

Journal of the House

Friday, January 22, 2010

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Message from the Senate No. 6

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 43. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

J.R.S. 44. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2010.

In the adoption of which the concurrence of the House is requested.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Komline of Dorset**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 544

By Reps. Masland of Thetford and Cheney of Norwich,

An act relating to feral cats;

To the committee on General, Housing and Military Affairs.

H. 545

By Reps. Masland of Thetford and Cheney of Norwich,

An act relating to spending authorization and appropriations for town highway programs;

To the committee on Transportation.

H. 546

By Rep. Klein of East Montpelier,

An act relating to consolidating land use and environmental permit administration, rulemaking, and appeals into a department of environmental quality headed by an environmental council;

To the committee on Natural Resources and Energy.

H. 547

By Rep. Klein of East Montpelier,

An act relating to development and analysis of data relating to environmental permit applications that take longer than 120 days to process;

To the committee on Natural Resources and Energy.

H. 548

By Reps. Canfield of Fair Haven, Acinapura of Brandon, Andrews of Rutland City, Baker of West Rutland, Cheney of Norwich, Courcelle of Rutland City, Dickinson of St. Albans Town, Edwards of Brattleboro, Fagan of Rutland City, French of Shrewsbury, Larocque of Barnet, Lewis of Derby, McAllister of Highgate, McFaun of Barre Town, McNeil of Rutland Town, Myers of Essex, Nuovo of Middlebury, O'Donnell of Vernon, Pearce of Richford, Perley of Enosburg, Smith of Mendon, Stevens of Shoreham, Till of Jericho and Turner of Milton,

An act relating to health insurance coverage for bone marrow testing;

To the committee on Health Care.

H. 549

By Reps. Klein of East Montpelier and Krawczyk of Bennington,

An act relating to a reduction in sulfur and an increase in biodiesel content in heating oil;

To the committee on Natural Resources and Energy.

H. 550

By Reps. Botzow of Pownal and Marcotte of Coventry,

An act relating to the Vermont economic development board;

To the committee on Commerce and Economic Development.

H. 551

By Reps. Milkey of Brattleboro, Edwards of Brattleboro, Burke of Brattleboro, Ancel of Calais, Branagan of Georgia, Clarkson of Woodstock, Howard of Rutland City, Masland of Thetford, Obuchowski of Rockingham, Sharpe of Bristol and Zuckerman of Burlington,

An act relating to bisphenol A;

To the committee on Human Services.

H. 552

By Reps. Koch of Barre Town and Fisher of Lincoln,

An act relating to general and intensive hospital designations;

To the committee on Health Care.

H. 553

By Rep. Pellett of Chester,

An act relating to the transportation and slaughter of calves less than ten days old;

To the committee on Agriculture.

H. 554

By Rep. Turner of Milton,

An act relating to legislative members of the board of trustees of the University of Vermont and State Agricultural College;

To the committee on Education.

H. 555

By Reps. Lewis of Derby, Atkins of Winooski, Baker of West Rutland, Bohi of Hartford, Branagan of Georgia, Canfield of Fair Haven, Courcelle of Rutland City, Deen of Westminster, Devereux of Mount Holly, Donaghy of Poultney, Fagan of Rutland City, French of Shrewsbury, Higley of Lowell, Howard of Cambridge, Hubert of Milton, Komline of Dorset, Lorber of Burlington, Marcotte of Coventry, Martin of Springfield, McCullough of Williston, McFaun of Barre Town, McNeil of Rutland Town, Mitchell of Barnard, Morley of Barton, Morrissey of Bennington, Myers of Essex, Nease of Johnson, Partridge of Windham, Reis of St. Johnsbury, Rodgers of Glover, Savage of Swanton, Shaw of Pittsford, South of St. Johnsbury, Stevens of Shoreham, Sweaney of Windsor, Townsend of Randolph, Turner of Milton, Webb of Shelburne, Wheeler of Derby and Zuckerman of Burlington,

An act relating to youth hunting;
To the committee on Fish, Wildlife & Water Resources.

H. 556

By Rep. Wilson of Manchester,
An act relating to the repeal of small school funding;
To the committee on Education.

H. 557

By Rep. Wilson of Manchester,
An act relating to income sensitivity adjustment cap;
To the committee on Ways and Means.

H. 558

By Reps. Fisher of Lincoln, Jewett of Ripton and Lippert of Hinesburg,
An act relating to authorizing town clerks to solemnize marriages;
To the committee on Government Operations.

H. 559

By Reps. Shand of Weathersfield, Adams of Hartland, Cheney of Norwich,
Edwards of Brattleboro, Howrigan of Fairfield, Johnson of South Hero, Marek
of Newfane, Mitchell of Barnard, Potter of Clarendon, Smith of Mendon,
Sweaney of Windsor and Turner of Milton,

An act relating to motor vehicle insurance coverage for hazardous material
cleanup costs;

To the committee on Commerce and Economic Development.

H. 560

By Reps. Rodgers of Glover and Lewis of Derby,
An act relating to the fee to post land prohibiting hunting;
To the committee on Government Operations.

H. 561

By Reps. Sharpe of Bristol and Fisher of Lincoln,

An act relating to the reaffirmation of the use of Australian ballots for
approval of school district budgets;

To the committee on Education.

H. 562

By Rep. Sweaney of Windsor,

An act relating to the regulation of professions and occupations;

To the committee on Government Operations.

H. 563

By Reps. Stevens of Waterbury, Jerman of Essex, Macaig of Williston and Martin of Wolcott,

An act relating to rescission of votes taken by Australian ballot;

To the committee on Government Operations.

H. 564

By Reps. Hubert of Milton, Atkins of Winooski, Conquest of Newbury, Evans of Essex, Fagan of Rutland City, French of Randolph, Higley of Lowell, Komline of Dorset, McAllister of Highgate, McDonald of Berlin, Mitchell of Barnard, Morley of Barton, Savage of Swanton, Scheuermann of Stowe, Townsend of Randolph and Turner of Milton,

An act relating to the homestead declaration;

To the committee on Ways and Means.

Joint Resolution Placed on Calendar**J.R.S. 43**

By Senator Shumlin,

J.R.S. 43. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 18, 2010, at ten o'clock and thirty minutes in the forenoon to elect two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 2010, and expiring on March 1, 2014. In case election of all such Trustees shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Joint Resolution Placed on Calendar**J.R.S. 44**

By Senator Shumlin,

J.R.S. 44. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2010.

Whereas, in recent years it has become increasingly necessary to shorten the length of time spent by the General Assembly in joint session for the election of various officials, and

Whereas, if elections for multiple vacancies were to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 18, 2010, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be two.

(2) The two candidates receiving the greater number of votes shall be declared elected to fill the two vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or both of the two vacant positions, then voting shall continue on successive ballots for the unfilled position or positions until the vacancies have been filled by election declared of the two candidates receiving the

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Third Reading; Bill Passed**H. 534**

House bill, entitled

An act relating to fiscal year 2010 budget adjustment

Was taken up, read the third time and passed.

Bill Amended; Third Reading Ordered**H. 461**

Rep. Koch of Barre Town, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to small estates

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. § 1901 is amended to read:

§ 1901. FILING INVENTORY AND BOND CONDITIONED UPON
PAYMENT OF FUNERAL EXPENSE WITH PETITION

When application ~~shall be~~ is made to the judge of probate for the appointment of an administrator or executor of an estate, there may accompany the petition; the following:

(1) A true and complete inventory of the estate of ~~said the~~ deceased, appraised under oath at its true cash value ~~by one or more competent persons or by a disinterested person if deemed necessary by the court;~~

(2) A receipt showing that the funeral expenses of the deceased have been paid, or a personal bond running to the judge of probate in the penal sum of not less than \$300.00, with such surety or sureties as the judge of probate may approve in an amount determined by the judge of probate to be reasonable, conditioned for the payment of the funeral expenses of said the deceased, within one year from the date of death; and

(3) The will, if any.

Sec. 2. 14 V.S.A. § 1902 is amended to read:

§ 1902. LETTERS OF ADMINISTRATION AND LETTERS
TESTAMENTARY, SMALL ESTATES, NOTICE

(a) Upon receiving and filing such petition, the judge of probate may make such investigation of the circumstances of the case and the facts set forth in the petition, as he or she deems proper and necessary. ~~If from the petition and the investigation it shall appear to the satisfaction of the court that the deceased left a surviving spouse, or children of any age, or both, that the deceased died seized of no real estate, and that the personal estate of such deceased, appraised at its true cash value as of the date of death, amounts to not more than the sum of \$10,000.00, the~~

(b) The court may ~~thereupon~~ grant administration of the estate to the petitioner or some other suitable person forthwith without further notice, and may issue letters of administration to the administrator or letters testamentary to the executor without requiring further bonds, if from the petition and the investigation it appears to the satisfaction of the court that:

(1)(A) the deceased left a surviving spouse or children of any age, or both; or

(B) the deceased left a surviving parent or parents but no spouse or child;

(2) the deceased died seized of no real estate; and

(3) the personal estate of the deceased, appraised at its true cash value as of the date of death, amounts to not more than the sum of \$10,000.00.

Sec. 3. 14 V.S.A. § 1903 is amended to read:

§ 1903. SAME; DISCHARGE UPON PAYMENT OF FUNERAL EXPENSES AND ~~BALANCE TO WIDOW, CHILDREN;~~ RESIDUE

(a) In intestate estates whenever it shall appear to the satisfaction of the judge of probate that an administrator appointed under sections 1901 and 1902 of this title has paid or caused to be paid the funeral and burial expenses of said deceased, and has paid over all the balance and residue of said estate in accordance with the provisions of ~~chapters 41 and 45~~ chapter 42 of this title, the court may forthwith discharge the administrator without further accounting and without notice.

* * *

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Proposal 5 Adopted

Proposal 5

Rep. Consejo of Sheldon, for the committee on Government Operations, to which had been referred Proposal 5, entitled

Right to vote in primary elections

Reported in favor of its adoption.

Pending the question, Shall the Proposal be adopted?

Pending the question, Shall the Proposal of amendment be adopted? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the Proposal of amendment be adopted? was decided in the affirmative. Yeas, 80. Nays, 56.

Those who voted in the affirmative are:

Ancel of Calais	Howard of Rutland City	Moran of Wardsboro
Andrews of Rutland City	Jerman of Essex	Mrowicki of Putney
Aswad of Burlington	Jewett of Ripton	Nease of Johnson
Atkins of Winooski	Johnson of South Hero	Nuovo of Middlebury
Bissonnette of Winooski	Kitzmiller of Montpelier	Obuchowski of Rockingham
Bohi of Hartford	Krebs of South Hero	Partridge of Windham
Botzow of Pownal	Lanpher of Vergennes	Pellett of Chester
Bray of New Haven	Larson of Burlington	Peltz of Woodbury
Burke of Brattleboro	Lenes of Shelburne	Pugh of South Burlington
Clarkson of Woodstock	Leriche of Hardwick	Ram of Burlington
Conquest of Newbury	Lippert of Hinesburg	Shand of Weathersfield
Consejo of Sheldon	Macaig of Williston	Sharpe of Bristol
Davis of Washington	Maier of Middlebury	Spengler of Colchester
Deen of Westminster	Manwaring of Wilmington	Stevens of Waterbury
Devereux of Mount Holly	Marek of Newfane	Stevens of Shoreham
Donovan of Burlington	Martin of Springfield	Sweaney of Windsor
Edwards of Brattleboro	Martin of Wolcott	Taylor of Barre City
Emmons of Springfield	Masland of Thetford	Till of Jericho
Evans of Essex	McAllister of Highgate	Toll of Danville
Fisher of Lincoln	McCullough of Williston	Townsend of Randolph
Frank of Underhill	McDonald of Berlin	Weston of Burlington
French of Shrewsbury	McFaun of Barre Town	Wilson of Manchester
French of Randolph	Milkey of Brattleboro	Wizowaty of Burlington
Geier of South Burlington	Miller of Shaftsbury	Young of St. Albans City
Haas of Rochester	Minter of Waterbury	Zenie of Colchester
Head of South Burlington	Mitchell of Barnard	Zuckerman of Burlington
Hooper of Montpelier	Mook of Bennington	

Those who voted in the negative are:

Acinapura of Brandon	Courcelle of Rutland City	Howrigan of Fairfield
Adams of Hartland	Crawford of Burke	Hubert of Milton
Ainsworth of Royalton	Dickinson of St. Albans Town	Johnson of Canaan
Baker of West Rutland	Donaghy of Poultney	Keenan of St. Albans City
Branagan of Georgia	Donahue of Northfield	Kilmartin of Newport City
Brennan of Colchester	Fagan of Rutland City	Klein of East Montpelier
Browning of Arlington	Gilbert of Fairfax	Koch of Barre Town
Canfield of Fair Haven	Grad of Moretown	Komline of Dorset
Cheney of Norwich	Greshin of Warren	Krawczyk of Bennington
Clerkin of Hartford	Helm of Castleton	Larocque of Barnet
Condon of Colchester	Higley of Lowell	Lewis of Derby
Corcoran of Bennington		Malcolm of Pawlet

Marcotte of Coventry	Pearce of Richford	Scheuermann of Stowe
McNeil of Rutland Town	Peaslee of Guildhall	Shaw of Pittsford
Morley of Barton	Perley of Enosburg	Turner of Milton
Morrissey of Bennington	Potter of Clarendon	Webb of Shelburne
Myers of Essex	Reis of St. Johnsbury	Wheeler of Derby
O'Brien of Richmond	Rodgers of Glover	Winters of Williamstown
Olsen of Jamaica	Savage of Swanton	Wright of Burlington

Those members absent with leave of the House and not voting are:

Audette of South Burlington	Howard of Cambridge	Poirier of Barre City
Clark of Vergennes	Lawrence of Lyndon	Smith of Mendon
Copeland-Hanzas of Bradford	Lorber of Burlington	South of St. Johnsbury
Heath of Westford	O'Donnell of Vernon	Waite-Simpson of Essex
	Orr of Charlotte	

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 552

Rep. Maier of Middlebury moved that the committee on Health Care be relieved of House bill, entitled

An act relating to general and intensive hospital designations

And that the bill be committed to the committee on Human Services, which was agreed to.

Adjournment

At ten o'clock and forty-five minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, January 26, 2010, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 42.