

House Calendar

Wednesday, February 17, 2016

44th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 pm

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Action Postponed Until February 17, 2016

Favorable with Amendment

H. 249

An act relating to intermunicipal services and the authority to create a regional council of governments

Rep. Martin of Wolcott, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. chapter 121, subchapter 7 is added to read:

Subchapter 7. Regional Council of Governments

§ 4948. CREATION OF A REGIONAL COUNCIL OF GOVERNMENTS

(a) A regional planning commission, created under section 4341 of this title, may convert to a regional council of governments through an affirmative vote of at least 67 percent of both:

(1) the board of commissioners of the regional planning commission; and

(2) the legislative branches of the regional planning commission's member municipalities.

(b) A newly formed regional council of governments shall adopt bylaws to:

(1) specify the organization of the council;

(2) designate officers of the council and provide for the conduct of business;

(3) specify the process for entering into, method of withdrawal from, and method of terminating service agreements with member municipalities; and

(4) provide for the method of dissolution and reversion to a regional planning commission.

(c) A regional council of governments shall be subject to the membership requirements of a regional planning commission under sections 4342 and 4343 of this title, except that:

(1) at least 50 percent of a council's appointed representatives shall be elected municipal officials from the member municipalities; and

(2) a council shall maintain an equal number of representatives appointed from each member municipality.

(d) Upon the conversion to a regional council of governments as provided in subsection (a) of this section, a regional council of governments shall take effect and become a political subdivision of the State, and the originating regional planning commission shall be dissolved.

(e) Upon the effective date of the creation of the regional council of governments:

(1) All of the assets and property of the regional planning commission, both real and personal and of whatever kind, nature, and description, shall become vested in and become assets and property of the regional council of governments without any further act, deed, or instrument being necessary.

(2) All the liabilities, obligations, and indebtedness of the regional planning commission shall be assumed by the regional council of governments without any further act, deed, or instrument being necessary.

(f) A municipality may move from one regional council of governments to another council or to a regional planning commission on terms and conditions approved by the Secretary of Commerce and Community Development.

§ 4949. POWERS AND DUTIES

(a) A regional council of governments shall retain the authority and duties granted to a regional planning commission and shall continue all services previously provided by the originating regional planning commission, subject to the requirements in chapter 117 of this title.

(b) In addition to the powers granted in subsection (a) of this section, a regional council of governments may:

(1) promote cooperative arrangements and coordinate action among its member municipalities, including arrangements and action with respect to planning, community development, joint purchasing, intermunicipal services, and infrastructure; and

(2) exercise any power, privilege, or authority, as defined within a services agreement under subsection (c) of this section, capable of exercise by a member municipality as necessary or desirable for dealing with problems of local or regional concern.

(c)(1) In exercising its authority under subsection (b) of this section, a regional council of governments shall enter into a service agreement with one or more member municipalities. Participation by a member municipality shall

be voluntary and only valid upon appropriate action by the legislative branch of the member municipality.

(2) A service agreement shall describe the services to be provided and the amount of funds payable by each member municipality that is a party to the service agreement.

(d) A regional council of governments shall not have the following powers:

(1) essential legislative functions;

(2) taxing authority; or

(3) eminent domain.

§ 4950. FINANCES AND STAFF

(a) The legislative branch of the member municipalities may appropriate funds to meet the expenses of a regional council of governments.

(b) A regional council of governments may accept funds, grants, gifts, and services from any source, including:

(1) the federal government;

(2) the State of Vermont or its agencies, departments, or instrumentalities;

(3) any other governmental unit, whether a member of the council or not; and

(4) private and civic sources.

(c)(1) In expending regional planning funds provided under section 4341a or 4346 of this title, a regional council of governments shall ensure that all planning tasks required in each performance contract are fully accomplished. Funds provided for regional planning under section 4341a or 4346 of this title shall not be used to provide services under a council service agreement without prior written authorization from the state agency or other entity providing the funds.

(2) A council shall not use municipal funds or grants provided for regional planning services under chapter 117 of this title to cover the costs associated with any service agreement under section 4949 of this subchapter.

(d) A regional council of governments may employ a staff and consult and retain any experts that it considers necessary. Service of personnel, use of equipment and office space, and other necessary services may be accepted from member municipalities as part of their financial support.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(**Committee Vote: 8-1-2**)

Amendment to be offered by Rep. Martin of Wolcott to H. 249

Representative Martin of Wolcott moves 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. § 4345b is added to read:

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

(a)(1) Prior to exercising the authority granted under this section, a regional planning commission shall:

(A) draft bylaws specifying the process for entering into, method of withdrawal from, and method of terminating service agreements with member municipalities; and

(B) hold one or more public hearings within the region to hear from interested parties and citizens regarding the draft bylaws.

(2) At least 30 days prior to any hearing required under this subsection, notice of the time and place and a copy of the draft bylaws, with a request for comments, shall be delivered to the chair of the legislative body of each member municipality within the region. The regional planning commission shall make copies available to any individual or organization requesting a copy.

(3) The regional planning commission may make revisions to the draft bylaws at any time prior to adoption of the bylaws. If revisions are made to the draft bylaws, the regional planning commission shall hold a final hearing and shall deliver notice as required in subdivision (2) of this subsection.

(b)(1) The draft bylaws required under subsection (a) of this section may be adopted by a vote of at least 67 percent of the commissioners of the regional planning commission in accordance with the voting procedures of the regional planning commission.

(2) The draft bylaws shall be considered duly adopted and shall take effect 35 days after a vote required under this subsection, unless, within 35 days of the date of adoption, the regional planning commission receives certification from the legislative bodies of a majority of the member municipalities in the region vetoing the proposed bylaws. In such case, the bylaws shall be deemed repealed.

(c) Upon adoption of the bylaws under subsection (b) of this section, a regional planning commission may:

(1) promote cooperative arrangements and coordinate, implement, and administer service agreements among its member municipalities, including arrangements and action with respect to planning, community and economic development, joint purchasing, intermunicipal services, infrastructure, and related activities; and

(2) exercise any power, privilege, or authority, as defined within a service agreement under subsection (d) of this section, capable of exercise by a member municipality as necessary or desirable for dealing with problems of local or regional concern.

(d)(1) In exercising the powers set forth in subsection (c) of this section, a regional planning commission shall enter into a service agreement with one or more member municipalities. A regional planning commission shall require a vote of at least 67 percent of its commissioners to enter into negotiations for a service agreement.

(2) Participation by a member municipality shall be voluntary and only valid upon appropriate action by the legislative body of the member municipality. To become effective, a service agreement shall be ratified by the regional planning commission and the legislative bodies of the member municipalities who are a party to the service agreement.

(3) A service agreement shall describe the services to be provided and the amount of funds payable by each member municipality that is a party to the service agreement. Service of personnel, use of equipment and office space, and other necessary services may be accepted from member municipalities as part of their financial support.

(4) Any modification to a service agreement shall not become effective unless approved by the legislative body of the member municipalities who are a party to the service agreement.

(e) A regional planning commission shall not have the following powers under this section:

(1) essential legislative functions;

(2) taxing authority; or

(3) eminent domain.

(f)(1) Funds provided for regional planning under section 4341a or 4346 of this chapter shall not be used to provide services under a service agreement

without prior written authorization from the State agency or other entity providing the funds.

(2) A commission shall not use municipal funds or grants provided for regional planning services under this chapter to cover the costs associated with providing services under any service agreement under this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

Amendment to be offered by Rep. Sibilias of Dover to H. 249

Representative Sibilias of Dover moves that the amendment offered by Representative Martin of Wolcott be further amended in Sec. 1, 24 V.S.A. § 4345b (intermunicipal service agreements), in subdivision (c)(1), after “planning, community” by striking out the words “and economic”

Senate Proposal of Amendment

H. 187

An act relating to absence from work for health care and safety

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

Sec. 1. FINDINGS

The General Assembly finds:

(1) According to the Vermont Department of Labor’s 2013 Fringe Benefits Study, roughly one-half of all private sector employers provide some form of paid leave to their employees.

(2) Based on information provided by the 2013 Fringe Benefits Study, it is estimated that slightly less than 50 percent of private sector workers employed by companies with fewer than 20 workers have access to paid leave, while approximately 78 percent of workers employed by larger companies have access to paid leave time.

(3) Based on information provided by the 2013 Fringe Benefits Study, it is estimated that more than 60,000 working Vermonters lack access to paid leave.

Sec. 2. PURPOSE

(a) The purpose of this act is to promote a healthier environment at work, school, and in public by ensuring that employees are provided with paid leave time for purposes of health care and safety.

(b) It is the intent of the General Assembly that:

(1) all employers doing business in or operating in the State of Vermont shall be required to provide earned sick time to their employees as provided by this act; and

(2) all employers that currently offer any type of paid time off from work that may, at a minimum, be used by the employer's employees in the amounts and for the purposes required pursuant to this act shall not be required to change their paid time off policy or offer additional paid leave.

Sec. 3. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

* * *

(d) For the purposes of earned sick time, an employer shall comply with the provisions required under subchapter 4B of this chapter.

Sec. 4. 21 V.S.A. chapter 5, subchapter 4B is added to read:

Subchapter 4B. Earned Sick Time

§ 481. DEFINITIONS

As used in this subchapter:

(1) "Employer" means any individual, organization, or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State.

(2) "Combined time off" means a policy wherein the employer provides time off from work for vacation, sickness, or personal reasons, and the employee has the option to use all of the leave for whatever purpose he or she chooses.

(3) "Commissioner" means the Commissioner of Labor.

(4) "Earned sick time" means discretionary time earned and accrued under the provisions of this subchapter and used by an employee to take time off from work for the purposes listed in subdivisions 483(a)(1)–(5) of this subchapter.

(5) "Employee" means a person who, in consideration of direct or indirect gain or profit, is employed by an employer for an average of no less than 18 hours per week during a year. However, the term "employee" shall not include:

(A) An individual who is employed by the federal government.

(B) An individual who is employed by an employer:

- (i) for 20 weeks or fewer in a 12-month period; and
- (ii) in a job scheduled to last 20 weeks or fewer.

(C) An individual that is employed by the State and is exempt or excluded from the State classified service pursuant to 3 V.S.A. § 311, but not an individual that is employed by the State in a temporary capacity pursuant to 3 V.S.A. § 331.

(D) An employee of a health care facility as defined in 18 V.S.A. § 9432(8) or a facility as defined in 33 V.S.A. § 7102(2) if the employee only works on a per diem or intermittent basis.

(E) An employee of a school district, supervisory district, or supervisory union as defined in 16 V.S.A. § 11 that:

(i) is employed pursuant to a school district or supervisory union policy on substitute educators as required by the Vermont Standards Board for Professional Educators Rule 5381;

(ii) is under no obligation to work a regular schedule; and

(iii) is not under contract or written agreement to provide at least one period of long-term substitute coverage which is defined as 30 or more consecutive school days in the same assignment.

(F) An individual who is under 18 years of age.

(G) An individual that is either:

(i) a sole proprietor or partner owner of an unincorporated business who is excluded from the provisions of chapter 9 of this title pursuant to subdivision 601(14)(F) of this title; or

(ii) an executive officer, manager, or member of a corporation or a limited liability company for whom the Commissioner has approved an exclusion from the provisions of chapter 9 of this title pursuant to subdivision 601(14)(H) of this title.

(H) An individual that:

(i) works on a per diem or intermittent basis;

(ii) works only when he or she indicates that he or she is available to work;

(iii) is under no obligation to work for the employer offering the work; and

(iv) has no expectation of continuing employment with the employer.

(6) "Paid time off policy" means any policy under which the employer provides paid time off from work to the employee that includes a combination of one or more of the following:

- (A) annual leave;
- (B) combined time off;
- (C) vacation leave;
- (D) personal leave;
- (E) sick leave; or
- (F) any similar type of leave.

§ 482. EARNED SICK TIME

(a) An employee shall accrue not less than one hour of earned sick time for every 52 hours worked.

(b) An employer may require a waiting period for newly hired employees of up to one year. During this waiting period, an employee shall accrue earned sick time pursuant to this subchapter, but shall not be permitted to use the earned sick time until after he or she has completed the waiting period.

(c) An employer may:

(1) limit the amount of earned sick time accrued pursuant to this section to:

(A) from January 1, 2017 until December 31, 2018, a maximum of 24 hours in a 12-month period; and

(B) after December 31, 2018, a maximum of 40 hours in a 12-month period; or

(2) limit to 40 hours the number of hours in each workweek for which full-time employees not subject to the overtime provisions of the Federal Fair Labor Standards Act, 29 U.S.C. § 213(a)(1), may accrue earned sick time pursuant to this section.

(d)(1) Earned sick time shall be compensated at a rate that is equal to the greater of either:

(A) the normal hourly wage rate of the employee; or

(B) the minimum wage rate for an employee pursuant to section 384 of this title.

(2) Group insurance benefits shall continue during an employee's use of earned sick time at the same level and conditions that coverage would be provided as for normal work hours. The employer may require that the employee contribute to the cost of the benefits during the use of earned sick time at the existing rate of employee contribution.

(e) Except as otherwise provided by subsection 484(a) of this subchapter, an employer shall calculate the amount of earned sick time that an employee has accrued pursuant to this section:

(1) as it accrues during each pay period; or

(2) on a quarterly basis, provided that an employee may use earned sick time as he or she accrues it during each quarter.

§ 483. USE OF EARNED SICK TIME

(a) An employee may use earned sick time accrued pursuant to section 482 of this subchapter for any of the following reasons:

(1) The employee is ill or injured.

(2) The employee obtains professional diagnostic, preventive, routine, or therapeutic health care.

(3) The employee cares for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment, or accompanying the employee's parent, grandparent, spouse, or parent-in-law to an appointment related to his or her long-term care.

(4) The employee is arranging for social or legal services or obtaining medical care or counseling for the employee or for the employee's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, who is a victim of domestic violence, sexual assault, or stalking or who is relocating as the result of domestic violence, sexual assault, or stalking. As used in this section, "domestic violence," "sexual assault," and "stalking" shall have the same meanings as in 15 V.S.A. § 1151.

(5) The employee cares for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, because the school or business where that individual is normally located during the employee's workday is closed for public health or safety reasons.

(b) If an employee's absence is shorter than a normal workday, the employee shall use earned sick time accrued pursuant to section 482 of this subchapter in the smallest time increments that the employer's payroll system uses to account for other absences or that the employer's paid time off policy

permits. Nothing in this subsection shall be construed to require an employer to permit an employee to use earned sick time in increments that are shorter than one hour.

(c) An employer may limit the amount of earned sick time accrued pursuant to section 482 of this subchapter that an employee may use to:

(1) from January 1, 2017 until December 31, 2018, no more than 24 hours in a 12-month period; and

(2) after December 31, 2018, no more than 40 hours in a 12-month period.

(d)(1) Except as otherwise provided in subsection 484(a) of this subchapter, earned sick time that remains unused at the end of an annual period shall be carried over to the next annual period and the employee shall continue to accrue earned sick time as provided pursuant to section 482 of this subchapter. However, nothing in this subdivision shall be construed to permit an employee to use more earned sick time during an annual period than any limit on the use of earned sick time that is established by his or her employer pursuant to subsection (c) of this section.

(2) If, at an employer's discretion, an employer pays an employee for unused earned sick time accrued pursuant to section 482 of this subchapter at the end of an annual period, then the amount for which the employee was compensated does not carry over to the next annual period.

(e) Upon separation from employment, an employee shall not be entitled to payment for unused earned sick time accrued pursuant to section 482 of this subchapter unless agreed upon by the employer.

(f)(1) An employee who is discharged by his or her employer after he or she has completed a waiting period required pursuant to subsection 482(b) of this subchapter and is subsequently rehired by the same employer within 12 months after the discharge from employment shall begin to accrue and may use earned sick time without a waiting period. However, the employee shall not be entitled to retain any earned sick time that accrued before the time of his or her discharge unless agreed to by the employer.

(2) An employee that voluntarily separates from employment after he or she has completed a waiting period required pursuant to subsection 482(b) of this subchapter and is subsequently rehired by the same employer within 12 months after the separation from employment shall not be entitled to accrue and use earned sick time without a waiting period unless agreed to by the employer.

(g) An employer shall not require an employee to find a replacement for absences, including absences for professional diagnostic, preventive, routine, or therapeutic health care.

(h) An employer may require an employee planning to take earned sick time accrued pursuant to section 482 of this subchapter to:

(1) make reasonable efforts to avoid scheduling routine or preventive health care during regular work hours; or

(2) notify the employer as soon as practicable of the intent to take earned sick time accrued pursuant to section 482 of this subchapter and the expected duration of the employee's absence.

(i)(1) If an employee is absent from work for one of the reasons listed in subsection (a) of this section, the employee shall not be required to use earned sick time accrued pursuant to section 482 of this subchapter and the employer will not be required to pay for the time that the employee was absent if the employer and the employee mutually agree that either:

(A) the employee will work an equivalent number of hours as the number of hours for which the employee is absent during the same pay period; or

(B) the employee will trade hours with a second employee so that the second employee works during the hours for which the employee is absent and the employee works an equivalent number of hours in place of the second employee during the same pay period.

(2) Nothing in this subsection shall be construed to prevent an employer from adopting a policy that requires an employee to use earned sick time accrued pursuant to section 482 of this subchapter for an absence from work for one of the reasons set forth in subsection (a) of this section.

(j) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business. An employer shall also notify an employee of the provisions of this section at the time of the employee's hiring.

(k) An employee who uses earned sick time accrued pursuant to section 482 of this subchapter shall not diminish his or her rights under sections 472 and 472a of this title.

(l) The provisions against retaliation set forth in section 397 of this title shall apply to this subchapter.

(m) An employer who violates this subchapter shall be subject to the penalty provisions of section 345 of this title.

(n) The Commissioner shall enforce this subchapter in accordance with the procedures established in section 342a of this title. However, the appeal provision of subsection 342a(f) shall not apply to any enforcement action brought pursuant to this subsection.

§ 484. COMPLIANCE WITH EARNED SICK TIME REQUIREMENT

(a) An employer shall be in compliance with this subchapter if either of the following occurs:

(1) The employer offers a paid time off policy or is a party to a collective bargaining agreement that provides the employee with paid time off from work that:

(A) he or she may use for all of the reasons set forth in subsection 483(a) of this subchapter; and

(B) accrues and may be used at a rate that is equal to or greater than the rate set forth in sections 482 and 483 of this subchapter.

(2) The employer offers a paid time off policy or is a party to a collective bargaining agreement that provides the employee with at least the full amount of paid time off from work required pursuant to sections 482 and 483 of this subchapter at the beginning of each annual period and the employee may use it at any time during the annual period for the reasons set forth in subsection 483(a) of this subchapter. If the employer provides an employee with the full amount of paid time off at the beginning of each annual period, the paid time off shall not carry over from one annual period to the next as provided in subdivision 483(d)(1) of this subchapter.

(b) Nothing in this subchapter shall be construed to require an employer that satisfies the requirements of subsection (a) of this section to provide additional earned sick time to an employee that chooses to use paid time off that could be used for the reasons set forth in subdivisions 483(a)(1)–(5) of this subchapter for a different purpose.

(c) Nothing in this subchapter shall be construed to prevent an employer from providing a paid time off policy or agreeing to a collective bargaining agreement that provides a paid time off policy that is more generous than the earned sick time provided by this subchapter.

(d)(1) Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or paid time off policy that provides greater earned sick time rights than the rights provided by this subchapter.

(2) Nothing in this subchapter shall be construed to preempt or override the terms of a collective bargaining agreement that is in effect before January 1, 2017.

(e) A collective bargaining agreement or paid time off policy may not diminish the rights provided by this subchapter.

§ 485. SEVERABILITY OF PROVISIONS

If any provision of this subchapter or the application of such provision to any person or circumstances shall be held invalid, the remainder of the subchapter and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

§ 486. NEW EMPLOYER EXEMPTION

(a) Notwithstanding any provision of this subchapter to the contrary, new employers shall not be subject to the provisions of this subchapter for a period of one year after the employer hires its first employee.

(b) For purposes of enforcement under subsections 483(l)–(n) of this subchapter, an employer shall be presumed to be subject to the provisions of this subchapter unless the employer proves that a period of no more than one year elapsed between the date on which the employer hired its first employee and the date on which the employer is alleged to have violated the provisions of this subchapter.

(c) No employer shall transfer an employee to a second employer with whom there is, at the time of the transfer, substantially common ownership, management, or control for the purposes of either employer claiming an exemption pursuant to subsection (a) of this section.

Sec. 5. 21 V.S.A. § 345 is amended to read:

§ 345. NONPAYMENT OF WAGES AND BENEFITS

(a) Each employer who violates sections ~~342 and 343~~ 342, 343, 482, and 483 of this title shall be fined not more than \$5,000.00. Where the employer is a corporation, the president or other officers who have control of the payment operations of the corporation shall be considered employers and liable to the employee for actual wages due when the officer has willfully and without good cause participated in knowing violations of this chapter.

* * *

Sec. 6. DEPARTMENT OF LABOR REPORT

The Department of Labor shall, on or before January 15, 2019, report to the House Committee on General, Housing and Military Affairs and the Senate

Committee on Economic Development, Housing and General Affairs regarding the number of inquiries and complaints submitted to the Department in relation to this act and the number of investigations and enforcement actions undertaken by the Department in relation to this act during the first two years after its effective date.

Sec. 6a. SMALL BUSINESS PLANNING AND IMPLEMENTATION ASSISTANCE

On or before November 15, 2017, the Commissioner of Labor and the Secretary of Commerce and Community Development shall develop and implement a program to provide employers that have five or fewer employees who are employed for an average of no less than 30 hours per week during a year with assistance related to the development of time off policies and business plans necessary to implement the requirements of this act.

Sec. 6b. COST TO SMALL EMPLOYERS; SURVEY; REPORT

(a) The Department of Labor and the Agency of Commerce and Community Development shall conduct a survey of Vermont employers with five or fewer employees regarding the following:

(1) the number of employees employed by each employer;

(2) the hourly wages paid by each employer to its employees; and

(3) whether each employer provides its employees with paid time off from work that satisfies the requirements of 21 V.S.A. § 482–484 as enacted pursuant to Sec. 4 of this act.

(b) The Department of Labor and the Agency of Commerce and Community Development shall, on or before January 15, 2017, report to the General Assembly regarding the results of the survey and an estimate of the total additional cost to employers with five or fewer employees of providing earned sick time pursuant to the requirements of this act.

Sec. 7. 29 V.S.A. § 161 is amended to read:

§ 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

(a) Bids; selection.

* * *

(3) All bids on State projects shall be required to comply with all applicable provisions of Title 21.

Sec. 8. EFFECTIVE DATES

(a)(1) This section, Secs. 6a and 6b shall take effect on July 1, 2016.

(2) The remaining sections of this act shall take effect on January 1, 2017, except that an employer that has five or fewer employees who are employed for an average of no less than 30 hours per week shall not be subject to the provisions of 21 V.S.A. chapter 5, subchapter 4b until January 1, 2018.

(b)(1) An employer may require for its existing employees on January 1, 2017 a waiting period of up to one year. The waiting period pursuant to this subsection shall begin on January 1, 2017 and shall end on or before December 31, 2017. During this waiting period, an employee shall accrue earned sick time pursuant to 21 V.S.A. § 482, but shall not be permitted to use the earned sick time until after he or she has completed the waiting period.

(2) An employer that has five or fewer employees who are employed for an average of no less than 30 hours per week may require for its existing employees on January 1, 2018 a waiting period of up to one year. The waiting period pursuant to this subsection shall begin on January 1, 2018 and shall end on or before December 31, 2018. During this waiting period, an employee shall accrue earned sick time pursuant to 21 V.S.A. § 482, but shall not be permitted to use the earned sick time until after he or she has completed the waiting period.

(For text see House Journal April 22, 23, 2015)

Amendment to be offered by Rep. Eastman of Orwell to H. 187

Rep. Eastman of Orwell moves that the House concur in Senate proposal of amendment with further amendment thereto: In Sec. 4, in 21 V.S.A. § 481, by striking out subdivision (1) and inserting in lieu thereof a new subdivision (1) to read:

(1) “Employer” means any individual, organization, or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State that employs more than three individuals for an average of no less than 30 hours per week during a year.

Amendment to be offered by Rep. Eastman of Orwell to H. 187

Rep. Eastman of Orwell moves that the House concur in Senate proposal of amendment with further amendment thereto: In Sec. 4, in 21 V.S.A. § 486(a), after the words “new employers shall not be subject to the provisions of this subchapter for a period of” by striking out “one year” and inserting in lieu thereof “three years”

Amendment to be offered by Rep. Olsen of Londonderry to H. 187

Rep. Olsen of Londonderry moves that the House concur in Senate proposal of amendment with further amendment thereto:

First: In Sec. 4, in 21 V.S.A. § 481(5), by adding a new subdivision to be subdivision (I) to read:

(I) Employees not subject to the overtime provisions of the Federal Fair Labor Standards Act, 29 U.S.C. § 213(a)(1).

Second: In Sec. 4, 21 V.S.A. § 482(c), by striking out subsection (c) in its entirety and by inserting in lieu thereof the following:

(c) An employer may limit the amount of earned sick time accrued pursuant to this section to:

(1) from January 1, 2017 until December 31, 2018, a maximum of 24 hours in a 12-month period; and

(2) after December 31, 2018, a maximum of 40 hours in a 12-month period.

Amendment to be offered by Rep. Olsen of Londonderry to H. 187

Rep. Olsen of Londonderry moves that the House concur in Senate proposal of amendment with further amendment thereto: In Sec. 4, in 21 V.S.A. § 481, by striking out subdivision (5) in its entirety and inserting in lieu thereof a new subdivision (5) to read:

(5)(A) “Employee” means a person who, in consideration of direct or indirect gain or profit, is employed by an employer for an average of no less than 18 hours per week during a year; and

(i) earns an hourly wage of no more than 110 percent of the minimum wage pursuant to section 384 of this title; or

(ii) earns total compensation, including salary and benefits, that is equivalent to an hourly wage of no more than 110 percent of the minimum wage pursuant to section 384 of this title.

(B) However, the term “employee” shall not include:

(i) An individual who is employed by the federal government.

(ii) An individual who is employed by an employer:

(I) for 20 weeks or fewer in a 12-month period; and

(II) in a job scheduled to last 20 weeks or fewer.

(iii) An individual that is employed by the State and is exempt or excluded from the State classified service pursuant to 3 V.S.A. § 311, but not an individual that is employed by the State in a temporary capacity pursuant to 3 V.S.A. § 331.

(iv) An employee of a health care facility as defined in 18 V.S.A. § 9432(8) or a facility as defined in 33 V.S.A. § 7102(2) if the employee only works on a per diem or intermittent basis.

(v) An employee of a school district, supervisory district, or supervisory union as defined in 16 V.S.A. § 11 that:

(I) is employed pursuant to a school district or supervisory union policy on substitute educators as required by the Vermont Standards Board for Professional Educators Rule 5381;

(II) is under no obligation to work a regular schedule; and

(III) is not under contract or written agreement to provide at least one period of long-term substitute coverage which is defined as 30 or more consecutive school days in the same assignment.

(vi) An individual who is under 18 years of age.

(vii) An individual that is either:

(I) a sole proprietor or partner owner of an unincorporated business who is excluded from the provisions of chapter 9 of this title pursuant to subdivision 601(14)(F) of this title; or

(II) an executive officer, manager, or member of a corporation or a limited liability company for whom the Commissioner has approved an exclusion from the provisions of chapter 9 of this title pursuant to subdivision 601(14)(H) of this title.

(viii) An individual that:

(I) works on a per diem or intermittent basis;

(II) works only when he or she indicates that he or she is available to work;

(III) is under no obligation to work for the employer offering the work; and

(IV) has no expectation of continuing employment with the employer.

Amendment to be offered by Rep. Dame of Essex to H. 187

Rep. Dame of Essex moves that the House concur in Senate proposal of amendment with further amendment thereto: In Sec. 4, after 21 V.S.A. § 481(5)(H), by inserting a subdivision (I) to read:

(I) An individual that is employed by his or her family member.

ACTION CALENDAR

Third Reading

H. 625

An act relating to extending the exemption from encumbrance on title of properties subject to a pretransition stormwater permit

Amendment to be offered by Rep. Branagan of Georgia to H. 625

Representative Branagan of Georgia moves that the bill be amended by striking out all after the enacting clause and inserting lieu thereof the following:

Sec. 1. 2012 Acts and Resolves No. 91, Sec. 3 is amended to read:

Sec. 3. REPEAL

27 V.S.A. § 613 (stormwater discharges during transition period; encumbrance on title) shall be repealed on June 30, ~~2016~~ 2018.

Sec. 2. 27 V.S.A. § 613 is amended to read:

§ 613. STORMWATER DISCHARGE PERMITS DURING TRANSITION PERIOD

* * *

(b) Beginning on July 1, 2004, and notwithstanding any law to the contrary, no encumbrance on record title to real property or effect on marketability of title shall be created by the failure of the holder of real property from which regulated stormwater runoff discharges to an impaired watershed to obtain, renew, or comply with the terms and conditions of a pretransition stormwater discharge permit for a conveyance or refinancing, provided that such holder:

* * *

(2) Records in the land records a notice indicating, in an appropriate form to be determined by the ~~secretary of natural resources~~ Secretary of Natural Resources, that at the time of establishment of a general permit in the impaired watershed where the real property is located, but not later than June 30, ~~2016~~ 2018, the mortgagor (in the case of a refinancing) or the grantee

(in the case of a conveyance) shall be subject to all applicable requirements of the water quality remediation plan, TMDL, or watershed improvement permit established under 10 V.S.A. chapter 47.

* * *

(e) This section shall not apply to any impaired watershed for which the ~~secretary of natural resources~~ Secretary of Natural Resources has issued a watershed improvement permit, issued an individual permit under a total maximum daily load approved by the U.S. Environmental Protection Agency, issued a general permit implementing a total maximum daily load approved by the U.S. Environmental Protection Agency, or issued a general or individual permit implementing a water quality remediation plan, upon issuance of notification by the Secretary of Natural Resources to the owners of lands covered by a pretransition stormwater permit.

Sec. 3. 10 V.S.A. § 1973 is amended to read:

§ 1973. PERMITS

(a) Except as provided in this section and sections 1974 and 1978 of this title, a person shall obtain a permit from the Secretary before:

- (1) subdividing land;
- (2) creating or modifying a campground in a manner that affects a potable water supply or wastewater system or the requirements for providing potable water and wastewater disposal;
- (3) constructing, replacing, or modifying a potable water supply or wastewater system;
- (4) using or operating a failed supply or failed system;
- (5) constructing a new building or structure;
- (6) modifying an existing building or structure in a manner that increases the design flow or modifies other operational requirements of a potable water supply or wastewater system;
- (7) making a new or modified connection to a new or existing potable water supply or wastewater system; or
- (8) changing the use of a building or structure in a manner that increases the design flows or modifies other operational requirements of a potable water supply or wastewater system.

* * *

~~(j)(1) When an applicant for a permit under this section proposes a water supply or wastewater system with isolation distances that extend onto property other than the property for which the permit is sought, the permit applicant shall send by certified mail, on a form provided by the Secretary, a notice of an intent to file a permit application, including the site plan that accurately depicts all isolation distances, to any landowner affected by the proposed isolation distances at least seven calendar days prior to the date that the permit application is submitted to the Secretary.~~

~~(2) If, during the course of the Secretary's review of an application for a permit under this section, the location of a water supply or wastewater system permit is revised and the isolation distances of the revised system extend onto property other than the property for which the permit is sought, the permit applicant shall send by certified mail a copy of any revised plan to any landowner affected by the isolation distances.~~

~~(3) If, after a permit has been issued under this section, a water supply or wastewater system is not installed according to the permitted plan and the record drawings submitted under subsection (e) of this section indicate that the isolation distances of the system as constructed extend onto property other than the property on which the system is located, the permittee shall send by certified mail a notification form provided by the Secretary with a copy of the record drawings showing all isolation distances to any landowner affected by the isolation distances.~~

~~(4) A permit applicant or permittee subject to the requirements of subdivisions (1) through (3) of this subsection shall certify to the Secretary that the notices and information required by this subsection have been sent to affected landowners and shall include in the certification the name and address of all affected landowners. If the Secretary approves a permit application under this section, the permit shall not be issued to a permit applicant subject to the requirements of subdivision (2) of this subsection until seven calendar days after the permit applicant certifies to the Secretary that the notice required under this subsection has been sent to affected landowners Beginning on July 1, 2016, a permit applicant for a potable water supply or wastewater system shall own or legally control, through a permanent easement or other written agreement, the property necessary to meet the isolation distances required under this chapter and the rules adopted under this chapter.~~

Sec. 4. 10 V.S.A. § 1978 is amended to read:

§ 1978. RULES

(a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter. These rules shall include the following:

(1) Performance standards for wastewater systems.

(2) Design flow standards for potable water supplies and wastewater systems.

(3) Design requirements, including isolation distances, provided that, beginning on July 1, 2016, the rules shall not authorize the extension of an isolation distance onto property other than the property for which a permit is sought unless the permit applicant owns or legally controls, through permanent easement or other written agreement, the property on which the isolation distance is located.

* * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to encumbrances on property due to environmental permitting”

Favorable with Amendment

H. 539

An act relating to establishment of a Pollinator Protection Committee

Rep. Zagar of Barnard, for the Committee on **Agriculture & Forest Products**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. POLLINATOR PROTECTION COMMITTEE; REPORT

(a) Definition. As used in this section, “pollinator” means bees, birds, bats, and other insects or wildlife that pollinate flowering plants.

(b) Creation. There is created a Pollinator Protection Committee to:

(1) evaluate the causes and occurrences of reduced pollinator populations in the State; and

(2) recommend measures the State can adopt to conserve and protect pollinator populations.

(c) Membership. The Pollinator Protection Committee shall be composed of the following ten members:

- (1) the Secretary of Agriculture, Food and Markets or designee;
- (2) a person who is a beekeeper, appointed by the Governor;
- (3) a dairy farmer, appointed by the Governor;
- (4) a person representing a not-for-profit organization advocating the protection of pollinators, appointed by the Governor;
- (5) a person who is a beekeeper, appointed by the Speaker of the House;
- (6) a person who is a university employee with expertise in the protection of pollinators, appointed by the Speaker of the House;
- (7) a tree fruit farmer, appointed by the Speaker of the House;
- (8) a vegetable farmer, appointed by the Committee on Committees;
- (9) a person licensed or certified to sell or apply pesticides, herbicides, or other economic poisons in the State, appointed by the Committee on Committees; and
- (10) a person who owns or operates a greenhouse or plant nursery, appointed by the Committee on Committees.

(d) Powers and duties. The Pollinator Protection Committee shall:

- (1) Evaluate the status in Vermont of the U.S. Department of Agriculture's five pillars of pollinator health. The five pillars of pollinator health are: pollinator biology; nutrition and habitat; pathogens and pests; pesticide use; and genetics and breeding.
- (2) Evaluate the effectiveness of pesticide applicator licensing and other pesticide requirements in the State in protecting pollinator health.
- (3) Evaluate other state or international pesticide regulations that are more protective of pollinator health than the pesticide regulations of Vermont or the U.S. Environmental Protection Agency.
- (4) Study available education and outreach plans from other states that have been successful in increasing public awareness of pollinator health issues.
- (5) Evaluate best management practices for application of neonicotinoid pesticides in a manner that avoids harm to pollinators.
- (6) Identify possible sources of funds for use in the protection of pollinator health.

(7) Consider the requirements in 2015 Vt. Acts and Resolves No. 64 (State Clean Water Act) regarding buffers along State waters and whether and how areas in buffers or other areas that require perennial vegetation should be encouraged for use as pollinator forage zones or pollinator growing areas.

(8) Develop a State pollinator protection plan using the framework and critical elements from the Association of American Pesticide Control Officials Pollinator Protection Plan guidance.

(e) Assistance. The Pollinator Protection Committee shall have the administrative, technical, and legal assistance of the Agency of Agriculture, Food and Markets. Upon request of the Committee, the Department of Health, the State Toxicologist, the Agency of Natural Resources, the Agency of Transportation, the University of Vermont Extension Service, or the Department of Forests, Parks and Recreation shall provide technical or professional services related to performance of the powers and duties of the Committee. The Committee may request input or assistance from other stakeholders or organizations that have an interest in pollinator health or the use and regulation of pesticides in the State.

(f) Report. On or before January 15, 2017, the Pollinator Protection Committee shall submit a written report to the House Committees on Fish, Wildlife and Water Resources and on Agriculture and Forest Products and the Senate Committees on Natural Resources and Energy and on Agriculture with its findings and any recommendations for legislative action.

(g) Meetings.

(1) The Secretary of Agriculture, Food and Markets shall call the first meeting of the Committee to occur on or before September 1, 2016.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on February 15, 2017.

(h) Reimbursement. Members of the Pollinator Protection Committee shall not be entitled to compensation or reimbursement of expenses for participation in the Committee.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-0-1)

Rep. Toll of Danville, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Agriculture & Forest Products**.

(Committee Vote: 10-1-0)

Action Postponed Until February 18, 2016

Senate Proposal of Amendment

H. 611

An act relating to fiscal year 2016 budget adjustments

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

First: By striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read as follows:

Sec. 13. 2015 Acts and Resolves No. 58, Sec. B.301 is amended to read:

Sec. B.301 Secretary's office - global commitment		
Operating expenses	4,541,736	69,303,699
Grants	<u>1,372,464,147</u>	<u>1,372,830,610</u>
Total	<u>1,377,005,883</u>	1,442,134,309
Source of funds		
General fund	<u>208,728,673</u>	217,281,414
Special funds	26,550,179	27,899,279
Tobacco fund	<u>28,747,141</u>	28,079,458
State health care resources fund	<u>270,712,781</u>	282,705,968
Federal funds	842,227,109	886,128,190
Interdepartmental transfers	40,000	40,000
Total	<u>1,377,005,883</u>	1,442,134,309

Second: By striking out Sec. 17 in its entirety and inserting in lieu thereof a new Sec. 17 to read as follows:

Sec. 17. 2015 Acts and Resolves No. 58, Sec. B.307 is amended to read:

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	<u>659,633,970</u>	721,820,039
Total	<u>659,633,970</u>	721,820,039
Source of funds		
Global commitment fund	<u>659,633,970</u>	721,820,039
Total	<u>659,633,970</u>	721,820,039

Third: By striking out Sec. 22 in its entirety and inserting in lieu thereof a new Sec. 22 to read as follows:

Sec. 22. 2015 Acts and Resolves No. 58, Sec. B.312 is amended to read:

Sec. B.312 Health - public health		
Personal services	37,391,426	39,304,394
Operating expenses	8,229,404	8,229,404
Grants	<u>39,972,373</u>	<u>39,661,136</u>
Total	85,593,203	87,194,934
Source of funds		
General fund	8,544,109	6,595,459
Special funds	16,854,895	17,004,542
Tobacco fund	2,461,377	2,461,377
Federal funds	38,184,687	37,945,155
Global commitment fund	18,401,274	22,043,386
Interdepartmental transfers	1,121,861	1,120,015
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	85,593,203	87,194,934

Fourth: By striking out Sec. 36 in its entirety and inserting in lieu thereof a new Sec. 36 to read as follows:

Sec. 36. 2015 Acts and Resolves No. 58, Sec. B.346 is amended to read:

Sec. B.346 Total human services

Source of funds		
General fund	662,344,182	677,913,668
Special funds	95,588,135	97,129,681
Tobacco fund	32,619,752	31,952,069
State health care resources fund	270,712,781	282,705,968
Education fund	3,554,425	3,886,204
Federal funds	1,328,305,215	1,388,932,032
Global commitment fund	1,314,332,149	1,379,045,585
Internal service funds	1,816,195	1,816,195
Interdepartmental transfers	30,798,487	34,112,598
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	3,740,096,321	3,897,519,000

Fifth: In Sec. 53(a)(1), by striking out the following: “21550 Lands & Facilities Trust Fund”

Sixth: By adding a new section to be numbered Sec. 55a to read as follows:

Sec. 55a. FISCAL YEAR 2016 CONTINGENT GENERAL FUND APPROPRIATIONS

(a) In fiscal year 2016, to the extent that the Commissioner of Finance and Management determines that General Fund revenues exceed the 2016 official

revenue forecast and other fund receipts assumed for all previously authorized fiscal year 2016 appropriations and transfers necessary to ensure the stabilization reserve is at its maximum authorized level under 32 V.S.A. § 308, \$10,300,000 is appropriated to the Agency of Administration for transfer to the Agency of Human Services for Global Commitment upon determination of the Commissioner of Finance and Management of the amount necessary to fund the 53rd week of Medicaid expenditures. Any funds remaining from this \$10,300,000 appropriation after this 53rd week payment shall be carried forward and revert to the General Fund for reallocation by the Legislature in the fiscal year 2017 budget adjustment or the fiscal year 2018 budget process.

(b) The Commissioner of Finance and Management shall report to the Joint Fiscal Committee in July 2016 on the status of the funds appropriated in this section.

Seventh: By adding two (2) new sections to be numbered Secs. 60a and 60b to read as follows:

Sec. 60a. JUDICIAL BRANCH POSITION AUTHORIZATION

(a) The establishment of the following new permanent exempt position in the Judicial Branch of State government is authorized in fiscal year 2017 – one (1) Superior judge.

Sec. 60b. 4 V.S.A. § 71(a) is amended to read:

(a) There shall be ~~32 superior~~ 34 Superior judges, whose term of office shall, except in the case of an appointment to fill vacancy or unexpired term, begin on April 1 in the year of their appointment or retention, and continue for six years.

Eighth: In Sec. 67, in the first sentence, by striking out the following: “18 V.S.A. chapters 220 and 221” and inserting in lieu thereof the following: chapters 220 and 221 of this title and in the third sentence, by striking out the following: “18 V.S.A. chapter 221” and inserting in lieu thereof the following: chapter 221 of this title

Ninth: By striking out Sec. 71 in its entirety and inserting in lieu thereof a new Sec. 71 to read as follows:

Sec. 71. SUPPLEMENTAL RAIL SPENDING

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the Fiscal Year 2016 Transportation Program, the Secretary of Transportation, with the approval of the Secretary of Administration and subject to the provisions of subsection (b) of this section, may transfer up to \$3,000,000 in Transportation Fund or Transportation Infrastructure Bond Fund appropriations, other than appropriations for the

Town Highway State Aid, Structures, and Class 2 Roadway programs, to the Transportation – Rail appropriation, for the specific purpose of addressing the increased cost of Amtrak service, emergency projects, and projects needing immediate attention during fiscal year 2016.

(b)(1) If a contemplated transfer of an appropriation would not delay the planned work schedule of a project, the Secretary of Transportation may execute the transfer and shall give prompt notice thereof to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session and, when the General Assembly is not in session, to the Joint Transportation Oversight Committee.

(2) If a contemplated transfer of an appropriation would, by itself, delay the planned work schedule of a project, the Secretary:

(A) when the General Assembly is in session, may execute the transfer, but shall give the House and Senate Committees on Transportation advance notice of at least 10 business days prior to executing the transfer; or

(B) when the General Assembly is not in session, shall obtain the prior approval of the Joint Transportation Oversight Committee before the Secretary may execute the transfer.

(3) Contemplated transfers of Transportation Infrastructure Bond Fund appropriations shall comply with the limitations on the uses of such funds as provided in 19 V.S.A. § 11f.

(c) This section shall be repealed on July 1, 2016.

Tenth: By striking out Sec. 72 in its entirety and inserting in lieu thereof a new Sec. 72 to read as follows:

Sec.72. DEPARTMENT FOR CHILDREN AND FAMILIES; GENERAL ASSISTANCE REPORT

(a) By March 15, 2016, the Commissioner for Children and Families shall provide the House and Senate Committees on Appropriations, the House Committees on Human Services and on General, Housing and Military Affairs, and the Senate Committee on Health and Welfare a report on the funds spent year-to-date, through January and funds authorized through February 28, 2016, in the General Assistance budget for emergency housing and homelessness assistance that details the budgeted funds, usage, and projections for the remainder of the fiscal year for each type of housing service or assistance provided. The report shall also include the status on the development of alternatives to using motels as a solution for emergency housing, including a summary of programs and projects funded through the Office of Economic Opportunity.

Eleventh: In Sec. 74, by striking out subsection (b) in its entirety and inserting in lieu thereof two new subsections (b) and (c) to read as follows:

(b) Sec. 60a shall take effect on July 1, 2016.

(c) This section and all remaining sections shall take effect on passage.

(For text see House Journal January 26, 27, 2016)

Action Postponed Until February 19, 2016

Third Reading

H. 622

An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect

NOTICE CALENDAR

Favorable with Amendment

H. 297

An act relating to the sale of ivory or rhinoceros horn

Rep. McCullough of Williston, for the Committee on **Fish, Wildlife & Water Resources**, 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. chapter 175 is added to read:

CHAPTER 175. IVORY AND RHINOCEROUS HORN

§ 7701. SALE OF IVORY OR RHINOCEROS HORN

(a) Definitions. As used in this act:

(1) “Ivory” means any tusk composed of ivory from an elephant or mammoth, or any piece thereof, whether raw ivory or worked ivory, or made into, or part of, an ivory product.

(2) “Ivory product” means any item that contains, or is wholly or partially made from, any ivory.

(3) “Raw ivory” means any ivory the surface of which, polished or unpolished, is unaltered or minimally changed by carving.

(4) “Rhinoceros horn” means the horn, or any piece thereof, of any species of rhinoceros.

(5) “Rhinoceros horn product” means any item that contains, or is wholly or partially made from, any rhinoceros horn.

(6) “Total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products” means the fair market value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products, or the actual price paid for the ivory, ivory products, rhinoceros horn, and rhinoceros products, whichever is greater.

(7) “Worked ivory” means ivory that has been embellished, carved, marked, or otherwise altered so that it can no longer be considered raw ivory.

(b) Prohibition. In addition to the prohibitions and penalties established by federal law, a person in this State shall not import, sell, offer for sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product, except as authorized under subsections (d) and (e) of this section.

(c) Presumption of intent to sell. The possession in this State of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in a retail or wholesale outlet commonly used for the buying or selling of similar products shall constitute presumptive evidence of possession with intent to sell under this section. Nothing in this subsection shall preclude a finding of intent to sell based on any evidence that may serve independently to establish intent to sell. The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product alone shall not constitute possession with intent to sell.

(d) Authorized conveyance to beneficiaries. A person may convey ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product that is part of an estate or other items being conveyed to lawful beneficiaries upon the death of the owner of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product or in anticipation of that death.

(e) Exceptions.

(1) The prohibitions of this section shall not apply to:

(A) employees or agents of the federal government or the State undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law;

(B) the import of legally acquired ivory, ivory products, rhinoceros horn, or rhinoceros horn products:

(i) expressly authorized by federal law, license, or permit; or

(ii) as part of a personal or household move into the State;

(C) the sale of ivory or ivory products expressly authorized by federal law, license, or permit, provided that the total weight of the ivory or ivory components is less than 200 grams; or

(D) the import, sale, offer for sale, purchase, barter, or possession with intent to sell of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product for a bona fide educational or scientific purpose or to a museum, unless the proposed activity is prohibited by federal law.

(2) In connection with any action alleging violation of this section, any person claiming the benefit of any exception under this section shall have the burden of proving that the exception is applicable and was valid and in force at the time of the alleged violation.

(f) Enforcement and penalties.

(1) This section may be enforced by a law enforcement officer as defined in 20 V.S.A. § 2358.

(2) A person who violates this section or a rule adopted pursuant to this section commits a misdemeanor and shall be fined:

(A) For a first offense, \$1,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(B) For a second or subsequent offense, \$5,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(3) The penalties provided in this section shall be in addition to any penalty that may be imposed under federal law.

(g) Seizure. Upon a conviction for a violation of this section or the rules adopted under this section, a court shall order the seizure of all ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the violation and determine the penalty for the violation based on the assessed value of the seized products. After sentencing the defendant, the court shall order that the seized ivory, ivory products, rhinoceros horn, and rhinoceros horn products be transferred to the Secretary of Natural Resources for proper disposition. The Secretary, in his or her discretion, may destroy the ivory, ivory products, rhinoceros horn, and rhinoceros horn products or donate them to an educational or scientific institution or organization.

(h) Rulemaking. The Secretary of Natural Resources may adopt rules to implement the requirements of this section.

(i) Educational information. The Secretary of Natural Resources shall maintain on its website information regarding the prohibition of the sale and purchase of ivory and rhinoceros horns in this State.

Sec. 2. REPORT ON IVORY AND RHINOCEROS HORN PROHIBITION

On or before January 15, 2022, the Secretary of Natural Resources, after consultation with the U.S. Fish and Wildlife Service, shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report regarding the implementation of 10 V.S.A. § 7701, including a summary of:

(1) enforcement activities taken by the State, including the outcome of any items seized;

(2) the financial impact of the prohibition of the sale of ivory and rhinoceros horns on Vermont businesses;

(3) what actions other states have taken with regard to the sale of ivory and rhinoceros horns; and

(4) recommendations regarding necessary changes to Vermont law, including the extension or repeal of the prohibition.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2018.

(Committee Vote: 6-3-0)

H. 530

An act relating to categorization of State contracts for service

Rep. Devereux of Mount Holly, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 311 is amended to read:

§ 311. CLASSIFIED SERVICE DEFINED; EXCEPTIONS

(a) The classified service to which this chapter shall apply shall include all positions and categories of employment by the ~~state~~ State, except as otherwise provided by law, and except the following:

* * *

(10) A person or persons engaged under retainer, contract for services as defined in section 341 of this title, or special agreement, ~~when certified to the secretary of administration by the attorney general that such engagement is not~~

~~contrary to the spirit and intent of the classification plan and merit system principles and standards provided by this chapter.~~

* * *

Sec. 2. 3 V.S.A. § 341 is amended to read:

§ 341. DEFINITIONS

As used in this chapter:

(1) “Agency” means any agency, board, department, commission, committee, or authority of the ~~executive branch~~ Executive Branch of state State government.

(2) “Personal services contract” ~~or “contract”~~ means ~~an agreement or combination or series of agreements, by which an entity or individual who is not a state employee agrees with an agency to provide services, valued at \$10,000.00 or more per year~~ a contract for services that is categorized as personal services in accordance with procedures developed by the Secretary of Administration.

(3) “Privatization contract” means a ~~personal services contract by which an entity or an individual who is not a state employee agrees with an agency to provide services,~~ for services valued at ~~\$20,000.00~~ \$25,000.00 or more per year, which ~~are~~ is the same or substantially similar to and in lieu of services previously provided, in whole or in part, by permanent, classified ~~state~~ State employees, and which ~~result~~ results in a reduction in force of at least one permanent, classified employee, or the elimination of a vacant position of an employee covered by a collective bargaining agreement.

(4) “Contract for services” means an agreement or combination or series of agreements by which an entity or individual agrees with an agency to provide services as an independent contractor, rather than as an employee.

Sec. 3. 3 V.S.A. § 342 is amended to read:

§ 342. CONTRACTING STANDARDS; ~~PERSONAL SERVICES~~

CONTRACTS FOR SERVICES

Each contract for services valued at \$25,000.00 or more per year shall require certification by the Office of the Attorney General to the Secretary of Administration that such contract for services is not contrary to the spirit and intent of the classification plan and merit system and standards of this title. A ~~personal services contract for services~~ is contrary to the spirit and intent of the classification plan and merit system and standards of this title, and shall not be

certified by the Office of the Attorney General ~~under subdivision 311(a)(10) of this title~~ as provided in this subsection, unless the provisions of subdivisions (1), (2) and (3) of this subsection are met, or one or more of the exceptions described in subdivision (4) of this subsection apply.

* * *

Sec. 4. 3 V.S.A. § 344 is amended to read:

§ 344. CONTRACT ADMINISTRATION

(a) The Secretary of Administration shall maintain a database with information about contracts for services, including approved privatization contracts and approved personal services contracts. The Secretary shall also maintain a database with information about privatization contracts which are rejected because they fail to qualify under subdivision 343(2) of this title. Contracts maintained in the database shall be public record to the extent provided under 1 V.S.A. chapter 5, and shall be located at the agency of origin, including information about names of contractors, summaries of work to be performed, costs, and duration.

(b) The information on contracts maintained in the database shall be reported to the General Assembly in the annual workforce report required under subdivision 309(a)(19) of this title. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee Vote: 9-0-2)

Public Hearings

Public Hearing on the Governor's Proposed Fiscal Year 2017 State Budget

For Advocates

House Committee on Appropriations

Thursday, February 11, 2016, 1:15 p.m. – 2:45 p.m. for Agency of Human Services budget sections, and Thursday, February 18, 2016, 1:15 p.m. – 2:30 p.m. for all other sections of the budget. – The House Committee on Appropriations will receive testimony on the Governor's proposed FY2017 State budget during these Advocate hearings in room 11 of the State House. Please sign up in advance, with Theresa Utton-Jerman at (802) 828-5767 or tutton@leg.state.vt.us or in room 40.

The Governor's budget proposal can be viewed at the Department of Finance & Management's website:
http://finance.vermont.gov/state_budget/rec.

Joint Assembly

February 18, 2016 - 10:30 AM– Election of two (2) trustees for the Vermont State Colleges Corporation.

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

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

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