

House Calendar

Wednesday, January 22, 2014

16th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

TABLE OF CONTENTS

	Page No.
ACTION CALENDAR	
Third Reading	
H. 559 Membership on the Building Bright Futures Council	135
NOTICE CALENDAR	
Committee Bill for Second Reading	
H. 655 Fiscal year 2014 budget adjustments.....	135
Rep. Heath for Appropriations	
Favorable with Amendment	
H. 563 Captive insurance laws and accreditation standards	135
Rep. Bouchard for Commerce and Economic Development	
H. 596 The conversion of assets of a nonprofit hospital	139
Rep. Dickinson for Commerce and Economic Development	
Favorable	
H. 350 The posting of medical unprofessional conduct decisions and to investigators of alleged unprofessional conduct.....	140
Rep. Till for Health Care	
Committee of Conference Report	
S. 41 An act relating to water and sewer service.....	140

ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 559

An act relating to membership on the Building Bright Futures Council

NOTICE CALENDAR

Committee Bill for Second Reading

H. 655

An act relating to fiscal year 2014 budget adjustments.

(Rep. Heath of Westford will speak for the Committee on **Appropriations.**)

Favorable with Amendment

H. 563

An act relating to captive insurance laws and accreditation standards

Rep. Bouchard of Colchester, 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:

* * * Dormant Captive Insurance Companies * * *

Sec. 1. 8 V.S.A. § 6024 is added to read:

§ 6024. DORMANT CAPTIVE INSURANCE COMPANIES

(a) As used in this section, unless the context requires otherwise, “dormant captive insurance company” means a pure captive insurance company which has:

- (1) at no time, insured controlled unaffiliated business;
- (2) ceased transacting the business of insurance, including the issuance of insurance policies; and
- (3) no remaining liabilities associated with insurance business transactions, or insurance policies issued prior to the filing of its application for a certificate of dormancy under this section.

(b) A pure captive insurance company domiciled in Vermont which meets the criteria of subsection (a) of this section may apply to the Commissioner for

a certificate of dormancy. The certificate of dormancy shall be subject to renewal every five years and shall be forfeited if not renewed within such time.

(c) A dormant captive insurance company which has been issued a certificate of dormancy shall:

(1) possess and thereafter maintain unimpaired, paid-in capital and surplus of not less than \$25,000.00;

(2) prior to March 15 of each year, submit to the Commissioner a report of its financial condition, verified by oath of two of its executive officers, in a form as may be prescribed by the Commissioner; and

(3) pay a license renewal fee as provided in subsection 6002(d) of this chapter.

(d) A dormant captive insurance company shall not be subject to or liable for the payment of any tax under section 6014 of this chapter.

(e) A dormant captive insurance company shall apply to the Commissioner for approval to surrender its certificate of dormancy and resume conducting the business of insurance prior to issuing any insurance policies.

(f) A certificate of dormancy shall be revoked if a dormant captive insurance company no longer meets the criteria of subsection (a) of this section.

(g) The Commissioner may establish guidelines and procedures as necessary to carry out the provisions of this section.

* * * Risk Retention Groups; Producer Controlled Insurers * * *

Sec. 2. 8 V.S.A. § 4815(6) is amended to read:

(6) “Licensed insurer” or “insurer” means any person, firm, association or corporation duly licensed to transact an insurance business in this State. The following are not licensed insurers for the purposes of this subchapter:

~~(A) all risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) and the Risk Retention Act, 15 U.S.C. § 3901 et seq. (1982 & Supp. 1986) and chapter 142 of this title;~~

~~(B)~~ all residual market pools and joint underwriting authorities or associations; and

~~(C)~~(B) all captive insurers as defined in chapter 141 of this title, except risk retention groups.

Sec. 3. 8 V.S.A. chapter 142A is amended to read:

CHAPTER 142A. RISK RETENTION GROUP MANAGING
GENERAL AGENTS AND REINSURANCE INTERMEDIARIES,
AND PRODUCER CONTROLLED INSURERS

* * *

Sec. 4. 8 V.S.A. § 6070 is amended to read:

§ 6070. APPLICATION OF CHAPTER

(a) This chapter applies to risk retention groups domiciled in this State operating under the provisions of chapters 141 and 142 of this title and to persons serving as managing general agents for such risk retention groups.

(b) The provisions of chapter 131, subchapter 2 of this title, pertaining to producer controlled insurers, shall apply to risk retention groups chartered in this State.

* * * Captive; Reciprocal Insurer; Assessments; Exemption * * *

Sec. 5. 8 V.S.A. § 6006(j) is amended to read:

(j) Captive insurance companies formed as reciprocal insurers under the provisions of this chapter shall have the privileges and be subject to the provisions of chapter 132 of this title in addition to the applicable provisions of this chapter. In the event of a conflict between the provisions of chapter 132 and the provisions of this chapter, the latter shall control. However, in approving assessments levied upon subscribers of a captive insurance company formed as a reciprocal insurer, the Commissioner may exempt the company from any provision of sections 4850 (assessments), 4851 (time limit for assessments), and 4852 (aggregate of liability) of chapter 132. To the extent a reciprocal insurer is made subject to other provisions of this title pursuant to chapter 132, such provisions shall not be applicable to a reciprocal insurer formed under this chapter unless such provisions are expressly made applicable to captive insurance companies under this chapter.

* * * Separate Account Assets; Delinquency * * *

Sec. 6. 8 V.S.A. § 6018 is amended to read:

§ 6018. DELINQUENCY

Except as otherwise provided in this chapter, the terms and conditions set forth in chapter 145 of this title shall apply in full to captive insurance companies formed or licensed under this chapter; however, the assets of a separate account established under subsection 6006(p) of this chapter shall not

be used to pay any expenses or claims other than those attributable to such separate account.

* * * Incorporated Protected Cell as Reciprocal Insurer * * *

Sec. 7. 8 V.S.A. § 6032 is amended to read:

§ 6032. DEFINITIONS

As used in this subchapter, unless the context requires otherwise:

(1) “Incorporated protected cell” means a protected cell that is established as a corporation, mutual corporation, nonprofit corporation with one or more members, ~~or~~ limited liability company, or reciprocal insurer separate from the sponsored captive insurance company of which it is a part.

* * *

Sec. 8. 8 V.S.A. § 6034a(d) is amended to read:

(d) It is the intent of the General Assembly under this section to provide sponsored captive insurance companies, including those licensed as special purpose financial insurance companies under subchapter 4 of this chapter, with the option to establish one or more protected cells as a separate corporation, mutual corporation, nonprofit corporation, ~~or~~ limited liability company, or reciprocal insurer. This section shall not be construed to limit any rights or protections applicable to protected cells not established as corporations, mutual corporations, nonprofit corporations, ~~or~~ limited liability companies, or reciprocal insurers.

* * * Risk Based Capital for Risk Retention Groups * * *

Sec. 9. 8 V.S.A. § 6052(f) is added to read:

(f) The provisions of chapter 159 of this title (risk based capital for insurers) shall apply to risk retention groups chartered in this State, except that the Commissioner may elect not to take regulatory action as otherwise required by sections 8303–8306 of chapter 159 of this title, provided at least one of the following conditions exist:

(1) The Commissioner determines that the risk retention group’s members or sponsoring organization, or both, are sufficiently capitalized to support the operations of the risk retention group. As required by the Commissioner, the members or sponsoring organization, or both, shall provide evidence of:

(A) an investment grade credit rating from a nationally recognized statistical rating organization or rating of A- or better by the A. M. Best Company;

(B) an excess of assets over liabilities of at least \$100 million; or

(C) an excess of assets over liabilities of at least 10 times the risk retention group's largest net retained per occurrence limit.

(2) Each policyholder qualifies as an industrial insured under the law of his or her home state, or under Vermont law, whichever the Commissioner determines to be more stringent.

(3) The risk retention group's certificate of authority was issued prior to January 1, 2011 and, based on a minimum of five years of solvent operation, is specifically exempted from the requirements for mandatory action in writing by the Commissioner.

* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

H. 596

An act relating to the conversion of assets of a nonprofit hospital

Rep. Dickinson of St. Albans Town, for the Committee on **Commerce and Economic Development**, recommends the bill be amended as follows:

In Sec. 1, 18 V.S.A. § 9420(e) (action by the Attorney General), by striking out subdivision (1)(B) in its entirety and by inserting in lieu thereof a new subdivision (1)(B) to read as follows:

(B) The Court may order appropriate relief in such circumstances, including avoidance of the conversion or transfer of the converted assets or proceeds or the amount of any private inurement to a person or party for use consistent with the purposes for which the assets were held prior to the conversion, a penalty of up to \$1 million, and the award of costs of investigation and prosecution under this subsection (e), including the reasonable value of legal services.

(2) In determining whether to grant relief under this subsection, and the nature of such relief, the Court shall consider:

(A) whether the violation was willful;

(B) whether any person has derived, or may derive, an economic benefit from the conversion;

(C) whether the purposes for which the assets had been held by the nonprofit hospital have been frustrated by the violation;

(D) whether the interests of the public or the community served by the nonprofit hospital would be jeopardized by voiding the conversion; and

(E) how any monetary penalty imposed would affect the community served by the nonprofit hospital.

(Committee Vote: 11-0-0)

Favorable

H. 350

An act relating to the posting of medical unprofessional conduct decisions and to investigators of alleged unprofessional conduct

Rep. Till of Jericho, for the Committee on **Health Care**, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Committee of Conference Report

S. 41

An act relating to water and sewer service

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 41 An act relating to water and sewer service

Respectfully report that they have met and considered the same and recommend that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 5143 is amended to read:

§ 5143. DISCONNECTION OF SERVICE

* * *

(c) The tenant of a rental dwelling noticed for disconnection due to the delinquency of the ratepayer shall have the right to request and pay for continued service from the utility or reconnection of water and sewer service for the rental dwelling, which the utility shall provide. If any water and sewer charges or fees are included in the tenant's rent, the tenant may deduct the cost of any water and sewer service charges or fees paid to the municipality from his or her rent pursuant to 9 V.S.A. § 4459. Under such circumstances, the

utility shall not require the tenant to pay any arrearage greater than one billing cycle.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Ronald E. Hubert

Rep. Linda J. Martin

Rep. Anne H. Mook

Committee on the part of the House

Sen. Anthony Pollina

Sen. Eldred French

Sen. Joseph C. Benning

Committee on the part of the Senate

For Informational Purposes

H.524

Representative Stuart of Brattleboro moves that the House concur in the Senate Proposal of Amendment with further amendment as follows:

First: By deleting Sec. 34 (16 V.S.A. § 254; records check for educator licensure) in its entirety and inserting in lieu thereof the following:

Sec. 34. [Deleted.]

Second: By deleting Sec. 85 (16 V.S.A. § 706g; designation of union school districts) in its entirety and inserting in lieu thereof the following:

Sec. 85. [Deleted.]

Third: By deleting Sec. 105 (16 V.S.A. § 1045; driver training course) in its entirety and inserting in lieu thereof the following:

Sec. 105. [Deleted.]

Fourth: By deleting Secs. 109 (16 V.S.A. § 1049; Adult Diploma Program and General Education Development Program) and 110 (16 V.S.A. § 1049a; High School Completion Program) in their entirety and inserting in lieu thereof the following:

Sec. 109. [Deleted.]

Sec. 110. [Deleted.]

Fifth: By deleting Sec. 130 (16 V.S.A. § 1262a; grants for school meals) in its entirety and inserting in lieu thereof the following:

Sec. 130. [Deleted.]

Sixth: By deleting Sec. 135 (16 V.S.A. § 1431(b); concussion guidelines) in its entirety and inserting in lieu thereof the following:

Sec. 135. [Deleted.]

Seventh: By deleting Sec. 146 (16 V.S.A. § 1541a; career technical education) in its entirety and inserting in lieu thereof the following:

Sec. 146. [Deleted.]

Eighth: By deleting Secs. 215 and 216 (16 V.S.A. § 3224; treasurer's report; grammar school lands) in their entirety and inserting in lieu thereof the following:

Sec. 215. [Deleted.]

Sec. 216. [Deleted.]

Ninth: By deleting Sec. 229 (16 V.S.A. § 3851(c); definition of "eligible institution") in its entirety and inserting in lieu thereof the following:

Sec. 229. [Deleted.]

Tenth: By deleting Sec. 237 (16 V.S.A. § 4011; education payments) in its entirety and inserting in lieu thereof the following:

Sec. 237. [Deleted.]

Eleventh: By deleting Sec. 289 (33 V.S.A. § 703(b); membership of Alcohol and Drug Abuse Council) in its entirety and inserting in lieu thereof the following:

Sec. 289. [Deleted.]

Public Hearings

January 28, 2014 - Room 11 - 6:00-8:00 PM - Current Use - Senate Special Committee on Current Use

January 30, 2014 - Room 11 – 5:00-7:00 PM - S. 287 Involuntary Treatment and Medication - Senate Judiciary and Health and Welfare

Monday, February 10, 2014, 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 2015.

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.

The Governor's budget proposal can be viewed at the Department of Finance's website: 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. Requests for interpreters should be made to the office by 3:00 p.m. on Monday, January 27, 2014.

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 sign out sheets must be returned to Legislative Council by the close of business, Tuesday, January 28, 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.