

# House Calendar

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Friday, April 06, 2012

95th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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**ACTION CALENDAR**

**Action Postponed Until April 6, 2012**

**Senate Proposal of Amendment**

**H. 634**

An act relating to remedies for failure to pay municipal tickets

The Senate proposes to the House to amend the bill as follows:

By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on July 1, 2012.

(b) Sec. 2 of this act and this section shall take effect on passage.

(For text see House Journal 2/21/2012 )

**NEW BUSINESS**

**Third Reading**

**H. 789**

An act relating to reapportioning the final representative districts of the House of Representatives

**Amendment to be offered by Rep. Pearson of Burlington to H. 789**

Rep. Pearson of Burlington moves that the bill be amended by adding three new sections to be Secs. 3, 4, 5, and 6 to read:

Sec. 3. 17 V.S.A. § 1906 is amended to read:

§ 1906. INITIAL DISTRICTS; ~~FINAL PROPOSAL~~; FINAL PLAN

~~Upon receiving recommendations made under section 1905 of this title, the board shall consider the same, and shall, not later than August 15, prepare a final proposal for dividing the state into initial districts for the election of 150 representatives. The chair of the board shall, on or before August 15, transmit such proposal to the clerk of the house, and the proposal shall then be referred to the appropriate committee. The general assembly shall then accept the proposal and enact it into law or substitute another plan for reapportionment; provided, however, that a final plan for the reapportionment of initial districts provided that the plan is:~~

(1) ~~The plan for initial districts finally approved shall be~~ in conformity with the provisions of this chapter; and

(2) ~~Be~~ duly enacted during the said biennial legislative session.

Sec. 4. 17 V.S.A. § 1906b is amended to read:

§ 1906b. DIVISION OF TWO-MEMBER REPRESENTATIVE DISTRICTS

(a) An initial district entitled to two representatives under section 1893 of this title may be divided into single-member representative districts as provided in this section.

(b) As soon as practical after enactment of a final plan for initial districts under section 1906 of this title, ~~the boards of civil authority of the town or towns which constitute 25 percent or more of the population of the initial district may call a meeting of the boards of civil authority of the town or towns of the initial district for the purpose of preparing a proposal for division of the district. Each board shall have one vote, provided that the proposal shall not provide for a representative district line to be drawn through a town if the board of civil authority of that town objects~~ general assembly may take comments from municipalities within any two-member initial district on whether to further subdivide the district. The general assembly may subdivide the district at its discretion.

(c) In making a ~~proposal~~ subdivision under this section, ~~the boards of civil authority~~ general assembly shall consider

(1) preservation of existing political subdivision lines;

(2) recognition and maintenance of patterns of geography, social interaction, trade, political ties, and common interests;

(3) use of compact and contiguous territory;

(4) incumbencies.

(d) In no initial district divided under this section shall the percentage of deviation result in a representative district which extends the limits of the overall range of the percentage of deviation in the initial district plan for reapportionment enacted by the general assembly under section 1906 of this title.

(e) ~~On or before April 1 of the year of the general election next after enactment of the final plan under section 1906 of this title, the boards of civil authority of the town or towns within each initial district proposing division under this section shall present a proposal for division to the clerk of the house, and the proposal shall be referred to the appropriate committee. If the boards of civil authority desire to divide the initial district but are unable to obtain a~~

~~majority vote on a proposed division, they may notify the clerk of the house on or before April 1 of their failure to agree on a proposal and request that the general assembly divide the initial district, and the general assembly may divide the initial district into single member representative districts.~~  
[Repealed.]

~~(f) Representative districts proposed under this section shall become effective when approved by the general assembly before adjournment sine die. The general assembly shall approve representative districts proposed by the boards of civil authority if they are consistent with the standards set forth in this section.~~

Sec. 5. 17 V.S.A. § 1906c is amended to read:

§ 1906c. DIVISION OF DISTRICTS HAVING THREE OR MORE REPRESENTATIVES

(a) An initial district entitled to three or more representatives under section 1893 of this title shall be divided into single- and two-member representative districts as provided in this section.

(b) As soon as practical after enactment of a final plan for initial districts under section 1906 of this title, ~~the boards of civil authority of the town or towns within an initial district having three or more representatives shall meet and prepare a proposal for division of the district. Each board shall have one vote, provided that the proposal shall not provide for a representative district line to be drawn through a town if the board of civil authority of that town objects~~ general assembly may take comments from municipalities within any initial district entitled to three or more representatives on the manner in which to further subdivide the district. The general assembly shall subdivide the district at its discretion.

(c) In making a ~~proposal~~ subdivision under this section, ~~the boards of civil authority~~ general assembly shall consider:

- (1) preservation of existing political subdivision lines;
- (2) recognition and maintenance of patterns of geography, social interaction, trade, political ties, and common interests;
- (3) use of compact and contiguous territory;
- (4) incumbencies.

(d) In no initial district divided under this section shall the percentage of deviation result in a representative district which extends the limits of the overall range of the percentage of deviation in the initial district plan for

reapportionment enacted by the general assembly under section 1906 of this title.

~~(e) On or before April 1 of the year of the general election next after enactment of the final plan under section 1906 of this title, the boards of civil authority of the town or towns within each initial district subject to this section shall present a proposal for division to the clerk of the house, and the proposal shall be referred to the appropriate committee. If the boards of civil authority are unable to obtain a majority vote on a proposed division, they shall notify the clerk of the house, on or before April 1, of their failure to agree on a proposal, and the general assembly shall divide the initial district into representative districts. [Repealed.]~~

~~(f) Representative districts proposed under this section shall become effective when approved by the general assembly before adjournment sine die. The general assembly shall approve representative districts proposed by the boards of civil authority if they are consistent with the standards set forth in this section.~~

#### Sec. 6. REPEAL

17 V.S.A. §§ 1904 (legislative apportionment board) and 1908 (powers of board) are repealed.

and by renumbering the remaining sections to be numerically correct.

#### **S. 122**

An act relating to human trafficking and prostitution

#### **S. 181**

An act relating to school resource officers

#### **Favorable with Amendment**

#### **S. 179**

An act relating to amending perpetual conservation easements

**Rep. Ellis of Waterbury**, for the Committee on **Natural Resources and Energy**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 3, 10 V.S.A. § 6307 (enforcement), by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) Conservation rights. The holder of conservation rights and interests may seek injunctive relief and damages against any person who damages the holder's rights and interests, irrespective of whether the owner of the land is a

party to the proceeding. This subsection shall not affect any right of the owner of the land to join or intervene in any proceeding.

Second: By striking Sec. 8 (property transfer return) in its entirety and inserting in lieu thereof the following: “Sec. 8. [Deleted.]”

Third: By striking Sec. 9 (working group) in its entirety and inserting in lieu thereof a new Sec. 9 to read:

#### Sec. 9. WORKING GROUP ON CONSERVATION EASEMENTS

(a) Creation of working group. There is created a working group on perpetual conservation easements to study the issues relating to the creation of a formal and transparent public process for the amendment of perpetual conservation easements, the criteria for approving such amendments, and the entity most appropriate to review and approve such amendments.

(b) Membership. The conservation easements working group (the working group) shall be composed of the following members:

(1) The secretary of agriculture, food and markets or designee.

(2) A representative of the Vermont housing and conservation board, designated by the board.

(3) The commissioner of forests, parks and recreation or designee.

(4) One member of the legal staff in the Vermont office of the attorney general, designated by the attorney general.

(5) A representative of Vermont Land Trust, designated by its board.

(6) A representative of Upper Valley Land Trust, designated by its board.

(7) A representative of the Vermont Federation of Sportsmen’s Clubs, designated by its board.

(8) A representative of the Vermont Green Mountain Club, designated by its board.

(9) A representative of the Vermont chapter of The Nature Conservancy, designated by its director.

(10) A representative of a regional or local land trust in Vermont, appointed by the governor.

(11) An attorney licensed in Vermont and practicing in or knowledgeable about both federal tax law and real estate law, including land conservation, appointed by the Vermont Bar Association.

(12) A representative from a farming organization who is knowledgeable about agricultural conservation, appointed by the governor.

(13) A representative of the Vermont Association of Snow Travelers, designated by its board;

(14) A Vermont landowner owning land subject to a conservation easement, appointed by the governor.

(15) A representative of the Vermont natural resources board, appointed by the board.

(c) Structure; decision-making. The working group shall elect a chair from its membership. The provisions of 1 V.S.A. § 172 (joint authority to three or more) shall apply to the meetings and decision-making of the working group.

(d) Issues. The working group shall:

(1) Investigate the options for approval of conservation easement amendments contained in S.179 and H.553 of 2012, as introduced, and during the course of consideration of those bills in the relevant standing committees of the general assembly, including the following options:

(A) creating an easement amendment panel within the natural resources board to provide administrative oversight and approval for the amendment of conservation easements;

(B) requiring the housing and conservation board, in conjunction with the agency of agriculture, food and markets, to provide administrative oversight and approval for the amendment of conservation easement amendments;

(C) requiring all qualified holders to individually run a transparent public process for the approval of conservation easement amendments and to issue a written decision. Under this option, the working group should consider whether the decision should be revocable or appealable, and if so, by whom;

(D) requiring all qualified holders to get court approval for amendments that may have a significant effect on the conservation values protected by the easement.

(2) Investigate any other options for conservation easement amendment approval that the working group believes are relevant.

(3) Consider any other issues it identifies as relevant to the amendment of perpetual conservation easements.

(4) Develop a proposal setting out a transparent process or processes for the amendment of perpetual conservation easements held by land trusts, state



agencies, and other entities qualified to hold perpetual conservation easements in Vermont.

(5) Develop proposed statutory provisions setting out criteria to be used by an administrative body, a court, or an easement holder in approving proposed amendments to perpetual conservation easements, which will ensure that conservation values protected by easement are protected in perpetuity, and that conservation easement holders in Vermont are in compliance with federal law.

(6) Study the issue and make recommendations as to whether conservation rights and interests should be excluded from the requirements of 27 V.S.A. § 603 concerning the re-recording of interests in land within a 40-year period.

(7) Investigate whether there is an existing online or other database appropriate for the storage of information about conservation easements alongside other information relevant to a specific property or parcel of land. This database should be available to an individual completing a title search.

(e) Report. On or before January 15, 2013, the working group shall submit to the general assembly its findings, recommendations, and proposed statutory revisions regarding the issues identified in subsection (d) of this section. This report shall be distributed to the house and senate committees on agriculture and on natural resources and energy.

(f) Assistance. For the purpose of its study of the issues identified in subsection (d) of this section and the preparation of its recommendations pursuant to subsection (e) of this section, the working group shall have the administrative and technical assistance of the housing and conservation board.

(g) Meetings. The member from the housing and conservation board shall convene the first meeting of the working group no later than July 15, 2012.

(h) Appointments. Within 30 days of the effective date of this section, each entity required to submit a list of names to the governor pursuant to subsection (b) of this section shall make such submission. Within 60 days of this section's effective date, the appointing or designating authority shall appoint or designate each member of the working group under subsection (b) of this section and shall report the member so appointed or designated to the housing and conservation board.

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

**(For text see Senate Journal 3/23/2012 )**

**NOTICE CALENDAR**  
**Committee Bill for Second Reading**  
**H. 791**

An act relating to tax expenditures for nonprofits, charitable organizations, and miscellaneous tax expenditures, as presented in the tax expenditure budget for 2012.

(Rep. Clarkson of Woodstock will speak for the Committee on Ways and Means.)

**Favorable with Amendment**

**H. 679**

An act relating to creating a uniform generation tax for renewable energy plants

**Rep. Cheney of Norwich**, for the Committee on **Natural Resources and Energy**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. chapter 215 is added to read:

CHAPTER 215. RENEWABLE ENERGY

§ 8701. UNIFORM CAPACITY TAX

(a) For the purpose of this section, the terms “kW,” “plant,” “plant capacity,” and “renewable energy” shall be as defined in 30 V.S.A. § 8002.

(b) There is assessed on any renewable energy plant in Vermont generating electricity by use of solar power an annual tax of \$4.00 per kW plant capacity. The tax shall be paid to the department of taxes no later than April 15 of each year, for energy generated in the preceding year, and accompanied by a return with such information as the department of taxes may require. The department of taxes shall deposit the taxes collected under this section into the education fund. The department of taxes may adopt procedures and rules necessary to implement the tax in this section.

(c) A renewable energy plant that generates electricity from solar power shall be exempt from taxation under this section if it has a plant capacity equal to or less than 10 kW.

Sec. 2. 32 V.S.A. § 3802(17) is added to read:

(17) Real and personal property composing a renewable energy plant generating electricity from solar power, if the plant is exempt from taxation under chapter 215 of this title.

Sec. 3. 32 V.S.A. § 5401(10)(J) is amended to read:

(J) Buildings and fixtures of:

(i) wind-powered electric generating facilities taxed under section 5402c of this title; and

(ii) renewable energy plants generating electricity from solar power that are taxed under section 8701 of this title.

Sec. 4. PROSPECTIVE REPEAL; REPORT

32 V.S.A. §§ 8701(c) and 3802(17) (exemptions for small renewable energy plants) shall be repealed on January 1, 2023. By January 15, 2021, the department of taxes shall report to the senate committees on finance and on natural resources and energy, and the house committees on ways and means and on natural resources and energy with a recommendation on whether the exemptions in 32 V.S.A. §§ 8701(c) and 3802(17) should be retained or allowed to be repealed.

Sec. 5. 32 V.S.A. § 5402c(a) is amended to read:

(a) A facility certified by the commissioner of public service as a facility which produces electrical energy for resale, generated solely from wind power, which has an installed capacity of at least ~~five megawatts~~ one megawatt, which was placed in service after January 1, 2007, and which holds a valid certificate of public good issued under 30 V.S.A. § 248, shall be assessed an alternative education property tax on its buildings and fixtures used directly and exclusively in the generation of electrical energy from wind power.

Sec. 6. 32 V.S.A. § 3101 is amended to read:

§ 3101. POWERS AND DUTIES OF COMMISSIONER

(a) The department of taxes shall be administered by a commissioner of taxes.

(b) The commissioner shall:

\* \* \*

(11) from time to time prepare and publish statistics reasonably available with respect to the operation of this title including amounts collected, classification of taxpayers, tax liabilities and such other facts as the commissioner or the general assembly considers pertinent;

(12) ~~{Repealed.}~~

(13) from time to time provide municipalities with recommended methods for determining, for municipal tax purposes, the fair market value of

renewable energy plants that are subject to taxation under section 8701 of this title.

Sec. 7. EFFECTIVE DATE

This act shall take effect on January 1, 2013.

( **Committee Vote: 11-0-0**)

**Rep. Greshin of Warren**, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Natural Resources and Energy** and when further amended as follows:

The Committee on Ways and Means to which was referred House Bill No. 679 entitled "An act relating to creating a uniform generation tax for renewable energy plants" respectfully reports that it has considered the same and recommends that the bill as amended by the report of the Committee on Natural Resources and Energy be further amended as follows:

First: In Sec. 1, in 32 V.S.A. § 8701, in subsection (b), after "Vermont" by striking the words "generating electricity by use of" and inserting in lieu thereof "commissioned to generate", and after "no later than April 15 of each year" by striking ", for energy generated in the preceding year."

Second: In Sec. 4 (prospective repeal; report), after "allowed to be repealed" by inserting the words "and, whether the rate of tax in 32 V.S.A. § 8701(b) should be altered"

and that after passage the title of the bill be amended to read: "An act relating to creating a uniform capacity tax for solar renewable energy plants"

( **Committee Vote: 11-0-0**)

**H. 757**

An act relating to a temporary moratorium on the enforcement of the sales tax on prewritten software that is accessed remotely

**Rep. Ram of Burlington**, for the Committee on **Ways and Means**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SALES TAX ON PREWRITTEN SOFTWARE ACCESSED  
REMOTELY

Taxes paid on charges for remotely accessed software made after December 31, 2006 but before July 1, 2012 shall be refunded upon request if documented to the satisfaction of the commissioner of taxes. "Charges for

remotely accessed software” means charges for the right to access and use prewritten software run on underlying infrastructure that is not managed or controlled by the consumer or a related company. Enforcement of the sales and use tax imposed on the purchase of specified digital products pursuant to 32 V.S.A. § 9771(8) is not affected by this section.

Sec. 2. 32 V.S.A. § 9701(7) is amended to read:

(7) Tangible personal property: means personal property which may be seen, weighed, measured, felt, touched or in any other manner perceived by the senses. “Tangible personal property” includes electricity, water, gas, steam, and prewritten computer software, regardless of how accessed.

Sec. 3. STUDY COMMITTEE ON SOFTWARE DEVELOPMENT

(a) Creation of committee. There is created a study committee to examine how current policies affect the software development industry in Vermont, and how to encourage future growth of the software development industry in Vermont.

(b) Membership. The committee shall be composed of eleven members. Four members of the committee shall be members of the general assembly. The committee on committees of the senate shall appoint two members of the senate; and the speaker of the house shall appoint two members of the house. Seven members of the committee shall be as follows:

(1) the commissioner of taxes or his or her designee;

(2) the secretary of the agency of commerce and community development or his or her designee;

(3) the commissioner of the department of public service or his or her designee;

(4) two members of the software development community, one appointed by the president pro tempore of the senate and one appointed by the speaker of the house;

(5) two members representing consumers of software and software services, one appointed by the president pro tempore of the senate and one appointed by the speaker of the house.

(c) Powers and duties.

(1) The committee shall study how current policies affect the software development industry in Vermont, including current policies for tax incentives, job incentives, the development of technology infrastructure, and the commitment of educational resources to technology development.

(2) The committee shall study future policies to encourage the growth of the software development industry in Vermont, including continuing improvements to the physical and technology infrastructure of the state, and the development of education and training opportunities, and tax and employment incentives. The committee shall consider whether tax incentives or economic incentives would be better at encouraging the growth of the software development industry in Vermont.

(3) For purposes of its study of these issues, the committee shall have the assistance of the joint fiscal office, the office of legislative council, the agency of commerce and community development, the department of taxes, the department of public service, and any other executive agency with relevant information or expertise.

(d) Report. By January 15, 2013, the committee shall report its findings and any recommendations for legislative action to the senate committee on finance, senate committee on economic development, housing, and general affairs, house committee on ways and means, and house committee on commerce and economic development.

(e) For attendance at meetings during adjournment of the general assembly, legislative members of the committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010.

#### Sec. 4. EFFECTIVE DATES

This act shall take effect on passage, except for Sec. 2 (definition of tangible personal property), which shall take effect on July 1, 2012.

and that after passage the title of the bill be amended to read: “An act relating to the sales and use tax on prewritten software”

**( Committee Vote: 7-3-1)**

#### **S. 116**

An act relating to probate proceedings

**Rep. Koch of Barre Town**, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 4(e) of the Vermont Rules of Probate Procedure is amended to read:

(e) Service by publication. When service by publication is required by this rule or by order of the court, the person directed by the court shall cause the

substance of the notice prescribed by subdivision (a) of this rule, and a brief statement of the object of the petition, to be published ~~once a week for two successive weeks and at least seven days apart~~ in a designated newspaper of general circulation in the probate district where the petition was filed, or such other location as the court may direct. The ~~first~~ publication of the notice shall be made within 20 days after the petition is filed or the order is granted. Service by publication is complete on the day of ~~the last~~ publication.

Sec. 2. Rule 17 of the Vermont Rules of Probate Procedure is amended to read:

#### Rule 17. PARTIES GENERALLY

(a) Parties at commencement. At the commencement of a probate proceeding all interested persons shall be considered parties and shall be served with notice pursuant to Rule 4.

(1)(A) Decedent's estates. At commencement of a probate proceeding involving a decedent's estate, the term "interested person" includes heirs, devisees, legatees, children, spouses, and such other persons as the court directs. The term "interested person" also includes the trustees of any trusts to which assets of the decedent's estate may be distributed. Notice to a trustee shall be sufficient to notify the trust's beneficiaries. It also includes persons having priority for appointment as executor or administrator, and other fiduciaries representing interested persons.

(B) The court, on motion, may order that an interested party need not be served with notice pursuant to Rule 4:

(i) if after due diligence the interested party cannot be located; or

(ii) for other good cause shown if the court finds that not providing such notice serves the interests of justice and the efficient administration of the estate.

\* \* \*

Sec. 3. 14 V.S.A. § 3504 is amended to read:

#### § 3504. SCOPE OF AUTHORITY

(a)(1) The agent shall have the authority to act on the principal's behalf as to all lawful subjects and purposes, but only to the extent such authority is given under the terms of the power of attorney, subject to section 3506 of this title and subsections (b) through (g) of this section.

(2) A general power of attorney created under this subchapter shall be construed to grant powers that are not expressly delineated in the terms of the power of attorney if it appears from the relevant facts and circumstances that

the principal intended the agent to have general authority to act on the principal's behalf with respect to all lawful subjects and purposes. The specific inclusion or exclusion of one or more powers shall not, by itself, prevent a determination that the principal intended to grant general authority to the agent.

\* \* \*

Sec. 4. 14 V.S.A. § 3516 is amended to read:

§ 3516. EFFECTIVE DATE; EFFECT ON EXISTING POWERS OF  
ATTORNEY

(a) A power of attorney shall be valid if it:

- (1) complies with the terms of this subchapter; or
- (2) is executed before July 1, 2002 and valid under common law or statute existing at the time of execution.

(b) If a power of attorney executed before July 1, 2002 was valid under common law or statute existing at the time of execution, any exercise of authority under the power of attorney, whether before or after July 1, 2002, shall be deemed valid if the exercise complies with common law or statute existing at the time of execution.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee vote: 11-0-0 )**

**(For text see Senate Journal 2/21/2012 )**

**S. 238**

An act relating to expanding access to driving privileges in Vermont

**Rep. Burke of Brattleboro**, for the Committee on **Transportation**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, in subsection (b), by striking the word "seven"

Second: In Sec. 1, in subsection (b), by adding two new subdivisions to be subdivisions (8) and (9) to read:

(8) One member appointed by the Addison County Economic Development Corporation.

(9) One member appointed by the Vermont Farm Bureau.



Third: In Sec. 1, in subdivision (c)(1), by striking the words “to recommend legislation that will” and inserting in lieu thereof the words “and may recommend legislation that would”

and that after passage the title of the bill be amended to read: “An act relating to a study on access to driving privileges to Vermont”

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

**(For text see Senate Journal 3/23/2012 )**

**Favorable**

**H. 784**

An act relating to approval of the adoption and codification of the charter of the town of Williamstown

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

**( Committee Vote: 8-0-3)**

**H. 786**

An act relating to approval of amendments to the charter of the town of Windsor

**Rep. Devereux of Mount Holly**, for the Committee on **Government Operations**, recommends the bill ought to pass.

**( Committee Vote: 8-0-3)**

**H. 788**

An act relating to approval of amendments to the charter of the town of Richmond

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

**( Committee Vote: 8-0-3)**

**Senate Proposal of Amendment**

**H. 449**

An act relating to the designation of brook trout and walleye pike as the state fish of Vermont

The Senate proposes to the House to amend the bill as follows:

In Sec. 1, by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4) the original designation of these two fish was championed by the students of Cornwall Elementary School, whose efforts resulted in a Joint Resolution, approved by the General Assembly on May 3, 1978 (J.R.S. 41), designating the two state fish.

(For text see House Journal 1/26/2012 )

### H. 503

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2 V.S.A. § 64 is amended to read:

§ 64. EMPLOYMENT OF ASSISTANTS; ~~TRAFFIC CONTROL~~; CAPITOL POLICE; TRAINING; UNIFORMS AND EQUIPMENT

\* \* \*

~~(c) The sergeant at arms may employ a traffic control officer whose duties shall include, but not be limited to, overseeing necessary security measures and the control of traffic about the capitol building. The traffic control officer shall be an exempt state employee. The sergeant at arms with the approval of the joint rules committee shall fix the terms and compensation of the traffic control officer, who shall be entitled to receive the same annual salary adjustments available to classified employees in comparable salary ranges. At state expense and with the approval of the sergeant at arms, the traffic control officer and capitol police officers shall be provided with training, and furnished uniforms and equipment necessary in the performance of their duties, and such items shall remain the property of the state.~~

Sec. 2. 2 V.S.A. § 70 is amended to read:

§ 70. CAPITOL POLICE DEPARTMENT

(a) Creation. A capitol police department is created within the office of the sergeant at arms. The sergeant at arms shall appoint and may remove, at his or her pleasure, individuals as capitol police officers, one of whom shall be appointed to serve as chief. All such positions shall be exempt state employees. ~~The traffic control officer and any other employee of the sergeant at arms may, in addition to other positions and duties, be appointed as a capitol police officer.~~ The chief shall supervise the officer force under the direction of the sergeant at arms. Such appointments and all oaths or affirmations shall be in writing and filed with the sergeant at arms. An officer shall also serve as a deputy sergeant at arms and as a notary public pursuant to 24 V.S.A. § 442.

(b) Powers; training.

(1) Capitol police officers shall have all the same powers and authority as sheriffs and other law enforcement officers anywhere in the state, which shall include the authority to arrest persons and enforce the civil and criminal laws, keep the peace, provide security, and to serve civil and criminal process. For this purpose, capitol police officers shall subscribe to the same oaths required for sheriffs.

~~(2) Capitol police officers who are not certified in either the full time or part time certification program of the Vermont criminal justice training council (VCJTC) shall meet qualification and certification standards prescribed by the sergeant at arms in consultation with the executive director of the VCJTC. In setting the standards, the sergeant at arms shall consider the part time certification program provided to other law enforcement officers by the VCJTC.~~

~~(3) As an alternative, in the sole discretion of the sergeant at arms, capitol police officers shall be certified pursuant to the part time certification program of the VCJTC.~~

~~(4) The VCJTC shall make training available to capitol police officers at no expense to the sergeant at arms, and the VCJTC shall certify those officers as capitol police officers if they meet the certification standards set by the sergeant at arms, or as a regular law enforcement officer if the requirements of the part time certification program are met, regardless of the number of hours or weeks worked by the capitol police officer.~~

~~(5) Notwithstanding any other provision of law to the contrary, a capitol police officer shall be a law enforcement officer as if certified by the Vermont criminal justice training council pursuant to the provisions of 20 V.S.A. chapter 151 of Title 20.~~

(c) Coordination of capitol complex security: The capitol police department shall coordinate security within the state house and assist the commissioner of buildings and general services in providing security and law enforcement services within the capitol complex, as delineated in a memorandum of understanding signed by the commissioner and the sergeant at arms no later than June 30, 2000, and as subsequently amended. In all other areas of the capitol complex, except the space occupied by the supreme court, the security, control of traffic, and coordination of law enforcement activity shall be under the direction of the commissioner of buildings and general services, with which the capitol police department may assist.

Sec. 3. 20 V.S.A. § 2351 is amended to read:

§ 2351. PURPOSE; DEFINITION

In order to promote and protect the health, safety, and welfare of the public, it is in the public interest to provide for the creation of “the Vermont criminal justice training council.” The council is created to encourage and assist municipalities, counties, and governmental agencies of this state in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of recruit and in-service training for law enforcement officers, including members of the department of public safety, capitol police officers, municipal police officers, constables, ~~corrections~~ correctional officers, prosecuting personnel, motor vehicle inspectors, state investigators employed on a full-time basis by the attorney general, fish and game wardens, sheriffs and their deputies who exercise law enforcement powers pursuant to the provisions of ~~sections 311 and 307(a) of Title 24 V.S.A. §§ 307 and 311~~, and railroad police commissioned pursuant to ~~30 V.S.A. chapter 45, subchapter 8~~ 5 V.S.A. chapter 68, subchapter 8. The council shall offer continuing programs of instruction in up-to-date methods of law enforcement and the administration of criminal justice. It is the responsibility of the council to encourage the participation of local governmental units in the program and to aid in the establishment of adequate training facilities.

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

§ 2358. MINIMUM TRAINING STANDARDS

(a) Unless waived by the council under standards adopted by rule, and notwithstanding any statute or charter to the contrary, no person shall exercise law enforcement authority:

(1) as a part-time law enforcement officer without completing a basic training course within a time prescribed by rule of the council; or

(2) as a full-time law enforcement officer without either:

(A) completing a basic training course in the time and manner prescribed by the council; or

(B) having received, before July 1, 1968, permanent full-time appointment as a law enforcement officer, and completing a basic training course before July 1, 1982.

(3) as a full or part-time law enforcement officer without completing annual in-service training requirements as prescribed by the council.

(b) All programs required by this section shall be approved by the council. Completion of a program shall be established by a certificate to that effect signed by the executive director of the council.

(c) For the purposes of this section:

(1) "Law enforcement officer" means a member of the department of public safety who exercises law enforcement powers, a member of the state police, a capitol police officer, a municipal police officer, a constable who exercises law enforcement powers, a motor vehicle inspector, an employee of the department of liquor control who exercises law enforcement powers, an investigator employed by the secretary of state, board of medical practice investigators employed by the department of health, attorney general, or a state's attorney, a fish and game warden, a sheriff, or deputy sheriff who exercises law enforcement powers, or a railroad police officer commissioned pursuant to ~~30 V.S.A. chapter 45, subchapter 8~~ 5 V.S.A. chapter 68, subchapter 8.

(2) "Full-time law enforcement officer" means a law enforcement officer with duties of a predictable and continuing nature which require more than 32 hours per week and more than 25 weeks per year.

(3) "Part-time law enforcement officer" means a law enforcement officer who is not employed full time.

(d) The council may determine whether a particular position is full-time or part-time. Any requirements in this section shall be optional for any elected official.

Sec. 5. Sec. 13 of No. 195 of the 2007 Adj. Sess. (2008), as amended by Sec. 11 of No. 108 of the Acts of the 2009 Adj. Sess. (2010), is amended to read:

Sec. 13. EFFECTIVE DATE

Secs. 8 and 9 of this act shall take effect on ~~July 1, 2012~~ July 1, 2013.

Sec. 6. REPORT

On or before December 15, 2012, the law enforcement advisory board, in consultation with the criminal justice training council, shall report to the senate and house committees on judiciary and on government operations recommendations for how constables may be certified as law enforcement officers as required by Sec. 5 of this act. The report shall include recommendations for how constables may complete the program's field training officer program.

Sec. 7. INTERIM STUDY OF LEGISLATIVE PARKING

(a) Creation of committee. There is created an interim study of legislative parking to study the issue of parking space availability as it affects members of the general assembly.

(b) Membership. The study shall be conducted by the sergeant at arms, the commissioner of buildings and general services, and the operations manager of the legislative council in consultation with members of senate and house leadership.

(c) Powers and duties. The study shall:

(1) evaluate the available parking spaces available within and around the capitol complex and, in particular, the parking spaces available for members of the general assembly;

(2) survey members of the 2011–2012 general assembly on whether there should be assigned parking spaces and, if so, the best manner in making those assignments;

(3) consider whether it is feasible to reserve 180 parking spaces for the exclusive use of members of the general assembly, taking into consideration:

(A) how those parking spaces would be allotted, such as by lottery or by seniority;

(B) the preservation of parking spaces for members who are reelected to the 2013–2014 general assembly and who currently have a parking space reserved due to having a special need, holding a leadership position, or for other circumstances; and

(C) the impact the reservations would have upon the remaining spaces currently available for capitol police, legislative staff, and others.

(d) Report. By January 15, 2013, the committee shall report to the general assembly its findings and any recommendations for change from current practice.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(No House Amendments )

**Ordered to Lie**

**H. 775**

An act relating to allowed interest rates for installment loans.

Pending Action: Second Reading of the bill.

## **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 4/5/2012.

#### **H.C.R. 328**

House concurrent resolution congratulating the Oxbow Union High School Olympians 2012 Division III championship girls' basketball team

#### **H.C.R. 329**

House concurrent resolution honoring Diana Pfenning for her outstanding leadership of the Tapestry Program of Rutland County

#### **H.C.R. 330**

House concurrent resolution congratulating the 2012 Mount St. Joseph Academy Mounties Division II championship boys' basketball team

#### **H.C.R. 331**

House concurrent resolution congratulating Kevin Wang on winning a 2012 Siemens Award for Advanced Placement excellence in science and mathematics

#### **H.C.R. 332**

House concurrent resolution congratulating the Hartford High School Hurricanes 2012 Division II championship girls' basketball team

#### **H.C.R. 333**

House concurrent resolution joyfully extending birthday wishes to the grande dame of Montpelier, Lola Aiken, who turns 100 on June 24, 2012

#### **H.C.R. 334**

House concurrent resolution recognizing Boseung Halliwell, PMHNP, for her efforts to improve the quality of health care delivery in Lamoille County

#### **H.C.R. 335**

House concurrent resolution congratulating the 2012 Proctor High School Phantoms Division IV championship girls' basketball team

**H.C.R. 336**

House concurrent resolution congratulating the Rice Memorial High School 2012 Division I championship girls' basketball team

**S.C.R. 41**

Senate concurrent resolution honoring Richard Strong for his more than half-century of municipal public service in the village of Ludlow

**S.C.R. 42**

Senate concurrent resolution congratulating Lyndon Rescue, Inc. on its 40th anniversary

**Public Hearings**

April 12, 2012 - 6:30-8:30 PM - H. 722 Labeling of Food Produced with Genetic Engineering - House Agriculture Committee

April 11, 2012 - Room 10 - 9:00-12:00 - Increasing the Price of Milk Paid to Vermont Dairy Farmers - Senate Agriculture Committee