

Journal of the Senate

THURSDAY, APRIL 24, 2014

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 54

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 299. An act relating to sampler flights.

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

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 56. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The Governor has informed the House that on the April 22, 2014, he approved and signed a bill originating in the House of the following title:

H. 543. An act relating to records and reports of the Auditor of Accounts.

Consideration Resumed; Bill Amended; Bill Passed in Concurrence with Proposal of Amendment

H. 863.

Consideration was resumed on House bill entitled:

An act relating to a Public Records Act exemption for the identity of whistleblowers.

Thereupon, pending the question, Shall the bill pass in concurrence?, Senator White moved that the Senate propose to the House to amend the bill by adding a new section to be numbered Sec. 2 to read as follows:

Sec. 2. IDENTIFYING VERMONT STATE HOSPITAL PATIENTS BURIED IN CEMETERY AND ON HOSPITAL GROUNDS FROM 1891 TO 1913

Consistent with the goal of Joint Resolution No. R-109 (2013) to preserve the memory of individuals buried in the cemetery and on the grounds of the former Vermont State Hospital in Waterbury, and to enable the identification of individuals buried in unmarked graves so that these individuals will not be left unknown, the State of Vermont shall, upon request and notwithstanding any provision of Vermont law, release records dating from 1891 to 1913 to the extent necessary to assist in the identification of patients buried in the Hospital's cemetery and on its grounds in unmarked graves from 1891 to 1913.

And by renumbering the remaining section to be numerically correct,

And that after passage the title of the bill be amended to read:

An act relating to public records.

Which was agreed to.

Thereupon, the question, Shall the bill pass in concurrence with proposal of amendment?, was agreed to.

Recommendation of Amendment; Third Reading Ordered

S.R. 8.

Senator Collins, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate resolution entitled:

Senate resolution reaffirming the friendly bilateral relationships between Taiwan and both the United States and Vermont and the important role of Taiwan in the international community.

Reported that the Senate resolution ought to be adopted.

Thereupon, the Senate resolution was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate resolution be read a third time?, Senator Hartwell moved that the Senate resolution be amended in the *first* Whereas clause, by striking out the words "the Republic of China (Taiwan)" and inserting in lieu thereof Taiwan

Which was agreed to.

Thereupon, third reading of the Senate resolution was ordered.

Proposals of Amendment; Third Reading Ordered**H. 809.**

Senator Baruth, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to designation of new town centers and growth centers.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 3, 24 V.S.A. § 2793c, by striking out subdivisions (c)(5)(A) and (B) and inserting in lieu thereof two new subdivisions to be (c)(5)(A) and (B) to read as follows:

(5) Each application for designation as a growth center shall include:

(A) a description from the regional planning commission in which each applicant municipality is located of the role of the proposed growth center in the region, and the relationship between the proposed growth center and neighboring communities;

(B) written confirmation from the applicable regional planning commission that the proposed growth center conforms with the regional plan for the region in which each applicant municipality is located;

Second: In Sec. 3, 24 V.S.A. § 2793c, in subdivision (d)(6), by striking out the following: “80 percent” and inserting in lieu thereof the following: two-thirds

Third: In Sec. 6, 24 V.S.A. § 4382, by striking out subdivision (a)(2) in its entirety and inserting in lieu thereof a new subdivision (a)(2) to read as follows:

(2) A land use plan;

(A) consisting of a map and statement of present and prospective land uses, indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses and open spaces reserved for flood plain, wetland protection, or other conservation purposes; and

(B) setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service; and

(C) identifying those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought;

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Snelling, for the Committee on Natural Resources and Energy, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: In Sec. 3, 24 V.S.A. § 2793c, in subdivision (c)(5)(D)(iii), by striking out the following: “25” and inserting in lieu thereof the following: 20

Second: In Sec. 3, 24 V.S.A. § 2793c, in subdivision (d)(1)(A), by striking out the following: “subdivision (B) of this subdivision (1)” and inserting in lieu thereof the following: subsection (c) of this section

Third: By inserting a new section to be numbered Sec. 10 to read as follows:

Sec. 10. 24 V.S.A. § 4451 is amended to read:

§ 4451. ENFORCEMENT; PENALTIES

(a) Any person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than \$200.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding 12 months.

(1) The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

(2) A notice of violation issued under this chapter also shall state:

(A) the bylaw or municipal land use permit condition alleged to have been violated;

(B) the facts giving rise to the alleged violation;

(C) to whom appeal may be taken and the period of time for taking an appeal; and

(D) that failure to file an appeal within that period will render the notice of violation the final decision on the violation addressed in the notice.

(3) In default of payment of the fine, the person, the members of any partnership, or the principal officers of the corporation shall each pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of bylaws shall be paid over to the municipality whose bylaw has been violated.

(b) Any person who, being the owner or agent of the owner of any lot, tract, or parcel of land, lays out, constructs, opens, or dedicates any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or sells, transfers, or agrees or enters into an agreement to sell any land in a subdivision or land development whether by reference to or by other use of a plat of that subdivision or land development or otherwise, or erects any structure on that land, unless a final plat has been prepared in full compliance with this chapter and the bylaws adopted under this chapter and has been recorded as provided in this chapter, shall be fined not more than \$200.00, and each lot or parcel so transferred or sold or agreed or included in a contract to be sold shall be deemed a separate violation. All fines collected for these violations shall be paid over to the municipality whose bylaw has been violated. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from these penalties or from the remedies provided in this chapter.

And by renumbering the remaining section of the bill to be numerically correct.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Natural Resources and Energy.

Thereupon, the proposals of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, were agreed to and third reading of the bill was ordered.

Proposals of Amendment; Consideration Postponed**H. 581.**

House bill entitled:

An act relating to guardianship of minors.

Was taken up.

Thereupon, pending third reading of the bill, Senators Flory and Nitka moved to amend the Senate proposal of amendment in Sec. 1, 14 V.S.A. § 2623(a), by striking out subdivisions (9), (10), and (11) in their entirety and inserting in lieu thereof new subdivisions (9) and (10) to read as follows:

(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; and

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

Which was agreed to.

Thereupon, pending third reading of the bill?, Senator Nitka moved that the consideration be postponed until the next legislative day.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**H. 758.**

House bill entitled:

An act relating to notice of potential layoffs.

Was taken up.

Thereupon, pending third reading of the bill, Senator Baruth moved to amend the Senate proposal of amendment as follows:

First: In Sec. 2, in 21 V.S.A. § 411, in subdivision (2), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) "Business closing" means:

(A) the permanent shutdown of a facility;

(B) the permanent cessation of operations at one or more worksites in the State that results in the layoff of 50 or more employees over a 90-day period; or

(C) the cessation of work or operations not scheduled to resume within 90 days that affects 50 or more employees.

Second: In Sec. 2, in 21 V.S.A. § 411, in subdivision (5), after the words “means any” by striking out the words “business enterprise” and inserting in lieu thereof the word person

Third: In Sec. 2, in 21 V.S.A. § 414, in subdivision (a)(5), by striking out subdivision (5) and inserting in lieu thereof a new subdivision (5) to read as follows:

(5)(A) the business closing or the mass layoff is the result of the conclusion of seasonal employment or the completion of a particular project or undertaking; or

(B) the affected employees were hired with the understanding that their employment was limited to the duration of the season, facility, project, or undertaking.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the Senate proposal of amendment in Sec. 2, in 21 V.S.A. § 414(a), in subdivision (3), before “business circumstances” by striking out the word “dramatic”

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Adjournment

On motion of Senator Campbell, the Senate adjourned until eleven o'clock and thirty minutes in the morning.