

JOURNAL OF THE HOUSE.

Tuesday, January 10, 2006.

Met according to adjournment, at eleven o'clock A.M., with Mr. Petrolati of Ludlow 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.

Eternal God, we depend upon You for guidance and direction as we address and evaluate the legislative items on the daily calendar. The current needs and the expectations of the people in our diverse communities are not always similar. Inspire us to comprehend and to analyze accurately the issues which constituents in our communities present to us for our thoughtful consideration. In the legislative process, grant us the patience to be good listeners and objective decision-makers. Teach us to seek and value truth, to respect the dignity of all people and to insist on personal responsibility for personal decisions. May we continue to work together, in building a civil, peaceful, responsive and responsible society.

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. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Statement Concerning Representative Fresolo of Worcester.

A statement of Mr. Binienda of Worcester concerning Mr. Fresolo of Worcester was spread upon the records of the House, as follows:

Statement concerning Representative Fresolo of Worcester.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Fresolo of Worcester, will not be present in the House Chamber for today's sitting due to recovering from a recent surgical procedure. Any roll calls that he may miss today or for the next several days will be due entirely to the reason stated.

Statement Concerning Representative Kennedy of Brockton.

A statement of Mr. Rogers of Norwood concerning Mr. Kennedy of Brockton was spread upon the records of the House, as follows:

Statement concerning Representative Kennedy of Brockton.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kennedy of Brockton, was not present in the House Chamber for today's sitting due to his continued hospitalization. Had he been present for the taking of ye and nay number 318, on passing to be engrossed, in concurrence, the Senate Bill reducing gang violence (Senate, No. 2242, amended). Any roll calls that he may have missed today is due entirely to the reason stated.

Statement Concerning Representative Naughton of Clinton.

A statement of Mr. Rogers of Norwood concerning Mr. Naughton of Clinton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Naughton of Clinton, will not be present in the House Chamber for today's sitting because he is serving on active duty in Iraq. Any roll calls that he may miss today or for the next several weeks will be due entirely to the reason stated.

Statement concerning Representative Naughton of Clinton.

Guest of the House.

During the session, the Speaker declared a brief recess and turned the Gavel over to Representative Bradley of Hingham, who introduced Petty Officer First Class Keith Jermyn of Hingham. Petty Officer Jermyn, who has served for eleven years in the United States Navy, served on active duty from 1985 to 1991, inclusive, having served in Iraq in 1991 and just having completed a one year deployment in Iraq and Kuwait in Operation Iraqi Freedom. He came to the State House to return a Commonwealth of Massachusetts Flag that flew at the various bases that he was stationed at overseas. Petty Officer Jermyn, who was the guest of Representative Bradley of Hingham and Senator Hedlund, then addressed the House briefly.

Petty Officer Keith Jermyn.

Papers from the Senate.

A Bill relative to the historic Lucious Crain Tavern in the town of Hadley (Senate, No. 2127) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Hadley, Lucious Crain Tavern.

A Bill further regulating the Barnstable County Septic Loan Program (Senate, No. 2247, changed in line 1, by inserting before the word "Upon" the following:

Barnstable County, septic.

"Chapter 381 of the Acts of 2004 is hereby amended by striking out Section 1 and inserting in place thereof the following section:—

Section 1." (as changed by the Senate committee on Bills in the Third Reading) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Reports

Of the Senate committee on Ways and Means, asking to be discharged from further consideration Of the Senate Bill Relative to a board of registration in midwifery (Senate, No. 1269); and

Midwifery, board.

Of the Senate Bill Relative to the modernization of optometric patient care (Senate, No. 1277);

Optometric patient care.

And recommending that the same severally be referred to the committee on Health Care Financing.

Severally accepted by the Senate, were considered forthwith, under Rule 42; and they were accepted, in concurrence, insomuch as relates to the reference.

Orders of the Day.

Senate bills

Relative to the reporting of fires in schools (Senate, No. 1381);

Designating a certain bridge in the town of Falmouth the Raleigh D. Costa memorial bridge (Senate, No. 1935);

Designating a certain bridge in the town of Carver as the SFC Robert Rooney bridge (Senate, No. 1944);

Authorizing the town of Auburn to convey a certain parcel of land (Senate, No. 2162);

Relative to elevator license examinations (Senate, No. 2216, amended);

To provide remedies to consumers for clearing title after payoff of mortgages (Senate, No. 2278, amended); and

Authorizing the town of Milton to grant a license for the sale of all alcoholic beverages to be drunk on the premises of a certain restaurant (Senate, No. 2324); and

House bills

Relative to sick leave banks (House, No. 271);

Relative to state police bargaining (House, No. 366);

Relative to the rights of school nurses (House, No. 1087);

Relative to the Environmental Trust (House, No. 1283);

Relative to the standard fire insurance policy (House, No. 1552);

Relative to fire insurance (House, No. 1553);

Relative to bicycle safety (House, No. 1867);

Relative to bullet-proof vests (House, No. 1920);

Relative to the license of school bus operators (House, No. 2025);

Regulating the use of recording devices in motor vehicles (House, No. 2092);

Prohibiting driving under the influence while operating snowmobiles, all terrain vehicles, and other recreational vehicles (House, No. 2241);

Relative to discourage fraud (House, No. 3013);

Further regulating annual meetings of condominiums (House, No. 3159);

Relative to information sharing (House, No. 3503);

Authorizing the town of Brookline to establish a public safety injured on duty medical expenses trust fund (House, No. 4122);

Authorizing the town of Franklin to establish a post employment health insurance trust fund (House, No. 4150);

Authorizing the town of Shrewsbury to lease certain land (House, No. 4205);

Exempting the school custodian in the town of Hull from the civil service law (House, No. 4208);

To remove all secretarial staff in the school system of the town of Arlington from the provisions of Chapter 31 of the General Laws, the civil service law (House, No. 4273);

Exempting the position of superintendent of streets of the town of Hull from civil service law (House, No. 4309);

Relative to the release of a conservation restriction in the town of Bedford (House, No. 4317);

Relative to the appointment of retired police officers as special police officers in the town of Millis (House, No. 4318);

Second
reading
bills.

To designate Mitochondrial Disease Awareness Week (House, No. 4358);

Authorizing the town of Sudbury to establish a post employment health insurance liability fund (House, No. 4391);

Relative to the charter of the town of Westborough (House, No. 4392);

Establishing a department of public facilities in the city of Malden (House, No. 4458);

Relative to the treatment of waste water in the town of Westborough (House, No. 4484);

Relative to the treatment of waste water in the town of Shrewsbury (House, No. 4485);

Relative to the historic district commission of the town of Provincetown (House, No. 4501);

Establishing a town administrator in the town of Hanson (House, No. 4524);

Relative to the sewer commission of the town of Kingston (House, No. 4528);

Relative to the charging of a fee for records in the town of Burlington clerk's office (House, No. 4549);

Relative to the improvement of amusement park safety (House, No. 4550);

Protecting the rights of target shooters (House, No. 4552);

Authorizing the town of Westborough to grant an additional license for the sale of wine and malt beverages not to be drunk on the premises (House, No. 4559); and

Relative to the appointment of Matthew A. Kraunelis to the position of chief of staff to the mayor of the city of Methuen (House, No. 4580);

Severally were read a second time; and they were ordered to a third reading.

House reports

Of the committee on Election Laws, ought NOT to pass, on the petition (accompanied by bill, House, No. 56) of Robert K. Coughlin and others for legislation to require voters to furnish identification; House reports.

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 59) of Scott P. Brown and others relative to the selection of presidential electors;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 77) of Anne M. Paulsen and others relative to nomination requirements for statewide offices and presidential electors;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 112) of Colleen M. Garry relative to the identification requirements for voters;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 121) of Bruce E. Tarr and Emile J. Goguen relative to the selection of presidential electors in the Commonwealth;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 132) of Geoffrey D. Hall and

House
reports.

others for legislation to require proper identification to election officers prior to voting; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3884) of Allison Stoddart for legislation to apportion presidential electors by Congressional district; and

Of the committee on Transportation, ought NOT to pass, on the petition (accompanied by bill, House, No. 1971) of Philip Travis relative to school bus safety;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1975) of Philip Travis relative to independent investigators of motor vehicle accidents involving police officers;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1977) of Philip Travis relative to motor vehicle accidents involving public employees;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1983) of Demetrius J. Atsalis that cities and towns be prohibited from adopting rules or regulations banning the use of motorcycles on public ways;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1987) of Demetrius J. Atsalis for legislation to further regulate the wearing of helmets for passengers and operators of motorcycles;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1988) of Demetrius J. Atsalis for legislation to regulate the use of protective headgear for persons riding on motorcycles;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2018) of Anne M. Gobi and Robert L. Hedlund relative to protective headgear while operating or riding as a passenger on a motorcycle;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2026) of John J. Binienda and others relative to the fee for flashing light permits to volunteer firefighters, police or emergency medical technicians;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2036) of Ellen Story and others relative to the requirements for flashing red signal lamps on school buses;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2056) of John Walsh relative to equipment required on vehicles operated by law enforcement officials and certain other agencies;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2068) of J. James Marzilli, Jr. that the Registry of Motor vehicles be directed to implement an electronic process regulating suspended or revoked motor vehicle licenses;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2131) of Timothy J. Toomey, Jr. and others for legislation to allow motor vehicles to be immobilized to reduce incidence of drunk driving;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2170) of Colleen M. Garry for legislation to allow motor vehicles to be immobilized to reduce incidence of drunk driving;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2204) of Steven M. Walsh for legislation to require monitors on school buses;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2228) of David Paul Linsky and others relative to motor vehicle infractions on public ways marked as construction zones;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2230) of Stephen Kulik for legislation to further define the term “snow vehicle”; and

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3338) of Paul C. Casey and others relative to the operation of hybrid vehicles on certain highways of the Commonwealth;

Severally were accepted.

Recess.

At twenty-nine minutes before twelve o'clock noon, on motion of Mr. Donato of Medford (Mr. Petrolati of Ludlow being in the Chair), the House recessed until the hour of twelve o'clock noon; and at twenty-seven minutes before one o'clock P.M. the House was called to order with the Speaker in the Chair.

Recess.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the town of Groton to lease or otherwise transfer a portion of the Groton town forest to the West Groton Water Supply District (see House, No. 4523, changed) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Groton,
land
lease.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 149 members voted in the affirmative and 0 in the negative.

Bill enacted
(land taking),
yea and nay
No. 315.

[See Yea and Nay No. 315 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Orders of the Day.

The Order relative to special procedures for consideration of the House Bill relative to in-state tuition rates and fees at public higher education institutions [House, No. 1230] (House, No. 4616), was considered, under suspension of the Rules, on motion of Mr. Scaccia of Boston.

In-state
tuition,
procedures.

After debate on the question on adoption of the order, Mr. Jones of North Reading and other members of the House moved that it be amended in the last paragraph, by striking out the words “provisions of the special rules of”.

After debate the amendment was adopted.

On the question on adoption of the order, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 130 members voted in the affirmative and 22 in the negative.

[See Ye and Nay No. 316 in Supplement.]

Therefore the order (House, No. 4616, amended) was adopted.

The Senate Bill to reduce gang violence (Senate, No. 2242, amended) was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4615,— was adopted.

The bill (Senate, No. 2242, amended) then was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Scaccia of Boston, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time, its title having been changed by said committee to read: “An Act reducing gang violence.”.

After debate on the question on passing the bill, as amended, to be engrossed, in concurrence (Mr. Scaccia of Boston being in the Chair), Mr. Cabral of New Bedford moved that it be amended by adding at the end thereof the following section:

“SECTION 12. Chapter 233, section 5 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following paragraph:-

Where the defendant is accused of a violent crime as defined in section 121 of chapter 140 that is a result of gang-related activity, the punishment for such failure to attend shall be by a fine of not more than ten thousand dollars or by imprisonment for not more than one year or both.”.

After remarks the amendment was adopted.

The Speaker having returned to the Chair,—

Mr. Jones of North Reading and other members of the House then moved that the bill be amended in section 1, in line 45, by striking out the words “majority vote” in inserting in place thereof the words “a vote of two or more board members”; and the amendment was adopted.

Mr. Jones and other members of the House then moved that the bill be amended in section 1, by adding at the end thereof the following two paragraphs:

“Section 12. Records of the board and all records relating to petitions and filed with the board shall be confidential and exempt from the provisions of section 10 of chapter 66. A prosecuting officer may disclose or refuse to disclose the identity or location of a protected witness, or any other matter concerning the protected witness or the program, after balancing the danger such disclosure would

pose to the protected witness, the detriment it would cause to the general effectiveness of the program, and the benefit it would afford to the public or the person seeking discovery; except that prosecuting officer shall, upon the request of federal, state, or local law enforcement officials, or pursuant to a court order, disclose to such officials the identity, location and criminal records relating the the protected witness when the prosecuting officer knows or the request from said officials indicates that the protected witness is under criminal investigation for or has been arrested for or charged with a felony.

Any person who, without the express written authorization of the prosecuting officer, knowingly discloses any information received from the prosecuting officer of generated in connection with witness protection services shall be punished by imprisonment in jail or the house of correction for not more than two and one-half years, or by fine of not more than \$5,000, or both such fine and imprisonment.”.

The amendment was adopted.

Mr. DeLeo of Winthrop then moved that the bill be amended in section 1, in line 34, by inserting after the word “board.” the following paragraph:

“The total amount of such reimbursements for witness protection related costs shall not exceed \$750,000 during any fiscal year. In the event that the costs of said program exceed \$750,000 during any fiscal year, then said excess costs shall be paid by the prosecuting office out of special law enforcement trust funds established pursuant to section 47 of chapter 94C of the General Laws.”.

The amendment was adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, Mr. Rushing of Boston moved that it be amended in section 1, in line 14, by striking out the word “commonwealth’s” and inserting in place thereof the word “court’s”. The amendment was adopted.

Mr. Travis of Rehoboth then moved that the bill be amended by striking out section 10 (as printed). After remarks the amendment was rejected.

Pending the question on passing the bill, as amended, to be engrossed, in concurrence, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in attendance.

[See Ye and Nay No. 317 in Supplement.]

Therefore a quorum was present.

After debate on the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Canessa of Lakeville; and on the roll call 151 members voted in the affirmative and 2 in the negative.

[See Ye and Nay No. 318 in Supplement.]

Therefore the bill, as amended, was passed to be engrossed, in concurrence. The bill (Senate, No. 2242, amended) then was sent to the Senate for concurrence in the amendments.

Order adopted, ye and nay No. 316.

Gang violence.

Quorum.

Quorum, ye and nay No. 317.

Bill passed to be engrossed, ye and nay No. 318.

North Shore
School
District.

The Senate Bill relative to the Essex North Shore Agricultural and Technical School District (Senate, No. 2317) (its title having been changed by the committee on Bills in the Third Reading), was read a third time.

Said committee reported recommending that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4624; and the report was accepted.

The amendment was adopted; and the bill, as amended, was passed to be engrossed, in concurrence. The bill (Senate, No. 2317, amended) then was sent to the Senate for concurrence in the amendment.

Order.

On motion of Mr. Rogers of Norwood,—

Next
sitting.

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o'clock A.M.

Mr. Rogers then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at fourteen minutes after three o'clock P.M. (the Speaker being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.