

Journal of the Senate

THURSDAY, MARCH 24, 2011

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 36

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 14. Joint resolution urging Congress and the United States Departments of Labor and of Homeland Security to authorize H-2A visas for 12-month agricultural workers.

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

The House has considered Senate proposal of amendment to House proposal of amendment to Senate resolution of the following title:

J.R.S. 20. Joint resolution providing for a Joint Assembly to vote on the retention of a Chief Justice and four Justices of the Supreme Court, three Judges of the Superior Court, and seven Judges of the District Court.

And has concurred therein.

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

J.R.S. 23. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Joint Resolution Placed on Calendar

J.R.H. 14.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution urging Congress and the United States Departments of Labor and of Homeland Security to authorize H-2A visas for 12-month agricultural workers.

Whereas, pursuant to the Immigration and Nationality Act, the federal government permits the lawful entry, under the H-2A visa program, of individuals for seasonal employment purposes, including those in the agricultural sector, and

Whereas, the law places multiple requirements on agricultural employers to give priority to, and protect, current and potential United States employees before turning to the H-2A visa program, and

Whereas, before an agricultural employer may hire a temporary foreign worker, the employer must certify there are insufficient United States workers to perform the work; certify that the employment of the foreign worker will not adversely affect the wages and working conditions of similarly employed United States workers; and demonstrate the need for a specific number of foreign workers, and

Whereas, as a further protection for United States workers, they may not be laid off within 60 days of H-2A workers starting an agricultural job unless the United States workers were first offered and rejected the agricultural employment for which H-2A workers are to be hired, and

Whereas, a layoff of United States workers employed along with H-2A workers on the same agricultural job may only occur if all of the H-2A workers are laid off first, and the employer's rejection of United States workers must be based on lawful job-related reasons, and

Whereas, even with all of these preferences afforded United States workers, Vermont agricultural employers must annually depend on the H-2A program to hire a sufficient number of employees to harvest their crops, and

Whereas, the labor pool of qualified and available United States agricultural employees has now dwindled so extensively that Vermont agricultural employers are in extreme need of H-2A workers on a year-round basis in order to operate successfully their farms, orchards, and other agricultural enterprises, and

Whereas, in order for H-2A workers to be available for renewable 12-month terms of employment, provisions of the Immigration and Nationality Act and the implementing regulations of the United States Department of Labor and the United States Department of Homeland Security, setting forth the specifics of the program, would require revision, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress and the United States Departments of Labor and of Homeland Security to authorize H-2A visas for 12-month agricultural workers, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to United States Secretary of Homeland Security Janet Napolitano, to United States Secretary of Labor Hilda Solis, and to the Vermont Congressional Delegation.

Thereupon, in the discretion of the President *pro tempore*, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 18. An act relating to the disclosure of tax administration information to tax representatives.

Bill Amended; Bill Passed

S. 30.

Senate bill entitled:

An act relating to enhancing the penalty for assault of a nurse.

Was taken up.

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the bill be amended as follows:

First: In Sec. 1, 13 V.S.A. § 1028, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A person convicted of a simple or aggravated assault against a law enforcement officer, a firefighter, ~~emergency room personnel~~ a health care worker, or a member of emergency ~~services~~ medical personnel as defined in ~~subdivision 24 V.S.A. § 2651(6) of Title 24~~ while the officer, firefighter, health care worker, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

(1) For the first offense, be imprisoned not more than one year;

(2) For the second offense and subsequent offenses, be imprisoned not more than 10 years.

Second: In Sec. 1, 13 V.S.A. § 1028, by adding a new subsection (c) to read as follows:

(c) For purposes of this section:

(1) “Health care worker” means an employee of a health care facility or a licensed physician who is on the medical staff of a health care facility who provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence.

(2) “Health care facility” shall have the same meaning as defined in 18 V.S.A. § 9432(8)

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Amended; Bill Passed

S. 67.

Senate bill entitled:

An act relating to the open meeting law.

Was taken up.

Thereupon, pending third reading of the bill, Senators Ashe and Flory moved to amend the bill by in Sec. 2, 1 V.S.A. § 312(a), by inserting a new subdivision (3) to read as follows:

(3) Electronic communications may be distributed among members of a public body, provided that such communications shall not be used to circumvent the spirit or the requirements of this subchapter or to make a decision upon a matter concerning the business of the public body.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Ashe and Flory?, Senators Ashe and Flory moved to substitute a recommendation of amendment for the recommendation of amendment as follows:

(3) Electronic communications may be distributed among members of a public body, provided that such communications shall not be used to circumvent the spirit or the requirements of this subchapter.

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by Senators Ashe and Flory, as substituted? was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 27, Nays 0.

Senator Galbraith having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Brock, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Campbell (presiding), Illuzzi, Sears.

Senate Committee Bill Committed

S. 98.

Senate Committee bill entitled:

An act relating to authorizing owner-financed property sales.

Was taken up.

Thereupon, pending second reading of the bill, on motion of Senator Cummings, the bill was committed to the Committee on Finance.

Bill Passed

Senate Committee bill of the following title was read the third time and passed:

S. 94. An act relating to miscellaneous amendments to the motor vehicle laws.

Adjournment

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the morning.