

Journal of the House

Wednesday, April 7, 2010

At one o'clock and thirty minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rabbi Tobi Weismann of the Jewish Learning Center, Montpelier, Vt.

Message from Governor

A message was received from His Excellency, the Governor, by Mr. David M. Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the seventh day of April, 2010, he approved and signed a bill originating in the House of the following title:

H. 764 An act relating to the state teachers' retirement system of Vermont

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 138

Senate bill, entitled

An act relating to unfair business practices of credit card companies and fraudulent use of scanning devices and re-encoders;

To the committee on Commerce and Economic Development.

S. 247

Senate bill, entitled

An act relating to bisphenol A;

To the committee on Human Services.

Joint Resolution Referred to Committee**J.R.H. 46**

Joint resolution urging Congress to modify the Medicaid exclusion

Offered by: Representatives O'Donnell of Vernon, Donahue of Northfield, Burke of Brattleboro, Deen of Westminster, Edwards of Brattleboro, Manwaring of Wilmington, Marek of Newfane, Milkey of Brattleboro, Moran of Wardsboro, Mrowicki of Putney, Obuchowski of Rockingham, Olsen of Jamaica, Partridge of Windham and Pugh of South Burlington

Whereas, in accordance with federal law, an institution for mental diseases (IMD) is "a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services," and

Whereas, since the federal Medicaid program was established in 1965, there has existed, albeit not explicitly codified in the original Medicaid statute, a policy that excludes the Medicaid reimbursement of an IMD, with certain exceptions, for the rendering of medical services to patients between 22 and 64 years of age, and

Whereas, the origins of this exclusion possibly date to a 1963 finding in a judicially cited U.S. House of Representatives report that state mental institutions were simply warehouses and did not furnish treatment appropriate for coverage under the yet-to-be-enacted Medicaid program, and

Whereas, the services that IMDs, especially a treatment-centered facility such as the Brattleboro Retreat, now provide have evolved significantly since the 1960s, and

Whereas, the IMD exclusion discriminates against millions of low-income Americans by creating a major impediment to their access to emergency psychiatric care, and

Whereas, the IMD limits access to psychiatric care by denying individuals in crisis the right to receive services that are provided in some of the nation's best private psychiatric facilities, and the exclusion makes no distinction between IMDs based on the scope and quality of the care that is offered, and

Whereas, the public policy that psychiatric care should be integrated within general hospitals represents state of the art care today, but the many psychiatric hospitals already operating and providing excellent care should be recognized for their value in the system of care and should receive

reimbursement equal to that received by any other inpatient psychiatric provider, and

Whereas, parity is explicitly provided for in Vermont law and in the recently adopted federal health care legislation, and

Whereas, under the federal Emergency Medical Treatment and Labor Act, both general and psychiatric hospitals are required to stabilize any individual who comes to an emergency room in a health crisis, regardless of ability to pay; however, under current law, the general hospitals receive reimbursement for Medicaid-eligible individuals while IMDs do not, and

Whereas, the 30-percent decrease in the number of inpatient beds nationally has placed an increased strain on general hospitals and their emergency rooms, many of which are not equipped to handle psychiatric crises, and

Whereas, the recently passed federal health care legislation contains language to create a pilot program to investigate eliminating the IMD exclusion, and

Whereas, 29 national organizations representing psychiatrists, nurses, hospitals, and consumer and advocacy groups have expressed support for this pilot study, and

Whereas, in the state of Vermont, 40 percent of adults receiving inpatient psychiatric care choose to receive that care at the Brattleboro Retreat, yet the Retreat, under the IMD exclusion, is not eligible for Medicaid reimbursement for care provided to most individuals ages 22 to 64, nor is the state allowed to receive matching federal monies to help defray the cost of this care, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to end the institution for mental diseases Medicaid reimbursement exclusion for existing psychiatric hospitals, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to President Obama and to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Health Care.

Joint Resolution Adopted in Concurrence

J.R.S. 59

By Senator Shumlin,

J.R.S. 59. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 9, 2010, it be to meet again no later than Tuesday, April 13, 2010.

Was taken up read and adopted in concurrence.

Rules Suspended; Bill Committed

H. 781

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Sharpe of Bristol**, the rules were suspended and House bill, entitled

An act relating to renewable energy

Was taken up for immediate consideration.

Pending the reading of the report of the committee on Ways and Means, on motion of **Rep. Sharpe of Bristol**, the bill was committed to the committee on Judiciary.

Bill Amended, Read Third Time and Passed

H. 760

House bill, entitled

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

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

First: By striking Secs. 11, 12, and 13 in their entirety

Second: In Sec. 17, by striking subdivision (14) in its entirety

Which was agreed to.

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

First: In Sec. 17, by striking out subsection (2)(C) (§ 2293, development cabinet), and re-lettering the remaining subsections to be alphabetically correct.

Thereupon, **Rep. Minter of Waterbury** asked and was granted leave of the House to withdraw her amendment.

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

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 774

House bill, entitled

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

H. 778

House bill, entitled

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

Bill Amended, Read Third Time and Passed**H. 791**

House bill, entitled

An act relating to the tax expenditure budget

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

By striking Sec. D1 in its entirety and inserting in lieu thereof the following:

Sec. D1. EFFECTIVE DATES

This act shall take effect upon passage, except Sec. C3 (repeal of exclusion of certain income received for a dramatic performance in a commercial film production, Sec. B1.206) shall apply to taxable years beginning on and after January 1, 2013.

Which was agreed to. Thereupon, the bill was read the third time and passed.

Bill Amended; Third Reading Ordered**H. 776**

Rep. Masland of Thetford, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to rental housing

Reported in favor of its passage when amended as follows:

First: In Sec. 2, 32 V.S.A. § 4152, subsection (a), subdivision (10) by striking the word “rental”

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

Sec. 3. DEPARTMENT OF TAXES; MULTIUNIT RESIDENTIAL
HOUSING; GRAND LIST

The department of taxes shall work with the Vermont assessors and listers association and other interested parties to implement by September 1, 2010, a system to collect taxpayer information regarding multiunit residential housing for inclusion in the 2011 grand list.

Third: by adding a Sec. 4 to read:

Sec. 4. EFFECTIVE DATES

Sec. 2 of this act shall take effect on September 1, 2010.

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

Pending the question, Shall the bill be read the third time? **Rep. Head of South Burlington** moved to amend the bill as follows:

First: In Sec. 1, 24 V.S.A. § 5021 by striking subsection (b) and adding a new subsection (b) to read:

(b) The standards imposed by this chapter are in addition to and not in lieu of any applicable housing laws and codes, including the laws relating to lead poisoning in 18 V.S.A. §§ 1759–1760, the rental housing health code promulgated by the department of health, the Vermont fire and building safety code promulgated by the department of public safety, and regulations regarding potable water and septic systems promulgated by the agency of natural resources.

Second: In Sec. 1, 24 V.S.A. § 5021, by striking out subsection (c) and inserting in lieu thereof a new subsection (c) to read:

(c) For purposes of this chapter, “dwelling unit” means all rental dwellings, including apartments, rooming houses, rooming units, and mobile home lots, used as regular residences.

Third: In Sec. 1, 24 V.S.A. § 5028 in subsection (a) by striking out “subchapter” and inserting in lieu thereof “chapter”

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Reps. Clark of Vergennes and Higley of Lowell** moved to amend the bill as follows:

By striking Sec.2, Sec. 3, and Sec.4.

Thereupon, **Rep. Clark of Vergennes** asked and was granted leave of the House to withdraw his amendment and third reading was ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 28

Rep. Townsend of Randolph, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to the regulation of landscape architects

Reported in favor of its passage in concurrence with proposal of amendment 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.

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

Favorable Report; Third Reading Ordered

S. 150

Rep. Howard of Cambridge, for the committee on Transportation, to which had been referred Senate bill, entitled

An act relating to parking reserved for disabled persons

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 two o'clock and twenty-five minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at one o'clock in the afternoon.