bonding

Amendment to be offered by Reps. Donahue of Northfield, Koch of Barre Town, O'Donnell of Vernon, and Poirier of Barre City to H. 790

Reps. Donahue of Northfield, Koch of Barre Town, O'Donnell of Vernon and Poirier of Barre City move that the bill be amended following Sec. 39 by inserting a Sec. 40 to read:

Sec. 40. VERMONT STATE HOSPITAL CAPITAL RESERVE

Of the amount appropriated in Sec. D 101(c) for the human services caseload reserve created by 32 V.S.A. § 308b, one-half shall be deposited into a capital reserve fund which is hereby created in the general fund. Upon appropriation by the general assembly, monies in the fund shall be used for replacement of services of the Vermont state hospital as components receive certificate of need approval.

and by renumbering the remaining Secs to be numerically correct

Amendment to be offered by Rep. Clark of Vergennes to H. 790

Rep. Clark of Vergennes moves that the bill be amended as follows:

First: In Sec. 7(3), at the end of the subdivision, by striking “6,355,111” and inserting in lieu thereof “7,211,023”, and at the end of Sec. 7 by striking “7,000,000” and inserting in lieu thereof “7,855,912”

Second: In Sec. 21 (1), by striking “2,000,000” and inserting in lieu thereof “3,000,000”, and at the end of Sec. 21 by striking “\$3,851,280” and inserting in lieu thereof “\$4,851,280”

Third: In Sec. 22, in the first sentence, by striking “\$5,000,000” and inserting in lieu thereof “\$3,144,088”, and at the end of the Sec. by striking “\$5,000,000” and inserting in lieu thereof “\$3,144,088”

Fourth: In Sec. 22 at the beginning of the Sec., before the words “The amount of” by inserting (a), and at the end of the Sec., following subdivision (5) by inserting a subsection (b) to read:

(b) In no case, shall the term of any loan administered by the board exceed a period of thirty years, inclusive of extension and deferral periods.

Amendment to be offered by Rep. Emmons of Springfield to H. 790

Rep. Emmons of Springfield moves to amend the bill in Sec.34 as follows:

First: In subsection (a), following the words “The secretary of administration” by inserting “, working with the state treasurer,”

Second: Following subdivision (a)(2)(D) by inserting a new subdivision (E) to read:

(E) Authorizing occasional increases in the debt limit to accommodate specific projects.

And by relettering the remaining subdivision to be alphabetically correct

Committee Bill for Second Reading

H. 791

An act relating to the tax expenditure budget.

(Rep. Condon of Colchester will speak for the Committee on Ways and Means.)

Favorable with amendment

H. 760

An act relating to the repeal or revision of certain boards and commissions

Rep. Consejo of Sheldon, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 2504(a) is amended to read:

(a) The secretary of the agency of agriculture, food and markets and the secretary of the agency of commerce and community development, ~~in consultation with the market Vermont board,~~ shall develop categories and standards designed to identify those Vermont goods, services, and experiences which best portray and promote Vermont’s reputation for high standards of quality.

Sec. 2. 10 V.S.A. § 647 is amended to read:

§ 647. ANNUAL REPORT

Annually, on or before March 1, the board of directors of the Vermont film corporation shall submit a report to the department of tourism and marketing and to the ~~general assembly house and senate committees on government operations~~ for the prior 12-month period. The report shall describe activities of the board during the preceding year and shall also include an accounting of revenues received by and expenditures of the board and plans to minimize future state funding of the corporation's activities.

Sec. 3. 10 V.S.A. § 2606a(b) is amended to read:

(b) ~~Specific sites.~~

~~(1) Mountaintop designation. The state-owned mountaintops to which this section shall apply are: Ascutney Mountain North Peak and Ascutney Mountain South Peak, Burke Mountain, Okemo Mountain, and Killington Mountain. Before any applicable permitting process is commenced regarding Okemo Mountain, the Okemo Mountain technical site committee, created by subdivision (2) of this subsection, shall hold a public hearing in the Town of Ludlow before authorizing any use of the Okemo Mountain site for communications purposes. Upon a request for use or other indication of need for establishing additional communications facilities by either public or private parties, additional mountaintop communications sites may be designated by the department when consistent with long range management plans for state-owned land and subject to public input. Such designations shall be by rule adopted pursuant to chapter 25 of Title 3.~~

* * *

Sec. 4. 16 V.S.A. § 216(b) is amended to read:

(b) The commissioner with the approval of the state board shall establish an advisory council on wellness and comprehensive health which shall include at least three members associated with the health services field. The members shall serve without compensation but shall receive their actual expenses incurred in the pursuit of their duties relating to wellness and comprehensive health programs. The council shall assist the department of education in planning, coordinating, and encouraging wellness and comprehensive health programs in the public schools.

Sec. 5. 18 V.S.A. § 4702(a) is amended to read:

(a) The department of health, ~~in collaboration with the opiate addiction treatment advisory committee,~~ shall develop by rule comprehensive guidelines for a regional system of opiate addiction treatment.

Sec. 6. 18 V.S.A. § 5212b(c) is amended to read:

(c) The commissioner of housing and community affairs may authorize

disbursements from the fund for use in any municipality in which human remains are discovered in unmarked burial sites in accordance with a process approved by the commissioner. The commissioner shall approve any process developed through consensus or agreement of the interested parties, including the municipality, the ~~governor's advisory~~ Vermont commission on Native American affairs, and private property owners of property on which there are known or likely to be unmarked burial sites, provided the commissioner determines that the process is likely to be effective, and includes all the following:

* * *

Sec. 7. 21 V.S.A. § 1306(a) is amended to read:

(a) The governor shall appoint a state department of labor advisory council composed of eight members from the general public to include four employer representatives and four employee representatives who may fairly be regarded as employees because of their vocations, employment, and affiliations. Appointment of the four employee representatives, at least one of whom shall have experience in workers' compensation law and one of whom shall be a member of a building trade, shall be made from a list of qualified individuals submitted by the Vermont state labor council, the Vermont state employees' association, and the Vermont national education association. Appointment of the four employer representatives shall be made from a list of qualified individuals submitted by the Vermont chamber of commerce, associated general contractors of Vermont, and Vermont businesses for social responsibility. The council members shall be appointed for staggered terms of four years. The council shall meet at least ~~six~~ three times a year.

Sec. 8. 23 V.S.A. § 3310(a) is amended to read:

(a) The ~~state board~~ commissioner of forests, parks and recreation or a municipality in administering a swimming beach or waterfront program may designate a swimming area in front of the beach or land which the state or a municipality owns or controls and may make rules pertaining to the area. The rules may provide that no person, except a lifeguard on duty and other authorized personnel, may operate any boat, canoe, or water vehicle of any sort within the designated swimming area.

Sec. 9. 24 V.S.A. § 4345a(16) is amended to read:

(16) ~~Before requesting review by the council of regional commissioners or the services of a mediator pursuant to section 4305 of this title, with~~ With respect to a conflict that has arisen between adopted or proposed plans of two or more regions or two or more municipalities located in different regions, appoint a joint interregional commission, in cooperation with other affected

regional commissions for the purpose of negotiating differences.

Sec. 10. 24 V.S.A. § 4348 is amended to read:

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

* * *

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

(1) the ~~chairperson~~ chair of the legislative body of each municipality within the region;

(2) the executive director of each abutting regional planning commission;

(3) the department of housing and community affairs within the agency of commerce and community development; and

(4) ~~the council of regional commissions; and~~

(5) business, conservation, low income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.

* * *

(f) A regional plan or amendment shall be adopted by not less than a 60 percent vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission, and immediately submitted to the legislative bodies of the municipalities that comprise the region. The plan or amendment shall be considered duly adopted and shall take effect 35 days after the date of adoption, unless, within 35 days of the date of adoption, the regional planning commission receives certification from the legislative bodies of a majority of the municipalities in the region vetoing the proposed plan or amendment. In case of such a veto, the plan or amendment shall be deemed rejected. ~~A plan or amendment that has become effective or has been rejected shall be transmitted promptly to the council of regional commissions.~~

* * *

Sec. 11. 28 V.S.A. § 121 is amended to read:

§ 121. COMMUNITY HIGH SCHOOL OF VERMONT AND OFFENDER WORK PROGRAMS BOARD

(a) ~~A board is established for the purpose of advising the education supervisor of the independent school established in section 120 of this title. The community high school of Vermont and offender work programs board shall have supervision over~~ is established to recommend policy formation for the independent school, community high school of Vermont and offender work programs to the commissioner of corrections, except as otherwise provided, shall recommend school policy to the commissioner of corrections, shall advise the education supervisor, oversee local advisory boards of the school, and shall perform such other duties as requested from time to time by the commissioner of education or of corrections.

(b) The board shall consist of nine members, each appointed by the governor for a three-year term subject to the advice and consent of the senate, in such a manner that no more than three terms shall expire annually, as follows:

(1) ~~Six~~ Five representatives from the membership of local advisory boards serving the school sites, not to include more than one member from any advisory board.

(2) ~~Three members at large~~ Three representatives of public sector and private nonprofit organization customers of the products and services of offender work programs.

(3) One member-at-large.

(c) The board shall appoint a chair and vice chair, each of whom shall serve for one year or until a successor is appointed by the board.

(d) The board shall report on its activities at least annually to the state board of education and the commissioner of corrections.

(e) ~~The board may, with the approval of the commissioner of corrections, appoint the education supervisor of the independent school.~~ The board shall review plans submitted by the director of offender work programs, conduct public hearings regarding potentially affected private businesses and labor groups, evaluate the impact on private sector business, and provide its recommendations to the commissioner of corrections.

Sec. 12. 28 V.S.A. § 751b is amended to read:

§ 751b. GENERAL PROVISIONS GOVERNING OFFENDER WORK

* * *

(d) The labor, work product, or time of an offender may be sold, contracted, or hired out by the state only:

(1) To the federal government.

(2) To any state or political subdivision of a state, or to any nonprofit organization which is exempt from federal or state income taxation, subject to federal law, to the laws of the recipient state and to the rules of the department. ~~Five~~ Two of the three members of the community high school of Vermont and offender work programs board appointed under subdivision 121(b)(2) of this title at a scheduled and warned board meeting may vote to disapprove any future sales of offender produced goods or services to any nonprofit organization and ~~such~~ the vote shall be binding on the department.

(3) To any private person or enterprise not involving the provision of the federally authorized Prison Industries Enhancement Program, provided that the community high school of Vermont and offender work programs board shall first determine that the offender work product in question is not otherwise produced or available within the state. ~~Five~~ Two of the three members of the ~~such~~ board appointed under subdivision 121(b)(2) of this title at a scheduled and warned board meeting may vote to disapprove any future sales of offender produced goods or services to any person or entity not involving the provisions of the federally authorized Prison Industries Enhancement Program and such vote shall be binding on the department.

* * *

(e) Offender work programs managers shall seek to offset production, service and related costs from product and service sales; however, this financial objective of offsetting the costs to the department of servicing and supervising offender work programs shall not be pursued to the detriment of accomplishing the purposes of offender work programs set out in subsection (a) of this section or to the detriment of private businesses as safeguarded by ~~section 764~~ subsection 121(e) of this title.

* * *

(g) Assembled products shall not be sold to any person, enterprise, or entity unless the community high school of Vermont and offender work programs board has first reviewed any such proposed sale, and ~~five~~ two of the three members of the board appointed under subdivision 121(b)(2) of this title have voted in favor of the proposal at a scheduled and warned meeting of the board.

* * *

Sec. 13. 28 V.S.A. § 752 is amended to read:

§ 752. OFFENDER WORK PROGRAMS SPECIAL FUND

* * *

(b) Any expenses incurred by offender work programs ~~and the offender work programs board~~ shall be defrayed by this fund.

* * *

Sec. 14. 29 V.S.A. § 152(a)(3)(A) is amended to read:

(A) For which the legislature or the emergency board has made specific appropriations. In consultation with the department or agency concerned ~~and with the approval of the board of state buildings,~~ the commissioner shall select sites, purchase lands, determine plans and specifications, and advertise for bids for the furnishing of materials and construction thereof and of appurtenances thereto. The commissioner shall determine the time for beginning and completing the construction. Any change orders occurring under the contracts let as the result of actions previously mentioned in this section shall not be allowed unless they have the approval of the secretary of administration.

Sec. 15. 29 V.S.A. § 152(a)(5) is amended to read:

(5) Inspect, appraise, and maintain a current appraisal schedule of all state-owned buildings, appendages, and appurtenances thereto based upon replacement value in the first instance and upon depreciated value in the second instance. ~~Such appraisals~~ Appraisals shall be furnished upon request to the secretary of administration, ~~the board of state buildings,~~ the commissioner of buildings and general services, departments and agencies concerned, and appropriate committees of the general assembly.

Sec. 16. 32 V.S.A. § 1010(a) is amended to read:

(a) Except for those members serving ex officio or otherwise regularly employed by the state, the compensation of the members of the following boards shall be \$50.00 per diem:

- (1) Board of bar examiners
- (2) Board of libraries
- (3) Vermont milk commission
- (4) Board of education
- (5) State board of health
- (6) Emergency board
- (7) Liquor control board
- (8) ~~Repealed.~~
- (9) Human services board
- (10) ~~State board of forests, parks and recreation~~

- ~~(11)(9)~~ State fish and wildlife board
- ~~(12)(10)~~ State board of mental health
- ~~(13)~~ Vermont development advisory board
- ~~(14)~~ Vermont state water resources board
- ~~(15)(11)~~ Vermont employment security board
- ~~(16)(12)~~ Capitol complex commission
- ~~(17)(13)~~ Natural gas and oil resources board
- ~~(18)~~ Commission of the deaf and hearing impaired
- ~~(19)(14)~~ Transportation board
- ~~(20)~~ Health policy council
- ~~(21)~~ Certificate of need review board
- ~~(22)~~ Certificate of need appeals board
- ~~(23)(15)~~ Vermont veterans' home board of trustees
- ~~(24)(16)~~ Advisory council on historic preservation
- ~~(25)~~ Vermont ~~when~~ pollution abatement authority
- ~~(26)(17)~~ The electricians' licensing board
- ~~(27)~~ The alternatives to incarceration board
- ~~(28)~~ Offender work programs board
- ~~(29)~~ Firefighters' (18) Emergency personnel survivors benefit review board
- ~~(30)(19)~~ Community high school of Vermont and offender work programs board
- ~~(31)~~ Municipal land records commission.

Sec. 17. REPEAL

The following are repealed:

- (1) Subchapter 1 of chapter 21 of Title 1 (commission on interstate cooperation).
- (2) The following sections, subsections, and subdivisions in Title 3:
 - (A) § 2(3)(C) (commission on interstate cooperation);
 - (B) § 1101(b)(6) (council of regional commissions);

- (C) § 2293 (development cabinet);
- (D) § 2294 (technology advisory board);
- (E) § 2503 (market Vermont advisory board);
- (F) § 2873(f) (toxics technical advisory board);
- (G) § 2873(h) (compliance advisory board);
- (H) § 4020(b)(3) (council of regional commissions);
- (3) The following chapters and subchapters in Title 10:
 - (A) Subchapter 1 of chapter 1 (Vermont business recruitment partnership);
 - (B) Chapter 4 (world trade office);
 - (C) Chapter 11A (Vermont qualifying facility contract mitigation authority);
 - (D) Chapter 24 (outdoor lighting);
 - (E) Chapter 28 (Vermont small business investment);
 - (F) Subchapter 5 of chapter 73 (forest resource advisory council).
- (4) The following sections and subdivisions in Title 10:
 - (A) § 2604 (state board of forests, parks and recreation);
 - (B) § 2606a(b)(2)–(5) (technical site committees, duties, leases, administration).
- (5) Subchapter 3 of chapter 125 of Title 16 (benefits under higher education facilities act of 1963).
- (6) The following sections and subsections in Title 16:
 - (A) § 15 (council on civics education);
 - (B) § 132 (comprehensive health education advisory council);
 - (C) § 2958(b) and (c) (residential placement review team).
- (7) The following sections and subsections in Title 18:
 - (A) § 104b(c) and (d) (community health and wellness grant committee);
 - (B) § 4703 (opiate addiction treatment advisory committee);
- (8) The following subsections in Title 20:
 - (A) § 2673(d) (assistance of the state HAZMAT emergency

operation team);

(B) § 2681(b) and (c) (state HAZMAT emergency operation team).

(9) Chapter 14 of Title 21 (youth in agriculture, natural resources, and food production).

(10) 21 V.S.A. § 229 (VOSHA advisory councils).

(11) 23 V.S.A. § 735 (motorcycle training advisory committee).

(12) The following chapters in Title 24:

(A) Chapter 133 (Vermont independent school finance authority);

(B) Chapter 135 (Vermont municipal land records commission).

(13) The following sections and subdivisions in Title 24:

(A) § 4305 (council on regional commissions);

(B) § 4348(i) (review of regional plans);

(C) § 4476 (formal review of regional planning commission decisions).

(14) 28 V.S.A. § 761 (offender work programs board).

(15) The following sections in Title 29:

(A) § 156 (composition of the board of state buildings);

(B) § 158 (land and office building development plan).

(16) The following chapters in Title 30:

(A) Chapter 85 (West River Basin energy authority);

(B) Chapter 90 (Vermont hydro-electric power authority);

(17) The following sections in Title 31:

(A) § 641 (Vermont breeder's stake board);

(B) § 642 (Vermont standard-bred development special fund).

(18) 32 V.S.A. § 203 (committee on coordination).

(19) Chapter 61 of Title 33 (Vermont independence fund).

(20) 33 V.S.A. § 806 (alcohol and drug abuse advisor appointees).

(21) Sec. 1 of No. 204 of the Acts of the 2005 Adj. Sess. (2006) (commission to develop the next generation initiative) is repealed.

(Committee Vote: 9-0-2)

Rep. Winters of Williamstown, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

(Committee Vote: 10-0-1)

H. 778

An act relating to amending miscellaneous provisions in Vermont's public retirement systems.

(Rep. Hubert of Milton will speak for the Committee on **Government Operations**.)

Rep. Heath of Westford, for the Committee on **Appropriations**, recommends the bill be amended as follows::

By striking out Sec. 3 and inserting new Secs. 3, 3a and 5 to read:

Sec. 3. 24 V.S.A. § 5064(b) is amended to read:

(b) Member savings. Contributions deducted from the compensation of members together with any member contributions transferred from a predecessor system shall be accumulated in the fund and separately recorded for each member. Contributions shall be made by group A members at the rate of three percent of earnable compensation. Contributions shall be made by group B members at the rate of five percent of earnable compensation. Contributions shall be made by group C and group D members at a rate of 11 percent of earnable compensation. Additionally, if an employee remains in group C and is employed by an employer who elects to revoke its group C membership in accordance with subsection 5068(f) of this title, the rate established in this subsection will be adjusted. This adjustment shall be determined by subtracting the group B rate, or if not applicable, the group A rate determined in subdivision (c)(1) of this section from the group C rate determined in subdivision (c)(1) of this section. ~~Notwithstanding the provisions of this subsection, for the period July 1, 2000 through June 30, 2010, contributions shall be made by group A members at the rate of two and one-half percent of earnable compensation, by group B members at the rate of four and one-half percent of earnable compensation, and by group C members at the rate of nine percent of earnable compensation.~~

* * *

Sec. 3a. VERMONT MUNICIPAL RETIREMENT FUND

Notwithstanding the provisions of 24 V.S.A. § 5064(b), for the period July 1, 2010 through June 30, 2011, contributions shall be made by group A members at the rate of two and one-half percent of earnable compensation, by

group B members at the rate of four and one-half percent of earnable compensation, and by group C members at the rate of nine and one-half percent of earnable compensation.

Sec. 5. EFFECTIVE DATES

This Sec. 5 shall take effect upon passage; Secs. 1 and 2 (pension investment committee), Sec. 3 (municipal pension contribution rates) and Sec. 3a (municipal retirement fund session law) of this act shall take effect July 1, 2010; and Sec. 4 (state teachers' retirement) of this act shall take effect July 1, 2009.

(Committee Vote 10-0-1)

Action Postponed Until April 6, 2010

Senate Proposal of Amendment

H. 456

An act relating to seasonal fuel assistance.

Pending Question: Shall the House concur in the Senate proposals of amendment?

Action Postponed Until May 28, 2010

Governors Veto

H. 436

An act relating to decommissioning funds of nuclear energy generation plants.

Pending Question: Shall the House sustain the Governor's veto?

NOTICE CALENDAR

Favorable

H. 774

An act relating to approval of amendments to the charter of the city of South Burlington

Rep. Evans of Essex, for the Committee on **Government Operations**, recommends the bill ought to pass.

(Committee Vote: 8-0-3)

Ordered to Lie

H.R. 19

House resolution urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont.

Pending Question: Shall the House adopt the resolution?

**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. 299

House concurrent resolution congratulating the 2010 Albert D. Lawton Intermediate School Vermont MATHCOUNTS competition championship team

H.C.R. 300

House concurrent resolution congratulating Representative Carolyn Branagan on being named the 2010 Vermont Mother of the Year

H.C.R. 301

House concurrent resolution in memory of U.S. Army 2nd Lt. Joseph Douglas Fortin of St. Johnsbury

H.C.R. 302

House concurrent resolution congratulating the 2010 Mount Anthony Union High School Patriots Division I championship boys' Nordic ski team

H.C.R. 303

House concurrent resolution congratulating the 2010 Mount Anthony Union High School Patriots championship wrestling team

H.C.R. 304

House concurrent resolution congratulating the 2010 Mount Anthony Union High School Patriots Division I championship girls' Nordic ski team

H.C.R. 305

House concurrent resolution congratulating the 2010 Norwich University Cadets ECAC East women's ice hockey championship team

H.C.R. 306

House concurrent resolution congratulating Craftsbury Academy student Mael Le Scouezec on winning the 2010 Vermont State Individual Spelling Bee

S.C.R. 47

Senate concurrent resolution honoring Vermont Food Education Every Day (VT FEED) as an innovative partnership facilitating statewide farm to school programs emphasizing the importance of food and nutrition education for the health of our communities

Public Hearings

Wednesday, April 7, 2010 - 4:30 - 7:00 PM; Senate Committee on Judiciary -
H. 470 - Judicial Restructuring