

JOURNAL OF THE HOUSE.

Wednesday, March 3, 2010.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, 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:

At the beginning of today's legislative session we take a moment to focus our thoughts and attention on You, God, our Creator. This moment also enables us to set our priorities for the day and to reflect briefly on our own spiritual values and moral principles. As elected leaders we try with Your assistance to meet the needs of the people and of our communities in these challenging economic times. We know that it is difficult if not impossible, to address all the expectations of all people, but our intention is to be fair and reasonable in dealing with constituents and their concerns. This morning we also remember in our prayers the people of Chile as they try to cope with their recent catastrophe. May they be successful in their efforts to rebuild their communities and strengthen their families under difficult conditions.

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 — Reorganization Plan No. 2 of 2010.

A message from His Excellency the Governor submitting (under Article LXXXVII of the Amendments to the Constitution) Reorganization Plan No. 2 of 2010, relative to reorganizing certain agencies of the Executive Department (House, No. 4541) was filed in the office of the Clerk on Tuesday, March 2.

The message was read; and it was referred, under Article LXXXVII and Joint Rule 23A, with the accompanying draft of a bill, to the committee on State Administration and Regulatory Oversight. Sent to the Senate for concurrence.

Statement of Representative Ayers of Quincy.

A statement of Mr. Ayers of Quincy 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 not be present in the House Chamber for the remainder of today's sitting due to an unavoidable family obligation. My missing of roll calls for the remainder of today due entirely to the reason stated.

Resolutions.

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

Veterans hospitals. Resolutions (filed by Mrs. Canavan of Brockton and other members of the House) urging the Congress of the United States to continue supporting veterans administration hospitals in Massachusetts;

Thomas E. Ayres. Resolutions (filed by Mr. Naughton of Clinton) recognizing U.S. Army Brigadier General Thomas E. Ayres' service to the United States of America and upon his visit to the Massachusetts State House;

Gill P. Beck. Resolutions (filed by Mr. Naughton of Clinton) recognizing U.S. Army Brigadier General Gill P. Beck's service to the United States of America and upon his visit to the Massachusetts State House;

Conor Daniel O'Leary. Resolutions (filed by Ms. Peisch of Wellesley) honoring Conor Daniel O'Leary on receiving the Eagle Award of the Boy Scouts of America;

Brandon Leo James Tomm. Resolutions (filed by Representatives Peisch of Wellesley and Naughton of Clinton) honoring Brandon Leo James Tomm on receiving the Eagle Award of the Boy Scouts of America; and

Allen M. Bornheimer. Resolutions (filed by Messrs. Webster of Hanson and Calter of Kingston) congratulating Allen M. Bornheimer 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 Mr. O'Flaherty of Chelsea, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Communication.

PERAC,—proposed regulations. A communication from the Public Employees Retirement Administration commission (under Section 50 of Chapter 7 of the General Laws) submitting proposed rules and regulations governing retirement of public employees (House, No. 4545), was referred, under Rule 24, to the committee on Public Service. Sent to the Senate for concurrence.

Petitions.

Petitions severally were presented and referred as follows:

Communications center. By Representative Bradley of Hingham and Senator Hedlund, joint petition (subject to Joint Rule 12) of Garrett J. Bradley, Robert L. Hedlund and Robert J. Nyman for legislation to establish a regional public safety communications center for the towns of Cohasset, Hingham, Hull and Norwell;

Operating under the influence. By Mr. Evangelidis of Holden, petition (subject to Joint Rule 12) of Lewis G. Evangelidis, Jennifer L. Flanagan and Jennifer E. Benson relative to increasing the penalties for homicide by a motor vehicle while operating under the influence of alcohol or illegal drugs;

Milford,—National Guard. By Representative Fernandes of Milford and Senator R. T. Moore, joint petition (subject to Joint Rule 12) of John V. Fernandes and Richard T. Moore for legislation to establish the joint force headquarters of the Air and Army National Guard in the town of Milford;

By Representatives Garballey of Arlington and Brownsberger of Belmont, petition (subject to Joint Rule 12) of Sean Garballey and William N. Brownsberger relative to designating a certain portion of Route 2 located in the city of Cambridge and in the town of Arlington as the James M. Gavin Memorial Highway;

James M. Gavin Memorial Highway.

By Ms. Grant of Beverly, petition (subject to Joint Rule 12) of Mary E. Grant for legislation to increase local control in the approval of charter schools in the Commonwealth;

Charter schools.

By Miss Gregoire of Marlborough, petition (subject to Joint Rule 12) of Danielle W. Gregoire for issuance by the Governor of an annual proclamation setting apart the fourth Saturday of September in memory of Eunice Kennedy Shriver, the founder of the Special Olympics;

Eunice Kennedy Shriver.

By the same member, petition (subject to Joint Rule 12) of Danielle W. Gregoire and James Peltekis that the Registrar of Motor Vehicles be authorized to issue a special motor vehicle registration plate for wholesalers;

Wholesalers,—license plate.

By Mr. Keenan of Salem, petition (subject to Joint Rule 12) of John D. Keenan for legislation to reduce the time limitation for filing with the courts of a mechanics lien for labor and material services and providing for the validation of such liens;

Liens,—time limit.

By Mr. Naughton of Clinton, petition (subject to Joint Rule 12) of Harold P. Naughton, Jr., that the Secretary of the Executive Office for Administration and Finance be directed to make an investigation and study of sick leave benefit policies of independent authorities of the Commonwealth;

Sick leave benefit,—study.

By Mr. Petrolati of Ludlow, petition (subject to Joint Rule 12) of Thomas M. Petrolati that the Department of Children and Families be authorized to establish a sick leave bank for Sarah F. Bowler, an employee of said department;

Sarah F. Bowler,—sick leave.

By Mrs. Richardson of Framingham, petition (subject to Joint Rule 12) of Pam Richardson and Francis C. Fichtner for legislation to place certain restrictions in parking areas assigned for motor vehicles transporting handicapped persons;

Handicapped persons,—parking.

By Mr. Speliotis of Danvers, petition (subject to Joint Rule 12) of Theodore C. Speliotis, Brian M. Ashe and others for legislation to ensure uniform pricing in home heating oil transactions at petroleum terminals in the Commonwealth; and

Heating oil.

By Representative Turner of Dennis and Senator O'Leary, joint petition (subject to Joint Rule 12) of Cleon H. Turner, Robert A. O'Leary and Demetrius J. Atsals for legislation to designate a certain bridge on Route 28 over the Bass River connecting the towns of Dennis and Yarmouth as the United States Marine Corporal Nicholas G. Xiarhos Bridge.

Nicholas G. Xiarhos Bridge.

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

Papers from the Senate.

A Bill providing for recall in the town of Colrain (printed as House, No. 4384) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Colrain,—recall election.

West Springfield,—
police chief. A petition (accompanied by bill, Senate, No. 2297) of Stephen J. Bounticonti and James T. Welch (by vote of the town) for legislation to authorize the town of West Springfield to continue the employment of the police chief Thomas E. Burke, was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

Medical examinations. By Mr. Koutoujian of Waltham, for the committee on Financial Services, on House, Nos. 863 and 946, a Bill relative to certain medical examinations (House, No. 946). Referred, under Joint Rule 1E, to the committee Health Care Financing.

Gender responsive programming. By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill establishing a special commission on gender-responsive programming for system-involved girls (House, No. 3418).

Seafood marketing,—
study. By Mr. Straus of Mattapoisett, for the committee on Environment, Natural Resources and Agriculture, on a petition, a Bill relative to a special commission on seafood marketing (House, No. 706, changed in line 18 by striking out the year "2007" and inserting in place thereof the year "2010").

Mystic River,—
water quality. By the same member, for the same committee, on a petition, a Bill establishing a Mystic River water quality commission (House, No. 807).

Severally read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Older youths,—
care. By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill bettering the lives of youth who age out of the care of the Commonwealth (House, No. 123).

Snowmobiles,—
registration. By Mr. Straus of Mattapoisett, for the committee on Environment, Natural Resources and Agriculture, on a petition, a Bill relative to the registration of antique snowmobiles (House, No. 772).

Family camping. By the same member, for the same committee, on a petition, a Bill to protect and preserve family camping in Massachusetts (House, No. 789).

Vehicle glass repair shops. By Mr. Koutoujian of Waltham, for the committee on Financial Services, on a petition, a Bill relative to motor vehicle glass repair shop registration (House, No. 883).

Vehicle rentals. By the same member, for the same committee, on a petition, a Bill relative to rental vehicle and replacement vehicle transactions and services (House, No. 886).

Vehicle repairs. By the same member, for the same committee, on House, Nos. 896, 964, 1005, 1006, 1007, 1008 and 1040, a Bill relating to the repair of damaged motor vehicles (House, No. 964).

Bank regulations. By the same member, for the same committee, on a petition, a Bill relative to certain regulations of the Division of Banks (House, No. 969).

Bank examinations. By the same member, for the same committee, on a petition, a Bill relative to confidentiality of examination reports of the Division of Banks (House, No. 982).

By the same member, for the same committee, on a petition, a Bill establishing uniform enforcement provisions and making other changes applicable to certain licensees under the jurisdiction of the Division of Banks (House, No. 983).

By the same member, for the same committee, on House, No. 884, a Bill relating to consumer protection in motor vehicle glass service (House, No. 4538).

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

By Mr. Straus of Mattapoisett, for the committee on Environment, Natural Resources and Agriculture, on a petition, a Bill relative to striped bass (House, No. 799).

By the same member, for the same committee, on a petition, a Bill designating the intersection in front of 306 Turtle Pond Parkway in the Hyde Park district of the city of Boston as Paul P. Loring Square (House, No. 4120).

By the same member, for the same committee, on a petition, a Bill establishing a shellfish mitigation receipts reserved for appropriation fund in the town of Dennis (House, No. 4245) [Local Approval Received].

By Mr. Koutoujian of Waltham, for the committee on Financial Services, on a petition, a Bill relative to bank branches (House, No. 916).

By the same member, for the same committee, on a petition, a Bill revising certain provisions of the mutual holding company law (House, No. 917).

By the same member, for the same committee, on a petition, a Bill making technical corrections in the law relative to discharge of certain mortgages (House, No. 996).

By the same member, for the same committee, on House, No. 981, a Bill relative to certain banking laws (House, No. 4537).

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

By Mr. Koutoujian of Waltham, for the committee on Financial Services, ought NOT to pass, on the petition (accompanied by bill, House, No. 858) of Bruce J. Ayers providing mortgage customers additional mandatory information regarding their accounts.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 909) of William C. Galvin relative to joint bank accounts.

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

Engrossed Bill.

The engrossed Bill establishing a board of health in the town of Nantucket (see House, No. 1895) (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.

Bank licensees.

Vehicle glass service.

Striped bass.

Hyde Park,—
Loring Square.

Dennis,—
shellfish fund.

Bank branches.

Mutual holding companies.

Mortgage discharges.

Banking laws.

Mortgage customers,—
accounts.

Joint bank accounts.

Bill enacted.

Orders of the Day.

Third reading bill.

The House Bill relative to the licensure of health plans (House, No. 971), reported by the committee on Bill in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Second reading bills.

House bills
Relative to special police officers in the town of Greenfield (House, No. 636);
Establishing the Essex County commission on the status of women (House, No. 3410);
Exempting non-public safety employees from civil service (House, No. 4198);
Authorizing the town of Westport to lease a portion of the Westport Town Farm to the Trustees of Reservations (House, No. 4368);
Authorizing the town of West Boylston to establish a municipal building fund and a municipal building committee (House, No. 4390);
Relative to exemptions in the Massachusetts automobile insurance plan (House, No. 4476);
Establishing a sick leave bank for John "Jack" Bevelaqua, an employee of the Department of Energy Resources (House, No. 4503); and
Relative to state trademarks (House, No. 4521).
Severally were read a second time; and they were ordered to a third reading.

Recesses.

At sixteen 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 the hour of one o'clock P.M.; and at that time the House was called to order with Mr. Pedone of Worcester in the Chair.
The House thereupon took a further recess, on motion of Mr. Donato, until half past one o'clock; and at that time the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Dogs and cats,— devocalization.

The House Bill prohibiting devocalization of dogs and cats (House, No. 344), reported by the committee on Bill in the Third Reading to be correctly drawn, was read a third time.
After remarks on the question on passing the bill to be engrossed, Mr. Peterson of Grafton moved to amend it by striking out section 1 (as printed) and inserting in place thereof the following:
"SECTION 3. Chapter 272 of the General Laws is hereby amended by inserting, after section 80A, the following section:—
Section 80A½ . (a) No person shall surgically debark or silence a dog or cat, or cause surgical debarking or silencing of a dog or cat, unless: the procedure is performed by a veterinarian licensed in the commonwealth who deems the procedure to be medically necessary to treat or relieve an illness, disease or injury or correct a congenital abnormality that is causing or may cause the dog or cat medical harm or pain.

(b) No person except a veterinarian licensed in the commonwealth, using anesthesia, may surgically debark or silence a dog or cat.

(c) Any person, except a veterinarian licensed in the commonwealth, in violation of this section shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 and one-half years or by a fine of not more than \$2,500, or by both such fine and imprisonment. A court may also order any person convicted under this section to submit to a mental health evaluation as determined by the court and undergo any recommended counseling or treatment. In addition to any other penalty provided by law, a person convicted under this section may be barred from owning or possessing any animals, or living on the same property with someone who owns or possesses animals, for a period of time deemed appropriate by the court, and required to take humane education, pet ownership and dog training classes as ordered by the court.

(d) Any veterinarian in violation of this section shall be subject to section 59 of chapter 112."

After debate on the question on adoption of the amendment, Mr. Bosley of North Adams moved to amend it by adding the following section:

"SECTION 4. Any veterinarian performing such a surgery shall report such devocalization to the Board of Registration in Veterinary Medicine within 60 days. Such report shall be provided anonymously and shall include the gender and breed of the animal as well as the date and time of each such surgery and must become a permanent part of the animal's permanent veterinarian record. That record must include a certificate of the procedure and be subject to audit by the Board of Registration in Veterinary Medicine.

Such data shall be held in strict confidence and shall not be publicly disseminated. At no time shall information be kept regarding the identity of the Veterinarian or facility performing said surgery. The Board shall bear responsibility for annually reporting such numbers to the Joint Committee on the Environment, Natural Resources and Agriculture."

After remarks the further amendment was adopted.

On the question on adoption of the amendment, as amended, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 48 members voted in the affirmative and 110 in the negative.

Amendment rejected,— yeas and nays No. 292.

[See Yeas and Nays No. 292 in Supplement.]

Therefore the amendment, as amended, was rejected.

On the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays at the request of Mr. O'Flaherty of Chelsea; and on the roll call 155 members voted in the affirmative and 1 in the negative.

Bill passed to be engrossed,— yeas and nays No. 293.

[See Yeas and Nays No. 293 in Supplement.]

Therefore the bill was passed to be engrossed. Mr. Frost of Auburn then moved that this vote be reconsidered, and the motion to reconsider was entertained. After remarks the motion to reconsider was negatived. The bill (House, No. 344) then was sent to the Senate for concurrence.

Statement concerning Representative Rogers of Norwood.

Subsequently a statement of Mr. Rogers of Norwood 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 on the previous roll call I was absent from the House Chamber, on official business in another part of the State House. If I had been present for the previous roll call I would have voted in the negative.

Lawrence,— financial stability.

The House Bill providing for the financial stability of the city of Lawrence (House, No. 4516) was read a second time; and it was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on motion of Mr. Torrisi of North Andover, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

After debate on the question on passing the bill to be engrossed, Mr. Jones of North Reading moved to amend it [A]by striking out all after the enacting clause and inserting in place thereof a new text.

Pending the question on adoption of the amendment, Mr. Murphy of Burlington moved to amend it by striking out [at "A"] the text of said amendment and inserting in place thereof the following:—

In lines 74 and 75 by striking out clauses (7) and (8) and inserting in place thereof the following three clauses:

“(7) monitor the expenditures of all funds;

(8) approve the annual or supplemental budgets of the city and the school committee; and (9) report to the secretary monthly on the progress made towards reducing the city’s capital and structural deficits.”;

In line 93, after the word “city.”, by inserting the following sentence: “The plan shall include a preliminary analysis of the city’s financial situation and the overseer’s initial recommendations to immediately begin to address the city’s operating and structural deficits.”;

In lines 108 to 113, inclusive, by striking out the following: “provided further, that employees who were covered by a collective bargaining agreement as of July 1, 2010 shall continue to receive the group insurance benefits pursuant to their respective collective bargaining agreement until the expiration date of such agreement; and provided, further, that upon the effective date of clause (ii), employees shall be subject to the group insurance premiums for state employees established pursuant to section 8 of said chapter 32A.”;

In line 115, after the word “provisions.”, by inserting the following paragraph:

“(3) Upon acceptance of section 19 of chapter 32B of the General Laws pursuant to clause (ii) of paragraph (2), the overseer shall notify the group insurance commission in writing of such acceptance and the intent to transfer subscribers, as defined in subsection (a) of said section 19 of said chapter 32B, to the group insurance commission. The group insurance commission shall, on or before November 1, 2010, enroll subscribers in the group insurance commission pursuant to said paragraph (2); provided, however, that employees who are covered under a collective bargaining agreement as of July 1, 2010

in which a health insurance carrier is expressly named, shall continue to receive the group insurance benefits pursuant to their respective collective bargaining agreement until or before the expiration date of such contract; provided, further, that employees that are covered under a collective bargaining agreement that expires on June 30, 2010 shall continue to receive the group insurance benefits pursuant to their respective collective bargaining agreement until they are transferred to the group insurance commission on November 1, 2010; and provided, further, that on or before November 1, 2010, subscribers shall be subject to the group insurance premiums for state employees established pursuant to section 8 of chapter 32A.”; and

In lines 151 and 152 by striking out the following: “after January 31, 2011”.

After debate on the question on adoption of the further amendments, 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 101 members voted in the affirmative and 56 in the negative.

[See Yea and Nay No. 294 in Supplement.]

Therefore the further amendments were adopted, thus precluding a vote on the pending amendment.

Mr. Pedone of Worcester then moved to amend the bill by adding the following section:

“SECTION 12. This act shall take effect upon its passage.”.

The amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays at the request of Mr. Murphy of Burlington; and on the roll call 106 members voted in the affirmative and 51 in the negative.

[See Yea and Nay No. 295 in Supplement.]

Therefore the bill (House, No. 4516, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Donato of Medford being in the Chair, —

The House Bill providing the voters of the town of Bridgewater a choice of charters for a new form of government (House, No. 4413) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Flynn of Bridgewater moved to amend it by substitution of a bill with the same title (House, No. 4547), which was read.

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for 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.

Further amendments adopted,— yea and nay No. 294.

Bill passed to be engrossed,— yea and nay No. 295.

Bridgewater,— form of government.

Next sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-five minutes after five 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 next day at eleven o'clock A.M., in an Informal Session.