

Journal of the House

Friday, February 19, 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 Steve Reynes, Deacon of Christ Episcopal Church, Montpelier, Vt.

Memorial Service

The Speaker placed before the House the following name of a member of past sessions of the Vermont General Assembly who had passed away recently:

Nancy I. Chard Member from Brattleboro

**Member of the House
Sessions 1991, 1992, 1993 & 1994**

**Member of the Senate
Sessions 1995, 1997, 1999 & 2001**

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased member. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved family

Message from the Senate No. 14

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 passed Senate bill of the following title:

S. 287. An act relating to the licensing and regulation of loan servicers.

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

The Senate has considered bills originating in the House of the following titles:

H. 331. An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

H. 533. An act relating to military parents' rights.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 163. An act relating to technical corrections to 2009 sex offender legislation.

And has concurred therein.

Senate Bill Referred

S. 287

Senate bill, entitled

An act relating to the licensing and regulation of loan servicers;

Was taken up, read the first time and referred to the committee on Commerce and Economic Development.

Bill Amended; Read Third Time and Passed

H. 524

House bill, entitled

An act relating to interference with or cruelty to a service animal

Was taken up and pending third reading of the bill, **Rep. Shaw of Pittsford** moved to amend the bill as follows:

First: In Sec. 1, by striking the second sentence of 13 V.S.A. § 355(b), and inserting in lieu thereof "A person who violates this subsection shall be fined not more than \$20,000.00."

Second: In Sec. 1, by striking the second sentence of 13 V.S.A. § 355(c), and inserting in lieu thereof "A person who violates this subsection shall be fined not more than \$2,000.00."

Third: In Sec. 1, by striking the first sentence of 13 V.S.A. § 355(e), and inserting in lieu thereof "As provided in section 7043 of this title, restitution shall be considered by the court under this section if the victim has suffered any material loss."

Thereupon, **Rep. Shaw of Pittsford** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Rep. French of Shrewsbury** moved to amend the bill as follows:

First: In Sec. 1, subsection (b), before the words “permit a dog” by inserting “recklessly”

Second: In Sec. 1, subsection (c), before the words “allow the dog” by inserting “recklessly”

Which was agreed to.

Thereupon, the bill was read the third time and passed with a title amendment.

Bill Amended, Read Third Time and Passed

H. 763

House bill, entitled

An act relating to establishment of an agency of natural resources’ river corridor management program

Was taken up and pending third reading of the bill, **Reps. Johnson of Canaan and Rodgers of Glover** moved to amend the bill as follows:

In Sec. 7, 24 V.S.A. § 4414(1)(G), by striking “require provisions for access to public waters for all residents and owners of the development;” where it appears in the last sentence and inserting in lieu thereof the following “reserve existing public access to public waters”

Which was agreed to to.

Pending third reading of the bill, **Reps. Johnson of Canaan, Rodgers of Glover** moved to amend. as follows:

In Sec. 3, 10 V.S.A. § 1422, by striking subdivision (12) in its entirety and inserting in lieu thereof the following:

(12) “River corridor” means the land adjacent to a river that is located in the 100-year floodplain.

Which was disagreed to on a Division vote. Yeas, 28. Nays, 56

Pending third reading of the bill, **Rep. Olsen of Jamaica** moved to amend the bill as follows:

First: In Sec. 3, 10 V.S.A. § 1422(10) by striking “as determined by the secretary of natural resources” where it appears

Second: In Sec. 3, 10 V.S.A. § 1422(12), by striking “as delineated by the agency of natural resources in accordance with river corridor protection procedures” where it appears

Pending the question, Shall the bill be amended as offered by Rep. Olsen of Jamaica? **Rep. Donaghy of Poultney** 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 bill be amended as offered by Rep. Olsen of Jamaica? was decided in the negative. Yeas, 53. Nays, 84.

Those who voted in the affirmative are:

Acinapura of Brandon	Higley of Lowell	Morrissey of Bennington
Adams of Hartland	Howard of Cambridge	Myers of Essex
Ainsworth of Royalton	Howrigan of Fairfield	O'Donnell of Vernon
Baker of West Rutland	Hubert of Milton	Olsen of Jamaica
Branagan of Georgia	Johnson of Canaan	Pearce of Richford
Brennan of Colchester	Kilmartin of Newport City	Perley of Enosburg
Canfield of Fair Haven	Koch of Barre Town	Poirier of Barre City
Clark of Vergennes	Komline of Dorset	Reis of St. Johnsbury
Clerkin of Hartford	Krawczyk of Bennington	Rodgers of Glover
Corcoran of Bennington	Larocque of Barnet	Savage of Swanton
Crawford of Burke	Lewis of Derby	Scheuermann of Stowe
Devereux of Mount Holly	Marcotte of Coventry	Shaw of Pittsford
Dickinson of St. Albans Town	McAllister of Highgate	Stevens of Shoreham
Donaghy of Poultney	McDonald of Berlin	Toll of Danville
Donahue of Northfield	McFaun of Barre Town	Turner of Milton
Fagan of Rutland City	McNeil of Rutland Town	Wheeler of Derby
Helm of Castleton	Moran of Wardsboro	Winters of Williamstown
	Morley of Barton	Wright of Burlington

Those who voted in the negative are:

Ancel of Calais	Copeland-Hanzas of Bradford	Grad of Moretown
Aswad of Burlington	Courcelle of Rutland City	Greshin of Warren
Atkins of Winooski	Davis of Washington	Haas of Rochester
Bissonnette of Winooski	Deen of Westminster	Head of South Burlington
Bohi of Hartford	Donovan of Burlington	Heath of Westford
Botzow of Pownal	Edwards of Brattleboro	Hooper of Montpelier
Bray of New Haven	Emmons of Springfield	Howard of Rutland City
Browning of Arlington	Evans of Essex	Jerman of Essex
Burke of Brattleboro	Fisher of Lincoln	Jewett of Ripton
Cheney of Norwich	Frank of Underhill	Johnson of South Hero
Clarkson of Woodstock	French of Shrewsbury	Keenan of St. Albans City
Condon of Colchester	French of Randolph	Kitzmiller of Montpelier
Conquest of Newbury	Gilbert of Fairfax	Klein of East Montpelier
Consejo of Sheldon		Krebs of South Hero

Lanpher of Vergennes	Minter of Waterbury	Sharpe of Bristol
Larson of Burlington	Mitchell of Barnard	Spengler of Colchester
Lenes of Shelburne	Mook of Bennington	Stevens of Waterbury
Leriche of Hardwick	Mrowicki of Putney	Sweaney of Windsor
Lippert of Hinesburg	Nease of Johnson	Taylor of Barre City
Lorber of Burlington	Nuovo of Middlebury	Till of Jericho
Macaig of Williston	O'Brien of Richmond	Townsend of Randolph
Maier of Middlebury	Obuchowski of Rockingham	Waite-Simpson of Essex
Malcolm of Pawlet	Partridge of Windham	Webb of Shelburne
Marek of Newfane	Pellett of Chester	Weston of Burlington
Martin of Springfield	Peltz of Woodbury	Wilson of Manchester
Martin of Wolcott	Potter of Clarendon	Wizowaty of Burlington
Masland of Thetford	Pugh of South Burlington	Zenie of Colchester
McCullough of Williston	Ram of Burlington	
Miller of Shaftsbury	Shand of Weathersfield	

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

Andrews of Rutland City	Manwaring of Wilmington	Smith of Mendon
Audette of South Burlington	Milkey of Brattleboro	South of St. Johnsbury
Geier of South Burlington	Orr of Charlotte	Young of St. Albans City
Lawrence of Lyndon	Peaslee of Guildhall	Zuckerman of Burlington

Thereupon, the bill was read the third time and passed.

Bill Read Second Time; Third Reading Ordered

H. 765

Rep. Malcolm of Pawlet spoke for the committee on Agriculture.

House bill entitled

An act relating to establishing the Vermont agricultural innovation authority

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Action on Bill Postponed

H. 766

House bill, entitled

An act relating to preventing duplication in certain public health records

Was taken up and pending second reading of the bill, on motion of **Rep. Pugh of South Burlington**, action on the bill was postponed until the next legislative day.

Bill Amended; Third Reading Ordered**H. 607**

Rep. Lanpher of Vergennes, for the committee on Transportation, to which had been referred House bill, entitled

An act relating to codifying and amending the charter of the Chittenden County Transportation Authority

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

Sec. 1. CHITTENDEN COUNTY TRANSPORTATION AUTHORITY; CHARTER; CODIFICATION

The legislative council shall, consistent with section 424 of Title 2, codify the charter of the Chittenden County Transportation Authority as set forth in No. 122 of the acts of 1973 and as that act is further amended by this act. Codification may include the correction of internal cross-references.

Sec. 2. Secs. 2, 3, 6, and 7 of No. 122 of the Acts of 1973 are amended to read:

Sec. 2. Area of Operation

The area of operation shall be Chittenden County, and may additionally include the boundaries of municipalities in adjoining counties, if such municipalities determine to join the authority as set forth in section 3 of this act, Franklin, Grand Isle, and Washington Counties and the towns of Orange, Washington, and Williamstown. The area of operation shall include Addison and Caledonia counties and the towns of Orange County other than Orange, Washington, and Williamstown, but only for the provision of commuter services. The area of operation shall include Lamoille County, but only for the provision of published scheduled services.

Sec. 3. Membership in the authority

Membership in the authority shall consist of those municipalities which elect to join the authority by majority vote of its voters present and voting on said the question at an annual or special meeting duly warned for such the purpose prior to July 1, 2010. Beginning July 1, 2010, a municipality may hold an annual meeting or a special meeting for the purpose of determining through election by a majority vote of its voters present and voting on the question only if the municipality is specifically authorized to join the authority either under Sec. 13 of this charter or by resolution duly passed by the Chittenden County

Transportation Authority Board of Commissioners. The initial meeting of a municipality called to determine whether or not to join the authority shall be warned in the manner provided by law, except that for such meeting only, any warning need not be posted for a period in excess of 20 days, any other provision of law or municipal charter to the contrary notwithstanding. Membership may be terminated only in the manner provided in section 8 of this act.

Sec. 6. Government and organization

(a) The officers of the authority, and their election or designation shall be as follows:

(1) Board of commissioners. The purposes, powers, duties and responsibilities of the authority shall be exercised by the board of commissioners, consisting of ~~two commissioners~~ one commissioner from each municipality which is a member of this authority and two commissioners from the City of Burlington. ~~Such~~ The commissioners shall be appointed by and serve at the pleasure of the legislative body of the member municipality. Any vacancies on the board of commissioners shall be filled by the legislative body of the respective member municipality, but in the event that the legislative body fails to appoint a commissioner within two months from the date of the occurrence of the vacancy, ~~such~~ the vacancy shall be filled by the board of commissioners. Commissioners shall serve without pay.

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Sec. 7. Annual budget and assessments

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(c) The treasurer of the authority, following adoption of the budget, shall apportion the sums required to be contributed by each member municipality according to the ~~average number of weekly miles of service for the 12 month period preceding the adoption of the budget, for each member community, as compared to the average number of weekly miles of service for all member communities for the same period~~ formula for apportionment. The formula for apportionment may be changed by the board of commissioners with the concurrence of ~~all~~ the legislative bodies of at least three-quarters of the member municipalities.

* * *

Sec. 3. Sec. 48 of No. 56 of the Acts of 2003 is amended to read:

Sec. 48. Sec. 4(c)(11) of No. 122 of the Acts of 1973 is amended to read:

* * *

(11) Within Chittenden County and its member municipalities, to acquire by the exercise of the power of eminent domain any real property which it may have found necessary for its purposes, in the manner provided for the condemnation of land or rights therein as set forth in sections 221-233 of Title 19, and acts amendatory thereof or supplementary thereto;

Sec. 4. No. 122 of the Acts of 1973 is amended by adding new sections 12, 13, and 14 to read:

Sec. 12. ASSESSMENTS OF NEW MEMBERS OUTSIDE OF CHITTENDEN COUNTY

Municipalities outside of Chittenden County that vote to join Chittenden County Transportation Authority on or after July 1, 2010, shall negotiate with the board of commissioners of the Chittenden County Transportation Authority on the amount of the levy to be assessed upon the municipality and terms of payment of that assessment; and the municipality may not join prior to agreement with the authority on terms of the levy and payment. Upon the addition of one municipality to the membership of the Chittenden County Transportation Authority from outside Chittenden County, said authority shall immediately begin work on the formula for assessment that will be approved in accordance with this act.

Sec. 13. MUNICIPALITIES AUTHORIZED TO VOTE FOR MEMBERSHIP IN THE CHITTENDEN COUNTY TRANSPORTATION AUTHORITY

The following municipalities are authorized to hold an election for the purpose of determining membership in the Chittenden County Transportation Authority: Barre City, Berlin, Colchester, Hinesburg, Montpelier, Morristown, Richmond, St. Albans City, Stowe, and Waterbury.

Sec. 14. OTHER REPRESENTATION

If Washington, Lamoille, Franklin, or Grand Isle county does not have a municipal member from its county on the board of commissioners of the Chittenden County Transportation Authority, the regional planning commission serving the county may appoint a board member to the Chittenden County Transportation Authority from a member of its regional planning commission or regional planning commission staff to represent its interests on the Chittenden County Transportation Authority board.

Sec. 5. REPEAL

Secs. 46 and 47 of No. 56 of the Acts of 2003 are repealed.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2011. However, a municipality that is authorized to vote for membership in the Chittenden County Transportation Authority under Secs. 3 and 13 of No. 122 of the Acts of 1973 as amended by this act, shall be authorized to do so at its 2011 annual meeting.

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

Bill Amended; Third Reading Ordered**H. 622**

Rep. Dickinson of St. Albans Town, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to solicitation by prescreened trigger lead information

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

Sec. 1. 8 V.S.A. § 10206 is added to read:

§ 10206. TRIGGER LEAD SOLICITATIONS**(a) In this section:**

(1) "Consumer" means a natural person residing in this state.

(2) "Trigger lead" means information about a consumer, including the consumer's name, address, telephone number, and an identification of the amount, terms, or conditions of credit for which the consumer has applied, that is:

(A) submitted by a financial institution to a consumer-reporting agency for the purpose of obtaining a credit report, as defined in 9 V.S.A. § 2480a, in conjunction with the consumer's application for credit; and

(B) furnished by the consumer-reporting agency to a third party that is not affiliated with the financial institution or the credit-reporting agency.

(3) "Trigger lead solicitation" means a written or verbal offer or attempt to sell any property, rights, or services to a consumer based on a trigger lead.

(b) A person conducting a trigger lead solicitation shall disclose to a consumer in the initial phase of the solicitation that:

(1) the person is not affiliated with the financial institution to which the consumer has submitted an application for credit; and

(2) the financial institution to which the consumer has submitted an application for credit has not supplied the person with any personal or financial information.

(c) A financial institution which has had its name, trade name, or trademark misrepresented in a trigger lead solicitation in violation of this section may, in addition to any other remedy provided by law, bring an action in superior court in the county of its primary place of business, or if its primary place of business is located outside Vermont, in Chittenden or Washington superior court. The court shall award damages for each violation in the amount of actual damages demonstrated by the financial institution or \$5,000.00, whichever is greater. In any successful action for injunctive relief or for damages, the court shall award the financial institution reasonable attorney's fees and costs, including court costs.

Sec. 2. EFFECTIVE DATE

This act shall take effect upon passage.

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

Favorable Report; Third Reading Ordered

H. 761

Rep. Aswad of Burlington spoke for the committee on Transportation.

Rep. Minter of Waterbury, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to authorization of High-Speed Intercity Passenger Rail Program grants

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At eleven o'clock and fifteen minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, February 23, 2010, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 49.