

House Calendar

Wednesday, April 06, 2011

92nd DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Action Postponed Until April 6, 2011

Favorable with Amendment

H. 73

An act relating to establishing a government transparency office to enforce the public records act

Rep. Hubert of Milton, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A. § 315 is amended to read:

§ 315. STATEMENT OF POLICY

It is the policy of this subchapter to provide for ~~free and~~ open examination of records consistent with Chapter I, Article 6 of the Vermont Constitution. Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment. All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Consistent with these principles, the general assembly hereby declares that certain public records shall be made available to any person as hereinafter provided. To that end, the provisions of this subchapter shall be liberally construed ~~with the view towards carrying out the above declaration of public policy to implement this policy, and the burden of proof shall be on the public agency to sustain its action.~~

Sec. 2. 1 V.S.A. § 316 is amended to read:

§ 316. ACCESS TO PUBLIC RECORDS AND DOCUMENTS

(a) Any person may inspect or copy any public record ~~or document~~ of a public agency, as follows:

(1) For any agency, board, department, commission, committee, branch instrumentality, or authority of the state, a person may inspect a public record on any day other than a Saturday, Sunday, or a legal holiday, between the hours of nine o'clock and 12 o'clock in the forenoon and between one o'clock and four o'clock in the afternoon; ~~provided, however, if the public agency is~~

~~not regularly open to the public during those hours, inspection or copying may be made~~

(2) For any agency, board, committee, department, instrumentality, commission, or authority of a political subdivision of the state, a person may inspect a public record during customary office business hours.

(b) If copying equipment maintained for use by a public agency is used by the agency to copy the public record or document requested, the agency may charge and collect from the person requesting the copy the actual cost of providing the copy. The agency may also charge and collect from the person making the request, the costs associated with mailing or transmitting the record by facsimile or other electronic means. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of public records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

(c) In the following instances an agency may also charge and collect the cost of staff time associated with complying with a request ~~for a~~ to inspect or to copy of a public record: (1) the time directly involved in complying with the request exceeds ~~30 minutes~~ two hours; (2) the agency agrees to create a public record; or (3) the agency agrees to provide the public record in a nonstandard format and the time directly involved in complying with the request exceeds ~~30 minutes~~ two hours. The agency may require that requests subject to staff time charges under this subsection be made in writing and that all charges be paid, in whole or in part, prior to delivery of the copies. Upon request, the agency shall provide an estimate of the charge.

(d) The secretary of state, after consultation with the secretary of administration, shall establish the actual cost of providing a copy of a public record that may be charged by state agencies. The secretary shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine "actual cost" the secretary shall consider the following only: the cost of the paper or the electronic media onto which a public record is copied, a prorated amount for maintenance and replacement of the machine or equipment used to copy the record and any utility charges directly associated with copying a record. The secretary of state shall adopt, by rule, a uniform schedule of public record charges for state agencies.

(e) After public hearing, the legislative body of a political subdivision shall establish actual cost charges for copies of public records. The legislative body shall also establish the amount that may be charged for staff time, when such a charge is authorized under this section. To determine actual cost charges, the legislative body shall use the same factors used by the secretary of state. If a

legislative body fails to establish a uniform schedule of charges, the charges for that political subdivision shall be the uniform schedule of charges established by the secretary of state until the local legislative body establishes such a schedule. A schedule of public records charges shall be posted in prominent locations in the town offices.

* * *

Sec. 3. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

(a) As used in this subchapter,:

(1) ~~“public Public agency”~~ or “agency” means any agency, board, department, commission, committee, branch, instrumentality, or authority of the state or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the state. “Public agency” shall include a quasi-public agency.

(2) “Public record” or “public document” means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying. “Public record” shall include written or recorded information produced or acquired by a quasi-public agency that relates to the governmental function performed by the quasi-public agency.

(3) “Quasi-public agency” means a nongovernmental authority that:

(A) receives \$250,000.00 or more a year by or through a public agency; and

(B) performs a governmental function on behalf of a public agency.

~~(b) As used in this subchapter, “public record” or “public document” means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying~~

(1) A person’s “right to privacy” or “personal privacy,” as these terms are used in this subchapter, is violated or invaded only if disclosure of information about the person reveals intimate details of a person’s life,

including any information that might subject the person to embarrassment, harassment, disgrace, or loss of employment or friends.

(2) The provisions of this subchapter addressing the “right to privacy” or “personal privacy” in personal and economic pursuits do not create any right beyond the rights specified under subsection (c) of this section as express exemptions to the public’s right to inspect or copy public records.

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(7) personal documents relating to an individual, including information in any files maintained to hire, evaluate, promote or discipline any employee of a public agency, information in any files relating to personal finances, medical or psychological facts concerning any individual or corporation if disclosure of information would violate the individual’s right to privacy as defined in subsection (b) of this section; provided, however, that all information in personnel files of an individual employee of any public agency shall be made available to that individual employee or his or her designated representative;

Sec. 4. 1 V.S.A. § 318 is amended to read:

§ 318. PROCEDURE

(a) Upon request, the custodian of a public record shall promptly produce the record for inspection, except that:

(1) if the record is in active use or in storage and therefore not available for use at the time the person asks to examine it, the custodian shall so certify this fact in writing to the applicant and set a date and hour within one calendar week of the request when the record will be available for examination;

(2) if the custodian considers the record to be exempt from inspection under the provisions of this subchapter, the custodian shall so certify in writing. Such certification shall identify the records withheld and the basis for the denial. The A record shall be produced for inspection or a certification shall be made that a record is exempt within two three business days of receipt of the request, unless otherwise provided in subdivision (5) of this subsection. The certification shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial. The custodian shall also notify the person of his or her right to appeal to the head of the agency any adverse determination;

(3) if appealed to the head of the agency, the head of the agency shall make a determination with respect to any appeal within five business days, excepting Saturdays, Sundays, and legal public holidays, after the receipt of such appeal. If an appeal of the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under section 319 of this title;

(4) if a record does not exist, the custodian shall certify in writing that the record does not exist under the name given to the custodian by the applicant or by any other name known to the custodian;

(5) in unusual circumstances as herein specified the time limits prescribed in this subsection may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten ~~working~~ business days from receipt of the request. As used in this subdivision, "unusual circumstances" means to the extent reasonably necessary to the proper processing of the particular request:

(A) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(B) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(C) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein, or with the attorney general.

(b) Any person making a request to any agency for records under subsection (a) of this section shall be deemed to have exhausted the person's administrative remedies with respect to each request if the agency fails to comply within the applicable time limit provisions of this section. Upon any determination by an agency to comply with a request for records, the records shall be made available promptly to the person making such request. Any notification of denial of any request for records under this section shall set forth the names and titles or positions of each person responsible for the denial of such request.

(c)(1) Any denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a

written determination on an appeal within five business days after the receipt of the appeal. A written determination shall include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial.

(2) If the head of the agency reverses the denial of a request for records, the records shall be promptly made available to the person making the request. A failure by the agency to comply with any of the time limit provisions of this section shall be deemed a final denial of the request for records by the agency.

(d) In responding to a request to inspect or copy a record under this subchapter, a public agency shall consult with the person making the request in order to clarify the request or to obtain additional information that will assist the public agency in responding to the request and, when authorized by this subchapter, in facilitating production of the requested record for inspection or copying. In unusual circumstances, as that term is defined in subdivision (a)(5) of this section, a public agency may request that a person seeking a voluminous amount of separate and distinct records narrow the scope of a public records request.

(e) A public agency shall not withhold any record in its entirety on the basis that it contains some exempt content if the record is otherwise subject to disclosure; instead, the public agency shall redact the information it considers to be exempt and produce the record accompanied by an explanation of the basis for denial of the redacted information.

(f) If a person making the request has a disability which requires accommodation to gain equal access to the public record sought, the person shall notify the public agency of the type of accommodation requested. The public agency shall give primary consideration to the accommodation choice expressed by the requestor, but may propose an alternative accommodation so long as it achieves equal access. The public agency shall provide accommodation to the person making the request unless the agency can demonstrate that accommodation would result in a fundamental alteration in the nature of its service, programs, activities, or in undue financial and administrative burden.

(g) A request for a public record produced or acquired by a quasi-public agency shall be submitted to the public records officer of the public agency by or through which the quasi-public agency is funded. A person aggrieved by a denial of a request for a public record produced or acquired by a quasi-public agency may seek against the public agency that funded the quasi-public agency enforcement under section 319 of this title of the requirements of this subchapter.

Sec. 5. 1 V.S.A. § 319 is amended to read:

§ 319. ENFORCEMENT

(a) Any person aggrieved by the denial of a request for public records under this subchapter may apply to the civil division of the superior court in the county in which the complainant resides, or has his or her personal place of business, or in which the public records are situated, or in the civil division of the superior court of Washington County, to enjoin the public agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case, the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in section 317 of this title, and the burden ~~is~~ of proof shall be on the public agency to sustain its action.

(b) Except as to cases the court considers of greater importance, proceedings before the civil division of the superior court, as authorized by this section, and appeals there from, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(c) If the public agency can show the court that exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records.

(d) The court ~~may~~ shall assess against the public agency reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed, except that if an attorney who enters an appearance on behalf of the public agency concedes that a contested record or records are public within 10 business days of entering an appearance, the court, in its discretion, may award attorney's fees to the substantially prevailing party.

Sec. 6. 1 V.S.A. § 320(b) is amended to read:

(b) In the event of noncompliance with the order of the court, the civil division of the superior court may punish for contempt the responsible employee or official, and in the case of a uniformed service, the responsible member.

Sec. 7. 3 V.S.A. § 117(g) is amended to read:

(g) In fulfilling the duties of the state archives and records administration program, the state archivist shall:

(1) establish and administer a records management program for the application of effective and efficient methods to the creation, utilization,

maintenance, reformatting, retention, destruction, and preservation of public records;

(2) cooperate with the heads of state agencies or public bodies to establish and maintain a program for the appraisal and scheduling of public records;

(3) analyze, develop, establish, and coordinate standards, procedures, and techniques for the creation of, preservation of, and access to public records;

(4) take custody of archival records in accordance with record schedules approved by the state archivist;

(5) maintain a record center to hold inactive records in accordance with records schedules approved by the state archivist;

(6) arrange, describe, and preserve archival records, and promote their use by government officials and the public;

(7) permit the public to inspect, examine, and study the archives, provided that any record placed in the keeping of the office of the secretary of state under special terms or conditions of law restricting their use shall be made accessible only in accord with those terms and conditions;

(8) cooperate with and assist to the extent practicable state institutions, departments, agencies, municipalities, and other political subdivisions and individuals engaged in the activities in the ~~field~~ management of public records, archives, manuscripts, and history;

(9) accept for filing copies of land records submitted in microfilm, electronic media, or similar compressed form by municipal or county clerks;

(10) receive grants, gifts, aid, or assistance, of any kind, from any source, public or private, for the purpose of managing or publishing public records; ~~and~~

(11) serve on the Vermont historical records advisory board, as described in 44 U.S.C. § 2104, to encourage systematic documentation in Vermont and the collecting of archival records;

(12) have the authority, on its own motion, to issue advisory opinions as to whether a particular type of record is public and available for inspection and copying;

(13) provide municipal public agencies and members of the public information and advice regarding the requirements of the public records act, including an informational website and a toll-free telephone number during the regular business hours of the office;

(14) establish a training program for the public records officers of public agencies regarding the requirements of the public records act and the procedure and process for responding to requests to inspect or copy a public record.

Sec. 8. 1 V.S.A. § 313(a)(6) is amended to read:

(6) Discussion or consideration of records or documents excepted from the access to public records provisions of ~~subsection~~ section 317(b) of this title. Discussion or consideration of the excepted record or document shall not itself permit an extension of the executive session to the general subject to which the record or document pertains;

Sec. 9. 3 V.S.A. § 218(d) is amended to read:

(d) The head of each state agency or department shall designate a member of his or her staff as the records officer for his or her agency or department, and shall notify the Vermont state archives and records administration in writing of the name and title of the person designated, and shall post the name and contact information of the person on the agency or department website, if one exists. The public records officer shall manage the agency's compliance with the requirements of this section and with the requirements of the public records act, as set forth in 1 V.S.A. chapter 5, subchapter 3, regarding receipt and response to requests for public records. A public records officer annually shall complete a records management training course offered by the Vermont state archives and records administration.

Sec. 10. 24 V.S.A. chapter 33, subchapter 14 is added to read:

Subchapter 14. Municipal Public Records Officer

§ 1146. MUNICIPAL PUBLIC RECORDS OFFICER

(a) On or before January 1, 2012, the legislative body of a municipality shall appoint, and determine the term of service for, a municipal public records officer.

(b) A municipal public records officer shall manage the municipality's compliance with the requirements of the public records act, as set forth in 1 V.S.A. chapter 5, subchapter 3. The municipal public records officer shall provide guidance to any agency, board, committee, department, branch, instrumentality, commission, or authority of the municipality regarding compliance with the requirements of the public records act.

(c) The name, title, and contact information for the municipal public records officer shall be posted on the municipality's website, if one exists, and in a prominent location in the municipal offices or office of the municipal clerk.

(d) A public records officer annually shall complete a records management training course offered by the Vermont state archives and records administration.

(e) As used in this section, “municipality” shall mean a city, town, or village of the state and shall mean a school district, as that term is defined in 16 V.S.A. § 11(a)(10).

Sec. 11. 9 V.S.A. § 4113(b) is amended to read:

(b) Reports filed pursuant to this section shall be an exempt record and confidential pursuant to ~~subdivision 317(b)(1) of Title 1~~ 1 V.S.A. § 317(c)(1) and shall be maintained for the sole and confidential use of the commissioner, except that the reports may be disclosed to the federal government or to the appropriate energy agency or department of another state with substantially similar confidentiality statutes for regulations with respect to such reports. However, the commissioner shall make available to appropriate committees of the general assembly statistical information derived from the reports required by this section, provided that this may be done in a manner which preserves the confidentiality of the reports submitted by particular persons.

Sec. 12. 17 V.S.A. § 2154(b) is amended to read:

(b) A registered voter’s month and day of birth, driver’s license number, the last four digits of the applicant’s Social Security number, and street address if different from the applicant’s mailing address shall not be considered a public record as defined in ~~subsection 317(b) of Title 1~~ 1 V.S.A. § 317(a)(2). Any person wishing to obtain a copy of all of the statewide voter checklist must swear or affirm, under penalty of perjury pursuant to chapter 65 of Title 13, that the person will not use the checklist for commercial purposes. The affirmation shall be filed with the secretary of state.

Sec. 13. 32 V.S.A. § 3755(e) is amended to read:

(e) Any applicant for appraisal under this subchapter bears the burden of proof as to his or her qualification. Any documents submitted by an applicant as evidence of income shall be held in confidence by any person accepting or reviewing them pursuant to provisions of this subchapter, and shall not be made available for public examination, whether or not such person is subject to the provisions of ~~subdivision 317(a)(6) of Title 1~~ 1 V.S.A. § 317(c)(6).

Sec. 14. PUBLIC RECORDS LEGISLATIVE STUDY COMMITTEE

(a) There is established a legislative study committee to review the requirements of the public records act and the numerous exemptions to that act in order to assure the integrity, viability, and the ultimate purposes of the act. The review committee shall consist of:

(1) Three members of the house of representatives, appointed by the speaker of the house; and

(2) Three members of the senate, appointed by the committee on committees.

(b) The review committee shall review the exemptions set forth in 1 V.S.A. § 317 or elsewhere in the Vermont Statutes Annotated to the inspection and copying of public records under the public records act, 1 V.S.A. chapter 5, subchapter 3. Prior to each legislative session, the committee shall submit to the house and senate committees on government operations and the house and senate committees on judiciary recommendations concerning whether the public records act and exemptions under the act from inspection and copying of a public record should be repealed, amended, or remain unchanged. The report of the committee may take the form of draft legislation.

(c) In reviewing and making a recommendation under subsection (b) of this section, the study committee may review:

(1) Whether the public records act requires revision;

(2) Whether an exemption to inspection or copying under the public records act is necessary, antiquated, or in need of revision;

(3) Whether an exemption to inspection or copying under the public records act is as narrowly tailored as possible; and

(4) Any other criteria that assist the review committee in determining the value of an exemption as compared to the public's interest in the record protected by the exemption.

(d) In developing recommendations authorized under subsection (a) of this section, the study committee shall consult with the secretary of administration, the secretary of state, the office of the attorney general, representatives of municipal interests, representatives of school or education interests, representatives of the media, and advocates for access to public records.

(e) The study committee shall elect co-chairs from among its members. For attendance at a meeting when the general assembly is not in session, legislative members of the commission shall be entitled to the same per diem compensation and reimbursement for actual and necessary expenses as provided members of standing committees under 2 V.S.A. § 406. The study committee is authorized to meet no more than three times each year during the interim between sessions of the general assembly.

(f) Legislative council shall provide legal and administrative services to the study committee. The study committee may utilize the legal, research, and administrative services of other entities, such as educational institutions and,

when necessary for the performance of its duties, the Vermont state archives and records administration.

Sec. 15. LEGISLATIVE COUNCIL; LIST OF PUBLIC RECORDS ACT
EXEMPTIONS

The legislative council, under its statutory revision authority set forth in 2 V.S.A. § 421, shall compile a list of all known Vermont statutory exemptions to the inspection and copying of public records under the public records act, 1 V.S.A. chapter 5, subchapter 3. Legislative council shall publish the list of exemptions compiled under this section as a statutory revision note to 1 V.S.A. § 317 and shall update the list as necessary.

Sec. 16. REPEAL

1 V.S.A. § 321 (public records legislative study committee) is repealed on January 15, 2015.

Sec. 17. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

(**Committee Vote: 10-0-1**)

Rep. Keenan of St. Albans City, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

(**Committee Vote: 10-0-1**)

Amendment to be offered by Rep. Hubert of Milton to H. 73

First: In Sec. 3, 1 V.S.A. § 317, by striking subsection (a) in its entirety and inserting in lieu thereof the following:

(a) As used in this subchapter,;

(1) “~~public~~ Public agency” or “agency” means any agency, board, department, commission, committee, branch, instrumentality, or authority of the state or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the state.

(2) “Public record” or “public document” means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying.

Second: In Sec. 4, 1 V.S.A. § 318(g), by striking subsection (g) in its entirety

Third: In Sec. 14, by striking subsection (c) in its entirety and inserting in lieu thereof the following:

(c) In reviewing and making a recommendation under subsection (b) of this section, the study committee may review:

(1) Whether the public records act requires revision;

(2) Whether an exemption to inspection or copying under the public records act is necessary, antiquated, or in need of revision;

(3) Whether an exemption to inspection or copying under the public records act is as narrowly tailored as possible;

(4) Whether the public records act should be amended to clarify application of the act to contracts between a public agency and a private entity for the performance of a governmental function; and

(5) Any other criteria that assist the review committee in determining the value of an exemption as compared to the public's interest in the record protected by the exemption.

Amendment to be offered by Rep. Donahue of Northfield to H. 73

in Sec. 14 by striking out subdivision (c)(3) in its entirety and inserting in lieu thereof the following:

(3) Whether an exemption to inspection or copying under the public records act is as narrowly tailored as possible, including the need to clarify the term "personal documents" referenced in 1 V.S.A. § 317(c)(7) in order to ensure that it does not unintentionally limit access to public records that are not personnel records; and

Amendment to be offered by Rep. Marek of Newfane to H. 73

in Sec. 5, 1 V.S.A. § 319, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d)(1) ~~The~~ Except as provided in subdivision (2) of this section, the court ~~may~~ shall assess against the public agency reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(2) The court may, in its discretion, award attorney's fees to a complainant that has substantially prevailed if a public agency, within 10 business days of entering an appearance:

- (A) concedes that a contested record or records are public; and
(B) provides the record or records to the complainant.

NEW BUSINESS

Third Reading

H. 56

An act relating to the Vermont Energy Act of 2011

Amendment to be offered by Rep. Savage of Swanton to H. 56

First: In Sec. 12, 10 V.S.A. § 6523 (clean energy development fund), in subsection (a), in subdivision (1), by striking the text of subdivision (B) (proceeds of clean energy support charge) and by striking the relettering of the following subdivision to “(C)”

Second: By striking Secs. 15 (clean energy support charge) and 16 (notice) in their entirety and inserting in lieu thereof “Secs. 15 and 16. [Deleted.]”

Third: By striking Sec. 17 (recodification; redesignation) and inserting in lieu thereof a new Sec. 17 to read:

Sec. 17. RECODIFICATION; REDESIGNATION

(a) 10 V.S.A. §§ 6523 and 6524 are recodified respectively as 30 V.S.A. §§ 8015 and 8016. The office of legislative council shall revise accordingly any references to these statutes contained in the Vermont Statutes Annotated. Any references in session law to these statutes as previously codified shall be deemed to refer to the statutes as recodified by this act.

(b) Within 30 V.S.A. chapter 89 (renewable energy programs):

(1) §§ 8001–8014 shall be within subchapter 1 which shall be designated to read:

Subchapter 1. General Provisions

(2) §§ 8015–8016 shall be within subchapter 2 which shall be designated to read:

Subchapter 2. Clean Energy Development Fund

Fourth: In Sec. 21 (effective dates), in subdivision (b)(2), by striking “16 (notice; implementation),” and by striking subsection (e) (effective date; clean energy support charge) in its entirety and inserting in lieu thereof “(e) [Deleted.]”

Amendment to be offered by Rep. Donahue of Northfield to H. 56

In Sec. 20 by striking the second sentence in its entirety and inserting in lieu thereof:

In its report, the board shall consider and discuss the advantages and disadvantages of including these fees and expenses in a company's cost of service, including the extent to which allowing inclusion of such fees and expenses may avoid or reduce costs that would otherwise be incurred by the company; shall quantify on a statewide basis the expected cost impacts of requiring all ratepayers to bear the cost of these fees and expenses, including the amount, if any, of cross-subsidy that would occur from customers who do not pay utility bills by credit or debit card to customers who do pay utility bills by credit or debit card; and shall propose a draft statute or a statutory amendment to effect the board's recommendation.

Amendment to be offered by Rep. Browning of Arlington to H. 56

First: In Sec. 15 (clean energy support charge), in subsection (a), after “customer” by inserting “who elects to pay such assessment” and by striking “\$0.55” and inserting in lieu thereof “\$1.00”

Second: In Sec. 16 (notice), at the end of the section, by inserting:

The notice shall state that the charge is voluntary and shall include a section that the customer may complete under which the customer agrees to be subject to the charge. The notice shall include instructions for a customer who elects to be subject to the charge to send the completed section to the customer's retail electricity provider at an address provided in the notice.

Amendment to be offered by Rep. Higley of Lowell to H. 56

First: In Sec. 15 (clean energy support charge), in subdivision (a), in the first sentence, by striking “with the provider's August 2011 billing cycle” and inserting in lieu thereof “with the provider's fourth monthly billing cycle after the effective date of this section”

Second: In Sec. 16 (notice), in the first sentence, by striking “during its July 2011 billing cycle” and inserting in lieu thereof “during the provider's third monthly billing cycle after the effective date of this section”

Third: In Sec. 21 (effective dates), in subdivision (b)(2), by striking “16 (notice; implementation).” and by striking subsection (e) and inserting in lieu thereof:

(e)(1) Secs. 15 (clean energy support charge) and 16 (notice) shall become effective only when one of the following occurs, whichever is earlier:

(A) March 21, 2012, if by that date the owner of the Vermont Yankee nuclear power station (the VYNPS) in the town of Vernon, Vermont has not obtained all approvals required under 30 V.S.A. § 248(e)(2) (continued operation; legislative and public service board approval) for the continued operation of the VYNPS beyond that date.

(B) An appropriate tribunal approves an agreement between the owner of the VYNPS and the state of Vermont or an agency thereof under which the VYNPS continues operation beyond the date currently contained in its certificate of public good issued under Title 30 without the owner's making further payments into the clean energy development fund than are required under agreements in effect as of the date of this act.

(C) An appropriate tribunal issues an order allowing for the continued operation of the VYNPS beyond the date currently contained in its certificate of public good issued under Title 30 without mandating further payments into the clean energy development fund than are required under agreements in effect as of the date of this act.

(2) Notwithstanding subdivision (1) of this subsection, Secs. 15 and 16 of this act shall not come into effect if, prior to the occurrence of an event described in subdivisions (1)(A)–(C) of this subsection, one of the following occurs:

(A) An appropriate tribunal approves an agreement between the owner of the VYNPS and the state of Vermont or an agency thereof under which the owner makes further payments into the clean energy development fund than are required under agreements in effect as of the date of this act.

(B) An appropriate tribunal issues an order under which the owner makes further payments into the clean energy development fund than are required under agreements in effect as of the date of this act.

(C) Legislation is enacted that provides an alternative method to fund the clean energy development fund that is designed to provide at least as much revenue to the fund annually as under Sec. 15 of this act.

Amendment to be offered by Rep. Poirier of Barre City to H. 56

First: In Sec. 15 (clean energy support charge), in subsection (a), by striking “\$0.55” and inserting in lieu thereof “\$0.65” and by adding at the end of the section a new subsection to read:

(e) A retail electricity provider shall waive the charge assessed under this section on request of a person responsible for paying the charges for electricity supplied to the person's residence, submitted on or after July 1, 2011, who provides evidence that, at the time of the request, the person receives benefits

pursuant to the supplemental nutrition assistance program described in 33 V.S.A. § 1701. Such evidence shall include any documentation routinely issued by the department for children and families upon verification of eligibility for participation in the program. The waiver shall apply to the meter serving the residence of the person making the request.

Second: In Sec. 16 (notice), at the end of the section, by inserting:

The notice shall describe the opportunity of a resident who receives benefits pursuant to the supplemental nutrition assistance program described in 33 V.S.A. § 1701 to obtain waiver of the charge and shall include information on how to request such a waiver.

H. 439

An act relating to the bill-back authority of the department of public service and the public service board

S. 2

An act relating to sexual exploitation of a minor and the sex offender registry

Favorable

S. 12

An act relating to adding a member from the area agencies on aging to the governor's commission on Alzheimer's disease and related disorders

Rep. Batchelor of Derby, for the Committee on **Human Services**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 9-0-2)

(No Senate Amendments)

Action Postponed Until April 7, 2011

Favorable with Amendment

H. 259

An act relating to increasing the number of members on the liquor control board

Rep. Andrews of Rutland City, for the Committee on **General, Housing and Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 101 is amended to read:

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF LIQUOR CONTROL; LIQUOR CONTROL BOARD

(a) The department of liquor control, created by section 212 of Title 3, shall include the commissioner of liquor control and the liquor control board.

(b) The liquor control board shall consist of ~~three~~ five persons, not more than ~~two~~ three members of which shall belong to the same political party. Biennially, with the advice and consent of the senate, the governor shall appoint a person as a member of such board for ~~the term of six years a~~ staggered five-year term, whose term of office shall commence on February 1 of the year in which such appointment is made. The governor shall biennially designate a member of such board to be its chairman.

Sec. 2. TRANSITIONAL PROVISIONS

Of the two new member positions on the liquor control board, the governor shall appoint one member for a three-year term and one member for a five-year term.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee Vote: 8-0-0)

Rep. Acinapura of Brandon, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **General, Housing and Military Affairs**.

(Committee Vote: 10-0-1)

Amendment to be offered by Reps. Marcotte of Coventry, Scheuermann of Stowe, Condon of Colchester, Greshin of Warren, Howard of Cambridge, Ralston of Middlebury, Wilson of Manchester, and Young of Albany to H. 259

In Sec. 1, 7 V.S.A. § 101, in subsection (b), at the end of the first sentence before the period, by inserting "and at least one of whom shall be a licensee under this title"

NOTICE CALENDAR

Committee Bill for Second Reading

H. 448

An act relating to contributions to the state and municipal employees' retirement systems.

(**Rep. Atkins of Winooski** will speak for the Committee on **Government Operations**.)

Favorable

H. 442

An act relating to amending the charter of the city of Rutland

Rep. Townsend of Randolph, for the Committee on **Government Operations**, recommends the bill ought to pass.

(**Committee Vote: 10-0-1**)

Public Hearings

Thursday, April 7, 2011 - Room 11 - 6 - 8 PM - Senate Health and Welfare Committee - S. 57 Health Care Reform - Business and Provider Hearing