

Journal of the House

WEDNESDAY, FEBRUARY 11, 1998

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

Devotional exercises were conducted by Reverend Ward Wilson, a retired minister of the United Church of Christ Church in Wells River.

Senate Bill Referred

S. 292

Senate bill, entitled

An act relating to timber damage caused by ice storm in January, 1998;

Was taken up, read the first time and referred to the Committee on Ways and Means.

Joint Resolutions Placed on Calendar

The Speaker placed before the House the following resolutions which were read and in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

JRS 75

By Senator Ide,

J.R.S. 75. Joint resolution congratulating the North Country Chorus on its 50th Anniversary.

Whereas, choral music is an art form that brings great joy and inspiration to both the participants and the audience, and

Whereas, the residents of northern New England have for half a century appreciated the melodious music that the North Country Chorus presents in concerts throughout the region, and

Whereas, in July 1947, members of the Littleton, New Hampshire Music Lovers Club, with the guidance of New England Conservatory graduate, Mildred Burnett, first met to establish a small singing group, and

Whereas, after its first and very successful concert on December 1, 1947, the group formally organized in January 1948 as the North Country Chorus, and

Whereas, in 1951 Mary Rowe assumed the directorship of the North Country

Chorus and has continued ever since to lead the ensemble to ever greater music heights, and

Whereas, the chorus soon expanded its performance schedule to include concerts throughout the year on both sides of the Connecticut River, and

Whereas, its fully-costumed Madrigal Twelfth Night Dinners are eagerly anticipated by many appreciative choral music enthusiasts, and

Whereas, the membership of the North Country Chorus has grown to approximately 90 well-trained singers who range in age from 16 to 85, and

Whereas, the North Country Chorus participates in many joint appearances with other vocal ensembles and has accompanied the Vermont Symphony Orchestra in a stirring rendition of Beethoven's Fifth Symphony, and

Whereas, the chorus has journeyed across the sea to England, Scotland, Wales, Ireland, Poland, Finland, Sweden, Hungary and Austria for international performances, and has served as the host for several visiting chorales from Europe, and

Whereas, as part of its 50th Anniversary year, the North Country Chorus is planning several special events, including an appearance at the National Cathedral in Washington, D.C. and once again welcoming choristers from Stockton, England, now therefore be it

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES:

That the General Assembly congratulates the North Country Chorus on a half century of musically brightening the lives of its many listeners, and be it further

RESOLVED: That the Secretary of State be directed to send a copy of this resolution to Mary Rowe, the illustrious director of the North Country Chorus since 1951.

JRS 76

By Senator Mazza,

J.R.S. 76. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES:

That the two Houses meet in Joint Assembly on Thursday, February 19, 1998, at ten o'clock and thirty minutes in the forenoon to elect two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 1998, and expiring on March 1, 2002. In case election of all such Trustees shall not be made on that day, the two Houses shall meet in

Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such Trustees are elected.

Joint Resolution Referred to Committee

J.R.H. 116

Rep. Murphy of Ludlow offered a joint resolution, entitled

Joint resolution relating to training offered by the criminal justice training council;

Whereas, the safety of the public is best served when all law enforcement personnel receive quality training to assure competent performance of their law enforcement duties, and

Whereas, the Criminal Justice Training Council provides training to state police, local sheriffs and municipal law enforcers, and

Whereas, the quality, duration and cost of law enforcement training should be the same for all Vermont law enforcement personnel, including state and municipal police, fish and wildlife officers and sheriffs, to assure that the public safety and the criminal justice system is well served, now therefore be it

Resolved by the House of Representatives and Senate:

That the Vermont Criminal Justice Training Council shall assure that all law enforcement personnel in Vermont shall be eligible to receive the same training, both in terms of quality and duration, and be it further

Resolved: That the same tuition rates be offered to all law enforcement personnel for similar training, and be it further

Resolved: That any law enforcement training funds, from whatever source, whether the funds are grants or appropriations and whether the funds are provided by private sources or the federal, state or municipal government, shall be deposited with the Vermont Criminal Justice Training Council and that those funds be maintained in separate accounts for the benefit of the appropriate law enforcement organization, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Public Safety, the Director of the State Police, the Commissioner of Fish and Wildlife, the Director of the Vermont Criminal Justice Training Council, the Executive Director of the Vermont Department of State's Attorneys and Vermont Sheriffs Department and the Chief of Police of each municipality.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the Committee on Government Operations.

Joint Resolutions Placed on Calendar

The Speaker placed before the House the following resolutions which were read and in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

J.R.H. 117

Joint resolution relating to the use of the State House for a celebration of elected and appointed women in local and state government

Offered by: Representative Pugh of South Burlington

Whereas, women are elected town clerks in 89 percent of Vermont's cities and towns, and

Whereas, the percentage of women appointed to state level boards and commissions has risen from 22 percent in 1979 to 40 percent in 1998, and

Whereas, the Vermont House of Representatives has 48 women (32 percent of the total membership), and

Whereas, the Vermont Senate has 12 women (40 percent of the total membership), and

Whereas, the United States Congress has 535 members and only 59 (12 percent) are women, and

Whereas, the Governor's Commission on Women and the Vermont State Nurses' Association are sponsoring a celebration of appointed and elected women in local and state government on Thursday, March 12, 1998 from 4:30 p.m. until 7:30 p.m., now therefore be it

Resolved by the House of Representatives and Senate:

That the Sergeant at Arms is directed to make the House lobby, the State House cafeteria and the Cedar Creek Room available for use by the Governor's Commission on Women for the celebration of elected and appointed women from 4:30 p.m. until 7:30 p.m. on Thursday, March 12, 1998.

J.R.H. 118

Joint resolution in memory of former Representative, Stanton S. Lazarus

Offered by: Representatives Nuovo of Middlebury and Ginevan of Middlebury

Whereas, Stanton (Stan) S. Lazarus was a native and lifelong resident of

Middlebury, and

Whereas, from early in life, his leadership potential was evident when he was selected Captain of the Middlebury High School Football Team, and

Whereas, after military service in World War II and graduation from Washington University, Stan Lazarus entered the family business, the Lazarus Department Store, with which he continued a nearly four-decade association until 1984, and

Whereas, he became interested in politics and successfully sought election to the Vermont House of Representatives in 1960 and again in 1962, and

Whereas, as a member of the House, Stan Lazarus served on the Highways and Bridges and the State Court and Expenses Committees, the latter of which he chaired during the 1963 session, and

Whereas, Governor Philip Hoff was so impressed with his diligence and dedication as a legislator that he appoint Stan Lazarus as his Executive Clerk, a position that he held with great distinction, and

Whereas, in his home town, he was an active member of many fraternal organizations and served on the Middlebury Planning Commission, and

Whereas, he will be remembered by his friends and colleagues as a compassionate and thoughtful person, now therefore be it

Resolved by the House of Representatives and Senate:

That the General Assembly mourns the passing of its former member, Stanton S. Lazarus, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to his brother and sister-in-law, Eugene and Annette Lazarus of Middlebury.

Bill Amended, Read Third Time and Passed

H. 309

House bill, entitled

An act relating to merger of groups B and C of the state employees retirement system;

Was taken up and pending third reading of the bill, **Rep. Vinton of Colchester** moved to amend the bill as follows:

In Sec. 10, § 473(b)(2) of 3 V.S.A., after the words “social security withholding” by inserting the following: or at the rate of five percent of

compensation if such member elected to have compensation from the state subject to social security withholding

Which was agreed to. Thereupon, the bill was read the third time and passed.

Third Reading; Bill Passed

H. 497

House bill, entitled

An act relating to exemption of tangible personal property incorporated into the construction, maintenance, repair, improvement or reconstruction of all railroad lines;

Was taken up, read the third time and passed.

Senate Proposal of Amendment Concurred in

H. 59

The Senate proposes to the House to amend House bill, entitled

An act relating to letters of credit;

In Sec. 12, by striking out the following "1998" and inserting in lieu thereof the following: "1999"

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in with an Amendment

H. 63

The Senate proposes to the House to amend House bill, entitled

An act relating to the uniform prudent investor act;

First: In Sec. 2, in § 1361 of 8 V.S.A. in the second sentence after the word "received" by inserting the following: "from the investment company"

Second: In Sec. 3, in § 1943(a) of 16 V.S.A., by striking out the second sentence and inserting in lieu thereof the following:

"Investments shall be made in accordance with the standard of care established by the prudent investor rule under chapter 147 of Title 9."

Third: In Sec. 4, in § 472(a) of 3 V.S.A., by striking out the second sentence and inserting in lieu thereof the following:

"Investments shall be made in accordance with the standard of care established by the prudent investor rule under chapter 147 of Title 9."

Rep. Young of Orwell moved to concur with the Senate proposals of amendment, with the following amendment thereto;

In Sec. 2, § 1361(b), in the second sentence, after the words "from the investment company" by inserting the following, , or an affiliate thereof,

Which was agreed to.

Bill Amended; Third Reading Ordered

H. 101

Rep. Holmes of Bethel, for the Committee on Fish, Wildlife and Water Resources, to which had been referred House bill, entitled

An act relating to requiring a permit before mining for gold in a watercourse and allowing only the panning for gold pursuant to such a permit;

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. § 1002(11) is amended to read:

(11) *"Secretary" means the secretary of the agency of natural resources, or the secretary's duly authorized representative.*

Sec. 2. 10 V.S.A. § 1021(h) is added to read:

(h)(1) Notwithstanding any other provisions of this section, recreational mineral prospectors:

(A) shall not operate suction dredges in any watercourse;

(B) may operate sluice boxes in any watercourse, provided:

(i) a request for approval to conduct mineral prospecting shall be filed with and approved by the secretary; and

(ii) mineral prospecting shall not be conducted on private land without landowner permission, or on state land without permission from the secretary.

(2) Hand panning prospecting techniques shall be exempt from this subchapter.

Sec. 3. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subdivisions (h)(1), (3), (4), (5), (6), (9), (12), (19)

and (20) of this section, and subsection (i) of this section, the following fees are established for permits, licenses and registrations issued by the agency of natural resources. These fees supersede any existing fees adopted by the agency for the referenced programs. All other fees in effect for other agency programs cited in subsection (h) of this section remain in effect.

* * *

(10) For approvals of the operation of mineral prospecting equipment issued under 10 V.S.A. chapter 41: \$15.00 for an approval for a resident, \$30.00 for an approval for a nonresident. The proceeds from fees collected under this subdivision shall be remitted to the fish and wildlife fund created under 10 V.S.A. § 4047.

Sec. 4. REPORT AND SUNSET

The agency of natural resources shall report to the general assembly by no later than January 15, 1999, with findings and recommendations on the level of permitting activity under this act, costs incurred by the agency, and proposed fees to cover those costs. 3 V.S.A. § 2282(j)(10) is repealed on June 30, 1999.

Sec. 5. EFFECTIVE DATE

This act shall take effect upon passage.

Rep. Symington of Jericho, for the committee on Ways and Means, 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:

In Sec. 3. § 2822(j)(10), by striking the following: "\$15.00" and inserting in lieu thereof the following: \$30.00 and by striking "\$30.00" and inserting in lieu thereof \$100.00

The bill, having appeared on the Calendar one day for notice, was taken up,

read the second time, report of the Committee on Fish, Wildlife and Water Resources and Ways and Means, agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 134

Rep. Kendall of Woodstock, for the Committee on Local Government, to which had been referred House bill, entitled

An act relating to oversight of county budgets and performance audits of county administration;

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

Sec. 1. 24 V.S.A. § 131a is added to read:

§ 131a. DISPUTE RESOLUTION IN THE ADMINISTRATION OF COUNTY GOVERNMENT

(a) An assistant judge dispute resolution panel is created for the purpose of resolving impasses that occur when the assistant judges of a county are unable to agree on county financial matters, including selection of a person to conduct a financial review under section 261 of this title. The panel shall consist of three assistant judges, elected annually, during the month of February, by the assistant judges of the state. The assistant judges of the state shall also annually elect a first, second and third alternate member of the panel who shall serve, in the order of their designations, on the panel if a member is absent or has a conflict of interest with respect to a matter submitted to the panel under subsection (b) of this section. The assistant judges of the state shall establish the method by which members of the panel and their alternates are elected, except that no assistant judge shall be denied the right to vote in the selection of assistant judges to serve on the panel or as alternates. Within 10 days of the date an election is held under this section, the panel shall notify the county clerks of all the superior courts in the state, in writing, of the names, addresses and telephone numbers of the members of the assistant judge dispute resolution panel and their alternates.

(b) Notwithstanding any law to the contrary, in the event that the assistant judges of a county are unable to agree on county financial matters, one of the assistant judges of that county may notify the members and alternate members of the assistant judge dispute resolution panel, in writing, that an impasse exists. The assistant judges of the county in which the impasse exists shall not be

eligible to serve as members or alternate members of the assistant judge dispute resolution panel with respect to that impasse.

(c) Upon receipt of notice under subsection (b) of this section, the members of the panel shall review the impasse at issue and shall meet, either in person or by electronic or telephonic means, with the assistant judges at impasse to resolve the issue. The time, place and means of the meeting shall be established by the panel, provided that the meeting shall take place within 10 days of receipt of notice under subsection (b) of this section. The sole business to be conducted at a meeting called under this section shall be resolution of the matter that is the subject of the impasse, and the panel shall not otherwise change or amend the positions or decisions of the assistant judges at impasse. At the meeting, the two assistant judges at impasse shall each state the subject matter of the impasse and their respective positions on the issue and the panel shall attempt to resolve the impasse through mediation. If mediation is not successful, the panel shall resolve the impasse by casting its vote in favor of the position of one of the assistant judges. The panel's decision concerning how to cast its vote shall be decided by majority vote of the members of the panel. The decision resulting from the panel's vote on the matter at impasse shall have the force and effect of a decision decided by both the assistant judges. A decision reached under this subsection shall be in writing and shall be available for public inspection and copying in the county court house.

(d) The members of the assistant judge dispute resolution panel and their alternates shall be entitled to receive compensation and necessary expenses for services performed under this section, which shall be paid by the county in which the impasse occurred. Compensation and expenses shall be paid at the rates set forth in 32 V.S.A. § 1141 as allowed by the supreme court.

Sec. 2. 24 V.S.A. § 133 is amended to read:

§ 133. COUNTY TAX; AMOUNT; ASSESSMENT

(a) Annually, the assistant judges shall prepare a proposed budget of the county for the ensuing year.

(b) Before a budget to be proposed at the annual meeting is finalized, the assistant judges shall hold a meeting to invite discussion of the preliminary proposed budget. The meeting to review the preliminary proposed budget shall take place at least 30 and not more than 40 days prior to the annual meeting. Notice of this meeting shall be published in all daily newspapers having general circulation in the county at least 14 days before the meeting. A copy of the notice shall be mailed to the legislative bodies of the towns located in the county.

(c) Annually, on or before January 31, the assistant judges shall call a meeting of the voters of the county for the purpose of presenting the proposed budget of the county for the ensuing year and inviting discussion thereon. The meeting shall be held at a place within the county and shall be warned by a notice posted in three public places in the county and published in ~~a newspaper~~ of all daily newspapers having general circulation in the county at least 30 and not more than 40 days prior to the meeting. The warning ~~contain by separate articles the provisions of the proposed budget~~ shall include a summary of the expenditures being proposed for the various areas covered by the proposed budget and shall provide the public with information about how a copy of the proposal may be obtained. Members of legislative bodies of each of the towns within the county shall be notified of the meeting by ~~certified~~ mail. Copies of the proposed budget shall be available to the public during normal business hours in the county court house and in the office of the clerks of the towns located in the county.

~~(b)~~(d) Annually, not less than 14 nor more than 21 days following the county meeting provided in subsection ~~(a)~~ (c) of this section, the assistant judges shall review the proposed budget of the county in light of any discussion thereon at the county meeting and, if deemed expedient, make and deliver to the county treasurer a written order directing ~~him~~ the treasurer to issue, on or before March 1 following, the statements required by section 4965 of Title 32, and warrants to the several treasurers of the towns for the collection of a tax sufficient to pay such indebtedness and estimated expense, but the whole amount of such tax shall not exceed in one year five cents on a dollar of the equalized grand list of such county.

~~(e)~~(e) The proposed budget shall contain any cost estimates and preliminary plans for capital construction in the county pursuant to subchapter 2 of chapter 3 of this title, estimates of the indebtedness of the county, estimates of the probable ordinary expenses of the county for the ensuing year, and any and all other expenses and obligations of the county. The budget may contain provision for additions to a reserve fund and the accumulated total reserve fund shall not at any time exceed an amount equal to ten per cent of the current budget presented. The budget may also include a provision for a separate reserve fund for capital construction, reconstruction, remodeling, repairs, renovation, design, or redesign necessitated by an insured loss or damage to a county building. The separate reserve fund shall be limited to the amount of insurance proceeds received as a result of the loss or damage. All county budgets shall be presented on the form prescribed by the auditor of accounts, after consultation with the association of assistant judges, and shall include the amounts currently budgeted for each item included in the proposed budget.

~~(d)~~(f) The amount of the tax shall be apportioned upon the towns, unorganized towns and gores according to the ratio of the equalized grand list, as defined in section 3441 of Title 16, of the individual town, unorganized town or gore to the total equalized grand list of all the towns, unorganized towns and gores in the county.

(g) The assistant judges shall hold the meetings required by this section at times convenient to the public.

(h) The fiscal year of the county shall end on January 31, unless the assistant judges, after discussion of the issue at the annual meeting, vote to have a different fiscal year, in which case the fiscal year so voted shall remain in effect until amended.

Sec. 3. 24 V.S.A. § 261 is amended to read:

§ 261. ~~APPOINTMENT; DUTY~~ COUNTY FINANCIAL AUDIT

~~Biennially, on February 1, the assistant judges shall appoint a county auditor who shall audit the accounts of the county treasurer. Such auditor shall hold office for two years and until his successor is appointed and has qualified.~~ (a) Biennially, all of the accounts of the county treasurer, including any reserve funds, shall be subject to a financial audit conducted according to the generally accepted government accounting standards as established by the federal government accounting office. The audit shall be performed by a public accountant regulated under Title 26 and shall be conducted within 4 months after the close of the fiscal year being audited. The accountant's report shall be accompanied by a management letter containing findings and recommendations.

(b) The assistant judges shall enter into a contract with a public accountant to perform the audits required by this section. The assistant judges may enter into a multiple year contract under this section, provided that the person to whom a contract is awarded is selected by use of an open request for proposals process.

Sec. 4. TRANSITIONAL PROVISIONS

Notwithstanding 24 V.S.A. § 131a(a), relating to election of members and alternates to the assistant judge dispute resolution panel in the month of February, the initial panel shall be elected within 10 days of the effective date of this act.

Sec. 5. SURVEY

The legislative council staff shall conduct a survey of the assistant judges to determine compliance with the provisions of Secs. 2 and 3 of this act. The purpose of this survey is to help the general assembly determine whether

additional legislative action is necessary to streamline the county budget process and make it more accessible to the public. The results of the survey shall be filed with the general assembly by January 15, 2001.

Sec. 6. REPEAL

24 V.S.A. §§ 261-262 relating to the county auditor is repealed.

Sec. 7. EFFECTIVE DATE

This act shall take effect on January 1, 1999.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the Committee on Local Government agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

H. 571

Rep. Dominick of Starksboro, for the Committee on Local Government, to which had been referred House bill, entitled

An act relating to standing requests for absentee ballots;

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.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Kate O'Connor, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the eleventh day of February, 1998 he approved and signed a bill originating in the House of the following title:

H. 568 An act relating to the merger of the Town of Richford and the Village of Richford

Adjournment

At ten o'clock and five minutes in the forenoon, on motion of Rep. Clark of St. Johnsbury, the House adjourned.