

Senate Calendar

FRIDAY, APRIL 10, 2009

94th DAY OF BIENNIAL SESSION

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ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF WEDNESDAY, MARCH 25, 2009

Third Reading

S. 99

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

UNFINISHED BUSINESS OF WEDNESDAY, APRIL 1, 2009

S. 126

An act relating to digital forensic specialists.

Pending Question: Shall the bill be read the third time?

Committee Bill for Second Reading

S. 134

An act relating to the reduction and consolidation of certain nonstanding legislative committees.

By the Committee on Government Operations. (Sen. Doyle for the Committee)

UNFINISHED BUSINESS OF FRIDAY, APRIL 3, 2009

Second Reading

Favorable with Recommendation of Amendment

S. 111

An act relating to legislative apportionment board appointments.

Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 1904(a) is amended to read:

(a) There is hereby created the legislative apportionment board, consisting of: a special master designated by the chief justice of the supreme court; one freeman, a resident of the state of Vermont for five years immediately

preceding the appointment, appointed by the governor from each political party ~~which polled at least twenty five percent of the votes cast for governor at the last preceding general election,~~ that has had more than three members serve as members of the general assembly, who are not all from the same county, for at least three of the five biennial legislative sessions since the taking of the previous decennial census of the United States; and one ~~freeman,~~ a resident of the state of Vermont for the five years immediately preceding the appointment, elected by the state committee of each of those political parties, a quorum of each committee being present and voting. No member of the board shall serve as a member or employee of the general assembly, or of either house thereof. The special master so designated shall be ~~chairman~~ chair of the board, and shall call such meetings as may be necessary for the accomplishment of the duties of the board hereafter set forth. The secretary of state of Vermont shall be secretary of the board, but shall have no vote.

(Committee vote: 3-2-0)

**SUBSTITUTE AMENDMENT TO S. 111 TO BE OFFERED BY
SENATORS BROCK AND DOYLE**

Senators Brock and Doyle move that the recommendation of amendment of the Committee on Government Operations be substituted with the following:

That the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 1904(a) is amended to read:

(a) There is hereby created the legislative apportionment board, consisting of: a special master designated by the chief justice of the supreme court; ~~one freeman,~~ a resident of the state of Vermont for five years immediately preceding the appointment, appointed by the governor from each political party which polled at least ~~twenty five~~ ten percent of the votes cast for governor at the last preceding general election, and one ~~freeman,~~ a resident of the state of Vermont for the five years immediately preceding the appointment, elected by the state committee of each of those political parties, a quorum of each committee being present and voting. No member of the board shall serve as a member or employee of the general assembly, or of either house thereof. The special master so designated shall be ~~chairman~~ chair of the board, and shall call such meetings as may be necessary for the accomplishment of the duties of the board hereafter set forth. The secretary of state of Vermont shall be secretary of the board, but shall have no vote.

S. 117

An act relating to the date of the primary election.

Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 2351 is amended to read:

§ 2351. PRIMARY ELECTION

A primary election shall be held on the ~~second~~ fourth Tuesday ~~of September~~ in August in each even numbered year for the nomination of candidates of major political parties for all offices to be voted for at the succeeding general election, except candidates for president and vice-president of the United States, their electors, and justices of the peace.

(Committee vote: 3-2-0)

NEW BUSINESS

Third Reading

S. 91

An act relating to operation of vessels on public waters.

S. 94

An act relating to licensing state forestland for maple sugar production.

S. 122

An act relating to recounts in elections for statewide offices.

S. 136

An act relating to reducing the drop-out rate in Vermont secondary schools to zero by the year 2020.

AMENDMENT TO S. 136 TO BE OFFERED BY SENATORS SEARS AND WHITE BEFORE THIRD READING

Senators Sears and White move to amend the bill by striking out the words "evidence-based" wherever it appears.

H. 31

An act relating to approval of amendments to the charter of the town of Williston.

H. 95

An act relating to the approval of an amendment to the charter of the city of Burlington.

H. 204

An act relating to payment of diversion program fees.

NOTICE CALENDAR

Favorable

H. 36

An act relating to repealing the charter of the Enosburg Falls Incorporated School District.

Reported favorably by Senator Brock for the Committee on Education.

(Committee vote: 5-0-0)

(No House amendments)

H. 131

An act relating to the codification of and approval of an amendment to the charter of Cold Brook Fire District No. 1.

Reported favorably by Senator Brock for the Committee on Government Operations.

(Committee vote: 4-0-1)

(No House amendments)

H. 348

An act relating to the interstate pest control compact.

Reported favorably by Senator Giard for the Committee on Agriculture.

(Committee vote: 5-0-0)

(No House amendments)

H. 431

An act relating to miscellaneous adjustments to the public retirement systems.

Reported favorably by Senator White for the Committee on Government Operations.

(Committee vote: 4-0-1)

(No House amendments)

Favorable with Recommendation of Amendment

S. 97

An act relating to a Vermont state employees' cost-savings incentive program.

Reported favorably with recommendation of amendment by Senator Brock for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 266 is added to read:

§ 266. VERMONT EMPLOYEES' COST-SAVINGS INCENTIVE PROGRAM

(a) For the purposes of this section:

(1) "Agency" means a state board, commission, department, agency, or other entity or officer of state government.

(2) "Board" means the Vermont state employees' cost-savings incentive program board.

(3) "Program" means the Vermont state employees' cost-savings incentive program.

(4) "Suggestion" means a proposal by a state employee that has been submitted to an agency in which the employee is employed that may result in financial savings for that agency.

(b) A state employee may make a suggestion to the agency in which the employee is employed that may result in financial savings for that agency.

(c) There is established the Vermont state employees' cost-savings incentive program. The program shall provide financial incentives to state employees who make suggestions that are adopted and that result in financial savings for the agency in which the employee is employed and for the state.

(d) There is established the Vermont state employees' cost-savings incentive program board which shall consist of five members serving two-year terms as follows:

(1) two members of the Vermont State Employees' Association, Inc., appointed by the executive director of that association;

(2) one member from the department of human resources, appointed by the commissioner of that department;

(3) one member from the department of finance and management, appointed by the commissioner; and

(4) one member appointed by the state treasurer.

(e) The board shall:

(1) oversee employee suggestions being considered by an agency and shall convene as it deems necessary;

(2) convene annually with the purpose of creating a statewide cost-savings form for employees, and review and update the form as necessary;

(3) convene quarterly to review the suggestions submitted to each agency while they are being evaluated for implementation;

(4) make recommendations to the agency of the feasibility of each suggestion;

(5) establish and oversee a reevaluation process that state employees making suggestions may access if their suggestions are rejected by an agency; and

(6) ensure that the identities of state employees who make suggestions under this section remain confidential.

(f) An agency shall:

(1) Provide a copy of a state employee's suggestion to the board upon receipt by the agency.

(2) Within 60 days of receiving a suggestion, either issue an approval notice to the employee who made the suggestion and to the board and begin implementing the suggestion or provide a written report to the board describing the specific reasons why the agency has declined to implement the suggestion.

(3) Consider input from the board in approving or rejecting a suggestion.

(4) Maintain records of all suggestions, made and implemented, and cost-savings resulting from these suggestions for a period of one year.

(g) If the board determines that a suggestion will provide a savings of \$20,000.00 or more, the suggestion shall be referred to the commissioner of finance and management for additional review and approval. Within 60 days of receiving a suggestion, the commissioner of finance and management shall notify the board of his or her approval or provide a written report to the board

describing the specific reasons why the commissioner has declined to approve the suggestion.

(h) The secretary of administration shall file a report with the governor and the general assembly for each fiscal year on January 1, summarizing the administration and implementation of the suggestion program and the resulting cost-savings for the state.

(i) Awards shall be distributed in the following manner:

(1) For a suggestion saving more than \$100.00 and less than \$20,000.01, the board shall award 25 percent of the first-year's savings, and the agency shall distribute the award within 90 days of implementing the suggestion.

(2) For a suggestion saving \$20,000.01 or more, the board shall award \$5,000.00, and the agency shall distribute the award within 90 days of implementing the suggestion; plus five percent of the first-year's savings over \$20,000.00, and the agency shall distribute the award within a reasonable period of time following validation of the first year's savings by the commissioner of finance and management.

(j) An award shall not be made for:

(1) a suggestion that provides a savings of \$100.00 or less;

(2) a suggestion containing an idea that is already under active study or is under continual review by the state; and

(3) a suggestion, the adoption and implementation of which is within the scope of the employee's duties.

(k) Elected officials or agency heads shall not be eligible to receive an award pursuant to this section.

(l) The commissioner of finance and management shall determine whether savings have been realized within a reasonable time following the end of the fiscal year.

Sec. 2. 3 V.S.A. § 973 is amended to read:

§ 973. PROTECTED ACTIVITY

(a) A state agency, department, appointing authority, official, or employee shall not engage in retaliatory action against a state employee because the state employee refuses to comply with an illegal order or engages in any of the following:

* * *

(3) Making a suggestion under section 266 of this title.

* * *

(Committee vote: 5-0-0)

Favorable with Proposal of Amendment

H. 145

An act relating to composting.

Reported favorably with recommendation of proposal of amendment by Senator Kittell for the Committee on Agriculture.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Composting is a process by which organic material is mixed and tending to create a soil amendment that reduces runoff, increases plant fertility, and builds living soil;

(2) Composting is an agricultural practice that farmers traditionally have practiced in order to recycle nutrients and manage wastes on their farms;

(3) The benefits of composting include the recapture of nutrients and the rebuilding of soils, both of which also help to protect surface waters from nutrient runoff, improve soil productivity, mitigate the generation of greenhouse gases, and reduce the demands on the state's solid waste management system;

(4) Several state agencies have regulatory authority over composting activities or components of composting activities. It is important that the state clarify the scope of the jurisdiction and authority that state agencies possess over composting; and

(5) Clarifying the regulatory requirements over composting in the state will allow the development of composting activities and facilities that support Vermont's goals for waste recycling, nutrient redistribution, farm viability, and sustainable food systems.

Sec. 2. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

When used in this chapter:

* * *

(3)(A) “Development” means:

* * *

(D) The word “development” does not include:

* * *

(vi) The construction of improvements below the elevation of 2,500 feet for the on-site storage, preparation, and sale of compost, provided that:

(I) The compost is produced from no more than 100 cubic yards of material per year;

(II) The compost is principally produced on the farm;

(III) The compost is principally used on the farm where it was produced;

(IV) The compost is made only from clean, high carbon bulking agents from any source and manure produced on the farm; or

(V) The compost is produced on a tract of land of fewer than 10 acres and the production of the compost utilizes no more than 40,000 cubic yards of combined organic material per year, including no more than 5,000 cubic yards of food residuals per year.

(E) When development is proposed to occur on a parcel or tract of land that is devoted to farming activity as defined in subdivision 6001(22) of this section, only those portions of the parcel or the tract that support the development shall be subject to regulation under this chapter. Permits issued under this chapter shall not impose conditions:

(i) on other portions of the parcel or tract of land which do not support the development ~~and~~ ;or

(ii) that restrict or conflict with accepted agricultural practices adopted by the secretary of agriculture, food and markets.

* * *

(31) “Compost” means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage or septage or materials derived from sewage or septage.

Sec. 3. 10 V.S.A. § 6605h is added to read:

§ 6605h. SOLID WASTE REGISTRATION

(a) Notwithstanding sections 6605, 6605f, and 6611 of this title, the secretary may, by rule, authorize a person engaged in the following activities to register with the secretary instead of obtaining a facility certification under section 6605 or 6605c of this title:

(1) construction, alteration, or operation of a facility managing certain solid waste categories; or

(2) construction, alteration, or operation of a facility producing or managing compost, as that term is defined in subdivision 6001(31) of this title.

(b) This section shall not apply to the storage, treatment, or disposal of:

(1) Municipal solid waste;

(2) Sludge;

(3) Septage; or

(4) Mineral processing waste. For purposes of this section, mineral processing waste means solid waste from an industrial or manufacturing facility that processes materials from a mining activity and where chemicals, as defined by the secretary by rule, are intentionally added as a part of that processing.

Sec. 4. 10 V.S.A. § 6605j is added to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The secretary, in consultation with the secretary of agriculture, food and markets, shall adopt by rule, pursuant to chapter 25 of Title 3, and shall implement and enforce accepted composting practices for the management of composting in the state. These accepted composting practices may include standards for:

(1) Facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(2) Siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(3) The composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(4) Management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or

within a compost facility; vegetative buffer requirements; and run-off management from tipping areas.

(b) A person operating a small scale composting facility or operating a composting facility on a farm who follows the accepted composting practices shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the secretary of natural resources determines that a permit is necessary to protect public health or the environment.

(c) The secretary of natural resources shall coordinate with the secretary of agriculture, food and markets in implementing and enforcing the accepted composting practices. The secretary of agriculture, food and markets and the secretary of natural resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices.

(d) For purposes of this section, "small-scale composting facility" means a facility that:

(1) is located on a tract of land of no more than four acres in size; and

(2) uses no more than 5,000 cubic yards of total organics per year in the production of compost, including no more than 2,000 cubic yards per year of food residuals.

Sec. 5. AGENCY OF NATURAL RESOURCES REPORT ON RULES FOR ACCEPTED COMPOSTING PRACTICES

Prior to filing a final proposal of rules under section 841 of Title 3, the agency of natural resources shall submit to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture the proposed final rules required under 10 V.S.A. § 6605j for accepted composting practices. The house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture shall review the proposed final rules and shall recommend whether the proposed final rules should be amended or whether the proposed final rules should be filed with the secretary of state and the legislative committee on administrative rules under section 841 of Title 3. If the general assembly is not in session when the agency of natural resources is prepared to file a final proposal of rules addressing accepted composting practices, the agency may submit the proposed rules to the secretary of the senate, the clerk of the house, and the chairs of the house committee on fish, wildlife and water resources, the

senate committee on natural resources and energy, and the house and senate committees on agriculture.

(Committee Vote: 4-0-1)

(For House amendments, see House Journal for March 18, 2009, page 415; March 19, 2009, 423)

ORDERED TO LIE

S. 54

An act relating to clean energy assessment districts.

Pending Question: Shall the bill pass?

H. 11

An act relating to the disposition of property upon death, transfer of interest in vehicle upon death, and homestead exemption.

Pending Action: Third reading of the bill.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Susan D. Plaustiner of Brownsville – Member of the Vermont Economic Development Authority – By Sen. Maynard for the Committee on Finance. (1/21)

Rachel Schumacher of North Bennington – Member of the Vermont Economic Development Authority – By Sen. Hartwell for the Committee on Finance. (1/21)

Steven J. Bourgeois of Swanton – Member of the Vermont Economic Development Authority – By Sen. Carris for the Committee on Finance. (1/28)

Thomas Pelletier of Montpelier – Member of the Vermont Housing Finance Agency – By Sen. Cummings for the Committee on Finance. (1/28)

Neale F. Lunderville of Burlington – Secretary of the Agency of Administration – By Sen. Flanagan for the Committee on Government Operations. (2/17)

Neale F. Lunderville of Burlington – Secretary of the Agency of Administration – By Sen. Flanagan for the Committee on Government Operations. (2/17)

Michael Welch of St. Johnsbury – Member of the Valuation Appeals Board – By Sen. McCormack for the Committee on Finance. (2/18/09)

David R. Coates of Colchester – Member of the Vermont Municipal Bond Bank – By Sen. Carris for the Committee on Finance. (2/18/09)

Sonia D. Alexander of Wilmington – Member of the Valuation Appeals Board – By Sen. Hartwell for the Committee on Finance. (2/25/09)

Paulette Thabault of South Burlington – Commissioner of the Department of Banking, Insurance, Securities and Health Care Administration – By Sen. Cummings for the Committee on Finance. (3/3/09)

Kathryn T. Boardman of Shelburne – Member of the Vermont Municipal Bond Bank – By Sen. Maynard for the Committee on Finance. (3/4/09)

John D. Burke of Castleton – Member of the Public Service Board – By Sen. Maynard for the Committee on Finance. (3/24/09)

Kenneth Linsley of Danville – Member of the Vermont Educational and Health Buildings Financing Agency – By Sen. Maynard for the Committee on Finance. (3/26/09)

Gary Moore of Bradford – Member of the Vermont State Colleges Board of Trustees – By Sen. Starr for the Committee on Education. (3/31/09)

Linda R. Milne of Montpelier – Member of the Vermont State Colleges Board of Trustees – By Sen. Doyle for the Committee on Education. (3/31/09)

Mark Young of Orwell – Member of the University of Vermont Board of Trustees – By Sen. Giard for the Committee on Education. (3/31/09)

Donald Collins of Swanton – Member of the State Board of Education – By Sen. Brock for the Committee on Education. (3/31/09)

Matthew F. Valerio of Proctor – Defender General – By Sen. Mullin for the Committee on Judiciary. (4/3/09)

Joseph C. Benning of Lyndonville – Chair, Human Rights Commission - By Sen. Sears for the Committee on Judiciary. (4/3/09)

Shelley J. Gartner of Rutland – Magistrate, Vermont Family Court - By Sen. Nitka for the Committee on Judiciary. (4/3/09)

Mary Gleason Harlow of Clarendon – Magistrate, Vermont Family Court – By Sen. Campbell for the Committee on Judiciary. (4/3/09)

Christine A. Hoyt of Tunbridge – Magistrate, Vermont Family Court – By Sen. Campbell for the Committee on Judiciary. (4/3/09)

Michelle Fairbrother of Rutland – Member of the Vermont State Colleges Board of Trustees – By Sen. Nitka for the Committee on Education. (4/14/09)

John Hall of West Danville – Member of the State Board of Education – By Sen. Doyle for the Committee on Education. (4/14/09)

Judith Livingston of Manchester – Member of the State Board of Education – By Sen. Brock for the Committee on Education. (4/14/09)

Carol Bokan of Shelburne – Member of the Community High School of Vermont Board – By Sen. Nitka for the Committee on Education. (4/14/09)

INFORMATION NOTICE

The following items were recently received by the Joint Fiscal Committee:

JFO #2374 — \$20,000.00 grant from the State Justice Institute to the Judiciary. These grant monies will support the education of court managers and supervisors by funding the annual court manager college, including a partnership with the National Association of Court Managers.
[JFO received 4/03/09]

JFO #2375 — \$574,780.00 grant from the U.S. Department of Labor to the Vermont Department of Labor. These grant funds will be used to provide job training to female offenders re-entering the workforce. [JFO received 4/03/09]