

Journal of the Senate

THURSDAY, MARCH 28, 2019

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Reverend Diane Nancekivell of Middlebury.

Message from the House No. 34

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 82. An act relating to the taxation of timber harvesting equipment.

H. 249. An act related to the Reach Up and Reach Ahead pilot program.

H. 529. An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

H. 530. An act relating to the qualifications and election of the Adjutant and Inspector General.

In the passage of which the concurrence of the Senate is requested.

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

S. 109. An act relating to captive insurance companies and risk retention groups.

And has passed the same in concurrence.

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

J.R.S. 20. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 172.

By Senators Bray, Balint, Campion, Clarkson and Pollina,
An act relating to establishing a community energy program.
To the Committee on Natural Resources and Energy.

S. 173.

By Senators Clarkson, Balint, Baruth, Campion, Cummings, Hardy, Hooker, Ingram, Lyons, McCormack, Pearson, Perchlik and Pollina,
An act relating to the mitigation of climate change.
To the Committee on Natural Resources and Energy.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 82.

An act relating to the taxation of timber harvesting equipment.
To the Committee on Agriculture.

H. 249.

An act related to the Reach Up and Reach Ahead pilot program.
To the Committee on Health and Welfare.

H. 529.

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.
To the Committee on Transportation.

H. 530.

An act relating to the qualifications and election of the Adjutant and Inspector General.
To the Committee on Government Operations.

Consideration Resumed; Consideration Postponed**S. 96.**

Consideration was resumed on Senate bill entitled:

An act relating to establishing a Clean Water Assessment to fund State water quality programs.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended? Senator Bray, moved that action on the bill be postponed until tomorrow.

Which was agreed to.

Senator Balint Assumes the Chair**Third Reading Ordered****S. 149.**

Senate committee bill entitled:

An act relating to miscellaneous changes to laws related to vehicles and the Department of Motor Vehicles.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Brock, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

President *pro Tempore* Resumes the Chair**Bill Amended; Consideration Postponed****S. 163.**

Senate committee bill entitled:

An act relating to housing safety and rehabilitation.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass.

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as follows:

First: By striking out Sec. 7, appropriations; positions, in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. DUTIES CONTINGENT UPON FUNDING

(a) The following duties imposed on the Department of Housing and Community Development are contingent upon the appropriation of funds in fiscal year 2020 for the purposes specified:

(1) to implement a rental housing data management system pursuant to Sec. 4 of this act;

(2) to update and maintain the RentalCodes.org website, or a similar resource, that provides easy access to information for consumers, landlords, municipal officials, and the public concerning rental housing health and safety laws; and

(3) to design and implement a Vermont Rental Housing Incentive Program pursuant to Sec. 12 of this act.

(b) The following duties imposed on the Department of Health are contingent upon the appropriation of funds in fiscal year 2020 for one additional full-time equivalent position:

(1) to provide additional training to town health officers concerning best practices, the health officer role and responsibilities, and rental housing health and safety issues; and

(2) to provide additional guidance and support to municipalities concerning difficult rental housing enforcement issues.

Second: By striking out Sec. 13, Rental Housing Incentive Program; appropriation, in its entirety and renumbering Sec. 14, effective date, to be Sec. 13.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the bill was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Sirotkin moved that action on the bill be postponed until next Tuesday, April 2, 2019.

Which was agreed to.

Bill Amended; Third Reading Ordered

S. 106.

Senator White, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to establishing the Municipal Self-Governance Program.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 24 V.S.A. chapter 140 is added to read:

CHAPTER 140. MUNICIPAL SELF-GOVERNANCE PROGRAM

§ 5801. FINDINGS AND INTENT

The General Assembly finds that:

(1) State law, policies, and procedures at times inhibit or delay the ability of Vermont's cities and towns to adopt and implement innovative solutions to local problems.

(2) Often, State law, policies, and procedures limit the ability of cities and towns to creatively work with the State in a timely and efficient manner to address the many issues facing Vermont, including economic health, housing needs, and environmental conservation.

(3) Vermont's cities and towns lack the ability to make the best decisions to meet their unique, truly local needs.

(4) Establishing a pilot program that authorizes a limited number of cities and towns to engage in self-governance within defined parameters will:

(A) allow the State to determine the current gaps in municipal power and agency;

(B) provide a laboratory for cities and towns to develop local solutions to particularized issues; and

(C) allow cities and towns within the program to more efficiently respond to the needs of their residents.

§ 5802. DEFINITIONS; ELIGIBILITY

As used in this chapter:

(1) "Commission" means the Municipal Self-Governance Commission.

(2) "Municipality" means an incorporated city or town.

(3) "Program" means the Municipal Self-Governance Program.

(4) "Proposal" means a plan that describes the following:

(A) the enumerated powers that the municipality requires for the adoption of proposed ordinances that are not in conflict with the U.S. Constitution, the Vermont Constitution, federal laws, and the State laws listed in subsection (c) of section 5805 of this chapter and that provide for the health,

safety, and welfare of the population within the territorial limits of the municipality; and

(B) the measures a municipality expects to pursue, including the adoption of any ordinances, acts, resolutions, rules, and regulations.

§ 5803. PROPOSAL ADOPTION PROCEDURE; SUBMISSION

(a) A municipality that seeks to participate in the Program shall submit a proposal to the legal voters of the municipality present and voting at an annual or special meeting warned for that purpose in accordance with the following procedure:

(1) An official copy of the proposal shall be filed with the clerk of the municipality at least 10 days before the first public hearing. The clerk shall certify the date that he or she received the official copy, and the dated copies shall be open to public inspection and copying.

(2)(A) The legislative body of the municipality shall hold at least two public hearings on the proposal before the vote at the annual or special meeting.

(B) The first public hearing shall be held at least 20 days before the vote at the annual or special meeting.

(3)(A) The legislative body may revise the proposal in light of recommendations made at a public hearing, but in no event shall the revisions be made fewer than 10 days before the date of the meeting to vote on the proposal.

(B) If revisions are made, the legislative body shall post a notice of these revisions in the same places as the warning for the meeting not less than 10 days before the date of the meeting and shall file an official copy of the revisions with the clerk of the municipality who shall certify the copy.

(4) The second public hearing shall be held not later than 10 days after the first public hearing.

(5) After the warning and hearing requirements of this section are satisfied, the proposal shall be submitted to the voters at an annual or special meeting in its certified form, except that the legislative body may make technical corrections.

(b) A municipality may seek to amend an approved proposal by submitting the amendment to the voters according to the procedure contained in subsection (a) of this section.

(c) Upon approval of a proposal or amendment by the voters, the local legislative body shall submit the proposal or amendment to the Commission.

§ 5804. MUNICIPAL SELF-GOVERNANCE COMMISSION

(a) There is created the Municipal Self-Governance Commission to review proposals for expanded municipal self-governance.

(b) The Commission shall consist of 12 members, appointed as follows:

(1) Four members shall be appointed by the Governor, not more than two of whom shall be from the same political party.

(2)(A) Eight members shall be appointed by the General Assembly, four by the Senate Committee on Committees, and four by the Speaker of the House.

(B) Not more than two appointees shall be members of the General Assembly, and each appointing authority shall appoint not more than two members from the same political party.

(c) The terms of members shall be two years. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term.

(d) The Commission shall have the following powers:

(1) to review, evaluate, and make recommendations concerning a proposal submitted by a municipality;

(2) to establish criteria for the evaluation of proposals that includes consideration of each municipality's population, geographic location, and governance structure;

(3) to consult with State agencies affected by the proposal; and

(4) to recommend to the General Assembly the municipalities that should be approved to participate in the Program.

(e) The Office of Legislative Council shall provide administrative and legal assistance to the Commission, including the scheduling of meetings and the preparation of recommended legislation.

(f)(1) The Speaker of the House shall call the first meeting to occur on or before November 1, 2019. The Commission shall select a chair from among its members at the first meeting.

(2) Eight members shall constitute a quorum.

(g)(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. Payments shall be made from monies appropriated to the Commission.

(h)(1) On or before January 15, 2020, the Commission shall submit to the General Assembly a report recommending at least one but not more than 10 municipalities to participate in the Program. The Commission shall recommend municipalities that represent the range of populations, geographic locations, and governance structures in the State.

(2) At any time after January 15, 2020, the Commission may submit a report recommending additional municipalities be admitted to the Program, but at no time shall more than 10 municipalities be admitted.

(i) On or before January 15, 2024, the Commission shall conduct a performance review of the Program and submit to the House and Senate Committees on Government Operations a report containing:

(1) an evaluation of the effectiveness of expanded self-governance on the participating municipalities;

(2) a recommendation as to whether the Program should be continued, reduced, expanded, or terminated;

(3) a recommendation as to whether additional legislation is necessary, including any recommended additions to subsection (c) of section 5805 of this chapter; and

(4) any other relevant matters.

(j) Commencing on January 15, 2021 and each year thereafter, the Commission shall submit to the House and Senate Committees on Government Operations a summary report containing all municipal progress reports submitted to the Commission pursuant to subsection (e) of section 5805 of this chapter.

(k)(1) The Commission shall hold Program meetings and may require the attendance of representatives from each participating municipality. Program meetings shall be held at the call of the Chair. Notice shall be given to each municipal representative at least 10 days before the meeting date.

(2) The legislative body of a participating municipality shall appoint a representative to attend Program meetings.

§ 5805. PROGRAM MUNICIPALITIES; POWERS AND DUTIES

(a) The General Assembly shall approve proposals and any proposal amendments and admit municipalities for participation in the Program.

(b) A municipality that is approved by the General Assembly for participation in the Program shall have the authority to adopt or amend any ordinance pursuant to the powers granted in the municipality's approved proposal.

(c) A municipality's proposal shall not include the authority to adopt or amend an ordinance that is inconsistent or in conflict with:

(1) the U.S. Constitution, the Vermont Constitution, or federal law;

(2) the Vermont Public Records Act or the Open Meeting Law;

(3) 10 V.S.A. § 5227, 24 V.S.A. § 2291(8), or 24 V.S.A. § 2295;

(4) State law governing:

(A) firearms;

(B) the environment, conservation and development, or fish and wildlife;

(C) crimes and criminal procedure;

(D) cannabis;

(E) the State Lottery and games of chance;

(F) alcoholic beverages, except that a municipality may propose to increase local license fees subject to the requirements of 7 V.S.A. § 204(b);

(G) health insurance;

(H) banking, securities, and insurance;

(I) electric utilities;

(J) workers' compensation, minimum wage, benefits, and employment protections; or

(K) elections, except that a municipality may propose to regulate local elections.

(d) A municipality shall only have the power to adopt an ordinance or bylaw that applies within the territorial limits of the municipality. A municipality shall not have the power to adopt an ordinance requiring or prohibiting action by any other municipal corporation.

(e) Commencing October 1, 2020 and each year thereafter, each participating municipality shall submit a progress report to the Commission. The municipal progress report shall contain the following information:

(1) a narrative description of how the authority granted under this chapter has been exercised in the municipality and any resulting positive or negative impacts;

(2) a list of the ordinances adopted pursuant to an approved proposal during the preceding year, including a description of each;

(3) the estimated fiscal impact of the ordinances;

(4) a summary of any pending or active suits, proceedings, or petitions challenging the ordinances; and

(5) any information that the Commission may require for the purposes of this chapter.

§ 5806. EXPIRATION

(a) The Program shall terminate on July 1, 2024 unless extended by the General Assembly. An ordinance adopted pursuant to this chapter shall continue in full force and effect until repealed by the municipality or preempted, superseded, or repealed by an act of the General Assembly.

(b) No ordinances may be enacted by a municipality after July 1, 2024 unless otherwise authorized by the General Assembly.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported as follows:

First: In Sec. 1, 24 V.S.A. § 5804, in subdivision (b)(2), by striking out subparagraph (B) in its entirety and inserting in lieu thereof subparagraphs (B) and (C) to read as follows:

(B) Of the members appointed by the Senate Committee on Committees, not more than one may be a legislator and not more than two may be from the same political party.

(C) Of the members appointed by the Speaker of the House, not more than one may be a legislator and not more than two may be from the same political party.

Second: In Sec. 1, 24 V.S.A. § 5804, by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read as follows:

(g)(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Commission serving in his or her

capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings.

(2) Other members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings.

(3) Payments to members of the Commission authorized under this subsection shall be made from monies appropriated to the General Assembly.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, Senators White, Bray, Clarkson, Collamore and Pollina moved to amend the recommendation of the Committee on Government Operations, as amended as follows:

First: In Sec. 1, 24 V.S.A. chapter 140, in § 5805, in subsection (a), prior to the words “General Assembly”, by striking out the word “The” and inserting in lieu thereof the following: Consistent with Chapter II, §§ 6 and 69 of the Vermont Constitution, the

Second: In Sec. 1, 24 V.S.A. chapter 140, in § 5805, in subdivision (c)(4)(J), by striking out the word “or” immediately after the semicolon.

Third: In Sec. 1, 24 V.S.A. chapter 140, in § 5805, in subdivision (c)(4)(K), immediately following the words “to regulate local elections” by inserting the following before the period

;

(L) State highways;

(M) State sign law requirements of 10 V.S.A. chapter 21;

(N) standards for classifying town highways under 19 V.S.A. § 302;

(O) procedures for laying out, discontinuing, and reclassifying town highways under 19 V.S.A. chapter 27;

(P) motor vehicle requirements of Title 23, except for provisions of 23 V.S.A. chapter 19;

(Q) aviation; or

(R) railroads

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Adjournment

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