

JOURNAL OF THE HOUSE.

Monday, January 3, 2005.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. O'Flaherty of Chelsea in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

God of Goodness and Compassion, in these early hours of the new year, we look forward to the opening of a new General Court, the welcoming of newly elected members and the exchange of new legislative proposals and ideas. We pray for Your gift of wisdom and for reasoned, not merely emotional, judgement in evaluating the often complex issues of the moment. In these busy and stressful times, help us to keep our legislative and personal priorities focused and our ideals and values, both human and spiritual, defined. May our philosophical principles and our religious beliefs guide us on our journey through life. Let our hearts and minds be filled with trust in You and in each other today and in the days ahead.

We also keep in our prayers and thoughts the victims and the survivors of the tsunami.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance.

At the request of the Chair (Mr. O'Flaherty), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Resolutions.

Brandon David Souza.

Resolutions (filed with the Clerk by Representatives Rogers of Norwood, Coppola of Foxborough, Kafka of Stoughton and Poirier of North Attleborough) congratulating Brandon David Souza on receiving the Eagle Award of the Boy Scouts of America, were referred, under Rule 85, to the committee on Rules.

Mr. Miceli of Wilmington, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Petrucci of Boston, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

Williamsburg, property tax.

Oak Bluffs.

Bills
Relative to certain property tax assessments in the town of Williamsburg (Senate, No. 1997) (Originally ought NOT to pass, from the committee on Taxation, on .) [Local Approval Received];

Relative to the lease of certain property in the town of Oak Bluffs (Senate, No. 2197) (on a petition) [Local Approval Received];

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Bills

Authorizing the Teachers Retirement System to grant certain creditable service for Mary Donna Nodurf (Senate, No. 1499) (on part of Senate order, No. 2135) [Representative Koczera of New Bedford, for the committee on Public Service, dissenting];

Mary Donna Nodurf, retirement.

Establishing a sick leave bank for Brian Bowman, an employee of the Department of Correction (Senate, No. 2504) (on a petition);

Brian Bowman, sick leave bank.

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

Reports of Committees.

By Mr. O'Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill establishing a sick leave bank for Vanessa Scott Brown, an employee of the Supreme Judicial Court (House, No. 5182). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Vanessa Scott-Brown.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Spellane of Worcester, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to the Thames River Valley (House, No. 5179) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Thames River Valley.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Torrisi of North Andover, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of the same member, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Orders of the Day.

Senate bills

Relative to licensing fees for service dogs (Senate, No. 458); and Relative to the licensure and accreditation of health plans (Senate, No. 2340);

Third reading bills.

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

Third reading bills.

House bills
 Relative to the appointment of retired police officers within the town of Mashpee police department (House, No. 4441);
 Relative to construction of sewer system extensions in the town of Concord (House, No. 4778);
 Relative to the Cherry Valley and Rochdale Water District (House, No. 5106);
 Authorizing the town of Arlington to transfer certain funds (House, No. 5116) (its title having been changed by the committee on Bills in the Third Reading);
 Removing the residency requirement for the town counsel of the town of Arlington (House, No. 5117) (its title having been changed by the committee on Bills in the Third Reading); and
 Authorizing Matthew Conlon to take a civil service examination for the position of police officer notwithstanding the maximum age requirement (House, No. 5143);
 Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Second reading bill.

The Senate Bill authorizing the city of Quincy to establish senior citizen safety zones (Senate, No. 2216) was read a second time; and it was ordered to a third reading.

Recess.

Recess.

At a quarter after eleven o'clock A.M., on motion of Ms. Wolf of Cambridge (Mr. O'Flaherty of Chelsea being in the Chair), the House recessed until a quarter after twelve o'clock P.M.; and at that time the House was called to order with Mr. O'Flaherty in the Chair.

Paper from the Senate.

Swansea, treasurer-collector.

A Bill establishing the office of collector-treasurer in the town of Swansea (Senate, No. 2325) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Subsequently Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mrs. Haddad of Somerset, the bill was read a second time forthwith; and it was ordered to a third reading.

Reports of Committees.

Property owners.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to the taxation of certain disabled and elderly property owners (House, No. 4584) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Torrisi of North Andover, the bill was read a second time forthwith.

Pending the question on ordering the bill to a third reading, Mr. Rogers of Norwood moved that it be amended by substitution of a bill with the same title (House, No. 5187), which was read.

The amendment was adopted; and the substituted bill was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Senate Bill establishing a capital planning committee in the town of Rockland (Senate, No. 2435) be scheduled for consideration by the House. Rockland, capital planning.

Under suspension of Rule 7A, on motion of Ms. Rogeness of Longmeadow, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Senate Bill relative to the town collector of the town of Rockland (Senate, No. 2436) be scheduled for consideration by the House. Rockland, collector.

Under suspension of Rule 7A, on motion of Mr. Nyman of Hanover, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Senate Bill relative to the town administrator of the town of Rockland (Senate, No. 2437) be scheduled for consideration by the House. Rockland, administrator.

Under suspension of Rule 7A, on motion of Mr. Nyman of Hanover, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Senate Bill relative to the finance committee of the town of Rockland (Senate, No. 2438) be scheduled for consideration by the House. Rockland, finance committee.

Under suspension of Rule 7A, on motion of Mr. Nyman of Hanover, the bill was read a second time forthwith; and it was ordered to a third reading.

Orders of the Day.

The Senate Bill relative to the Holyoke Power and Electric Company and the Holyoke Water Power Company (Senate, No. 2509) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence. Third reading bill.

The House Bill relative to the Charter of the town of Harwich (House, No. 5102), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence. H

Absentee
ballots.

The House Bill relative to absentee ballots (House, No. 4207), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Ms. Peisch of Wellesley moved that it be amended by striking out section 1 (as printed) and inserting in place thereof the following section:

“SECTION 2. The first paragraph of section 89 of said chapter 54, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:— An application by a voter admitted to a health care facility or confined to a hospice or home health care after noon on the seventh day preceding the election may be received up until the time the polls close.”; and by striking out section 3 (as printed) and inserting in place thereof the following section:

“SECTION 4. Said section 91B of said chapter 54, as so appearing, is hereby further amended by striking out, in line 21, the words ‘after noon of the fifth’ and inserting in place thereof the following words:— or has been confined to a hospice program as defined in section 57D of chapter 111, or has been receiving home health care commencing after noon of the seventh.”

The amendments were adopted; and the bill (House, No. 4207, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Recess.

Recess.

At ten minutes before two o’clock P.M., on motion of Mr. Torrisi of North Andover (Mr. Petrucci of Boston being in the Chair), the House recessed until two o’clock P.M.; and at that time the House was called to order with Mr. Petrucci in the Chair.

Paper from the Senate.

Municipal
boards,
meetings.

The engrossed Bill further regulating meeting of municipal boards (see Senate, No. 2247), which had been returned to the Senate by His Excellency the Governor, with recommendation of amendment (for message, see Senate, No. 2477), came from said branch with the endorsement that it had adopted said amendment in the following form:

By striking out proposed subsection (a) of section 23D of chapter 39 of the General Laws and inserting in place thereof the following subsection:

“(a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for one or more types of judicial or quasi-judicial hearings, a member of any municipal board, committee or commission when holding a judicial or quasi-judicial hearing shall not be disqualified from voting in the matter solely due to the member’s absence from any session of the hearing at which testimony or other evidence was received, if he member before voting certifies in writing under the penalties of perjury that the member has examined all evidence submitted at the missed session or sessions, including listening to audio recordings or watching video recordings of the missed session or sessions. The written certification shall be a part of the record of the hearing. Nothing in this

section shall change, replace, negate or otherwise supercede otherwise applicable quorum requirements.”

Under suspension of Rule 35, on motion of Mr. Finegold of Andover, the amendment was considered forthwith.

The committee on Bills in the Third Reading reported recommending that the House concur with the Senate in its amendment with a further amendment, striking out subsection (a) (inserted by amendment by the Senate) and inserting in place thereof the following subsection:

“(a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for one or more types of judicial or quasi-judicial hearings, a member of any municipal board, committee or commission when holding a judicial or quasi-judicial hearing shall not be disqualified from voting in the matter solely due to the member’s absence from any session of the hearing at which testimony or other evidence was received, if the member before voting certifies in writing that the member has examined all evidence submitted at the missed session or sessions, including listening to audio recordings or watching video recordings of the missed session or sessions. The written certification shall be a part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supercede otherwise applicable quorum requirements.”

The report was accepted; and the further amendment was adopted.

The House then concurred with the Senate in its amendment, as amended. Sent to the Senate for concurrence in the further amendment.

Reports of Committees.

By Mr. Rogers of Norwood, for the committee on Ways and Means, on House, No. 5186, reports, in part, a Bill making appropriations for the fiscal year 2005 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 5188) [Direct Appropriations: \$3,271,336,000.00]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Supplemental
appropriations.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mrs. Harkins of Needham, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Ms. Wolf of Cambridge, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Engrossed Bills.

The engrossed Bill relative to retirement rights of school committee appointees (see House, No. 3960) (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed

Bill
re-enacted.

to be re-enacted, without amendment; and it was signed by the acting Speaker and sent to the Senate.

Engrossed bills

Bills enacted.

Relative to licensing fees for service dogs (see Senate, No. 458); Relative to crimes against the elders and persons with disabilities (see Senate, No. 1083, amended);

Relative to the licensure and accreditation of health plans (see Senate, No. 2340);

(Which severally originated in the Senate);

Authorizing the city of Pittsfield to prohibit heavy commercial vehicles on certain streets (see House, No. 5118); and

Authorizing the town of Salisbury to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 5161);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Senate bills

Housing.

Relative to the annual report by the Department of Housing and Community Development (Senate, No. 700); and

Public construction.

Further regulating public construction (Senate, No. 2525);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

House bills

Franklin County.

Relative to the Franklin County Regional Housing and Redevelopment Authority (House, No. 4040); and

Rockland.

Validating the actions taken at the annual town meeting and special town meeting of the town of Rockland (printed in House, No. 5101);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Recess.

Recess.

At twenty-five minutes before three o'clock P.M., on motion of Mr. Nyman of Hanover (Mr. Petrucci of Boston being in the Chair), the House recessed subject to the call of the Chair; and at twenty minutes after four o'clock the House was called to order with Mr. Petrucci in the Chair.

Paper from the Senate.

Brockton, solar energy.

The House Bill authorizing the city of Brockton to install, finance and operate solar energy facilities (House, No. 5098) came from the Senate passed to be engrossed, in concurrence, with an amendment

in section 2, in line 19, inserting after the word "bonds" the words "or notes issued in anticipation of such bonds".

Under suspension of Rule 35, on motion of Mr. Nyman of Hanover, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Reports of Committees.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to the impoundment of vehicles following arrests for driving while under the influence (House, No. 320) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Driving under, vehicle impoundment.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Torrisi of North Andover, the bill was read a second time forthwith; and it was ordered to a third reading.

Recess.

At twenty-four minutes after four o'clock P.M., on motion of Mr. Torrisi of North Andover (Mr. Petrucci of Boston being in the Chair), the House recessed subject to the call of the Chair; and at half past five o'clock the House was called to order with Mr. Petrucci in the Chair.

Recess.

Paper from the Senate.

A Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (Senate, No. 2527) (on a part of House bill, No. 4559), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Public safety funds.

Mr. Rogers of Norwood, for said committee, reported that bill ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Toomey of Cambridge, the bill was read a second and (having been reported by the committee on Bills in the Third Reading to be correctly drawn) a third time forthwith; and it was passed to be engrossed, in concurrence, its title having been changed by said committee to read: "An Act extending the period for disbursement of certain funds."

Recess.

At twenty minutes before six o'clock P.M., on motion of Mr. Torrisi of North Andover (Mr. Petrucci of Boston being in the Chair), the House recessed subject to the call of the Chair; and at twenty-five minutes after six o'clock the House was called to order with Mr. Petrucci in the Chair.

Recess.

Reports of Committees.

County lands.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Resolve relative to county lands (House, No. 106) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Stanley of Waltham, the resolve was read a second time forthwith.

The amendment previously recommended by the committee on Rules,— that the resolve be amended by substitution of a resolve with the same title (House, No. 4246),— was rejected.

Mr. Rogers of Norwood then moved that the resolve be amended by substitution of a Bill relative to the Middlesex County Hospital Land Reuse Committee (House, No. 5189), which was read.

The amendment was adopted; and the substituted bill was ordered to a third reading.

Emergency Measures.

Construction, technical changes.

The engrossed Bill further regulating public construction (see Senate, No. 2525), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 8 to 0. Sent to the Senate for concurrence.

Bill enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bridgewater, land.

The engrossed Bill designating certain land in the town of Bridgewater as conservation, agricultural, open space and passive recreational purposes (see House, No. 616), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 8 to 0. Sent to the Senate for concurrence.

Bill enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Recess.

Recess.

At twenty-eight minutes before seven o'clock P.M., on motion of Mr. Rush of Boston (Mr. Petruccelli of Boston being in the Chair), the House recessed subject to the call of the Chair; and at seven minutes before seven o'clock the House was called to order with Mr. Petruccelli in the Chair.

Engrossed Bills.

Engrossed bills

Extending the period for disbursement of certain funds (see Senate, No. 2527) (which originated in the Senate); bills enacted.

Relative to elections in the city of Boston (see House, No. 4844); and

Making appropriations for the fiscal year 2005 to compensate for certain underpayments (see House, No. 5188);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

At a quarter after seven o'clock P.M., on motion of Mr. DiMasi of Boston (Mr. Petruccelli of Boston being in the Chair), the House adjourned.

[Under the provisions of Article X of the Amendments to the Constitution, the 2004 session of the General Court was dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the Governor.]

Attest:

STEVEN T. JAMES,
Clerk.