

Journal of the House

Tuesday, February 28, 2012

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Ute Schmidt, Director of Spiritual Care and Clinical Pastoral Education at Fletcher Allen Health Care.

Pledge of Allegiance

Page Thomas DeMag of South Burlington, led the House in the Pledge of Allegiance.

Message from the Senate No. 21

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 bills of the following titles:

S. 112. An act relating to bail for persons charged with lewd and lascivious conduct with a child.

S. 217. An act relating to closely held benefit corporations.

S. 237. An act relating to the genuine progress indicator.

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

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

H. 365. An act relating to designating skiing and snowboarding as the official winter state sports.

And has passed the same in concurrence.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 558. An act relating to fiscal year 2012 budget adjustment.

And has accepted and adopted the same on its part.

The Senate has on its part adopted concurrent resolution originating in the House of the following title:

H.C.R. 255. House concurrent resolution urging the restoration of intercity bus service to Rutland City.

Bill Referred to Committee on Appropriations

H. 496

House bill, entitled

An act relating to preserving Vermont's working landscape

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

Remarks Journalized

On motion of **Rep. Leriche of Hardwick**, the following remarks by **Rep. Conquest of Newbury** were ordered printed in the Journal:

“Mr. Speaker:

We've heard the reading of the resolution honoring the memory of Bud Otterman and I'd like to introduce to the body members of his family who are here.

I never got a chance to know Bud well, certainly not as well as many in this body who had a chance to work with him over the years he served here. But I did have occasion to interact with him from time to time. One of those occasions was at town meeting during my first year here. I showed up at a Topsham town meeting and the moderator acknowledged me and said I'd be called up to speak after the present debate was finished. But the debate resumed, with no sign of ending, and shortly Bud spoke up from the back of the room and said he knew how hard it was to make it to 3 town meetings in a morning and that I should be allowed to speak without further delay. They listened. So I got my chance in front of the Topsham town meeting and afterwards I wasn't sure I should be thankful to Bud for making that possible.

Now I can look back on that as an excellent – and needed – education – though sort of in the knuckle rapping tradition.

The point I want to make though, is that I remember afterward, driving toward the last meeting, thinking the only person in that room surprised that Bud spoke for me, was me. Everyone else there knew from long experience with Bud in their community, that he was a man of integrity and fair minded.

Perhaps, above all, they knew he was a true gentleman of the old school – in the very best sense of that.

I was reminded of those traits every time I had a chance to converse with him after that, and in every bit of his legacy I've encountered here.

Mr. Speaker, I'd like now to introduce members of Bud's family who are here today, seated in the balcony."

Bill Amended; Third Reading Ordered

H. 577

Rep. Fagan of Rutland City, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to public water systems

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

Sec. 1. 10 V.S.A. § 1624a is amended to read:

§ 1624a. AWARDS FOR POLLUTION ABATEMENT PROJECTS
FOR COMBINED SEWER OVERFLOWS

(a) When the department finds that a proposed water pollution abatement project not covered under section 1625 of this title is necessary, that the proposed type, kind, quality, size, and estimated cost of the project, including operation cost and sewage disposal charges, are suitable for abatement of pollution, and that the project or the prescribed project phases are necessary to meet the intent of the water quality classifications established by the board or by statute under chapter 47 of this title, the department may award state financial assistance to the project. These projects may include ancillary work determined by the secretary to be necessary to attain the water quality goals.

(b) The assistance shall consist of:

(1) A grant of 25 percent of the eligible project cost.

(2) A loan from the Vermont environmental protection agency (EPA) pollution control revolving fund or the Vermont pollution control revolving fund of 50 percent of the eligible project cost. No interest shall be charged. In a certificate to the Vermont municipal bond bank, the secretary shall recommend the term, repayment schedule and other terms and conditions of the loan.

(c) Notwithstanding the percentages of assistance provided for in subsection (b) of this section, when a municipality is certified by the secretary

of commerce and community development to be within a designated job development zone, the grant to the municipality shall be 50 percent of eligible project costs and the loan shall be 25 percent of eligible project costs.

(d) Grants and loans under this section may be made from state and federal sources, as determined by the secretary.

(e) A loan agreement may be entered into by action of the legislative body of the municipality, using procedures specified by applicable general or special enabling authority, following:

(1) authorization by the electorate of issuance of bonds in the amount of 25 percent of project costs, unless the municipality has determined to use some other method of financing its share of project cost; and

(2) authorization by the electorate of indebtedness in the amount of the loan under this section.

(f) A loan agreement may include provisions for deferred repayment if the electorate has authorized the future issuance of bonds to make a final repayment of the loan, and the authorization specifies whether the bond agreements will pledge the full faith and credit of the municipality or sufficient revenues from municipal sewage disposal charges.

(1) Except as provided in subdivision (2) ~~below of this subsection~~, loan repayments shall be according to the following schedule:

(A) 0.50 percent in the first year and increasing thereafter at 0.50 percent per year through the ninth year; and

(B) 5.0 percent in the 10th year through the 19th year; and

(C) the remainder in the 20th year.

(2) Notwithstanding subdivision ~~(f)~~(1) of this ~~section~~ subsection, a municipality shall be entitled to loan repayment under this subdivision if repayment would produce municipal sewer rates in the municipality which exceed 150 percent of the current state average rate for a family of four. For purposes of this calculation, the municipality's sewer rates shall be deemed to include operating costs, payments on the municipality's water pollution control debt, and repayment of five percent of the principal of the loan under this section. The following shall be minimum repayments under this subdivision:

(A) 0.25 percent per year in the first through the tenth year, dating from the issuance of the certification of completion of the project;

(B) 0.50 percent in the 11th year and increasing thereafter at 0.50 percent per year through the 19th year; and

(3) the remainder in the 20th year. When a loan is issued with deferred repayment provisions pursuant to authorization of the electorate under this section for the future issuance of bonds, upon maturity of the loan, if other sources of revenue are available, the legislative body of the municipality may elect not to issue bonds to make the final payment on the loan. The term of these bonds, if issued, shall not exceed 20 years. As authorized in the initial vote, these bonds may be secured by a pledge of the full faith and credit of the municipality or by sufficient revenues from municipal sewage disposal charges.

(g) State financial assistance under this section shall be made to the extent that funds are available and according to a system of priorities established by the secretary. In establishing this system, priority shall be given to pollution abatement and not to the support of demand growth, and to projects discharging into or near lakes on January 1, 1988.

(h) Notwithstanding subsection (b) of this section, a loan awarded from the Vermont environmental protection agency pollution control revolving loan fund for a combined sewer overflow abatement project that is included on a priority list and that is capitalized, in whole or in part, with a federal clean water state revolving fund grant that includes loan forgiveness provisions may be for up to 100 percent of the eligible project cost.

Sec. 2. 10 V.S.A. § 1675 is amended to read:

§ 1675. PERMITS; CONDITIONS; DURATION; SUSPENSION OF REVOCATION

(a) Authority to issue, renew, or deny permit. The secretary may issue, renew, or deny a public water system permit required by this chapter. As part of this authority, the secretary may issue general operating permits for the operation of transient noncommunity water systems.

* * *

~~(e) Duration of permit. An operating permit shall be valid for the period of time specified in the permit but not more than ten years.~~

(f) Suspension or revocation of permits.

(1) The secretary may, after notice and opportunity for hearing, revoke or suspend any permit issued pursuant to the authority under this title if the secretary finds that:

(A) the permit holder submitted materially false or inaccurate information;

(B) the permit holder has violated any material requirement, restriction or condition of this chapter, any rule promulgated thereunder, or any permit or certification issued pursuant to this chapter, or any assurance of discontinuance or order relating to the provisions of this chapter or the rules promulgated thereunder; or

(C) there is a change in any condition that requires either a temporary or permanent restriction, limitation or elimination of the permitted use.

(2) Revocation shall be effective upon actual notice thereof to the permit holder or permit holder's designated agent.

* * *

(i) Notwithstanding the requirements of this subsection, the secretary may issue an operating permit for an existing public water system that is unable to comply with the standards adopted under this chapter provided that:

(1) The operating permit contains a compliance schedule that is designed to achieve compliance with the applicable standards within a reasonable period of time based on the nature and extent of the applicable standards at issue;

(2) The secretary finds that the continued operation of the public water system pursuant to the compliance schedule and associated permit conditions shall not present an unacceptable risk to public health; and

(3) The person who owns the public water system shall be responsible for informing all persons using the system of the nature and extent of the noncompliance with the applicable standards.

Sec. 3. 10 V.S.A. § 1676 is amended to read:

~~§ 1676. TEMPORARY PERMITS~~

~~(a) The secretary may issue a temporary operation permit for public water system if such issuance will not unreasonably contribute to a public health risk, and the system is unable to comply with:~~

~~(1) any physical facility requirement established in the Vermont standards and requirements for water system design and construction;~~

~~(2) any operational requirement established by rules adopted under this chapter; or~~

~~(3) operator certification requirements.~~

~~(b) A temporary permit shall:~~

~~(1) contain a schedule which requires compliance with this chapter and the rules adopted under this chapter by a specified date;~~

~~(2) require the person who owns or operates the system to inform all persons using the system of the nature and extent of the noncompliance with this chapter or rules of this chapter;~~

~~(3) be valid for not more than three years. A temporary permit may be renewed.~~

~~(e) A temporary permit may contain any conditions, requirements, schedules, restrictions or monitoring and testing programs that the secretary deems necessary to prevent a public health risk.~~

~~(d) [Deleted.]~~

~~(e) A temporary permit may not be issued for a new public water source if there are agricultural lands in the area that are likely to affect the proposed new source.~~

Sec. 4. 24 V.S.A. § 4753a is amended to read:

§ 4753a. AWARDS FROM REVOLVING LOAN FUNDS

(a) Pollution control. The general assembly shall approve all categories of awards made from the special funds established by section 4753 of this title for water pollution control facility construction, in order to assure that such awards conform with state policy on water quality and pollution abatement, and with the state policy that, except as provided in subsection (c) of this section, municipal entities shall receive first priority in the award of public monies for such construction, including monies returned to the revolving funds from previous awards. To facilitate this legislative oversight, the secretary of natural resources shall annually no later than January 15 report to the house and senate committees on institutions and on natural resources and energy on all awards made from the relevant special funds during the prior and current fiscal years, and shall report on and seek legislative approval of all the types of projects for which awards are proposed to be made from the relevant special funds during the current or any subsequent fiscal year. Where feasible, the specific projects shall be listed.

(b) Water supply. The secretary of natural resources shall no later than January 15, 2000 recommend to the house and senate committees on institutions and on natural resources and energy a procedure for reporting to and seeking the concurrence of the legislature with regard to the special funds established by section 4753 of this title for water supply facility construction.

(c) Failed wastewater and potable water supply system loans. Notwithstanding other priorities established in law, the secretary may award up to \$500,000.00 of the funds from the Vermont environmental protection agency control fund and the Vermont pollution control revolving fund, combined, to a state agency, the Vermont housing finance agency, or a municipality for the administration of loans to households with income equal to or less than 200 percent of the state average median household income for the repair or replacement of failed wastewater systems and failed potable water supplies, as those terms are defined in section 10 V.S.A. § 1972 of Title 10. Upon award of funds under this section, the state agency, Vermont housing finance agency, or municipality shall agree, pursuant to a memorandum of understanding with the secretary of natural resources, to repay the funds awarded to the special fund from which they were drawn.

(d) Loan forgiveness; pollution control. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont environmental protection agency pollution control revolving fund, the secretary of natural resources, in a manner that is consistent with federal grant provisions, may forgive up to 50 percent of a loan if the award is made for a project on a priority list capitalized, at least in part, from funds appropriated from a federal clean water state revolving fund (CWSRF) grant when the CWSRF grant includes provisions authorizing loan forgiveness. Such loan forgiveness shall apply to both state and federal funds used to capitalize loans.

(e) Loan forgiveness; drinking water. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont environmental protection agency drinking water state revolving fund, the secretary of natural resources, in a manner consistent with federal grant provisions, may forgive up to 100 percent of a loan if the award is made for a project on the priority list and is capitalized, in whole or in part, from funds appropriated from a drinking water state revolving fund (DWSRF) grant when the DWSRF grant includes provisions authorizing loan forgiveness. Such loan forgiveness shall apply to both state and federal funds used to capitalize loans.

(f) Loan forgiveness standard. The secretary shall establish standards, policies, and procedures as necessary for implementing subsections (d) and (e) of this section for allocating the funds among projects and for revising standard priority lists in order to comply with requirements associated with federal capitalization grant agreements.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Rep. Shaw of Pittsford for the committee on Corrections and Institutions, recommended the bill ought to pass when amended as recommended by the committee on Fish, Wildlife and Water Resources and when further amended as follows:

First: In Sec. 1, 10 V.S.A. § 1624a, by striking subsection (h) in its entirety and inserting in lieu thereof the following:

(h) Notwithstanding subsection (b) of this section, a loan awarded from the Vermont environmental protection agency pollution control revolving loan fund for a combined sewer overflow abatement project may be for up to 100 percent of the eligible project cost if:

(1) the project is included on a priority list; and

(2) the project is capitalized, at least in part, with a federal clean water state revolving fund grant that includes loan forgiveness provisions.

Second: In Sec. 4, 24 V.S.A. § 4753a, by striking subsections (d) and (e) in their entirety and inserting in lieu thereof the following:

(d) Loan forgiveness; pollution control. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont environmental protection agency pollution control revolving fund (CWSRF), the secretary of natural resources, in a manner that is consistent with federal grant provisions, may forgive up to 50 percent of a loan if the award is made for a project on a priority list and the project is capitalized, at least in part, from funds derived from a federal CWSRF capitalization grant that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match.

(e) Loan forgiveness; drinking water. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont environmental protection agency drinking water state revolving fund (DWSRF), the secretary of natural resources, in a manner that is consistent with federal grant provisions, may forgive up to 100 percent of a loan if the award is made for a project on the priority list and the project is capitalized, at least in part, from funds derived from a federal DWSRF capitalization grant that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Fish, Wildlife & Water Resources and Corrections and Institutions, agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

H. 756

Rep. Condon of Colchester, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to the sales and use tax exemption for packaging equipment

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.

Adjournment

At eleven o'clock in the forenoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at one o'clock in the afternoon.