

Journal of the House

Wednesday, April 20, 2011

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

Devotional Exercises

Devotional exercises were conducted by Pastor Caleb Abetti of St. Jacob Church of Alaska, Northfield, VT.

Message from the Senate No. 41

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 74. An act relating to the transferring of the animal spaying and neutering program to the department of health.

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

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

H. 52. An act relating to the definition of poultry products.

H. 240. An act relating to continuing to provide for the receivership of long-term care facilities.

And has passed the same in concurrence.

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

H. 88. An act relating to uniform child custody jurisdiction and enforcement.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 29. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

The Governor has informed the Senate that on the eighteenth day of April, 2011, he approved and signed a bill originating in the Senate of the following title:

S. 12. An act relating to adding a member from the area agencies on aging to the governor's commission on Alzheimer's disease and related disorders.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 17

Senate bill, entitled

An act relating to licensing a nonprofit organization to dispense marijuana for therapeutic purposes;

To the committee on Human Services.

S. 74

Senate bill, entitled

An act relating to the transferring of the animal spaying and neutering program to the department of health;

To the committee on Government Operations.

Bill Referred to Committee on Appropriations

S. 53

Senate bill, entitled

An act relating to the number of prekindergarten children included within a school district's average daily membership

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Bill Referred to Committee on Ways and Means

H. 454

House bill, entitled

An act relating to the administration and issuance of vital records

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

Joint Resolution Adopted in Concurrence**J.R.S. 29**

By Senators Carris and Mullin,

J.R.S. 29. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 22, 2011, it be to meet again no later than Tuesday, April 26, 2011.

Was taken up read and adopted in concurrence.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 294

House bill, entitled

An act relating to approving amendments to the charter of the city of Montpelier;

H. 369

House bill, entitled

An act relating to health professionals regulated by the board of medical practice;

Bill Amended; Third Reading Ordered**H. 298**

Rep. Hubert of Milton, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to standardized ballots and vote tabulators

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 2362 is amended to read:

§ 2362. PRIMARY BALLOTS

(a) The ballots shall be prepared and furnished to the towns by the secretary of state and shall contain the names of all candidates for nomination at the primary. Ballots shall be printed on index stock and configured to be readable by vote tabulators. A separate ballot for each major political party ~~is~~

~~the same format as is used for optical scan tabulator ballots~~ shall be printed in substantially the following form:

* * *

Sec. 2. 17 V.S.A. § 2451 is amended to read:

§ 2451. BOARD OF CIVIL AUTHORITY

(a) The board of civil authority shall have charge of the conduct of elections within the political subdivision for which it is elected. At any time before an election, the board of civil authority may issue guidance for elections officials that assists officials in conducting elections within the political subdivision. Guidance issued by the board shall not conflict with federal or state elections laws. A quorum of the board of civil authority shall be available at all times when the polls are open, and those members of the board of civil authority present at a polling place shall constitute a quorum for the transaction of business relating to the conduct of the election and the qualification and registration of voters at this polling place.

(b) The board may require the political subdivision for which it is elected to use vote tabulators for the registering and counting of votes as provided in section 2491 of this chapter.

Sec. 3. 17 V.S.A. § 2471 is amended to read:

§ 2471. GENERAL ELECTION BALLOT

(a) A consolidated ballot shall be used at a general election, which shall list the several candidates for the offices to be voted upon. The offices of president and vice-president of the United States, United States senator, United States representative, governor, lieutenant governor, state treasurer, secretary of state, auditor of accounts, attorney general, state senator, representative to the general assembly, judge of probate, assistant judge, state's attorney, sheriff, and high bailiff shall be listed in that order. Any statewide public question shall also be listed on the ballot, before the listing of all offices to be filled. The ballot shall be prepared at state expense under the direction of the secretary of state. The color of the ballot shall be determined by the secretary of state. The printing shall be black. Ballots shall be printed on index stock and configured to be readable by vote tabulators.

* * *

Sec. 4. 17 V.S.A. § 2491 is amended to read:

§ 2491. ~~POLITICAL SUBDIVISION MAY USE VOTING MACHINES;~~
SUBDIVISIONS; VOTE TABULATORS

~~(a) A town~~ Except as provided in subsection (b) of this section, a board of civil authority may vote at any annual or special meeting to employ electronic devices ("voting machines"), at a meeting held not less than 60 days prior to an election and warned pursuant to 24 V.S.A. § 801, vote to require the political subdivision for which it is elected to use vote tabulators for the registering and counting of votes in subsequent elections. ~~Voting machines may be used in combination with the paper ballots described in the preceding subchapter, so that each voter may choose whether to use a paper ballot or a voting machine to cast his or her vote, if the town so votes.~~

(b) A town with 1,000 or more registered voters as of December 31 in even-numbered years beginning in the year 2012 shall use vote tabulators for the registering and counting of votes in subsequent general elections.

Sec. 5. 17 V.S.A. § 2493 is amended to read:

§ 2493. RULES FOR USE OF VOTING MACHINES

(a) The secretary of state shall adopt rules governing the use and the selection of any voting machine in the state. These rules shall include requirements that:

* * *

(6) Establish a process for using voting machines in recounts.

Sec. 6. 17 V.S.A. § 2535(b) is amended to read:

~~(b) If necessary, special ballots may be prepared of such different weight of paper, or overall size and shape as shall be prescribed by the secretary of state, to conform with minimum postal, military, naval, air force or other federal or military regulations and orders covering the transportation of such ballots, provided that the text is identical in substance, except as to type size, with that appearing on the official ballots.~~

Sec. 7. 17 V.S.A. chapter 51, subchapter 9 is amended to read:

Subchapter 9. Recounts and Contest of Elections

* * *

§ 2602b. ASSIGNMENT OF DUTIES

(a) The county clerk shall supervise the recount and may appoint a sufficient number of impartial assistants to perform appropriate tasks which have not been assigned to recount committee members. The secretary of state shall recruit town clerks to serve as impartial assistants to the county clerk for operating the vote tabulators. The county clerk shall store all ballots, still in their sealed containers, in his or her vault until the day of the recount.

* * *

§ 2602c. PREPARATION FOR RECOUNT

(a) Before the recount begins, the county clerk shall explain the recount procedures which are to be followed and shall answer questions relating to such procedures. The county clerk shall use volunteer town clerks to operate and instruct on the use of vote tabulators.

(b) ~~The Each~~ Each recount ~~teams established team~~ shall recount the contents of one container before ~~another container is opened~~ opening another container at its table, shall recount the contents of all the containers relating to one polling place before moving to those of another polling place, and shall complete the recount for one town before moving to material relating to another town.

* * *

§ 2602f. FIRST TALLY RECOUNT BY VOTE TABULATOR

(a) ~~The caller shall call the name of the person voted for and/or blank ballots, and/or spoiled ballots. The tally person and the double-check person or persons each shall make a suitable mark for that candidate and/or blank ballots, and/or spoiled ballots~~ Machine-readable ballots from each pile shall be fed through a vote tabulator by one team until all machine-readable ballots from the container have been entered. For ballots unable to be read by a vote tabulator, such as damaged or plain paper ballots, a second team shall collect these ballots from the pile and transfer the voter's choices on those ballots to blank ballots provided by the secretary of state. After all of the machine-readable ballots have been fed through the machine, the first team shall feed through the machine any transfer ballots created by the second team. The recount teams shall switch roles for each subsequent container of ballots of a polling place that are to be fed through the vote tabulator, if there is more than one container per polling place. This process shall be used until all ballots from a polling place have been tabulated by a vote tabulator.

(b) After all ballots from a polling place have been tabulated by a vote tabulator, a recount team shall print the tabulator tape containing the unofficial results and document those results on a tally sheet. Another recount team shall then open the tabulator's ballot box and remove all ballots. The ballots shall then be divided among the recount teams to be examined to find write-in names and markings of voter intent that were not machine readable as outlined in the secretary of state's vote tabulator guide and most recent elections procedures manual. A caller, tally person, and double-check person shall be used to examine the ballots removed from the ballot box. If the caller and the observer or observers do not agree on how a ballot should be counted, the

entire team shall review the ballot and if all members agree, it shall be counted that way.

(c) If one person does not agree, that ballot shall be set aside as a questioned ballot and a copy shall be made, which copy shall be clearly marked on its face identifying it as a copy. Such copies shall be placed on the top of the other ballots and shall remain together with the other ballots. Each original ballot deemed questionable shall be attached to a note which identifies it by town, county, polling place and bag seal number. The originals of these questionable ballots shall be clipped to the summary sheet for that polling place and returned to the court for a final decision.

(d) After the court has rendered a final decision on a given questionable ballot it shall be returned to the county clerk who shall keep it in a sealed container for a period of two years.

(e) Write-in votes for preprinted candidates shall be counted as votes for that candidate.

(f) If the tally persons do not agree on the number of votes for a candidate on ballots not able to be read by the vote tabulator, the ballots shall be retallied until they do agree. Then the team shall notify the clerk that it has completed ~~the first~~ its recount.

* * *

Sec. 8. REPEAL

17 V.S.A. §§ 2492 (legislative branch to obtain voting machines); 2602g (second tally); and 26021 (recounts using voting machines) are repealed.

Sec. 9. SECRETARY OF STATE; VOTE TABULATOR COSTS

(a) The secretary of state's office shall pay the following costs associated with 17 V.S.A. § 2491(b) by using federal Help America Vote Act funds, as available:

(1) full purchase and warranty cost of vote tabulators, ballot boxes, and two memory cards for each town;

(2) annual maintenance costs of vote tabulators for each town; and

(3) the first \$500.00 of a vote tabulator's memory card configuration cost per each general election.

(b) A town shall pay the remainder of any configuration cost not covered by subdivision (a)(3) of this section.

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 4, 17 V.S.A. § 2491(b), shall take effect on July 1, 2014.

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

Pending the question, Shall the report of the committee on Government Operations be agreed to? **Rep. Yantachka of Charlotte** moved to amend the report of the committee on Government Operations as follows:

By striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. 17 V.S.A. § 2491 is amended to read:

§ 2491. POLITICAL SUBDIVISION MAY USE VOTING MACHINES;
SUBDIVISIONS; VOTE TABULATORS

(a) ~~A town~~ Except as provided in subsections (b) and (c) of this section, a board of civil authority may vote at any annual or special meeting to employ electronic devices (“voting machines”), at a meeting held not less than 60 days prior to an election and warned pursuant to 24 V.S.A. § 801, vote to require the political subdivision for which it is elected to use vote tabulators for the registering and counting of votes in subsequent elections. Voting machines may be used in combination with the paper ballots described in the preceding subchapter, so that each voter may choose whether to use a paper ballot or a voting machine to cast his or her vote, if the town so votes.

(b) Except as provided in subsection (c) of this section, a town with 1,000 or more registered voters as of December 31 in even-numbered years beginning in the year 2012 shall use vote tabulators for the registering and counting of votes in subsequent general elections.

(c) A town with a population of fewer than 4,000 that is required to use a vote tabulator pursuant to this section may opt out of this requirement upon the affirmative vote of its board of civil authority at a meeting duly warned for that purpose.

Pending the question, Shall the report of the committee on Government Operations be amended as recommended by Rep. Yantachka of Charlotte? **Rep. Yantachka of Charlotte** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the committee on Government Operations be amended as recommended by Rep. Yantachka of Charlotte? was decided in the negative. Yeas, 10. Nays, 128.

Those who voted in the affirmative are:

| | | |
|-------------------------|-----------------------|------------------------|
| Bartholomew of Hartland | Komline of Dorset | Wright of Burlington |
| Davis of Washington | Pearson of Burlington | Yantachka of Charlotte |
| Donahue of Northfield | Smith of New Haven | |
| Haas of Rochester | Toll of Danville | |

Those who voted in the negative are:

| | | |
|---------------------------------|-----------------------------------|----------------------------|
| Acinapura of Brandon | Fagan of Rutland City | Martin of Wolcott |
| Andrews of Rutland City | Fisher of Lincoln | Masland of Thetford |
| Aswad of Burlington | Font-Russell of Rutland City | McAllister of Highgate |
| Atkins of Winooski | Frank of Underhill | McCullough of Williston |
| Batchelor of Derby | French of Randolph | McFaun of Barre Town |
| Bissonnette of Winooski | Gilbert of Fairfax | McNeil of Rutland Town |
| Bohi of Hartford | Grad of Moretown | Miller of Shaftsbury |
| Botzow of Pownal | Greshin of Warren | Mitchell of Barnard |
| Bouchard of Colchester | Head of South Burlington | Mook of Bennington |
| Branagan of Georgia | Heath of Westford | Moran of Wardsboro |
| Brennan of Colchester | Hebert of Vernon | Mrowicki of Putney |
| Browning of Arlington | Helm of Fair Haven | Munger of South Burlington |
| Burditt of West Rutland | Hooper of Montpelier | Myers of Essex |
| Burke of Brattleboro | Howard of Cambridge | Nuovo of Middlebury |
| Buxton of Royalton | Howrigan of Fairfield | O'Brien of Richmond |
| Campion of Bennington | Hubert of Milton | Olsen of Jamaica |
| Canfield of Fair Haven | Johnson of South Hero | Partridge of Windham |
| Cheney of Norwich | Johnson of Canaan | Pearce of Richford |
| Christie of Hartford | Keenan of St. Albans City | Peaslee of Guildhall |
| Clarkson of Woodstock | Kilmartin of Newport City | Peltz of Woodbury |
| Condon of Colchester | Kitzmiller of Montpelier | Perley of Enosburg |
| Conquest of Newbury | Koch of Barre Town | Poirier of Barre City |
| Consejo of Sheldon | Krebs of South Hero | Potter of Clarendon |
| Copeland-Hanzas of Bradford | Kupersmith of South Burlington | Pugh of South Burlington |
| Corcoran of Bennington | Lanpher of Vergennes | Ram of Burlington |
| Courcelle of Rutland City | Larocque of Barnet | Reis of St. Johnsbury |
| Crawford of Burke | Larson of Burlington | Savage of Swanton |
| Dakin of Chester | Lawrence of Lyndon | Scheuermann of Stowe |
| Deen of Westminster | Lenes of Shelburne | Shand of Weathersfield |
| Degree of St. Albans City | Leriche of Hardwick | Sharpe of Bristol |
| Devereux of Mount Holly | Lewis of Berlin | Shaw of Pittsford |
| Dickinson of St. Albans Town | Lewis of Derby | South of St. Johnsbury |
| Donaghy of Poultney | Lippert of Hinesburg | Stevens of Waterbury |
| Donovan of Burlington | Lorber of Burlington | Stevens of Shoreham |
| Eckhardt of Chittenden | Macaig of Williston | Strong of Albany |
| Edwards of Brattleboro | Malcolm of Pawlet | Sweaney of Windsor |
| Ellis of Waterbury | Manwaring of Wilmington | Taylor of Barre City |
| Emmons of Springfield | Marcotte of Coventry | Till of Jericho |
| Evans of Essex | Marek of Newfane | Townsend of Randolph |
| | Martin of Springfield | Trieber of Rockingham |
| | | Turner of Milton |

Waite-Simpson of Essex
Webb of Shelburne
Weston of Burlington

Wilson of Manchester
Winters of Williamstown
Wizowaty of Burlington

Woodward of Johnson
Young of Albany

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

Ancel of Calais
Clark of Vergennes
French of Shrewsbury
Higley of Lowell

Jerman of Essex
Klein of East Montpelier
Morrissey of Bennington
Ralston of Middlebury

Smith of Morristown
Spengler of Colchester
Stuart of Brattleboro

Thereupon, the report of the committee on Government Operations was agreed to and third reading was ordered.

Favorable Report; Third Reading Ordered

H. 378

Rep. Townsend of Randolph, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to town payments of county taxes

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Committee Relieved of Consideration and Bill Committed to Other Committee

S. 108

Rep. Lippert of Hinesburg moved that the committee on Judiciary be relieved of Senate bill, entitled

An act relating to effective strategies to reduce criminal recidivism

And that the bill be committed to the committee on Corrections and Institutions, which was agreed to.

Adjournment

At two o'clock and thirty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.