

House Calendar

Friday, January 10, 2014

4th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

S. 25

An act relating to public advocacy in utility matters

Amendment to be offered by Reps. Poirier of Barre City, Komline of Dorset, and Browning of Arlington to S. 25

By amending the House Proposal of Amendment by striking out Secs. 1 and 2 in their entirety and by inserting in lieu thereof new Secs. 1 and 2 and Sec. 2a as follows:

Sec. 1. 30 V.S.A. part 1, chapter 16 is added to read:

CHAPTER 16. RATEPAYER ADVOCATE

§ 651. FINDINGS; INTENT

(a) Many Vermonters believe there is a need for additional independent advocacy within proceedings before the Public Service Board on behalf of ratepayers, many of whom do not have the financial resources or expertise to fully participate in and advance their interests in its proceedings.

(b) It is the intent of the General Assembly to create an independent office to advocate for the lowest reasonable rates for Vermont ratepayers, consistent with an equitable distribution of rates among all classes of ratepayers and the maintenance of adequate service provided by Vermont companies subject to the jurisdiction of the Public Service Board.

§ 652. DEFINITIONS

As used in this chapter:

(1) “Advocate” means the Ratepayer Advocate established under section 653 of this chapter.

(2) “Board” means the Public Service Board established under section 3 of this title.

(3) “Committee” means the Committee on Public Service Oversight established under 2 V.S.A. chapter 29.

(4) “Department” means the Department of Public Service established under 3 V.S.A. § 212.

(5) “Office” means the Office of the Ratepayer Advocate established by

section 653 of this chapter.

(6) "Ratepayer" means a person who purchases or contracts for the purchase of a service provided by a public service company subject to regulation by the Public Service Board under section 203 of this title or who purchases or contracts for the purchase of propane from a retail distributor of propane.

§ 653. OFFICE; RATEPAYER ADVOCATE; APPOINTMENT

(a) There is created an independent Office of the Ratepayer Advocate to consist of a Ratepayer Advocate and such other persons as the Advocate deems necessary to conduct the business of the Office, pursuant to the terms of this chapter.

(b) The Committee shall appoint a Ratepayer Advocate, an exempt position, to represent the interests of ratepayers before the Public Service Board.

§ 654. QUALIFICATIONS; TERM

(a) The Advocate shall be an attorney admitted to practice before the Vermont Supreme Court and shall perform his or her duties independently.

(b) The Advocate shall satisfy the qualifications established under section 4 (qualifications of the Members and Clerk of the Public Service Board and Commissioner of Public Service) of this title.

(c) The Advocate or any full-time employee of the Office shall not actively engage in any other business or profession; serve as the representative of any political party or on any executive committee or other governing body thereof; serve as an executive, officer, or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; or engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy. The Advocate or any employee of the Office shall not become a candidate for election to public office unless he or she first resigns from his or her office or employment.

(d) The term of the Advocate shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. An Advocate wishing to succeed himself or herself in office may seek reappointment under the terms of this section. The Advocate may be removed from office only by a three-quarters' majority vote of the Committee.

§ 655. DUTIES AND POWERS

It shall be the duty of the Advocate to provide legal representation for

Vermont ratepayers in proceedings before the Board, and to assist ratepayers with resolving disputes with public service companies and retail distributors of propane. The Advocate shall have the powers necessary to carry out the duties of his or her office, including the following specific powers:

(1) to recommend to the Board by petition the commencement of any proceeding or action or to appear, in the name of ratepayers, in any proceeding or action before the Board and urge therein any position which he or she deems to be in the interest of ratepayers, and use therein all forms of discovery available to attorneys in civil actions generally;

(2) to have access to and use of all files, records, and data of the Board and the Department available to any other attorney representing a party in a proceeding before the Board;

(3) in any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the Board, or of any hearing examiner designated by the Board, in the name of ratepayers;

(4) to prepare and issue reports, recommendations, and proposed orders to the Board, the Governor, and the General Assembly on any matter or subject within the jurisdiction of the Board, and to make recommendations as he or she deems appropriate for legislation relative to Board or Department procedures, rules, jurisdiction, personnel, and functions;

(5) to appear in the name of Vermont ratepayers before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the Board or otherwise involving Vermont utilities and which may affect the interests of Vermont ratepayers;

(6) subject to Committee approval, to establish eligibility criteria and resource allocation for parties seeking independent representation;

(7) to establish a mechanism for receiving, tracking, and if possible, resolving ratepayer complaints and disputes with public service companies and retail distributors of propane;

(8) to receive funds appropriated to the Office by the General Assembly or allocated to it by the Board under section 658 of this chapter; and to receive grants, gifts, loans, or contributions from any other source, with the approval of the Committee;

(9) to submit an annual budget to the Public Service Oversight Committee established under 2 V.S.A. chapter 29; and

(10) subject to the criteria and requirements established under sections 20 and 21 of this title, to retain additional personnel in particular proceedings and, with Board approval, allocate expenses incurred to the public

service company or companies involved in those proceedings.

§ 656. EMPLOYEES

The Committee may authorize the Advocate to employ legal, technical, and clerical assistants whose qualifications, duties, responsibilities, salaries, expenses, and status, whether exempt or classified, the Committee shall prescribe.

§ 657. RECEIPT OF PLEADINGS

The Board shall furnish the Advocate with copies of the initial pleadings in all proceedings before the Board.

§ 658. FINANCING OF THE OFFICE

Based on a budget approved by the Public Service Oversight Committee, and in a manner determined by the Board, the Board shall annually allocate a portion of the revenue generated from the taxes imposed under sections 22 (gross operating revenue tax) and 23 (public service reserve fund) of this title for the purpose of maintaining and financing the Office. In addition, the Board shall allocate expenses incurred in particular proceedings to the public service company or companies involved in the proceedings as provided in sections 20 and 21 of this title.

§ 659. LEGISLATIVE CONTROL

(a) The Advocate is under the Legislative Branch of government. Neither the Governor nor any executive agency has the authority to withhold funds appropriated to the Office by the General Assembly or allocated to it by the Board.

(b) Neither the Governor nor any executive agency shall have the authority to determine the number, or fix the compensation, of the employees of the Office or to exercise any manner of control over them.

Sec. 2. 2 V.S.A. chapter 29 is added to read:

CHAPTER 29. PUBLIC SERVICE OVERSIGHT COMMITTEE

§ 981. PUBLIC SERVICE OVERSIGHT COMMITTEE

(a) A joint legislative Public Service Oversight Committee is created. The Committee shall be appointed biennially and consist of eight members: four members of the House appointed by the Speaker, not all from the same political party, and four members of the Senate appointed by the Senate Committee on Committees, not all from the same political party.

(b) The Committee shall elect a chair, vice chair, and clerk from among its members. The chair shall alternate biennially between the House and Senate

members. A quorum shall consist of six members.

(c) Committee action shall be taken only if there is a quorum and the proposed action is approved by majority vote of those members physically present and voting.

(d) The Committee may adopt rules of procedure to carry out its duties.

§ 982. FUNCTIONS AND DUTIES

(a) The Public Service Oversight Committee shall appoint the Ratepayer Advocate described in 30 V.S.A. chapter 16. The Committee shall assess candidates using the following criteria:

(1) commitment to the interests of Vermont ratepayers;

(2) knowledge of or expertise in regulatory matters within the jurisdiction of the Public Service Board;

(3) possession of desirable personal characteristics, including integrity, diligence, administrative and communication skills, and regard for the public good; and

(4) impartiality and the ability to remain free from undue influence by a personal, political, business, or professional relationship with any company or matter subject to regulation by the Public Service Board.

(b) The Public Service Oversight Committee shall carry on a continuing review of the functions and performance of the Office of the Ratepayer Advocate, the Public Service Board, and the Department of Public Service. The purpose of this review is to assess whether these entities are functioning in a manner that best serves the interests of ratepayers, as well as the general good of the State, as appropriate.

(c) In conducting its review and in order to fulfill its duties, the Committee shall consult the following:

(1) the Ratepayer Advocate;

(2) the Public Service Board;

(3) the Commissioner of Public Service;

(4) ratepayers and advocacy groups regarding their satisfaction, complaints, and recommendations;

(5) public service companies subject to regulation by the Public Service Board; and

(6) any other person or entity as determined by the Committee.

(d) The Committee shall work with, assist, and advise other committees of the General Assembly, members of the Executive Branch, and the public on matters relating to state utility regulation. Annually, on or before December 15, the Committee shall report its activities, together with recommendations, if any, to the Governor and the House Committees on Commerce and Economic Development and on Natural Resources and Energy and the Senate Committees on Finance, on Natural Resources and Energy, and on Economic Development, Housing and General Affairs.

§ 983. MEETINGS AND STAFF SUPPORT

(a) The Committee may meet during a session of the General Assembly at the call of the Chair or by majority of the members of the Committee. The Committee may meet during adjournment subject to the approval of the Speaker of the House and the President Pro Tempore of the Senate.

(b) For attendance at meetings which are held when the General Assembly is not in session, the members of the Committee shall be entitled to the same per diem compensation and reimbursement for necessary expenses as those provided to members of standing committees under section 406 of this title.

(c) The Legislative Council and the Joint Fiscal Office shall provide professional and administrative support to the Committee. The Department of Public Service and other agencies of the State shall provide information, assistance, and support upon request of the Committee.

Sec. 2a. TRANSFER OF POSITIONS

On or before July 1, 2013, the Department of Public Service, Public Advocacy Division shall transfer three exempt attorney positions and one classified administrative support position, as well as appropriate amounts for personal services and operating expenses, to the Office of the Ratepayer Advocate. In addition, the Department of Public Service, Consumer Affairs and Public Information Division shall transfer three consumer affairs specialist positions, as well as appropriate amounts for personal services and operating expenses, to the Office of the Ratepayer Advocate.

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 1/9/2014.

H.C.R. 173

House concurrent resolution congratulating Evan Russell on his golfing accomplishments

H.C.R. 174

House concurrent resolution extending best wishes to Mable Fay on her 90th birthday

H.C.R. 175

House concurrent resolution honoring Heinz Hester for his leadership in the development of an international student exchange program

H.C.R. 176

House concurrent resolution congratulating the 2013 U-32 Raiders Division II boys' championship track and field team

H.C.R. 177

House concurrent resolution commemorating the 50th anniversary of President Lyndon B. Johnson's declaration of the U.S. War on Poverty

H.C.R. 178

House concurrent resolution recognizing January 9, 2014 as Homeless Awareness Day at the State House

H.C.R. 179

House concurrent resolution congratulating the 2013 U-32 Raiders Division II girls' championship track and field team

H.C.R. 180

House concurrent resolution congratulating Clara Emlen of Calais on being named the 2014 America's National Teenager

S.C.R. 28

Senate concurrent resolution congratulating the Yankee Male Chorus on its 60th anniversary

S.C.R. 29

Senate concurrent resolution congratulating Hastings Store on its centennial anniversary and Jane and Garey Larrabee on 40 years as the store's proprietors

Information Notice

Deadline for Introducing Bills

Pursuant to Rule 40(b) of the Rules and Orders of the Vermont House of Representatives, during the second year of the biennium, except with the prior consent of the Committee on Rules, no member may introduce a bill into the House drafted in standard form after the last day of January.

In order to meet this deadline all bill requests must be submitted to Legislative Council no later than the close of business on Wednesday January 15, 2014.

Pursuant to Rule 40(c) during the second year of the biennium, except with the prior consent of the Committee on Rules, no committee, except the Committees on Appropriations, Ways and Means or Government Operations, may introduce a bill drafted in standard form after the last day of March (March 31, 2014). The Committees on Appropriations and Ways and Means bill may be drafted in standard form at any time, and Government Operations bills pertaining to city or town charters, may be drafted in standard form at any time.

Joint Assembly

January 15, 2014 - 2:00 PM - Budget Address