

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2013

Bill Number: H. 084 Name of Bill: An act relating to the Office of Native American Affairs

Agency/ Dept: ACCD/DEHCD Author of Bill Review: Giovanna Peebles & John Kessler

Date of Bill Review: 3/8/2013 Status of Bill: (check one):

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies ☐ Fiscal

Recommended Position:

☐ Support ☒ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses.

This bill proposes to create the Office of Native American Affairs, with a Director appointed by the Commissioner of DEHCD, to assist Vermont's Native Americans with a variety of legal and human service issues.

2. Is there a need for this bill?

The Agency of Commerce & Community Development (ACCD) cannot address the need for this Office as we do not have sufficient familiarity with issues relating to Native needs for educational training, health and housing, employment, civil rights, and desired benefits or lack thereof, as described in the bill.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

From a fiscal perspective, the bill minimally proposes creating a physical office with all related furnishings, hardware and software; and hiring a Director (typically PG 27).

This bill essentially establishes a human rights commission in the ACCD, with only a Director and no legal staff. The bill would require that the ACCD become an advocacy organization with legal and human services expertise.

The programmatic implications for the ACCD and the DEHCD are thus significant. This Office, even if determined necessary, does not fit this agency's mission. ACCD's mission is to *"help Vermonters improve their quality of life and build strong communities."* The ACCD is a resource organization, providing technical assistance to Vermonters and playing a regulatory role in preserving historic and archeological resources. We do not advocate on behalf of people.

In contrast, most of the duties and responsibilities proposed in this bill are typical of a human services advocacy organization. This bill has the potential for making the ACCD the ombudsman, the grievance shop, for every Vermont Native American individual whose social services benefit gets rejected by a state or federal entity. The ACCD is not Legal Aid; we do not know the law associated with many of these issues. ACCD has no program staff to support any grievances or denials of services.

The DEHCD's current statutory assignment to work with the VT Commission on Native American Affairs (VCNAA) results from the Division for Historic Preservation's expertise in history, historic preservation, and archeology, and its experience in preserving Native American archeological sites and working with Native people in site conservation. The DEHCD's current role with the VCNAA is one of administrative and technical support, not advocacy.

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4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

The Agency of Human Services will have to speak for itself but the above implications likely apply to all departments of the state.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

Unknown.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? The Vermont Commission on Native American Affairs and Vermont's Native American individuals and communities will support this bill since it will provide governmental capacity to help them with the legal and human service needs and issues identified within the bill.

6.2 Who else is likely to oppose the proposal and why?

Unknown. The Attorney General's office and the Human Rights Commission should be given the opportunity to review this bill.

7. Rationale for recommendation: Overall, the bill would transform the nature, mission and role of ACCD in significant ways, turning what is essentially a technical assistance agency into a personal advocacy organization. Understandably, the agency is not presently staffed or equipped to engage in direct advocacy in support or defense of the rights and privileges of individual Native Americans as they pursue them over the resistance or objection of other governmental bodies. ACCD opposes the bill not only because it is not competent in this area of work, but also because the assumption of this workload and the additional staff required to manage it would significantly transform the agency in ways dramatically out of character with its longstanding mission.

8. Specific modifications that would be needed to recommend support of this bill: ACCD understands and supports the intent of the bill, but believes it should be modified to make another office of state government the primary advocate for the interests of Native Americans that it seeks to protect. It would be appropriate to include ACCD in a consultative role concerning tribal recognition and for historical reference as necessary and helpful. No simple re-write is possible, but those are the key modifications needed.

Secretary/Commissioner has reviewed this document: s/ Lawrence Miller Date: March 12, 2013