

## JOURNAL OF THE HOUSE.

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Wednesday, January 14, 2004.

Met according to adjournment, at ten o'clock A.M., with Mr. DiMasi of Boston 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:

Gracious God, You, Your guidance and assistance are necessary for us in sorting out and in evaluating the many complex legislative issues and public policy innovations which we face in this nation's diverse society. Inspire us to be fair, objective, honest and skillful in gathering pertinent data as we try to make our communities civil, peaceful and stable and aware of other people's daily needs. This weekend we will observe the seventy-fifth birthday of Reverend Martin Luther King, Jr., clergyman, civil rights pioneer and Nobel Prize winner. The religious teachings, the wisdom and the courage of Dr. King have made us conscious of the civil, human and religious rights and dignity of all people. May his lifelong struggle for equality, justice and dignity for all be an integral part of our culture today.

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

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

### *Message from the Governor.*

A message from His Excellency the Governor recommending legislation relative to making technical corrections to the Medical Security Trust Fund (House, No. 4433) was filed this day in the office of the Clerk.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Ways and Means.

### *Statement Concerning Representative Coppola of Foxborough.*

A statement of Mr. Jones of North Reading concerning Mr. Coppola of Foxborough 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 Coppola of Foxborough, was unable to be present in the House Chamber for yesterday's and today's sittings due to illness. Any roll calls that he missed on those days was due entirely to the reason stated.

### *Statement Concerning Representative Turkington of Falmouth.*

A statement of Mr. DiMasi of Boston concerning Mr. Turkington of Falmouth was spread upon the records of the House, as follows:

Statement concerning Representative Turkington of Falmouth.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Turkington of Falmouth, will not be present in the House Chamber for today's sitting due to a family illness. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement of Representative Verga of Gloucester.

A statement of Mr. Verga of Gloucester was spread upon the records of the House, as follows:

Statement of Representative Verga of Gloucester.

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for a portion of yesterday's sitting due to my attending the funeral of a close personal friend. Any roll calls that I may have missed yesterday was due entirely to the reason stated.

Resolutions.

Charles Chambers.

Resolutions (filed with the Clerk by Mr. Connolly of Everett) congratulating Charles Chambers on the occasion of his eightieth birthday, were referred, under Rule 85, to the committee on Rules.

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

Petition.

Sheila Mahan, sick leave bank.

Mr. O'Flaherty of Chelsea presented a petition (subject to Joint Rule 12) of Eugene L. O'Flaherty relative to the establishment of a sick leave bank for Sheila Mahan, an employee of the Trial Court of the Commonwealth; and the same was referred, under Rule 24, to the committee on Rules.

Reports of Committees.

Kayaks, safety devices.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Arthur Aronoff, Louis Jagoda and Shirley Gomes and other members of the General Court for legislation to require persons travelling in a kayak to wear a life jacket and be equipped with a compass and whistle. Under suspension of the rules, on motion of Mr. Flynn of Bridgewater, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Safety. Sent to the Senate for concurrence.

Orders of the Day.

House bills

Third reading bills.

Authorizing the town of Bridgewater to issue an additional license for the sale of all alcoholic beverages not to be drunk on the premises (printed as Senate, No. 2016) (its title having been changed by the committee on Bills in the Third Reading);

Relative to the Dighton Water District (House, No. 387); Establishing a sick leave bank for Luella Erwin an employee of the Trial Court (House, No. 1528);

Relative to authorizing the modification of the form of property tax billing in the town of Belmont (House, No. 3981);

Relative to the payment obligations of the city of Brockton under a water supply contract (House, No. 4314) (its title having been changed by the committee on Bills in the Third Reading); and

Providing for cigarette escrow compliance (House, No. 4327) (its title having been changed by the committee on Bills in the Third Reading);

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

The House Bill relative to public charities (House, No. 4234) was read a second time; and it was ordered to a third reading.

Second reading bill.

At a quarter before eleven o'clock A.M., on motion of Mr. Flynn of Bridgewater (Mr. DiMasi of Boston being in the Chair), the House recessed until five minutes after eleven o'clock; and at twenty minutes after eleven o'clock the House was called to order with Mr. DiMasi in the Chair.

Recess.

The House Bill relative to property tax classification in cities and towns (House, No. 4430) was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Casey of Winchester and other members of the House moved that it be amended in section 1 by striking out the last sentence contained therein; and by adding at the end thereof the following 3 sections:

"SECTION 2. The second paragraph of Section 1A of chapter 58 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following:— If adoption of said minimum residential factor would result in the residential property class bearing a higher percentage of the total property tax levy than the percentage of the total property tax levy imposed on the residential property class in the prior year, or if the adoption of said minimum residential factor would result in the residential property class bearing a higher percentage of the total property tax levy than the percentage of the total property tax levy imposed on the residential property class in the year prior to the year in which the minimum residential factor was first adopted, he shall determine a new minimum residential factor which shall be fifty per cent subject to an upward adjustment as may be required: a) to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed [A] 170 per cent of the full and fair cash valuation of all taxable real and personal property in the city or town, or b) to provide that the adoption of said minimum residential factor shall not result in the residential property class bearing a lower percentage of the

Cities and towns, tax classification.

Cities  
and towns,  
tax  
classification.

total property tax levy than the lowest percentage of the total property tax levy imposed on the residential property class in the years since he first certified that the locally assessed values represented the full and fair cash value.

SECTION 3. The provisions of section 6 of this act shall apply to fiscal years beginning on or after July 1, 2008.

SECTION 4. This act shall not be repealed except upon two-thirds vote of each branch of the general court together with the approval of the governor.”

The amendments were adopted; and the bill (House, No. 4330, amended) was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Casey, the bill (having been 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, Mr. Stanley of Waltham moved that it be amended in section 2 (inserted by amendment) by striking out [at “A”] the figures “170” and inserting in place thereof the figures “175”.

After debate the amendment was rejected.

After remarks on the question on passing the bill, as amended, to be engrossed, Mr. Jones of North Reading and other members of the House moved that it be amended by adding at the end thereof the following section:—

SECTION 3. The department of revenue and such other organizations as the department deems necessary to complete its charge, is hereby directed to study the current property tax classification system and to determine sustainable and equitable methods for addressing the current and any future divergence in residential and commercial and industrial property values that result in an abrupt shift of the tax levy onto one class of property taxpayers. The department shall examine ways to provide temporary tax relief to residential ratepayers unable to pay the tax increases resulting from said shifts in the property tax burden, including increasing the residential exemption for people of limited financial means, allowing abatements for the elderly or others who can prove through income tax returns or other documents they do not have the financial resources to pay the tax increases, increasing the income tax deduction for renters, extending the period allowed for payment of property taxes, and other methods of providing targeted tax relief on a temporary basis.

To assist the department, all municipalities with a split rate shall provide the department with the following information on a fiscal year basis: the total tax levy of the city or town, the percentage of the total tax levy of each of the classes of property by valuation and dollar amount, the tax rate on each of the classes of property, the number of outstanding tax delinquencies by property class and the dollar amount of those delinquencies, any and all agreements relative to payments in lieu of taxes, any and all agreements pursuant to chapter 121A of the general laws, any and all tax relief programs offered by the city or town, the efforts used to promote them, the standards for participation, the processes for applying and the number of individuals that applied and the number that were actually accepted into the tax relief program and such other information

as the department deems necessary to determine if further changes to the cap are necessary and appropriate.

The department shall report its findings and any recommendations for legislation to the joint committee on taxation and the clerks of the House of Representatives and the Senate not later than December 1, 2004.”

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 153 members voted in the affirmative and 0 in the negative.

**[See Ye and Nay No. 489 in Supplement.]**

Therefore the amendment was adopted.

Mrs. Walrath of Stow and other members of the House then moved that the bill be amended by adding at the end thereof the following 5 sections:

“SECTION 4. Section 2A of chapter 59 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding at the end of the definition of ‘Class two, open space’ the following words:— or land which is used for agricultural purposes.

SECTION 5. Said section 2A of said chapter 59, as so appearing, is hereby further amended by striking out, in line 43, the word ‘agricultural’.

SECTION 6. Section 4 of chapter 61A of the General Laws, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:—

The rate of tax applicable to such agricultural or horticultural land shall be the rate determined to be applicable to class two, open space under chapter 59.

SECTION 7. Section 13 of said chapter 61A of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word ‘four’ and inserting in place thereof the following figure:— 9.

SECTION 8. Said section 13 of chapter 61A of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the word ‘five’ and inserting in place thereof the following figure:— 10.

Section 4 of chapter 61A of the General Laws, as so appearing, is hereby amended by striking out in line 20, the word ‘three’ and inserting in place thereof the word:— two.”

The amendment was adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 111 members voted in the affirmative and 42 in the negative.

**[See Ye and Nay No. 490 in Supplement.]**

Therefore the bill (House, No. 4434, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Item 0330-0300 (contained in section 2) of the engrossed Bill making appropriations for fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which had been returned by His Excellency the Governor with a reduction (for message, see House, No. 4365), was considered.

Amendment  
adopted,  
yea and nay  
No. 489.

Bill passed to  
be engrossed,  
yea and nay  
No. 490.

Supplemental  
appropriations,  
Trial Court  
administration.

Pending the question on passing said item, notwithstanding the reduction of His Excellency the Governor, Mr. Peterson of Grafton moved that further consideration thereof be postponed until Monday, February 2.

After remarks on the motion to postpone, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 23 members voted in the affirmative and 128 in the negative.

**[See Yea and Nay No. 491 in Supplement.]**

Therefore the motion to postpone was negated.

On the question on passing said item, notwithstanding the reduction of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 132 members voted in the affirmative and 20 in the negative.

**[See Yea and Nay No. 492 in Supplement.]**

Therefore item 0330-0300 was passed, notwithstanding the reduction of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7100-0200 (contained in section 2) of the engrossed Bill making appropriations for fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which had returned by His Excellency the Governor with his objections thereto in writing (for message, see House, No. 4365), was considered.

Pending the question on passing said item, notwithstanding the objections of His Excellency the Governor, Mr. Peterson of Grafton moved that further consideration thereof be postponed until Monday, February 2.

After debate on the motion to postpone, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 22 members voted in the affirmative and 129 in the negative.

**[See Yea and Nay No. 493 in Supplement.]**

Therefore the motion to postpone was negated.

After debate on the question on passing said item, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 143 members voted in the affirmative and 10 in the negative.

**[See Yea and Nay No. 494 in Supplement.]**

Therefore item 7100-0200 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7007-1300 (contained in section 2) of the engrossed Bill making appropriations for fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which had returned by His

Excellency the Governor with a reduction (for message, see House, No. 4365), was considered.

Pending the question on passing said item, notwithstanding the reduction of His Excellency the Governor, Mr. Peterson of Grafton moved that further consideration thereof be postponed until Tuesday, February 3.

After remarks the motion to postpone was negated.

On the question on passing said item, notwithstanding the reduction of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 118 members voted in the affirmative and 34 in the negative.

**[See Yea and Nay No. 495 in Supplement.]**

Therefore item 7007-1300 was passed, notwithstanding the reduction of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 4513-1000 (contained in section 2) of the engrossed Bill making appropriations for fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), which had returned by His Excellency the Governor with a reduction (for message, see House, No. 4365), was considered.

Pending the question on passing said item, notwithstanding the reduction of His Excellency the Governor, Mr. Peterson of Grafton moved that further consideration thereof be postponed until Tuesday, February 3.

After debate on the motion to postpone, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 22 members voted in the affirmative and 131 in the negative.

**[See Yea and Nay No. 496 in Supplement.]**

Therefore the motion to postpone was negated.

On the question on passing said item, notwithstanding the reduction of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 144 members voted in the affirmative and 8 in the negative.

**[See Yea and Nay No. 497 in Supplement.]**

Therefore item 4513-1000 was passed, notwithstanding the reduction of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 60 contained in the engrossed Bill relative to investments in emerging technologies to promote job creation, economic stability and competitiveness in the Massachusetts economy (see House, No. 4328), which had returned by His Excellency the Governor with his objections thereto in writing (for message, see House, No. 4366), was considered.

Motion to postpone negated, yea and nay No. 491.

Supplemental appropriations item 0330-0300 stands, yea and nay No. 492.

Supplemental appropriations, UMass operations.

Motion to postpone negated, yea and nay No. 493.

Supplemental appropriations item 7100-0200 stands, yea and nay No. 494.

Supplemental appropriations, International Trade

Council.

Supplemental appropriations item 7007-1300 stands, yea and nay No. 495.

Supplemental appropriations, crisis and family planning.

Motion to postpone negated, yea and nay No. 496.

Supplemental appropriations item 4513-1000 stands, yea and nay No. 497.

Emerging technologies, International Tourism Fund.

Pending the question on passing said section, notwithstanding the objections of His Excellency the Governor, Mr. Peterson of Grafton moved that further consideration thereof be postponed until Wednesday, February 4.

After debate the motion to postpone was negatived.

On the question on passing said section, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 121 members voted in the affirmative and 33 in the negative.

**[See Yea and Nay No. 498 in Supplement.]**

Therefore section 60 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

*Report of a Committee.*

Mr. Rogers of Norwood, for the same committee, on a message from His Excellency the Governor (for message, see House, No. 4365), returning with His disapproval of certain items and sections and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), reported, in part, that section 135 stand (as passed by the General Court) as follows:

“SECTION 135. (a) On or before December 15, 2003, the secretary of the executive office of health and human services shall report to the house and senate committees on ways and means on projected enrollment and expenditures under section 682 of chapter 26 of the acts of 2003. If the secretary reports that expenditures will be less than \$160,000,000 then, on January 1, 2004, notwithstanding subsection (3) of section 16D of chapter 118E of the General Laws or any other general or special law to the contrary, a person who is not a citizen of the United States but who is either a qualified alien within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or is otherwise permanently residing in the United States under color of law shall be eligible to receive benefits under the MassHealth Essential program if such individual meets the categorical and financial eligibility requirements for the program of preventive and primary care for chronically unemployed persons established pursuant to said section 682 of said chapter 26, provided that the individual is either age 65 or older or age 19 to 64 and disabled; provided, however, that enrollment of said non-citizens may be limited by the division of medical assistance so as not to exceed the amount made available; and provided further, that the division shall have determined that there is adequate funding to enroll 36,000 long term unemployed individuals under said section 682 and to also enroll said non-citizens under this section.

(b) The secretary shall notify those elderly and disabled non-citizens who have been denied or terminated from nonemergency

MassHealth that they are eligible to apply for Prescription Advantage during the next given enrollment period.

(c) On January 1, 2004, the secretary shall report to the house and senate committees on ways and means on additional costs to the Uncompensated Care Pool and to emergency MassHealth due to the elimination of non-emergency MassHealth coverage to certain non-citizens pursuant to section 322 of said chapter 26.”

Under suspension of the rules, on motion of Mr. Rogers of Norwood, said section was considered forthwith.

On the question on passing said section, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 112 members voted in the affirmative and 41 in the negative.

**[See Yea and Nay No. 499 in Supplement.]**

Therefore section 135 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

*Order.*

On motion of Mr. Finneran of Boston,—

*Ordered,* That when the House adjourns today, it adjourn to meet tomorrow at a quarter after six o'clock P.M.; and that, notwithstanding the provisions of House Rule 12, the Clerk be authorized to dispense with the printing of a Calendar for said sitting.

Mrs. Harkins of Needham 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 twenty-five minutes after two o'clock P.M. (Mr. DiMasi of Boston being in the Chair) the House adjourned, to meet tomorrow at a quarter after six o'clock P.M.

[P.S. There being no objection,— Within five minutes of adjournment of the sitting, the House was briefly called to order with Mr. DiMasi in the Chair, for the purpose of recording the vote of a member on the previous roll call, under the provisions of Rule 52.]

Emerging technologies section 60 stands, yea and nay No. 498.

Supplemental appropriations, MassHealth immigrant eligibility.

Emerging technologies section 135 stands, yea and nay No. 499.

Next sitting and printing of Calendar.