

# House Calendar

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Wednesday, February 06, 2013

29th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 p.m.

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**ACTION CALENDAR**

**Favorable with Amendment**

**H. 51**

An act relating to payment of workers' compensation benefits by electronic payroll card

**Rep. Marcotte of Coventry**, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 618 is amended to read:

§ 618. COMPENSATION FOR PERSONAL INJURY

\* \* \*

(f)(1) If an injured worker voluntarily consents in writing, the worker may be paid compensation benefits by means of direct deposit or an electronic prepaid benefit card account in accord with the requirements of section 342 of this title.

(2) The issuer of the card shall comply with all of the requirements, and provide the holder of the card with all of the consumer protections, that apply to a payroll card account under the rules implementing the Electronic Fund Transfer Act, 15 U.S.C. § 1601, as may be amended.

(3) An electronic prepaid benefit card account may be used only for weekly payment of temporary benefits and not for the payment of a lump sum award or for permanent benefits.

(4) The Commissioner, in consultation with the Commissioner of the Department of Financial Regulation, may adopt rules to implement this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

**( Committee Vote: 8-1-2)**

**NOTICE CALENDAR**  
**Favorable with Amendment**  
**H. 41**

An act relating to civil forfeiture of retirement payments to public officials convicted of certain crimes

**Rep. Evans of Essex**, 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. 32 V.S.A. chapter 7, subchapter 7 is added to read:

Subchapter 7. Forfeiture of Public Employee Retirement Benefits

§ 621. STATEMENT OF PURPOSE

It is the purpose of this subchapter to establish a procedure by which the pension benefits of a public employee convicted of certain crimes may be forfeited. Honorable public service is a condition precedent for a public employee to receive retirement benefits, and any public employee who is convicted of or pleads nolo contendere to any of the designated crimes relating to his or her public office shall be considered to have served dishonorably, and his or her retirement benefits may be subject to civil forfeiture.

§ 622. DEFINITIONS

As used in this subchapter:

(1) “Contribution” shall have the same meaning as “accumulated contribution” set forth in 3 V.S.A. § 455(a)(1), 16 V.S.A. § 1931(1), and 24 V.S.A. § 5051(1), and shall include the sum of all amounts deducted from the compensation of a member of any defined contribution plan under 3 V.S.A. § 500 or 24 V.S.A. § 5070, and any earnings on those contributions, and the sum of all amounts deducted from the compensation of a member of any other retirement plan of a municipality authorized under the Internal Revenue Code, 26 U.S.C. § 401, and any earnings on those contributions.

(2) “Crime related to public office” means any of the following criminal offenses if the offense is a felony and is committed in connection with the member’s service or employment as a public official:

- (A) any offense under 13 V.S.A. chapter 21;
- (B) false personation as defined in 13 V.S.A. § 2001;
- (C) false pretenses or tokens as defined in 13 V.S.A. § 2002;
- (D) grand larceny as defined in 13 V.S.A. § 2501;

(E) person holding property in official capacity or belonging to the state or a municipality as defined in 13 V.S.A. § 2537;

(F) false claim as defined in 13 V.S.A. § 3016; or

(G) a felony under the laws of the United States or any other state, including a territory, commonwealth, the District of Columbia, or military, federal, or tribal court, an element of which involves:

(i) a larceny;

(ii) an embezzlement;

(iii) the fraudulent conversion of money, property, or other valuable things for personal or other use; or

(iv) an intent to defraud.

(3) “Member” shall have the same meaning as in 3 V.S.A. § 455(a)(11), 16 V.S.A. § 1931(10), and 24 V.S.A. § 5051(13), and shall include anyone participating in a defined contribution plan under 3 V.S.A. § 500 or 24 V.S.A. § 5070, and any other retirement plan of a municipality authorized under Section 401a of the Internal Revenue Code.

(4) “Retirement benefits” shall include “pensions” as defined in 3 V.S.A. § 455(a)(14), 16 V.S.A. § 1931(12), and 24 V.S.A. § 5051(16), as well as benefits derived from employer contributions to defined contribution plans under 3 V.S.A. § 500, 24 V.S.A. § 5070, and benefits derived from employer contributions to any other retirement plan of a municipality authorized under the Internal Revenue Code, 26 U.S.C. § 401.

#### § 623. FORFEITURE OF PUBLIC EMPLOYEE RETIREMENT BENEFITS

(a) Honorable public service is a condition precedent to receiving retirement benefits. Each time a member is hired, reassigned, promoted, demoted, enters into a new collective bargaining contract, or otherwise changes his or her employment relationship, he or she shall be deemed to consent and agree to be subject to the provisions of this subchapter, including to this condition precedent.

(b) Notwithstanding any other provision of law to the contrary, any member who is convicted of or pleads nolo contendere to any crime related to public office shall be considered to have served dishonorably, and his or her retirement benefits may be subject to civil forfeiture.

(c) If a member is convicted of or pleads nolo contendere to a crime related to public office, the Attorney General or State’s Attorney shall file an action in the Civil Division of the Superior Court to revoke or reduce the member’s retirement benefits.

(d) A copy of the complaint shall be served on the member and any known spouse, dependent, or designated beneficiary of the member.

(e) Hearings under this subchapter shall be conducted by the Court without a jury, and the Attorney General or State's Attorney shall have the burden of proof.

(f) The Court shall grant the petition if it finds by a preponderance of the evidence that:

(1) the person is a member as defined in this subchapter; and

(2) the person was convicted of or pleads nolo contendere to a crime related to public office.

(g) If the Court grants the petition, it shall then determine the degree, if any, to which the member's retirement benefits shall be forfeited. In making the determination, the Court shall consider and make findings on the following factors:

(1) the severity of the crime related to public office for which the member has been convicted or to which the member has pled nolo contendere;

(2) the amount of monetary loss suffered by the State, a county, a municipality, or by any other person as a result of the crime related to public office;

(3) the degree of public trust reposed in the member; and

(4) any other factors as, in the judgment of the Court, justice may require.

(h) If the Court determines that a member's retirement benefits should be forfeited to any degree, it may order that some or all of the retirement benefits be paid to any innocent spouse, dependent, or beneficiary as justice may require. In determining whether to make an award under this section, the Court shall consider:

(1) the degree of knowledge, if any, possessed by the member's spouse, dependent, or designated beneficiary in connection with the offense; and

(2) the financial needs and resources of the member's spouse, dependent, or designed beneficiary.

(i) If the Court determines that a member's retirement benefits should not be forfeited to any degree, it shall order that retirement benefits be made to the member.

§ 624. VENUE, PROCEDURE, AND APPEALS

(a) Proceedings to revoke or reduce retirement benefits under this subchapter shall be heard in the Civil Division of the Superior Court. Venue may be in the Washington unit, the unit where the conviction for the crime related to public office occurred, or in any unit where the member or any known spouse, dependent, or designated beneficiary resides.

(b) The Supreme Court, pursuant to 12 V.S.A. § 1, may enact rules and develop procedures consistent with this subchapter to govern proceedings to revoke or reduce retirement payments.

(c) An order under this subchapter may be appealed as a matter of right to the Supreme Court by the Attorney General or State's Attorney that filed the petition, the member, or the member's spouse, dependent, or designated beneficiary.

#### § 625. RETURN OF CONTRIBUTIONS; EXEMPTIONS; QUALIFIED

##### DOMESTIC RELATIONS ORDERS

(a) Any member whose retirement benefits are revoked pursuant to section 623 of this title shall be entitled to a return of his or her contribution.

(b) Notwithstanding the provisions of subsection (a) of this section, returns of contributions shall not be made or ordered unless and until the Civil Division of the Superior Court determines that the member whose retirement benefits have been revoked or reduced pursuant to section 623 of this title has satisfied in full any judgments or orders rendered by any court of competent jurisdiction for the payment of restitution for losses incurred as a result of the crime related to public office. If the Court determines that the member whose retirement benefits have been revoked or reduced under section 623 has failed to satisfy any outstanding judgment or order of restitution rendered by any court of competent jurisdiction, it may order that any funds otherwise due such member as a return of contribution, or any portion thereof, be paid in satisfaction of the judgment or order.

(c) A provision of section 623 of this title or this section shall not be construed to prohibit or limit any payment made pursuant to a qualified domestic relations order issued prior to any such conviction or plea by:

(1) any member who is convicted of or pleads guilty or nolo contendere to any crime related to public office; or

(2) any state, county, or municipal agency responsible for the administration of such payment on behalf of such public official.

(d) Notwithstanding the provisions of section 623 of this title, retirement benefits shall not be reduced or revoked if the Internal Revenue Service determines that such reduction or revocation will negatively affect or

invalidate the status of a retirement plan under the Internal Revenue Code, 26 U.S.C. § 401, or any subsequent corresponding Internal Revenue Code of the United States, as may be amended.

§ 626. APPLICATION; COLLECTIVE BARGAINING

AGREEMENTS

(a) This subchapter shall not apply to retirement benefits that accrued prior to the effective date of this subchapter or to crimes committed before the effective date of this subchapter.

(b) Any collective bargaining agreement entered into on or after the effective date of this subchapter shall not contain any provision that limits the application of the provisions of this subchapter.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

( Committee Vote: 9-0-2)

**Public Hearings**

February 13, 2013 - 6:00-8:00 PM - Room 11 - House and Senate Natural Resources and Energy - Town Energy Committee

**Joint Public Hearing on Fiscal Year 2014 state budget  
via Vermont Interactive Technologies  
House and Senate Committees on Appropriations**

**Monday, February 11, 2013, 4:00 - 6:30 p.m.** – The House and Senate Committees on Appropriations will hold a joint public hearing on Vermont Interactive Technologies (V.I.T.) to give Vermonters throughout the state an opportunity to express their views about the state budget for fiscal year 2014. All 13 V.I.T. sites will be available for the hearing: Bennington, Brattleboro, Johnson, Lyndonville, Middlebury, Montpelier, Newport, Randolph Center, Rutland, Springfield, St. Albans, White River Junction and Williston. V.I.T.'s web site has an up-to-date location listing, including driving directions, addresses and telephone numbers, <http://www.vitlink.org/>. **The budget hearing will be VIEWABLE via the Internet if your computer has Flash-based streaming capabilities. Some mobile devices may require additional software. Go to [www.vitlink.org/streamingmedia/vtcvitopen.php](http://www.vitlink.org/streamingmedia/vtcvitopen.php).** The Governor's budget proposal can be viewed at the Department of Finance's website: [http://finance.vermont.gov/state\\_budget/rec](http://finance.vermont.gov/state_budget/rec). For information about the format of this event or to submit written testimony, call the House Appropriations Committee office at 802/828-5767 or email

[tutton@leg.state.vt.us](mailto:tutton@leg.state.vt.us). Requests for interpreters should be made to the office by 3:00 p.m. on Monday, January 28, 2013.

**Information Notice**

**CROSSOVER DEADLINES**

The following bill reporting deadlines are established for the 2013 session:

(1) From the standing committee of last reference, excluding the Committees on Appropriations and Ways and Means, all House bills must be reported out of committee on or before March 15, 2013.

(2) House bills referred pursuant to House Rule 35a, must be reported out of the Committees on Appropriations and Ways and Means on or before March 22, 2013.