

House Calendar

Friday, March 23, 2012

81st DAY OF THE ADJOURNED SESSION

House Convenes at 9:00 A.M.

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ACTION CALENDAR

Third Reading

H. 613

An act relating to governance of the Community High School of Vermont

H. 778

An act relating to structured settlements

H. 779

An act relating to the water quality of state surface waters

H. 781

An act relating to making appropriations for the support of government

Amendment to be offered by Rep. Johnson of Canaan to H. 781

Rep. Johnson of Canaan moves that the bill be amended by adding a Sec. E.107 to read as follows:

Sec. E.107 REIMBURSEMENT FOR GRIEVANCE HEARING

EXPENDITURES

(a) A unified town or gore shall be entitled to claim reimbursement for expenditures incurred in conducting grievance hearings if:

- (1) the hearing was held between July 1, 2009 and February 23, 2011;
- (2) the expenditures related to hiring a person or persons to participate in the grievance hearing; and
- (3) the expenditures were necessary to comply with 32 V.S.A. § 4408.

(b) Claims shall be filed with the department of taxes within 60 days of the effective date of this act, with receipts or other documentation as the department may require.

Amendment to be offered by Rep. Clark of Vergennes to H. 781

Rep. Clark of Vergennes moves that the bill be amended by adding Secs. E.100.1, E.100.2, and E.100.3 to read as follows:

Sec. E.100.1 POSITION CREATION PROHIBITION

No new position in state government shall be created during any time when vacant state government positions exceed five percent or more of the total

number of positions.

Sec. E.100.2 32 V.S.A. § 306a is added to read:

§ 306a. POSITION EXPECTATION REPORT

Annually, at least one week prior to submission of the budget report required by section 306 of this title, the secretary of administration shall submit a position expectation report to the general assembly. The report shall include the secretary's expectations of the positions necessary for the operation of state government in the five succeeding fiscal years, and shall include those positions necessary to operate any future planned initiatives.

Sec. E.100.3 POSITION RESTRUCTURING; RETIRING PERSONNEL

The secretary of administration shall review vacancies caused by retiring personnel in order to identify opportunities for position restructuring or elimination, and shall report the results of this review to the general assembly on or before February 1, 2013 so that it may be considered for purposes of preparing the FY 2014 budget.

Amendment to be offered by Rep. Clark of Vergennes to H. 781

Rep. Clark of Vergennes moves that the bill be amended by adding Secs. E.100.1, E.100.2, and E.100.3 to read as follows:

Sec. E.100.1 GOVERNMENT SAVINGS INCENTIVE PROGRAM

(a) The secretary of administration shall establish a program of government improvement incentive contracts that would permit managers in state government to retain within their departments 30 percent of the savings they achieve if designated cost-savings goals were met. The program shall include the following components:

(1) a methodology for setting cost-savings targets applicable to different state agencies and departments;

(2) a process for determining whether the cost-savings targets have been attained;

(3) authority permitting a manager in a state agency or department to establish an internal management contract which permits the agency or department to retain 30 percent of the savings it achieves if the savings targets are attained, thereby creating built-in incentives to find savings in his or her own office and improve government efficiency;

(4) consideration of ways for managers to reward employees who successfully achieve cost-savings goals while continuing to satisfy policy requirements and meet the needs of Vermonters; and

(5) recommendations for any changes in law or rule necessary to create legal authority for the program.

(b) The secretary of administration shall report on progress made implementing the program required by this section to the house and senate committees on appropriations and on government operations on or before January 15, 2013.

Sec. E.100.2 STATE REGULATORY REQUIREMENTS WAIVER
PROGRAM

(a) The secretary of administration shall establish a regulatory bypass program that would permit state agencies to obtain waivers from certain regulatory requirements, provided that designated cost savings are achieved and the policy goals of the rules are met. The program shall include the following components:

(1) a methodology for setting cost-savings targets applicable to different state agencies and departments;

(2) a procedure for determining whether the cost-savings targets have been attained;

(3) a procedure permitting a state agency or department to apply for a waiver from specified regulatory requirements and permitting the application to be granted, and compliance with the requirements waived, if it is determined that the cost-savings targets were met and that the agency or department has presented a plan that achieves the same public policy benefits as the rule with less regulation and accomplishes the goals and purposes of the rule with an equal or better result;

(4) pilot projects or test cases providing regulatory bypasses in exchange for increased productivity in model areas where alternatives to rules may be used to achieve the same or improved policy benefits; and

(5) recommendations for any changes in law or rule necessary to create legal authority for the program.

(b) The secretary of administration shall report on progress made implementing the program required by this section to the house and senate committees on appropriations and on government operations on or before January 15, 2013.

Sec. E.100.3 CONSOLIDATION OF STATE INFORMATION
TECHNOLOGY PROGRAMS

On or before January 15, 2013, the secretary of administration and the

commissioner of finance and management shall submit a plan to the house and senate committees on appropriations and the joint legislative technology oversight committee to establish a unified funding mechanism for all state government information technology functions. The plan shall include the following components:

(1) a proposed method to consolidate the individual information technology budgets that are dispersed across each state agency and department into a single state government information technology financing system;

(2) a detailed description of the redundancies that could be eliminated and cost savings achieved by reducing the frequency with which multiple state government entities perform the same information technology duties and functions while preserving the resources to maintain a streamlined technological infrastructure at the most efficient cost to taxpayers; and

(3) a process to ensure that annual state government budgetary decisions and funding allocations for information technology are considered in a unified fashion rather than piecemeal for each agency or department, including provisions for ensuring a regular stream of funding by requiring each state agency and department to identify its information technology needs in its budget in a manner that may be tracked over time and considered in relation to the information technology needs of other state agencies and departments.

Amendment to be offered by Rep. Scheuermann of Stowe to H. 781

Rep. Scheuermann of Stowe moves that the bill be amended by striking Sec. E.700 in its entirety and inserting in lieu thereof the following:

Sec. E.700 3 V.S.A. § 2805 is amended to read:

§ 2805. ENVIRONMENTAL PERMIT FUND

(a) There is hereby established a special fund to be known as the environmental permit fund for the purpose of implementing the programs specified under the provisions of subsections 2822(i) and (j) of this title. Revenues to the fund shall be those. Within that fund there shall be two accounts: the environmental permit account and the air pollution control account. Unless otherwise specified, fees collected in accordance with subsections 2822(i) and (j) of this title, and 10 V.S.A. § 2625 and gifts and appropriations shall be deposited in the environmental permit account. The environmental permit account shall be used to implement the programs specified under section 2822 of this title. The secretary of natural resources shall be responsible for the fund and shall account for the revenues and expenditures of the agency of natural resources.

(b) Any fee required to be collected under subdivision 2822(j)(1) of this

title shall be utilized solely to cover all reasonable (direct or indirect) costs required to support the operating permit program authorized under 10 V.S.A. chapter 23 of Title 10. Any fee required to be collected under ~~subsections~~ subsection 2822(k), (l), or (m) of this title for air pollution control permits or registrations or motor vehicle registrations shall be utilized solely to cover all reasonable (direct or indirect) costs required to support the programs authorized under 10 V.S.A. chapter 23 of Title 10. Fees collected pursuant to subsections 2822(k), (l), and (m) of this title shall be used by the secretary to fund activities related to the secretary's hazardous or toxic contaminant monitoring programs and motor vehicle-related programs. The environmental permit fund shall be subject to the provisions of 32 V.S.A. chapter 7, subchapter 5 of chapter 7 of Title 32, except that any unencumbered environmental permit fund balance in excess of those fees collected under subdivision 2822(j)(1) and subsections (k), (l), and (m) of this title, and in excess of \$350,000.00 from those fees collected from environmental permit fund sources other than subdivision 2822(j)(1) and subsections (k), (l), and (m) at the close of a fiscal year shall revert to the general fund. The environmental permit fund shall be used to cover a portion of the costs of administering the environmental division established under 4 V.S.A. chapter 27 of Title 4. The amount of \$143,000.00 per fiscal year shall be disbursed for this purpose.

Action Postponed Until March 28, 2012

Committee Bill for Second Reading

H. 775

An act relating to allowed interest rates for installment loans.

(Rep. Ralston of Middlebury will speak for the Committee on Commerce and Economic Development.)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 782

An act relating to miscellaneous tax changes for 2012.

(Rep. Ancel of Calais will speak for the Committee on Ways and Means.)

Favorable with Amendment

H. 535

An act relating to racial disparities in the Vermont criminal justice system

Rep. Lippert of Hinesburg, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) In 2010, the United States Census counted a total Vermont population of 625,741, of which 95.3 percent were white, 1.0 percent African-American, 1.5 percent Hispanic/Latino, 1.3 percent Asian, 0.4 percent American Indian, 0.3 percent other and 1.7 percent reporting that they were of two or more undisclosed races.

(2) The Vermont Department of Corrections (DOC) reported in its *Facts and Figures: FY2010* that by November 2010, African-Americans made up 10.3 percent of Vermont inmates—more than ten times the rate that African-Americans appear in the general population of Vermont. In the same report, DOC reported that on June 1, 2001, 5.1 percent of Vermont inmates were identified as African-American. DOC data show that the percentage of African-Americans incarcerated in Vermont has been steadily increasing since 1993, far surpassing the growth rate for any other racial group.

(3) A 2003 study by the Vermont Center for Justice Research (“the Center”), *Exploring the Dynamics of Race and Crime Using Vermont NIBRS Data* by Bill Clements, using arrest data from 1993–2000, found that African-Americans experienced a significantly higher arrest rate than whites, Asians, or Native Americans. In that study, regression analysis suggested that as a result of race, African-American males were 1.5 times and African-American females were 2.6 times more likely to be arrested than their white counterparts.

(4) A 2007 Center study, *Felony Sentencing in Vermont: 2001–2006* by Robin Adler, found that nonwhite felony defendants were more likely to be sentenced to incarceration than white defendants even after controlling for all other variables.

(5) Discretionary decision-making by a variety of criminal justice professionals may result in racial disparities in criminal justice systems. In every step of the criminal justice process, persons exercise discretion, including:

- (A) the initial investigation by law enforcement;
 - (B) the decision to lodge or release on citation;
 - (C) the decision by prosecutors to file a particular charge;
 - (D) the prosecutor's bail recommendation;
 - (E) the judge's bail decision;
 - (F) the plea negotiation process;
 - (G) the defendant's decision whether to exercise the right to a trial by jury;
 - (H) the prosecutor's sentencing recommendation;
 - (I) the judge's sentencing decision as to a jail or probationary sentence;
 - (J) the department of corrections' programming decision, supervision practices, and its recommendation to release on parole; and
 - (K) the parole board's decision whether to grant parole.
- (6) Vermont has become, and will continue to become, more racially diverse.
- (7) Tolerance and concern for all people regardless of race, color, or national origin has long been part of the legacy of Vermont, the first state to prohibit slavery by constitutional protection and a leader in prohibiting discrimination in public accommodation, employment, banking and insurance, education, and housing.
- (8) It is critically important that officials from all three branches of government have access to the data and the analysis of that data to be able to investigate and assess the extent of racial and ethnic disparities in Vermont's criminal justice system. This assessment is necessary to identify practices of criminal justice professionals that have a disparate impact on racial and ethnic minorities, so that remedies can be fashioned to address such practices promptly and effectively.
- (9) The supreme court of Vermont, pursuant to its constitutional responsibilities, has adopted a Code of Conduct and Employee Discipline governing all employees of the judiciary, providing that behavior based on bias will not be condoned or tolerated.
- (10) The office of the state court administrator, through its comprehensive judicial education program for judicial officers and its educational programs for court managers and court staff, regularly conducts

and supports programs focused on diversity issues, implicit bias, cultural awareness, and the requirements of the relevant codes of conduct.

(11) The Uncommon Alliance of Chittenden County, which included members of the communities of color as well as representatives of the police departments of Burlington, South Burlington, Winooski, the University of Vermont, and Vermont civil rights organizations, are commended for their work, in particular, opening dialogue and initiating the voluntary collection and analysis of roadside-stop race data for the first time by law enforcement agencies in Vermont.

(12) The Vermont State Police are further commended for extending the voluntary collection and analysis of roadside-stop race data statewide.

Sec. 2. STUDY; APPROPRIATION

(a) Research regarding sentencing practices routinely concludes that two variables drive sentencing decisions—the seriousness of the offense and the defendant’s risk to reoffend. The Vermont Center for Justice Research (“the Center”) shall examine the effect of these and other variables, including the race of the defendant on sentencing decisions in Vermont for a five-year period. The Center shall use data from the Federal Bureau of Investigation Interstate Identification Index, department of motor vehicles, Vermont criminal information center, department of corrections, and the Vermont courts to explain if the disparities are based on legal or nonlegal factors. The Center’s research shall focus on the following:

(1) How do the sentences of people of particular census categories, in the aggregate and by national incident-based reporting system race data fields (NIBRS), which currently include white, black, Asian, Native American or Alaskan Native, and Hispanic, compare to the sentences of white defendants with respect to sentence type, length of sentence, and level of restriction?

(2) How does the actual time spent by people of particular census categories, in the aggregate and by NIBRS race data fields under department of corrections’ supervision (and the degree of restriction) compare to the time spent by (and the degree of restriction of) white defendants?

(3) If disparate sentencing patterns or disparate service patterns exist for people of particular census categories, in the aggregate and by NIBRS race data fields, what variables included in the study design explain the disparity?

(b) On or before December 15, 2012, results of the study shall be reported to the house and senate committees on judiciary, the court administrator, and to each organization or entity represented on the governor’s criminal justice cabinet.

(c) The general assembly appropriates \$20,000.00 to the Vermont Center for Justice Research to support this data collection, analysis, and report.

Sec. 3. 20 V.S.A. § 2366 is added to read:

§ 2366. LAW ENFORCEMENT AGENCIES; BIAS-FREE

POLICING POLICY; RACE DATA COLLECTION

(a) No later than January 1, 2013, every state, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall adopt a bias-free policing policy. The policy shall contain the essential elements of such a policy as determined by the Law Enforcement Advisory Board after its review of the current Vermont State Police Policy and the most current model policy issued by the office of the attorney general.

(b) The policy shall encourage ongoing bias-free law enforcement training for state, local, county, and municipal law enforcement agencies.

(c) State, local, county, and municipal law enforcement agencies that employ one or more certified law enforcement officers are encouraged to work with the Vermont association of chiefs of police to extend the collection of roadside-stop race data uniformly throughout state law enforcement agencies, with the goal of obtaining uniform roadside-stop race data for analysis.

Sec. 4. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS

* * *

(e) The council shall include, as part of the criteria for all minimum training standards under this section, anti-bias training approved by the Vermont criminal justice training council.

Sec. 5. 24 V.S.A. § 1939 is amended as follows:

§ 1939. LAW ENFORCEMENT ADVISORY BOARD

* * *

(e) The board shall examine how individuals make complaints to law enforcement and suggest, on or before December 15, 2012, to the senate and house committees on judiciary what procedures should exist to file a complaint with law enforcement and the human rights commission.

Sec. 6. CRIMINAL JUSTICE AGENCIES; BIAS-FREE CRIMINAL JUSTICE POLICY

The general assembly encourages all criminal justice entities through their

professional rules of conduct to ensure that all actions taken are done in a manner that is free of bias.

(Committee Vote: 9-2-0)

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 **Judiciary**.

(Committee Vote: 11-0-0)

H. 780

An act relating to compensation for certain state employees.

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

Rep. Winters of Williamstown, for the Committee on **Appropriations**, recommends the bill be amended as follows:

The Committee on Appropriations to which was referred House Bill No. 780 entitled “An act relating to compensation for certain state employees” respectfully reports that it has considered the same and recommends that the bill be amended by striking out Sec. 10 (pay act appropriations) in its entirety and inserting in lieu thereof the following:

Sec. 10. PAY ACT FUNDING

The compensation provided in this act shall be funded by appropriations made in H.781 of the 2011–2012 session of the general assembly in Sec. B.1200 for fiscal year 2013 and in Sec. BB.1200 for fiscal year 2014.

(Committee Vote 11-0-0)

Favorable

H. 774

An act relating to meat inspection, delivery of liquid fuels, dairy operations, and animal foot baths.

(**Rep. Zagar of Barnard** will speak for the Committee on **Agriculture**.)

Rep. Branagan of Georgia, for the Committee on **Ways and Means**, recommends the bill ought to pass.

(Committee Vote: 9-1-1)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of 3/22/2012.

H.C.R. 304

House concurrent resolution congratulating the 2012 Essex High School Division I and Northern Vermont Athletic Conference championship cheerleading team

H.C.R. 305

House concurrent resolution congratulating the Essex High School Hornets 2012 Division I championship girls' ice hockey team

H.C.R. 306

House concurrent resolution congratulating the Williamstown High School Blue Devils 2012 Division III championship boys' basketball team

H.C.R. 307

House concurrent resolution congratulating Sophia Hadeka of Fair Haven on being named Miss Vermont's Outstanding Teen 2011

H.C.R. 308

House concurrent resolution congratulating the Essex High School Hornets on winning the 2012 state gymnastics championship

H.C.R. 309

House concurrent resolution in memory of Alan D. Overton

H.C.R. 310

House concurrent resolution designating March 21 as Vermont Energy Independence Day

H.C.R. 311

House concurrent resolution congratulating the U-32 Raiders 2012 Lake Division championship boys' ice hockey team

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House concurrent resolution congratulating Middlebury Union Middle School students Ronan Howlett and Meigan Clark on their success at the 2012 Vermont Spelling Bee

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House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' basketball team

H.C.R. 315

House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I championship boys' Nordic skiing team

H.C.R. 316

House concurrent resolution congratulating the Mt. Mansfield Union High School Cougars 2012 Division I girls' alpine state championship team

H.C.R. 317

House concurrent resolution honoring the federal TRIO programs in Vermont

H.C.R. 318

House concurrent resolution congratulating Vermont Railway on its selection as the 2012 Shortline Railroad of the Year

Information Notice

**House Appropriations Committee
Members' amendments to Fiscal Year 2013
Proposed Omnibus Appropriations Bill (H.781)**

The House Appropriations Committee requests all members of the House, who intend to introduce amendments to the proposed FY 2013 omnibus appropriations bill (H.781), to meet with the committee in room 42 at 8:30 a.m. on either Thursday, March 22, before 2nd reading, OR Friday, March 23, before 3rd reading. If possible, please schedule a time with Theresa Utton-Jerman (828-5767, Room: 40 or tutton@leg.state.vt.us) to meet with the Committee.

**SENATE APPROPRIATIONS COMMITTEE
FY 2013 Budget
ADVOCATES TESTIMONY**

On **Monday, March 26** beginning at **1:30 pm**, the Senate Appropriations Committee will be taking testimony from advocates regarding the Fiscal Year 2013 Budget (H.781) in Room 11 of the State House. To schedule time before the Committee contact Becky Buck at the Legislative Joint Fiscal Office located at 1 Baldwin Street (phone: 828-5969).