

# House Calendar

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Tuesday, April 10, 2012

99th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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## TABLE OF CONTENTS

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**Page No.**

### **ACTION CALENDAR**

#### **Action Postponed Until April 10, 2012**

##### **Third Reading**

<b>H. 789</b> Reapportioning the final representative districts of the House of Representatives.....	1361
Rep. Pearson amendment .....	1361
Rep. Jewett et al amendment .....	1364

##### **NEW BUSINESS**

##### **Third Reading**

<b>S. 179</b> An act relating to amending perpetual conservation easements .....	1365
Rep. Krebs amendment .....	1365

##### **Committee Bill for Second Reading**

<b>H. 791</b> Tax expenditures for nonprofits, charitable organizations, and miscellaneous tax expenditures, as presented in the tax expenditure budget for 2012 .....	1365
Rep. Clarkson for Ways and Means	

##### **Favorable with Amendment**

<b>H. 679</b> Creating a uniform generation tax for renewable energy plants .....	1365
Rep. Cheney for Natural Resources and Energy	
Rep. Greshin for Ways and Means.....	1367
<b>S. 116</b> An act relating to probate proceedings.....	1368
Rep. Koch for Judiciary	
<b>S. 238</b> An act relating to expanding access to driving privileges in Vermont .....	1370
Rep. Burke for Transportation	

**Favorable**

**H. 784** Approval of the adoption and codification of the charter of the town of Williamstown ..... 1370  
Rep. Mook for Government Operations

**H. 786** Approval of amendments to the charter of the town of Windsor .... 1370  
Rep. Devereux for Government Operations

**H. 788** Approval of amendments to the charter of the town of Richmond . 1371  
Rep. Townsend for Government Operations

**Senate Proposal of Amendment**

**H. 449** The designation of brook trout and walleye pike as the state fish of Vermont ..... 1371

**H. 503** Eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers ..... 1371

**NOTICE CALENDAR**

**Senate Proposal of Amendment**

**H. 21** The mutual benefit enterprise act ..... 1376

**H. 413** Creating a civil action against those who abuse, neglect, or exploit a vulnerable adult ..... 1377

**Ordered to Lie**

**H. 775** Allowed interest rates for installment loans ..... 1379

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Action Postponed Until April 10, 2012**

**Third Reading**

**H. 789**

An act relating to reapportioning the final representative districts of the House of Representatives

**Amendment to be offered by Rep. Pearson of Burlington to H. 789**

Rep. Pearson of Burlington moves that the bill be amended by adding three new sections to be Secs. 3, 4, 5, and 6 to read:

Sec. 3. 17 V.S.A. § 1906 is amended to read:

§ 1906. INITIAL DISTRICTS; ~~FINAL PROPOSAL~~; FINAL PLAN

~~Upon receiving recommendations made under section 1905 of this title, the board shall consider the same, and shall, not later than August 15, prepare a final proposal for dividing the state into initial districts for the election of 150 representatives. The chair of the board shall, on or before August 15, transmit such proposal to the clerk of the house, and the proposal shall then be referred to the appropriate committee. The general assembly shall then accept the proposal and enact it into law or substitute another plan for reapportionment; provided, however, that a final plan for the reapportionment of initial districts provided that the plan is:~~

(1) ~~The plan for initial districts finally approved shall be in conformity with the provisions of this chapter; and~~

(2) ~~Be duly enacted during the said biennial legislative session.~~

Sec. 4. 17 V.S.A. § 1906b is amended to read:

§ 1906b. DIVISION OF TWO-MEMBER REPRESENTATIVE DISTRICTS

(a) An initial district entitled to two representatives under section 1893 of this title may be divided into single-member representative districts as provided in this section.

(b) As soon as practical after enactment of a final plan for initial districts under section 1906 of this title, the ~~boards of civil authority of the town or towns which constitute 25 percent or more of the population of the initial district may call a meeting of the boards of civil authority of the town or towns of the initial district for the purpose of preparing a proposal for division of the~~

~~district. Each board shall have one vote, provided that the proposal shall not provide for a representative district line to be drawn through a town if the board of civil authority of that town objects general assembly may take comments from municipalities within any two-member initial district on whether to further subdivide the district. The general assembly may subdivide the district at its discretion.~~

(c) In making a ~~proposal~~ subdivision under this section, the ~~boards of civil authority~~ general assembly shall consider

- (1) preservation of existing political subdivision lines;
- (2) recognition and maintenance of patterns of geography, social interaction, trade, political ties, and common interests;
- (3) use of compact and contiguous territory;
- (4) incumbencies.

(d) In no initial district divided under this section shall the percentage of deviation result in a representative district which extends the limits of the overall range of the percentage of deviation in the initial district plan for reapportionment enacted by the general assembly under section 1906 of this title.

~~(e) On or before April 1 of the year of the general election next after enactment of the final plan under section 1906 of this title, the boards of civil authority of the town or towns within each initial district proposing division under this section shall present a proposal for division to the clerk of the house, and the proposal shall be referred to the appropriate committee. If the boards of civil authority desire to divide the initial district but are unable to obtain a majority vote on a proposed division, they may notify the clerk of the house on or before April 1 of their failure to agree on a proposal and request that the general assembly divide the initial district, and the general assembly may divide the initial district into single member representative districts.~~  
[Repealed.]

(f) Representative districts proposed under this section shall become effective when approved by the general assembly before adjournment sine die. ~~The general assembly shall approve representative districts proposed by the boards of civil authority if they are consistent with the standards set forth in this section.~~

Sec. 5. 17 V.S.A. § 1906c is amended to read:

§ 1906c. DIVISION OF DISTRICTS HAVING THREE OR MORE REPRESENTATIVES

(a) An initial district entitled to three or more representatives under section 1893 of this title shall be divided into single- and two-member representative districts as provided in this section.

(b) As soon as practical after enactment of a final plan for initial districts under section 1906 of this title, the ~~boards of civil authority of the town or towns within an initial district having three or more representatives shall meet and prepare a proposal for division of the district. Each board shall have one vote, provided that the proposal shall not provide for a representative district line to be drawn through a town if the board of civil authority of that town objects~~ general assembly may take comments from municipalities within any initial district entitled to three or more representatives on the manner in which to further subdivide the district. The general assembly shall subdivide the district at its discretion.

(c) In making a ~~proposal~~ subdivision under this section, the ~~boards of civil authority~~ general assembly shall consider:

- (1) preservation of existing political subdivision lines;
- (2) recognition and maintenance of patterns of geography, social interaction, trade, political ties, and common interests;
- (3) use of compact and contiguous territory;
- (4) incumbencies.

(d) In no initial district divided under this section shall the percentage of deviation result in a representative district which extends the limits of the overall range of the percentage of deviation in the initial district plan for reapportionment enacted by the general assembly under section 1906 of this title.

~~(e) On or before April 1 of the year of the general election next after enactment of the final plan under section 1906 of this title, the boards of civil authority of the town or towns within each initial district subject to this section shall present a proposal for division to the clerk of the house, and the proposal shall be referred to the appropriate committee. If the boards of civil authority are unable to obtain a majority vote on a proposed division, they shall notify the clerk of the house, on or before April 1, of their failure to agree on a proposal, and the general assembly shall divide the initial district into representative districts. [Repealed.]~~

(f) Representative districts proposed under this section shall become effective when approved by the general assembly before adjournment sine die. ~~The general assembly shall approve representative districts proposed by the~~

~~boards of civil authority if they are consistent with the standards set forth in this section.~~

Sec. 6. REPEAL

17 V.S.A. §§ 1904 (legislative apportionment board) and 1908 (powers of board) are repealed.

and by renumbering the remaining sections to be numerically correct.

**Amendment to be offered by Reps. Jewett of Ripton, Martin of Wolcott and Mook of Bennington to H. 789**

Reps. Jewett of Ripton, Martin of Wolcott and Mook of Bennington move that the bill be amended as follows:

First: In Sec. 2, 17 V.S.A. § 1893a, in subsection (b) (district CHITTENDEN-6), by striking subdivisions (1), (2), (3), and (5) in their entirety and inserting in lieu thereof the following:

(1) CHITTENDEN-6-1. That portion of the city of Burlington in the northwesternmost part of the city with boundaries more specifically set out in the map prepared by the legislative council and entitled “Reps. Martin, Mook, and Jewett Amendment April 6, 2012” and therein identified as “CHITTENDEN-6-1.” 2

(2) CHITTENDEN-6-2. That portion of the city of Burlington in the northwestern part of the city, bounded on the northwest by CHITTENDEN-6-1; on the northeast by the Winooski River; on the southeast by CHITTENDEN-6-3; and on the southwest by Lake Champlain with boundaries more specifically set out in the map prepared by the legislative council and entitled “Reps. Martin, Mook, and Jewett Amendment April 6, 2012” and therein identified as “CHITTENDEN-6-2.” 1

(3) CHITTENDEN-6-3. That portion of the city of Burlington in the northwest central part of the city, bounded on the north by CHITTENDEN-6-2; on the northeast by CHITTENDEN-6-4; on the southeast by CHITTENDEN-6-6; on the south by CHITTENDEN-6-5; and on the west by Lake Champlain with boundaries more specifically set out in the map prepared by legislative council and entitled “Reps. Martin, Mook, and Jewett Amendment April 6, 2012” and therein identified as “CHITTENDEN-6-3.” 2

(5) CHITTENDEN-6-5. That portion of the city of Burlington in the southeasternmost part of the city, with boundaries more specifically set out in the map prepared by legislative council and entitled “Reps. Martin, Mook, and Jewett Amendment April 6, 2012” and therein identified as “CHITTENDEN-6-5.” 2

Second: After Sec. 2, by adding a new section to be Sec. 2a to read:  
Sec. 2a. CODIFICATION OF CHITTENDEN-6-1, 6-2, 6-3, AND 6-5  
BOUNDARY DESCRIPTIONS

The legislative council is directed to define the boundary descriptions for House districts CHITTENDEN-6-1, CHITTENDEN-6-2, CHITTENDEN-6-3, and CHITTENDEN-6-5 in terms of streets, roads, census block lines, and other physical markers as set out in the map prepared by legislative council and entitled “Reps. Martin, Mook, and Jewett Amendment April 6, 2012” and codify the same in 17 V.S.A. § 1893a.

## NEW BUSINESS

### Third Reading

#### S. 179

An act relating to amending perpetual conservation easements

#### **Amendment to be offered by Rep. Krebs of South Hero to S. 179**

Rep. Krebs of South Hero moves that the House Proposal of Amendment in Sec. 9 of the be amended by inserting a subdivision (b)(16) to read:

(16) A land surveyor licensed in Vermont, appointed by the Vermont Society of Land Surveyors.

#### **Committee Bill for Second Reading**

#### H. 791

An act relating to tax expenditures for nonprofits, charitable organizations, and miscellaneous tax expenditures, as presented in the tax expenditure budget for 2012.

**(Rep. Clarkson of Woodstock will speak for the Committee on Ways and Means.)**

#### **Favorable with Amendment**

#### H. 679

An act relating to creating a uniform generation tax for renewable energy plants

**Rep. Cheney of Norwich**, for the Committee on **Natural Resources and Energy**, 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. chapter 215 is added to read:

#### CHAPTER 215. RENEWABLE ENERGY

§ 8701. UNIFORM CAPACITY TAX

(a) For the purpose of this section, the terms “kW,” “plant,” “plant capacity,” and “renewable energy” shall be as defined in 30 V.S.A. § 8002.

(b) There is assessed on any renewable energy plant in Vermont generating electricity by use of solar power an annual tax of \$4.00 per kW plant capacity. The tax shall be paid to the department of taxes no later than April 15 of each year, for energy generated in the preceding year, and accompanied by a return with such information as the department of taxes may require. The department of taxes shall deposit the taxes collected under this section into the education fund. The department of taxes may adopt procedures and rules necessary to implement the tax in this section.

(c) A renewable energy plant that generates electricity from solar power shall be exempt from taxation under this section if it has a plant capacity equal to or less than 10 kW.

Sec. 2. 32 V.S.A. § 3802(17) is added to read:

(17) Real and personal property composing a renewable energy plant generating electricity from solar power, if the plant is exempt from taxation under chapter 215 of this title.

Sec. 3. 32 V.S.A. § 5401(10)(J) is amended to read:

(J) Buildings and fixtures of:

(i) wind-powered electric generating facilities taxed under section 5402c of this title; and

(ii) renewable energy plants generating electricity from solar power that are taxed under section 8701 of this title.

Sec. 4. PROSPECTIVE REPEAL; REPORT

32 V.S.A. §§ 8701(c) and 3802(17) (exemptions for small renewable energy plants) shall be repealed on January 1, 2023. By January 15, 2021, the department of taxes shall report to the senate committees on finance and on natural resources and energy, and the house committees on ways and means and on natural resources and energy with a recommendation on whether the exemptions in 32 V.S.A. §§ 8701(c) and 3802(17) should be retained or allowed to be repealed.

Sec. 5. 32 V.S.A. § 5402c(a) is amended to read:

(a) A facility certified by the commissioner of public service as a facility which produces electrical energy for resale, generated solely from wind power, which has an installed capacity of at least ~~five megawatts~~ one megawatt, which



was placed in service after January 1, 2007, and which holds a valid certificate of public good issued under 30 V.S.A. § 248, shall be assessed an alternative education property tax on its buildings and fixtures used directly and exclusively in the generation of electrical energy from wind power.

Sec. 6. 32 V.S.A. § 3101 is amended to read:

§ 3101. POWERS AND DUTIES OF COMMISSIONER

(a) The department of taxes shall be administered by a commissioner of taxes.

(b) The commissioner shall:

\* \* \*

(11) from time to time prepare and publish statistics reasonably available with respect to the operation of this title including amounts collected, classification of taxpayers, tax liabilities and such other facts as the commissioner or the general assembly considers pertinent;

(12) ~~{Repealed.}~~

(13) from time to time provide municipalities with recommended methods for determining, for municipal tax purposes, the fair market value of renewable energy plants that are subject to taxation under section 8701 of this title.

Sec. 7. EFFECTIVE DATE

This act shall take effect on January 1, 2013.

( **Committee Vote: 11-0-0** )

**Rep. Greshin of Warren**, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Natural Resources and Energy** and when further amended as follows:

The Committee on Ways and Means to which was referred House Bill No. 679 entitled “An act relating to creating a uniform generation tax for renewable energy plants” respectfully reports that it has considered the same and recommends that the bill as amended by the report of the Committee on Natural Resources and Energy be further amended as follows:

First: In Sec. 1, in 32 V.S.A. § 8701, in subsection (b), after “Vermont” by striking the words “generating electricity by use of” and inserting in lieu thereof “commissioned to generate”, and after “no later than April 15 of each year” by striking “, for energy generated in the preceding year.”

Second: In Sec. 4 (prospective repeal; report), after “allowed to be

repealed” by inserting the words “and, whether the rate of tax in 32 V.S.A. § 8701(b) should be altered”

and that after passage the title of the bill be amended to read: “An act relating to creating a uniform capacity tax for solar renewable energy plants”

( **Committee Vote: 11-0-0**)

### S. 116

An act relating to probate proceedings

**Rep. Koch of Barre Town**, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 4(e) of the Vermont Rules of Probate Procedure is amended to read:

(e) Service by publication. When service by publication is required by this rule or by order of the court, the person directed by the court shall cause the substance of the notice prescribed by subdivision (a) of this rule, and a brief statement of the object of the petition, to be published ~~once a week for two successive weeks and at least seven days apart~~ in a ~~designated~~ newspaper of general circulation in the probate district where the petition was filed, or such other location as the court may direct. The ~~first~~ publication of the notice shall be made within 20 days after the petition is filed or the order is granted. Service by publication is complete on the day of ~~the last~~ publication.

Sec. 2. Rule 17 of the Vermont Rules of Probate Procedure is amended to read:

#### Rule 17. PARTIES GENERALLY

(a) Parties at commencement. At the commencement of a probate proceeding all interested persons shall be considered parties and shall be served with notice pursuant to Rule 4.

(1)(~~A~~) Decedent’s estates. At commencement of a probate proceeding involving a decedent’s estate, the term “interested person” includes heirs, devisees, legatees, children, spouses, and such other persons as the court directs. The term “interested person” also includes the trustees of any trusts to which assets of the decedent’s estate may be distributed. Notice to a trustee shall be sufficient to notify the trust’s beneficiaries. It also includes persons having priority for appointment as executor or administrator, and other fiduciaries representing interested persons.

(B) The court, on motion, may order that an interested party need not be served with notice pursuant to Rule 4:

(i) if after due diligence the interested party cannot be located; or

(ii) for other good cause shown if the court finds that not providing such notice serves the interests of justice and the efficient administration of the estate.

\* \* \*

Sec. 3. 14 V.S.A. § 3504 is amended to read:

§ 3504. SCOPE OF AUTHORITY

(a)(1) The agent shall have the authority to act on the principal's behalf as to all lawful subjects and purposes, but only to the extent such authority is given under the terms of the power of attorney, subject to section 3506 of this title and subsections (b) through (g) of this section.

(2) A general power of attorney created under this subchapter shall be construed to grant powers that are not expressly delineated in the terms of the power of attorney if it appears from the relevant facts and circumstances that the principal intended the agent to have general authority to act on the principal's behalf with respect to all lawful subjects and purposes. The specific inclusion or exclusion of one or more powers shall not, by itself, prevent a determination that the principal intended to grant general authority to the agent.

\* \* \*

Sec. 4. 14 V.S.A. § 3516 is amended to read:

§ 3516. EFFECTIVE DATE; EFFECT ON EXISTING POWERS OF ATTORNEY

(a) A power of attorney shall be valid if it:

(1) complies with the terms of this subchapter; or

(2) is executed before July 1, 2002 and valid under common law or statute existing at the time of execution.

(b) If a power of attorney executed before July 1, 2002 was valid under common law or statute existing at the time of execution, any exercise of authority under the power of attorney, whether before or after July 1, 2002, shall be deemed valid if the exercise complies with common law or statute existing at the time of execution.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee vote: 11-0-0 )**

**(For text see Senate Journal 2/21/2012 )**

**S. 238**

An act relating to expanding access to driving privileges in Vermont

**Rep. Burke of Brattleboro**, for the Committee on **Transportation**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, in subsection (b), by striking the word “seven”

Second: In Sec. 1, in subsection (b), by adding two new subdivisions to be subdivisions (8) and (9) to read:

(8) One member appointed by the Addison County Economic Development Corporation.

(9) One member appointed by the Vermont Farm Bureau.

Third: In Sec. 1, in subdivision (c)(1), by striking the words “to recommend legislation that will” and inserting in lieu thereof the words “and may recommend legislation that would”

and that after passage the title of the bill be amended to read: “An act relating to a study on access to driving privileges to Vermont”

**(Committee vote: 10-0-1 )**

**(For text see Senate Journal 3/23/2012 )**

**Favorable**

**H. 784**

An act relating to approval of the adoption and codification of the charter of the town of Williamstown

**Rep. Mook of Bennington**, for the Committee on **Government Operations**, recommends the bill ought to pass.

**( Committee Vote: 8-0-3)**

**H. 786**

An act relating to approval of amendments to the charter of the town of Windsor

**Rep. Devereux of Mount Holly**, for the Committee on **Government Operations**, recommends the bill ought to pass.

**( Committee Vote: 8-0-3)**

### H. 788

An act relating to approval of amendments to the charter of the town of Richmond

**Rep. Townsend of Randolph**, for the Committee on **Government Operations**, recommends the bill ought to pass.

( Committee Vote: 8-0-3)

#### Senate Proposal of Amendment

### H. 449

An act relating to the designation of brook trout and walleye pike as the state fish of Vermont

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

In Sec. 1, by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4) the original designation of these two fish was championed by the students of Cornwall Elementary School, whose efforts resulted in a Joint Resolution, approved by the General Assembly on May 3, 1978 (J.R.S. 41), designating the two state fish.

(For text see House Journal 1/26/2012 )

### H. 503

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

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. 2 V.S.A. § 64 is amended to read:

§ 64. EMPLOYMENT OF ASSISTANTS; ~~TRAFFIC CONTROL~~; CAPITOL POLICE; TRAINING; UNIFORMS AND EQUIPMENT

\* \* \*

~~(c) The sergeant at arms may employ a traffic control officer whose duties shall include, but not be limited to, overseeing necessary security measures and the control of traffic about the capitol building. The traffic control officer shall be an exempt state employee. The sergeant at arms with the approval of the joint rules committee shall fix the terms and compensation of the traffic control officer, who shall be entitled to receive the same annual salary adjustments available to classified employees in comparable salary ranges. At state~~

expense and with the approval of the sergeant at arms, ~~the traffic control officer and~~ capitol police officers shall be provided with training, and furnished uniforms and equipment necessary in the performance of their duties, and such items shall remain the property of the state.

Sec. 2. 2 V.S.A. § 70 is amended to read:

§ 70. CAPITOL POLICE DEPARTMENT

(a) Creation. A capitol police department is created within the office of the sergeant at arms. The sergeant at arms shall appoint and may remove, at his or her pleasure, individuals as capitol police officers, one of whom shall be appointed to serve as chief. All such positions shall be exempt state employees. ~~The traffic control officer and any other employee of the sergeant at arms may, in addition to other positions and duties, be appointed as a capitol police officer.~~ The chief shall supervise the officer force under the direction of the sergeant at arms. Such appointments and all oaths or affirmations shall be in writing and filed with the sergeant at arms. An officer shall also serve as a deputy sergeant at arms and as a notary public pursuant to 24 V.S.A. § 442.

(b) Powers; training.

(1) Capitol police officers shall have all the same powers and authority as sheriffs and other law enforcement officers anywhere in the state, which shall include the authority to arrest persons and enforce the civil and criminal laws, keep the peace, provide security, and to serve civil and criminal process. For this purpose, capitol police officers shall subscribe to the same oaths required for sheriffs.

~~(2) Capitol police officers who are not certified in either the full time or part time certification program of the Vermont criminal justice training council (VCJTC) shall meet qualification and certification standards prescribed by the sergeant at arms in consultation with the executive director of the VCJTC. In setting the standards, the sergeant at arms shall consider the part-time certification program provided to other law enforcement officers by the VCJTC.~~

~~(3) As an alternative, in the sole discretion of the sergeant at arms, capitol police officers shall be certified pursuant to the part-time certification program of the VCJTC.~~

~~(4) The VCJTC shall make training available to capitol police officers at no expense to the sergeant at arms, and the VCJTC shall certify those officers as capitol police officers if they meet the certification standards set by the sergeant at arms, or as a regular law enforcement officer if the requirements of~~

~~the part-time certification program are met, regardless of the number of hours or weeks worked by the capitol police officer.~~

(5) Notwithstanding any other provision of law to the contrary, a capitol police officer shall be a law enforcement officer ~~as if~~ certified by the Vermont criminal justice training council pursuant to the provisions of 20 V.S.A. chapter 151 of Title 20.

(c) Coordination of capitol complex security: The capitol police department shall coordinate security within the state house and assist the commissioner of buildings and general services in providing security and law enforcement services within the capitol complex, as delineated in a memorandum of understanding signed by the commissioner and the sergeant at arms no later than June 30, 2000, and as subsequently amended. In all other areas of the capitol complex, except the space occupied by the supreme court, the security, control of traffic, and coordination of law enforcement activity shall be under the direction of the commissioner of buildings and general services, with which the capitol police department may assist.

Sec. 3. 20 V.S.A. § 2351 is amended to read:

§ 2351. PURPOSE; DEFINITION

In order to promote and protect the health, safety, and welfare of the public, it is in the public interest to provide for the creation of “the Vermont criminal justice training council.” The council is created to encourage and assist municipalities, counties, and governmental agencies of this state in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of recruit and in-service training for law enforcement officers, including members of the department of public safety, capitol police officers, municipal police officers, constables, ~~corrections~~ correctional officers, prosecuting personnel, motor vehicle inspectors, state investigators employed on a full-time basis by the attorney general, fish and game wardens, sheriffs and their deputies who exercise law enforcement powers pursuant to the provisions of ~~sections 311 and 307(a) of Title 24 V.S.A. §§ 307 and 311~~, and railroad police commissioned pursuant to ~~30 V.S.A. chapter 45, subchapter 8~~ 5 V.S.A. chapter 68, subchapter 8. The council shall offer continuing programs of instruction in up-to-date methods of law enforcement and the administration of criminal justice. It is the responsibility of the council to encourage the participation of local governmental units in the program and to aid in the establishment of adequate training facilities.

Sec. 4. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS

(a) Unless waived by the council under standards adopted by rule, and notwithstanding any statute or charter to the contrary, no person shall exercise law enforcement authority:

(1) as a part-time law enforcement officer without completing a basic training course within a time prescribed by rule of the council; or

(2) as a full-time law enforcement officer without either:

(A) completing a basic training course in the time and manner prescribed by the council; or

(B) having received, before July 1, 1968, permanent full-time appointment as a law enforcement officer, and completing a basic training course before July 1, 1982.

(3) as a full or part-time law enforcement officer without completing annual in-service training requirements as prescribed by the council.

(b) All programs required by this section shall be approved by the council. Completion of a program shall be established by a certificate to that effect signed by the executive director of the council.

(c) For the purposes of this section:

(1) "Law enforcement officer" means a member of the department of public safety who exercises law enforcement powers, a member of the state police, a capitol police officer, a municipal police officer, a constable who exercises law enforcement powers, a motor vehicle inspector, an employee of the department of liquor control who exercises law enforcement powers, an investigator employed by the secretary of state, board of medical practice investigators employed by the department of health, attorney general, or a state's attorney, a fish and game warden, a sheriff, or deputy sheriff who exercises law enforcement powers, or a railroad police officer commissioned pursuant to ~~30 V.S.A. chapter 45, subchapter 8~~ 5 V.S.A. chapter 68, subchapter 8.

(2) "Full-time law enforcement officer" means a law enforcement officer with duties of a predictable and continuing nature which require more than 32 hours per week and more than 25 weeks per year.

(3) "Part-time law enforcement officer" means a law enforcement officer who is not employed full time.

(d) The council may determine whether a particular position is full-time or part-time. Any requirements in this section shall be optional for any elected official.



Sec. 5. Sec. 13 of No. 195 of the 2007 Adj. Sess. (2008), as amended by Sec. 11 of No. 108 of the Acts of the 2009 Adj. Sess. (2010), is amended to read:

Sec. 13. EFFECTIVE DATE

Secs. 8 and 9 of this act shall take effect on ~~July 1, 2012~~ July 1, 2013.

Sec. 6. REPORT

On or before December 15, 2012, the law enforcement advisory board, in consultation with the criminal justice training council, shall report to the senate and house committees on judiciary and on government operations recommendations for how constables may be certified as law enforcement officers as required by Sec. 5 of this act. The report shall include recommendations for how constables may complete the program's field training officer program.

Sec. 7. INTERIM STUDY OF LEGISLATIVE PARKING

(a) Creation of committee. There is created an interim study of legislative parking to study the issue of parking space availability as it affects members of the general assembly.

(b) Membership. The study shall be conducted by the sergeant at arms, the commissioner of buildings and general services, and the operations manager of the legislative council in consultation with members of senate and house leadership.

(c) Powers and duties. The study shall:

(1) evaluate the available parking spaces available within and around the capitol complex and, in particular, the parking spaces available for members of the general assembly;

(2) survey members of the 2011–2012 general assembly on whether there should be assigned parking spaces and, if so, the best manner in making those assignments;

(3) consider whether it is feasible to reserve 180 parking spaces for the exclusive use of members of the general assembly, taking into consideration:

(A) how those parking spaces would be allotted, such as by lottery or by seniority;

(B) the preservation of parking spaces for members who are reelected to the 2013–2014 general assembly and who currently have a parking space reserved due to having a special need, holding a leadership position, or for other circumstances; and

(C) the impact the reservations would have upon the remaining spaces currently available for capitol police, legislative staff, and others.

(d) Report. By January 15, 2013, the committee shall report to the general assembly its findings and any recommendations for change from current practice.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(No House Amendments )

**NOTICE CALENDAR**

**Senate Proposal of Amendment**

**H. 21**

An act relating to the mutual benefit enterprise act

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

First: In Sec. 1, in 11C V.S.A. § 203(a), in the second sentence, following the words “filed record” by striking out the words “and a receipt for the fees”

Second: In Sec. 1, in 11C V.S.A. § 207(a), by striking out the word “and” in subdivision (3), by redesignating subdivision (4) as subdivision (5), and by inserting a new subdivision (4) to read as follows:

(4) the name and business address of any director or officer; and

Third: In Sec. 1, in 11C V.S.A. § 207, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) A mutual benefit enterprise or foreign enterprise authorized to transact business in this state shall deliver its annual report to the secretary for filing between January 1 and April 1 of each year, beginning in the year following the calendar year in which the mutual benefit enterprise is formed or the foreign enterprise is authorized to transact business in this state.

Fourth: In Sec. 1, in 11C V.S.A. § 207(e), following the words “designated office,” by striking out the words “the name of the agent for service of process” and inserting in lieu thereof the following: the name or business address of a director or officer

Fifth: In Sec. 1., by striking out 11C V.S.A. § 1214 in its entirety and redesignating that section as “[Reserved.]”

(For text see House Journal 4/13/2011 )

## H. 413

An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult

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. 13 V.S.A. § 1384 is added to read:

### § 1384. CIVIL ACTION; RECOVERY BY ATTORNEY GENERAL

(a) The attorney general may bring an action for damages on behalf of the state against a person or caregiver who, with reckless disregard or with knowledge, violates section 1376 (abuse of a vulnerable adult), 1377 (abuse by unlawful restraint or confinement), 1378 (neglect of a vulnerable adult), 1380 (financial exploitation), or 1381 (exploitation of services) of this title, in addition to any other remedies provided by law, not to exceed the following:

- (1) \$5,000.00 if no bodily injury results;
- (2) \$10,000.00 if bodily injury results;
- (3) \$20,000.00 if serious bodily injury results; and
- (4) \$50,000.00 if death results.

(b) In a civil action brought under this section, the defendant shall have a right to a jury trial.

(c) A good faith report of abuse, neglect, exploitation, or suspicion thereof pursuant to 33 V.S.A. § 6902 or federal law shall not alone be sufficient evidence that a person acted in reckless disregard for purposes of subsection (a) of this section.

Sec. 2. 13 V.S.A. § 1385 is added to read:

### § 1385. CIVIL INVESTIGATION

(a)(1) If the attorney general has reason to believe a person or caregiver has violated section 1376, 1377, 1378, 1380, or 1381 of this title or an administrative rule adopted pursuant to those sections, he or she may:

(A) examine or cause to be examined any books, records, papers, memoranda, and physical objects of whatever nature bearing upon each alleged violation.

(B) demand written responses under oath to questions bearing upon each alleged violation.

(C) require the attendance of such person or of any other person having knowledge on the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the state.

(D) take testimony and require proof material for his or her information and administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum.

(2) The attorney general shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses at least ten days prior to the date of such examination, personally or by certified mail, upon such person at his or her principal place of business or, if such place is not known, to his or her last known address. Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this state for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same. This subsection shall not apply to any criminal investigation or prosecution.

(b) A person upon whom a notice is served pursuant to this section shall comply with the terms thereof unless otherwise provided by the court order. Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place, conceals, withholds, or destroys, mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject of any such notice or mistakes or conceals any information shall be subject to a civil fine of not more than \$5,000.00.

(c) If a person fails to comply with a notice served pursuant to subsection (b) of this section or if satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the attorney general may file a petition with the superior court for enforcement of this section. Whenever any petition is filed under this section, the court shall have jurisdiction to hear and determine the matter presented and to enter such orders as may be required to effectuate the provisions of this section. Failure to comply with an order issued pursuant to this section shall be punished as contempt.

Sec. 3. 33 V.S.A. § 6911(a)(1) is amended to read:

(1) The investigative report shall be disclosed only to: the commissioner or person designated to receive such records; persons assigned by the

commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the office of professional regulation when deemed appropriate by the commissioner; a law enforcement agency, the state's attorney, or the office of the attorney general, when the department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

#### Sec. 4. REPORT

On or before December 1, 2012, the attorney general and the department of disability, aging, and independent living shall jointly provide a report on the status of investigations concerning the abuse, neglect, and exploitation of a vulnerable adult and statistics regarding investigation backlog to the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services.

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(For text see House Journal 2/2/2012 )

### **Ordered to Lie**

#### **H. 775**

An act relating to allowed interest rates for installment loans.

Pending Action: Second Reading of the bill.

### **Public Hearings**

April 12, 2012 - 6:30-8:30 PM - H. 722 Labeling of Food Produced with Genetic Engineering - House Agriculture Committee

April 11, 2012 - Room 10 - 9:00-12:00 - Increasing the Price of Milk Paid to Vermont Dairy Farmers - Senate Agriculture Committee