

# Journal of the House

Wednesday, April 9, 2014

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by the State House Singers.

## 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 eighth day of April, 2014, he approved and signed bills originating in the House of the following titles:

- H. 559 An act relating to membership on the Building Bright Futures Council;**
- H. 577 An act relating to ski tramways;**
- H. 718 An act relating to approval of amendments to the charter of the Village of Derby Line.**

## Joint Resolution Adopted in Concurrence

### J.R.S. 54

By Senators Baruth and Benning,

**J.R.S. 54.** Joint resolution relating to weekend adjournment.

### *Resolved by the Senate and House of Representatives:*

That when the two Houses adjourn on Friday, April 11, 2014, it be to meet again no later than Tuesday, April 15, 2014.

Was taken up read and adopted in concurrence.

## Favorable Report; Third Reading Ordered

### H. 878

**Rep. Moran of Wardsboro** spoke for the committee on General, Housing and Military Affairs.

**Rep. Keenan of St. Albans City**, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to prevailing wages

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Reps. Emmons of Springfield, Davis of Washington, Hooper of Montpelier, Larocque of Barnet, Lenes of Shelburne, Macaig of Williston, Myers of Essex, Shaw of Pittsford and South of St. Johnsbury** moved to amend the bill as follows:

First: By adding a new Sec. 2 to read as follows:

Sec. 2. STATE CONSTRUCTION PROJECTS; CONTRACTS SUBJECT  
TO STATE PREVAILING WAGE

(a) It is the intent of the General Assembly that the transition to the use of the prevailing wage determinations as have been made by the Secretary of the U.S. Department of Labor in accordance with the Davis-Bacon Act, 40 U.S.C. § 276a, as may be amended, in State construction projects shall not change the scope of State construction projects that are subject to the requirements of 29 V.S.A. § 161(b).

(b) Notwithstanding Sec. 1 of this act, the following contracts shall remain subject to the mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey:

(1) contracts for State construction projects executed prior to July 1, 2015;

(2) any change orders or amendments to contracts for State construction projects executed prior to July 1, 2015; and

(3) contracts for State construction projects that result from instructions to bidders posted by the State of Vermont prior to July 1, 2015.

Second: By adding a Sec. 3 to read as follows:

Sec. 3. PREVAILING WAGE; UNIVERSITY OF VERMONT AND  
VERMONT STATE COLLEGES

The University of Vermont and State Agricultural College and the Vermont State Colleges shall pay no less than the prevailing wage determinations as have been made by the Secretary of the U.S. Department of Labor in accordance with the Davis-Bacon Act, 40 U.S.C. § 276a, as may be amended,

for any new construction or major renovation project that receives funding in any capital construction act.

and by renumbering the remaining section to be numerically correct.

Which was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Higley of Lowell** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 95. Nays, 52.

Those who voted in the affirmative are:

Ancel of Calais	Heath of Westford	O'Sullivan of Burlington
Bartholomew of Hartland	Hooper of Montpelier	Partridge of Windham
Bissonnette of Winooski	Hoyt of Norwich	Pearson of Burlington
Botzow of Pownal	Huntley of Cavendish	Peltz of Woodbury
Burke of Brattleboro	Jerman of Essex	Poirier of Barre City
Buxton of Tunbridge	Jewett of Ripton	Potter of Clarendon
Campion of Bennington	Johnson of South Hero	Pugh of South Burlington
Carr of Brandon	Keenan of St. Albans City	Ralston of Middlebury
Christie of Hartford	Kitzmiller of Montpelier	Ram of Burlington
Clarkson of Woodstock	Klein of East Montpelier	Russell of Rutland City
Cole of Burlington	Krebs of South Hero	Ryerson of Randolph
Connor of Fairfield	Krowinski of Burlington	Sharpe of Bristol
Conquest of Newbury	Kupersmith of South Burlington	South of St. Johnsbury
Consejo of Sheldon	Lanpher of Vergennes	Spengler of Colchester *
Copeland-Hanzas of Bradford	Lenes of Shelburne	Stevens of Waterbury
Cross of Winooski	Lippert of Hinesburg	Stuart of Brattleboro
Dakin of Chester	Macaig of Williston	Sweaney of Windsor
Davis of Washington	Malcolm of Pawlet	Till of Jericho
Deen of Westminster *	Manwaring of Wilmington	Toleno of Brattleboro
Donahue of Northfield *	Marek of Newfane	Toll of Danville
Donovan of Burlington	Martin of Springfield	Townsend of South Burlington
Ellis of Waterbury	Masland of Thetford	Vowinkel of Hartford
Emmons of Springfield	McCarthy of St. Albans City	Waite-Simpson of Essex
Evans of Essex	McCormack of Burlington	Walz of Barre City
Fay of St. Johnsbury	McCullough of Williston	Webb of Shelburne
Fisher of Lincoln	Michelsen of Hardwick	Weed of Enosburgh
Frank of Underhill	Miller of Shaftsbury	Wizowaty of Burlington
French of Randolph	Mook of Bennington	Woodward of Johnson
Gallivan of Chittenden	Moran of Wardsboro	Yantachka of Charlotte
Grad of Moretown	Mrowicki of Putney	Young of Glover
Haas of Rochester	Nuovo of Middlebury	Zagar of Barnard
Head of South Burlington	O'Brien of Richmond	

Those who voted in the negative are:

Batchelor of Derby	Goodwin of Weston	Myers of Essex
Beyor of Highgate	Greshin of Warren	Pearce of Richford
Bouchard of Colchester	Hebert of Vernon	Quimby of Concord
Branagan of Georgia	Helm of Fair Haven	Savage of Swanton
Brennan of Colchester	Higley of Lowell	Scheuermann of Stowe
Browning of Arlington	Hubert of Milton	Shaw of Pittsford
Burditt of West Rutland	Johnson of Canaan	Shaw of Derby
Canfield of Fair Haven	Juskiewicz of Cambridge	Smith of New Haven
Condon of Colchester	Kilmartin of Newport City	Stevens of Shoreham
Corcoran of Bennington	Koch of Barre Town	Strong of Albany
Cupoli of Rutland City	Komline of Dorset	Terenzini of Rutland Town
Devereux of Mount Holly	Larocque of Barnet	Trieber of Rockingham
Dickinson of St. Albans Town	Lawrence of Lyndon	Turner of Milton *
Donaghy of Poultney	Lewis of Berlin	Van Wyck of Ferrisburgh
Fagan of Rutland City	Marcotte of Coventry	Wilson of Manchester
Feltus of Lyndon	McFaun of Barre Town	Winters of Williamstown
Gage of Rutland City	Mitchell of Fairfax	Wright of Burlington
	Morrissey of Bennington	

Those members absent with leave of the House and not voting are:

Martin of Wolcott	Rachelson of Burlington
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**Rep. Deen of Westminster** explained his vote as follows:

“Mr. Speaker:

The effects of raising construction wages to Davis Bacon levels was unfortunately misstated by some members on the floor during this debate. Davis Bacon wage levels mean better trained workers, high retention rate of workers, and better supervision. These companies are better able to compete for construction contracts because of a more productive work force. There is no ‘having it two ways,’ as was claimed. Davis Bacon companies historically have proven to be more efficient and that does make them more competitive. As long as we have equal competition, Davis Bacon contractors will do just fine and do so within the budget and capital limits we set here.”

**Rep. Donahue of Northfield** explained her vote as follows:

“Mr. speaker:

I voted yesterday to not pay more when it risks injury to sustaining Vermont jobs. I vote today to pay more when it may bring jobs back to Vermont. We walk on a tightrope on some of these issues, and we all hope to not fall off.”

**Rep. Spengler of Colchester** explained her vote as follows:

“Mr. Speaker:

This bill gives Vermonters a competitive advantage. Vermont will experience the multiplier effect of these Vermont paychecks rippling through our economy, enriching our state and its people.”

**Rep. Turner of Milton** explained his vote as follows:

“Mr. Speaker:

This bill will not likely help our Vermont businesses, will not create any new jobs, will reduce how far Vermont’s capital dollars will go and once again put an additional burden on our Vermont taxpayers. Thank you.”

### **Senate Proposal of Amendment Concurred in**

#### **H. 543**

The Senate proposed to the House to amend House bill, entitled

An act relating to records and reports of the Auditor of Accounts

First: By striking Sec. 1 in its entirety and inserting in lieu thereof:

Sec. 1. REPEAL

2012 Acts and Resolves No. 155, Sec. 24 (auditor website; audit findings) is repealed.

Second: In Sec. 2, 32 V.S.A. § 163, by striking subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read:

(3) ~~{Repealed.}~~ (A) Prominently post and retain on his or her official State website, and update at least annually on or before July 1, the following information:

(i) All reports with findings that result from audits conducted under subdivision (1) of this section.

(ii) A summary of significant recommendations contained in audit reports issued since January 1, 2012 arising from audits conducted under subdivision (1) of this section, and the dates on which corrective actions were taken related to those recommendations.

(iii) A summary of all embezzlement convictions, and false claim convictions as described in 13 V.S.A. § 3016, against any agency or department of the State, since July 1, 2007. The summary shall include the names of all persons convicted of those offenses.

(B) Follow up on recommendations described in subdivision (A)(ii) of this subdivision (3) at least biennially and for at least four years from the date of the audit report.

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Concurred in**

**H. 799**

The Senate proposed to the House to amend House bill, entitled

An act relating to the importation of firewood

First: In Sec. 1, in 10 V.S.A. § 2681, by inserting a subsection (c) to read:

(c) Penalties. Any person who violates a provision of this subchapter or the rules adopted under this subchapter shall be subject to a civil citation under section 8019 of this title.

Second: By striking out Sec. 2 in its entirety and inserting in lieu thereof 3 new sections to be Secs. 2, 3, and 4 to read:

Sec. 2. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes:

\* \* \*

(17) 10 V.S.A. § 2625, relating to heavy cutting of timber;

\* \* \*

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps; ~~and~~

(23) 24 V.S.A. § 2202a, relating to a municipality's adoption and implementation of a solid waste implementation plan that is consistent with the State Solid Waste Plan; and

(24) 10 V.S.A. chapter 83, subchapter 8, relating to the importation of firewood.

\* \* \*

Sec. 3. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

\* \* \*

(L) section 2625 (regulation of heavy cutting).

\* \* \*

(R) chapter 32 (flood hazard areas).

(S) chapter 83, subchapter 8 (importation of firewood).

(2) 29 V.S.A. chapter 11 (management of lakes and ponds).

(3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

\* \* \*

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Which proposal of amendment was considered and concurred in.

#### **Third Reading; Bills Passed**

House bills of the following titles were severally taken up, read the third time and passed:

#### **H. 886**

House bill, entitled

An act relating to approval of the adoption and the codification of the charter of the Town of Panton;

#### **H. 890**

House bill, entitled

An act relating to approval of amendments to the charter of the City of Burlington regarding the redistricting of City election areas;

#### **Favorable Report; Third Reading Ordered**

#### **H. 887**

**Rep. Devereux of Mount Holly**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of the adoption and the codification of the charter of the Town of East Montpelier

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

### **Favorable Report; Third Reading Ordered**

#### **S. 223**

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

An act relating to regulating the making of pension loans

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

### **Consideration Interrupted by Recess**

#### **H. 552**

House bill, entitled

An act relating to raising the Vermont minimum wage

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

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 5828b is amended to read:

§ 5828b. EARNED INCOME TAX CREDIT

(a) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be ~~32~~ 34 percent of the earned income tax credit granted to the individual under the laws of the United States, multiplied by the percentage which the individual's earned income that is earned or received during the period of the individual's residency in this State bears to the individual's total earned income.

\* \* \*

Sec. 2. 32 V.S.A. § 5836 is amended to read:

## § 5836. FRANCHISE TAX ON FINANCIAL INSTITUTIONS

\* \* \*

(b) The tax imposed by this section for each taxable month shall be equal to ~~0.000096~~ a percentage of the average monthly deposit for such taxable month held in Vermont by the corporation. For corporations with deposits in the prior 12 months of \$750,000,000.00 or less, the percentage is 0.000096. For corporations with deposits in the prior 12 months in excess of \$750,000,000.00, the percentage is 0.000121. As used in this section, the word “deposit” shall have the same meaning as the word “deposit” as defined in Title 12, Part 204, section 204.2(a)(1) of the Code of Federal Regulations. The average monthly deposit for any taxable month shall be determined by the deposits held in Vermont by the corporation on the last business day of each of the 12 months directly preceding the taxable month for which the average monthly deposit is to be determined. The 12 deposits for the preceding 12 months shall be added together and divided by 12 to produce the average monthly deposit for the taxable month in question. In the event a corporation has not been doing business for 12 consecutive months prior to any taxable month for which an average monthly deposit is to be determined, the average monthly deposit for such taxable months shall be based upon the number of months (less than 12) that the bank has been doing business prior to the taxable month in question.

\* \* \*

## Sec. 3. EFFECTIVE DATES

(a) Notwithstanding 1 V.S.A. § 214, this section and Sec. 1 shall apply retroactively to January 1, 2014.

(b) Sec. 2 shall take effect on July 1, 2014.

Thereupon, **Rep Branagan of Georgia** asked and was granted leave of the House to withdraw her amendment.

**Recess**

At eleven o'clock and forty-nine minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock and five minutes in the afternoon, the Speaker called the House to order.

**Consideration Resumed; Bill Read the Third Time and Passed****H. 552**

Consideration resumed on House bill, entitled

An act relating to raising the Vermont minimum wage

Thereupon, the bill was read the third time and passed.

**Adjournment**

At one o'clock and thirteen minutes in the afternoon, on motion of **Rep. Hebert of Vernon**, the House adjourned until tomorrow at one o'clock in the afternoon.