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H.668

Introduced by Representatives Stevens of Waterbury, Anthony of Barre City,
Bluemle of Burlington, Bos-Lun of Westminster, Brumsted of
Shelburne, Burke of Brattleboro, Burrows of West Windsor,
Christie of Hartford, Cina of Burlington, Coffey of Guilford,
Donahue of Northfield, Killacky of South Burlington, Lippert
of Hinesburg, McCullough of Williston, Mrowicki of Putney,
Notte of Rutland City, Sims of Craftsbury, Sullivan of Dorset,
Toleno of Brattleboro, Troiano of Stannard, White of Bethel,
White of Hartford, and Wood of Waterbury

Referred to Committee on

Date:

Subject: General provisions; Abenaki sacred sites; protection; tax exemption

Statement of purpose of bill as introduced: This bill proposes to promote the
protection of Abenaki sacred sites and to create a property tax exemption for
identified sites.

An act relating to the protection of Abenaki sacred sites

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 1 V.S.A. § 852 is amended to read:

3 § 852. VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS
4 ESTABLISHED; AUTHORITY

5 (a) In order to recognize the historic and cultural contributions of Native
6 Americans to Vermont, to protect and strengthen their heritage, and to address
7 their needs in State policy, programs, and actions, there is hereby established
8 the Vermont Commission on Native American Affairs (~~the "Commission"~~).

9 * * *

10 (c) The Commission shall:

11 * * *

12 (6) assist Native American Indian tribes recognized by the State to:

13 (A) secure assistance for social services, education, employment
14 opportunities, health care, and housing;

15 (B) develop and market Vermont Native American fine and
16 performing arts, craft work, and cultural events; ~~and~~

17 (7) develop policies and programs to benefit Vermont's Native
18 American Indian population within the scope of the Commission's authority;

19 (8) develop a list of and identify to the State sites and locations in
20 Vermont that have cultural, religious, or spiritual significance to Native

1 American Indians or are used by Native American Indians for cultural,
2 religious, or spiritual purposes, or both;

3 (9) pursuant to section 857 of this chapter, consult with the State
4 regarding the culturally appropriate treatment, use, and preservation of
5 identified Native American cultural and sacred sites;

6 (10) make recommendations to the State regarding the acquisition of
7 and facilitation of access to Native American cultural and sacred sites that are:

8 (A) located on private lands; and

9 (B) inaccessible to Native American Indians; and

10 (11) make recommendations to the General Assembly regarding
11 possible legislative actions to encourage private property owners to preserve
12 and protect Native American cultural and sacred sites and to allow Native
13 American Indians access to such sites for cultural, religious, and spiritual
14 activities.

15 ~~(d) During fiscal year 2011, the Commission shall meet at least three times~~
16 ~~a year and at any other times at the request of the Chair and Commission~~
17 ~~members shall receive a per diem pursuant to 32 V.S.A. § 1010. In fiscal year~~
18 ~~2012 and thereafter, the Commission shall meet as needed but members shall~~
19 ~~receive a per diem pursuant to 32 V.S.A. § 1010 ~~no~~ not more than ~~six~~ nine~~
20 ~~times a year. The Division for Historic Preservation within the Agency of~~

1 Commerce and Community Development shall provide administrative support
2 to the Commission, including providing communication and contact resources.

3 * * *

4 (f) Records and documents related to Native American cultural and sacred
5 sites that are listed or identified pursuant to subdivision (c)(8) of this section:

6 (1) shall, except as necessary to carry out the provisions of this section
7 and section 857 of this chapter, be kept confidential by the Commission and
8 the State; and

9 (2) shall not be subject to copying or inspection under the Public
10 Records Act.

11 Sec. 2. 1 V.S.A. § 857 is added to read:

12 § 857. PROTECTION OF CULTURAL AND SACRED SITES

13 (a) It is the policy of the State of Vermont to protect and preserve the
14 inherent right of the members of Vermont's Native American Indian peoples to
15 believe, express, and exercise their traditional beliefs and cultural and religious
16 practices, including through access to Native American cultural and sacred
17 sites; the use and possession of culturally significant or sacred objects and
18 materials, including tobacco; and the freedom to practice traditional
19 ceremonies and rites.

20 (b) To the extent practicable, the State shall:

1 (1) permit Native American Indians to access and use for ceremonial
2 purposes Native American cultural and sacred sites that are located on property
3 owned or leased by the State; and

4 (2) avoid adversely affecting the physical and spiritual integrity of
5 Native American cultural and sacred sites.

6 (c)(1) The State shall consult with the Commission not less than 90 days
7 prior to issuing any permit or otherwise approving any activity that may impact
8 a Native American cultural or sacred site.

9 (2) The consultation with the Commission shall be conducted in a way
10 that is mutually respectful and shall recognize the potential need for
11 confidentiality with respect to the particular Native American cultural and
12 sacred site.

13 (d) Nothing in this section shall be construed to:

14 (1) require a taking of vested property interests; or

15 (2) impair an enforceable right to use State property that the State has
16 granted to a person.

17 (e) The Secretary of Administration shall adopt rules necessary to carry out
18 the provisions of this section.

19 (f) As used in this section, “consult” means to engage in a meaningful and
20 timely process of seeking, discussing, and considering carefully the views of

1 others in a manner that is cognizant of all parties' cultural values and, where
2 feasible, seeking agreement.

3 Sec. 3. 32 V.S.A. § 3802 is amended to read:

4 § 3802. PROPERTY TAX

5 The following property shall be exempt from taxation:

6 * * *

7 (4)(A) Real and personal estate granted, sequestered, or used for public,
8 pious, or charitable uses; real property owned by churches or church societies
9 or conferences and used as parsonages and personal property therein used by
10 ministers engaged in full time work in the care of the churches of their
11 fellowship within the State; real property identified as a Native American
12 cultural or sacred site pursuant to 1 V.S.A. § 852; real and personal estate set
13 apart for library uses and used by the public and private circulating libraries,
14 open to the public and not used for profit; lands leased by towns or town
15 school districts for educational purposes; and lands owned or leased by
16 colleges, academies, or other public schools or leased by towns for the support
17 of the gospel; and lands and buildings owned and used by towns for the
18 support of the poor therein; but private buildings on such lands shall be set in
19 the list to the owners thereof, and shall not be exempt. The exemption of lands
20 owned or leased by colleges, academies, or other public schools shall not apply
21 to lands or buildings rented for general commercial purposes, nor to farming or

1 timberlands owned or leased thereby; but this provision shall not affect the
2 exemption of so-called school or college lands, sequestered to such use prior to
3 January 28, 1911.

4 (B) The Commissioner may consult with the Vermont Commission
5 on Native American Affairs regarding the location of Native American cultural
6 and sacred sites for which an exemption is claimed pursuant to this subdivision
7 (4).

8 * * *

9 Sec. 4. EFFECTIVE DATES

10 (a) This section and Secs. 1 and 2 shall take effect on July 1, 2022.

11 (b) Sec. 3 shall take effect on January 1, 2023 and shall apply to all grand
12 lists lodged after that date.