

Journal of the House

Wednesday, March 13, 2013

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

Devotional Exercises

Devotional exercises were conducted by Cut, Split and Delivered trio from Lincoln and Bristol, Vt.

Message from Governor

A message was received from His Excellency, the Governor, by Mr. Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the seventh day of March, 2013, he approved and signed a bill originating in the House of the following title:

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

Senate Bill Referred

S. 25

Senate bill, entitled

An act relating to public advocacy in utility matters

Was read and referred to the committee on Commerce and Economic Development.

Bills Referred to Committee on Ways and Means

House bills of the following titles, appearing on the Calendar, affecting the revenue of the state, under the rule, were referred to the Committee on Ways and Means:

H. 107

House bill, entitled

An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange

H. 198

House bill, entitled

An act relating to the Legacy Insurance Management Act

Joint Resolution Placed on Calendar**J.R.S. 17**

By Senator Nitka,

J.R.S. 17. Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

Whereas, declarations have been submitted by the following seven Superior Judges that they be retained for another six-year term, Judge William D. Cohen, Judge James R. Crucitti, Judge Robert Gerety, Jr., Judge Kevin William Griffin, Judge M. Kathleen Manley, Judge Timothy B. Tomasi, Judge Thomas Zonay and one Magistrate that she be retained for another six year term, Magistrate Barbara Zander, and

Whereas, the procedures of the Joint Committee on Judicial Retention require at least one public hearing and the review of information provided by each candidate and the comments of members of the Vermont bar and the public, and

Whereas, the Committee was unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the candidates seeking to be retained in office by March 14, 2012, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 21, 2013, the date specified in subsection 10(b) of Title 2, and

Whereas, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 28, 2013, at ten o'clock and thirty minutes in the forenoon to vote on the retention of seven Superior Judges and one Magistrate. In case the vote to retain said Judges and Magistrate shall not be made on that day, the two Houses shall meet in Joint Assembly at nine o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Joint Resolution Adopted in Concurrence**J.R.S. 18**

By Senators Baruth and Benning,

J.R.S. 18. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 15, 2013, it be to meet again no later than Tuesday, March 19, 2013.

Was taken up read and adopted in concurrence.

Bill Recommitted**H. 395**

House bill, entitled

An act relating to the establishment of the Vermont Clean Energy Loan Fund

Appearing on the Calendar, was taken up and pending second reading of the bill, **Rep. Botzow of Pownal** moved to recommit the bill to Commerce and Economic Development, which was agreed to.

Bill Amended, Read Third Time and Passed**H. 14**

House bill, entitled

An act relating to the law enforcement authority of liquor control investigators

Was taken up and pending third reading of the bill, **Rep. Lippert of Hinesburg** moved to amend the bill as follows:

By adding a new section to be Sec. 2 to read:

Sec. 2. 7 V.S.A. § 561 is amended to read:

§ 561. AUTHORITY OF LIQUOR CONTROL INVESTIGATORS;
ARREST FOR UNLAWFULLY MANUFACTURING,
POSSESSING, OR TRANSPORTING ALCOHOLIC BEVERAGES;
SEIZURE OF PROPERTY

(a) The ~~director of the enforcement division of the department of liquor control~~ Director of the Enforcement Division of the Department of Liquor Control and investigators employed by the ~~liquor control board~~ Liquor Control Board or by the ~~department of liquor control~~ Department of Liquor Control

shall be certified as full-time law enforcement officers by the Vermont Criminal Justice Training Council and shall have the same powers and immunities as those conferred on the ~~state police~~ State Police by 20 V.S.A. § 1914.

* * *

and by renumbering the remaining section (effective date) to be Sec. 3.

Which was agreed to. Thereupon, the bill was read the third time and passed.

Bill Committed

H. 112

House bill, entitled

An act relating to the labeling of food produced with genetic engineering

Appearing on the Calendar for action, was taken up and pending the reading of the report of the committee on Agriculture and Forest Products, on motion of **Rep. Bartholomew of Hartland**, the bill was committed to the committee on Judiciary.

Bill Amended; Third Reading Ordered

H. 182

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

An act relating to search and rescue

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

Sec. 1. 20 V.S.A. chapter 112 is amended to read:

CHAPTER 112. MISSING PERSONS AND SEARCH AND RESCUE

Subchapter 1. Missing Persons

§ 1820. DEFINITIONS

As used in this chapter:

(1) “Missing person” means an individual whose whereabouts is unknown and who is either physically disabled, mentally disabled, developmentally disabled, or an unemancipated minor.

(2) “Unemancipated minor” means an individual under the age of majority who has not married and who resides with a parent or legal guardian.

§ 1821. MISSING PERSON COMPLAINT

(a) A person filing a missing person complaint with a law enforcement agency shall provide at a minimum the following information:

- (1) the name, age, address, and identifying characteristics of the missing person;
- (2) the length of time the person has been missing;
- (3) the name of the complainant and the relationship of the complainant to the missing person; and
- (4) any other relevant information provided by the complainant or requested by the law enforcement agency.

(b) All law enforcement personnel on active duty shall be notified forthwith that the person is missing.

§ 1822. MISSING PERSON REPORT

Upon receiving a complaint, the law enforcement agency shall forthwith prepare a missing person report. The report shall include all information contained in the missing person complaint and any information or evidence gathered by a preliminary investigation, if one was made.

§ 1823. DISSEMINATION OF MISSING PERSON REPORT

(a) Upon completion of the report, a copy shall forthwith be forwarded to the ~~commissioner of public safety~~ Commissioner of Public Safety, all law enforcement agencies within the jurisdiction where the missing person lives or was last seen, and other law enforcement agencies that can reasonably be expected to be involved in any investigation.

(b) A copy of the report shall also be forwarded to:

- (1) all law enforcement agencies to which the complainant reasonably requests the report be sent;
- (2) any law enforcement agency requesting a copy of the missing person report; and
- (3) all media in the region in which the missing person lives, or was last seen, unless such disclosure would impede an ongoing investigation or unless otherwise requested by the complainant.

§ 1824. SEARCHES FOR MISSING PERSONS

(a) A law enforcement agency shall commence a search for a missing person as soon as a report is received.

(b) Any rule specifying an automatic time limitation before commencing a missing person investigation shall be invalid.

(c) Notwithstanding any provision of law to the contrary, the search for a missing person whose whereabouts is unknown within the backcountry, remote areas, or waters of the State shall be conducted as provided in subchapter 2 of this chapter.

§ 1825. MISSING PERSON COMPLAINTS REGARDING
UNEMANCIPATED MINORS

If a missing person complaint involves an unemancipated minor, including a runaway child as defined in 13 V.S.A. § 1311, the law enforcement agency shall transmit the report, as soon as it is complete, to the ~~department of public safety~~ Department of Public Safety for inclusion in the National Crime Information Center ~~computer~~ database.

§ 1826. FALSE INFORMATION ON MISSING PERSON

A person who knowingly makes a false report of a missing person, or knowingly makes a false statement in the report shall be fined not more than \$1,000.00.

§ 1827. COMMISSIONER OF PUBLIC SAFETY; COOPERATION

The ~~commissioner of public safety~~ Commissioner of Public Safety shall cooperate with and support all law enforcement agencies in this ~~state~~ State in matters relating to missing persons. When necessary to protect a missing person from harm, the ~~commissioner~~ Commissioner shall coordinate local and state efforts to search for and rescue the missing person.

§ 1828. VERMONT AMBER ALERT PROGRAM

The ~~department of public safety~~ Department of Public Safety shall establish the Vermont Amber ~~alert program~~ Alert Program to aid in the identification and location of abducted children. The ~~department~~ Department shall administer the program pursuant to the following:

(1) A law enforcement agency which verifies the abduction of a child shall notify the ~~department of public safety~~ Department of Public Safety.

(2) The ~~department~~ Department shall establish a procedure for verifying the need to issue an Amber ~~alert~~ Alert.

(3) The ~~department of public safety~~ Department of Public Safety shall issue an alert over the Vermont ~~emergency alert system~~ Emergency Alert System if:

(A) a law enforcement agency notifies the ~~department~~ Department of the abduction of a child;

(B) there is sufficient information about the child or the person suspected of abducting the child that an immediate broadcast might help locate the child; and

(C) the child is in danger of imminent death or serious bodily harm.

(4) An ~~alert~~ Alert issued under this section shall be sent to the Federal Communications Commission's designated state ~~emergency-alert-system~~ Emergency Alert System broadcaster in Vermont. Participating radio and television stations shall broadcast the ~~alert~~ Alert at intervals established by the ~~department~~ Department. The ~~alert~~ Alert shall include all information which the ~~department~~ Department determines may assist in the safe recovery of the abducted child and instructions explaining how a person with information related to the abduction may contact a law enforcement agency.

(5) A law enforcement agency which locates a child who is the subject of an ~~alert~~ Alert issued under this section shall immediately notify the law enforcement agency which requested the Amber ~~alert~~ Alert.

(6) An ~~alert~~ Alert issued under this section shall be canceled:

(A) if the ~~department~~ Department notifies the Federal Communications Commission's designated state ~~emergency-alert-system~~ Emergency Alert System broadcaster in Vermont that the child has been located; or

(B) at the expiration of a notification period specified by the ~~department~~ Department.

(7) A radio or television station that accurately broadcasts information pursuant to this section shall not be liable for civil damages as a result of the broadcast of such information.

Subchapter 2. Search and Rescue

§ 1841. DEFINITIONS

As used in this chapter:

(1) "Public safety agency" means any municipal, county, or state agency or organization within the State that specializes in protecting the safety of the public.

(2) "Search and rescue" means the deployment, coordination, and utilization of available resources and personnel in locating, relieving the

distress, and preserving the lives of and removing persons who are missing or lost in the backcountry, remote areas, or waters of the State.

§ 1842. COMMISSIONER OF PUBLIC SAFETY; JURISDICTION OVER SEARCH AND RESCUE OPERATIONS; COORDINATION

(a) The Commissioner of Public Safety shall have jurisdiction over all search and rescue operations.

(b)(1) The Commissioner shall cooperate with and support all public safety agencies and any nonpublic entities that specialize in protecting the safety of the public in this State in matters relating to search and rescue operations. When necessary to protect a person missing in the backcountry, remote areas, or waters of the State from harm, the Commissioner shall coordinate local, county, state, and any nonpublic efforts to search for and rescue that person.

(2) The Commissioner shall specifically coordinate with game wardens in the Department of Fish and Wildlife as needed to search for and rescue a person missing or lost in the backcountry, remote areas, or waters of the State.

§ 1843. INCIDENT COMMAND SYSTEM; TRAINING

(a) The Commissioner shall ensure that all search and rescue operations are conducted using the incident command system in order to provide the seamless integration of all responding search and rescue agencies and organizations. Incident command is a standardized, on-scene approach to incident management that allows all responders to adopt a collaborative, integrated organizational structure while respecting agency and jurisdictional authorities.

(b) All Search and Rescue Team members within the Department of Public Safety shall maintain equipment standards and high-level search and rescue training and training on the incident command system as established by the Search and Rescue Council set forth in section 1847 of this subchapter. The Search and Rescue Team shall regularly conduct search and rescue training with collaborating agencies and organizations with the goal of continually refining search and rescue operations.

§ 1844. SEARCH AND RESCUE COORDINATOR

(a) The Search and Rescue Coordinator shall be responsible for the general support of search and rescue operations conducted in the State. The Search and Rescue Coordinator shall be a permanent classified position within the Department of Public Safety and shall not be a law enforcement officer.

(b) The duties of the Coordinator shall include:

(1) assessing and populating with resources the database set forth in section 1846 of this subchapter as provided in that section;

(2) maintaining records of all search and rescue operations reported to the Department, including the date of the operation, the resources that assisted in the operation, and the result of the operation;

(3) maintaining records of all training completed by the Search and Rescue Team; and

(4) communicating with public safety agencies and any nonpublic entities that specialize in protecting the safety of the public regarding search and rescue training and equipment standards.

§ 1845. SEARCH AND RESCUE REPORT; RESPONSE

(a) Report of a person missing; response.

(1) A public safety agency taking a report of any person missing in the backcountry, remote areas, or waters of the State shall immediately:

(A) respond and take immediate action to locate the person reported missing; and

(B) notify the Department of Public Safety to advise of the situation.

(2) A nonpublic entity that specializes in protecting the safety of the public and is included in the search and rescue database set forth in section 1846 of this subchapter which takes a report of any person missing in the backcountry, remote areas, or waters of the State:

(A) shall immediately notify the Department of Public Safety to advise of the situation; and

(B) may respond and take immediate action to locate the person reported missing.

(b) Department of Public Safety response.

(1) When provided with a report of a person missing in the backcountry, remote areas, or waters of the State, the Department shall ensure that notification is made to its Search and Rescue Team and the Team, in consultation with the entity providing the report, shall determine the appropriate level of response needed based on best practices in search and rescue operations.

(2) The Department shall ensure that an immediate response to any report of a person missing in the backcountry, remote areas, or waters of the

State is made, including immediate action to locate the person reported missing.

§ 1846. SEARCH AND RESCUE DATABASE

The Department of Public Safety shall populate and use a search and rescue database as set forth in this section.

(1) The Search and Rescue Coordinator, on a geographic basis, shall identify all agencies and organizations having specific search and rescue response capability. The points of contact for each agency and organization having specific search and rescue capability shall be compiled and entered into the search and rescue database. The database shall be updated on a regular basis by the Search and Rescue Coordinator.

(2) When the Search and Rescue Team determines that additional resources are necessary to respond to a search and rescue operation, the Team shall use this database in order to deploy properly those additional resources.

§ 1847. SEARCH AND RESCUE COUNCIL

(a) Creation of council. There is created a Search and Rescue Council which shall be responsible for analyzing the performance of search and rescue operations conducted in the State.

(b)(1) Membership. The Council shall be composed of eight members who shall serve two-year terms commencing on July 1 of each odd-numbered year. Members of the Council shall be as follows:

(A) the Search and Rescue Coordinator;

(B) the Vermont State Police Search and Rescue Team Leader;

(C) one member of the House of Representatives, appointed by the Speaker of the House;

(D) one member of the Senate, appointed by the Senate Committee on Committees;

(E) one member of the Department of Fish and Wildlife, appointed by the Commissioner of the Department;

(F) one member of the public with experience in search and rescue operations, appointed by the Governor;

(G) one member of the National Ski Patrol or the Green Mountain Club with extensive experience in search and rescue operations, appointed by the Governor; and

(H) one member of a professional or volunteer search and rescue organization, appointed by the Governor.

(2) The appointed members shall be appointed to reflect the different geographic regions of the State.

(c) Powers and duties. The Council shall:

(1) meet quarterly and upon the call of the Chair;

(2) establish the search and rescue training and equipment standards that shall be required of members of the Search and Rescue Team;

(3) review completed search and rescue operations and make recommendations to search and rescue resources on how those operations may be improved; and

(4) at its discretion and subject to the provisions of 32 V.S.A. § 5, apply for and accept contributions, capital grants, gifts, services, and funds from any source.

(d) Structure; decision-making. The Council shall elect a Chair from its membership. The provisions of 1 V.S.A. § 172 (joint authority of three or more) shall apply to the meetings and decision-making of the Council.

(e) Report. The Council shall report annually to the House and Senate Committees on Government Operations its findings and any recommendations for legislative action.

(f) Reimbursement. Members of the Council who are not employees of the State of Vermont shall be entitled to compensation as provided in 32 V.S.A. § 1010.

§ 1848. FALSE REPORT OR STATEMENT

A person who knowingly makes a false report of a person missing in the backcountry, remote areas, or waters of the State or knowingly makes a false statement in the report shall be fined not more than \$1,000.00.

Sec. 2. 20 V.S.A. § 2365a is added to read:

§ 2365a. SEARCH AND RESCUE TRAINING

A person shall receive search and rescue training approved by the Vermont Criminal Justice Training Council and the Vermont Search and Rescue Council as part of basic training in order to become certified as a law enforcement officer.

Sec. 3. REALLOCATION OF POSITION WITHIN THE DEPARTMENT OF PUBLIC SAFETY; SEARCH AND RESCUE COORDINATOR

(a) Within its existing financial resources and existing positions, the Department of Public Safety shall reallocate one position and necessary funding to establish by July 1, 2013 the position of Search and Rescue Coordinator set forth in Sec. 1, 20 V.S.A. § 1844, of this act.

(b) Any duties required by this act to be performed by the Search and Rescue Coordinator shall be performed by the Commissioner of Public Safety or his or her designee prior to the establishment of the position of Search and Rescue Coordinator as required by subsection (a) of this section.

Sec. 4. EFFECTIVE DATES

This act shall take effect on passage, except Sec. 1, 20 V.S.A. § 1846 (search and rescue database), which shall take effect no later than 15 days after passage of this act. The search and rescue database shall be established, populated, and used as set forth in 20 V.S.A. § 1846 upon its effective date.

Rep. Manwaring of Wilmington for the committee in Appropriations, recommended that the bill ought to pass when amended as recommended by the committee on Government Operations and when further amended as follows:

In Sec. 1, 20 V.S.A. § 1847 (search and rescue council), in subsection (f) (reimbursement), after the first sentence, by adding “Legislative members of the Council shall be entitled to the same per diem compensation and reimbursement for necessary expenses for attendance at a meeting when the General Assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.”

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time and the report of the committee on Appropriations was agreed to.

Pending the question, Shall the bill be amended as recommended by the committee on Government Operations, as amended? **Rep. Hubert of Milton** moved to amend the recommendation of amendment of the committee on Government Operations, as amended, as follows:

First: In Sec. 1, in subdivision 1841(1), after “protecting the safety of the public”, by adding “and includes municipal police and fire departments, volunteer fire departments, county sheriffs, and constables who exercise law enforcement authority”

Second: In Sec. 1, in subdivision 1845(a)(1), at the beginning of the sentence, by striking out “A public safety agency” and inserting in lieu thereof “A law enforcement agency”

Third: In Sec. 1, in subdivision 1845(a)(2), at the beginning of the sentence, by striking out “A” and inserting in lieu thereof “Any other public safety agency or a”

Fourth: In Sec. 1, in subsection 1847(e) (report), after “The Council shall report annually”, by inserting “by November 15”

Which was agreed to.

Thereupon, the report of the committee on Government Operations, as amended, was agreed to and third reading was ordered.

Adjournment

At one o'clock and forty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.