

Journal of the Senate

TUESDAY, APRIL 6, 2010

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Rebecca Clark of Montpelier..

Pledge of Allegiance

Pages Ethan Reichsman and Samantha Robertson then led the members of the Senate in the pledge of allegiance.

Joint Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

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.

Bill Passed; Title Amended

Senate bill of the following title was read the third time and passed:

S. 138. An act relating to credit card fees.

Thereupon, pursuant to Senate Rule 40, the title of the bill was amended by the Secretary to read as follows:

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

Consideration Postponed

Senate bills entitled:

S. 294.

An act relating to identification in electioneering communications and penalties for campaign finance violations.

S. 288.

An act relating to the Vermont recovery and reinvestment act of 2010.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

Third Reading Ordered**H. 658.**

Senator Choate, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to the issuance of certificates of need for home health agencies and addressing patient transportation services in certificate of need applications.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered**H. 539.**

Senator Brock, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to amending the charter of the town of Hartford.

Reported recommending 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. CHARTER APPROVAL

Notwithstanding the provisions of section 2645 of Title 17, the general assembly approves the amendment to the charter of the town of Hartford as provided in this act.

Sec. 2. 24 V.S.A. App. chapter 123A § 401(e) is amended to read:

(e) Charter review.

(1) The selectboard and school board ~~shall~~ may appoint a charter review committee of registered voters of the town to review its charter and recommend changes as the committee finds necessary or advisable for the purpose of improving the operation of the town and school district.

~~(2) The charter shall be reviewed not less than three years after its initial adoption and subsequently every five years unless amended by a town meeting vote.~~

~~(3)~~ The committee shall submit a written report of recommendations to the selectboard and school board not later than one year after the appointment of the committee.

~~(4)~~⁽³⁾ Recommendations shall be warned for a vote at the next Australian ballot town meeting.

~~(5)~~⁽⁴⁾ The selectboard and school board shall provide funds for the committee in their budgets for any year when a charter review committee is appointed.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment

H. 695.

Senator Racine, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to definition of premises for award of liquor license.

Reported recommending that the Senate propose to the House to amend the bill in Sec. 1, 7 V.S.A. § 2(15), in the fourth sentence, by striking out the following: “includes any licensed establishment that is” and inserting in lieu thereof the following: includes up to two licensed establishments that are

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Proposal of Amendment; Third Reading Ordered

H. 765.

Senator Choate, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to establishing the Vermont agricultural innovation authority.

Reported recommending 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. 6 V.S.A. §§ 2961 and 2962 are amended and §§ 2962a and 2962b are added to read:

§ 2961. ~~CREATION OF AGRICULTURAL DEVELOPMENT COMMISSION~~ DEFINITIONS

~~(a) There is established within the agency of agriculture, food and markets the agricultural development commission, which shall be composed of the secretary of agriculture, food and markets, commissioner of forests, parks and recreation or his designee, the director of extension service, and director of research at the University of Vermont or their designees and four members appointed by the governor from a list of ten names, five to be submitted to him by the committee on agriculture of the house and five to be submitted to him by the committee on agriculture of the senate. The public members shall be appointed for terms of two years. The secretary of agriculture, food and markets shall be chairman.~~

~~(b) The commission shall be attached to the agency of agriculture, food and markets for administrative support. In addition, the commission may use the services and staff of any department to assist it in the performance of its duties. The secretary of agriculture, food and markets may appoint a person from within the agency of agriculture, food and markets to serve as executive director to the commission.~~

~~(e) Public members of the commission shall receive \$30.00 per diem and necessary expenses incurred while in the performance of their duties. As used in this subchapter:~~

(1) "Center" means the Vermont agricultural innovation center.

(2) "Value-added agricultural product" means any agricultural commodity or product that has been changed, produced, or segregated such that the market for the product has expanded and where the greater portion of the revenue derived from the value-added activity accrues to the producer of the commodity or product.

§ 2962. COMMISSION; POWERS AND DUTIES ESTABLISHMENT OF VERMONT AGRICULTURAL INNOVATION CENTER

~~The commission may develop policies and recommend procedures for the implementation of coordinated educational, regulatory, research and promotional programs in agriculture. In addition, the commission may:~~

~~(1) Develop a five-year continuing agriculture development program for the state which shall be updated biennially;~~

~~(2) Encourage lending institutions to expand their agricultural lending activities;~~

~~(3) Identify those institutional forces which impede agricultural expansion and make recommendations for the removal of those impediments;~~

~~(4) Assist individuals and organizations in their agricultural efforts;~~

~~(5) Make recommendations to the agency of agriculture, food and markets and the agricultural experiment station on areas where research might prove most beneficial to agriculture in Vermont;~~

~~(6) [Repealed.] (a) The Vermont agricultural innovation center is hereby established.~~

(b) The Vermont agricultural innovation center shall be administered by a board consisting of 13 members selected as follows:

(1) The secretary of agriculture, food and markets, who shall serve as chair; and

(2) The following 12 members appointed by the governor:

(A) One representative from each of the two largest membership-based agricultural organizations in Vermont;

(B) One member from each of the four highest grossing commodities produced in Vermont as determined on the basis of annual gross cash sales.

These four commodity groups presently include the dairy industry, the maple industry, the livestock, and the produce industry;

(C) Six members with knowledge of or experience in the production or marketing of value-added agricultural products.

(c) The Vermont agricultural innovation center's powers are vested in the board, and a quorum shall consist of seven members. No action of the board shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least seven members vote in favor of the action.

(d) Members of the board shall be appointed for staggered terms of three years. Any vacancy occurring among the members of the board shall be filled by the governor for the unexpired portion of the term. A board member may be reappointed, but no member, except the secretary of agriculture, food and markets, may serve for more than six consecutive years.

(e) Board members whose membership is not supported by their employer or association may receive per diem and reimbursement for travel as provided in 32 V.S.A. § 1010 to the extent that funds are available.

§ 2962a. PURPOSE; POWERS AND DUTIES

(a) To achieve the purposes of this subchapter, the Vermont agricultural innovation center shall:

(1) Promote agriculture and the business of agriculture in Vermont, including the production or marketing of value-added agricultural products.

(2) Coordinate with federal and state agencies and private sources to make financial resources available to the center for distribution of financial assistance for the promotion of agriculture, including the production or marketing of value-added agricultural products.

(3) Administer federal grant monies for the production or marketing of value-added agricultural products. Grant monies shall be administered in accordance with their terms which may include:

(A) Technical assistance, including technical, engineering, and product research services;

(B) Assistance in marketing, market development, and business planning, including advisory services with respect to leveraging capital assets;

(C) Organizational, outreach, and development assistance to increase the viability, growth, and sustainability of businesses engaged in the production or marketing of value-added agricultural products;

(D) Studies that analyze the feasibility of facilities, including processing facilities, for use by potential producers or marketers of value-added products in order to determine the size that optimizes construction and other cost efficiencies.

(b) The agricultural innovation center may:

(1) consult, contract, or coordinate with the Vermont economic development authority or other agricultural funders to provide financial assistance for purposes authorized by this subchapter;

(2) support the establishment of partnerships for the promotion and development of agriculture in the state, including the production or marketing of value-added agricultural products;

(3) support local initiatives to produce or market value-added agricultural products;

(4) pursue and coordinate access to regional and local revolving loan funding and all state, federal, and private funding that is available for the development of agriculture and value-added agricultural products;

(5) receive and accept grants, gifts, loans, or contributions from any source subject to the provisions of 32 V.S.A. § 5;

(6) use the services and staff of the agency of agriculture, food and markets to assist in the performance of the center's duties with the concurrence of the secretary of agriculture, food and markets;

(7) contract for support, technical, or other professional services necessary to complete the work of the center.

§ 2962b. INTERAGENCY COOPERATION AND ASSISTANCE

Other departments and agencies of state government shall assist and cooperate with the center and shall make available to it information and data as needed to assist the center in carrying out its duties. Nothing in this section shall be construed to waive any privilege or protection otherwise afforded to the data and information under exemptions to the public records act or under other laws due solely to the fact that the information or data are shared with the center pursuant to this section.

Sec. 2. RECODIFICATION

6 V.S.A. chapter 162 is recodified as follows:

(1) §§ 2961–2962b shall be subchapter 1 which is added to read:

Subchapter 1. Vermont Agricultural Innovation Center

(2) §§ 2963–2965 shall be subchapter 2 which is added to read:

Subchapter 2. Generally

And that after passage the title of the bill be amended to read:

An act relating to establishing the Vermont agricultural innovation center.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

Bill Passed

Senate bills of the following title was read the third time and passed:

S. 247. An act relating to bisphenol A.

Third Readings Ordered

H. 639.

Senator McCormack, for the Committee on Finance, to which was referred House bill entitled:

An act relating to motor vehicle insurance for volunteer drivers.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 766.

Senator Flanagan, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to preventing duplication in certain public health records.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Proposal of Amendment; Bill Committed

H. 237.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to governance of the Vermont state hospital.

Reported recommending 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. 18 V.S.A. chapter 174 is added to read:

CHAPTER 174. VERMONT STATE HOSPITAL GOVERNANCE

§ 7251. VERMONT STATE HOSPITAL GOVERNING BOARD

(a) The Vermont state hospital shall be governed by a board comprising no more than nine voting members appointed by the secretary of human services. A majority of the board shall be members of the public and shall include at least one individual who has received services from the Vermont state hospital or from a designated hospital, to be selected in consultation with groups representing mental health consumers, and at least one family member of an individual who has received services from the Vermont state hospital or from a designated hospital, to be selected in consultation with groups representing families of mental health consumers. The remainder of the board shall be ex officio voting members of the executive branch, except that the executive director and the medical director of the Vermont state hospital; the commissioner and deputy commissioner of disabilities, aging, and independent living; and any individual employed by the division of licensing and protection in the department of disabilities, aging, and independent living shall be nonvoting members if serving on the board and shall be in addition to the voting members of the board.

(b) Members of the governing board who are not state employees are entitled to compensation pursuant to 32 V.S.A. § 1010.

(c) The governing board shall be considered a public agency for purposes of subchapters 1 and 2 of chapter 5 of Title 1 and shall meet a minimum of six times each year.

(d) As used in this section, "family member" shall have the same meaning as in 33 V.S.A. § 6302(2).

§ 7252. GOVERNING BOARD DUTIES

Notwithstanding the provisions of 3 V.S.A. § 3089 or 3303:

(1)(A) The governing board established pursuant to this chapter shall have legal authority and responsibility for the operations of the Vermont state hospital as an institution, except that it shall delegate its authority to the commissioner of mental health for the following duties:

(i) hiring and firing the executive director of the Vermont state hospital;

(ii) establishing the budget for the Vermont state hospital; and

(iii) signing contracts on behalf of the Vermont state hospital.

(B) The governing board shall be entitled to review relevant information and make recommendations to the commissioner regarding the duties specified in subdivisions (A)(i), (ii), and (iii) of this subdivision (1).

(2) The board shall enact bylaws to govern its execution of the following duties:

(A) reviewing the quality and effectiveness of care and of management operations at the Vermont state hospital;

(B) ensuring an effective grievance process;

(C) approving all Vermont state hospital policies;

(D) developing and adopting a conflict-of-interest policy;

(E) evaluating its own performance annually;

(F) ensuring that patients, staff, family members, and visitors receive notice of the existence, role, and meetings of the governing board, including methods for contacting the board; and

(G) ensuring compliance with the provisions of 42 C.F.R. 482.12.

(3) The governing board shall submit an annual report to the governor, the house committee on human services, the senate committee on health and welfare, and the mental health oversight committee regarding the state of the hospital and the patients therein. The department of mental health shall make the report available on its website.

(4) The governing board shall solicit annual reports from Vermont Legal Aid and Disability Rights Vermont regarding the care of patients at the Vermont state hospital and shall include these reports as appendices to the annual report submitted pursuant to subdivision (3) of this section.

§ 7253. GOVERNING BOARD ACCESS TO VERMONT STATE HOSPITAL

Members of the governing board shall have reasonable access to all parts of the units of the Vermont state hospital, including patient living areas, and shall be provided with opportunities to interview patients. Such access shall be sufficient to ensure effective governing board oversight of the operations of the Vermont state hospital while maintaining patient privacy.

§ 7254. PATIENT REPRESENTATIVE

The patient representative for the Vermont state hospital shall submit quarterly reports to the governing board regarding hospital conditions, patient complaints and their resolution, and systemic issues. The reports shall be included with the annual report submitted pursuant to subdivision 7252(3) of this title.

Sec. 2. 18 V.S.A. § 7401 is amended to read:

§ 7401. POWERS AND DUTIES

Except insofar as this part of this title specifically confers certain powers, duties, and functions upon others, the commissioner shall be charged with its administration. The commissioner may:

* * *

~~(5) supervise the care and treatment of patients at the Retreat in the same manner and with the same authority that he supervises patients at the Vermont State Hospital;~~

~~(6)~~ provide for the hospitalization of mentally ill patients in designated hospitals or institutions of Vermont or negotiate and enter into contracts which shall incorporate safeguards consistent with this part of this title, with any hospital or institution for the care and treatment of patients in any other state;

~~(7)~~(6) prescribe the form of applications, records, reports, and medical certificates required by the statutes, and the information to be contained therein and to supply them to physicians and probate courts;

~~(8)~~(7) require reports from the head of a hospital or other institution concerning the care of patients;

~~(9)~~(8) visit each hospital or institution and review methods of care for all patients;

~~(10)~~(9) investigate complaints made by a patient, his or her attorney, or an interested party on his or her behalf;

~~(11)~~(10) establish rates, charges, and fees for the care of patients in hospitals and determine ability to pay, liability for payments, and amounts to be paid and bill for and collect those amounts with the aid of the attorney general;

~~(12)~~(11) receive gifts and bequests of real and personal estate made for the use and benefit of any state hospital, and invest any moneys so received in safe interest-bearing securities in the corporate name of the hospital;

~~(13)~~(12) delegate to any officer or agency of Vermont any of the duties and powers imposed upon him or her by this part of this title. The delegation of authority and responsibility shall not relieve the commissioner of accountability for the proper administration of this part of this title;

~~(14)~~(13) plan and coordinate the development of community services which are needed to assist mentally ill persons and children and adolescents with a severe emotional disturbance to become as financially and socially independent as possible. These services shall consist of residential, vocational, rehabilitative, day treatment, inpatient, outpatient, and emergency services, as well as client assessment, prevention, family, and individual support services and such other services as may be required by federal law or regulations;

~~(15)~~(14) contract with community mental health centers to assure that individuals who are mentally ill or children and adolescents with a severe emotional disturbance can receive information, referral, and assistance in obtaining those community services which they need and to which they are lawfully entitled;

~~(16)~~(15) contract with accredited educational or health care institutions for psychiatric services at the Vermont ~~State Hospital~~ state hospital;

~~(17)~~(16) ensure the provision of services to children and adolescents with a severe emotional disturbance in coordination with the commissioner of education and the commissioner for children and families in accordance with the provisions of chapter 43 of Title 33;

~~(18)~~(17) ensure the development of community-based prevention and early intervention services for children and adults and ensure the coordination of these services throughout all parts of the public and private health care delivery systems;

~~(19)~~(18) ensure the development of chronic care services, addressing mental health and substance abuse, for children and adults and ensure the coordination of these services with other chronic care initiatives, including the Blueprint for Health, and the care coordination and case management programs of the office of Vermont health access;

~~(20)~~(19) ensure the coordination of mental health, physical health, and substance abuse services provided by the public and private health care delivery systems;

~~(21)~~(20) ensure the coordination of public mental health and substance abuse services with mental health and substance abuse services offered through the private health care delivery system, including services offered by primary care physicians.

Sec. 3. GOVERNING BODIES FOR RESIDENTIAL PSYCHIATRIC FACILITIES

It is the intent of the general assembly that a governing board separate from the governing board of the Vermont state hospital shall be established for any residential psychiatric facility owned and operated by the state that is a facility separate and independent from the Vermont state hospital.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question?, Shall the bill be amended as recommended by the Committee on Government Operations?, Senator Shumlin, moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Government Operations *intact*,

Which was agreed to.

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 138, S. 247, H. 695.

Senate Concurrent Resolution

The following joint concurrent resolution, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, is hereby adopted on the part of the Senate:

S.C.R. 47.

Senate concurrent resolution honoring Vermont Food Education Every Day (VT FEED) as an innovative partnership facilitating statewide farm to school programs emphasizing the importance of food and nutrition education for the health of our communities.

[The full text of the Senate concurrent resolutions appeared in the Senate calendar addendum for April 2, 2010, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the sixty-ninth biennial session of the Vermont General Assembly.]

Adjournment

On motion of Senator Shumlin, the Senate adjourned until one o'clock in the afternoon on Wednesday, April 7, 2010.