

House Calendar

Thursday, March 26, 2015

79th DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 A.M.

TABLE OF CONTENTS

	Page No.
ACTION CALENDAR	
Action Postponed Until March 31, 2015	
Action Under Rule 52	
H.R. 7 Reaffirming the friendly bilateral relationships between Taiwan and both the United States and Vermont and the important role of Taiwan in the international community.....	1009
NEW BUSINESS	
Third Reading	
H. 108 Electrical installations	1009
Rep. Donahue amendment.....	1009
H. 135 Authorizing the Vermont Department of Health to charge fees necessary to support Vermont's status as a Nuclear Regulatory Commission Agreement State	1009
H. 488 The State's Transportation Program and miscellaneous changes to laws related to transportation	1009
Committee Bill for Second Reading	
H. 489 Revenue	1009
Rep. Ancel for Ways and Means	
H. 490 Making appropriations for the support of government	1009
Rep. Johnson for Appropriations	
Favorable with Amendment	
S. 98 An act relating to captive insurance companies	1010
Rep. Kitzmiller for Commerce and Economic Development	
Favorable	
S. 2 An act relating to the establishment of a State Latin Motto	1014
Rep. Devereux for Government Operations	

NOTICE CALENDAR

Favorable

H. 478 Approval of the adoption and codification of the charter of the Town of Royalton 1015
Rep. Lewis for Government Operations

Consent Calendar

H.C.R. 81 Congratulating Carol Willey on being named the 2015 Vermont Mother of the Year 1015

H.C.R. 82 Congratulating the 2015 Vermont Prudential Spirit of Community Award winners..... 1015

H.C.R. 83 Congratulating the Pownal Historical Society on its 20th anniversary 1015

H.C.R. 84 Congratulating the record-breaking 2015 Mt. Anthony Union High School Patriots State and New England championship wrestling team 1015

H.C.R. 85 Congratulating Caitlin C. Gregg on winning a bronze medal at the FIS (International Ski Federation) Nordic World Ski Championships 2015 1015

H.C.R. 86 Commemorating the 100th anniversary of the start of the Armenian Genocide..... 1016

H.C.R. 87 Congratulating the 2015 Williamstown Blue Devils Division III championship boys' basketball team..... 1016

H.C.R. 88 Honoring Sandy Ware of Brattleboro for her creative leadership as a nursing home activities director..... 1016

S.C.R. 13 Senate concurrent resolution congratulating Maple Grove Farms on its centennial anniversary 1016

S.C.R. 14 Senate concurrent resolution congratulating Matt Lorman on his selection as a 2015 Down Under Sports cross country runner 1016

ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until March 31, 2015

Action Under Rule 52

H.R. 7

House 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

(For text see House Journal 3/24/2015)

NEW BUSINESS

Third Reading

H. 108

An act relating to electrical installations

Amendment to be offered by Rep. Donahue of Northfield to H. 108

In Sec. 1, in 26 V.S.A. § 893, by striking out subsection (g) in its entirety.

H. 135

An act relating to authorizing the Vermont Department of Health to charge fees necessary to support Vermont's status as a Nuclear Regulatory Commission Agreement State

H. 488

An act relating to the State's Transportation Program and miscellaneous changes to laws related to transportation

Committee Bill for Second Reading

H. 489

An act relating to revenue.

(Rep. Ancel of Calais will speak for the Committee on Ways & Means.)

H. 490

An act relating to making appropriations for the support of government.

(Rep. Johnson of South Hero will speak for the Committee on Appropriations.)

Favorable with Amendment

S. 98

An act relating to captive insurance companies

Rep. Kitzmiller of Montpelier, for the Committee on **Commerce & Economic Development**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 2, 8 V.S.A. § 6004, subsection (c), after the first sentence, by inserting the following: “The Commissioner shall issue a bulletin defining “marketable securities” for the purpose of this subsection.”

Second: By adding Sec. 6 to read as follows:

Sec. 6. 8 V.S.A. § 6036(d) is amended to read:

(d) A participant shall ~~insure only its own risks through a sponsored captive insurance company~~ not insure any risks other than its own and the risks of affiliated entities or of controlled unaffiliated entities.

Third: By striking out Sec. 8 in its entirety and by inserting in lieu thereof a new Sec. 8 (to be renumbered as Sec. 9) to read as follows:

Sec. 9. 8 V.S.A. § 6052(g) is added to read:

(g) This subsection establishes governance standards for a risk retention group.

(1) As used in this subsection:

(A) “Board of directors” or “board” means the governing body of a risk retention group elected by risk retention group members to establish policy, elect or appoint officers and committees, and make other governing decisions.

(B) “Director” means a natural person designated in the articles of the risk retention group or designated, elected, or appointed by any other manner, name, or title to act as a director.

(C) “Independent director” means a director who does not have a material relationship with the risk retention group. A person that is a direct or indirect owner of or subscriber in the risk retention group – or is an officer, director, or employee of such an owner and insured, unless some other position of such officer, director, or employee constitutes a “material relationship” – as contemplated under subdivision 3901(a)(4)(E)(ii) of the federal Liability Risk Retention Act, is considered to be “independent.” A director has a material relationship with a risk retention group if he or she, or a member of his or her immediate family:

(i) In any 12-month period, receives from the risk retention group, or from a consultant or service provider to the risk retention group, compensation or other item of value in an amount equal to or greater than five percent of the risk retention group's gross written premium or two percent of the risk retention group's surplus, as measured at the end of any fiscal quarter falling in such 12-month period, whichever is greater. This provision also applies to compensation or items of value received by any business with which the director is affiliated. Such material relationship shall continue for one year after the item of value is received or the compensation ceases or falls below the threshold established in this subdivision, as applicable.

(ii) Has a relationship with an auditor as follows: Is affiliated with or employed in a professional capacity by a current or former internal or external auditor of the risk retention group. Such material relationship shall continue for one year after the affiliation or employment ends.

(iii) Has a relationship with a related entity as follows: Is employed as an executive officer of another company whose board of directors includes executive officers of the risk retention group, unless a majority of the membership of such other company's board of directors is the same as the membership of the board of directors of the risk retention group. Such material relationship shall continue until the employment or service ends.

(D) "Material service provider" includes a captive manager, auditor, accountant, actuary, investment advisor, attorney, managing general underwriter, or other person responsible for underwriting, determination of rates, premium collection, claims adjustment or settlement, or preparation of financial statements, whose aggregate annual contract fees are equal to or greater than five percent of the risk retention group's annual gross written premium or two percent of its surplus, whichever is greater. It does not mean defense counsel retained by a risk retention group, unless his or her annual fees are equal to or greater than five percent of a risk retention group's annual gross premium or two percent of its surplus, whichever is greater.

(2) The board of directors shall determine whether a director is independent; review such determinations annually; and maintain a record of the determinations, which shall be provided to the Commissioner promptly, upon request. The board shall have a majority of independent directors. If the risk retention group is reciprocal, then the attorney-in-fact is required to adhere to the same standards regarding independence as imposed on the risk retention group's board of directors.

(3) The term of any material service provider contract entered into with a risk retention group shall not exceed five years. The contract, or its renewal, requires approval of a majority of the risk retention group's independent

directors. The board of directors has the right to terminate a contract at any time for cause after providing adequate notice, as defined in the terms of the contract.

(4) A risk retention group shall not enter into a material service provider contract without the prior written approval of the Commissioner.

(5) A risk retention group's plan of operation shall include written policies approved by its board of directors requiring the board to:

(A) provide evidence of ownership interest to each risk retention group member;

(B) develop governance standards applicable to the risk retention group;

(C) oversee the evaluation of the risk retention group's management, including the performance of its captive manager, managing general underwriter, or other person or persons responsible for underwriting, rate determination, premium collection, claims adjustment and settlement, or preparation of financial statements;

(D) review and approve the amount to be paid under a material service provider contract; and

(E) at least annually, review and approve:

(i) the risk retention group's goals and objectives relevant to the compensation of officers and service providers;

(ii) the performance of officers and service providers as measured against the risk retention group's goals and objectives;

(iii) the continued engagement of officers and material service providers.

(6) A risk retention group shall have an audit committee composed of at least three independent board members. A nonindependent board member may participate in the committee's activities, if invited to do so by the audit committee, but he or she shall not serve as a committee member. The Commissioner may waive the requirement of an audit committee if the risk retention group demonstrates to the Commissioner's satisfaction that having such committee is impracticable and the board of directors is able to perform sufficiently the committee's responsibilities. The audit committee shall have a written charter defining its responsibilities, which shall include:

(A) assisting board oversight of the integrity of financial statements, compliance with legal and regulatory requirements, and qualifications, independence, and performance of the independent auditor or actuary;

(B) reviewing annual and quarterly audited financial statements with management;

(C) reviewing annual audited financial statements with its independent auditor and, if it deems advisable, the risk retention group's quarterly financial statements as well;

(D) reviewing risk assessment and risk management policies;

(E) meeting with management, either directly or through a designated representative of the committee;

(F) meeting with independent auditors, either directly or through a designated representative of the committee;

(G) reviewing with the independent auditor any audit problems and management's response;

(H) establishing clear hiring policies applicable to the hiring of employees or former employees of the independent auditor by the risk retention group;

(I) requiring the independent auditor to rotate the lead audit partner having primary responsibility for the risk retention group's audit, as well as the audit partner responsible for reviewing that audit, so that neither individual performs audit services for the risk retention group for more than five consecutive fiscal years; and

(J) reporting regularly to the board of directors.

(7) The board of directors shall adopt governance standards, which shall be available to risk retention group members through electronic or other means, and provided to risk retention group members, upon request. The governance standards shall include:

(A) a process by which risk retention group members elect directors.

(B) director qualifications, responsibilities, and compensation;

(C) director orientation and continuing education requirements;

(D) a process allowing the board access to management and, as necessary and appropriate, independent advisors;

(E) policies and procedures for management succession; and

(F) policies and procedures providing for an annual performance evaluation of the board.

(8) The board of directors shall adopt a code of business conduct and ethics applicable to directors, officers, and employees of the risk retention

group and criteria for waivers of code provisions, which shall be available to risk retention group members through electronic or other means, and provided to risk retention group members, upon request. Provisions of the code shall address:

(A) conflicts of interest;

(B) matters covered under the Vermont corporate opportunities doctrine;

(C) confidentiality;

(D) fair dealing;

(E) protection and proper use of risk retention group assets;

(F) standards for complying with applicable laws, rules, and regulations; and

(G) mandatory reporting of illegal or unethical behavior affecting operation of the risk retention group.

(9) The president or chief executive officer of a risk retention group shall promptly notify the Commissioner in writing of any known material noncompliance with the governance standards established in this subsection.

Fourth: By striking out Sec. 9 (effective date) in its entirety and by inserting in lieu thereof a new Sec. 9 (renumbered as Sec. 10) to read as follows:

Sec. 10. EFFECTIVE DATE; APPLICATION

This act shall take effect on passage. Sec. 9 (governance standards applicable to risk retention groups) shall apply to risk retention groups first licensed on or after the effective date of this act, and shall apply to all other risk retention groups one year after the effective date of this act.

and by renumbering the remaining sections to be numerically correct.

and that after passage the title of the bill be amended to read: "An act relating to captive insurance companies and risk retention groups"

(Committee vote: 11-0-0)

Favorable

S. 2

An act relating to the establishment of a State Latin Motto

Rep. Devereux of Mount Holly, for the Committee on **Government Operations**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 11-0-0)

NOTICE CALENDAR

Favorable

H. 478

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

Rep. Lewis of Berlin, for the Committee on **Government Operations**, recommends the bill ought to pass.

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

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 81

House concurrent resolution congratulating Carol Willey on being named the 2015 Vermont Mother of the Year

H.C.R. 82

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For Informational Purposes

House Appropriations Committee

Members' amendments to Fiscal Year 2016

Proposed Omnibus Appropriations Bill (H.490)

The House Committee on Appropriations requests all members of the House, who intend to introduce amendments to the proposed FY 2016 omnibus appropriations bill (H.490), to meet with the committee in room 42 at **8:45 a.m. on Thursday, March 26, before 2nd reading**, OR at **8:45 a.m. on Friday, March 27, before 3rd reading**. If possible, please schedule a time with Theresa Utton-Jerman (828-5767, Room: 40 or tutton@leg.state.vt.us) to meet with the Committee.

In addition, please notify the Chair or Vice-Chair as soon as possible if you intend to offer an amendment.