

House Calendar

Friday, February 26, 2021

52nd DAY OF THE BIENNIAL SESSION

House Convenes at 9:30 AM

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 199

An act relating to validating legal instruments used in connection with the conveyance of real estate

H. 315

An act relating to COVID-19 relief

Amendment to be offered by Rep. Colburn of Burlington to H. 315

Representative Colburn of Burlington moves that the bill be amended in Sec. 1, gap economic recovery grants; fiscal year 2021 one-time appropriation, as follows:

First: By adding a new subsection (g) to read:

(g) Methodology for determining economic loss.

(1) Not later than 10 days after the effective date of this section, the Agency shall develop criteria and a methodology for determining a business's economic loss.

(2) The Agency shall submit its proposed methodology to the Joint Fiscal Committee for approval prior to awarding grants pursuant to this section.

(3) If the Joint Fiscal Committee approves the methodology or does not take action within five days of receiving the Agency's proposal, the Agency shall continue implementation of the program as if the Committee had approved.

(4) If the Joint Fiscal Committee disapproves, the Agency shall amend its proposal consistent with any guidance from the Committee and shall re-submit one or more subsequent proposals until the Committee approves.

(5) The Joint Fiscal Committee may transfer not more than \$10,000.00 from the legislative budget to cover the costs of a consultant as necessary to review the Agency's proposed methodology.

Second: By adding a new subsection (h) to read:

(h) Auditing; compliance; recapture. The Agency shall include in all grant awards standard audit provisions, substantially similar to the audit provisions

included pursuant to administrative bulletins 3.5 and 5.0, that provide that records pertaining to grant awards shall be retained and remain subject to audit and inspection for a period of time specified by the Agency.

Third: By adding a new subsection (i) to read:

(i) Recapture. The Agency shall include in all grant awards standard recapture provisions, which shall include that a grant award may be subject to recapture if a recipient is found to be ineligible for the award or to have used an award for an ineligible purpose, consistent with the guidelines the Agency adopts pursuant to subsection (e) of this section.

Committee Bill for Second Reading

H. 338

An act relating to reapportionment proposal deadlines.

(Rep. Higley of Lowell will speak for the Committee on Government Operations.)

NOTICE CALENDAR

Favorable with Amendment

H. 88

An act relating to certification of agricultural use for purposes of the use value appraisal program

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

Sec. 1. 32 V.S.A. § 3755(f) is amended to read:

(f) On or before November 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. The Commissioner may waive the eligibility requirement under this subsection, provided the Commissioner obtains through other means satisfactory information that the enrolled agricultural land continues or enrolled agricultural buildings continue to meet the requirements for enrollment. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

(Committee Vote: 8-0-0)

Rep. Canfield of Fair Haven, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture and Forestry.

(Committee Vote: 11-0-0)

H. 108

An act relating to Vermont standards for issuing a Clean Water Act section 401 certification

Rep. Dolan of Waitsfield, for the Committee on Natural Resources; Fish; and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1253(h) is added to read:

(h)(1) The Secretary shall administer a Clean Water Act Section 401 certification program to review activities that require a federal license or permit to ensure that a proposed activity complies with the Vermont Water Quality Standards, as well as with any other appropriate requirement of State law, including:

(A) 10 V.S.A. chapter 37 (wetlands protection and water quality management);

(B) 10 V.S.A. chapter 41 (regulation of streamflow);

(C) 10 V.S.A. chapter 49A (lakeshore protection standards);

(D) 10 V.S.A. § 1264 (stormwater management);

(E) 29 V.S.A. chapter 11 (management of lakes and ponds); and

(F) The Agency of Natural Resources Rules for Water Withdrawals for Snowmaking.

(2) The Secretary of Natural Resources shall deny any application for certification under Section 401 of the Clean Water Act, unless the applicant demonstrates all of the following:

(A) there is no practicable alternative to the proposed activity that would have a less adverse impact on waters and wetlands of the State, and provided that any proposed alternative shall not have other significant adverse human health, safety, or environmental consequences;

(B) the proposed activity will not result in the violation of any applicable water quality criteria established in the Vermont Water Quality Standards; and

(C) the proposed activity will not result in a violation of the State's antidegradation policy.

(3)(A) An alternative is considered practicable under subdivision (2)(A) of this subsection (h) if it is available and capable of being completed after taking into consideration cost, existing technology, and logistics in light of overall purposes of the proposed activity.

(B) Failure to comply with the requirements of subdivision (2)(A) of this subsection (h) shall not be the basis for denial of an application for a certification under Section 401 of the Clean Water Act if the proposed activity is exempt from those requirements under a rule adopted by the Secretary.

(4) The Secretary may issue a certification required by this subsection to any general permit or authorization issued by a federal agency. An applicant's compliance with that federal permit or authorization shall be presumed to be in compliance with the certification, unless the Secretary determines that an individual review of the applicant's activity is necessary to assure compliance with the Vermont Water Quality Standards and other applicable State laws.

Sec. 2. AGENCY OF NATURAL RESOURCES; VERMONT WATER

QUALITY STANDARDS; RULEMAKING

The Secretary of Natural Resources shall amend the Vermont Water Quality Standards (VWQS) to include the following:

(1) An amendment to the Classification of State Waters to clarify that with regard to all Class I and II wetlands, as defined in 10 V.S.A. § 902, the uses to be protected include the functions and values of the wetland as described in Section 5 of the Vermont Wetland Rules.

(2) An amendment to the antidegradation policy to clarify that wetlands and their functions and values shall be protected as described by the Vermont Wetland Rules.

(3) Any additional provisions that the Secretary of Natural Resources determines are necessary to implement the requirements of 10 V.S.A. § 1253(h), including any exemptions to the requirements of 10 V.S.A. § 1253(h)(2)(A) for projects that are not likely to have significant impacts on water quality or wetland functions or values. State or municipal road or highway projects that require a certification under Section 401 of the Clean Water Act shall be exempt from the requirements of 10 V.S.A.

§ 1253(h)(2)(A) when a separate alternatives analysis is otherwise required under State or federal law.

Sec. 3. RULEMAKING IMPLEMENTATION; TIMING

(a) The Secretary of Natural Resources shall file with the Secretary of State under 3 V.S.A. § 838 a copy of the proposed rules required by Sec. 2 of this act within 90 days from the effective date of this act.

(b) On or before January 15, 2022, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy a report regarding the status of the rulemaking required by Sec. 2 of this act. The report shall include a draft of the rules.

(c) On or before March 1, 2022, the Secretary of Natural Resources shall file with the Secretary of State under 3 V.S.A. § 841 a final proposal of the rules required by Sec. 2 of this act.

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 2 and 3, VWQS rulemaking, shall take effect on passage.

(b) Sec. 1, certification program, shall take effect on the effective date of the rules required to be adopted under Sec. 2.

(Committee Vote: 11-0-0)

H. 128

An act relating to limiting criminal defenses based on victim identity

Rep. Colburn of Burlington, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 6566 is added to read:

§ 6566. DEFENSE BASED ON VICTIM IDENTITY PROHIBITED

(a) In a prosecution for any criminal offense, evidence of the defendant's discovery of, knowledge about, or the potential disclosure of the crime victim's actual or perceived sexual orientation or gender identity shall not be used:

(1) as a defense to defendant's criminal conduct;

(2) to establish a finding that defendant suffered from diminished capacity; or

(3) to justify defendant's use of force against another.

(b) The following shall not be used to mitigate the severity of an offense:

(1) evidence of a nonviolent romantic or sexual advance by a crime victim towards the defendant; or

(2) evidence of defendant's perception or belief, even if inaccurate, of the gender, gender identity, or sexual orientation of a crime victim.

(c) On or before January 1, 2022 and annually thereafter, the Executive Director of the Department of State's Attorneys and Sheriffs shall submit to the House and Senate Committees on Judiciary a report that details, for the prior year, any convictions in the Criminal Division of the Superior Court of crimes committed that were motivated by the victim's gender, gender identity or expression, or sexual orientation. The report shall include demographic information about the defendants and victims, including race, ethnicity, age, and gender.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Favorable

H. 127

An act relating to approval of amendments to the charter of the Town of Barre

Rep. LaClair of Barre Town, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar of February 25, 2021.

H.C.R. 20

House concurrent resolution congratulating the 2020 class of Boy Scouts who have achieved the rank of Eagle

H.C.R. 21

House concurrent resolution honoring the Georgia Elementary and Middle School for its effective active shooter response training

H.C.R. 22

House concurrent resolution congratulating Elinor Purrier of Berkshire on her record U.S. indoor two-mile run at the 2021 New Balance Indoor Grand Prix and on her recent marriage to Jamie St. Pierre

CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2)) on or before **Friday, March 12, 2021**, and filed with the Secretary/Clerk so that they may be placed on the Calendar for Notice the next legislative day- Committee bills must be voted out of Committee by Friday, March 12, 2021.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 19, 2021**, and filed with the Secretary/Clerk so that they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills.

Information Notice

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)

JFO #3031 - \$450,000 to the Department of Public Safety from the Office of Justice Programs for the services and support for victims in the immediate

aftermath and during the investigation of a crime. The grant will fully fund one (1) limited-service position, Victim Services Specialist, to provide these services through 9/30/2023 and will also cover \$15,417 in indirect departmental costs.*[JFO received 1/25/2021]*

JFO #3032 - \$206,394 to the VT Dept. of Environmental Conservation from the United States Climate Alliance, United Nations Fund, for one (1) limited service position, Environmental Analyst VII, to serve in a leadership role in advancing Vermont's climate mitigation priorities. Position to be funded through 9/30/22.*[JFO received 1/25/2021]*

JFO #3033 - One (1) limited service position, Criminal Intelligence Analyst, to the VT. Dept of Public Safety to support information sharing and analysis to prevent and prepare for hazards and threats. Funds from the US Dept. of Homeland Security from previously awarded JFO Grant #2212.*[JFO received 1/27/2021]*

JFO #3034 - \$200,000,000 to the VT Agency of Administration from the US Dept. of the Treasury, Emergency Rental Assistance Program. The funds will be used to assist eligible households that have difficulty making timely payments of rent and utilities due to the COVID-19 pandemic. Included in the funding are five (5) limited service positions to administer this sizable grant program.*[JFO received 2/3/2021]*

JFO #3035 - \$550,749 to the VT Agency of Human Services from the Center for Disease Control and Prevention to enhance and coordinate healthy aging efforts within the 'Healthy Brain Initiative' framework. Funds will be used to develop systemic public health approaches to improve the public health approach to Alzheimer's and related dementias and decrease preventable hospitalizations among Vermonters 65 and older with Alzheimer's and related dementias. Two (2) limited service positions: One (1) Public Health Program Administrator and one (1) Public Health Analyst II to administer the program. *[JFO received 2/4/2021]*

JFO #3036 - \$3,800,000 to the VT Dept of Health from the Center for Disease Control and Prevention to increase and sustain the public health approach to suicide prevention. This grant includes funding for three (3) limited service positions. Two (2) positions in the Dept of Health: Public Health Programs Administrator and Public Health Analyst II. One (1) position in the Dept of Mental Health: Marketing and Outreach Coordinator. Grant amount is \$760,000 per year for 5 years. *[JFO received 2/16/2021]*

JFO #3037 - \$135,000 to the VT Dept of Mental Health from Vibrant Emotional Health for the development of the 988-implementation plan to ensure compliance with the federal mandate for universal access to suicide and prevention services by July 16, 2022. *[Note: One (1) limited service position is included within JFO #3036]. [JFO received 2/16/2021]*