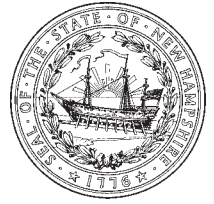


STATE OF NEW HAMPSHIRE

Web Site Address: www.gencourt.state.nh.us

SENATE JOURNAL 2 *(Cont.)*



January 22, 2004

Out of Recess.

HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

SB 74-FN-A-L, increasing certain motor vehicle registration fees and appropriating the funds for local government records management programs.

SB 95-FN-L, relative to the development of workforce housing within municipalities.

LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

Adopted.

Adjournment.

SENATE JOURNAL 3

January 29, 2004

The Senate met at 10 a.m.

A quorum was present.

The Reverend David P. Jones, chaplain to the Senate, offered the prayer.

As we do our work this day, stand with us, great God of our deepest hopes, in the wonderful places You have put on us. And even on those days when that place feels like a fiery, flaming furnace, insulate us with Your greatness, Your depth and Your brilliance - and let us reflect a bit of it to others. Amen

Senator Kenney led the Pledge of Allegiance.

Senator Cohen is excused for the day.

INTRODUCTION OF GUESTS

MOTION TO TAKE FROM THE TABLE

Senator Flanders moved to have **SB 207** taken off the table.

Adopted.

SB 207, relative to transactions exempt from the consumer protection act.

Question is on the floor amendment (0023).

Senator Below withdrew his floor amendment (0023).

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

January 13, 2004

2004-0080s

05/03

Floor Amendment to SB 207

Amend the bill by replacing all after the enacting clause with the following:

1 Consumer Protection; Exempt Transactions. Amend RSA 358-A:3, I to read as follows:

I. Trade or commerce that is subject to the jurisdiction of ~~[the bank commissioner,]~~ the director of securities regulation, the insurance commissioner, the public utilities commission, the ~~[financial institutions and]~~ insurance regulators of other states, or ~~[federal banking or]~~ securities regulators who possess the authority to regulate unfair or deceptive trade practices.

I-a. Trade or commerce by any entity that is subject to laws, regulations, standards, orders, or other action of a federal or state financial institution regulatory authority that regulates consumer complaints or unfair or deceptive acts or practices in the conduct of such trade or commerce, that is either examined for compliance with such laws, regulations, standards, orders, or other action by a federal or state regulatory authority not less than once every 2 years or is subject to sanctions or remedial action by such authority for failure to comply with such laws, regulations, standards, orders, or other action. This paragraph shall apply to trade or commerce involving retail installment sales of motor vehicles under RSA 361-A if such trade or commerce arises in connection with a consumer credit transaction as defined in RSA 358-K:1 and is subject to the jurisdiction of the bank commissioner under RSA 361-A.

2 Consumer Protection; Exempt Transactions; Burden of Proof; Reference Added. Amend RSA 358-A:3 to read as follows:

V. The burden of proving exemptions from the provisions of this chapter by reason of paragraphs I, ***I-a***, II, III, IV, and IV-a of this section shall be upon the person claiming the exemption.

3 Bank Commissioner; Consumer Complaints; Authority to Award Restitution. Amend RSA 383:10-d to read as follows:

383:10-d Consumer Complaints. The commissioner shall report all consumer complaints by depositors to the consumer protection division of the office of the attorney general for record keeping and control purposes. The commissioner shall investigate the complaints. When the complaint is resolved or the investigation is concluded without resolution, the commissioner shall send a report of ~~[his]~~ ***the*** investigation, including findings of fact, to the consumer protection division. ***The commissioner shall have exclusive authority and jurisdiction to investigate, hold hearings, and order restitution for unfair and deceptive conduct by an entity regulated under this chapter.***

4 Effective Date. This act shall take effect 60 days after its passage.

2004-0080s

AMENDED ANALYSIS

This bill narrows the "regulatory exemption" under current law as it applies to financial institutions and certain entities regulated by banking regulatory authorities.

Floor amendment adopted.

Senator Sapareto offered a floor amendment.

Sen. Sapareto, Dist. 19

Sen. Kenney, Dist. 3

Sen. Below, Dist. 5

January 13, 2004

2004-0092s

05/09

Floor Amendment to SB 207

Amend the bill by replacing section 1 with the following:

1 Consumer Protection; Exempt Transactions. RSA 358-A:3, I is repealed and reenacted to read as follows:

I. Transactions in trade or commerce which:

(a) Are permitted or regulated by laws, regulations, standards, orders, or other action of a federal or state regulatory authority that expressly regulates unfair or deceptive acts or practices in the conduct of such transactions; and

(b) Are subject to remedial action by such federal or state regulatory authority through the imposition of damages, restitution, or other monetary recovery for individual consumers injured by an entity's noncompliance with such laws, regulations, standards, orders, or other action of such federal or state regulatory authority.

2007-0092s

AMENDED ANALYSIS

This bill provides an exemption from the consumer protection act for transactions under the supervision of a federal or state regulatory authority that is expressly authorized to regulate unfair or deceptive conduct and to take appropriate remedial action in the event of noncompliance.

Question is on the adoption of the floor amendment.

A division vote was requested.

Yeas: 7 - Nays: 14

Senator Foster rule #42.

Floor amendment failed.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

MOTION TO TAKE FROM THE TABLE

Senator Foster moved to have **HB 464** taken off the table.

Adopted.

HB 464-FN, establishing a criminal penalty for facilitating a drug or underage alcohol house party.

Question is on the adoption of the committee amendment (2463).

Amendment failed.

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

January 29, 2004

2004-0253s

04/01

Floor Amendment to HB 464-FN

Amend RSA 644:18 as inserted by section 1 of the bill by replacing it with the following:

644:18 Facilitating a Drug or Underage Alcohol House Party.

I. A person shall be guilty of a misdemeanor if such person owns or has control of the occupied structure, dwelling, or curtilage, where a drug or underage alcohol house party is held and such person knowingly commits an overt act in furtherance of the occurrence of the drug or underage alcohol house party knowing persons under the age of 21 possess or intend to consume alcoholic beverages or use controlled drugs at such drug or underage alcohol house party.

II. It is an affirmative defense to prosecution under this section if a person gives timely notice to a law enforcement official of the occurrence of the drug or underage alcohol house party or engages in other conduct designed to prevent the occurrence of such party, or takes action to terminate such party once underway.

III. In this section, "drug or underage alcohol house party" means a gathering of 5 or more people under the age of 21 at any occupied structure, dwelling, or curtilage, who are unrelated to the person who owns such occupied structure, dwelling, or curtilage or has control thereof, where at least one person under the age of 21 unlawfully possesses or consumes an alcoholic beverage or controlled drug. "Occupied structure" has the same meaning as in RSA 635:1, and "dwelling" and "curtilage" have the same meaning as in RSA 627:9.

IV. The provisions of this section shall not apply to the use of alcoholic beverages at legally protected religious observances or activities, or to those persons using a controlled drug under a physician's care where the use of the drug is consistent with the directions of a physician.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

COMMITTEE REPORTS

SB 61, relative to collective bargaining units at charter schools. Education Committee. Ought to pass with amendment, Vote 5-0. Senator O'Hearn for the committee.

Senate Education

January 22, 2004

2004-0209s

04/09

Amendment to SB 61

Amend the title of the bill by replacing it with the following:

AN ACT relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; Charter Schools; Establishment; Procedures. Amend RSA 194-B:3, VI by inserting after subparagraph (b) the following new subparagraph:

(c) Such teachers shall be covered by the salary and benefit provisions, including seniority and retirement benefits, of the collective bargaining agreement of the existing school, unless the teachers vote otherwise.

2 Charter Schools; Employees. Amend RSA 194-B:14, II(b) to read as follows:

(b) ~~(1) [Bargaining units]~~ ***A teacher who accepts employment at a charter school [shall be separate from other bargaining units] in the same school district may elect to remain a member of the bargaining unit with which such teacher was affiliated prior to becoming a charter school teacher. A teacher electing this option shall retain all rights and benefits afforded by the previous bargaining unit.***

(2) A teacher who accepts employment at a charter school in a different school district shall retain all longevity accrued through employment in a previous school district.

3 New Section; Teachers; Leave of Absence for Employment at Charter School. Amend RSA 189 by inserting after section 39-b the following new section:

189:39-c Leave of Absence for Employment at Charter School.

I. A teacher employed at a public elementary or secondary school may request up to a 3-year leave of absence for the purpose of accepting employment at a charter school. Such request shall be submitted in writing in accordance with notice procedures in effect in the school district. Approval for a leave of absence request shall not be unreasonably withheld.

II. A teacher who leaves employment at a charter school shall have the right to return to a comparable position for which such teacher is properly credentialed in the public school which granted the leave of absence. A teacher seeking to return under this paragraph shall provide written notice to the superintendent no later than January 31 of the year in which return is sought.

4 Repeal. RSA 194-B:14, II (e), relative to requiring a charter school teacher to withdraw from the teacher's previous bargaining unit, is repealed.

5 Effective Date. This act shall take effect 60 days after its passage.

2004-0209s

AMENDED ANALYSIS

This bill:

I. Allows charter school teachers to remain members of the bargaining unit with which they were affiliated prior to becoming charter school teachers and allows teachers who become charter school teachers in a different school district to retain all longevity accrued to date.

II. Provides that the terms of the collective bargaining agreement in effect at the time a school successfully converts to a charter school shall remain in effect, and any teacher employed by a school which successfully converts to a charter school shall be covered by the provisions of the collective bargaining agreement, including, but not limited to salary, seniority, and retirement benefits, unless the teachers vote otherwise.

III. Allows a teacher employed at a public elementary or secondary school to request up to a 3-year leave of absence for the purpose of accepting employment at a charter school.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 351-FN, relative to concurrent enrollment at regional vocational education centers. Education Committee. Ought to Pass, Vote 3-0. Senator O'Hearn for the committee.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 205-FN, authorizing the state to accept the title of the dam and dikes at Smith Pond, Enfield, New Hampshire. Environment Committee. Ought to pass with amendment, Vote 4-0. Senator Below for the committee.

Environment

January 21, 2004

2004-0187s

06/09

Amendment to SB 205-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Findings. The general court finds:

I. Smith Pond in Enfield was created by a dam and dikes built by the Enfield Shakers in 1838 and was connected to the Lower Shaker Village for water power purposes by a diversion canal over a mile in length across the side of Shaker Mountain.

II. Smith Pond has not been determined to be a public water body and is presumed to be a private water body. The tax records of the town of Enfield show the area of the pond as contained within 4 separate parcels with 3 owners and with property boundaries across the pond.

III. The state of New Hampshire, fish and game department, owns approximately ½ of the shoreline and area of the pond, including a number of islands, as part of the 4,200 acre Enfield wildlife management area. Of the 4 parcels containing the impoundment area of Smith Pond, the state-owned parcel is most remote from Smith Pond Road with no dedicated access rights. Access to the pond across other portions of the wildlife management area is remote and distant.

IV. Smith Pond enjoys a high degree of water clarity and quality, there is very little development within its watershed, and it feeds a wetland marsh area below its outlet.

V. Smith Pond has significant historic, scenic, environmental, and recreational value which would be reduced if the dam were breached, and preserved and enhanced if the state acquires ownership of the dam and dikes with related conservation, public use, and access easements under the terms of this act.

VI. The pond is a warm water fishery and habitat for nesting loons and migratory duck populations.

VII. The adjoining Enfield wildlife management area has been ranked second of 293 state properties evaluated for investigation by the New Hampshire natural heritage inventory program due to its ecological diversity and potential for rare species and exemplary natural communities.

VIII. The last successor entity to the Enfield Shakers who originally developed and owned the dam, dikes and impoundment area, Enfield Shaker Limited Partnership, recorded a release and abandonment of all rights it may have to the water of Smith Pond and the land appurtenant thereto, as well as all rights to convey such water over the land of others in the Grafton County registry of deeds, Book 1946, Page 412, before dissolving and ceasing to exist. No other property owner has asserted, assumed, or accepted those property rights.

IX. The current state of disrepair of the dam and dikes creates a safety hazard that needs to be corrected by either breaching or repairing the dam and dikes, neither of which can be readily pursued due to the legal uncertainties as to ownership of and responsibility for the dam, dikes and impoundment, and access thereto.

X. If the state accepts ownership of the dam and dikes under the conditions of this act, the financial liability and risk to the state will be minimized while significant public access, recreation, historic preservation, and conservation values will be gained. The fish and game department will also realize improved access for management and public use of its Enfield wildlife management area.

2 Smith Pond; Town of Enfield. The department of environmental services may accept ownership and title to the outlet dam and appurtenant dikes of the approximately 68-acre Smith Pond, located off of Interstate 89 at exit 15, Smith Pond Road, Enfield, New Hampshire, subject to the following conditions:

I. A finding by the department that the dam and dikes are in a reasonable and acceptable state of repair.

II. Acceptance by the department of one or more easements for maintenance access to the dam and dikes.

III. Acceptance by the state of New Hampshire, acting through the department of environmental services, the department of resources and economic development, or the fish and game department, of a conservation easement to the entire area of the pond at the impounded mean high water, beyond such rights as the state already owns as part of the Enfield wildlife management area, that permits reasonable public pedestrian access, swimming, fishing, hunting, and non-motorized, carry-in, boat access including canoes, kayaks, inflatable rafts, and similar vessels, except as provided below. The easement shall also include public pedestrian access to the pond from the public way of Smith Pond Road and occasional vehicular access by individuals with disabilities as conditions may reasonably allow and by prior arrangement with the owner of the right-of-way up the private portion of Smith Pond Road, either directly or through a state office designated by such owner, with a provision that such individuals with disabilities may launch and use on Smith Pond a non-motorized boat or one powered with an electric motor with a manufacturer's rated capacity not to exceed 3 horsepower. The town of Enfield or a not-for-profit entity may partner with the state in acquiring or holding such a conservation easement.

IV. Acceptance by the fish and game department of an easement up Smith Pond Road and across private lands to the Enfield wildlife management area, adjoining the pond area, for purposes of occasional timber management and harvesting, as determined by the fish and game department, and for hunting and fishing access by the public.

V. A finding by the department and the state treasurer that there have been funds escrowed for deposit into the Smith Pond Dam maintenance account established in section 3 of this act which are sufficient to be reasonably expected to produce growth and returns from investments, which alone or in combination with binding agreements for payments or assessments with one or more property owners pursuant to RSA 482:44, are adequate to fund reasonably expected future maintenance and repair costs of the Smith Pond dam and dikes to be owned by the state.

3 Smith Pond Dam Maintenance Account. The Smith Pond dam maintenance account is created as a water resources council account of the department of environmental services authorized under RSA 6:12-d, XII. The department of environmental services may solicit and accept grants or gifts for deposit into the Smith Pond dam maintenance account. The state treasurer shall hold such funds distinct and separate from other funds of the state and invest them in accordance with RSA 6:8, to produce growth and returns from investments to fund future maintenance and repair costs of the Smith Pond dam and appurtenant dikes including access routes thereto.

4 Repairs Authorized. After the effective date of this act, the department of environmental services may obtain permission from abutting landowners to undertake the work required to restore the dam and dikes to an acceptable state of repair to the extent that funding for such work is available from sources other than the department.

5 Eligible Resource Assets Under Land and Community Heritage Investment Program. The easements to be accepted under section 2 of this act shall be eligible resource assets for financial assistance under RSA 227-M:8, III.

6 Title. A court of competent jurisdiction may quiet title to the dam, dikes, and the impoundment rights of Smith Pond and vest ownership therein with the state of New Hampshire, department of environmental services, upon representation by the state that the preconditions of section 2 have been satisfied and a finding that any property owners who may hold such rights have either quitclaimed their interest in such rights to the state or abandoned such rights.

7 Effective Date. This act shall take effect 30 days after its passage.

2004-0187s**AMENDED ANALYSIS**

This bill authorizes the department of environmental services to accept title to the dam and dikes at Smith Pond in Enfield, provided certain conditions are first met. The bill establishes the Smith Pond dam maintenance account to fund maintenance and repair costs for the Smith Pond dam and appurtenant dikes.

Amendment adopted.**Question is on the adoption of the bill as amended.****Adopted.****Ordered to third reading.**

SB 317, relative to registration of pesticide applicators and rules of the pesticide control board. Environment Committee. Ought to Pass, Vote 4-0. Senator Below for the committee.

Adopted.**Ordered to third reading.**

SB 519, establishing a committee to study the establishment of a farm viability program. Environment Committee. Ought to pass with amendment, Vote 5-0. Senator Below for the committee.

Environment**January 22, 2004****2004-0196s****08/09****Amendment to SB 519**

Amend subparagraph I(b) of section 2 by replacing it with the following:

(b) Five members of the house of representatives, appointed by the speaker of the house of representatives.

Amend the bill by replacing section 5 with the following:

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 1, 2004.

Amendment adopted.**Question is on the adoption of the bill as amended.****Adopted.****Ordered to third reading.**

SB 403, relative to the board of medicine. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Estabrook for the committee.

Adopted.**Ordered to third reading.**

SB 469, relative to licensing of boiler inspectors. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

Senate Executive Departments and Administration**January 22, 2004****2004-0198s****08/01****Amendment to SB 469**

Amend the bill by replacing section 1 with the following:

1 Boiler Inspectors; Licensing. Amend RSA 157-A:7, I and II to read as follows:

I. A boiler and pressure vessel inspector shall hold [a] **an active** National Board commission and be qualified by the commissioner of labor.

II. A license shall be issued by the commissioner to an inspector for a [~~2-year~~] **1-year** period. A fee of \$30 shall be charged for the license. A license may be renewed every [~~2-years~~] **year** upon payment of a fee of [~~\$20~~] **\$10**. Employees of the department of labor shall not be charged for the issuance or renewal of a license.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

HB 258, relative to the community-technical college system. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Prescott for the committee.

Senate Executive Departments and Administration

January 22, 2004

2004-0192s

04/05

Amendment to HB 258

Amend the title of the bill by replacing it with the following:

AN ACT relative to the regional community-technical college system.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Regional Community-Technical Colleges; Duties. Amend RSA 188-F:4-a by inserting after paragraph V the following new paragraph:

VI. Enter directly into contracts with the community-technical college foundation, without competitive bidding, for services including alumni development, fundraising support, development of scholarship initiatives, and other related services.

2 New Paragraph; Hiring Delay; Regional Community-Technical College Positions Exempt. Amend 2003, 319:178, by inserting after paragraph II the following new paragraph:

II-a. Faculty positions, teachers, teachers assistants, teacher aides, and counselors within the regional community-technical college system shall be exempt from the hiring delay imposed in paragraph I.

3 Repeal. RSA 188-F:4-a, VI, relative to contracts with the community-technical college foundation, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2007.

II. The remainder of this act shall take effect upon its passage.

2004-0192s

AMENDED ANALYSIS

This bill amends the duties of the board of trustees of the regional community-technical college system and exempts certain positions within the regional community-technical college system from the hiring delay imposed for the biennium ending June 30, 2005.

Amendment adopted.

Senator Prescott offered a floor amendment.

Sen. Prescott, Dist. 23

Sen. Gallus, Dist. 1

January 29, 2004

2004-0257s

04/05

Floor Amendment to HB 258

Amend the title of the bill by replacing it with the following:

AN ACT relative to the regional community-technical college system and relative to the bonding of a Cannon Mountain capital appropriation.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Regional Community-Technical Colleges; Duties. Amend RSA 188-F:4-a by inserting after paragraph V the following new paragraph:

VI. Enter directly into contracts with the community-technical college foundation, without competitive bidding, for services including alumni development, fundraising support, development of scholarship initiatives, and other fundraising-related services.

2 New Paragraph; Hiring Delay; Regional Community-Technical College Positions Exempt. Amend 2003, 319:178, by inserting after paragraph II the following new paragraph:

II-a. Faculty positions, teachers, teachers assistants, teacher aides, and counselors within the regional community-technical college system shall be exempt from the hiring delay imposed in paragraph I.

3 Repeal. RSA 188-F:4-a, VI, relative to contracts with the community-technical college foundation, is repealed.

4 Capital Budget; 2001; Cannon Mountain; Park Fund. Amend 2001, 202:1, XI to read as follows:

XI. Department Of Resources and Economic Development.

A. Statewide Radio System	\$582,200
B. Exterior Repairs, Roofing - Statewide	200,000
C. Road Repairs/Parking Lot Maintenance - Statewide	200,000
D. Cannon Mt. Aerial Tram-Upgrade Drive & Control Sys.	995,000
Less Park Fund *	-995,000
Net state appropriation subparagraph D	0
Total state appropriation paragraph XI	\$982,200

****To provide funds for the appropriation of State Park Funds made in subparagraph D the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$995,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the state park fund established in RSA 216-A:3-i.***

5 Effective Date.

I. Section 3 of this act shall take effect July 1, 2007.

II. The remainder of this act shall take effect upon its passage.

2004-0257s

AMENDED ANALYSIS

This bill amends the duties of the board of trustees of the regional community-technical college system and exempts certain positions within the regional community-technical college system from the hiring delay imposed for the biennium ending June 30, 2005. The bill also provides for the bonding of a 2001 capital appropriation for Cannon Mountain to be paid from the park fund.

Floor amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 331-FN, relative to the offset of workers' compensation lump sum payments against retirement system disability allowances and death benefits. Insurance Committee. Ought to Pass, Vote 3-0. Senator Flanders for the committee.

Senator Sapareto asked if the question was devisable.

The President declared the question is devisable.

Question is on the committee report of ought to pass.

Adopted.

Referred to the Finance Committee (Rule #26).

SB 369, relative to examinations of insurance companies by the insurance department. Insurance Committee. Ought to Pass, Vote 4-0. Senator Martel for the committee.

Adopted.

Ordered to third reading.

SB 402, relative to an optional retirement annuity benefit for members of the Manchester retirement system. Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Martel for the committee.

Insurance
January 21, 2004
2004-0179s
10/05

Amendment to SB 402

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Manchester Retirement System; Optional Retirement Benefit. Amend 1973, 218:12, as amended by 2002, 194:1, by inserting after paragraph V the following new paragraph:

VI. A member may elect, under rules of the board, to receive a retirement benefit of 2 percent of the member's average final earnings for all years of service or any portion thereof, provided that the member shall be responsible for payment of 50 percent of the actuarially determined cost of the benefit. The retirement system shall be responsible for the payment of the remaining 50 percent of the actuarially determined cost of the benefit.

2 Referendum. At the election to be held in the city in September or November, 2004, the city clerk then in office shall cause to be included on the ballot the following statement and question: "A contributory retirement plan for city employees was adopted by the voters of Manchester at the November 1973 election. The plan became effective in January 1974, and now, benefit improvements are requested. Are you in favor of the passage of an act of the General Court of 2004, amending section 12 of the city of Manchester employees contributory retirement system to provide for an optional retirement annuity benefit?" Beneath this statement and question shall be printed the word "Yes" and the word "No" with a square immediately opposite such word in which the voter may indicate his or her choice. If a majority of the voters present and voting on the question shall signify their approval thereof, this act shall be declared adopted effective 90 days after the date of the election, except as otherwise provided within the act. The city clerk shall, within 10 days after said election, certify to the secretary of state the result of the vote on the question.

3 Effective Date. Section 2 of this act, relative to the referendum, shall take effect upon its passage. If the provisions of section 1 of this act shall be adopted as provided in section 2, said provisions shall be declared adopted and shall become effective 90 days after the date of the election.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 423, relative to confidentiality and workers' compensation. Insurance Committee. Ought to pass with amendment, Vote 4-0. Senator Flanders for the committee.

Insurance
January 20, 2004
2004-0160s
01/10

Amendment to SB 423

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 153, adopting the nurse licensure compact. Public Institutions, Health and Human Services Committee. Ought to pass with amendment, Vote 4-1. Senator Martel for the committee.

Public Institutions, Health and Human Services

November 4, 2003

2003-2453s

08/09

Amendment to SB 153

Amend the bill by replacing all after section 3 with the following:

4 Board of Nursing; Powers and Duties. Amend RSA 326-B:4, XIV to read as follows:

XIV. Establish and collect fees, under rules adopted by the board pursuant to RSA 541-A, relative to applicants seeking any type of license issued by the board under this chapter, including fees for applications for temporary licenses, reinstatement of inactive licenses, license by examinations, [and] renewal of licenses, **and multi-state licenses**, as well as fees for verifying license status, program graduation, or computerized lists.

5 New Paragraphs; Board of Nursing; Powers and Duties. Amend RSA 326-B:4 by inserting after paragraph XIV the following new paragraphs:

XV. The board may require a registered nurse or a licensed practical nurse licensed in the state of New Hampshire to obtain a multi-state license if the registered nurse or licensed practical nurse practices in a remote state. The board may charge an additional fee for such a multi-state license.

XVI. The board may, in accordance with state due process laws, limit the multi-state licensure privilege of any registered nurse or licensed practical nurse to practice in New Hampshire and may take any other actions under applicable state laws necessary to protect the health and safety of New Hampshire citizens. If the board does take such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such action taken by the state of New Hampshire.

6 New Paragraphs; Board of Nursing; Duties of Licensees. Amend RSA 326-B:8-a by inserting after paragraph III the following new paragraphs:

IV. A registered nurse or a licensed practical nurse, holding a valid license from a remote state, shall register with the board and shall provide such information as the board shall require prior to the time when that individual is physically present and practicing in New Hampshire. The board may require a criminal background check as part of the registration requirement.

V. A registered nurse or a licensed practical nurse, possessing a valid license from a remote state, shall apply for nurse licensure in New Hampshire as provided for in this chapter when that registered nurse or licensed practical nurse is physically present and practicing in New Hampshire for more than 30 days.

7 Effective Date. This act shall take effect January 1, 2005.

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 431, prohibiting the waiver of workers' compensation subrogation rights. Insurance Committee. Ought to pass with amendment, Vote 4-0. Senator Martel for the committee.

Insurance

January 20, 2004

2004-0164s

01/09

Amendment to SB 431

Amend the title of the bill by replacing it with the following:

AN ACT prohibiting the waiver of workers' compensation subrogation rights and prohibiting certain indemnification provisions in construction-related contracts.

Amend the bill by replacing all after section 1 with the following:

2 New Section; Certain Indemnification Provisions Prohibited. Amend RSA 338-A by inserting after section 1 the following new section:

338-A:2 Indemnification as Part of Contract. Any provision for or in connection with a contract for construction, reconstruction, installation, alteration, remodeling, repair, demolition or maintenance work, including without limitation, excavation, backfilling or grading, on any building or structure, whether underground or above ground, or on any real property, including without limitation any road, bridge, tunnel, sewer, water or other utility line, which requires any party to indemnify any person or entity for injury to persons or damage to property not caused by the party or its employees, agents or subcontractors, shall be void.

3 Applicability. Section 2 of this act shall apply to contracts which take effect on or after the effective date of this act.

4 Effective Date. This act shall take effect upon its passage.

2004-0164s

AMENDED ANALYSIS

This bill prohibits waivers of workers' compensation subrogation rights. The bill also prohibits certain indemnification provisions connected with construction-related contracts.

Question is on the adoption of the committee amendment.

A roll call was requested by Senator Below.

Seconded by Senator Larsen.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Peterson, O'Hearn, Clegg, Gatsas, Barnes, Martel, Sapareto, Morse, Prescott.

The following Senators voted No: Below, Foster, Larsen, D'Allesandro, Estabrook.

Yeas: 17 - Nays: 5

Amendment adopted.

Question is on the adoption of the bill as amended.

Adopted.

Ordered to third reading.

SB 450-FN, relative to pari-mutuel licenses. Ways and Means Committee. Ought to Pass, Vote 3-1. Senator Clegg for the committee.

Senator Morse moved to recommit.

Adopted.

SB 450-FN is recommitted.

NOTICE OF RECONSIDERATION

Senator Flanders served notice of reconsideration on **SB 369**, relative to examinations of insurance companies by the insurance department.

SPECIAL ORDER

Senator Clegg moved that all remaining legislation on today's calendar be special ordered to: Thursday, Feb. 5, 2004.

Adopted.

SPECIAL ORDER

SB 358, relative to incompatibility of municipal offices. Internal Affairs Committee. Ought to Pass, Vote 3-0. Senator Boyce for the committee.

SB 418, relative to voting procedures in the Hanover school district. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator O'Hearn for the committee.

CACR 27, relating to elective franchises. Providing that the right to vote in elections shall be limited to citizens of the United States. Internal Affairs Committee. Ought to Pass, Vote 4-0. Senator Kenney for the committee.

SB 301-FN, relative to liquor licenses. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Clegg for the committee.

SB 327, relative to the scope of the administrative review or hearing following suspension or revocation. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Clegg for the committee.

SB 328, relative to preservation of breath samples. Judiciary Committee. Inexpedient to Legislate, Vote 3-2. Senator Sapareto for the committee.

SB 511-FN, relative to the penalties for rioting. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Foster for the committee.

SB 496, relative to the definition of snow traveling vehicle. Transportation Committee. Ought to pass with amendment, Vote 5-0. Senator Flanders for the committee.

SB 346, relative to prohibiting the operation of snowmobiles on open water. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 5-0. Senator Sapareto for the committee.

SB 372, relative to the definition of necessary shelter for dogs. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

SB 377, relative to damage to land by certain recreational uses. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 5-0. Senator Sapareto for the committee.

SB 399-FN, relative to the sale of animals. Wildlife and Recreation Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

RESOLUTION

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Adopted.

LATE SESSION

Third Reading and Final Passage

SB 61, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school.

SB 153, adopting the nurse licensure compact.

SB 205-FN, authorizing the state to accept the title of the dam and dikes at Smith Pond, Enfield, New Hampshire.

SB 207, relative to transactions exempt from the consumer protection act.

SB 317, relative to registration of pesticide applicators and rules of the pesticide control board.

SB 369, relative to examinations of insurance companies by the insurance department.

SB 402, relative to an optional retirement annuity benefit for members of the Manchester retirement system.

SB 403, relative to the board of medicine.

SB 423, relative to confidentiality and workers' compensation.

SB 431, prohibiting the waiver of workers' compensation subrogation rights and prohibiting certain indemnification provisions in construction-related contracts.

SB 469, relative to licensing of boiler inspectors.

SB 519, establishing a committee to study the establishment of a farm viability program.

HB 258, relative to the community-technical college system.

HB 464-FN, establishing a criminal penalty for facilitating a drug or underage alcohol house party.

ANNOUNCEMENTS

RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of introducing legislation, receiving Messages, and processing Enrolled Bill Reports and Amendments.

Adopted.

In recess to the Call of the Chair.