

Journal of the House

Wednesday, April 24, 2019

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Bishop Thomas Ely, Episcopal Church in Vermont, Burlington, VT.

Bill Referred to Committee on Ways and Means

H. 544

House bill, entitled

An act relating to approval of amendments to the charter of the City of Burlington

Appearing on the Calendar, affecting the revenue of the state, under rule 35(a), was referred to the committee on Ways and Means.

Joint Resolution Adopted in Concurrence

J.R.S. 25

By Senator Ashe,

J.R.S. 25. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 26, 2019, it be to meet again no later than Tuesday, April 30, 2019.

Was taken up, read and adopted in concurrence.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House of Representatives that on the 23rd day of April, 2019, he signed bills originating in the House of the following titles:

H. 7 An act relating to second degree aggravated domestic assault

H. 19 An act relating to sexual exploitation of a person in law enforcement officer custody

H. 394 An act relating to the disposition of the remains of veterans

Bill Committed

H. 97

House bill, entitled

An act relating to fiscal year 2019 budget adjustments

Appearing on the Calendar for action, pending consideration of Senate proposal of amendment to House proposal of amendment to Senate proposal of amendment, on motion of **Rep. Toll of Danville**, the bill was committed to the committee on Appropriations.

**Third Reading; Bill Passed in Concurrence
with Proposal of Amendment**

S. 86

Senate bill, entitled

An act relating to increasing the legal age for buying and using cigarettes, electronic cigarettes, and other tobacco products from 18 to 21 years of age

Was taken up and pending third reading of the bill, **Rep. Cina of Burlington** moved to propose to the Senate to amend the bill as follows:

In Sec. 3, 7 V.S.A. § 1005, by striking out subdivision (a)(1) in its entirety and inserting in lieu thereof a new subdivision (a)(1) to read as follows:

(a)(1) A person under ~~18~~ 21 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless:

(A) the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment; or

(B) the person is in possession of tobacco products or tobacco paraphernalia in connection with participation in a bona fide religious, spiritual, or ceremonial activity.

Thereupon, **Rep. Cina of Burlington** asked and was granted leave of the House to withdraw the amendment.

Thereupon, pending third reading of the bill, **Rep. Helm of Fair Haven** moved to propose to the Senate to amend the bill as follows:

First: By adding a new section to be Sec. 5a to read as follows:

Sec. 5a. 7 V.S.A. § 1013 is added to read:

§ 1013. SMOKING AGE FOR MEMBERS OF THE U.S. ARMED FORCES

(a) As used in this section:

(1) “U.S. Armed Forces” means the U.S. Army, Navy, Marine Corps, Air Force, or Coast Guard; a reserve component thereof; or the National Guard of this State or another state.

(2) “Member of the U.S. Armed Forces” means a current member of the U.S. Armed Forces.

(b) Notwithstanding any provision of section 1003 of this title to the contrary, a person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any member of the U.S. Armed Forces younger than 18 years of age.

(c)(1) For members of the U.S. Armed Forces under 21 years of age purchasing tobacco products, tobacco substitutes, or tobacco paraphernalia, proper proof of age pursuant to section 1004 of this title shall be a photographic U.S. Military identification card showing the person is a current member of the U.S. Armed Forces

(2) A U.S. Military dependent’s identification and privilege card shall not constitute proper proof under this subsection.

(d)(1) Notwithstanding any provision of section 1005 of this title to the contrary, a member of the U.S. Armed Forces under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A member of the U.S. Armed Forces under 18 years of age who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subdivision is subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00.

(2) Notwithstanding any provision of section 1005 of this title to the contrary, a member of the U.S. Armed Forces under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A member of the U.S. Armed Forces under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia is subject to having the tobacco products,

tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of not more than \$200.00.

(3) An action under subdivision (1) or (2) of this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

(e) Notwithstanding any provision of section 1007 of this title to the contrary, an individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a member of the U.S. Armed Forces under 18 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Second: In Sec. 6, 4 V.S.A. § 1102(b), following the second set of ellipses, by adding a new subdivision to be subdivision (29) to read as follows:

(29) Violations of 7 V.S.A. § 1013, relating to possession of tobacco products by a member of the U.S. Armed Forces under 18 years of age and to furnishing tobacco products to a member of the U.S. Armed Forces under 18 years of age.

Pending the question, Shall the House propose to the Senate to amend the bill as offered by Rep. Helm of Fair Haven? **Rep. LaClair of Barre Town** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as offered by Rep. Helm of Fair Haven? was decided in the negative. Yeas, 33. Nays, 109.

Those who voted in the affirmative are:

Brennan of Colchester	Higley of Lowell	Quimby of Concord
Burditt of West Rutland	Hill of Wolcott	Rosenquist of Georgia
Canfield of Fair Haven	LaClair of Barre Town	Savage of Swanton
Corcoran of Bennington	Martel of Waterford	Scheuermann of Stowe
Cupoli of Rutland City	Mattos of Milton	Seymour of Sutton
Donahue of Northfield	McCoy of Poultney	Shaw of Pittsford
Elder of Starksboro	McFaun of Barre Town	Smith of Derby *
Gamache of Swanton	Morgan of Milton	Smith of New Haven
Graham of Williamstown	Morrissey of Bennington	Strong of Albany
Gregoire of Fairfield *	Norris of Shoreham	Terenzini of Rutland Town
Helm of Fair Haven	Palasik of Milton	Toof of St. Albans Town

Those who voted in the negative are:

Ancel of Calais	Gannon of Wilmington	Nicoll of Ludlow
Anthony of Barre City	Gardner of Richmond	Notte of Rutland City

Austin of Colchester	Giambatista of Essex	Noyes of Wolcott
Bancroft of Westford	Goslant of Northfield	O'Brien of Tunbridge
Bartholomew of Hartland	Grad of Moretown	Ode of Burlington
Batchelor of Derby	Haas of Rochester	O'Sullivan of Burlington
Bates of Bennington	Hango of Berkshire	Pajala of Londonderry
Beck of St. Johnsbury	Harrison of Chittenden	Partridge of Windham
Birong of Vergennes	Hashim of Dummerston	Patt of Worcester
Bock of Chester	Hooper of Montpelier	Potter of Clarendon
Briglin of Thetford	Hooper of Randolph	Pugh of South Burlington
Brownell of Pownal	Hooper of Burlington	Rachelson of Burlington
Browning of Arlington	Houghton of Essex	Ralph of Hartland
Brumsted of Shelburne	Howard of Rutland City	Redmond of Essex
Burke of Brattleboro	James of Manchester	Rogers of Waterville
Campbell of St. Johnsbury	Jerome of Brandon	Scheu of Middlebury
Carroll of Bennington	Jessup of Middlesex	Sheldon of Middlebury
Chase of Colchester	Jickling of Randolph	Sibilia of Dover
Christensen of Weathersfield	Killacky of South Burlington	Squirrell of Underhill
Christie of Hartford	Kimbell of Woodstock	Stevens of Waterbury
Cina of Burlington	Kitzmiller of Montpelier	Sullivan of Dorset
Coffey of Guilford	Kornheiser of Brattleboro	Sullivan of Burlington
Colburn of Burlington	Krowinski of Burlington	Szott of Barnard
Colston of Winooski	LaLonde of South	Taylor of Colchester
Conlon of Cornwall	Burlington	Till of Jericho
Conquest of Newbury	Lanpher of Vergennes	Toleno of Brattleboro
Copeland-Hanzas of	Lefebvre of Newark	Toll of Danville
Bradford	Leffler of Enosburgh	Townsend of South
Cordes of Lincoln	Lippert of Hinesburg	Burlington
Demrow of Corinth	Long of Newfane	Troiano of Stannard
Dolan of Waitsfield	Macaig of Williston	Walz of Barre City
Donovan of Burlington	Marcotte of Coventry	Webb of Shelburne
Durfee of Shaftsbury	Masland of Thetford	White of Hartford
Emmons of Springfield	McCarthy of St. Albans City	Wood of Waterbury
Fagan of Rutland City	McCormack of Burlington	Yacovone of Morristown
Fegard of Berkshire	McCullough of Williston	Yantachka of Charlotte
Feltus of Lyndon	Mrowicki of Putney	Young of Greensboro
	Murphy of Fairfax	

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

Chesnut-Tangerman of	Town	Page of Newport City
Middletown Springs	Gonzalez of Winooski	Trieber of Rockingham
Dickinson of St. Albans	Myers of Essex	

Rep. Gregoire of Fairfield explained his vote as follows:

“Madam Speaker:

As a veteran who has never smoked I have a significant problem further eroding the rights of men and women who volunteer to lay down their lives for our country. It may not be a healthy decision but it should be their decision. I thank the member for his service and sacrifice.”

Rep. Smith of Derby explained his vote as follows:

“Madam Speaker:

Any individual who takes a solemn oath to defend this nation deserves equal rights and equal respect of a 21 year old.”

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

**Second Reading; Proposal of Amendment Agreed to;
Third Reading Ordered**

S. 95

Rep. Sibilia of Dover, for the committee on Energy and Technology, to which had been referred Senate bill, entitled

An act relating to municipal utility capital investment

Reported in favor of its passage in concurrence with proposal of amendment

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

Sec. 1. 24 V.S.A. § 1822 is amended to read:

§ 1822. POWERS; APPROVAL OF VOTERS

(a) In addition to the powers it may now or hereafter have, a municipal corporation otherwise authorized to own, acquire, improve, control, operate, or manage a public utility or project and to issue bonds pursuant to this subchapter, may also, by action of its legislative branch, exercise any of the following powers:

(1) to borrow money and issue bonds for the purposes of acquiring, improving, maintaining, financing, controlling, or operating the public utility or project, or for the purpose of selling, furnishing, or distributing the services, facilities, products, or commodities of such utility or project;

(2) to enter into contracts in connection with the issuance of bonds for any of the purposes enumerated in subdivision (1) of this subsection;

(3) to purchase, hold, and dispose of any of its bonds;

(4) to pledge or assign all or part of any net revenues of the public utility or project, to provide for or to secure the payment of the principal of and the interest on bonds issued in connection with such public utility or project;

(5) to do any and all things necessary or prudent to carry out the powers expressly granted or necessarily implied in this subchapter, including without limitation those powers enumerated in section 1824 of this title.

(b)(1) The bonds authorized under this section shall be in such form, shall contain such provisions, and shall be executed as may be determined by the legislative branch of the municipal corporation, but shall not be executed, issued, or made, and shall not be valid and binding, unless and until at least a majority of the legal voters of such municipal corporation present and voting at a duly warned annual or special meeting called for that purpose shall have first voted to authorize the same.

(2) The warning calling such a meeting shall state the purpose for which it is proposed to issue bonds, the estimated cost of the project, the amount of bonds proposed to be issued under this subchapter therefor, that such bonds are to be payable solely from net revenues, and shall fix the place where and the date on which such meetings shall be held and the hours of opening and closing the polls.

(3) The notice of the meeting shall be published and posted as provided in section 1756 of this title.

(4) When a majority of all the voters voting on the question at such meeting vote to authorize the issuance of bonds under this subchapter to pay for such project, the legislative body shall be authorized to issue bonds or enter into contracts, pledges, and assignments as provided in this subchapter.

(5) Sections 1757 and 1758 of this title shall apply to the proceedings taken hereunder, except that the form of ballot to be used shall be substantially as follows:

Shall bonds of the (name of municipality) to the amount of \$ _____ be issued under subchapter 2 of chapter 53 of Title 24, Vermont Statutes Annotated, payable only from net revenues derived from the (type) public utility system, for the purpose of paying for the following public utility project?

If in favor of the bond issue, make a cross (x) in this square .

If opposed to the bond issue, make a cross (x) in this square .

(c) The bonds authorized by this subchapter shall be sold at par, premium, or discount by negotiated sale, competitive bid, or to the Vermont Municipal Bond Bank.

(d) Notwithstanding the provisions of subsection (b) of this section, the legislative branch of a municipal corporation owning a municipal plant as defined in 30 V.S.A. § 2901 may authorize by resolution the issuance of bonds

in an amount not to exceed 50 percent of the total assets of said municipal plant without the need for voter approval. Nothing in this subsection shall be interpreted as eliminating the requirement for approval from the Public Utility Commission pursuant to 30 V.S.A. § 108, where applicable.

Sec. 2. 30 V.S.A. § 108 is amended to read:

§ 108. ISSUE OF BONDS OR OTHER SECURITIES

* * *

(b) The provisions of this section shall not apply to the Vermont Public Power Supply Authority or to a public utility which that meets each and all of the following four conditions:

(1) is incorporated in some state other than Vermont;

(2) is conducting an interstate and intrastate telephone business ~~which that~~ is subject to regulation by the Federal Communications Commission in some respects;

(3) is conducting telephone operations in four or more states; and

(4) has less than 10 percent of its total investment in property used or useful in rendering service located within this State to the extent that such public utility may issue stock, bonds, notes, debentures, or other evidences of indebtedness not directly or indirectly constituting or creating a lien on any property used or useful in rendering service ~~which that~~ is located within this State.

(c)(1) A municipality shall not issue bonds or notes or pledge its net revenues under 24 V.S.A. chapter 53, respecting the ownership or operation of a gas or electric utility, unless the Public Utility Commission first finds, upon petition of the municipality and after notice and an opportunity for hearing, that the proposed action will be consistent with the general good of the State.

(2) If the Public Utility Commission does not issue its ruling within 90 days of the filing of the petition, as may be extended by consent of the municipality, the issuance of the proposed bonds or notes or pledge of net revenues shall be deemed to be consistent with the general good of the State.

(3) If the Public Utility Commission issues a ruling in accordance with subdivision (1) of this subsection, or does not rule within the period specified in subdivision (2) of this subsection, a municipality must ~~subsequently obtain~~ also have obtained voter approval in accordance with 24 V.S.A. chapter 53, if required, prior to issuing bonds or notes or pledging its net revenues.

(d) Notwithstanding the provisions of subsection (c) of this section, a municipality may:

(1) issue bonds or notes or pledge its net revenues payable within three years from the date of issue without such consent, provided such borrowing is necessary in an emergency to restore service immediately after damage by disaster; ~~or~~

(2) issue bonds or notes or pledge its net revenues payable within one year of the date of issuance without the consent otherwise required by this subdivision, provided its total bonds, notes, or evidences of indebtedness so payable within one year do not exceed 20 percent of its total assets; or

(3) issue bonds or notes without the consent otherwise required by this subdivision, provided:

(A) the amount of the issuance plus the amount of any bond or note issuances during the previous 12 calendar months does not exceed 20 percent of the municipality's total assets; and

(B) after the proposed issuance, the total amount of the municipality's outstanding bonds, notes, or evidences of indebtedness would not exceed 50 percent of its total assets.

Sec. 3. 30 V.S.A. § 5031(a)(4) is amended to read:

(4) Bonds and notes may be issued in accordance with this chapter, ~~subject to~~ without the need to obtain the consent and approval of the Public Utility Commission as provided in this title.

Sec. 4. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

* * *

(10) “Group net metering system” means a net metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net metering system. A union or district school facility ~~shall~~ may be considered in the same group net metering system with buildings of its member ~~municipalities schools that are located within the service area of the same retail electricity provider that serves the facility.~~ The cumulative group net metering capacity of a customer that is a school district shall not exceed 1 MW provided that each account is enrolled in only one group.

* * *

Sec. 5. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(f) Except for net metering systems for which the Commission has established a registration process, the Commission shall issue a final determination as to an uncontested application within 90 days of the date of the last substantive filing by a party.

Sec. 6. PUBLIC UTILITY COMMISSION; RULES

(a) The Public Utility Commission shall update its applicable rules for consistency with this act.

(b) The provisions of this act shall supersede any provisions to the contrary contained in the Public Utility Commission's rules as they existed immediately prior to the effective date of this act.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Energy and Technology? **Rep. Browning of Arlington** moved to amend the proposal of amendment as recommended by the committee on Energy and Technology as follows:

That the proposal of amendment recommended by the committee on Energy and Technology be amended by striking out Sec. 1 in its entirety

And by renumbering the remaining sections to be numerically correct.

Which was disagreed to.

Thereupon, the report of the committee on Energy and Technology agreed to and third reading ordered.

Adjournment

At three o'clock and seventeen minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at one o'clock in the afternoon.