

House Calendar

Thursday, February 08, 2018

37th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 PM

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ACTION CALENDAR

Third Reading

H. 585

An act relating to management of records

H. 748

An act relating to electronic filing of proposed plans, plan amendments, and bylaws under Title 24

H. 846

An act relating to the application of general law to chartered municipalities

Favorable with Amendment

H. 663

An act relating to municipal land use regulation of accessory on-farm businesses

Rep. Partridge of Windham, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

The General Assembly adopts this act to:

(1) promote and facilitate the economic viability of Vermont's farms; and

(2) increase the consistency across the State of municipal regulation and permitting of accessory activity that supports those farms.

Sec. 2. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

* * *

(11) Accessory on-farm businesses. No bylaw shall have the effect of prohibiting an accessory on-farm business at the same location as a farm.

(A) Definitions. As used in this subdivision (11):

(i) "Accessory on-farm business" means activity that is accessory

to a farm and comprises one or both of the following:

(I) The storage, preparation, processing, and sale of qualifying products, provided that more than 50 percent of the total annual sales are from qualifying products that are principally produced on the farm at which the business is located.

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products.

(ii) "Farm" means a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the RAP rules. For leased lands to be part of a farm, the lessee must exercise control over the lands to the extent they would be considered as part of the lessee's own farm. Indicators of such control include whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related use of the leased lands and whether the lessee manages the land for farming during the lease period.

(iii) "Farming" shall have the same meaning as in 10 V.S.A. § 6001.

(iv) "Qualifying product" means a product that is wholly:

(I) an agricultural, horticultural, viticultural, or dairy commodity, or maple syrup;

(II) livestock or cultured fish or a product thereof;

(III) a product of poultry, bees, an orchard, or fiber crops;

(IV) a commodity otherwise grown or raised on a farm; or

(V) a product manufactured on one or more farms from commodities wholly grown or raised on one or more farms.

(v) "RAP rules" means the rules on required agricultural practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

(B) Eligibility. For an accessory on-farm business to be eligible for the benefit of this subdivision (11), the business shall comply with each of the following:

(i) The business is operated by the farm owner, one or more persons residing on the farm parcel, or the lessee of a portion of the farm.

(ii) The farm meets the threshold criteria for the applicability of the RAP rules as set forth in those rules.

(C) Use of structures or land. An accessory on-farm business may take place inside new or existing structures or on the land.

(D) Review; permit. Activities of an accessory on-farm business that are not exempt under section 4413 of this title may be subject to site plan review pursuant to section 4416 of this title. A bylaw may require that such activities meet the same performance standards otherwise adopted in the bylaw for similar commercial uses pursuant to subdivision 4414(5) of this title.

(E) Less restrictive. A municipality may adopt a bylaw concerning accessory on-farm businesses that is less restrictive than the requirement of this subdivision (11).

(F) Notification; training. The Secretary of Agriculture, Food and Markets shall provide periodic written notification and training sessions to farms subject to the RAP rules on the existence and requirements of this subdivision (11) and the potential need for other permits for an accessory on-farm business, including a potable water and wastewater system permit under 10 V.S.A. chapter 64.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 11-0-0)

H. 690

An act relating to explanation of advance directives and treating clinicians who may sign a DNR/COLST

Rep. Haas of Rochester, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

* * *

(21) “Ombudsman” means:

(A) an individual appointed as a long-term care ombudsman under the program contracted through the Department of Disabilities, Aging, and Independent Living pursuant to the Older Americans Act of 1965, as amended the State Long-Term Care Ombudsman or a representative of the Ombudsman’s Office, as defined in 33 V.S.A. § 7501; or

(B) a representative of the agency designated as the Office of the

Mental Health Care Ombudsman pursuant to section 7259 of this title.

* * *

(34) “Patient Mental health patient representative” means the mental health patient representative established by section 7253 of this title.

Sec. 2. 18 V.S.A. § 9703 is amended to read:

§ 9703. FORM AND EXECUTION

* * *

(b) The advance directive shall be dated, executed by the principal or by another individual in the principal’s presence at the principal’s express direction if the principal is physically unable to do so, and signed in the presence of two or more witnesses at least 18 years of age, who shall sign and affirm that the principal appeared to understand the nature of the document and to be free from duress or undue influence at the time the advance directive was signed. A health care provider may serve as a witness to the principal’s execution of the advance directive under this subsection. If the principal is being admitted to or is a resident of a nursing home or residential care facility or is being admitted to or is a patient in a hospital at the time of execution, the individual who explained the nature and effect of the advance directive to the principal pursuant to subsection (d) or (e) of this section may also serve as one of the witnesses to the principal’s execution of the advance directive under this subsection.

* * *

~~(d)(1) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a resident of a nursing home as defined in 33 V.S.A. § 7102 or a residential care facility, unless an ombudsman, a patient representative, a recognized member of the clergy, an attorney licensed to practice in this State, or a Probate Division of the Superior Court designee one of the following individuals explains the nature and effect of an advance directive to the principal and signs a statement affirming that he or she has explained the nature and effect of the advance directive to the principal provided the explanation:~~

~~(A) an ombudsman;~~

~~(B) a recognized member of the clergy;~~

~~(C) an attorney licensed to practice in this State;~~

~~(D) a Probate Division of the Superior Court designee;~~

~~(E) an individual designated by a hospital pursuant to subsection 9709(d) of this title;~~

(F) a mental health patient representative;

(G) an individual who is volunteering at the nursing home or residential care facility without compensation and has received appropriate training regarding the explanation of advance directives; or

(H) the principal's primary care clinician, if the clinician is not employed by the nursing home or residential care facility at the time of the explanation.

(2) It is the intent of this subsection to ensure that residents of nursing homes and residential care facilities are willingly and voluntarily executing advance directives.

(e) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a patient in a hospital, unless ~~an ombudsman, a patient representative, a recognized member of the clergy, an attorney licensed to practice in this State, a Probate Division of the Superior Court designee, or an individual designated under subsection 9709(c) of this title by the hospital~~ one of the following individuals has explained the nature and effect of an advance directive to the principal and signs a statement affirming that he or she has explained the nature and effect of the advance directive to the principal provided the explanation:

(1) an ombudsman;

(2) a recognized member of the clergy;

(3) an attorney licensed to practice in this State;

(4) a Probate Division of the Superior Court designee;

(5) an individual designated by the hospital pursuant to subsection 9709(d) of this title; or

(6) a mental health patient representative.

* * *

Sec. 3. 18 V.S.A. § 9708 is amended to read:

§ 9708. AUTHORITY AND OBLIGATIONS OF HEALTH CARE PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL CARE FACILITIES REGARDING DNR ORDERS AND COLST

(a) As used in this section, "clinician" shall have the same meaning as in section 9701 of this title and shall also include a duly licensed medical doctor, osteopathic physician, advanced practice registered nurse or nurse practitioner, or physician assistant who treated the patient outside Vermont and held a valid license to practice in the state in which the patient was located at the time the

DNR/COLST was issued.

* * *

Sec. 4. 18 V.S.A. § 9709(d) is amended to read:

(d)(1) Each nursing home and residential care facility that chooses to use volunteers to explain to residents the nature and effect of an advance directive as required by subsection 9703(d) of this title shall ensure that the volunteers have received appropriate training regarding the explanation of advance directives.

(2) Every hospital shall designate an adequate number of individuals to explain the nature and effect of an advance directive to patients as required by subsection 9703(e) of this title.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

NOTICE CALENDAR

Favorable with Amendment

H. 616

An act relating to thermal efficiency monies and biomass-led district heat

Rep. Yantachka of Charlotte, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(e) Thermal energy and process fuel efficiency funding.

(1) Each of the following shall be used to deliver thermal energy and process fuel energy efficiency services in accordance with this section for unregulated fuels to Vermont consumers of such fuels. In addition, the Commission may authorize an entity appointed to deliver such services under subdivision (d)(2)(B) of this section to use monies subject to this subsection for the conversion of thermal energy customers using fossil fuels to district heat if the majority of the district's energy is from biomass sources, the district's distribution system is highly energy efficient, and such conversion is cost effective.

(A) Net revenues above costs associated with payments from the

New England Independent System Operator (ISO-NE) for capacity savings resulting from the activities of the energy efficiency utility designated under subdivision (2)(A) of this subsection (e) that are not transferred to the State PACE Reserve Fund under 24 V.S.A. § 3270(c). These revenues shall be deposited into the Electric Efficiency Fund established by this section. In delivering services with respect to heating systems using the revenues subject to this subdivision (A), the entity shall give priority to incentives for the installation of high efficiency biomass heating systems and shall have a goal of offering an incentive that is equal to 25 percent of the installed cost of such a system. ~~In this subdivision (A), “biomass” means organic nonfossil material constituting a source of renewable energy within the meaning of section 8002 of this title.~~ Provision of an incentive under this subdivision (A) for a biomass heating system shall not be contingent on the making of other energy efficiency improvements at the property on which the system will be installed.

(B) Net revenues above costs from the sale of carbon credits under the cap and trade program established under section 255 of this title, which shall be deposited into the Electric Efficiency Fund established by this section.

(C) Any other monies that are appropriated to or deposited in the Electric Efficiency Fund for the delivery of thermal energy and process fuel energy efficiency services.

(2) If a program combines regulated fuel efficiency services with unregulated fuel efficiency services supported by funds under this section, the Commission shall allocate the costs of the program among the funding sources for the regulated and unregulated fuel sectors in proportion to the benefits provided to each sector.

(3) In this subsection:

(A) “Biomass” means organic nonfossil material constituting a source of renewable energy within the meaning of section 8002 of this title.

(B) “District heat” means a system through which steam or hot water from a central plant is piped into buildings to be used as a source of thermal energy.

(C) “Efficiency services” includes the establishment of a statewide information clearinghouse under subsection (g) of this section.

(D) “Fossil fuel” means an energy source formed in the Earth’s crust from decayed organic material. The common fossil fuels are petroleum, coal, and natural gas. A fossil fuel may be a regulated or unregulated fuel.

~~(B)~~(E) “Regulated fuels” means electricity and natural gas delivered by a regulated utility.

(C)(F) “Unregulated fuels” means fuels used by thermal energy and process fuel customers other than electricity and natural gas delivered by a regulated utility.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 8-0-0)

Favorable

H. 764

An act relating to data brokers and consumer protection.

(Rep. Botzow of Pownal will speak for the Committee on Commerce and Economic Development.)

Rep. Young of Glover, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 7-4-0)

Ordered to Lie

H. 167

An act relating to alternative approaches to addressing low-level illicit drug use.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

H. 219

An act relating to the Vermont spaying and neutering program.

Pending Question: Shall the House concur in the Senate Proposal of Amendment?

H. 581

An act relating to Connectivity Initiative grant eligibility.

Pending Question: Second Reading

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. 235

House concurrent resolution honoring William Olney for his accomplishments as a softball player and coach

H.C.R. 236

House concurrent resolution honoring Thomas W. Huebner for his administrative career at the Rutland Regional Medical Center

H.C.R. 237

House concurrent resolution designating Wednesday, February 7, 2018 as Farm to School Awareness Day at the State House

H.C.R. 238

House concurrent resolution in memory of decorated U.S. Army combat veteran and distinguished Boy Scout leader Stanley Burnham

PUBLIC HEARING

Joint Community-Based Public Hearings on Fiscal Year 2019 State budget
House and Senate Committees on Appropriations

Monday, February 12, 2018, 6:00 - 7:00 p.m. – The Vermont House and Senate Committees on Appropriations are seeking public input on the FY2019 recommended State budget and will hold joint public hearings at 6 locations across the State.

Johnson State College: Stearns Student Center, Performance Space, 2nd Floor in Stearns

Rutland City: Rutland Public Schools, Longfellow School Building, Board Room

St. Albans City: St. Albans City School, Library, 29 Bellows St.

St. Johnsbury: St. Johnsbury House, Main dining room, 1207 Main St.

Winooski: Community College of Vermont, Room 401, 4th Floor

Springfield: Springfield Town Hall, 96 Main Street, 3rd Floor Conference Room (Selectmen's Hall) **5:30-6:30 p.m.**

An additional public hearing will be held on **Tuesday, February 13, 2018, 6:00 – 7:00 p.m.** in **room 11** of the **State House in Montpelier.**

The Committees will take testimony on the Governor's FY 2019 State budget proposal at that time. Anyone interested in testifying should come to one of the

hearings. Time limits on testimony may apply depending on volume of participants.

For more information about the format of these events, or to submit written testimony, e-mail Theresa Utton-Jerman at tutton@leg.state.vt.us or Rebecca Buck at rbuck@leg.state.vt.us, or call 802-828-5767 or 802-828-2295.

Public Hearing on Judicial Retention. Thursday, February 22, 2018, 7:00 PM in Room 11.

CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **House** bills must be reported out of the last committee of reference including the Committees on Appropriations and Ways and Means, except as provided below in (2) on or before **Friday, March 2, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **House** bills referred pursuant to House Rule 35(a) to the Committees on Appropriations and Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Clerk so they may be placed on the Calendar for Notice the next legislative day.

Election of two (2) trustees for the Vermont State Colleges Corporation. Thursday, February 15, 2018 - 10:30 A.M.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than Thursday, February 8, 2018, by 5:00 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.