

JOURNAL OF THE HOUSE.

Wednesday, February 24, 2010.

Met according to adjournment, at eleven o'clock A.M., 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).

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

Gracious God, we begin the day and the session with the intention of serving You, our constituents and families in a conscientious and honorable manner. We believe that with Your guidance we will be successful in our tasks and thus achieve our desired goals. We also believe that You and Your ways offer direction, purpose and meaning to us as we face the challenges and the issues of this day. In Your goodness, help us to encourage all people, especially our students and young people, to recognize and utilize their talents and intellectual gifts in reaching their personal potential. May we work together to build confidence in the relevance of our state and federal constitutions and in the spirit, courage and dedication of the founders of this nation. Finally, teach us to respect the personal dignity and eternal destiny of each individual.

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

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.

Message from the Governor.

A message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to authorizing the town of Millbury to pay certain unpaid bills (House, No. 4525) 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 Municipalities and Regional Government. Sent to the Senate for concurrence.

Statement Concerning Representative Alicea of Charlton.

A statement of Mr. Mariano of Quincy concerning Mr. Alicea of Charlton 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 Alicea of Charlton will not be present in the House Chamber for today's sitting due to a previously scheduled commitment. His missing of roll calls today will be due entirely to the reason stated.

Prayer.

Pledge of allegiance.

Millbury,—
unpaid bills.

Statement concerning Mr. Alicea of Charlton.

Statement Concerning Representative Coakley-Rivera of Springfield.

A statement of Mr. Mariano of Quincy concerning Ms. Coakley-Rivera of Springfield was spread upon the records of the House, as follows:

Statement concerning Ms. Coakley-Rivera of Springfield.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Coakley-Rivera of Springfield will not be present in the House Chamber for today's sitting due to transportation problems beyond her control. Her missing of roll calls today will be due entirely to the reason stated.

Statement Concerning Representative Ferrante of Gloucester.

A statement of Mr. Mariano of Quincy concerning Ms. Ferrante of Gloucester was spread upon the records of the House, as follows:

Statement concerning Ms. Ferrante of Gloucester.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Ferrante of Gloucester will not be present in the House Chamber for today's sitting due to official business outside of the Commonwealth. Her missing of roll calls today will be due entirely to the reason stated.

Statement Concerning Representative Garry of Dracut.

A statement of Mr. Mariano of Quincy concerning Miss Garry of Dracut was spread upon the records of the House, as follows:

Statement concerning Miss Garry of Dracut.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Garry of Dracut will not be present in the House Chamber for today's sitting due to the death of her father. Her missing of roll calls today will be due entirely to the reason stated.

Guest of the House.

During the session, the Chair (Mr. Vallee of Franklin) declared a brief recess and introduced State Police Colonel Marian J. McGovern. Colonel McGovern, the first woman to lead the State Police force, was the guest of Speaker DeLeo and Representative Costello of Newburyport.

Colonel Marian J. McGovern.

Resolutions.

Resolutions (filed with the Clerk by Mr. Smizik of Brookline and other members of the House) requesting the United States Congress to adopt legislation that promotes jobs and innovative energy development, heightens national energy and economic security, positions the United States to be an international leader in the field of clean energy, and addresses the consequences of climate change without preempting states' rights to control emission and to promote renewable energy, were referred, under Rule 85, to the committee on Rules:

Clean energy.

Mr. Binienda of Worcester, for said committee, reported, that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Smizik, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petition.

Representative D'Amico of Seekonk and Senator Timilty presented a joint petition (accompanied by bill House, No. 4518) of Steven J. D'Amico and James E. Timilty (by vote of the town) that the town of Seekonk be authorized to convert certain seasonal licenses for the sale of all alcoholic beverages to annual all alcoholic beverage licenses; and the same was referred to the committee on Consumer Protection and Professional Licensure. Sent to the Senate for concurrence.

Seekonk,—liquor license.

Petitions severally were presented and referred as follows:

By Mr. Binienda of Worcester, a petition (subject to Joint Rule 12) of John J. Binienda that applicants for a school bus drivers license be required to complete a basic course in the instruction of first aid.

School bus drivers,—first aid.

By Representative Bradley of Hingham and Senator Hedlund, a joint petition (subject to Joint Rule 12) of Garrett J. Bradley and Robert L. Hedlund for legislation to authorize the Department of Conservation and Recreation to lease a certain parcel of land within the "shipyard" in the town of Hingham to the Massachusetts Bay Transportation Authority.

Hingham,—land.

By Mr. Bradley of Hingham (by request), a petition (subject to Joint Rule 12) of Virginia Byrnes that in-house medical consultants employed by the Massachusetts Rehabilitation Commission be eligible for membership in the retirement system for public employees.

Medical consultants,—retirement.

By Mr. Evangelidis of Holden, a petition (subject to Joint Rule 12) of Lewis G. Evangelidis, William Smitty Pignatielli and others for legislation establishing a blue alert system in the Commonwealth for the purpose of searching for an individual wanted for injuring or killing a police officer.

Alert system.

By Messrs. Fallon of Malden and Donato of Medford, a petition (subject to Joint Rule 12) of Christopher G. Fallon, Paul J. Donato, and Stephen Stat Smith for legislation to establish a sick leave bank for Stephanie Savini, an employee of the Department of Security of the Trial Court.

Stephanie Savini.

By Representative Frost of Auburn and Senator Moore, a joint petition (subject to Joint Rule 12) of Paul K. Frost and Michael O. Moore for legislation to establish a sick leave bank for Meridyth L. Reith, an employee of the Department of Environment Protection.

Meridyth L. Reith,—sick leave.

By Ms. Grant of Beverly, a petition (subject to Joint Rule 12) of Mary E. Grant, Paul McMurtry and others for legislation to increase the membership of the Children's Behavioral Health Advisory Council to include a pediatric nurse practitioner and a child psychiatric nurse.

Behavioral health council,—membership.

By Mr. Lewis of Winchester, a petition (subject Joint Rule 12 and 9) of Jason Lewis, Elizabeth A. Malia and others relative to the reorganization of the Zoological Corporation Board.

Zoological Corporation Board.

By Representative Mariano of Quincy and Senator Morrissey, a petition (subject to Joint Rule 12) of Ronald Mariano, Michael W. Morrissey, and others that the Department of Children and Families be authorized to establish a sick leave bank for Meraly Rivera, an employee of said department.

Meraly Rivera.

Massachusetts Minuteman and Militia Day. By Mr. Miceli of Wilmington, a petition (subject to Joint Rule 12) of James R. Miceli for the issuance by the Governor of an annual proclamation setting apart the third Saturday in October as Massachusetts Minutemen and Militia Day.

Noncriminal fines. By Mr. Nangle of Lowell (by request), a petition (subject to Joint Rule 12) of Joseph Sherman relative to the payment of certain fines for noncriminal hearings.

GIC,—reimbursements. By Ms. Peisch of Wellesley, a petition (subject to Joint Rule 12) of Alice Hanlon Peisch, Katherine Clark, and others for legislation to authorize cities and towns to reimburse employees for certain savings from reduced health insurance premiums of the Group Insurance Commission.

Restrict callers. By Mr. Pignatelli of Lenox, a petition (subject to Joint Rule 12) of William Smitty Pignatelli, Stephen Kulik and others for legislation to restrict callers from using certain automatic dialing devices for sending information to subscribers of telephone services.

Sports concussions. By Mrs. Richardson of Framingham, a petition (subject to Joint Rule 12) of Pam Richardson relative to concussions sustained in school sports.

Jobs. By Mr. Sannicandro of Ashland, a petition (subject to Joint Rule 12) of Tom Sannicandro relative to establishing a commission within the Division of Unemployment Assistance for the creation of jobs.

Frances Bonnayer. By Representative Smola of Palmer and Senator Brewer, a joint petition (subject to Joint Rule 12) of Todd M. Smola, Stephen M. Brewer, and Anne M. Gobi for legislation to establish a sick leave bank for Frances Bonnayer, an employee of the Department of Transportation.

PRIM Board,—membership. By Mr. Spellane of Worcester, a petition (subject to Joint Rule 12) of Robert P. Spellane for legislation to increase the membership of the Pension Reserves Investment Management Board.

Toll system. By Mr. Vallee of Franklin, a petition (subject to Joint Rule 12) of James E. Vallee that the Department of Transportation be directed to establish an automatic toll collection system.

Apprenticeship training,—use of monitors. By Mr. Walsh of Boston, a petition (subject to Joint Rule 12) of Martin J. Walsh for legislation to require the use of proctors as monitors for instruction and training programs administered by the Division of Apprenticeship Training within the Department of Labor and Workforce Development.

Severally referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

Hingham,—liquor license. The House Bill authorizing the town of Hingham to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4268) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 1, in line 3 (as changed by the House committee on Bills in the Third Reading), inserting at the end thereof the following sentence: "The license shall be subject to all of said chapter 138 except said section 17."

Under suspension of Rule 35, on motion of Mr. Bradley of Hingham, the amendment (reported by said committee to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

A petition of Susan C. Fargo, Thomas A. Golden, Jr., James Arciero, Cory Atkins and David M. Nangle (by vote of the town) for legislation to authorize the town of Chelmsford to convey certain conservation land and easements, came from the Senate referred, under suspension of Joint Rule 7B, to the committee on Municipalities and Regional Government.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2287) was referred, in concurrence, to the committee on Municipalities and Regional Government.

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Petition (accompanied by bill, Senate, No. 2289) of Cynthia Stone Creem, Frederick E. Berry, Stephen M. Brewer and other members of the General Court for legislation to protect children from sexual abuse and exploitation. To the committee on the Judiciary.

Petition (accompanied by bill, Senate, No. 2288) of Richard R. Tisei, James Dwyer and Bradley H. Jones, Jr., for legislation to establish a sick leave bank for Sean O'Brien, an employee of the Department of Transitional Assistance. To the committee on Public Service.

Reports of Committees.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of John P. Fresolo for legislation to include certain co-generation steam firemen and engineers in Group 4 of the public employees retirement law; and

Petition (accompanied by bill) of John P. Fresolo that sewerage treatment operators of the Department of Correction be placed in Group 4 of the public employees retirement law;

Severally to the committee on Public Service.

Under suspension of the rules, on motion of Mr. Dwyer of Woburn, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration Of the Bill relative to speed limits (House, No. 3643); and Of the Bill relative to an affordable health plan (House, No. 4452); And recommending that the same severally be referred to the House committee on Ways and Means.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill requiring the Department of Transitional Assistance to track and report on the use of emergency shelter services by families (House, No. 141, changed

Chelmsford,—land.

Children,—protection.

Sean O'Brien,—sick leave bank.

Co-generation steam firemen.

Department of Correction.

Speed limits. Health plan.

Emergency shelter.

Emergency shelter.

in lines 1, 2, and 3 by striking out the text contained therein and inserting in place thereof the following: "Section 3 of chapter 23B of the General Laws of 2008 is hereby amended by adding after clause (v) the following clause:— (w) The department"; and by striking out the title as follows: "An Act requiring the Department of Transitional Assistance to track and report on the use of emergency shelter services by families." and inserting in place thereof the new title.)

State contracts.

By Mr. Walsh of Lynn, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill recognizing the profession of interior designers to bid on state contracts (House, No. 2999).

Subsidized housing eligibility.

By the same member, for the same committee, on House, Nos. 8 and 9, a Bill relative to Chapter 30B (House, No. 4506).

Surplus vehicles,— disposition.

By the same member, for the same committee, on House, No. 2964, a Bill relative to interest on retainage (House, No. 4507).

Price adjustment.

By the same member, for the same committee, on House, No. 2968, a Bill relative to price adjustment (House, No. 4508).

Plimoth Plantation.

By the same member, for the same committee, on House, No. 3616, a Bill relative to Plimoth Plantation (House, No. 4510).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

Surplus vehicles,— disposition.

By Mr. Walsh of Lynn, for the committee on State Administration and Regulatory Oversight, on House, No. 3033, a Bill making amendments to the Massachusetts Corporations Act — Part Two (House, No. 4509).

Mitigation program.

By the same member, for the same committee, on House, No. 3757, a Bill relative to the Bayswater mitigation program (House, No. 4511).

Subsidized housing eligibility.

By the same member, for the same committee, on Senate, No. 1467 and House, No. 2977, a Bill relative to state trademarks (House, No. 4521).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Time-share ownership.

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, that the Bill relative time-share ownership (House, No. 1287) ought to pass with an amendment substituting therefore a bill with the same title (House, No. 4496). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Engrossed Bill.

Bill enacted.

The engrossed Bill authorizing the town of Franklin to appropriate funds and incur debt to replace overhead utilities with underground facilities (see House, No. 4251, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Senate bills

Designating a certain walking path along Lynn Shore Drive at Red Rock Park in the city of Lynn as the Senator Walter J. Boverini Scenic Walkway (Senate, No. 407) (its title having been changed by the committee on Bills in the Third Reading); and

Third reading bills.

Establishing the Sandwich economic initiative corporation (Senate, No. 2073);

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

House bills

Relative to property tax exemptions for rental properties in the town of Wellfleet restricting affordable housing (House, No. 2852);

Id.

Authorizing the town of North Andover to grant a license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 4189);

Relative to representation by the Attorney General in actions involving pilots (House, No. 4469); and

Validating the actions taken at a special town meeting of the town of Lynnfield (House, No. 4498);

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

Senate bills

Establishing the position of town clerk in the town of Charlemont (Senate, No. 2130, amended);

Second reading bills.

Authorizing the town of Greenfield to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (Senate, No. 2258); and

Authorizing the town of Greenfield to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (Senate, No. 2259); and

House bills

Authorizing the town of Cohasset to use a certain parcel of water supply land for general municipal purposes (House, No. 1132);

Providing for nonsmoking units in elderly housing (House, No. 1181);

Relative to the determination of condominium common area interest (House, No. 1235);

Relative to the estate of homestead (House, No. 1591);

Authorizing the appointment of retired police officers as special police officers in the town of Norwood (House, No. 1917);

Authorizing Southwick's Zoo to install certain sign (House, No. 3213);

Designating a bridge in the town of Clinton as the Arthur J. Mayou Memorial Bridge (House, No. 3280);

Relative to red and blue flashing, rotating or oscillating lights (House, No. 3301);

Second
reading
bills.

Authorizing the town of Westwood to grant three licenses for the sale of wine and malt beverages to food stores (House, No. 4089);

Amending Chapter 97 of the Acts of 2007 relative to the town of Belmont Other Post Employment Benefits Trust Fund (House, No. 4223);

Amending the requirements regarding the method of determination of the allocation of the number of town meeting members among precincts in the town of Shrewsbury (House, No. 4305);

Authorizing the use of revenues from the Groton Sewer Enterprise Fund (House, No. 4354);

To amend the charter for the town of Groton (House, No. 4355);

Designating a certain intersection in the town of Stoughton as the Police Chief William F. Gross and Ann M. Gross intersection (House, No. 4370);

Authorizing the town of Norwood to acquire the Norwood Post VFW #2452 building for the ability to lease it to veterans' organizations (House, No. 4383);

Providing for a ballot question in the town of Arlington authorizing the granting of 3 licenses for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 4403);

Relative to the promotion of a member of the fire department of the town of Framingham (House, No. 4405); and

Designating a certain road in the town of Salisbury as Army Sergeant Jordan Michael Shay Memorial Drive (House, No. 4412); and

Making gun law violations subject to dangerousness hearing determinations (House, No. 4428).

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

House
report.

The House report of the committee on Tourism, Arts and Cultural Development, ought NOT to pass, on the petition (accompanied by resolve, House, No. 3539) of James Ellis for the establishment of a special commission (including members of the General Court) to prepare plans for the observance by the Commonwealth of the bicentennial of the historic events related to the War of 1812, was accepted.

Recess.

Recess.

At twenty-two minutes after eleven o'clock A.M., on motion of Mr. Kafka of Stoughton (Mr. Donato of Medford being in the Chair), the House recessed until ten minutes before one o'clock P.M.; and at two minutes before one o'clock the House was called to order with the Mr. Vallee of Franklin in the Chair.

*Joint Session of the Two Houses to Consider
Specific Amendments to the Constitution*

Joint
Session.

At six minutes past one o'clock P.M., the two Houses met in

JOINT SESSION

and were called to order by the Honorable Therese Murray, President of the Senate.

Distinguished Guests.

There being no objection, the President introduced the State Champion Watertown Field Hockey team. On Saturday, November 21, 2009, Watertown High School defeated Oakmont Regional High School, in a physical, hard fought 1-0 victory, to become the 2009 MIAA Division II State Champion Field Hockey Team. The Raider's 2009 State Championship capped a season of undefeated play. The championship is the 10th in Watertown program history, and the first since the Raiders won back-to-back titles in 2001 and 2002. Watertown's 2009 team was captained by Emily Sideris and Kelsey Prendergast, who are here with their teammates today. Also joining the team in the Chamber today is their coach Eileen Donahue and Watertown's Athletic Director Michael Lahiff. The team was the guest of Senator Tolman and Representative Hecht of Watertown.

Watertown
Field Hockey
Team.

Without action on the matters duly and constitutionally assigned for consideration, on motion of Ms. Menard, at eight minutes past one o'clock P.M., the joint session was recessed until Thursday, July 29, 2010, at one o'clock P.M.; and the Senate withdrew from the House Chamber under the escort of the Sergeant-at-Arms.

Orders of the Day.

The Senate Bill punishing assault and battery by means of a bodily substance upon correctional facility employees (Senate, No. 997, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Correctional
employees,—
assault upon.

After debate on the question on passing the bill to be engrossed, in concurrence, Mr. Pedone of Worcester moved to amend it in line 17 by striking out the following: "less than 2 and a half years nor more than 15" (as amended by the Senate and as changed by the House committee on Bills in the Third Reading) and inserting in place thereof the following: "more than 10".

The amendment was adopted.

Mr. Costello of Newburyport then moved to amend the bill by adding the following subsection:

"(d) Any person with an open mental health case charged under this statute shall be evaluated under the provisions set forth in Chapter 123, section 15."

The amendment was adopted.

Messrs. O'Flaherty of Chelsea, Jones of North Reading and Cantwell of Marshfield and other members of the House then moved to amend the bill by adding the following section:

"SECTION 2. Section 31 of Chapter 272 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking, in lines 40 through 43, inclusive, the definition of 'Matter' and inserting in place thereof the following definition:—

'Matter', any handwritten or printed material, visual representation, live performance or sound recording including but not limited to books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances, or any

electronic communication including but not limited to any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system.”

Amendment
adopted,—
yea and nay
No. 290.

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. O’Flaherty; and on the roll call 148 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 290 in Supplement.]

Therefore the amendment was adopted.

Bill passed to
be engrossed,—
yea and nay
No. 291.

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. Costello of Newburyport; and on the roll call 149 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 291 in Supplement.]

Therefore the bill (Senate, No. 997, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments.

Order.

Mr. Donato of Medford being in the Chair,—

On motion of Mr. DeLeo of Winthrop,—

Next
sitting.

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

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at ten minutes after two o’clock P.M., on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at eleven o’clock A.M., in an Informal Session.