

Journal of the Senate

WEDNESDAY, MARCH 14, 2012

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Rules Suspended; Bill Committed

On motion of Senator Kitchel, the Committee on Appropriations was relieved of further consideration of Senate bill entitled:

S. 223. An act relating to extending health insurance coverage for autism spectrum disorders.

Thereupon, pending entry of the bill on the calendar for notice the next legislative day, Senator Kitchel moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Health and Welfare *intact*,

Which was agreed to.

Bill Referred

House bill of the following title was read the first time and referred:

H. 485.

An act relating to establishing universal recycling of solid waste.

To the Committee on Natural Resources and Energy.

Joint Resolutions Placed on Calendar

J.R.H. 28.

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

Joint resolution congratulating the Republic of China (Taiwan), President Ma Ying-jeou, and the 23 million Taiwanese people on their successful 2012 democratic elections and urging support for Taiwan's participation in various international organizations.

Whereas, on January 14, 2012, the Republic of China (Taiwan) held a successful democratically conducted election for president, vice president, and the legislature, demonstrating it is a beacon for freedom and democracy, and

Whereas, recently re-elected President Ma Ying-jeou has worked tirelessly to uphold democratic principles in Taiwan, ensure the prosperity of the Taiwanese people, promote its standing as a responsible member of the international community, increase participation in international organizations, dispatch humanitarian missions abroad, and further improve relations between the United States and Taiwan, and

Whereas, the United States and the Republic of China (Taiwan), and especially the State of Vermont, share an historically close relationship, marked by strong bilateral trade, educational and cultural exchanges, scientific and technological interests, and tourism, and

Whereas, in December 2011, Taiwan was nominated to participate in the United States Visa Waiver Program, and

Whereas, the United States ranks as Taiwan's third largest trading partner and Taiwan is the 10th largest trading partner of the United States, and bilateral trade reached \$62 billion with exports to Taiwan totaling approximately \$25 billion in 2011, and Vermont's exports to Taiwan totaled \$154 million in 2010, and

Whereas, on November 12, 2011, President Barack Obama and the leaders of eight Trans-Pacific Partnership countries announced the achievement of the broad outlines for a 21st century Trans-Pacific Partnership agreement which will forge close links among economies, enhance competitiveness, and benefit consumers, and

Whereas, the Asia-Pacific region is the largest market in the world for U.S. exports, and \$3.9 billion, or 93 percent, of Vermont's total exports went to markets in that region, and

Whereas, exports to Taiwan are estimated to support 12,300 Vermont jobs, and the latest available data (2009) indicated that 898 companies exported goods from Vermont, and

Whereas, Taiwan is the world's seventeenth largest trading economy and a member of the Asia-Pacific Economic Cooperation Forum, and

Whereas, the United Nations Framework Convention on Climate Change is the leading international agency addressing climate change, and Taiwan desires and should be granted membership in this important organization, and

Whereas, it remains in the interest of the traveling public that Taiwan be included in the International Civil Aviation Organization since Taiwan is a key transport hub in the Asia-Pacific region, and the Taipei Flight Information Region which is under Taiwan's jurisdiction covers an area of 176,000 square

nautical miles with 1.35 million controlled flights annually passing through, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly congratulates the Republic of China (Taiwan), President Ma Ying-jeou, and the 23 million Taiwanese people on their successful 2012 democratic elections and urges support for Taiwan's participation in various international organizations and agreements, including the Trans-Pacific Partnership, the United Nations Framework Convention on Climate Change, and the International Civil Aviation Organization, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to President Barack Obama, Governor Peter Shumlin, the Vermont Congressional Delegation, Taiwanese President Ma Ying-jeou, and Anne Hung, Director-General of the Taipei Economic and Cultural Office in Boston.

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

J.R.H. 29.

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

Joint resolution commemorating Women's History Month, the publication of the sixth edition of *The Legal Rights of Women in Vermont*, and reaffirming continuing support for equal rights for women.

Whereas, the month of March is Women's History Month, an annual worldwide celebration highlighting the contributions of women in history and society, and

Whereas, many Vermonters, both men and women, have fought for equal rights for women under the law, and

Whereas, Clarina Howard Nichols, a journalist and advocate for women's rights, temperance, and antislavery, was the first woman to address the Vermont legislature, and she contributed to reform of married women's property rights in 1847 and introduced school suffrage for women in Vermont, and

Whereas, the contributions of many other Vermont women may be found in the Vermont Women's History Project database maintained by the Vermont Historical Society, and

Whereas, in order to access justice under the law, women need to understand their rights, and

Whereas, the Vermont Commission on Women has published a handbook for this purpose since 1977 called *The Legal Rights of Women in Vermont*, and the sixth edition of this handbook has now been digitally published on the commission's website, www.women.vermont.gov, and the commission will assist those without a computer, and

Whereas, written in plain English, this comprehensive guide is an up-to-date digital resource providing explanations of many topics, and each chapter concludes with links to the commission's online resource directory and to federal and state statutory websites that enable the reader to find and read applicable laws, and

Whereas, while written for women, *The Legal Rights of Women in Vermont* covers legal issues affecting all Vermonters, including: adoption, guardianship and emancipated minors, consumer protection and fair credit, domestic relations; education, employment rights, housing and property rights, immigration, insurance, name changes, public accommodations, public assistance and government benefits, reproductive rights, violence against women and children; and wills, probate court, and advanced directives, and

Whereas, Vermont Women's History Project, a program through the Vermont Historical Society, is a dynamic database of all Vermont women who have contributed to our state's history, including Vermont's first 100 women lawyers, and

Whereas, on March 21, 2012 at 12:00 noon, the Vermont Women's History Project is sponsoring a panel discussion with four women lawyers who have made strides in women's legal rights, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly commemorates Women's History Month and the publication of the sixth edition of *The Legal Rights of Women in Vermont* and reaffirms its continuing support of equal rights for women, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Women's History Project, the Vermont Commission on Women, and the Women's Section of the Vermont Bar Association.

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

Message from the Governor
Appointments Referred

A message was received from the Governor, by Alexandra MacLean, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Billings, Jireh of Bridgewater - Member of the Capitol Complex Commission, - from March 12, 2012, to February 28, 2015.

To the Committee on Institutions.

Boucher, Patricia of Enosburg Falls - Member of the Parole Board, - from March 1, 2012, to February 28, 2015.

To the Committee on Institutions.

Coakley, Kellie of Colchester - Member of the Children and Family Council for Prevention Programs, - from March 1, 2012, to February 28, 2015.

To the Committee on Health and Welfare.

Villars, Allyson of Brattleboro - Member of the Children and Family Council for Prevention Programs, - from March 1, 2012, to February 28, 2015.

To the Committee on Health and Welfare.

Kamp, Susan of South Burlington - Member of the Children and Family Council for Prevention Programs, - from March 1, 2012, to February 28, 2015.

To the Committee on Health and Welfare.

Schatz, Ken of South Burlington - Member of the Children and Family Council for Prevention Programs, - from March 1, 2012, to February 28, 2015.

To the Committee on Health and Welfare.

Hover, Caprice of Rutland - Member of the Children and Family Council for Prevention Programs, - from March 1, 2012, to February 28, 2015.

To the Committee on Health and Welfare.

Roessle, Drusilla of Burlington - Member of the Children and Family Council for Prevention Programs, - from February 15, 2012, to February 28, 2015.

To the Committee on Health and Welfare.

Uerz, Lori of Jericho - Member of the Children and Family Council for Prevention Programs, - from February 15, 2012, to February 28, 2015.

To the Committee on Health and Welfare.

Farrell, Willa of East Hardwick - Member of the Children and Family Council for Prevention Programs, - from February 15, 2012, to February 28, 2014.

To the Committee on Health and Welfare.

Nolan, Craig of Averill - Member of the Fish and Wildlife Board, - from March 1, 2012, to February 28, 2018.

To the Committee on Natural Resources and Energy.

Hrydziusko, Wesley of Windsor - Member of the Transportation Board, - from March 1, 2012, to February 28, 2015.

To the Committee on Transportation.

Sanborn, Arthur of Kirby - Member of the Transportation Board, - from March 1, 2012, to February 28, 2015.

To the Committee on Transportation.

Stern, Robin of Brattleboro - Member of the Transportation Board, - from March 1, 2012, to February 28, 2015.

To the Committee on Transportation.

Amidon, Ed of Charlotte - Chair of the Valuation Appeals Board, - from February 29, 2012, to January 31, 2015.

To the Committee on Finance.

Alexander, Sonia of Westminster - Member of the Valuation Appeals Board, - from February 29, 2012, to January 31, 2015.

To the Committee on Finance.

Hill, Pixley of Swanton - Member of the VT Citizens' Advisory Council on Lake Champlain's Future, - from March 1, 2012, to February 28, 2015.

To the Committee on Natural Resources and Energy.

Naud, Mark of South Hero - Member of the VT Citizens' Advisory Council on Lake Champlain's Future, - from March 24, 2011, to February 29, 2012.

To the Committee on Natural Resources and Energy.

Ziter, Randi of Putney - Member of the Travel Information Council, - from March 2, 2012, to February 28, 2014.

To the Committee on Transportation.

Rules Suspended; Bill Committed**S. 131.**

Senator White moved the rules be suspended and that Senate bill entitled:

An act relating to the study of whether licensure should be required for the practice of roofing.

be committed to the Committee on Government Operations with the report of the Committee on Economic Development, Housing and General Affairs *intact*,

Which was agreed to.

Bill Passed

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

S. 147. An act relating to granting staff of the departments of corrections and for children and families *ex officio* status for the purpose of obtaining and providing notary public services.

Proposal of Amendment; Third Reading Ordered**H. 512.**

Senator Cummings, for the Committee on Finance, to which was referred House bill entitled:

An act relating to banking, insurance, securities, and health care administration.

Reported recommending that the Senate propose to the House to amend the bill by striking out Sec. 41 in its entirety and inserting in lieu thereof a new Sec. 41 to read as follows:

Sec. 41. 8 V.S.A. § 6052(b) is amended to read:

(b) Before it may offer insurance in any state, each risk retention group shall also submit for approval to the insurance commissioner of this state a plan of operation and feasibility study which includes a description of the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer, together with such additional information as the commissioner may reasonably require. In considering and approving the risk retention group's plan of operation and any subsequent amendments thereto, the commissioner may limit the net amount of risk retained by a risk retention group. The risk retention group shall submit for approval by the commissioner an appropriate revision in the event of any subsequent material change in any item of the plan of operation or feasibility study, including any material change in the information called for in subsection

(c) of this section, but excluding the identity of policyholders and any changes in rates or rating classification systems. The group shall not offer any additional kinds of liability insurance, in this state or in any other state, until a revision of such plan or study is approved by the commissioner. The risk retention group shall inform the commissioner of any material changes in rates or rating classification systems, within 30 days of the adoption of such change.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

Consideration Resumed; Bill Amended; Bill Passed

S. 230.

Consideration was resumed on Senate bill entitled:

An act relating to property and casualty insurers and electronic notices.

Thereupon, pending the question, Shall the recommendation of amendment as moved by Senator Brock be amended as moved by Senator Galbraith?, Senator Brock requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, Senator Brock, on behalf of the Committee on Finance, moved to amend the bill by adding a new section to be numbered Sec. 3 to read as follows:

Sec. 3. STATEMENT OF CONSUMER RIGHTS; ELECTRONIC NOTICES

The commissioner of banking, insurance, securities, and health care administration shall issue a bulletin regarding the statement to be provided to a party under 8 V.S.A. § 3666(d)(2). The bulletin shall require insurance companies to clearly and conspicuously inform the party of the types of notices (cancellation and nonrenewal) permitted to be delivered by electronic means; the risks associated with electronic notifications and the party's assumption of those risks if he or she consents to receive electronic notifications; the party's right to receive notices by mail at no additional cost; the form of the electronic notices and their provisions; and any other provisions the commissioner deems necessary to protect the interests of Vermonters and otherwise carry out the purposes of this act.

And by renumbering the remaining sections to be numerically correct.

Which was agreed to.

Thereupon, pending the question, Shall the bill pass? Senator Galbraith moved that the bill be amended in Sec. 1, 8 V.S.A. § 3666, subsection (f), at the end of the last sentence following the word “days” by inserting the following: ; provided, however, that for notices of cancellation or nonrenewal pursuant to 8 V.S.A. § 3880, 3881, 4224, 4225, 4712, or 4713 the third notice shall be by certified mail

Which was disagreed to on a roll call, Yeas 13, Nays 16.

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: Ayer, Baruth, Benning, Campbell, Galbraith, Giard, Illuzzi, Kitchel, Kittell, Mazza, Nitka, Pollina, Starr.

Those Senators who voted in the negative were: Ashe, Brock, Carris, Cummings, Doyle, Flory, Fox, Hartwell, Lyons, MacDonald, McCormack, Mullin, Sears, Snelling, Westman, White.

The Senator absent and not voting was: Miller.

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

Bills Amended; Third Readings Ordered

S. 136.

Senator Doyle, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to vocational rehabilitation.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 641 is amended to read:

§ 641. VOCATIONAL REHABILITATION

(a) When as a result of an injury covered by this chapter, an employee is unable to perform work for which the employee has previous training or experience, the employee shall be entitled to vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore the employee to suitable employment. Vocational rehabilitation services shall be provided as follows:

* * *

(3) The commissioner shall adopt rules to assure that a worker who requests services or who has ~~received~~ been out of work for more than 90 days ~~of continuous temporary total disability benefits~~ is timely and cost-effectively screened for benefits under this section. The rules shall:

* * *

Sec. 2. STUDY

(a) The department of labor in consultation with the department of disabilities, aging, and independent living, and other interested parties, including vocational rehabilitation services, shall study the following:

(1) what performance standards should apply to vocational rehabilitation counselors;

(2) whether the department of disabilities, aging, and independent living should be allowed to provide workers' compensation vocational rehabilitation services and charge the fees for those services to insurance companies; and

(3) whether injured workers receiving vocational rehabilitation services are receiving those services in a timely manner.

(b) The department of labor shall report its findings as well as any recommendations by January 15, 2013, to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 152.

Senator Carris, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to the definition of line of duty in the workers' compensation statutes.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(12) "Public employment" means the following:

* * *

(K) other municipal workers, including volunteer firefighters and rescue and ambulance squads while acting ~~in the line of duty~~ in any capacity under the direction and control of the fire department or rescue and ambulance squads, after the governing officials of such municipal body so vote;

(L) members of any regularly organized private volunteer fire department while acting ~~in the line of duty~~ in any capacity under the direction and control of the fire department after election by the organization to have its members covered by this chapter;

(M) members of any regularly organized private volunteer rescue or ambulance squad while acting ~~in the line of duty~~ in any capacity under the direction and control of the rescue or ambulance squad after election by the organization to have its members covered by this chapter;

* * *

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Consideration Postponed

S. 239.

Senator Giard, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to ensuring the humane treatment and slaughter of animals.

Reported recommending that the bill be amended by striking out Secs. 3 and 4, in their entirety.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending question, Shall the bill be amended as recommended by the Committee on Agriculture?, on motion of Senator Campbell, action on the bill was postponed until the next legislative day.

Bill Amended; Third Reading Ordered**S. 194.**

Senator Mullin, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to consolidation of supervisory unions.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SUPERVISORY UNION SIZE AND STRUCTURE

(a) The secretary of administration or designee, in consultation with the commissioner of education or designee, shall explore the purpose, structure, duties, and authority of supervisory unions and design a revised structure based roughly on existing technical center service regions that results in no more than three supervisory unions within each region. The primary purpose of any design shall be to improve education quality. The secretary shall analyze the feasibility of the revised structure and shall develop a plan of transition. Among other things, the secretary shall:

(1) consider the optimal size of supervisory unions, in terms of geography and numbers of students, technical centers, schools, and school districts served;

(2) consider structural elements, such as:

(A) management models;

(B) staffing, including the most appropriate way to address existing contracts, staff consolidation, and salary equalization;

(C) special education services;

(D) financial and other data collection and management systems;

(E) transportation, including ownership of buses, merger of systems, and consolidation of routes;

(F) supervisory union boards, including structure, selection of members, district representation, and the purpose, authority, and membership of executive committees;

(G) supervisory union budgets, including the manner in which they are adopted and the method by which costs are assessed to the member districts;

(H) ownership of real and personal property;

(I) ability to borrow money; and

(J) alignment of curricula and calendars;

(3) consider ways in which the department and state board of education would support transition to a proposed structure; and

(4) estimate both the financial cost of transitioning to and the potential savings in the proposed structure.

(b) By January 15, 2013, the secretary shall report to the senate and house committees on education on the work required by this section. The secretary shall also provide recommendations for legislative action necessary to implement its proposed plan.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 50.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of three Superior Judges.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Message from the House No. 34

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 considered joint resolution originating in the Senate of the following title:

J.R.S. 49. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Thursday, March 15, 2012.