

Senate Calendar

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CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 48 (For text of Resolutions, see Addendum to Senate and House Calendar for April 9, 2010)

H.C.R. 307-316 (For text of Resolutions, see Addendum to House Calendar for April 9, 2010)

ORDERS OF THE DAY

ACTION CALENDAR

CONSIDERATION POSTPONED TO APRIL 13, 2010

Second Reading

Favorable

J.R.S. 47.

Joint resolution strongly urging the Republic of Turkey to recognize the right to religious freedom for all its residents and to end all discriminatory policies directed against the Ecumenical Patriarchate of the Orthodox Church.

Reported favorably by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 3-2-0)

Favorable with Proposal of Amendment

S.R. 17.

Senate resolution urging Congress to authorize alternative waivers to the 21-year-old minimum drinking age that do not entail federal highway funding penalties for states.

PENDING QUESTION: Shall the resolution be amended as recommended by the Committee on Economic Development, Housing and General Affairs?.

(For text, see Senate Journal of April 7, 2010, page 467).

NEW BUSINESS

Third Reading

H. 524.

An act relating to interference with or cruelty to a guide dog.

H. 540.

An act relating to motor vehicles passing vulnerable users on the highway and to bicycle operation.

Favorable with Proposal of Amendment

Second Reading

H. 648.

An act relating to harassment and hazing policies at independent colleges.

Reported favorably with recommendation of proposal of amendment by Senator Flory for the Committee on Education.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read:

Sec. 2. REPEAL

The following sections in Title 16 are repealed:

(1) 16 V.S.A. § 2182 (harassment and hazing prevention policies; Vermont state colleges).

(2) 16 V.S.A. § 2284 (harassment and hazing prevention policies; University of Vermont).

Second: In Sec. 4, by striking the words “Independent postsecondary” and inserting in lieu thereof the word “Postsecondary”

and that after passage the title of the bill be amended to read: "An act relating to harassment and hazing policies at postsecondary schools"

(For House amendments, see House Journal for March 16, 2010, page 412.)

NOTICE CALENDAR

Favorable

H. 773.

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

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

(Committee vote: 5-0-0)

(No House amendments)

Favorable with Proposal of Amendment

H. 408.

An act relating to improving nutrition programs.

Reported favorably with recommendation of proposal of amendment by Senator Kittell for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By inserting a new Sec. 4a to read:

Sec. 4a. SUMMER EDUCATIONAL PROGRAMS; CAMPS

On or before October 1, 2010, the department of education shall report to the house committee on human services, the senate committee on health and welfare, and the house and senate committees on appropriations and on education regarding the number of school districts that operated or funded summer educational or recreational programs or camps.

Second: By striking Sec. 5 and inserting a new Sec. 5 to read:

Sec. 5. DIRECT CERTIFICATION FOR SCHOOL MEALS PROGRAMS

The department for children and families and the department of education shall continue to improve the monthly direct certification process through the use of automated data matches in order to certify children receiving 3SquaresVT or other programs or benefits deemed by federal law to make those children eligible for school breakfast, lunch, and summer meals programs.

(For House amendments, see House Journal for March 16, 2010, page 409.)

H. 485.

An act relating to the use value appraisal program.

Reported favorably with recommendation of proposal of amendment by Senator Ayer for the Committee on Finance.

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. USE VALUE APPRAISAL PROGRAM ASSESSMENT

For property tax bills prepared in 2010 only, there is imposed on each owner of land enrolled in the use value appraisal program pursuant to chapter 124 of Title 32 a one-time assessment of \$128.00. The assessment shall be collected as part of property tax bills prepared for the 2010 tax year and the assessment shall show as a separate amount on all towns' bills. For the purpose of assessment and collection, the one-time assessment shall be a lien upon the real estate in the same manner and to the same effect as taxes are a lien upon real estate under 32 V.S.A. § 5061, and collection of the assessment shall be subject to all other provisions of chapter 133 of Title 32. The director of property valuation and review shall provide all towns with electronic notice of the parcels within each town that shall be subject to the one-time assessment. Using a form provided by the director, towns shall remit to the state treasurer for deposit in the education and general funds on May 1, 2011, the full amount collected as of that date. Of the amount collected, 75 percent

shall be deposited in the education fund and 25 percent in the general fund. At the time of the May 1 payment, towns also will indicate the full amount that should have been collected and any amount that remains delinquent. Payment of any amount outstanding due to delinquencies shall be payable in full to the state treasurer on December 1, 2011.

* * * Method and Calculation of Land Use Change Tax * * *

Sec. 2. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed ~~forest land~~ forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. ~~Said~~ The tax shall be at the rate of ~~20~~ 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such~~ For purposes of the land use change tax, fair market value shall be determined as of the date the land is no longer eligible for use value appraisal developed or at an earlier date, if the owner petitions for the determination pursuant to subsection (c) of this section and pays the tax within 30 days of notification from the local assessing officials. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

(b) Any owner of eligible land who wishes to withdraw land from use value appraisal shall petition the director for a determination of the fair market value of the land at the time of the withdrawal. Thereafter land which has been withdrawn shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title. Said determination of the fair market value shall be used in calculating the amount of the land use change tax that shall be due when and if the development of the land occurs.

(c) ~~The determination of the fair market value of the land as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal, shall be made by the director~~ local assessing officials in accordance with the land schedule and the appraisal model used to list property of similar size to the withdrawn parcel in their

municipality divided by the municipality's most recent common level of appraisal as determined by the director; provided, however, that if the land use change tax becomes payable as a result of a transfer of title pursuant to a bona fide arms' length transaction, the purchase price shall be deemed the fair market value of the property for the purpose of calculating the land use change tax. The determination shall be made within 30 days after the date that the owner ~~or assessing officials petition~~ petitions for the determination and shall be effective on the date of ~~dispatch~~ the notice is sent to the owner. The director may initiate a determination on his or her own initiative following written notice to the owner and a period of not less than 30 days for the owner to respond. The director shall also send a copy of the notice to the local assessing officials, the secretary of the agency of agriculture, food and markets if the land is agricultural land, and the commissioner of forests, parks and recreation if the land is managed forestland.

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the ~~commissioner for deposit into the general fund~~ municipality in which the land is located. The ~~commissioner~~ local assessing officials shall issue a form to the ~~assessing officials~~ commissioner which shall provide for a description of the land ~~developed~~ for which the tax is due, the amount of tax payable, and the fair market value ~~of the land at the time of development or withdrawal from use value appraisal~~ used to calculate the tax. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the ~~commissioner~~ local assessing officials shall furnish the owner with one copy, ~~shall retain one copy and shall,~~ forward one copy to the ~~local assessing officials and~~ commissioner along with one-half of the tax collected, forward one copy to the register of deeds of the municipality in which the land is located, forward one copy to the secretary of the agency of agriculture, food and markets if the land is agricultural land, and forward one copy to the commissioner of forests, parks and recreation if the land is managed forestland. Thereafter, the land which has been ~~withdrawn or developed~~ shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.

(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the director, local assessing officials, the secretary of the agency of agriculture, food and markets if the land is agricultural land, and the commissioner of forests, parks and recreation if the land is managed forestland of:

* * *

Sec. 3. 32 V.S.A. § 3758(a) is amended to read:

(a) Whenever the director denies in whole or in part any application for classification as agricultural land or managed ~~forest land~~ forestland or farm buildings, or grants a different classification than that applied for, or the director or assessing officials fix a use value appraisal, or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision ~~of the director~~ to the director within 30 days of the decision. The aggrieved owner may appeal the director's final decision to the commissioner within 30 days, and from there to the superior court in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in subchapter 2 of chapter 131 of this title; and may appeal the decision of the assessing officials in the same manner as an appeal of a grand list valuation.

* * * Remove Preferential Property Transfer Tax Rate for Enrolled Land * * *

Sec. 4. REPEAL

32 V.S.A. § 9602(2) (providing preferential property transfer tax for land enrolled in the use value appraisal program) is repealed effective April 1, 2010.

* * * Electronic Administration of Use Value Appraisal Program * * *

Sec. 5. APPROPRIATION

(a) For fiscal year 2011, there is appropriated \$300,000.00 from the general fund to the use value appraisal program special fund created pursuant to 32 V.S.A. § 3756(e) for the purpose of converting the administration of the program to an electronic format.

(b) It is the intent of the general assembly to appropriate \$300,000.00 from the general fund to the use value appraisal program special fund to continue conversion of the administration of the program to an electronic format in each of fiscal years 2012 and 2013.

Sec. 6. NOTICE

(a) The director of property valuation and review shall timely provide written notice to each owner of land enrolled in the use value appraisal program of the changes provided for in this act and the options the owner has with respect to any enrolled land.

(b) The director shall timely provide written notice to all applicants to the use value appraisal program who applied to enroll land for the September 1, 2009, deadline of the changes provided for in this act and the options the applicant has with respect to the enrollment of land. Each applicant shall have the opportunity to do one of the following:

- (1) Enroll all of the land as provided for in the original application; or
- (2) Withdraw the application in its entirety by filing a notice of withdrawal with the director on or before June 1, 2010.

(c) Any applicant who does not provide notice to the director by June 1, 2010, pursuant to subsection (b) of this section shall be deemed to have elected to enroll all of the land as provided for in the original application pursuant to subdivision (b)(1) of this section. The director shall refund the application fee of any applicant who elects to withdraw the application in its entirety pursuant to subdivision (b)(2) of this section.

Sec. 7. WAIVER OF ERRORS AND OMISSIONS

For April 1, 2010, grand list only, the provisions of 32 V.S.A. § 4261, requiring selectboard approval before listers may correct errors on the grand list, are waived with respect to making changes to the grand list that are the result of withdrawal of applications for enrollment pursuant to subdivisions (b)(1) and (2) of Sec. 6 of this act.

Sec. 8. THE FUTURE OF THE USE VALUE APPRAISAL PROGRAM

(a) Given the critical importance of Vermont's use value appraisal program to the state's agricultural and forest industries as well as to the state's rural character and quality of life and in response to continuing fiscal challenges, the general assembly should consider multiple strategies to strengthen the effectiveness, efficiency, and fairness of the use value appraisal program and seek ways to find additional revenue generation or cost savings consistent with the program's policy objectives.

(b) There is created a current use committee to study issues relating to the use value appraisal program and to report to the house committees on agriculture, on natural resources and energy, on fish, wildlife and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance on or before January 15, 2011. The members of the study committee shall be:

(1) The director of property valuation and review, who shall serve as the chair of the committee and shall call the first meeting of the committee on or before July 1, 2010;

(2) The secretary of the agency of agriculture, food and markets or designee;

(3) The commissioner of forests, parks and recreation or designee;

(4) A representative of the Vermont League of Cities and Towns, appointed by its board of directors;

(5) A representative of the Vermont Assessors and Listers Association, appointed by its board of directors;

(6) A member of the public appointed by the speaker of the house;

(7) A member of the public appointed by the committee on committees;

(8) A member of the public appointed by the governor;

(c) The committee report shall address the following issues in detail:

(1) The state's formula for municipal reimbursement payments ("hold harmless payments").

(2) The extent and degree of over-assessment of enrolled land;

(3) Whether there is a need to create incentives for landowners who keep enrolled land open for public recreation, and if so, what incentives.

(4) The feasibility of allowing enrollees to omit on an initial application or withdraw from the program an undesignated two-acre housesite that would be assessed at the highest value.

(d) Members of the committee who are not state employees shall be entitled to compensation as provided under 32 V.S.A. § 1010.

Sec. 9. EFFECTIVE DATES AND TRANSITION RULES

(a) Any withdrawal of an application for use value appraisal pursuant to subdivision (b)(2) of Sec. 6 of this act after the date of passage of this act and before June 1, 2010 shall be deemed to affect the enrollment status of the withdrawn property for the grand list of April 1, 2010.

(b) Property withdrawn from the use value appraisal program before the effective date of Secs. 2 and 3 of this act, but not developed before that date, shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 that were in effect at the time of withdrawal; and revenues from land use change tax paid on any such property shall be paid to the commissioner for deposit into the general fund.

(c) This section and Secs. 1, 5, 6, 7, and 8 of this act shall take effect upon passage.

(d) Secs. 2 and 3 of this act shall take effect on November 1, 2010.

(e) Sec. 4 of this act shall apply to all property transfers on or after July 1, 2010.

(For House amendments, see House Journal for January 26, 2010, page 82.)

House Proposal of Amendment

S. 28

An act relating to the regulation of landscape architects.

The House proposes to the Senate to amend the bill as follows:

First: By adding a Sec. 4 to read:

Sec. 4. FINDINGS

(a) The general assembly finds that:

(1) All states in the United States, with the exception of Vermont, regulate the profession of landscape architects.

(2) Most states do not have sunrise criteria for regulation of new professions such as that set forth in chapter 57 of Title 26.

(3) Landscape architecture is the fastest growing profession among design professions.

(4) Architects', engineers' and landscape architects' scopes of practice overlap.

(5) Architects and engineers are licensed by the state of Vermont, while landscape architects are not.

(6) The general welfare of Vermonters is impacted by the work of landscape architects and those impacts continue to grow with the growth of the profession.

(7) There are economic and environmental side effects resulting from the lack of regulation of landscape architects.

(8) It is clear that the provisions set forth in this act may benefit the Vermont economy and environment by promoting the landscape architect profession within and outside of the state.

(9) While it is not clear that regulation of landscape architects will benefit the public health, safety or welfare, or that unregulated practice will harm or endanger the public, health safety or welfare, the potential for those issues to affect Vermonters is bound to increase as the services become more popular.

(10) Based on the foregoing, the profession of landscape architects should be licensed as set forth in this act.

Second: By striking Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read:

Sec. 3. REVIEW BY DIRECTOR OF THE OFFICE OF PROFESSIONAL REGULATION; REPEAL

(a) Sec. 2 of this act shall be repealed on July 1, 2014.

(b) On or before December 31, 2013, the director shall file a report with the house and senate committees on government operations on whether this act has benefited the public health, safety or welfare. The report shall make a specific finding of whether or not this act has benefited the public health, safety or welfare. If the report finds no such benefit, this act shall be repealed on July 1, 2014.

ORDERED TO LIE

S. 99.

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

S. 110.

An act relating to sheltering livestock.

S. 226.

An act relating to medical marijuana dispensaries.

H. 331.

An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

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.

Robert Kelley of Brandon - Member of the Board of Education - By Senator Flory for the Committee on Education. (1/14/10)

Steven Gurin of Barre - Member of the Vermont Educational & Health Buildings Financing Agency - By Senator Cummings for the Committee on Finance. (2/3/10)

Kenneth Gibbons of Hyde Park - Member of the Vermont Educational &

Health Buildings Financing Agency - By Senator McCormack for the Committee on Finance. (2/17/10)

Sandi Murphy of Enosburg Falls - Member of the Valuation Appeals Board - By Senator Giard for the Committee on Finance. (2/24/10)

Jonathan Wood of Cambridge - Secretary of the Agency of Natural Resources - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jonathan Wood of Cambridge - Secretary of the Agency of Natural Resources - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Justin Johnson of Barre - Commissioner of the Department of Environmental Conservation - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Wayne Allen Laroche of Franklin - Commissioner of the Department of Fish & Wildlife - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Peter F. Young, Jr. of Northfield - Chair of the Natural Resources Board - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jason Gibbs of Duxbury - Commissioner of the Department of Forests, Parks & Recreation - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jason Gibbs of Duxbury – Commissioner of the Department of Forests, Parks & Recreation – By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Richard A. Westman of Cambridge – Commissioner of the Department of Taxes – By Senator MacDonald for the Committee on Finance. (3/16/10)

Robert Alberts of Bridport – Member of the Vermont Housing Finance Agency – By Senator Ayer for the Committee on Finance. (3/17/10)

John W. Valente of Rutland – Director of the Vermont Municipal Bond Bank – By Senator Carris for the Committee on Finance. (3/17/10)

Bruce Hyde of Granville – Commissioner of the Department of Tourism & Marketing – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Kevin Dorn of Essex Junction – Secretary of the Agency of Commerce & Community Development – By Sen. Illuzzi for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Tayt Brooks of St. Albans – Commissioner of the Department of Economic, Housing and Community Affairs – By Sen. Miller for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Carl Rosenquist of Georgia – Member of the Economic Incentive Review Board – By Sen. Illuzzi for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Karen Marshall of Williston – Member of the Economic Incentive Review Board – By Sen. Racine for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Mary Lintermann of Stowe – Member of the Economic Incentive Review Board – By Sen. Racine for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Mark Young of Orwell – Member of the Economic Incentive Review Board – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Stephan Morse of Newfane – Member of the Economic Incentive Review Board – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Christopher S. Keyser of Rutland – Member of the Economic Incentive Review Board – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Betsy Gentile of Guildford – Member of the Economic Incentive Review Board – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Frederick S. Kenney, II of Jericho – Director of the Economic Incentive Review Board – By Sen. Miller for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Rachel Smith of St. Albans – Member of the Economic Incentive Review Board – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Nancy Port of Burlington – Member of the Economic Incentive Review Board – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Thomas Johnson of Dummerston – Member of the Vermont State Housing Authority – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

David Marvin of Hyde Park – Member of the Sustainable Jobs Fund Board of Directors – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Lenae Quillen-Blume of Hartland – Member of the Sustainable Jobs Fund Board of Directors – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Peter Gregory of Hartland – Member of the State Infrastructure Bank Board – By Sen. McCormack for the Committee on Finance. (3/24/10)

Susan Davis of Shelburne – Member of the Travel Information Council – By Sen. Mazza for the Committee on Transportation. (3/30/10)

Francis Heald of Rutland – Member of the Travel Information Council – By Sen. Mazza for the Committee on Transportation. (3/30/10)

Elizabeth G. Kennett of Rochester – Member of the Travel Information Council – By Sen. Mazza for the Committee on Transportation. (3/30/10)

Joseph Sutton of East Middlebury – Member of the Travel Information Council – By Sen. Mazza for the Committee on Transportation. (3/30/10)

Laurie A. Rowell of Saxtons River – Member and Chair, of the Valuation Appeals Board – By Sen. MacDonald for the Committee on Finance. (3/31/10)

Dagyne Canney of North Clarendon – Member of the Vermont Housing Finance Agency – By Sen. Carris for the Committee on Finance. (3/31/10)

Ann L. Hogan of Shelburne – Member of the State Infrastructure Bank Board – By Sen. Hartwell for the Committee on Finance. (4/6/10)

David R. Kimel of St. Albans – Director of the Vermont Municipal Bond Bank – By Sen. Hartwell for the Committee on Finance. (4/6/10)