

JOURNAL OF THE HOUSE.

Wednesday, January 23, 2013.

Met according to adjournment, at twelve o'clock noon, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

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

Statement Concerning Representative Wagner of Chicopee.

A statement of Mr. Mariano of Quincy concerning Mr. Wagner of Chicopee 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 Wagner of Chicopee, is unable to be present in the House Chamber for today's sitting due to a family medical matter. His missing of roll calls today is due entirely to the reason stated. Statement concerning Mr. Wagner of Chicopee.

Guests of the House.

During consideration of the Orders of the Day, the Chair (Mr. Mariano of Quincy) declared a brief recess and introduced the Beverly High School Varsity Football Team, winners of the Division 2A Super Bowl. Mr. Mariano then turned the gavel over to Representative Parisella of Beverly who read and presented to the team resolutions of the House (adopted at a previous sitting) congratulating them on their championship season. They were the guests of Mr. Parisella. Beverly High School Varsity Football Team.

Recess.

At eighteen minutes after twelve o'clock noon, on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at six minutes after one o'clock, the House was called to order by Mr. Donato. Recess.

Orders of the Day.

Mr. Mariano of Quincy being the Chair,—

The House Order relative to the adoption of permanent Joint Rules for the years 2013 and 2014 (House, No. 2015), was considered. Joint Rules.

Pending the question on adoption of the order, Mr. Diehl of Whitman moved to amend it in proposed Rule 11B, in line 500, by inserting after the word "public" the word "online"; and, in line 501, by striking out the figure "8" and inserting in place thereof the figure "1".

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 29 members voted in the affirmative and 125 in the negative. Amendments rejected,—yea and nay No. 1.

[See Yea and Nay No. 1 in Supplement.]

Therefore the amendments were rejected.

Joint
Rules.

Mr. Jones of North Reading then moved to amend the order by adding the following rule:

“36. No appropriation shall be made from the Commonwealth Stabilization Fund, as set forth in section 2H of chapter 29 of the General Laws, unless approved by two-thirds of the members in both branches voting thereon. This rule shall not be suspended except by unanimous consent.”.

Amendment
rejected,—
yea and nay
No. 2.

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. Peterson of Grafton; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 2 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading then moved to amend the order in proposed Rule 4, in line 306, by inserting after the word “hours.” the following sentence: “Such roll calls shall be posted on the Legislative Web Page by the Clerks of the two branches.”.

Amendment
rejected,—
yea and nay
No. 3.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 3 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading then moved to amend the order in proposed Rule 10, in line 441, by inserting after the word “Court.” the following sentence: “Notwithstanding the previous sentence, all joint committees shall make final report on all petitions filed or approved by the voters of a city or town, or the mayor and city council, or other legislative body of a city, or the town meeting of a town, with respect to a law relating to that city or town, within 45 days of receiving them.”.

Amendment
rejected,—
yea and nay
No. 4.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Hill of Ipswich; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 4 in Supplement.]

Therefore the amendment was rejected.

Mr. D’Emilia of Bridgewater then moved to amend the order by adding the following rule:

“36. Not later than March 15th of each year the house and senate shall approve a joint resolution declaring the minimum amount of aid to be distributed to the cities and towns of the commonwealth in the upcoming fiscal year. Said resolution shall declare the minimum amount of chapter 70 aid, so called, and unrestricted general government aid to be received by each city, town or school district.”.

Amendment
rejected,—
yea and nay
No. 5.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 5 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading then moved to amend the order in proposed Rule 1, in lines 89 through 98, inclusive, by striking out the text

contained in those lines; and in proposed Rule 10, in line 434, by inserting after the word “report” the words: “, either favorable or adverse,”; and, in line 447, by inserting after the word “rule.” the following sentence: “If such matter fails to appear in the Orders of the Day by the end of the legislative day next following the expiration date, the bill or resolution may be petitioned out of committee by the original sponsor.”.

After remarks on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 29 members voted in the affirmative and 126 in the negative.

Amendments
rejected,—
yea and nay
No. 6.

[See Yea and Nay No. 6 in Supplement.]

Therefore the amendments were rejected.

Mr. Jones of North Reading then moved to amend the order in proposed Rule 1D, in line 155, by adding the following sentence: “A list of matters and copies of all bills that are to be voted on at an executive session shall be made available to the members of each committee electronically no less 6 hours prior to their consideration.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 29 members voted in the affirmative and 125 in the negative.

Amendment
rejected,—
yea and nay
No. 7.

[See Yea and Nay No. 7 in Supplement.]

Therefore the amendment was rejected.

Mr. Binienda of Worcester then moved to amend the order by striking out proposed Rule 21 and inserting in place thereof the following rule:

“21. The committees on Rules of the two branches, acting concurrently, may establish regulations for the distribution of bills, reports or other documents. Bills, reports or other documents shall be made available to members electronically and, except for petitions or other documents not assigned bill numbers, published on the Internet. The committees on Rules of the two branches, acting concurrently, may make such changes pertaining to the availability of bills, reports or other documents as they deem necessary for expediting the work of the legislature.

The Clerks of the House of Representatives and the Senate shall be responsible for publishing the journals of their respective chamber, the book Public Officers of Massachusetts, the committee book and any other publications per order of the committees on Rules.”.

The amendment was adopted.

The same member then moved to amend the order in proposed Rule 7B, in line 376, by adding the following paragraph:

“Any petition that subsequently conforms to Section 8 of Article LXXXIX of the Amendments to the Constitution after filing, which have followed the procedures set forth in Senate Rule 20 or House Rule 24, shall be forthwith reported from the committee on Rules and be referred by the Clerk to an appropriate committee.”.

The amendment was adopted.

Mr. Binienda then moved to amend the order by inserting after proposed Rule 11D following rule:

“11E. Subsequent to the filing of a report of a committee of conference and prior to a vote of the chamber in which the report was filed, an erratum may be submitted to the clerk of branch in which the report

had been filed. The errata shall indicate that it contains only matters inadvertently omitted from the report, and shall be signed by all of members of the House and Senate who had signed the conference committee report. The errata shall be approved by both the Counsel to the House and the Counsel to the Senate. The errata shall not be incorporated into the conference committee report until both the report and the errata have been approved by an affirmative vote of both chambers.”.

The amendment was adopted.

Mr. Binienda of Worcester then moved to amend the order in proposed Rule 1D, in line 511, by adding the following paragraph:

“The Chairs of each committee shall preserve decorum and order during each committee hearing. Persons attending hearings shall be required to dress in proper and appropriate attire and to refrain from the use of cellular telephones, beepers and pagers. The use of visual aids including, without limitation, posters, displays, or charts shall be permitted only upon approval of the Chairs.”.

The amendment was adopted.

The same member then moved to amend the order in proposed Rule 11, in lines 476, 477 and 478, by striking out the paragraph contained in those lines and inserting in place therefore the following paragraph:

“Committees of conference to whom are referred matters of difference in respect to bills or resolves, shall, after filing their reports, but before consideration by either branch, have the same approved or discharged by each committee on Bills in the Third Reading. If a filed report has not been acted on by either committee on Bills in the Third Reading before the branch in which the report was filed is called to order, the report shall be deemed to have been discharged from the committee on Bills in the Third Reading that did not act.”.

The amendment was adopted.

Mr. Binienda then moved to amend the order by adding the following rule:

“JOINT PROCUREMENT.

36. (a) All procurement for goods or services from joint legislative accounts shall be completed by the House and Senate Business Managers with the approval of House and Senate Counsel.

(b) All procurements for goods or services from joint legislative accounts shall, to the extent practicable, be made from the statewide procurement list established by the operational services division.

(c) Upon certification by the House and Senate Business Manager that a necessary procurement cannot be made using the statewide procurement list established by the operational services division, the House and Senate Business Manager may procure the required goods or services pursuant to the following:

(i) for a procurement of a supply or service in an amount of less than \$5,000, the House and Senate Business Manager shall use sound business practices;

(ii) for a procurement of a supply or service in an amount of \$5,000, but less than \$50,000, the House and Senate Business Manager shall seek written or oral quotations from no fewer than 3 persons customarily providing such supply or service. The House and Senate Business Manager shall record the names and addresses of all persons from whom quotations were sought, the names of the persons submitting

quotations and the date and amount of each quotation. The House and Senate Business Manager shall award the contract to the responsible person whose quotation offers the needed quality of supply or service and which represents the best value for the Commonwealth;

(iii) for a procurement of a supply or service in an amount exceeding \$50,000 the business manager shall seek proposals through a competitive bid process jointly established by the offices of House and Senate Counsel; provided, however, that the Offices of House and Senate Counsel shall file the competitive bid process with the House Clerk no later than March 31 of the first year of the session.

(d) All procurements for legal and consulting services shall be handled exclusively by the Offices of House and Senate Counsel in compliance with the provisions of this rule. Prior to executing a contract for legal or consulting services, said offices shall certify, in writing, to the Clerk of the House of Representatives and the Clerk of the Senate that no employee of the House of Representatives possesses the required skills to complete the service which is the subject of the contract.

(e) The House and Senate Business Managers shall maintain a file on each contract not executed using the statewide procurement list established by the operational services division and in excess of \$5,000 and shall include in such file a copy of all documents related to the contract. Upon execution of the contract, the House and Senate Business Managers shall transmit copies of the file to the Offices of House and Senate Counsel which shall make the file available for inspection within said office by members of the House for at least 3 years from the date of final payment under the contract; provided, however, that the Offices of House and Senate Counsel shall redact from said file any information which (i) is legally privileged; (ii) is proprietary; or (iii) related to individual members or House personnel.

(f) Whenever the time required to comply with a requirement of this rule would endanger the health, safety or convenience of the members, staff or visitors to the House of Representatives or Senate the House and Senate Business Managers may make an emergency procurement without satisfying the requirement of this rules; provided, however, that both the House and Senate Business Managers and the House and Senate Counsel certify in writing that: (i) an emergency exists and explain the nature thereof; (ii) the emergency procurement is limited to only supplies or services necessary to meet the emergency; (iii) shall conform to the requirements of rule to the extent practicable under the circumstances; (iv) each contractor's name, (v) the amount and the type of each contract; (vi) the supplies or services provided under each contract; (vii) and basis for determining the need for an emergency procurement. Such certification shall be filed with the Clerk of the House and with the Clerk of the Senate prior to an emergency procurement."

The amendment was adopted.

Mr. Binienda of Worcester then moved to amend the order in Joint Rule 11A, in lines 480, 481 and 482, by striking out the paragraph contained in those lines and inserting in place thereof the following paragraph:

"11A. Committees of conference to whom are referred matters of difference in respect to appropriations bills, including capital outlay programs, shall, after filing their reports but before consideration by either branch have the same approved or discharged by each committee

Joint
Rules.

on Bills in the Third Reading. If a filed report has not been acted on by either committee on Bills in the Third Reading before the branch in which the report was filed is called to order, the report shall be deemed to have been discharged from the committee on Bills in the Third Reading that did not act.”

The amendment was adopted.

Mr. Vieira of Falmouth then moved to amend the order by inserting after proposed Rule 7B the following rule:

“7C. The approval vote required to file a petition the operation of which is restricted to a particular city or town pursuant to the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution of the Commonwealth shall not expire and no additional vote shall be required until four years following such approval.”

The amendment was adopted.

The order (House, No. 2016, published as amended) then also was adopted. Sent to the Senate for concurrence.

House
Rules.

The House Order relative to the adoption of permanent rules of the House of Representatives for the years 2013 and 2014 (House, No. 2013), was considered.

After remarks on the question on adoption of the order, Mr. Diehl of Whitman moved to amend it in proposed Rule 2, in lines 24 and 25, by striking out the sentence contained in those lines and inserting in place thereof the following sentence: “The Speaker also may speak to points of order in [sic] order they have been made by members; and shall decide all questions of order, subject to an appeal to the House.”

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 the same member; and on the roll call 29 members voted in the affirmative and 124 in the negative.

[See Ye and Nay No. 8 in Supplement.]

Therefore the amendment was rejected.

Representatives Diehl of Whitman and O’Connell of Taunton then moved to amend the order in proposed Rule 33E, in line 864, by striking out the words “thirty minutes” and inserting in place thereof the words “twenty-four hours”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Diehl; and on the roll call 29 members voted in the affirmative and 125 in the negative.

[See Ye and Nay No. 9 in Supplement.]

Therefore the amendment was rejected.

Subsequently a statement of Ms. Gregoire of Marlborough 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, during the previous roll call, I was absent from the House Chamber on official business in another part of the State House and therefore I was not recorded. Had I been present, I would have voted in the negative.

Mr. Diehl of Whitman then moved to amend the order by proposed Rule 55, in line 1067, by striking out the words “on sustaining a ruling of the Chair,”; in line 1071, by striking out the words “to commit or recommit,”; in line 1072, by striking out the words “for second or sub-

Amendment
rejected,—
yea and nay
No. 8.

Amendment
rejected,—
yea and nay
No. 9.

Statement of
Ms. Gregoire of
Marlborough.

sequent legislative days,”; and in lines 1073 and 1074, by striking out the words “, or for suspension of rules”.

After remarks on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 29 members voted in the affirmative and 124 in the negative.

Amendments
rejected,—
yea and nay
No. 10.

[See Yea and Nay No. 10 in Supplement.]

Therefore the amendments were rejected.

Mr. Binienda of Worcester then moved to amend the order in proposed Rule 40, in line 898, by inserting after the word “that” the words “an affirmative vote on”; and, in line 899, by striking out the word “amend” and inserting in place thereof the words “offer an amendment to”; and the amendments were adopted.

The same member then moved to amend the order in proposed Rule 87, in lines 1371 and 1372, by striking out the words “business manager” and inserting in place thereof the words “House Business Manager”; in line 1386, by striking out word “it”; in line 1387, by inserting before the word “related” the word “is”; in line 1391, by striking out the word “rules” and inserting in place thereof the word “rule”; in line 1393, by striking out the words “be limited” and inserting in place thereof the words “said emergency procurement is limited”; in lines 1393 and 1394, by striking out the words “shall conform to the requirements of rule” and inserting in place thereof the words “conforms to the requirements of this rule”; and, in lines 1395 and 1396, by striking out the following: “name (v), the amount and the type of each contract; (vi) the supplies or services provided under each contract; (vii) and basis” and inserting in place thereof the following: “name; (v) includes the amount and the type of each contract; (vi) includes the supplies or services provided under each contract; (vii) and includes the basis”. The amendments were adopted.

Mr. Binienda then moved to amend the order in proposed Rule 35, in lines 872 and 873, by striking out the words “amendments affecting state finances shall be referred to the committee on Ways and Means on the part of the House” and inserting in place thereof the words “the journal shall reflect the referral”; and the amendment was adopted.

Mr. Binienda of Worcester then moved to amend the order in proposed Rule 18, in line 523, by inserting after the words “Floor Leader” the following: “, Ranking minority member of Ways and Means, Ranking minority member of the committee on Rules, Ranking minority member of the committee on Financial Services, Ranking minority member of the committee on Health Care Financing, Ranking minority member of the committee on Bonding, Capital Expenditures, and State Assets, and Ranking minority member of the committee on Economic Development and Emerging Technologies”, in line 531, by striking out the words “committee and” and inserting in place thereof the word “committee,”, and in line 532, by inserting after the word “committee” the words “, the vice chair of the committee on Rules, the vice chair of the committee on Financial Services, the vice chair of the committee on Health Care Financing, the vice chair of the committee on Bonding, Capital Expenditures, and State Assets, the vice chair of the committee on State Administration and Regulatory Oversight, and the vice chair of the committee on Economic Development and Emerging Technologies”. The amendments were adopted.

House
Rules.

Mr. Lombardo of Billerica then moved to amend the order in proposed Rule 2, in lines 21 and 22, by striking out the words "attire and to refrain from the use of cellular telephones, beepers and pagers" and inserting in place thereof the words "attire. The use of cellular telephones shall be conducted in a quiet and courteous fashion".

Amendment
rejected,—
yea and nay
No. 11.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 11 in Supplement.]

Therefore the amendment was rejected.

Mr. Lombardo then moved to amend the order, in lines 1121 and 1122, by striking out proposed Rule 61.

Amendment
rejected,—
yea and nay
No. 12.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Lombardo of Billerica; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 12 in Supplement.]

Therefore the amendment was rejected.

The same member then moved to amend the order by inserting after proposed Rule 57 the following rule:

"Rule 57A. No motion by members to limit the time on debate for bills, amendments, acts, resolves, resolutions, or other legislation shall be permitted."

Amendment
rejected,—
yea and nay
No. 13.

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. Lombardo; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 13 in Supplement.]

Therefore the amendment was rejected.

Mr. Kuros of Uxbridge then moved to amend the order in lines 585 to 615, inclusive, by striking out proposed Rule 20A.

Amendment
rejected,—
yea and nay
No. 14.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 14 in Supplement.]

Therefore the amendment was rejected.

Mr. Boldyga of Southwick then moved to amend the order in line 1044, by adding at the end of proposed Rule 53 the following sentence: "A roll call vote cannot be suspended, with the exception of quorum calls".

Amendment
rejected,—
yea and nay
No. 15.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 15 in Supplement.]

Therefore the amendment was rejected.

Mr. Boldyga then moved to amend the order in proposed Rule 42A, in line 919, by striking out the words "or other means".

Amendment
rejected,—
yea and nay
No. 16.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of

Mr. Boldyga of Southwick; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 16 in Supplement.]

Therefore the amendment was rejected.

Mrs. O'Connell of Taunton then moved to amend the order in proposed Rule 1A, in line 9, by striking out the words “, without debate,”.

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 the same member; and on the roll call 29 members voted in the affirmative and 124 in the negative.

Amendment
rejected,—
yea and nay
No. 17.

[See Yea and Nay No. 17 in Supplement.]

Therefore the amendment was rejected.

Mrs. O'Connell then moved to amend the order in proposed Rule 16, in line 209, by inserting after the word “chairman” the following “, or upon receipt of a letter signed by 20 members”.

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 Mrs. O'Connell of Taunton; and on the roll call 29 members voted in the affirmative and 125 in the negative.

Amendment
rejected,—
yea and nay
No. 18.

[See Yea and Nay No. 18 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading then moved to amend the order in proposed Rule 16, in lines 203, 204 and 205, by striking out the following sentence: “The committee shall consist of eleven members, seven of whom shall be appointed by the Speaker, four of whom shall be appointed by the Minority Leader.” and inserting in place thereof the following sentence: “The committee shall consist of eight members, four of whom shall be appointed by the Speaker, four of whom shall be appointed by the Minority Leader.”.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 29 members voted in the affirmative and 126 in the negative.

Amendment
rejected,—
yea and nay
No. 19.

[See Yea and Nay No. 19 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading then moved to amend the order in proposed Rule 16 by adding the following sentence: “At the end of each biennial legislative session, the committee shall file a report with the Clerk disclosing the number of complaints received, the number of complaints determined to have merit, the number of complaints determined to be without merit, and the dates of all committee meetings held during the session; provided, that the committee’s report shall not contain any information sufficient to identify the source of or person named in any complaint received by the committee or any other confidential or personal identifying information.”.

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 same member; and on the roll call 29 members voted in the affirmative and 125 in the negative.

Amendment
rejected,—
yea and nay
No. 20.

[See Yea and Nay No. 20 in Supplement.]

Therefore the amendment was rejected.

House
Rules.

Mr. Jones then moved to amend the order by inserting after proposed Rule 33E the following rule:

“33F. Any amendment in the second degree containing language which would create a study of any part of the subject matter contained in the original amendment, may only be adopted if such further amendment has the express approval of the sponsor of the original amendment. Express approval shall be limited to the original sponsor speaking in favor of the further amendment on the floor of the House during the formal session in which the amendment is offered, provided that such speech is recorded in the Journal of the House, or the filing of the further amendment by the original sponsor. If the original sponsor does not provide express approval of such further amendment, the further amendment may only be adopted by an affirmative vote of not less than two-thirds of the members on a recorded ye and nay vote.”.

Amendment
rejected,—
yea and nay
No. 21.

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 Mrs. Poirier of North Attleborough; and on the roll call 29 members voted in the affirmative and 126 in the negative.

[See Yea and Nay No. 21 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading then moved to amend the order in proposed Rule 17, in line 343, by striking out the words “, insofar as practicable,”; and in line 344, by inserting after the word “Representatives” the following: “unless the chair of the committee submits to the Clerk a written description of the emergency, as defined by Rule 17A, that necessitates such a scheduling and the Clerk makes said description available to the members”.

Amendments
rejected,—
yea and nay
No. 22.

After remarks on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 29 members voted in the affirmative and 125 in the negative.

[See Yea and Nay No. 22 in Supplement.]

Therefore the amendments were rejected.

Mr. D’Emilia of Bridgewater then moved to amend the order by inserting after proposed Rule 20B the following rule:

“20C. The House shall consider a Resolution no later than March 15 in each year, defining the minimum financial contribution the Commonwealth will make to cities and towns for chapter 70 aid, so called, and unrestricted general government aid for the following fiscal year.”.

The amendment was rejected.

Messrs. Jones of North Reading and Winslow of Norfolk then moved to amend the order by inserting after proposed Rule 5 the following rule:

“5A. The Speaker shall annually prepare a proposed budget for the House for the payment of expenses, salaries, and other items. The proposed budget shall include salaries for all employees, job descriptions, and an explanation of expenditures. The proposed budget shall be submitted no later than January 15 in each year to the House committee on Personnel and Administration, which shall approve a budget in resolution form within 30 days of receiving the proposed budget from the Speaker. The House shall adopt a budget within 30 days of the introduction of the resolution.”.

The amendment was rejected.

The same members then moved to amend the order in proposed Rule 18A, in line 555, by inserting after the word "committee." the following sentence: "The Speaker shall strive appoint from each congressional district at least one member who resides in that congressional district on all standing committees with the exception of Rules."; and the amendment was rejected.

Messrs. Jones and Winslow then moved to amend the order in proposed Rule 4, in line 31, by striking out the following sentence: "In all cases the Speaker may vote." and inserting in place thereof the following sentence: "The Speaker shall not vote, except in the event of a tie."

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 22 members voted in the affirmative and 131 in the negative.

Amendment
rejected,—
yea and nay
No. 23.

[See Yea and Nay No. 23 in Supplement.]

Therefore the amendment was rejected.

Messrs. Jones of North Reading and Winslow of Norfolk then moved to amend the order by inserting after proposed Rule 42A the following rule:

"Rule 42B. The Speaker, in consultation with the Minority Leader, may cause to be prepared a noncontroversial calendar consisting of bills from the Calendar to be prepared by the Clerk under a separate heading. A bill on the noncontroversial calendar shall be called up for debate by the Speaker, in consultation with the Minority Leader, within three legislative days after it appears on the noncontroversial calendar. A bill shall be stricken from the noncontroversial calendar if a written objection to the bill is filed with the Clerk prior to the time the bill is called up for debate. Debate on a bill from the noncontroversial calendar shall be limited to ten minutes. If debate exceeds ten minutes, the bill shall be stricken from the noncontroversial calendar and returned to the Calendar."

The amendment was rejected.

The same members then moved to amend the order in proposed Rule 18, in lines 529 to 538, inclusive, by striking out the three paragraphs contained in those lines; and in proposed Rule 18A, in lines 554 to 568, inclusive, by striking out the three paragraphs contained in those lines and inserting in place thereof the following four paragraphs:

"The Speaker and the Minority Leader shall appoint the members of their respective party caucuses to be assigned to each standing committee. The appointments shall be voted upon together and shall be subject to ratification by majority vote of the appropriate party caucus.

No member shall be removed from a standing committee except upon the recommendation of the Speaker or Minority Leader, as the case may be, subject to the ratification by their respective caucuses; provided, however, that the Speaker and the Minority Leader may, without a majority vote of their respective parties, remove a member appointed pursuant to this rule who has been criminally indicted by a court of competent jurisdiction; and provided further, that if any vacancy occurs, subsequent to the initial ratification, the Speaker or Minority Leader shall fill such vacancy.

House
Rules.

The Speaker shall announce committee appointments of majority party members. The Minority Leader shall announce committee appointments of minority party members.

Each committee shall elect its own chair, vice chair and ranking minority member.”.

The amendments were rejected.

Messrs. Jones and Winslow then moved to amend the order by inserting after the proposed Rule 20B the following rule:

“20C. An “earmark” shall mean an appropriation for a specific program or project not originating with a written agency budget request or not included in the General Appropriation Bill or supplemental appropriation bill from the prior fiscal year.

Each request for an earmark included in an appropriations bill must be memorialized in writing on a form designed by the Clerk. The form must be posted in a readily-accessible location on the House website, listed on a page specifically dedicated to listing earmarks.

The form must include the member’s name who requested the earmark, and an explanation of the earmark requested.

Each request for an earmark included in the House Committee on Ways and Means version of an appropriations bill must be listed on a separate document prepared by the committee and placed on the members’ desk before beginning debate of the appropriations bill on second reading. The document must include the members’ name requesting the earmark, a brief description of the earmark, and such other information as the form may require.

An earmark request made while an appropriation bill is in the Senate and is included in the report of committee of conference. The chair of the House Committee on Ways and Means is charged with providing this form to the House membership.”.

The amendment was rejected.

Messrs. Winslow of Norfolk and Jones of North Reading then moved to amend the order by striking out proposed Rule 16A and inserting in place thereof the following:

“CODE OF ETHICS.

16A. (1) General.

(i) Purpose and Applicability. The people of the Commonwealth of Massachusetts expect and deserve legislators and legislative staff who maintain the highest ethical standards to ensure public trust, respect and confidence in state government. Members and legislative staff have a solemn responsibility to refrain from conduct that is unbecoming to the General Court or inconsistent with the ability of the House of Representatives to maintain the trust, respect and confidence of the public we serve. These rules shall be construed and enforced by the House Ethics Committee. Nothing in these rules shall excuse Members from complying with all other applicable constitutional and statutory requirements regarding criminal law, conflicts of interest, Statements of Financial Interest, campaign finance reports, and state and federal income tax returns or other ethical compliance as required by law. These rules, however, hold Members and legislative staff to a higher standard of ethical conduct than prescribed by statute and constitute an additional obligation and responsibility for Members and legislative

staff. As used in these rules, ‘staff’ shall include all legislative staff as well as House employees other than Members. These rules impose an additional condition of employment for all staff.

(ii) Inherent Obligation of Ethical Conduct. Written rules of conduct cannot anticipate or define every possible act or circumstance that may create ethical issues or breaches by Members or staff, so Members and staff have an inherent obligation of ethical and honorable dealings with the public and with their colleagues and employees and shall promote an atmosphere in which ethical conduct is readily recognized as a priority of the House and is practiced continually without exception. Nothing in these rules shall prevent the Ethics Committee or the House from taking appropriate action in the event a Member or staff engages in conduct inconsistent with their public office, violates state or federal criminal law, or causes the House to fall into public disrepute.

(iii) Professional Conduct and Civility. The House requires an atmosphere of professional conduct and civility among its Members and staff and shall not tolerate harassment, invidious discrimination, or offensive behavior based on race, color, religion, national origin, gender, age, disability, or sexual orientation. Members and staff shall refrain from sexual harassment, including unwelcome sexual advances, requests for sexual favors, or other verbal, non-verbal or physical conduct of a sexually harassing nature, when (1) submission to the harassment is made either explicitly or implicitly a term or condition of employment or other employment determination, or (2) the harassment has the purpose or effect of unreasonably interfering with an individual’s work performance or creates an intimidating, hostile, or offensive working environment.

(iv) Enforcement. These rules shall be enforced by the House upon report of the Ethics Committee, except that with a Member’s or staff’s consent and in appropriate circumstances the Ethics Committee may issue a private admonition to said Member or staff without any report to or further action of the House. The Ethics Committee shall have the exclusive jurisdiction to ensure compliance with these rules of conduct by investigation and report to the House.

(2) Principles of Public Service. The following principles shall guide Members and staff in their conduct in office and shall guide the Ethics Committee in construing and applying the Code of Conduct.

(i) Public Office as a Public Trust. Members and staff shall treat their office or position as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or other private interest incompatible with the public good.

(ii) Exercise of Independent Objective Judgment. Members and staff shall use independent objective judgment in performing their duties, deciding all matters on the merits free from real or reasonably perceived conflicts of interest and free from real or reasonably perceived improper influences.

(iii) Public Accountability. Members and staff shall assure that government is accountable to the people and that the business of government is conducted openly, equitably and honorably; provided however, that Members may vote to conduct business in Executive Session or to comply with rules of procedure adopted by vote in open session.

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Rules.

(iv) Ethical Standards and Private Life. Members and staff have the right to privacy and the conduct of their personal lives is outside the purview of these rules, except where a Member's or staff's personal life becomes the subject of general public notice as a result of the Member's or staff's own conduct or activity which the Member or staff reasonably should have foreseen would be made public by others. The conduct of a Member's or staff's family is outside the purview of these rules.

(3) Prohibited Conduct. Members and staff shall not engage in the following specific instances of conduct, nor shall any Member cause or direct any staff to engage in the following specific instances of conduct, without first disclosing in writing any anticipated such conduct to the Ethics Committee and receiving 2/3 approval in writing from the Ethics Committee regarding the same.

(i) Quid Pro Quo. No Member or staff may accept any economic opportunity, other than lawful compensation for public duties, where he knows or reasonably should know from the circumstances that there is a substantial possibility that the opportunity is being afforded to him with the intent to influence his conduct in the performance of his official duties.

(ii) Excessive Compensation in Private Employment. No Member or staff may charge or accept from a person known to have a legislative interest a price, fee, compensation, or other consideration for the sale or lease of any property or furnishing of services which is substantially in excess of that which is the Member or staff would charge in the ordinary course of business or which is significantly in excess of the fair market value of such property or services.

(iii) Nepotism. Neither the House nor any Member shall employ any person who is related to any Member of the General Court by blood or marriage as an immediate family member, including parents, children, spouses, siblings, grandparents, grandchildren, aunts, uncles, nieces or nephews. Provided, however, that any such person employed in the General Court as of the date this rule is adopted may continue to be employed if the Member having such relationship promptly makes written disclosure of such relationship to the Ethics Committee which shall file with the House Clerk a list of all such persons so exempt from the immediate application of this rule, including a description of the relationship and the name of the employee. And further provided, however, that no employee of the General Court whose employment predated the election of a related Member shall be subject to this rule.

(iv) Misuse of State Resources. No Member or staff may use public funds, facilities, equipment, services, mailing lists, data bases, or other governmental assets or resources for a non-legislative purpose, including but not limited to the support or opposition to partisan political activity or for the private benefit of the Member or staff, or another person. Provided, however, that the following limited uses of public resources may be used for Members. or staffs. personal benefit excluding partisan or campaign purposes:

1. Telephones and Email. Members or staff may use telephones and email for personal communication on a minimal basis, where the majority of such use relates solely to legislative duties and where the Member or staff earns or receives no financial compensation from such use;

2. Computer System. Members and staff may use computer equipment, search engines, and websites for personal communication on a minimal basis, where the majority of such use relates solely to legislative duties and where the Member or staff earns or receives no compensation from such use. The Ethics Committee may periodically request and receive a list of URL addresses and duration of visits to confirm compliance with this rule. Provided, however, that no Member or staff shall use the computer equipment or system to access online gambling or pornography;

3. Copier/Scanner/Fax. Members and staff may make use of photocopiers, scanners and fax machines for personal communication on a limited basis not to exceed ten pages per week.

4. Holiday Cards and Communication. Members and staff may use public databases or constituent databases for purposes of holiday cards as well as periodic newsletters to constituents and persons who have contacted the Member's office.

5. Public Availability. If any public resource is generally available to the public, any Member or staff may use and enjoy such resource to the same extent and on the same terms as the general public.

(v) Contribution Linkage. No Member or staff shall state or imply that the Member or staff will perform or refrain from performing a lawful constituent service based on a person's decision to provide or not to provide any political contribution, donate or not donate to a cause or candidate favored by the Member or staff, or provide or not to provide a thing of value.

(vi) Arms-Length Transactions. No Member shall knowingly engage in any business transaction with any person who has any direct financial interest in any pending special legislation.

(vii) Disclosure of Confidential Information. No Member or staff may knowingly make an unauthorized disclosure of information that is confidential by law and which was acquired in the course of official duties.

(viii) State Ethics Commission Disclosures. Any Member or staff who files any disclosure with the State Ethics Commission, excluding the Statement of Financial Interest, shall simultaneously file a copy of such disclosure with the Ethics Committee.

(ix) Payment for Official Duties. No Member or staff shall solicit or accept any compensation or political contribution other than that provided for by law for the performance of official legislative duties.

(x) Service as Legislative Agents. No Member or staff shall serve as a legislative agent as defined in Chapter 3 of the General Laws regarding any legislation before the General Court.

(xi) Improper Influence. No Member or staff shall receive any compensation or permit any compensation to accrue to his or her beneficial interest by virtue of influence improperly exerted from his or her official position in the House.

(xii) Use of Confidential Information for Private Gain. No Member or staff shall willfully and knowingly disclose or use confidential information gained in the course of his or her official position to further his or her own economic interest or that of any other person.

(xiii) Voting Procedure. Except as provided in Rule 49, no Member shall cast a vote for any other Member, nor shall any officer or

employee vote for any Member, except that the Clerk or an assistant Clerk may record a vote for a Member who votes late under the provisions of Rule 52, or is prohibited from voting from his desk due to a malfunction of the electronic roll call voting system; provided the Clerk's action shall not be construed as voting for said Member.

(xiv) Uncivil Conduct. No Member shall use profane, insulting, threatening, or abusive language in the course of public debate in the House Chamber or in testimony before any committee of the General Court.

(xv) No Show or Low Show Employment. No Member shall employ anyone from public funds who does not perform tasks which contribute substantially to the work of the House and which are commensurate with the compensation received; and no full-time staff shall engage in any outside business activity during regular business hours, whether the House is in session or not. All staff are assumed to be full time unless their personnel record indicates otherwise.

(xvi) Honoraria. No Member or staff shall accept or solicit an honorarium for a speech, writing for publication, or other activity from any person, organization or enterprise having a direct interest in legislation or matters before any agency, authority, board or commission of the Commonwealth which is in excess of the usual and customary value of such services.

(xvii) Gifts. No Member or staff shall knowingly accept any gifts from any legislative or executive agent. No Member shall accept any gift from any person or entity having a direct interest in legislation before the General Court (For the purpose of this paragraph, the definitions of „gift. and „person. are defined in subsections (g) and (m) of section 1 of chapter 268B of the General Laws).

(xviii) Campaign Funds. No Member shall convert campaign funds to personal use in excess of reimbursements for legitimate and verifiable campaign expenditures. Members shall consider all proceeds from testimonial dinners and other fund raising activities as campaign funds.

(xix) Private Interest. No Member shall serve on any committee or vote on any question in which his/her private right is immediately concerned, distinct from the public interest.

(xx) Confidentiality of Ethics Committee. No Member or staff shall violate the confidentiality of any proceeding before the Ethics Committee. Provided, however, that the Ethics Committee Chair and Ranking Minority Member may disclose information to the other Members of the Ethics Committee and the Ethics Committee may engage investigators as needed.

(xxi) Arrest or Indictment. No Member or staff may engage in criminal conduct. Any Member or staff who is arrested, indicted, criminally charged, or served as a defendant in any action under chapter 209A of the General Laws, shall forthwith in writing notify the Chair and Ranking Minority Member of the Ethics Committee of the fact of such occurrence. Thereafter, such Member or staff shall forthwith provide copies to the Chair and Ranking Minority Member of the Ethics Committee of any discovery documents received by the Member or staff or the Member's or staff's legal counsel including but not limited to police reports, complaints, witness statements, and grand jury testimony caption sheets. For purposes of this rule, forthwith disclosure

means written disclosure within three business days after such document or discovery has been received by the Member or staff or by the Member's or staff's legal counsel.

(xxii) Procurement. No Member or staff may contact any agency or department of the Commonwealth, county, municipality or any independent authority regarding any public procurement that is pending before award or which the Member knows or should know will be pending the foreseeable future. Procurement decisions exceed the proper constitutional role of the legislative branch. Provided, however, that nothing in this rule shall preclude any Member from offering, debating, or voting in committee or on the floor of the House any legislative proposal or amendment that does not accrue to the benefit of any identified person or company except as may be subject to public, competitive procurement after appropriation.

(xxiii) Letters of Recommendation And Job References. Except as provided in this rule, no Member or staff may verbally communicate support for a position of public employment on behalf of another person. Members and staff shall limit job recommendations and references for public employment to written correspondence signed by the Member or staff. Members and staff may be listed as references and may respond to verbal communications initiated by others in response to such references.

(4) Lobbyists. In addition to the requirements set forth in the General Laws and any regulations or guidelines promulgated by the Secretary of State, this rule governs the conduct of Members and staff with respect to legislative agents. For purposes of this rule, Members and staff may reasonably rely after inquiry on the representation of any person regarding their status as a legislative agent unless the Member or staff has actual knowledge to the contrary.

(i) House Chamber. No legislative agent shall be permitted in the House Chamber at any time the House is convened in formal or informal session, except such legislative agents may be present in the House gallery when the gallery is open to members of the general public. Court officers shall be responsible for enforcing compliance with this rule.

(ii) Members. Lounge. No legislative agent shall be permitted at any time in the Members Lounge, except to attend meetings or presentations that are open the general public in the Members Lounge and then only while displaying the lobbyist badge described in paragraph (4)(i). Court officers shall be responsible for enforcing compliance with this rule.

(iii) Transactions with Lobbyists. No Member or staff may engage in any business transaction with legislative agent.

(5) Suspension of Ethics Rules. Rule 16A shall not be suspended except upon roll call vote of approval by 2/3 of the Members in formal session.”

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. Winslow of Norfolk; and on the roll call 29 members voted in the affirmative and 124 in the negative.

Amendment
rejected,—
yea and nay
No. 24.

[See Yea and Nay No. 24 in Supplement.]

Therefore the amendment was rejected.

House Rules.

Messrs. Frost of Auburn and Jones of North Reading then moved to amend the order by inserting after proposed Rule 33E the following rule:

“33F. No bill, resolve or order resulting in an increase in the taxation of persons in the Commonwealth shall be finally acted upon by the House of Representatives except by a call of the yeas and nays with two-thirds of the members present voting in favor of the increase; nor shall any such bill, resolve or order be considered for final passage after a date thirty days preceding the last date set by law for filing nomination papers with the local election authority for election to the General Court at the next biennial state election. This rule shall not be suspended except by a vote of two-thirds of the members present and voting thereon.”.

Amendment rejected,—yea and nay No. 25.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Frost; and on the roll call 29 members voted in the affirmative and 124 in the negative.

[See Yea and Nay No. 25 in Supplement.]

Therefore the amendment was rejected.

Ms. Orrall of Lakeville then moved to amend the order in proposed Rule 72, in lines 1207 and 1208, by striking out the words “; but no amendment in the third degree shall be allowed”.

Amendment rejected,—yea and nay No. 26.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 29 members voted in the affirmative and 124 in the negative.

[See Yea and Nay No. 26 in Supplement.]

Therefore the amendment was rejected.

The order (House, No. 2014, published as amended) then was adopted. Mr. Binienda of Worcester then moved that the vote be reconsidered and, there being no objection, the motion was considered forthwith; and it was negatived.

Order.

On motion of Mr. DeLeo of Winthrop,—

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

Next sitting.

At twenty-two minutes before six o’clock P.M., on motion of Mr. Hill of Ipswich (Mr. Mariano of Quincy being in the Chair), the House adjourned, to meet the following day at eleven o’clock A.M., in an Informal Session.