

Wednesday, March 7, 2012.

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.

Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to financing improvements to the Commonwealth's transportation system (House, No. 3979), was filed in the office of the Clerk on Tuesday, March 6, 2012. Transportation system,—improvements.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Transportation. Sent to the Senate for concurrence.

Statement Concerning Representative O'Day of West Boylston.

A statement of Mr. Rushing of Boston concerning Mr. O'Day of West Boylston 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 O'Day of West Boylston, is unable to be present in the House Chamber for today's sitting due to his father falling ill last evening. His missing of roll calls today is due entirely to the reason stated. Statement concerning Mr. O'Day of West Boylston.

Guests of the House.

During the session, Mr. Costello of Newburyport took the Chair, declared a brief recess, and introduced Lane Glenn, President of Northern Essex Community College. Mr. Costello then read and presented to President Glenn Resolutions of the House (adopted February 23, 2012) recognizing the fiftieth anniversary of Northern Essex Community College. He was the guest of Messrs. Costello, Campbell of Methuen, Dempsey of Haverhill, Devers of Lawrence and Torrisi of North Andover. Northern Essex Community College.

Resolutions.

Resolutions (filed with the Clerk by Mr. Vieira of Falmouth) congratulating Rebecca Silva, of Falmouth on becoming the first female district commander in Massachusetts VFW history, were referred, under Rule 85, to the committee on Rules. Rebecca Silva.

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

*Petition.*Wireless
devices,—
location.

Mrs. O'Connell of Taunton presented a petition (subject Joint Rule 12) of Shaunna L. O'Connell and others relative to wireless communication device location information; and the same was referred, under Rule 24, to the committee on Rules.

*Papers from the Senate.*Bourne,—
charter.

A Bill amending the charter of the town of Bourne (Senate, No. 2114, amended in section 1, in lines 344 and 345, by striking out the paragraph in those lines and inserting in place thereof the following paragraph:

“(d) The department of integrated solid waste management shall include the solid waste functions approved under the site assignment administered by the board of health and in accordance with the policies established by the board of selectmen. The department’s functions shall also include the implementation of additional solid waste functions as approved by the board of selectmen and consistent with the site assignment.”; and by adding the following section:

“SECTION 2. This act shall take effect upon its passage.”) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Sutton,—
land
conveyance.

Petition (accompanied by bill, Senate, No. 2172) of Richard T. Moore, Paul K. Frost and Ryan C. Fattman for legislation to convey land in the town of Sutton. To the committee on the State Administration and Regulatory Oversight.

Anthony
DiDonato
Highway.

Petition (accompanied by bill, Senate, No. 2169) of Richard T. Moore, Kevin J. Kuros and Peter J. Durant for legislation to designate a certain portion of Route 197 in the town of Dudley as the Anthony B. DiDonato, Sr. Memorial Highway;

Oxford,—
Michael
Bartlett.

Petition (accompanied by bill, Senate, No. 2170) of Richard T. Moore for legislation to designate the birthplace of Michael Bartlett in the town of Oxford; and

Motor
vehicles,—
idling.

Petition (accompanied by bill, Senate, No. 2171) of Donna Whalen and the fifth grade at Brickett Elementary School for legislation relative to vehicle idling;

Severally to the committee on Transportation.

*Reports of Committees.*Chelsea,—
drag
racing.

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 petition of Eugene L. O'Flaherty (with the approval of the city council) relative to drag racing in the city of Chelsea. Under suspension of the rules, on motion of Mrs. Haddad of Somerset, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Transportation. Sent to the Senate for concurrence.

By Mr. Sánchez of Boston, for the committee on Public Health, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 1501) of Elizabeth A. Malia and others for legislation to provide for primary and preventative health care services for certain children in the Commonwealth,— and recommending that the same be referred to the committee on Health Care Financing. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Children,—
preventative
care.

By Mr. Kocot of Northampton, for the committee on State Administration and Regulatory Oversight, asking to be discharged from further consideration of the joint petition (accompanied by bill, House, No. 3953) of Patricia A. Haddad, Michael J. Rodrigues and other members of the General Court (by vote of the town) relative to the development of the Meditech project on a certain parcel of land located in the town of Freetown,— and recommending that the same be referred to the committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence in the discharge of the committee.

Freetown,—
Meditech
project.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill regarding spouses as caregivers (House, No. 46).

Caregivers,—
spouses.

By the same member, for the same committee, on a petition, a Bill ensuring access to basic health care for children and young adults (House, No. 63).

Health care,—
access.

By the same member, for the same committee, on a petition, a Bill relative to increasing consumer access to licensed marriage and family therapists (House, No. 68).

Marriage
and family
therapists.

By the same member, for the same committee, on a petition, a Bill ensuring equal access to services for all residents of the Commonwealth (House, No. 74).

Services,—
access.

By the same member, for the same committee, on a petition, a Bill providing for the public disclosure of quality indicators for the developmentally disabled (House, No. 975).

Disabled,—
indicators.

By the same member, for the same committee, on a petition, a Bill establishing an independent office of quality assurance for developmentally disabled persons (House, No. 2683).

Developmental
disabilities.

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill relative to the Department of Social Services (House, No. 996).

Domestic
violence
programs.

By the same member, for the same committee, on a petition, a Bill relative to court review of Department of Children and Families case plans (House, No. 2678).

Case plans,—
court
review.

By the same member, for the same committee, on a petition, a Bill relative to nonviolent discipline (House, No. 3262).

Parenting,—
discipline.

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

Schools,—
food
products.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill relative to school served food products (House, No. 69).

Janet
Ruggieri,—
sick leave.

By Mr. Scibak of South Hadley, for the committee on Public Service, on a petition, a Bill establishing a sick leave bank for Janet Ruggieri, an employee of the Massachusetts Department of Revenue (House, No. 3976).

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

Engrossed Bill.

Bill
enacted.

The engrossed Bill authorizing the city of Fitchburg to grant an additional license for the sale of wines and malt beverages not to be drunk on the premises (see House, No. 3738) (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.

Recess.

Recess.

At one minute after eleven o'clock A.M., 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 eleven minutes after one o'clock the House was called to order with Mr. Donato in the Chair.

Papers from the Senate.

Supplemental
appropriations.

The engrossed Bill making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects (Senate, No. 2112), which had been returned by His Excellency the Governor (under the provisions of Section 5 of Article 63 of the Amendments to the Constitution) with his disapproval or reduction of certain items and sections contained therein (for message, see Senate, No. 2146), came from the Senate with the endorsement that said branch had passed items 8910-0105, 8910-8200, 8910-8300 and 8910-8700 contained in section 2, notwithstanding the reductions; and sections 36 and 37, notwithstanding the objections of the Governor.

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

Mr. Kafka of Stoughton, for said committee, reported, in each instance, that the matters be scheduled for consideration by the House. Under suspension of Rule 7A, in each instance, on motion of Mr. Kulik of Worthington, the following items and sections were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter 1, Section I, Article II of the Constitution as follows:

Item 8910-0105 (contained in section 2) (Worcester County Sheriff's Office), which had been reduced by the Governor, was considered.

The Governor had reduced said item from \$693,920 to \$493,920.

After remarks the question on passing said item, in concurrence, notwithstanding the reduction by His Excellency the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 153 members voted in the affirmative and 0 in the negative.

Worcester
County
Sheriff's
Office
item 8910-0105
stands,—
yea and nay
No. 203.

[See Yea and Nay No. 203 in Supplement.]

Therefore item 8910-0105 (contained in section 2) was passed, in concurrence, notwithstanding the reduction by the Governor (more than two-thirds of the members present and voting having voted in the affirmative).

Item 8910-8200 (contained in section 2) (Barnstable County Sheriff's Office), which had been reduced by the Governor, was considered.

The Governor had reduced said item from \$2,000,218 to \$1,000,109.

After remarks the question on passing said item, in concurrence, notwithstanding the reduction by His Excellency the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 152 members voted in the affirmative and 0 in the negative.

Barnstable
County
Sheriff's
Office
item 8910-8200
stands,—
yea and nay
No. 204.

[See Yea and Nay No. 204 in Supplement.]

Therefore the item 8910-8200 (contained in section 2) was passed, in concurrence, notwithstanding the reduction by the Governor (more than two-thirds of the members present and voting having voted in the affirmative).

Item 8910-8300 (contained in section 2) (Bristol County Sheriff's Office), which had been reduced by the Governor, was considered.

The Governor had reduced said item from \$1,904,190 to \$952,094.

After remarks the question on passing said item, in concurrence, notwithstanding the reduction by His Excellency the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 151 members voted in the affirmative and 2 in the negative.

Bristol
County
Sheriff's
Office
item 8910-8300
stands,—
yea and nay
No. 205.

[See Yea and Nay No. 205 in Supplement.]

Therefore the item 8910-8300 (contained in section 2) was passed, in concurrence, notwithstanding the reduction by the Governor (more than two-thirds of the members present and voting having voted in the affirmative).

Item 8910-8700 (contained in section 2) (Plymouth County Sheriff's Office), which had been reduced by the Governor, was considered.

The Governor had reduced said item from \$1,743,756 to \$871,878.

After remarks the question on being passing said item, in concurrence, notwithstanding the reduction by His Excellency the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 152 members voted in the affirmative and 0 in the negative.

Plymouth
County
Sheriff's
Office
item 8910-8700
stands,—
yea and nay
No. 206.

[See Yea and Nay No. 206 in Supplement.]

Therefore the item 8910-8700 (contained in section 2) was passed, in concurrence, notwithstanding the reduction by the Governor (more than two-thirds of the members present and voting having voted in the affirmative).

Bristol
County
Sheriff's
Office
section 36
stands,—
yea and nay
No. 207.

Section 36 (Bristol County Sheriff's Office), which had been vetoed by the Governor, then was considered.

After remarks the question on being passing said section, in concurrence, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by the Constitution; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 207 in Supplement.]

Therefore section 36 was passed, in concurrence, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative).

Section 37 (Plymouth County Sheriff's Office), which had been vetoed by the Governor, then was considered.

Plymouth
County
Sheriff's
Office
section 37
stands,—
yea and nay
No. 208.

After remarks the question on being passing said section, in concurrence, notwithstanding the objections of His Excellency the Governor, the sense of the House was determined by yeas and nays, as required by the Constitution; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 208 in Supplement.]

Therefore section 37 was passed, in concurrence, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative).

Tiered and
selective
network
health
plans.

The engrossed Bill relative to tiered and selective network health plans (see Senate, No. 2148) (being section 17 contained in the engrossed Bill making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects), which had been returned to the Senate by His Excellency the Governor (pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution) (see Senate, No. 2112) [for message, see Senate, No. 2147], came from the Senate with the endorsement that said branch had rejected the amendment recommended by His Excellency the Governor. The bill bore the further endorsement that it had been amended by the Senate by striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. Chapter 176J of the General Laws is hereby amended by inserting after section 11 the following section:-

Section 11A. (a) For an insured member who (1) is receiving an active course of medical treatment from a health care provider for a serious disease, including but not limited to, cancer or cystic fibrosis, that if disrupted in the course of medical treatment would pose an undue hardship to the patient and (2)(i) began this active course of treatment before being enrolled in a reduced or selective network plan where the provider is not part of the reduced or selective network or (ii) began this active course of treatment before being enrolled in a tiered network plan where the provider is in the highest cost-sharing tier, the carrier shall provide coverage for those medically necessary and covered services that are part of that active course of treatment provided by that health care provider, to the extent required by subsection (b).

(b) A carrier to which subsection (a) applies shall cover the health care provider's services for the duration of the active course of treatment during the plan year, if (1) the insured's employer offers the insured only a choice of reduced or selective network plans in which the health care provider is not part of any of the offered reduced or selective networks, or a choice of tiered network plans in which the health care provider is in the highest cost-sharing tier; (2) that health care provider is a comprehensive cancer center, pediatric hospital or pediatric specialty unit as defined in section 1 of chapter 118G; and (3) that health care provider is providing the insured with an active course of medical treatment that is not available from another provider in the network of the insured's plan.

(c) For services provided under this section from a provider that is not in the network of the insured's plan, patient cost-sharing shall be at the lowest cost-sharing level applicable to those services in the plan, and reimbursement shall be based on median in-network rates of the specific health care provider in that carrier's private plans in a manner consistent with data filed by that carrier with the division of health care finance and policy; provided, however, that if the specific health care provider does not participate in any other plan of the carrier, then based on negotiated rates. For services provided under this section by a provider in the highest cost-sharing tier of a tiered network plan, patient cost-sharing shall be based on the second-highest cost-sharing tier in that plan.

(d) The commissioner shall adopt regulations to carry out this section.

SECTION 2. Said chapter 176J is hereby further amended by adding the following 2 sections:—

Section 14. If a medically necessary and covered service is not available to a member within the carrier's provider network, the carrier shall cover the services out-of-network, for as long as the service is unavailable in-network.

Section 15. An insurer offering a tiered network plan shall clearly and conspicuously indicate, in all promotional and agreement materials, the cost-sharing differences for enrollees in the various tiers. The commissioner shall adopt regulations to carry out this section.

SECTION 3. Notwithstanding any general or special law, rule or regulation to the contrary, the division of insurance shall conduct a review of the network adequacy and cost and quality effectiveness of insurance products under section 11 of chapter 176J of the General Laws for the health care needs of children and the health care needs of cancer patients, and shall submit a written report to the house and senate committees on ways and means and the joint committee on health care financing not later than December 31, 2012. The division shall also adopt regulations to address health plan network adequacy, including access to pediatric and cancer services.

SECTION 4. Notwithstanding subsection (b) of section 11A of chapter 176J of the General Laws, an insured member who, before the effective date of this act, began an active course of medical treatment from a health care provider that is a comprehensive cancer center, pediatric hospital or pediatric specialty unit as defined in section 1 of chapter 118G of the General Laws for a serious disease, including but

Tiered and selective network health plans.

not limited to, cancer or cystic fibrosis, that if disrupted in the course of medical treatment would pose an undue hardship to the patient and (2)(i) began this active course of treatment before being enrolled in a reduced or selective network plan where the provider is not part of the reduced or selective network or (ii) began this active course of treatment before being enrolled in a tiered network plan where the provider is in the highest cost-sharing tier, the carrier shall provide coverage for those medically necessary and covered services that are part of that active course of treatment provided by that health care provider until April 30, 2013 at the patient cost-sharing levels and reimbursement rates under subsection (c) of said section 11A of the General Laws.

SECTION 5. This act shall take effect 45 days after its passage or upon adoption of regulations by the division of insurance, whichever occurs first.”

Under suspension of Rule 35, on motion of Mr. Dempsey of Haverhill, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith.

The same member then moved that the House concur with the Senate in its amendment with a further amendment by striking out all after the enacting clause (inserted by amendment by the Senate) and inserting in place thereof the text contained in House document numbered 3981. The further amendment was adopted.

The House then concurred with the Senate in its amendment, as amended. Sent to the Senate for concurrence in the further amendment.

Retirement,—nonprofit organizations.

The House Bill providing retirement options for nonprofit organizations (House, No. 3754), came from the Senate passed to be engrossed, in concurrence, with amendments in section 1, in line 4, inserting after the word “Code,” the words “that are established, organized or chartered under the laws of the commonwealth and doing business in the commonwealth”, and, in line 40, striking out the word “provision” and inserting in place thereof the words “general or special laws”; and by adding the following four sections:

“SECTION 2. This act shall not apply to not-for-profit employers that sponsor, administer or offer a defined contribution plan, defined benefit plan, deferred compensation plan or other tax-deferred retirement savings plan to their employees as of November 1, 2011.

SECTION 3. Section 2 is hereby repealed.

SECTION 4. Section 3 shall take effect on January 1, 2014.

SECTION 5. Notwithstanding any general or special law or rule or regulation to the contrary, small nonprofits doing business in the commonwealth may aggregate for the purposes of offering a pension.”

Under suspension of Rule 35, on motion of Mr. Walsh of Boston, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith.

Mr. Dempsey of Haverhill then moved that House concur with the Senate in its amendments in section 1 with a further amendment by striking out the words “that are established, organized or chartered under the laws of the commonwealth and doing business in the commonwealth” (inserted by amendment by the Senate) and inserting in place thereof the following: “that are established, organized or char-

tered under the laws of the commonwealth and doing business in the commonwealth and employing not more than 20 persons.”. The further amendment was adopted.

The House then concurred with the Senate in its amendments, as amended. Sent to the Senate for concurrence in the further amendment.

Orders of the Day.

Senate Bill relative to the town clerk in the town of Tewksbury (Senate, No. 2104), reported by the committee on Bills in the Third Reading to correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence. Third reading bill.

House bills

Relative to the recall of elected officers of the town of Chelmsford (House, No. 3728) (its title having been changed by the committee on Bills in the Third Reading); and Third reading bills.

Relative to the charter of the town of Westborough (House, No. 3800) (its title having been changed by the committee on Bills in the Third Reading);

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

Senate bills

Authorizing the town of Kingston to install, finance and operate wind energy facilities (Senate, No. 1915); and Second reading bills.

Relative to medical emergency response plans for schools (Senate, No. 2132, amended); and

House bills

Establishing a sick leave bank for Cheryl A. Cole, an employee of the Office of Medicaid (House, No. 3967);

Establishing a sick leave bank for a certain employee of the Department of Developmental Services (House, No. 3969); and

Establishing a sick bank for Mary M. Stanton (House, No. 3972);

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

The House Bill relative to access to epinephrine in schools (House, No. 594), was read a second time. Second reading bill amended.

The amendment previously recommended by the committee on Health Care Financing,— that the bill be amended by substitution of a bill with the same title (House, No. 3959),— was adopted.

The substituted bill then was ordered to a third reading.

The House Bill relative to the hemophilia advisory committee (House, No. 1526), was read a second time. Id.

The amendment previously recommended by the committee on Health Care Financing,— that the bill be amended by substitution of a bill with the same title (House, No. 3960),— was adopted.

The substituted bill then was ordered to a third reading.

Second reading
bill amended.

The House Bill relative to the transporting of deceased persons (House, No. 1545), was read a second time.

The amendment previously recommended by the committee on Health Care Financing,— that the bill be amended by substitution of a bill with the same title (House, No. 3961),— was adopted.

The substituted bill then was ordered to a third reading.

Westwood,—
charter.

The House Bill providing for a charter for the town of Westwood (House, No. 3763), reported by the committee on Bills in the Third reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. McMurry of Dedham moved to amend it in section 2, in lines 38, 39 and 40, by striking out section 2-2-1 contained in those lines and inserting in place thereof the following:

“Section 2-2-1. The annual town election shall be held on the last Tuesday in April of each year for the election of town officers and balloting on all matters which are to be determined by official ballot.”

The amendment was adopted; and the bill (House, No. 3763, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Division of
Banks,—
licensing.

The House Bill authorizing certain licensees of the Division of Banks to participate in a multi-state licensing system (House, No. 3911), reported by the committee on Bills in the Third reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Costello of Newburyport moved to amend it in section 1, in line 9; in section 2, in line 22; in section 4, in line 40; in section 5, in line 54; in section 6, in line 68, in section 8, in line 88; in section 9, in line 102; in section 12, in line 123; and in section 14, in line 139, by inserting after the word “checks”, in each instance, the following: “by the Department of Criminal Justice Information Services pursuant to section 172 of chapter 6 and the federal Bureau of Investigation”.

The amendments were adopted; and the bill (House, No. 3911, amended) 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.

Next
sitting.

Mr. Hill of Ipswich then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-two minutes before three o'clock P.M. (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.