

House Calendar

Wednesday, September 23, 2020

261st DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Unfinished Business of Wednesday, June 10, 2020

Favorable with Amendment

H. 783 An act relating to recovery residences.....	5884
Rep. Killacky for General, Housing, and Military Affairs	
Rep. Redmond for Human Services.....	5888
Rep. Killacky Amendment.....	5889

Unfinished Business of Monday, September, 21, 2020

Senate Proposal of Amendment

H. 926 Changes to Act 250.....	5889
Rep. Lefebvre Amendment.....	5894
H. 934 Renter rebate reform.....	5895

Unfinished Business of Tuesday, September 22, 2020

Senate Proposal of Amendment

H. 674 The definition of housesite for use value appraisals.....	5897
---	------

New Business

Third Reading

S. 254 An act relating to union organizing.....	5897
--	------

NOTICE CALENDAR

Senate Proposal of Amendment

H. 673 Tree wardens.....	5897
H. 833 The interbasin transfer of surface waters.....	5904

Senate Proposal of Amendment to House Proposal of Amendment

S. 352 An act relating to making certain amendments to the Front-Line Employees Hazard Pay Grant Program.....	5906
--	------

Ordered to Lie

H. 162 Removal of buprenorphine from the misdemeanor crime of possession of a narcotic.....	5906
H. 492 Establishing a homeless bill of rights and prohibiting discrimination against people without homes.....	5906
H. 535 Approval of amendments to the charter of the Town of Brattleboro.....	5906

ORDERS OF THE DAY

ACTION CALENDAR

**Unfinished Business of Wednesday, June 10, 2020
Favorable with Amendment
H. 783**

An act relating to recovery residences

Rep. Killacky of South Burlington, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that any exceptions made to existing landlord and tenant relationships in this act are limited solely to recovery residences operating pursuant to this act. These exceptions are intended to enable the expansion of recovery residences throughout the State and ensure their accessibility to individuals recovering from a substance use disorder.

Sec. 2. 18 V.S.A. § 4812 is added to read:

§ 4812. RECOVERY RESIDENCES

(a) Definition.

(1) As used in this section, “recovery residence” means a shared living residence supporting persons recovering from a substance use disorder that:

(A) Provides residents with peer support, an environment that prohibits the use of alcohol and the illegal use of prescription drugs or other illegal substances, and provides assistance accessing support services and community resources available to persons recovering from substance use disorder; and

(B) Is certified by an organization that is a Vermont affiliate of the National Alliance for Recovery Residences and adheres to the national standards established by the Alliance or its successor in interest. If there is no successor in interest, the Department of Health shall designate a certifying organization to uphold appropriate standards for recovery housing.

(2) As used in this section, “the illegal use of prescription drugs” refers to the use of prescription drugs by a person who does not hold a valid prescription for that drug or in an amount that exceeds the dosing instructions.

(b) Voluntary arrangement. The decision to live in a recovery residence

shall be voluntary and shall not be required or mandated by any private or public entity or individual.

(c) Terms of residency; compliance.

(1) Landlord and tenant relationship. A recovery residence and a resident have a landlord and tenant relationship that is subject to 9 V.S.A. chapter 137, except as otherwise provided in subdivisions (3)–(4) of this subsection.

(2) Residential rental agreement.

(A) A recovery residence and a resident shall execute a written rental agreement that includes:

(i) the policies and procedures governing the tenancy;

(ii) a statement that the recovery residence and the resident will comply with the policies and procedures;

(iii) the consequences of noncompliance;

(iv) the identification of a verified location where the resident may be housed in the event of temporary removal;

(v) payment requirements;

(vi) notice requirements and procedure for terminating the tenancy;

(vii) the contact information for a resident's probation or parole officer, if the resident is on furlough or parole from the Department of Corrections; and

(viii) any other provisions to which the parties agree.

(B) The parties may amend a rental agreement in a written record signed by the parties.

(C) A resident may have a support person present when negotiating and executing a rental agreement or amendment.

(3) Temporary removal.

(A) A recovery residence shall adopt policies and procedures that govern the temporary removal of a resident who uses alcohol or illegal substances, engages in the illegal use of prescription drugs, or engages in violent, sexually harassing, or threatening behavior, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of the reason for temporary removal and of the actions the resident must take to avoid temporary removal or to be readmitted after temporary removal;

(II) design and implement harm reduction strategies for a resident who is temporarily removed, which may include providing naloxone to the resident upon temporary removal or other strategies more appropriate to the resident's recovery needs; and

(III) take action that is consistent with the resident's most recent reoccurrence agreement to the extent possible.

(ii) A recovery residence shall not temporarily remove a resident based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.

(B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(3) may temporarily deny a resident access to the recovery residence and to his or her property within the residence.

(4) Termination of tenancy.

(A) A recovery residence shall adopt policies and procedures that govern the termination of tenancy of a resident who violates one or more provisions of the rental agreement, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of its intent to terminate the tenancy that includes the reason for termination and the actions the resident must take to avoid removal;

(II) design and implement harm reduction strategies for a resident whose tenancy is terminated, which may include providing naloxone to the resident upon removal or other strategies more appropriate to the resident's recovery needs; and

(III) adopt a review process under which:

(aa) a person other than the original decision maker or a subordinate of the original decision maker, which may include a Vermont affiliate of the National Alliance for Recovery Residences, reviews the decision to terminate the tenancy;

(bb) the resident has a meaningful opportunity to present evidence why the resident should not be removed; and

(cc) the resident receives prompt written notice of a final

decision.

(ii) A recovery residence shall not:

(I) terminate a tenancy because a resident uses alcohol or illegal substances, or engages in the illegal use of prescription drugs, unless:

(aa) the resident fails to take the actions required to avoid temporary removal or to be readmitted after temporary removal; and

(bb) the recovery residence has contemporary drug test results verified by a laboratory approved by the State; or

(II) terminate a tenancy based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.

(B) Notwithstanding 9 V.S.A. §§ 4467 and 4468, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(5) may terminate the tenancy of a resident pursuant to the notice requirements and procedure for terminating the tenancy provided in the rental agreement.

(d) Drug testing. A recovery residence shall adopt policies and procedures that govern drug testing of residents and shall apply the policies and testing procedures fairly among residents.

(e) Future services. A recovery residence shall not deny future services to a resident who has been either temporarily removed from a recovery residence or whose tenancy has been terminated, based solely on the resident's use of alcohol or illegal substances or the illegal use of prescription drugs.

Sec. 3. 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:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, and a recovery residence as defined in 18 V.S.A. § 4812, serving not more than eight persons, shall be considered by right to constitute a permitted single-family residential use of property. This

subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot.

* * *

Sec. 4. REPORT; RECOVERY RESIDENCE; FURLOUGH

On or before January 1, 2021 and annually thereafter through January 1, 2024, the Department of Corrections shall submit a report to the House Committees on General, Housing, and Military Affairs, on Corrections and Institutions, and on Human Services and to the Senate Committees on Economic Development, on Health and Welfare, and on Judiciary containing the number of individuals on furlough who reside in recovery residences as defined in 18 V.S.A. § 4812 and the number of individuals who have violated the conditions of their furlough and were removed from their recovery residence and returned to prison.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee Vote: 8-1-2)

Rep. Redmond of Essex, for the Committee on Human Services, recommends the bill ought to pass when amended as recommended by the Committee on General, Housing, and Military Affairs and when further amended as follows:

First: In Sec. 2, 18 V.S.A. § 4812, in subdivision (a)(1)(A), by striking out “available to persons recovering from substance use disorder;” and inserting in lieu thereof “.”

Second: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (3)(A)(ii) in its entirety and inserting a new subdivision (3)(A)(ii) to read as follows:

(ii) A recovery residence shall not temporarily remove a resident based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Third: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (4)(A)(ii)(II) in its entirety and inserting a new subdivision (4)(A)(ii)(II) to read as follows:

(II) terminate a tenancy based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Fourth: In Sec. 4, report; recovery residence; furlough, after “Senate Committees on Economic Development” by inserting “, Housing and General Affairs”

(Committee Vote: 9-0-2)

Amendment to be offered by Rep. Killacky of South Burlington to the recommendation of amendment of the Committee on General, Housing, and Military Affairs as further amended as recommended by the Committee on Human Services to H. 783

First: In Sec. 2, 18 V.S.A. § 4812, in subsection (a), by striking out subdivision (1)(B) in its entirety and inserting in lieu thereof a new subdivision (1)(B) to read as follows:

(B) Is certified by an organization that is a Vermont affiliate of the National Alliance for Recovery Residences or obtains a preliminary certification within 45 days of operation and adheres to the national standards established by the Alliance or its successor in interest. If there is no successor in interest, the Department of Health shall designate a certifying organization to uphold appropriate standards for recovery housing.

Second: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (3)(B) in its entirety and inserting in lieu thereof a new subdivision (3)(B) to read as follows:

(B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(3) may temporarily deny a resident access to the recovery residence, but shall return to the resident his or her property or ensure its safekeeping.

Unfinished Business of Monday, September 21, 2020

Senate Proposal of Amendment

H. 926

An act relating to changes to Act 250

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Trails * * *

Sec. 1. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(38) “Recreational trail” has the same meaning as “trails” in subdivision 442(3) of this title.

(39) “Vermont trails system trail” means a recreational trail recognized

by the Agency of Natural Resources pursuant to chapter 20 of this title. For purposes of this chapter, the construction, operation, and maintenance of a Vermont trails system trail shall be for a municipal, county, or State purpose.

Sec. 2. 10 V.S.A. § 442(3) is amended to read:

(3) “Trails” means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails may be used for recreation, transportation, and other compatible purposes, but the primary purpose shall not be the operation of a motor vehicle. As used in this subdivision, “motor vehicle” shall not include all-terrain vehicles or snowmobiles.

Sec. 3. 10 V.S.A. § 6001(3)(A) is amended to read:

(3)(A) “Development” means each of the following:

* * *

(xi) The construction of improvements for a Vermont trails system trail on a tract or tracts of land involving more than 10 acres.

(I) This subdivision (xi) shall be the exclusive mechanism for determining jurisdiction over a recreational trail that is a Vermont trails system trail and shall only apply to the construction of improvements made on or after October 1, 2020.

(II) For purposes of this subdivision (xi), involved land includes:

(aa) land that is physically altered, including any ground disturbance and clearing that will occur; and

(bb) infrastructure that is incidental to the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage.

(III) For purposes of this subdivision (xi), involved land does not include land where no ground will be disturbed or cleared or any Vermont trails system trail constructed before October 1, 2020.

Sec. 4. 10 V.S.A. § 6001(3)(C) is amended to read:

(C) For the purposes of determining jurisdiction under subdivision (3)(A) of this section, the following shall apply:

* * *

(vi) Recreational trails. When jurisdiction over a trail has been established pursuant to subdivision (A) of this subdivision (3), jurisdiction

shall extend only to the recreational trail and infrastructure that is incidental to the operation of the trail. Jurisdiction shall not extend to the remainder of a parcel or parcels where a recreational trail is located, unless otherwise determined to be jurisdictional pursuant to another provision of this chapter.

Sec. 5. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(y) No permit or permit amendment shall be required for the construction of improvements on a tract of land that would provide access across a recreational trail, provided that the access is not related to the use of the permitted recreational trail and would not establish jurisdiction under this chapter on its own.

(z) Notwithstanding 1 V.S.A. §§ 213 and 214, and until January 1, 2022, no permit is required for a Vermont trails system trail recognized pursuant to chapter 20 of this title if the trail was in existence prior to October 1, 2020.

Sec. 6. RECREATIONAL TRAILS RECOMMENDATIONS AND REPORT

On or before January 15, 2021, the Agency of Natural Resources shall report to the House Committee on Natural Resources, Fish, and Wildlife and to the Senate Committee on Natural Resource and Energy with legislative recommendations for a best management practices driven program for Vermont trails system trails that is administered by the Agency of Natural Resources. The report shall include recommendations for revisions to 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to administer the program, potential funding sources, staffing needs, and whether to include other recreational trails. The Agency of Natural Resources shall consult with stakeholders on the proposed program, including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation.

Sec. 7. PROSPECTIVE REPEAL

10 V.S.A. § 6001(3)(A)(xi) shall be repealed on January 1, 2022.

* * * Forest Blocks * * *

Sec. 8. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(40) “Connecting habitat” means land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes. A connecting habitat may include features including recreational trails and improvements constructed for farming, logging, or forestry purposes.

(41) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include features including recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

(42) “Habitat” means the physical and biological environment in which a particular species of plant or wildlife lives.

Sec. 9. 10 V.S.A. § 6086(a)(8) is amended to read:

(8) Ecosystem protection; scenic beauty; historic sites.

(A) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

(A)(B) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and

(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will not outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or

(iii) a reasonably acceptable alternative site is owned or controlled by the applicant ~~which~~ that would allow the development or subdivision to fulfill its intended purpose.

(C) Will not have an undue adverse impact on forest blocks and connecting habitat. A permit shall be granted only if impacts to forest blocks and connecting habitat are avoided, minimized, and mitigated in accordance with rules adopted by the Board.

Sec. 10. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement the requirements for the administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how impacts can be avoided, minimized, or mitigated, including how fragmentation of forest blocks or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines, and fence lines. As used in this subdivision, “fragmentation” means the division or conversion of a forest block or connecting habitat by the separation of a parcel into two or more parcels; the construction, conversion, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land. However, fragmentation does not include the division or conversion of a forest block or connecting habitat by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(3) Criteria to identify when a forest block or connecting habitat is eligible for mitigation, and criteria to identify when a forest block or connecting habitat is not eligible for mitigation due to the unique value of the area and need to maintain the functionality of the forest block or connecting habitat.

(4) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses and limitations of on-site and off-site mitigation.

(b) Prior to pre-filing with the Interagency Committee on Administrative Rules, the Board shall convene a working group to gather input on the rule.

The working group shall ensure broad, inclusive, and transparent engagement with the public, which shall include a broad range of stakeholders and interested parties. The Board shall convene the working group on or before March 15, 2021.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before August 15, 2022.

Sec. 11. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

~~(a) On or before January 15, 2013, the~~ The Secretary of Natural Resources ~~(the Secretary)~~ shall complete and maintain resource mapping based on the Geographic Information System (GIS) or other technology. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the ~~GIS-based~~ resource mapping.

(b) The Secretary of ~~Natural Resources~~ shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.

(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide opportunities for affected parties and the public to submit relevant information and recommendations.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on October 1, 2020, except that Sec. 9, 10 V.S.A. § 6086(a)(8), shall take effect on September 1, 2022.

(For text see House Journal February 28, 2020)

Amendment to be offered by Rep. Lefebvre of Newark to H. 926

Representative Lefebvre of Newark moves that the House concur in the Senate proposal of amendment with a further amendment thereto by adding a new Sec. 11a to read:

Sec. 11a. 10 V.S.A. § 6094 is added to read:

§ 6094. ALLOCATION OF COSTS; DEPARMENTS OF FISH AND
WILDLIFE AND FORESTS, PARKS, AND RECREATION

(a) Notwithstanding any other provision of law, the Department of Fish and Wildlife and the Department of Forests, Parks, and Recreation shall have the authority to bill the applicant for the costs of participating in any major permit application before a District Commission, including the costs of employee application review, submissions, comments, and testimony before a District Commission related to impacts on wildlife, necessary wildlife habitat, or connecting habitat. The Department may recover those costs from the applicant after notice to the applicant, including an estimate of the costs of the personnel or services.

(b) From time to time, the Department charging an applicant for personnel of services under this section shall provide the applicant with detailed statements showing the amount of money expended or contracted for in the work of such personnel and services. All funds collected from applicants under this section shall be paid directly to the Department.

(c) An applicant to which costs are allocated under this section may petition the District Commission to review the costs allocated. The District Commission shall conduct a hearing to determine the reasonableness of the costs. The District Commission shall consider the size and complexity of the project and may revise the cost allocations if determined unreasonable.

Senate Proposal of Amendment

H. 934

An act relating to renter rebate reform

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 32 V.S.A. § 6061, definitions, after “unless the context requires otherwise:” and before the asterisks by inserting the following to read as follows:

(1) “Property tax credit” means a credit of the prior tax year’s statewide

or local share property tax liability or a homestead owner ~~or renter~~ credit, as authorized under section 6066 of this title, as the context requires.

Second: By striking out Sec. 5, effective date, in its entirety and inserting in lieu thereof five new sections to read as follows:

Sec. 5. 32 V.S.A. § 6067 is amended to read:

§ 6067. CREDIT LIMITATIONS

Only one individual per household per taxable year shall be entitled to a benefit property tax credit under this chapter. An individual who received a homestead exemption or credit with respect to property taxes assessed by another state for the taxable year shall not be entitled to receive a credit under this chapter. No taxpayer shall receive a renter credit under subsection 6066(b) of this title in excess of \$3,000.00 \$2,500.00. No taxpayer shall receive a property tax credit under subdivision 6066(a)(3) of this title greater than \$2,400.00 or cumulative credit under subdivisions 6066(a)(1)–(2) and (4) of this title greater than \$5,600.00.

Sec. 6. 32 V.S.A. § 6068 is amended to read:

§ 6068. APPLICATION AND TIME FOR FILING

(a) A tax credit claim or request for allocation of an income tax refund to homestead property tax payment shall be filed with the Commissioner on or before the due date for filing the Vermont income tax return, without extension, and shall describe the school district in which the homestead property is located and shall particularly describe the homestead property for which the credit or allocation is sought, including the school parcel account number prescribed in subsection 5404(b) of this title. A renter ~~rebate~~ credit claim shall be filed with the Commissioner on or before the due date for filing the Vermont income tax return, without extension.

* * *

(c) No request for allocation of an income tax refund or for a renter ~~rebate~~ credit claim may be made after October 15.

Sec. 7. 32 V.S.A. chapter 154 is redesignated to read:

CHAPTER 154. HOMESTEAD PROPERTY TAX CREDIT AND RENTER CREDIT

Sec. 8. 32 V.S.A. § 3206(b) is amended to read:

(b) As used in this section, “extraordinary relief” means a remedy that is within the power of the Commissioner to grant under this title, a remedy that compensates for the result of inaccurate classification of property as

homestead or nonhomestead pursuant to section 5410 of this title through no fault of the taxpayer, or a remedy that makes changes to a taxpayer's property tax credit or renter ~~rebate~~ credit claim necessary to remedy the problem identified by the Taxpayer Advocate.

Sec. 9. EFFECTIVE DATE

This act shall take effect on January 1, 2021 and apply to taxable years beginning on and after January 1, 2021 (claim filing years 2022 and after).

(For text see House Journal September 15, 2020)

Unfinished Business of Tuesday, September 22, 2020

Senate Proposal of Amendment

H. 674

An act relating to the definition of housesite for use value appraisals

The Senate proposes to the House to amend the bill by striking out Sec. 2, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 2. 32 V.S.A. § 3755(g) is added to read:

(g) Any applicant for a use value appraisal or any beneficiary of a use value appraisal must be in good standing with the Department of Taxes pursuant to subsection 3113(g) of this title.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2021.

(For text see House Journal February 19, 2020)

New Business

Third Reading

S. 254

An act relating to union organizing

NOTICE CALENDAR

Senate Proposal of Amendment

H. 673

An act relating to tree wardens

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 871 is amended to read:

§ 871. ORGANIZATION OF SELECTBOARD; APPOINTMENTS

(a) Forthwith after its election and qualification, the selectboard shall organize and elect a chair and, if so voted, a clerk from among its number, and file a certificate of such election for record in the office of the town clerk.

(b) The selectboard shall ~~thereupon appoint from among the registered voters~~ a tree warden, who need not be a resident of the municipality, and may ~~thereupon~~ appoint from among the registered voters the following officers who shall serve until their successors are appointed and qualified, and shall certify ~~such~~ the appointments to the town clerk who shall record the same:

* * *

(c) After the selectboard appoints a tree warden, the selectboard shall certify the appointment to the Commissioner of Forests, Parks and Recreation. The certification shall include contact information for the appointed tree warden.

Sec. 2. 24 V.S.A. chapter 67 is amended to read:

CHAPTER 67. PARKS AND SHADE TREES

* * *

§ 2501a. DEFINITIONS

As used in this chapter:

(1) “Public place” means municipal property, including a municipal park, a recreation area, or a municipal building. “Public place” shall not include any municipal forestland or property that is subject to any ownership interest held by the Agency of Transportation.

(2) “Public way” means a right-of-way held by a municipality, including a town highway.

(3) “Shade tree” means a shade or ornamental tree located in whole or in part within the limits of a public way or public place, provided that the tree:

(A) was planted by the municipality; or

(B) is designated as a shade tree pursuant to a municipal shade tree preservation plan pursuant to section 2502 of this title.

§ 2502. TREE WARDENS AND PRESERVATION OF SHADE TREES

~~Shade and ornamental trees within the limits of public ways and places shall be under the control of the tree warden. The tree warden may plan and implement a town or community shade tree preservation program for the purpose of shading and beautifying public ways and places by planting new~~

~~trees and shrubs; by maintaining the health, appearance, and safety of existing trees through feeding, pruning, and protecting them from noxious insect and disease pests and by removing diseased, dying, or dead trees which create a hazard to public safety or threaten the effectiveness of disease or insect control programs.~~

(a) The tree warden shall control all shade trees within the municipality.

(b) The tree warden and the legislative body of the municipality may adopt a shade tree preservation plan. The plan shall:

(1) describe any program for the planting of new trees and shrubs;

(2) provide for the maintenance of shade trees through feeding, pruning, and protection from noxious insect and disease pests;

(3) determine the apportionment of costs for tree warden services provided to other municipal corporations;

(4) determine whether tree maintenance or removal on specific municipal property shall require the approval of another municipal officer or legislative body; and

(5) determine the process, not inconsistent with this chapter, for the removal of:

(A) diseased, dying, or dead shade trees; and

(B) any shade trees that create a hazard to public safety, impact a disease or insect control program, or must be removed to comply with State or federal law or permitting requirements.

(c) The shade tree preservation plan may:

(1) map locations or zones within the municipality where all trees in whole or in part within a public way or place shall be designated as shade trees; and

(2) designate as a shade tree any tree in whole or in part within a public way, provided that the tree warden and legislative body of the municipality find that the tree is critical to the cultural, historical, or aesthetic character of the municipality.

(d) The tree warden and legislative body of the municipality shall hold a minimum of one public hearing concerning the shade tree preservation plan for the purpose of soliciting public input. The legislative body shall publish the proposed plan 10 days prior to the public hearing.

(e) For the purpose of promoting the public health, safety, welfare, and

convenience, a municipality shall have authority to adopt an ordinance that is not inconsistent with this chapter for the administration of the shade tree preservation plan and the regulation of shade trees. The tree ordinance shall be adopted pursuant to chapter 59 of this title.

§ 2503. APPROPRIATIONS

A municipality may appropriate a sum of money to be expended by the tree warden, ~~or if one is not appointed, by the mayor, aldermen, selectboard, or trustees for the purpose of carrying out this chapter.~~

§ 2504. REMOVAL OF SHADE TREES; EXCEPTION

(a) ~~The tree warden may remove or cause to be removed from the public ways or places all any trees and other plants upon which noxious insects or tree diseases naturally breed that are infested with or infected by a tree pest or that constitute a public hazard. The notice and hearing requirements of section 2509 of this chapter shall not apply to the removal of infested or infected trees.~~

(b) ~~However, where~~ The tree warden may determine that an owner or lessee of abutting real estate shall annually, to the satisfaction of such warden, control property has sufficiently controlled all insect pests or tree diseases upon the trees and other plants within the limits of a highway public way or place abutting such real estate the property, such trees and plants shall not be removed and may determine that it is not necessary to remove the trees.

§ 2505. DEPUTY TREE WARDENS

~~A tree warden~~ The legislative body of the municipality may appoint deputy tree wardens and dismiss them at pleasure who shall serve under the direction of the tree warden and shall have the same duties and authority as the tree warden. The legislative body of the municipality may dismiss a deputy tree warden at its pleasure.

§ 2506. REGULATIONS FOR PROTECTION OF SHADE TREES

~~A tree warden shall enforce all laws relating to public shade trees and may prescribe such propose to the legislative body of the municipality the rules and, ordinances, or regulations for the planting, protection, care, or removal of public shade trees as he or she deems expedient. Such~~ The legislative body of the municipality may adopt the rules, ordinances, or regulations shall become effective pursuant to the provisions of chapter 59 of this title.

§ 2507. COOPERATION

~~The~~ With consent of the legislative body of the municipality, the tree warden may:

(1) enter into financial or other agreements with the owners of land adjoining or facing public ways and places for the purpose of encouraging and effecting a ~~community-wide~~ the shade tree planting and preservation program. ~~He or she may plan;~~

(2) enter into agreements with other municipal corporations to provide tree warden services or training; and

(3) cooperate with federal, State, county, or other municipal governments, agencies, or other public or private organizations or individuals and may accept ~~such~~ on behalf of the municipality any funds, equipment, supplies, or services from organizations and individuals, or others, as deemed appropriate for use in carrying out the purposes of this chapter.

§ 2508. CUTTING SHADE TREES; REGULATIONS PROHIBITED

~~Unless otherwise provided, a public~~ Except as otherwise provided in 19 V.S.A. chapter 9, a shade tree shall not be cut or removed, in whole or in part, except by a tree warden or his or her deputy or by a person having the written permission of a tree warden.

§ 2509. CUTTING SHADE TREES; NOTICE AND HEARING

(a) ~~A public shade tree within the residential part of a municipality shall not be felled without a public hearing by the tree warden, except that when it is infested with or infected by a recognized tree pest, or when it constitutes a hazard to public safety, no hearing shall be required. The tree warden shall post public notice of the intent to cut or remove a shade tree. The notice shall be posted a minimum of 15 days prior to cutting or removing the tree. If the cutting or removal is appealed pursuant to subsection (c) of this section, the legislative body of the municipality shall hold a public hearing. This subsection shall not apply to the cutting or removal of a shade tree or trees that:~~

(1) are infested with or infected by, or at risk to become infested with or infected by, a tree pest and are located in an infestation area designated by the Agency of Agriculture, Food and Markets and Department of Forests, Parks and Recreation;

(2) are a hazard to public safety; or

(3) must be removed for the municipality to comply with State or federal law or permitting requirements.

(b)(1) ~~In all cases the decision of the tree warden shall be final, except that when the tree warden is an interested party or when a party in interest so requests in writing, such final decision shall be made by the legislative body of~~

~~the municipality.~~ The tree warden shall post public notice of the intent to cut or remove a shade tree or group of shade trees pursuant to subsection (a) of this section in at least two conspicuous locations within the municipality. The tree warden shall post the public notice in or near the office of the clerk of the municipality.

(2) When the shade tree or group of shade trees are located on property held in fee by another, the municipality shall notify each abutting landowner at the landowner's address of record.

(c)(1) Within 15 days after the posting of public notice, a resident or landowner may appeal in writing to the legislative body of the municipality to object to the cutting or removal of a shade tree. The legislative body of the municipality shall give notice of the appeal to the tree warden.

(2) Within 10 business days after receipt of an appeal, the legislative body of the municipality shall hold a public hearing with the tree warden to receive public comment on the proposed cutting or removal of the shade tree. The tree warden shall stay action on the proposed removal until the legislative body of the municipality renders a final decision on the appeal.

(d) In all cases, the decision of the legislative body of the municipality shall be final.

§ 2510. PENALTY

(a) Whoever shall, willfully, mar or deface a ~~public~~ shade tree without the written permission of a tree warden or legislative body of the municipality shall be fined not more than \$50.00 for the use of the municipality.

(b) Any person who, willfully, and critically injures or cuts down a ~~public~~ shade tree without written permission of the tree warden or the legislative body of the municipality shall be fined ~~not more than \$500.00~~ pursuant to 13 V.S.A. § 3602 for each tree so injured or cut, for the use of the municipality.

§ 2511. CONTROL OF INFESTATIONS

~~When an insect or disease pest infestation upon or in public or private shade or private trees threatens other public or private trees, is considered detrimental to a community municipal shade tree preservation program, or threatens the public safety, the tree warden may request surveys and recommendations for control action from the Secretary of Agriculture, Food and Markets or Commissioner of Forests, Parks and Recreation in accordance with 6 V.S.A. chapter 84. On recommendation of the Secretary of Agriculture, Food and Markets, the tree warden may designate areas threatened or affected in which control measures are to be applied and shall publish notice of the proposal in one or more newspapers having a general circulation in the area in~~

~~which control measures are to be undertaken. On recommendation of the Secretary, the tree warden may apply measures of infestation control on public and private land to any trees, shrubs, or plants thereon harboring or which may harbor the threatening insect or disease pest. He or she may enter into agreements with owners of such lands covering the control work on their lands, but the failure of the tree warden to negotiate with any owner shall not impair his or her right to enter on the lands of said owner to conduct recommended control measures, the cost of which shall be paid by the municipality.~~

* * *

Sec. 3. 19 V.S.A. chapter 9, subchapter 1 is amended to read:

Subchapter 1. General Duties of Towns

§ 901. REMOVAL OF ROADSIDE GROWTH

Except for work that is part of the Transportation Program under section 10g of this title:

(1) A person shall not remove shade trees, as defined in 24 V.S.A. § 2501a, without prior approval of the tree warden pursuant to 24 V.S.A. chapter 67.

(2) A person, other than the abutting landowner or municipality, shall not cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees growing within the limits of a state or town highway, without first having obtained the consent of the agency for state highways or the board of selectmen for town highways legislative body.

(3) A person, other than the Agency or the abutting landowner, shall not cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees growing within the limits of lands subject to any ownership interest held by the Agency without first obtaining the Agency's written consent.

§ 902. PENALTY FOR REMOVAL

(a) A person, other than the Agency, the abutting landowner, the municipality, or the tree warden, who wilfully willfully or maliciously cuts, trims, removes, or otherwise damages trees within the limits of a State highway or municipal right-of-way shall be fined pursuant to 13 V.S.A. § 3602, unless the person has obtained prior written consent from the Agency, municipality, or tree warden.

(b) A person, other than the Agency, the abutting landowner, the municipality, or the tree warden, who willfully or maliciously cuts, trims, removes, or otherwise damages grasses, shrubs, or vines, or trees within

highway limits in violation of section 901 of this title shall be fined not more than \$100.00 nor less than \$10.00, for each offense, unless the person has obtained prior written consent from the Agency or municipality.

* * *

§ 904. TREE AND BRUSH REMOVAL

The ~~selectmen~~ legislative body of a ~~town~~ municipality, if necessary, shall cause to be cut and burned, or removed from within the limits of the highways under their care, trees and bushes ~~which that~~ obstruct the view of the highway ahead or that cause damage to the highway or that are objectionable from a material or scenic standpoint. ~~Shade and fruit trees~~ Trees that have been set out or marked by the abutting landowners and shade trees that have been designated pursuant to 24 V.S.A. chapter 67 shall be preserved if the usefulness or safety of the highway is not impaired. Young trees standing at a proper distance from the roadbed and from each other, and banks and hedges of bushes that serve as a protection to the highway or add beauty to the roadside, shall be preserved. On ~~state~~ State highways, the ~~secretary~~ Secretary shall have the same authority as the ~~selectmen~~ legislative body.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on November 1, 2020.

(For text see House Journal May 20, 2020)

Senate Proposal of Amendment

H. 833

An act relating to the interbasin transfer of surface waters

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, Surface Waters Diversions and Transfers Study Group; report, in subsection (c), by striking out subdivision (3) in its entirety and inserting in lieu thereof the following:

(3) identify whether the State of Vermont should develop and implement a statewide permitting or other regulatory regime for diversions or other transfers of surface water, including:

(A) the scale or size of a watershed subject to regulation;

(B) how a permitting program would comply with the Vermont water quality standards;

(C) how or if the permitting program should address the impact of a

diversion on groundwater; and

(D) how to address reducing the demands for water through water recycling, reuse, and efficiency measures.

Second: In Sec. 1, Surface Waters Diversions and Transfers Study Group; report, in subsection (e), by striking out “January 15” where it appears and inserting in lieu thereof December 15

Third: In Sec. 1, Surface Waters Diversions and Transfers Study Group; report, in subdivision (f)(4), by striking out “2021” where it appears and inserting in lieu thereof 2022

Fourth: By striking out Sec. 2, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 2. 10 V.S.A. § 1979(b) is amended to read:

(b)(1) The Secretary shall approve the use of sewage holding and pumpout tanks for existing or proposed buildings or structures that are owned by a charitable, religious, or nonprofit organization when he or she determines that:

(A) the plan for construction and operation of the holding tank will not result in a public health hazard or environmental damage;

(B) a designer demonstrates that an economically feasible means of meeting current standards is significantly more costly than the construction and operation of sewage holding and pumpout tanks, based on a projected 20-year life of the project; and

(C) the design flows do not exceed 600 gallons per day or the existing or proposed building or structure shall not be used to host events on more than 28 days in any calendar year.

~~(2) Before constructing a holding tank permitted under this subsection, the applicant shall post a bond or other financial surety sufficient to finance maintenance of the holding tank for the life of the system, which shall be at least 20 years. [Repealed.]~~

(3)(A) A permit issued under this subsection shall run with the land for the duration of the permit and shall apply to all subsequent owners of the property being served by the holding tank regardless of whether the owner is a charitable, religious, or nonprofit organization.

(B) All permit conditions, ~~including the financial surety requirement of subdivision (2) of this subsection (b)~~, shall apply to a subsequent owner.

(C) A subsequent owner shall not increase the design flows of the holding and pumpout tank system without approval from the Secretary.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 13, 2020)

Senate Proposal of Amendment to House Proposal of Amendment

S. 352

An act relating to making certain amendments to the Front-Line Employees Hazard Pay Grant Program

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

In Sec. 1, 2020 Acts and Resolves No. 136, Sec. 6, by striking out subdivision (b)(4)(A)(iv) in its entirety and inserting in lieu thereof a new subdivision (b)(4)(A)(iv) to read as follows:

(iv) except in the case of employees of home health agencies and nursing homes, ~~earns~~ and employees of an employer described in subdivision (2)(A)(xiv) of this subsection (b) that provides nursing services to or on behalf of a home health agency or nursing home, earned an hourly base wage of \$25.00 or less during the eligible period;

(For House Proposal of Amendment see House Journal September 18, 2020 Page 1752)

Ordered to Lie

H. 162

An act relating to removal of buprenorphine from the misdemeanor crime of possession of a narcotic.

Pending Action: Second reading

H. 492

An act relating to establishing a homeless bill of rights and prohibiting discrimination against people without homes.

Pending Action: Second reading

H. 535

An act relating to approval of amendments to the charter of the Town of Brattleboro.

Pending Action: Second reading