

Journal of the House

Thursday, February 14, 2013

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Reverend Rebecca Girrell-Clark of Trinity United Methodist Church, Montpelier, Vt.

Message from the Senate No. 17

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 47. An act relating to fiscal year 2013 budget adjustment.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

H. 266

By Reps. Martin of Wolcott and Woodward of Johnson,

House bill, entitled

An act relating to the standard for substantiation of child abuse or neglect;

To the committee on Human Services.

H. 267

By Reps. Buxton of Tunbridge, Wright of Burlington, Ancel of Calais, Batchelor of Derby, Beyor of Highgate, Bissonnette of Winooski, Bouchard of Colchester, Branagan of Georgia, Browning of Arlington, Burditt of West Rutland, Burke of Brattleboro, Canfield of Fair Haven, Carr of Brandon, Cheney of Norwich, Christie of Hartford, Clarkson of Woodstock, Cole of

Burlington, Conquest of Newbury, Cross of Winooski, Cupoli of Rutland City, Davis of Washington, Devereux of Mount Holly, Dickinson of St. Albans Town, Donaghy of Poultney, Donovan of Burlington, Fagan of Rutland City, Fay of St. Johnsbury, Feltus of Lyndon, Fisher of Lincoln, Gallivan of Chittenden, Goodwin of Weston, Grad of Moretown, Haas of Rochester, Higley of Lowell, Hooper of Montpelier, Huntley of Cavendish, Jerman of Essex, Juskiewicz of Cambridge, Klein of East Montpelier, Koch of Barre Town, Komline of Dorset, Krowinski of Burlington, Kupersmith of South Burlington, Lawrence of Lyndon, Lenes of Shelburne, Lewis of Berlin, Martin of Wolcott, Masland of Thetford, McCarthy of St. Albans City, McFaun of Barre Town, Miller of Shaftsbury, Mrowicki of Putney, Myers of Essex, Nuovo of Middlebury, O'Brien of Richmond, Pearce of Richford, Peltz of Woodbury, Rachelson of Burlington, Ram of Burlington, Russell of Rutland City, Savage of Swanton, Scheuermann of Stowe, Sharpe of Bristol, Shaw of Pittsford, Shaw of Derby, Stuart of Brattleboro, Till of Jericho, Toleno of Brattleboro, Toll of Danville, Trieber of Rockingham, Waite-Simpson of Essex, Weed of Enosburgh, Wilson of Manchester, Wizowaty of Burlington, Woodward of Johnson, Yantachka of Charlotte and Zagar of Barnard,

House bill, entitled

An act relating to prohibiting certain employment after an elected or appointed official in the Executive Branch leaves public office;

To the committee on Government Operations.

H. 268

By Reps. Fagan of Rutland City, Branagan of Georgia, Burditt of West Rutland, Cupoli of Rutland City, Gage of Rutland City, Hebert of Vernon, Helm of Fair Haven, Higley of Lowell, Hubert of Milton, Potter of Clarendon, Russell of Rutland City, Savage of Swanton and Terenzini of Rutland Town,

House bill, entitled

An act relating to increasing penalties for dispensing or selling a regulated drug at or near a school, licensed child care facility, or playground;

To the committee on Judiciary.

H. 269

By Reps. Fagan of Rutland City, Branagan of Georgia, Cupoli of Rutland City, Gage of Rutland City, Russell of Rutland City, Savage of Swanton and Terenzini of Rutland Town,

House bill, entitled

An act relating to tuition payments for students engaging in public high school choice;

To the committee on Education.

H. 270

By Reps. Buxton of Tunbridge, Christie of Hartford, Cross of Winooski, Donovan of Burlington and Peltz of Woodbury,

House bill, entitled

An act relating to providing access to publicly funded prekindergarten education ;

To the committee on Education.

H. 271

By Reps. Pearson of Burlington, Ram of Burlington, Bartholomew of Hartland, Burke of Brattleboro, Christie of Hartford, Clarkson of Woodstock, Evans of Essex, Gallivan of Chittenden, Haas of Rochester, Hooper of Montpelier, Johnson of South Hero, Lanpher of Vergennes, Lenes of Shelburne, Martin of Wolcott, Masland of Thetford, McCormack of Burlington, McCullough of Williston, Mrowicki of Putney, Nuovo of Middlebury, Spengler of Colchester, Webb of Shelburne, Wilson of Manchester, Woodward of Johnson, Yantachka of Charlotte and Zagar of Barnard,

House bill, entitled

An act relating to divesting state retirement funds from companies that extract, produce, or refine fossil fuels;

To the committee on Government Operations.

H. 272

By Rep. Wizowaty of Burlington,

House bill, entitled

An act relating to telemedicine services delivered outside a health care facility;

To the committee on Health Care.

H. 273

By Reps. French of Randolph, Davis of Washington, Donahue of Northfield, Frank of Underhill, Haas of Rochester, Kitzmiller of Montpelier,

Krowinski of Burlington, Martin of Springfield, Miller of Shaftsbury, Mrowicki of Putney, Sharpe of Bristol, Spengler of Colchester, Taylor of Barre City, Townsend of South Burlington and Wizowaty of Burlington,

House bill, entitled

An act relating to establishing and regulating licensed dental practitioners;

To the committee on Government Operations.

H. 274

By Reps. Botzow of Pownal, Cross of Winooski, Kitzmiller of Montpelier, Kupersmith of South Burlington and Marcotte of Coventry,

House bill, entitled

An act relating to workers' compensation;

To the committee on Commerce and Economic Development.

H. 275

By Reps. Grad of Moretown, Canfield of Fair Haven and O'Sullivan of Burlington,

House bill, entitled

An act relating to professional licensing of members of the Armed Forces;

To the committee on Government Operations.

H. 276

By Rep. Klein of East Montpelier,

House bill, entitled

An act relating to requiring margin over rack pricing for fuel assistance ;

To the committee on Human Services.

Bill Referred to Committee on Appropriations

H. 265

House bill, entitled

An act relating to the education property tax rates and base education amount for fiscal year 2014

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

House Resolution Referred to Committee**H.R. 7**

House resolution, entitled

House resolution supporting President Obama's appointment of a group to make recommendations to deter mass shootings in the United States

Offered by: Representatives Nuovo of Middlebury, Ancel of Calais, Burke of Brattleboro, Clarkson of Woodstock, Cole of Burlington, Deen of Westminster, Evans of Essex, French of Randolph, Gallivan of Chittenden, Greshin of Warren, Lanpher of Vergennes, Martin of Springfield, Masland of Thetford, McCullough of Williston, Mrowicki of Putney, O'Brien of Richmond, Rachelson of Burlington, Ram of Burlington, Stuart of Brattleboro, Waite-Simpson of Essex, Wilson of Manchester, Wizowaty of Burlington, and Yantachka of Charlotte

Whereas, in July 2012, a gunman opened fire in an Aurora, Colorado movie theater, killing a dozen persons and wounding over 50 others who were attending a film presentation, and

Whereas, in December 2012, a man opened fire at an Oregon shopping mall, resulting in his killing two persons and himself and injuring several others, and

Whereas, just days later, a gunman killed 20 first-grade students and six school personnel at a school in Newtown, Connecticut, and

Whereas, in August 2006, a gunman killed one teacher and wounded a second at the Essex Elementary School after earlier shooting a school teacher at her home in Essex, and after he fled the school he shot a male victim, and

Whereas, in response to these mass shootings, on December 19, 2012, President Barack Obama asked Vice President Joe Biden to lead a group consisting of governmental and nongovernmental officials to propose deterrents to mass shootings, and the group submitted its recommendations to the President in January 2013, and

Whereas, this group has completed its work and submitted its recommendations to the President, and

Whereas, Congress will be taking up these recommendations, now therefore be it

Resolved by the House of Representatives:

That this legislative body requests Congress to consider supporting the recommendations of the President and the committee, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to President Barack Obama, Vice President Joe Biden, and the Vermont Congressional Delegation.

Which was read and referred to the committee on Government Operations.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 255

Rep. Head of South Burlington moved that the committee on General, Housing and Military Affairs be relieved of House bill, entitled

An act relating to safety inspections of amusement rides

And that the bill be committed to the committee on Agriculture, which was agreed to.

Third Reading; Bill Passed

H. 240

House bill, entitled

An act relating to Executive Branch fees

Was taken up, read the third time and passed.

Bill Amended; Third Reading Ordered

H. 39

Rep. Carr of Brandon, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to the Public Service Board and the Department of Public Service

Reported in favor of its passage when amended as follows:

First: By striking Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 30 V.S.A. § 111(b) is amended to read:

(b) The citation shall be served upon each person having any legal interest in the property, ~~including each municipality and each planning body where the property is situate like a summons~~, or on absent persons in such manner as the ~~supreme court~~ Supreme Court may by rule provide for service of process in civil actions. The Board shall also give notice of the hearing to each municipality and each planning body where the property is located. ~~The board~~

Board, in its discretion, may schedule a joint hearing of some or all petitions relating to the same project and concerning properties or rights located in the same town or abutting towns.

Second: In Sec. 6, subsection 30 V.S.A. § 248(f), in the first sentence, by striking out the word “must” and by inserting in lieu thereof the word “shall”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce and Economic Development agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 41

Rep. Evans of Essex, for the committee on Government Operations, to which had been referred House bill, entitled

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

Reported in favor of its passage when 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.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time

Thereupon, **Rep. Evans of Essex**, asked and was granted leave of the House to withdraw the report of the committee on Government Operations, which was agreed to.

Rep. Waite-Simpson of Essex, for the committee on Judiciary, moved that 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 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 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 or losses 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 or losses 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 employment as a member:

(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;

(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; or

(H) an attempt to commit, or aiding in the commission of, any offense listed in this subdivision (2).

(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 the Internal Revenue Code, 26 U.S.C. § 401.

(4) "Retirement benefits" shall have the same meaning as "pensions" as defined in 3 V.S.A. § 455(a)(14), 16 V.S.A. § 1931(12), and 24 V.S.A. § 5051(16), and shall also mean 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 or status, 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 any crime related to public office shall be considered to have served dishonorably, and his or her retirement benefits may be subject to forfeiture.

(c) If a member is convicted of 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 forfeit the member's retirement benefits in whole or in part.

(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 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;
- (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 may consider:

- (1) the degree of knowledge, if any, possessed by the member's spouse, dependent, or designated beneficiary in connection with the offense;
- (2) the financial needs and resources of the member's spouse, dependent, or designated beneficiary; and
- (3) any other factors as, in the judgment of the Court, justice may require.

(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 forfeit 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 forfeit 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 forfeited to any degree pursuant to section 623 of this title shall be entitled to a return of his or her contribution in the same manner as provided by the relevant retirement system.

(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 forfeited to any degree 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 forfeited to any degree 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 and applicable to:

(1) any member who is convicted of 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 member.

(d) Notwithstanding the provisions of section 623 of this title, retirement benefits shall not be forfeited to any degree if the Internal Revenue Service determines that such forfeiture 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) No collective bargaining agreement or other employment agreement entered into on or after the effective date of this subchapter shall 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.

Which was agreed to and third reading was ordered.

Bill Amended; Third Reading Ordered

H. 57

Rep. Cross of Winooski, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to self-employment assistance

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 1340a is added to read:

§ 1340a. SELF-EMPLOYMENT ASSISTANCE PROGRAM

(a) As used in this section:

(1) “Full-time basis” means that the individual is devoting an amount of time as determined by the Commissioner to be necessary to establish a business that will serve as a full-time occupation for that individual.

(2) “Regular benefits” has the same meaning as in subdivision 1421(5) of this title.

(3) “Self-employment assistance activities” means activities approved by the Commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed, including entrepreneurial training, business counseling, and technical assistance.

(4) “Self-employment assistance allowance” means an allowance payable in lieu of regular benefits from the Unemployment Compensation Fund to an individual who meets the requirements of this section.

(5) “Self-employment assistance program” means a program under which an individual who meets the requirements of subsection (d) of this section is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.

(b) The weekly amount of the self-employment assistance allowance payable to an individual shall be equal to the weekly benefit amount for regular benefits otherwise payable under this title.

(c) The maximum amount of the self-employment assistance allowance paid under this section shall not exceed the maximum amount of benefits established under section 1340 of this title with respect to any benefit year.

(d)(1) An individual may receive a self-employment assistance allowance if that individual:

(A) is eligible to receive regular benefits or would be eligible to receive regular benefits except for the requirements described in subdivisions (A) and (B) of subdivision (2) of this subsection;

(B) is identified by a worker profiling system as an individual likely to exhaust regular benefits;

(C) has received the approval of the Commissioner to participate in a program providing self-employment assistance activities;

(D) is actively engaged in a full-time basis in activities, which may include training, related to establishing a business and becoming self-employed; and

(E) has filed a weekly claim for the self-employment assistance allowance and provided the information the Commissioner prescribes.

(2) A self-employment allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits under this chapter, except:

(A) the requirements of section 1343 of this title, relating to availability for work, efforts to secure work, and refusal to accept work, are not applicable to the individual;

(B) the individual is not considered to be self-employed pursuant to subdivision 1301(24) of this title;

(C) an individual who meets the requirements of this section shall be considered to be unemployed under section 1338 of this title; and

(D) an individual who fails to participate in self-employment assistance activities or who fails to actively engage on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-employed shall be disqualified from receiving an allowance for the week the failure occurs.

(e) The self-employment assistance allowance may be paid to up to 35 qualified individuals at any time.

(f)(1) The self-employment assistance allowance shall be charged to the unemployment trust fund.

(2) In the event that the self-employment assistance allowance cannot be charged to the unemployment trust fund pursuant to subdivision (1) of this subsection, the allowance shall be charged in accordance with section 1325 of this title.

(g) The Commissioner shall approve any program that will provide self-employment assistance activities to qualified individuals.

(h) The Commissioner shall adopt rules to implement this section.

(i) The Commissioner may suspend the self-employment assistance program with approval of the Secretary of Administration and notice to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs in the event that it presents unintended adverse consequences to the unemployment trust fund.

Sec. 2. EFFECTIVE DATE

This section and 21 V.S.A. § 1340a(g) (rulemaking) shall take effect on passage. The remaining sections shall take effect on January 1, 2014.

Sec. 3. SUNSET

21 V.S.A. § 1340a (self-employment assistance program) shall be repealed on July 1, 2017.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce and Economic Development agreed to and third reading ordered.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 227

Rep. Sweaney of Windsor moved that the committee on Government Operations be relieved of House bill, entitled

An act relating to licensing and regulating property inspectors

And that the bill be committed to the committee on General, Housing and Military Affairs, which was agreed to.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 276

Rep. Pugh of South Burlington moved that the committee on Human Services be relieved of House bill, entitled

An act relating to requiring margin over rack pricing for fuel assistance

And that the bill be committed to the committee on Natural Resources and Energy, which was agreed to.

Adjournment

At one o'clock and fifty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.