

# House Calendar

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Wednesday, February 19, 2014

44th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 581**

An act relating to guardianship of minors

**Rep. Wizowaty of Burlington**, 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. 14 V.S.A. chapter 111, subchapter 2, article 1 is amended to read:

Article 1. Guardians of Minors

§ 2621. POLICY; PURPOSES

This article shall be construed in accordance with the following purposes and policies:

(1) It is presumed that the interests of minor children are best promoted in the child's own home. However, when parents are temporarily unable to care for their children, guardianship provides a process through which parents can arrange for family members or other parties to care for the children.

(2) Family members can make better decisions about minor children when they understand the consequences of those decisions and are informed about the law and the available supports.

(3) Decisions about raising a child made by a person other than the child's parent should be based on the informed consent of the parties unless there has been a finding of parental unsuitability.

(4) When the informed consent of the parents cannot be obtained, parents have a fundamental liberty interest in raising their children unless a proposed guardian can show parental unsuitability by clear and convincing evidence.

(5) Research demonstrates that timely reunification between parents and their children is more likely when children have safe and substantial contact with their parents.

(6) It is in the interests of all parties, including the children, that parents and proposed guardians have a shared understanding about the length of time that they expect the guardianship to last, the circumstances under which the

parents will resume care for their children, and the nature of the supports and services that are available to assist them.

§ 2622. DEFINITIONS

As used in this article:

(1) “Child” means an individual who is under 18 years of age and who is the subject of a petition for guardianship filed pursuant to section 2623 of this title.

(2) “Child in need of guardianship” means:

(A) A child who the parties consent is in need of adult care because of any one of the following:

(i) The child’s custodial parent has a serious or terminal illness.

(ii) A parent’s physical or mental health prevents the parent from providing proper care and supervision for the child.

(iii) The child’s home is no longer habitable as the result of a natural disaster.

(iv) A parent of the child is incarcerated.

(v) A parent of the child is on active military duty.

(vi) The parties have articulated and agreed to another reason that guardianship is in the best interests of the child.

(B) A child who is:

(i) abandoned or abused by the child’s parent;

(ii) without proper parental care, subsistence, education, medical, or other care necessary for the child’s well-being; or

(iii) without or beyond the control of the child’s parent.

(3) “Custodial parent” means a parent who, at the time of the commencement of the guardianship proceeding, has the right and responsibility to provide the routine daily care and control of the child. The rights of the custodial parent may be held solely or shared and may be subject to the court-ordered right of the other parent to have contact with the child.

(4) “Interested person” means:

(A) a person who is not a party and with whom the child has resided within the 60-day period preceding the filing of the petition; or

(B) the Commissioner for Children and Families or designee if the Department has an open case involving the child.

(5) “Nonconsensual guardianship” means a guardianship with respect to which:

(A) a parent is opposed to establishing the guardianship; or

(B) a parent seeks to terminate a guardianship that the parent previously agreed to establish.

(6) “Noncustodial parent” means a parent who is not a custodial parent at the time of the commencement of the guardianship proceeding.

(7) “Parent” means a child’s biological or adoptive parent, including custodial parents; noncustodial parents; parents with legal or physical responsibilities, or both; and parents whose rights have never been adjudicated.

(8) “Parent-child contact” means the right of a parent to have visitation with the child by court order.

(9) “Party” includes the child, the custodial parent, the noncustodial parent, and the proposed guardian.

§ 2623. PETITION FOR GUARDIANSHIP OF MINOR; VENUE; SERVICE

(a) A parent or a person interested in the welfare of a minor may file a petition with the Probate Division of the Superior Court for the appointment of a guardian for a child. The petition shall state:

(1) the names and addresses of the parents, the child, and the proposed guardian;

(2) the proposed guardian’s relationship to the child;

(3) the names of all members of the proposed guardian’s household and each person’s relationship to the proposed guardian and the child;

(4) that the child is alleged to be a child in need of guardianship;

(5) specific reasons with supporting facts why guardianship is sought;

(6) whether the parties agree that the child is in need of guardianship and that the proposed guardian should be appointed as guardian;

(7) the child’s current school and grade level;

(8) if the proposed guardian intends to change the child’s current school, the name and location of the proposed new school and the estimated date when the child would enroll;

(9) the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period;

(10) any prior or current court proceedings, child support matters, or parent-child contact orders involving the child; and

(11) any previous involvement with the child by the Department for Children and Families.

(b) A petition for guardianship of a child under this section shall be filed:

(1) if the parties consent, in the Probate Division of the county where the child resides or the proposed guardian resides;

(2) if the parties do not consent and the child is not subject to an existing guardianship, in the Probate Division of the county where the child has had his or her primary residence for the previous six months;

(3) if the parties do not consent and the child is subject to an existing guardianship, in the Probate Division of the county where the guardian resides.

(c)(1) A petition for guardianship of a child under this section shall be served on all parties and interested persons as provided by Rule 4 of the Vermont Rules of Probate Procedure.

(2)(A) The Probate Division may waive the notice requirements of subdivision (1) of this subsection (c) with respect to a parent if the Court finds that:

(i) the identity of the parent is unknown; or

(ii) the location of the parent is unknown and cannot be determined with reasonable effort.

(B) After a guardianship for a child is created, the Probate Division shall reopen the proceeding at the request of a parent of the child who did not receive notice of the proceeding as required by this subsection.

#### § 2624. JURISDICTION; TRANSFER TO FAMILY DIVISION

(a) Except as provided in subsection (b) of this section, the Probate Division shall have exclusive jurisdiction over proceedings under this article involving guardianship of minors.

(b)(1)(A) A custodial minor guardianship proceeding brought in the Probate Division under this article shall be transferred to the Family Division if there is an open proceeding in the Family Division involving custody of the same child who is the subject of the guardianship proceeding in the Probate Division.

(B) A minor guardianship proceeding brought in the Probate Division under this article may be transferred to the Family Division on motion of a party or on the court's own motion if any of the parties to the probate

proceeding was a party to a closed divorce proceeding in the Family Division involving custody of the same child who is the subject of the guardianship proceeding in the Probate Division.

(2)(A) When a minor guardianship proceeding is transferred from the Probate Division to the Family Division pursuant to subdivision (1) of this subsection (b), the Probate judge and a Superior judge assigned to the Family Division shall confer regarding jurisdiction over the proceeding. Except as provided in subdivision (B) of this subsection (2), all communications between the Probate judge and the Superior judge under this subsection shall be on the record. Whenever possible, a party shall be provided notice of the communication and an opportunity to be present when it occurs. A party who is unable to be present for the communication shall be provided access to the record.

(B) It shall not be necessary to inform the parties about or make a record of a communication between the Probate judge and the Superior judge under this subsection (b) if the communication involves scheduling, calendars, court records, or other similar administrative matters.

(C) After the Superior judge and Probate judge confer under subdivision (2)(A) of this subsection (b), the Superior judge may:

(i) consolidate the minor guardianship case with the pending matter in the Family Division and determine whether a guardianship should be established under this article; or

(ii) transfer the guardianship petition back to the Probate Division for further proceedings after the pending matter in the Family Division has been adjudicated.

(D) If a guardianship is established by the Family Division pursuant to subdivision (2)(C)(i) of this subsection, the guardianship case shall be transferred back to the Probate Division for ongoing monitoring pursuant to section 2631 of this title.

#### § 2625. HEARING; COUNSEL; GUARDIAN AD LITEM

(a) The Probate Division shall schedule a hearing upon the filing of the petition and shall provide notice of the hearing to all parties and interested persons who were provided notice under subdivision 2623(c)(1) of this title.

(b) The child shall attend the hearing if he or she is 14 years of age or older unless the child's presence is excused by the Court for good cause. The child may attend the hearing if he or she is less than 14 years of age.

(c) The Court shall appoint counsel for the child if the child will be called as a witness. In all other cases, the Court may appoint counsel for the child.

(d)(1) The child may be called as a witness only if the Court finds after hearing that:

(A) the child's testimony is necessary to assist the Court in determining the issue before it;

(B) the probative value of the child's testimony outweighs the potential detriment to the child; and

(C) the evidence sought is not reasonably available by any other means.

(2) The examination of a child called as a witness may be conducted by the Court in chambers in the presence of such other persons as the Court may specify and shall be recorded.

(e) The Court may appoint a guardian ad litem for the child on motion of a party or on the Court's own motion.

(f)(1) The Court may grant an emergency guardianship petition filed ex parte by the proposed guardian if the Court finds that:

(A) both parents are deceased or medically incapacitated; and

(B) the best interests of the child require that a guardian be appointed without delay and before a hearing is held.

(2) If the Court grants an emergency guardianship petition pursuant to subdivision (1) of this subsection (e), it shall schedule a hearing on the petition as soon as practicable and in no event more than 72 hours after the petition is filed.

#### § 2626. CONSENSUAL GUARDIANSHIP

(a) If the petition requests a consensual guardianship, the petition shall include a consent signed by the custodial parent or parents verifying that the parent or parents understand the nature of the guardianship, knowingly waive their parental rights, and voluntarily consent to the guardianship. The consent required by this subsection shall be on a form approved by the Court Administrator.

(b) On or before the date of the hearing, the parties shall file an agreement between the proposed guardian and the parents. The agreement shall address:

(1) the guardian's responsibilities;

(2) the expected duration of the guardianship; and

(3) parent-child contact and parental involvement in decision making.

(b) Vermont Rule of Probate Procedure 43 (relaxed rules of evidence in probate proceedings) shall apply to hearings under this section.

(c) The Court shall grant the petition if it finds after the hearing by clear and convincing evidence that:

(1) the child is a child in need of guardianship as defined in subdivision 2622(2)(A) of this title;

(2) the child's parents had notice of the proceeding and knowingly and voluntarily waived their rights;

(3) the agreement is voluntary;

(4) the proposed guardian is suitable; and

(5) the guardianship is in the best interests of the child.

(d) If the Court grants the petition, it shall approve the agreement at the hearing and issue an order establishing a guardianship under section 2628 of this title. The order shall be consistent with the terms of the parties' agreement unless the Court finds that the agreement was not reached voluntarily or is not in the best interests of the child.

#### § 2627. NONCONSENSUAL GUARDIANSHIP

(a) If the petition requests a nonconsensual guardianship, the burden shall be on the proposed guardian to establish by clear and convincing evidence that the child is a child in need of guardianship as defined in subdivision 2622(2)(B) of this title.

(b) The Vermont Rules of Evidence shall apply to a hearing under this section.

(c) The Court shall grant the petition if it finds after the hearing by clear and convincing evidence that the proposed guardian is suitable and that the child is a child in need of guardianship as defined in subdivision 2622(2)(B) of this title.

(d) If the Court grants the petition, it shall issue an order establishing a guardianship under section 2628 of this title.

#### § 2628. GUARDIANSHIP ORDER

(a) If the Court grants a petition for guardianship of a child under subsection 2626(c) or 2627(d) of this title, the Court shall enter an order establishing a guardianship and naming the proposed guardian as the child's guardian.



(b) A guardianship order issued under this section shall include provisions addressing the following matters:

(1) the powers and duties of the guardian consistent with section 2629 of this title;

(2) the expected duration of the guardianship;

(3) a family plan that:

(A) in a consensual case is consistent with the parties' agreement; or

(B) in a nonconsensual case includes, at a minimum, provisions that address parent-child contact consistent with section 2630 of this title; and

(4) the process for reviewing the order consistent with section 2631 of this title.

#### § 2629. POWERS AND DUTIES OF GUARDIAN

(a) The Court shall specify the powers and duties of the guardian in the guardianship order.

(b) The duties of a financial guardian shall include the duty to:

(1) receive funds paid for the support of the child, including child support and government benefits;

(2) apply any of the child's available money to meet the child's current needs, provided that money received as an inheritance or as the result of a lawsuit shall not be expended without prior Court approval;

(3) conserve for the child's future needs any money the child has that is not required to meet the child's current needs; and

(4) file an annual status report to the Probate Division accounting for the funds received and spent on behalf of the child.

(c) The duties of a custodial guardian shall include the duty to:

(1) take custody of the child and establish his or her place of residence, provided that a guardian shall not change the residence of the child to a location outside the State of Vermont without prior authorization by the Court following notice to the parties and an opportunity for hearing;

(2) make decisions related to the child's education;

(3) make decisions related to the child's physical and mental health, including consent to medical treatment and medication;

(4) make decisions concerning the child's contact with other persons, including the child's parents, provided that the guardian shall comply with all

provisions of the guardianship order regarding parent-child contact; and

(5) file an annual status report to the Probate Division, with a copy to each parent at his or her last known address, including the following information:

(A) the current address of the child and each parent;

(B) the child's health care and health needs, including any medical and mental health services the child received;

(C) the child's educational needs and progress, including the name of the child's school, day care, or other early education program, the child's grade level, and the child's educational achievements;

(D) contact between the child and his or her parents, including the frequency and duration of the contact and whether it was supervised;

(E) how the parents have been involved in decision making for the child;

(F) how the guardian has carried out his or her responsibilities and duties, including efforts made to include the child's parents in the child's life;

(G) the child's strengths, challenges, and any other areas of concern; and

(H) recommendations with supporting reasons as to whether the guardianship order should be continued, modified, or terminated.

#### § 2630. PARENT-CHILD CONTACT

(a) The guardian should:

(1) permit the child to have contact of reasonable duration and frequency with the child's parents and siblings; and

(2) abide by and ensure the child is available for contact with a noncustodial parent pursuant to an existing parent-child contact order issued by the Family Division.

(b) If the proposed guardian and the parents are unable to agree on a schedule for parent-child contact, either party may file a motion requesting the Probate Division to establish a parent-child contact schedule.

#### § 2631. REPORTS; REVIEW HEARING

(a) The guardian shall file an annual status report to the Probate Division pursuant to subdivisions 2629(b)(4) and 2629(c)(5) of this title, and shall provide copies of the report to each parent at his or her last known address.

The Court may order that a status report be filed more frequently than once per year.

(b) The Probate Division may set a hearing to review a report required by subsection (a) of this section or to determine progress with the family plan required by subdivision 2628(b)(3) of this title. The Court shall provide notice of the hearing to all parties and interested persons.

#### § 2632. TERMINATION

(a) A parent may file a motion to terminate a guardianship at any time. The motion shall be filed with the Probate Division that issued the guardianship order and served on all parties and interested persons.

(b)(1) If the motion to terminate is made with respect to a consensual guardianship established under section 2626 of this title, the Court shall grant the motion and terminate the guardianship unless the guardian files a motion to continue the guardianship within 30 days after the motion to terminate is served.

(2) If the guardian files a motion to continue the guardianship, the matter shall be set for hearing and treated as a nonconsensual guardianship proceeding under section 2627 of this title. The parent shall not be required to show a change in circumstances, and the Court shall not grant the motion to continue the guardianship unless the guardian establishes by clear and convincing evidence that the minor is a child in need of guardianship under subdivision 2622(2)(B) of this title.

(3) If the Court grants the motion to continue, it shall issue an order establishing a guardianship under section 2628 of this title.

(c)(1) If the motion to terminate the guardianship is made with respect to a nonconsensual guardianship established under section 2627 or subdivision 2632(b)(3) of this title, the Court shall dismiss the motion unless the parent establishes that a change in circumstances has occurred since the previous guardianship order was issued.

(2) If the Court finds that a change in circumstances has occurred since the previous guardianship order was issued, the Court shall grant the motion to terminate the guardianship unless the guardian establishes by clear and convincing evidence that the minor is a child in need of guardianship under subdivision 2622(2)(B) of this title.

#### § 2633. APPEALS

Notwithstanding 12 V.S.A. § 2551 or 2553, the Vermont Supreme Court shall have appellate jurisdiction over orders of the Probate Division issued under this article.

§ 2634. DEPARTMENT FOR CHILDREN AND FAMILIES POLICY

The Department for Children and Families shall adopt a policy defining its role with respect to families who establish a guardianship under this article. The policy shall be consistent with the following principles:

(1) When the Family Services Division (FSD) is conducting an investigation or assessment related to child safety and the child cannot remain safely at home, it is appropriate to work with the family on an alternative living arrangement for the child with a relative only if the situation is anticipated to resolve within 30 days. If the situation is not expected to resolve within that period, a child in need of supervision (CHINS) petition should be sought.

(2) When it is necessary for a child to be in the care of an alternative caretaker for an extended period in order to address identified dangers, it is not appropriate for the social worker to encourage or recommend that the family address those dangers by establishing a minor guardianship in the Probate Division. However, there are times when the family may independently decide to file a petition for minor guardianship. The social worker shall make it clear that whether to file the petition is the family's choice.

(3) In response to a request from the Probate judge, the FSD social worker shall attend a Court hearing and provide information relevant to the proceeding.

(4) FSD has neither the statutory responsibility nor the staff capacity to provide assessment, case planning, or case monitoring services for minor guardianship cases.

(5) If a minor guardianship is established during the time that FSD has an open case involving the minor, the social worker shall review the case with his or her supervisor, focusing on any unresolved dangers. If safety has been achieved for the minor, the worker should plan for timely closure of the case. Before the case is closed, the worker should offer information to the guardian and the parents about services and supports available to them in the community. Absent a new report concerning the minor, the case shall be closed within three months.

\* \* \*

Sec. 2. REPEAL

14 V.S.A. §§ 2645 (appointment of guardian) and 2651 (when minor refuses to choose) are repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on September, 1, 2014.

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

**Rep. Haas of Rochester**, for the Committee on **Human Services**, recommends the bill ought to pass when amended as recommended by the Committee on **Judiciary** and when further amended as follows:

First: In Sec. 1, 14 V.S.A. chapter 111, subchapter 2, article 1, by striking out § 2626 in its entirety and inserting in lieu thereof a new § 2626 to read as follows:

§ 2626. CONSENSUAL GUARDIANSHIP

(a) If the petition requests a consensual guardianship, the petition shall include a consent signed by the custodial parent or parents verifying that the parent or parents understand the nature of the guardianship, knowingly waive their parental rights, and voluntarily consent to the guardianship. The consent required by this subsection shall be on a form approved by the Court Administrator.

(b) On or before the date of the hearing, the parties shall file an agreement between the proposed guardian and the parents. The agreement shall address:

- (1) the responsibilities of the guardian;
- (2) the responsibilities of the parents;
- (3) the expected duration of the guardianship; and
- (4) parent-child contact and parental involvement in decision making.

(c) Vermont Rule of Probate Procedure 43 (relaxed rules of evidence in probate proceedings) shall apply to hearings under this section.

(d) The Court shall grant the petition if it finds after the hearing by clear and convincing evidence that:

- (1) the child is a child in need of guardianship as defined in subdivision 2622(2)(A) of this title;
- (2) the child's parents had notice of the proceeding and knowingly and voluntarily waived their rights;
- (3) the agreement is voluntary;
- (4) the proposed guardian is suitable; and
- (5) the guardianship is in the best interests of the child.

(e) If the Court grants the petition, it shall approve the agreement at the hearing and issue an order establishing a guardianship under section 2628 of this title. The order shall be consistent with the terms of the parties' agreement unless the Court finds that the agreement was not reached voluntarily or is not in the best interests of the child.

Second: In Sec. 1, in 14 V.S.A. § 2628, in subsection (a), by striking out “2626(c)” and inserting in lieu thereof “2626(d)”

Third: In Sec. 1, in 14 V.S.A. § 2630, by striking subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The guardian:

(1) should permit the child to have contact of reasonable duration and frequency with the child’s parents and siblings; and

(2) shall abide by and ensure the child is available for contact with a noncustodial parent pursuant to an existing parent-child contact order issued by the Family Division.

Fourth: In Sec. 1, in 14 V.S.A. § 2634, by striking out § 2634 in its entirety and inserting in lieu thereof a new § 2634 to read as follows:

§ 2634. DEPARTMENT FOR CHILDREN AND FAMILIES POLICY

The Department for Children and Families shall adopt a policy defining its role with respect to families who establish a guardianship under this article. The policy shall be consistent with the following principles:

(1) The Family Services Division shall maintain a policy ensuring that when a child must be removed from his or her home to ensure the child’s safety, the Division will pursue a CHINS procedure promptly if there are sufficient grounds under 33 V.S.A. § 5102.

(2) When the Family Services Division is conducting an investigation or assessment related to child safety and the child may be a child in need of care and supervision as defined in 33 V.S.A. § 5102(3), Division staff may provide information but shall not make any recommendation regarding whether a family should pursue a minor guardianship.

(3) In response to a request from the Probate judge, the Family Services Division social worker shall attend a minor guardianship hearing and provide information relevant to the proceeding.

(4) If a minor guardianship is established during the time that the Family Services Division has an open case involving the minor, the social worker shall inform the guardian and the parents about services and supports available to them in the community and shall close the case within a reasonable time unless a specific safety risk is identified.

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

## H. 650

An act relating to establishing the Ecosystem Restoration and Water Quality Improvement Special Fund

**Rep. Beyor of Highgate**, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1264d is added to read:

§ 1264d. ECOSYSTEM RESTORATION AND WATER QUALITY  
IMPROVEMENT SPECIAL FUND

(a) Purpose. The federal and State requirements for the permitting of Municipal Separate Storm Sewer Systems (MS4) require certain communities to collect water flow and precipitation data at monitoring stations on stormwater-impaired waters in order to demonstrate compliance with stormwater Total Maximum Daily Load allocations. The costs, equipment, and expertise to conduct monitoring can be prohibitive to individual communities. The establishment of the Ecosystem Restoration and Water Quality Improvement Special Fund is intended to ensure municipal compliance with the monitoring requirements for MS4 communities while reducing the fiscal and other pressures on these communities.

(b) Creation of fund; purpose. There is created an Ecosystem Restoration and Water Quality Improvement Special Fund, to be managed in accordance with the requirements of 32 V.S.A. chapter 7, subchapter 5, and to be administered by the Secretary of Natural Resources. The Ecosystem Restoration and Water Quality Improvement Special Fund shall be used to provide assistance to municipalities in fulfilling the monitoring, education, and other requirements of the MS4 permitting program. The Secretary is authorized to collect monies for the Fund and to make disbursements from the Fund directly related to the Secretary's oversight of monitoring required under the MS4 program.

(c) Participation by municipalities.

(1) A municipality may through a memorandum of understanding (MOU) with the Secretary of Natural Resources agree to contribute to the Ecosystem Restoration and Water Quality Improvement Special Fund to perform the monitoring and other data collection that a municipality is required to conduct under the MS4 permitting program. Under the MOU, a municipality shall commit to contribute to the Fund the municipalities share of funding required by the Agency of Natural Resources to perform MS4 monitoring and provide oversight and administration. Memoranda of

understanding shall serve to coordinate funding and work among municipalities, the State, and any entity contracted with or by a municipality or the State for the purposes of improving water quality.

(2) At a minimum, each memorandum of understanding developed under this section shall contain the following:

(A) the purpose of the memorandum of understanding;

(B) a description of the work to be performed under the memorandum of understanding;

(C) a description of how the coordinated work proposed under the memorandum of understanding will improve water quality;

(D) the entities eligible to participate under the memorandum of understanding; and

(E) the amount of required contribution by the entity, based on a funding formula developed in consultation with entities eligible to participate in the program.

(3) A memorandum of understanding developed under this section shall be posted on the Agency website and subject to a comment period of not less than 30 days.

(4) All participating entities, and the Agency, shall sign any final memoranda of understanding.

(d) Fund proceeds.

(1) The Ecosystem Restoration and Water Quality Improvement Special Fund Deposits shall consist of:

(A) payment of costs by participating MS4 communities;

(B) monies appropriated by the General Assembly; and

(C) any other source, public or private.

(2) Unexpended balances and interest earned on the Fund shall be retained in the Fund for use in accordance with the purposes of the Fund.

(e) Fund accounts; expenditures.

(1) The Secretary shall maintain separate accounts within the Ecosystem Restoration and Water Quality Improvement Special Fund for each memorandum of understanding. The Secretary may establish within the Fund an account for the purpose of conducting education and outreach related to improvements to water quality.



(2) Expenditures from an account shall be limited to the purposes established by the memorandum of understanding associated with that account. The Secretary is prohibited from disbursing funds on behalf of an entity that failed to contribute its assigned allocation pursuant to the funding formula established by the Secretary or for any purpose not associated with that account.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

( Committee Vote: 9-0-0)

**H. 676**

An act relating to regulation of land uses within flood hazard areas

**Rep. Krebs of South Hero**, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 754 is amended to read:

§ 754. FLOOD HAZARD AREA RULES; USES EXEMPT FROM  
MUNICIPAL REGULATION

(a) Rulemaking authority.

(1) On or before ~~March 15, 2014~~ November 1, 2014, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish requirements for the issuance and enforcement of permits applicable to:

(i) uses exempt from municipal regulation that are located within a flood hazard area or river corridor of a municipality that has adopted a flood hazard bylaw or ordinance under 24 V.S.A. chapter 117; and

(ii) State-owned and -operated institutions and facilities that are located within a flood hazard area or river corridor.

\* \* \*

(f) Permit requirement. Beginning ~~July 1, 2014~~ March 1, 2015, no person shall commence or conduct a use exempt from municipal regulation in a flood hazard area in a municipality that has adopted a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 without a permit issued under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section.

\* \* \*

Sec. 2. 24 V.S.A. § 4413(a) is amended to read:

(a)(1) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

~~(1)~~(A) State- or community-owned and operated institutions and facilities.

~~(2)~~(B) Public and private schools and other educational institutions certified by the ~~state department of education~~ Agency of Education.

~~(3)~~(C) Churches and other places of worship, convents, and parish houses.

~~(4)~~(D) Public and private hospitals.

~~(5)~~(E) Regional solid waste management facilities certified under 10 V.S.A. chapter 159.

~~(6)~~(F) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.

(2) Except for State-owned and –operated institutions and facilities, a municipality may regulate each of the land uses listed in subdivision (1) of this subsection for compliance with the National Flood Insurance Program and for compliance with a municipal ordinance or bylaw regulating development in a flood hazard area or river corridor, consistent with the requirements of subdivision 2291(25) and section 4424 of this title. These regulations shall not have the effect of interfering with the intended functional use.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

( Committee Vote: 9-0-0)

**Favorable**

**S. 215**

An act relating to administering, implementing, and financing water quality improvement in Vermont

**Rep. Deen of Westminster**, for the Committee on **Fish, Wildlife & Water Resources**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 9-0-0)

(For text see Senate Journal 2/7/2104 )

## **Public Hearings**

### **Public Hearing on the Governor's Proposed Fiscal Year 2015 State Budget**

#### **For Advocates**

#### **House Committee on Appropriations**

**Tuesday, February 18, 2014, 11:00 a.m. - 12:00 p.m. or Friday, February 21, 2014, 1:00 – 2:30 p.m.** – The House Committee on Appropriations will hold a public hearing for advocates in room 11 of the State House on the Governor's proposed FY2015 state budget. Please sign up in advance, with Theresa Utton-Jerman at (802) 828-5767 or [tutton@leg.state.vt.us](mailto:tutton@leg.state.vt.us) or in room 40.

The Governor's budget proposal can be viewed at the Department of Finance & Management's website:  
[http://finance.vermont.gov/state\\_budget/rec](http://finance.vermont.gov/state_budget/rec).

Individual department budgets that have been made available can be viewed at the Joint Fiscal Office's website:  
[http://www.leg.state.vt.us/jfo/dept\\_budgets\\_fy\\_2015.aspx](http://www.leg.state.vt.us/jfo/dept_budgets_fy_2015.aspx).

February 19, 2014 - Room 11 - 7:00p,- 8:30pm - Judicial retention - Joint Committee on Judicial Retention

#### **Information Notice**

##### **Deadline for Introducing Bills**

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.

If you are planning on a resolution for presentation at your Town Meeting, please see Michael Chernick with your information by February 14th or sooner, if possible. This will allow sufficient time for processing and passage by both bodies. Thank you.

### **Joint Assembly**

February 20, 2014 - 10:30 A.M. – Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than February 13, 2014 , by 4:30 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions. Do not use pink mail to deliver notification to the Secretary of State. Hand delivery is the best method to insure notification has been received.

The following rules shall apply to the conduct of these elections:

**First:** All nominations for these offices will be presented in alphabetical order prior to voting.

**Second:** There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.