

Wednesday, March 2, 2011.

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).

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 of Representative Cantwell of Marshfield.

A statement of Representative Cantwell of Marshfield 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 I was not present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. If I had been present for the taking of the yeas and nays on the question on adoption of the Senate Order relative to establishing a special joint committee on redistricting (Senate, No. 9), I would have voted in the affirmative. Statement of Mr. Cantwell of Marshfield.

Statement of Representative Linsky of Natick.

A statement of Representative Linsky of Natick 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 I will be unable to be present in the House Chamber for the remainder of today's sitting due to a personal family obligation. My missing of roll calls today is due entirely to the reason stated. Statement of Mr. Linsky of Natick.

Communication.

A communication from the Division of Health Care Financing and Policy (under the provisions of Section 64 of Chapter 288 of the Acts of 2010) relative to existing bundled payment methodologies, was placed on file. Health care,—bundled payments. Special Reports.

Special Reports.

Special reports of the Department of Public Health (under the provisions of sections 5, 20 and 21 of Chapter 111 of the General Laws) relative to inspections of the following six facilities: Public Health,—inspection reports.

- Barnstable County Correctional Facility in the town of Bourne;
 - Boston Pre-Release Center in the city of Boston;
 - Hampshire County Jail and House of Correction in the city of Northampton;
 - Massachusetts Alcohol and Substance Abuse Center in the town of Bridgewater;
 - Norfolk County Correctional Center in the town of Dedham; and
 - Pondville Correctional Center in the town of Norfolk;
- Severally were placed on file.

Recess.

At three minutes after eleven o'clock A.M., on motion of Mr. Pedone of Worcester (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at eight minutes after one o'clock the House was called to order with Mr. Donato in the Chair.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Matthew Baker on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mrs. Poirier of North Attleborough) congratulating Michael Sean Lawler on receiving the Eagle Scout Award of the Boy Scouts of America; and

Resolutions (filed by Representatives Poirier of North Attleborough, Barrows of Mansfield and Howitt of Seekonk) congratulating James Patrick Purcell on the occasion of his retirement;

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

Petitions.

Ms. Hogan of Stow presented a petition (subject to Joint Rule 12) of Kate Hogan and others for legislation to increase the membership of the Board of Agriculture within the Department of Agricultural Resources; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Kaufman of Lexington, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Environment, Natural Resources and Agriculture. Sent to the Senate for concurrence.

Mr. deMacedo of Plymouth presented a petition (subject to Joint Rule 12) of Viriato Manuel deMacedo for legislation to establish a sick leave bank for Daniel Murphy, an employee of the Department of Correction; and the same was referred, under Rule 24, to the committee on Rules.

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 Brian S. Dempsey for legislation to establish a sick leave bank for David Cummings, an employee of the Executive Office of Health and Human Services;

David Cummings,—
sick leave.

Petition (accompanied by bill) of John D. Keenan and Fredrick E. Berry for legislation to establish a sick leave bank for Brenda Randazzo, an employee of the Executive Office of Health and Human Services; and

Brenda Randazzo,—
sick leave.

Petition (accompanied by bill) of Geraldo Alicea and Stephen M. Brewer for legislation to establish a sick leave bank for Sheila Santelli, an employee of the Department of Housing and Community Development.

Sheila Santelli,—
sick leave bank.

Severally to the committee on Public Service; Under suspension of the rules, on motion of Mr. Kaufman of Lexington, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Quorum.

Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (Mrs. Haddad of Somerset being in the Chair) 149 members were recorded as being in attendance.

Quorum,—
yea and nay
No. 21.

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

Therefore a quorum was present.

Motion to Suspend Rule 24(2).

Mr. Jones of North Reading moved that Rule 24(2) be suspended so that he might offer, from the floor, an Order (filed by him and other members of the House) soliciting the opinion of the Attorney General relative to the legality of slots under the state's charitable bazaar's statute.

Slots,—
legality.

The motion to suspend Rule 24(2) was negatived; and the order was referred, under said rule, to the committee on Rules.

Orders of the Day.

The Senate Bill establishing a sick leave bank for Nena Canada, an employee of the Trial Court (Senate, No. 23), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence.

Nena Canada,—
sick leave bank.

The Reorganization Plan No. 1 of 2011 (submitted by the Governor under the provisions of Article LXXXVII of the Amendments to the Constitution) relative to reorganizing the Executive Office of Labor and Workforce Development (see House, No. 39), was considered.

Reorganization
Plan No. 1.

Pending the question: "Shall this reorganization plan be approved?", further consideration thereof was postponed, on motion of Mr. Kocot of Northampton, until the next sitting.

Matthew Baker.

Michael Sean Lawler.

James Patrick Purcell.

Board of Agriculture,—
membership.

Daniel Murphy,—
sick leave bank.

Redistricting.

The Senate Order relative to establishing a special joint committee on redistricting (Senate, No. 9), was considered.

Pending the question on adoption of the order, in concurrence, Mr. Jones of North Reading and other members of the House moved to amend it by striking out the text contained therein and inserting in place thereof the following:

“Ordered, That an independent redistricting commission, herein referred to as the commission, shall be convened and shall divide the commonwealth into congressional districts, 160 representative districts, 40 senatorial districts, and eight councilor districts. All districts shall comprise contiguous territory, shall be equal in population to the extent required by law, and shall comply with federal constitutional and statutory requirements. No district shall be drawn for the purpose or with the effect of diluting the voting strength of any group based on race, ethnicity or language minority status, or for the purpose of augmenting or diluting the voting strength of a political party, or any individual. In drawing district lines, the commission shall not consider residential address, party affiliation, or partisan voting history of any individual or groups of individuals, except to the extent necessary to avoid dilution of voting strength based on race, ethnicity or language minority status. In addition, to the maximum extent possible, district boundaries shall be drawn so as to: (1) maintain the unity of well-defined municipal neighborhoods; (2) observe municipal boundaries; (3) establish senatorial districts that follow representative district boundaries; (4) establish councilor districts that follow representative district boundaries and (5) promote geographic compactness of districts. If it is not possible to draw district boundaries that fully comply with these criteria while also complying with the mandatory requirements set forth herein, then districts shall be drawn to optimize the criteria in the order of priority set forth hereinabove. The commission shall also consider communities of interest in determining which cities, towns, or neighborhoods thereof to aggregate into a single district.

The commission shall consist of seven member commissioners. On or before March 15 of the year following the commencement of the federal census, the following offices shall each appoint one member of the commission: the governor of the commonwealth, who shall appoint a dean or professor of law or political science or government at an institution of higher learning in the commonwealth; the attorney general of the commonwealth, who shall appoint a retired justice who resides in the commonwealth; and the secretary of the commonwealth, who shall appoint an expert in civil rights law who is a resident of the commonwealth.

By the same date, the house speaker, the house minority leader, the senate president, and the senate minority leader shall each nominate three individuals. The appointees chosen by the governor, attorney general, and secretary of the commonwealth shall then select one of the three nominees named by each said official.

If nominations or appointments are not made by March 15 of such year, the office responsible for making the appointment or nominations shall forfeit its rights under this section and the remaining direct appointees shall then make an appointment to fill the vacancy. Nominations and appointments shall reflect the geographic, racial, ethnic,

gender, and age diversity of the commonwealth to the maximum extent feasible and shall be selected on the basis of civic involvement and knowledge of redistricting policy, civil rights, political science, demographics or statistics, election expertise, voting rights, community organizing, or law. No person nominated or appointed to the commission, in the five years preceding such nomination or appointment, shall have held Congressional, state legislative or statewide elective office, or shall have served as mayor or city councilor of a city in the commonwealth, governor's councilor, or shall have been elected to a state or federal party committee; or shall be a current employee, agent or family member of any of the above; or, in the two years preceding such nomination or appointment, shall have been a legislative agent. The commissioners shall agree: (1) not to stand for election to the general court, congress, or the governor's council until districts are redrawn following the next census; (2) to apply the provisions of this article in an honest, independent, and impartial fashion; and (3) to act at all times so as to uphold public confidence in the integrity of the redistricting process.

The commission shall be convened no later than March 31 of the year following the commencement of the decennial census. The commission shall disband only upon final adoption and exhaustion of judicial review of challenges to representative, councilor, and senatorial districts.

The commission shall hire staff and may retain experts to assist it in the performance of its duties. The commission shall establish rules governing its operation and procedures. Commissioners may receive compensation for actual time spent on commission duties and shall be reimbursed for reasonable and necessary expenses. The budget of the commonwealth shall provide adequate funding for the operation of the commission.

A member of the commission or an appointing authority may petition the supreme judicial court to remove a commissioner on the grounds of neglect, misconduct, or inability to perform the duties of a commissioner. A vacancy so created shall be filled by the office which appointed the removed commissioner or by the nomination and selection process set forth in this section, as applicable.

All meetings of the commission shall be open to the public, consistent with the laws of the commonwealth concerning open meetings as of the date of the adoption of this Article. All documents produced by or for the commission shall be public. The commission shall hold public hearings in at least five geographically disbursed counties. The public shall be afforded the opportunity to submit proposed maps for consideration by the commission and the commission shall make map-making software available for public use. The commission shall take all steps necessary to ensure that the public can exercise its right to review and comment on proposed district maps before they are approved and shall publish all preliminary and final plans in publicly accessible forums that are free of charge and that ensure wide public distribution. Proposed districts shall be presented in both graphic and narrative form.

Within 120 days of the completion of the decennial census, the commission shall prepare and publish for public comment a prelimi-

Redistricting. nary plan for representative, councilor, and senatorial districts. The public shall have a three-week period to comment on the preliminary district plan. The commission may revise the preliminary district plan in response to public comment and shall submit the revised plan to the general court, which shall vote on the revised plan. If the plan is rejected, the commission shall prepare, publish, revise, and submit a second-round preliminary district plan in the same manner as the first. Following the period for public comment, the commission shall submit the revised plan to the general court for a vote. If the general court votes to reject the second-round plan, the commission shall prepare, publish, revise, and submit a third-round preliminary district plan, in the same manner as the first. If the general court rejects the third-round plan, then the commission shall prepare, publish, and revise a fourth-round plan in the same manner. The plan, so revised, shall become law without submission to or approval by the general court.

With respect to each plan the commission submits to the general court for a vote, the vote must be taken within two weeks of submission. No amendments to the plan as submitted may be made. If the plan is approved by a majority of the members of the house of representatives and the senate present and voting or if no vote is taken within the two-week period, then the plan as submitted shall become law.

The federal census shall be the basis for determining congressional districts for the ten year period beginning with the first Wednesday of the third January following the commencement of the taking of said census. All districts shall be drawn of contiguous territory, shall be equal in population to the extent required by law, and shall comply with federal constitutional and statutory requirements. No district shall be drawn for the purpose or with the effect of diluting the voting strength of a group based on race, ethnicity or language minority status, or for the purpose of augmenting or diluting the voting strength of a political party, or any individual. In drawing district lines, the commission shall not consider residential address, party affiliation, or partisan voting history of any individual or groups of individuals, except to the extent necessary to avoid dilution of voting strength based on race, ethnicity or language minority status. In addition, to the maximum extent possible, district boundaries shall be drawn so as to: (1) maintain the unity of well- defined municipal neighborhoods; (2) observe municipal boundaries; and (3) promote geographic compactness of districts. If it is not possible to draw district boundaries that fully comply with these criteria while also complying with the mandatory requirements set forth herein, then they shall be drawn to optimize the criteria in the order of priority set forth hereinabove. The commission shall also consider communities of interest in determining which cities, towns, or neighborhoods thereof to aggregate into a single district and if all other criteria are met.

Original jurisdiction is hereby vested in the supreme judicial court upon the petition of any voter of the commonwealth for judicial relief relative to the establishment of the congressional districts. The general court may by law limit the time within which judicial proceedings may be instituted to challenge any redistricting map.”.

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. Moran of Boston; and on the roll call 31 members voted in the affirmative and 123 in the negative.

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

[Representative Winslow of Norfolk answered “Present” in response to his name.]

Therefore the amendment was rejected.

On the question on adoption of the order, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 123 members voted in the affirmative and 30 in the negative.

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

[Representative Winslow of Norfolk answered “Present” in response to his name.]

Therefore the order (Senate, No. 9) was adopted, in concurrence.

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.

Amendment rejected,—yea and nay No. 22.

Order adopted,—yea and nay No. 23.

Next sitting.

At eight minutes after two o’clock P.M., on motion of Mr. Peterson of Grafton (Mrs. Haddad of Somerset being in the Chair), the House adjourned, to meet the following day at eleven o’clock A.M., in an Informal Session.