

JOURNAL OF THE HOUSE.

Monday, March 8, 2004.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mrs. Walrath of Stow 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 (Mrs. Walrath), the members, guests and employees joined with her in reciting the pledge of allegiance to the flag.

Message from the Governor — Veto.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill authorizing the town of North Andover to discontinue a certain public way [see House, No. 3911] (for message, see House, No. 4565) was filed in the Office of the Clerk on Friday, March 5.

The message was read; and, under House Rule 12, placed in the Orders of the Day for the next sitting, the question being on passing the bill, notwithstanding the said objections.

Resolutions.

Resolutions (filed with the Clerk by Mr. LeDuc of Marlborough) recognizing Irish-American Heritage Month, were referred, under Rule 85, to the committee on Rules.

Mr. Miceli of Wilmington, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Bosley of North Adams, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petition.

Mr. Straus of Mattapoisett presented a petition (subject to Joint Rule 12) of William M. Straus and Brian A. Joyce relative to the filling of vacancies in the offices of representative or senator in Congress; and the same was referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

The engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of Bridgewater to Patrick Driscoll (see Senate, No. 1691, amended), having been returned to the Senate by His Excellency the Governor with his objections thereto in writing [for message, see Senate, No. 2205], came from said branch with the endorsement that it had been passed, notwithstanding the said objections.

Placed, under House Rule 12, in the Orders of the Day for the next sitting, the question being on passing said bill, in concurrence, notwithstanding the said objections.

An order relative to extending until Wednesday, June 16, 2004 the time within which the committee on Local Affairs and Regional Government is authorized to report on certain Senate and House documents referred to said committee prior to May 16, 2004, came from the Senate with the endorsement that it had been adopted, in concurrence, by said branch with amendments striking out the date: "June 16" and inserting in place thereof the date: "May 19"; and striking out the following: "prior to May 16, 2004".

Under suspension of the rules, on motion of Mr. Donato of Medford, the amendments were considered forthwith; and they were adopted, in concurrence.

Bills

Authorizing the disposition of certain state-owned land in the town of Winchester (Senate, No. 2195, amended in section 2, in line 2, by inserting after the word "property" the following: "for the purpose described in section 1" and by striking out section 5 and inserting in place thereof the following section:

"SECTION 5. If the conveyance authorized by this act is not completed by March 31, 2005, the commissioner of capital asset management and maintenance may, notwithstanding sections 40F to 40I, inclusive, of chapter 7 of the General Laws, dispose of the parcel described in section 1 of this act using the procedures set forth in section 548 of chapter 26 of the acts of 2003.") (on Senate, No. 2042) [Local Approval Received];

Establishing a sick leave bank for Marguerite McWhinnie, an employee of the Cambridge district court (Senate, No. 2198, amended in line 2 by striking out the words "Cambridge District Court" and inserting in place thereof the words "trial court"; and by adding at the end thereof the following paragraph:

"Whenever Marguerite McWhinnie terminates employment with the trial court or requests to dissolve the sick leave bank established by this act, the balance of the sick leave time shall be transferred to the trial court paid leave bank.") (on a petition);

Providing for disclosure of certain information relating to tobacco products sold in the Commonwealth (Senate, No. 2237) (on Senate bill, No. 552);

Relative to certain consumer transactions and the satisfaction of security interests (Senate, No. 2238) (on Senate bill, No. 1273);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

A Bill regarding eye exams for children (Senate, No. 687, amended and as changed by the Senate committee on Bills in the Third Reading by striking out all after the enacting clause and inserting in place thereof the following:

"The first paragraph of section 57 of chapter 71 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the penultimate sentence the following 2 sentences:— Upon entering kindergarten or within 30 days of the start of the school year, the parent or guardian of each child shall present

Local Affairs and Regional Government committee, time for reporting.

Winchester, land.

Marguerite McWhinnie, sick leave bank.

Tobacco, disclosure.

Consumer transactions.

Kindergartners, vision screening.

Pledge of allegiance.

North Andover.

Irish-American Heritage Month.

U.S. Senate and Congress, vacancies.

DCAMM, Bridgewater land conveyance.

Kindergarten, vision screening.

to school health personnel certification that the child within the previous 12 months has passed a vision screening conducted by personnel approved by the department of public health and trained in vision screening techniques to be developed by the department of public health in consultation with the department of education. For children who fail to pass the vision screening and for children diagnosed with neurodevelopmental delay, proof of a comprehensive eye examination performed by a licensed optometrist or ophthalmologist chosen by the child's parent or guardian indicating any pertinent diagnosis, treatment, prognosis, recommendation and evidence of follow-up treatment, if necessary, shall be provided.”) (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.

Subsequently Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House. Placed in the Orders of the Day for the next sitting for a second reading.

Nursing, whistleblowers.

Bills
Relative to the Board of Registration in Nursing (Senate, No. 569) (on Senate, No. 509);

Protective gear, rentals.

Increasing the availability of protective gear for renters of recreational sports equipment (Senate, No. 1355) (on a petition);

Public health laws.

Repealing certain antiquated laws pertaining to public health (Senate, No. 2157) (on Senate, No. 615);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Further regulating municipal boards.

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

Petition (accompanied by bill, Senate, No. 2247) of Susan C. Tucker, Barry R. Finegold, Barbara A. L'Italien, Richard T. Moore and other members of the General Court for legislation to further regulate meetings of municipal boards. To the committee on Local Affairs and Regional Government.

Surplus armories reform.

Petition (accompanied by bill, Senate, No. 2246) of Richard T. Moore, Charles E. Shannon, Marie J. Parente, Patricia D. Jehlen and other members of the General Court for legislation to reform the procedure regarding disposition of surplus armories to provide local government involvement. To the committee on State Administration.

Public health.

The House Bill to improve public health in the Commonwealth (House, No. 4256) came from the Senate with the endorsement that said branch had insisted on its amendment (in which the House had non-concurred).

Committee of conference.

The bill bore the further endorsement that the Senate had concurred with the House in the appointment of a committee of conference on the disagreeing votes of the two branches; and that Senators Moore, Fargo and Tisei had been joined as the committee on the part of the Senate.

Reports of Committees.

By Mr. Scaccia of Boston, 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:

Tuition tax deductions.

Petition (accompanied by bill) of Robert Nislick for legislation to extend college tuition income tax deductions to students enrolled in graduate degree programs. To the committee on Education, Arts and Humanities.

Onset Fire District.

Petition (accompanied by bill) of Susan Williams Gifford for legislation to provide for the appointment of a clerk-treasurer for the Onset Fire District; and

Norfolk County, fire and rescue.

Petition (accompanied by bill) of William C. Galvin and other members of the General Court relative to establishing a special account for the Norfolk County Regional Fire and Rescue Dispatch Center;

Severally to the committee on Local Affairs and Regional Government.

Level 3 sex offenders, tracking system.

Petition (accompanied by bill) of David M. Nangle and Steven C. Panagiotakos that the Commissioner of Probation be directed to establish a global tracking system for level 3 sex offenders. To the committee on the Judiciary.

Municipal police officers.

Petition (accompanied by bill) of Jeffrey Davis Perry, Shirley Gomes, Demetrius J. Atsalis and Thomas N. George that police officers employed in towns located in Barnstable County and the county of Nantucket be authorized to exercise police powers throughout said counties. To the committee on Public Safety.

Haverhill, public auction.

Petition (accompanied by bill) of Brian S. Dempsey, Barbara A. L'Italien, Steven A. Baddour and Harriett L. Stanley (with the approval of the mayor and city council) that the city of Haverhill be authorized to expedite the sale of real estate by public auctions; and

Sandwich, land conveyance.

Petition (accompanied by bill) of Jeffrey Davis Perry and Therese Murray (by vote of the town) that the Department of Conservation and Recreation be authorized to acquire a conservation property of the town of Sandwich;

Severally to the committee on State Administration.

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

Massage therapists, study.

By Mr. Scaccia of Boston, for the committee on Rules, asking to be discharged from further consideration of the Order relative to authorizing the committee on Health Care to make an investigation and study of a certain House document concerning massage therapists (House, No. 4357),— and recommending that the same be recommitted to the committee on Health Care. Under Rule 42, the report was considered forthwith; and it was accepted.

Municipal employees, pensions.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Public Service to make an investigation and study of certain House documents concerning active and retired public employees and other related matters

(House, No. 4303), reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 243) of the Retired State, County and Municipal Employees Association of Massachusetts, Thomas J. O'Brien and other members of the General Court for legislation to provide a minimum pension for certain retired municipal employees,— and recommending that the same be recommitted to the committee on Public Service. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill extending the period that unsubstantiated elder abuse assessment reports must be maintained (House, No. 156),— and recommending that the same be referred to the committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

By Ms. St. Fleur of Boston, for the committee on Education, Arts and Humanities, on Senate, Nos. 256, 261, 305 and 325 and House, Nos. 120, 121, 122, 331, 1444, 2028, 2755, 2756, 2759, 2760, 2766, 2937, 3138, 3494, 3496, 3498 and 3499, an Order relative to authorizing the committee on Education, Arts and Humanities to make an investigation and study on certain Senate and House documents concerning student issues and the cultural council (House, No. 4563).

By Mr. Koutoujian of Waltham, for the committee on Health Care, on House, Nos. 57, 58, 59, 62, 552, 557, 900, 1088, 1285, 1486, 2803, 3655, 3750, 3751, 3753, 3756, 3757, 3758, 3767, 3773, 3774, 3778, 3779 and 3874, an Order relative to authorizing the committee on Health Care to make an investigation and study of certain House documents concerning Medicaid, prescription drugs and fees for health services (House, No. 4564).

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

Subsequently Mr. Scaccia of Boston, for said committees, reported, in each instance, asking to be discharged from further consideration of the orders; and recommending that the same severally be referred to the House committee on Rules.

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

By Mr. Koutoujian of Waltham, for the committee on Health Care, on a petition, a Bill relative to prescription advantage, so-called (House, No. 3971). Read; and referred, under Rule 33C, to the committee on Medicaid.

By Mr. Rodrigues of Westport, for the committee on Commerce and Labor, on House, No. 3745, a Bill abolishing the Wareham Economic and Industrial Development Corporation and the Wareham Community Development Authority (House, No. 4566) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4366) returning with his disapproval of certain sections and reductions in certain sections contained in the engrossed Bill relative to investments in emerging technologies to promote job creation, economic stability and competitiveness in the Massachusetts economy (see House, No. 4328), reported, in part, that section 65 stand (as passed by the General Court), as follows:

“SECTION 65. Notwithstanding any general or special law to the contrary, not less than \$1,000,000 from the Economic Stimulus Trust Fund shall be made available to the Massachusetts Community Development Finance Corporation for the recapitalization of said corporation.”.

[The Governor had reduced said section by striking out the figures “\$1,000,000” and inserting in place thereof the figures “\$500,000.”]

By the same member, for the same committee, on a message from His Excellency the Governor (for message, see House, No. 4365), returning with His disapproval of certain items and sections and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), reported, in part, in each instance, that the following items (contained in sections 2 and 2A) and sections stand (as passed by the General Court):

In section 2:

“0710-0000 57,250”.

[The Governor had vetoed said item.]

In section 2A:

“1599-3000 For the Suffolk county sheriff’s Department to cover costs relating to a deficit incurred by the Mack Settlement, so-called, in fiscal year 2003..... 2,000,000”.

[The Governor had vetoed said item.]

“SECTION 16. Section 65 of chapter 30 of the General Laws, added by section 173 of said chapter 26, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) Instead of making the certificate under clause (1) of subsection (a), the governor’s chief legal counsel may, upon written request by the head of any department, agency, board or commission, with the written approval of the head thereof and with the voluntary written consent of the attorney, provide specific legal services for the requesting department, agency, board or commission for a period not exceeding 3 months but subject to renewal with the voluntary written consent of the attorney. Such an assignment shall be subject to any applicable collective bargaining agreement. The certification required of the comptroller by the fourth paragraph of section 31 of chapter 29 shall not be required in instances of such an assignment by the governor’s chief legal counsel.”.

[The Governor had vetoed said section.]

Economic stimulus bill, reduction.

Supplemental appropriations, disapprovals.

Elder abuse reports.

Student issues, study.

Health services, study.

Prescription advantage.

Wareham Industrial Development.

Supplemental appropriations, disapprovals.

“SECTION 49. The first paragraph of section 17J of chapter 180 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after the first sentence the following 3 sentences:— Deductions in an amount determined by the employee and in compliance with applicable law may also be made for any committee on political education designated by the employee pursuant to this section. The approval of the comptroller shall not be required for such deductions. All deductions pursuant to this section shall be made without charge to any person or entity.”.

[The Governor had vetoed said section.]

“SECTION 78. Item 0710-0000 of said section 2 of said chapter 26 is hereby amended by adding the following words:— ; and provided further, that not less than \$57,250 shall be expended for the position of executive director of the central artery/third harbor tunnel project oversight coordination commission, as established in section 2B of chapter 205 of the acts of 1996, such that the position may continue to provide administrative and investigative functions to said commission in a manner that is consistent with the provisions of said section 2B.”.

[The Governor had vetoed said section.]

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

Mr. Kujawski of Webster, for said committee, reported, in each instance, that the matter be scheduled for consideration by the House, the question being on whether said items and sections stand as passed by the General Court.

Workers compensation, risk pool.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill establishing a pilot project relative to claims administration for the workers’ compensation assigned risk pool (House, No. 4552) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House; and, under said rule, it was placed in the Orders of the Day for the next sitting for a second reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

Senate bills

Relative to the powers of trust companies (Senate, No. 15);

Further regulating the weight of motor buses (Senate, No. 1285, amended);

Creating a firearms licensing fund in the town of Charlton (Senate, No. 2058) [Local Approval Received]; and

Authorizing the city of Quincy to establish funds to enhance streets and sidewalks and to oversee the Quarry Hills recreation complex (Senate, No. 2167) [Local Approval Received]; and

House bills

Relative to dig-safe excavations in the Commonwealth (House, No. 28);

Clarifying certain powers and duties of the Department of Food and Agriculture pertaining to dairy farms (House, No. 45);

Dairy farms.

Relative to pre-marital testing (House, No. 75);

Pre-marital.

Requiring correction officers to report child abuse (House, No. 157);

Child abuse.

Relative to labor relations (House, No. 603);

Labor.

Further regulating adoption agencies (House, No. 718);

Adoption.

Relating to the payment of interest on pecuniary legacies and pecuniary distributions under a trust instrument (House, No. 741);

Trusts, interest.

Requiring that the names and addresses of the owners of land taken by eminent domain be included in the order of taking (House, No. 744);

Eminent domain.

Granting discretion to the Superior Court to allocate certain settlement proceeds (House, No. 775);

Settlement procedures.

Relative to the reporting of child abuse to local law enforcement officials (House, No. 1283);

Child abuse.

Relative to the Wampanoag Tribe of Gay Head (Aquinnah) (House, No. 1586);

Wampanoag Tribe.

Relative to fire insurance (House, No. 1698);

Insurance.

Concerning the regulation of certain commercial contracts of insurance (House, No. 1700);

Commercial contracts.

Relative to unlawful conduct by non-residents of public housing (House, No. 1705);

Public housing.

Relative to provisional employees in the city of Worcester (House, No. 3839) [Local Approval Received];

Worcester.

Authorizing the city of Taunton to re-institute an early retirement program (House, No. 3871) [Local Approval Received];

Taunton.

Providing for an animal control commission in the town of Lancaster (House, No. 3879) [Local Approval Received];

Lancaster.

Relative to the taxation of certain property in the town of Belmont (House, No. 3980) [Local Approval Received];

Belmont.

To grant the municipal executive limited authority to transfer funds between accounts (House, No. 4027);

Selectmen, transfers.

Relative to compensated absences in cities and towns (House, No. 4063);

Municipalities.

Relative to the use of certain funds by municipalities (House, No. 4184, changed);

RI

Amending certain provisions of the city charter of the city of Lawrence (House, No. 4195) [Local Approval Received];

Lawrence.

Validating the special town election held in the town of Goshen (printed in House, No. 4244);

Goshen.

Providing for recall elections in the town of Blandford (House, No. 4280) [Local Approval Received];

Blandford.

Designating a certain traffic island in the city of Gloucester the Paul Bergmann Memorial Traffic Island (House, No. 4284);

Gloucester.

Authorizing the town of Norfolk to establish a department of public works (House, No. 4313) [Local Approval Received];

Norfolk.

Providing for a statement relative to veteran status on ballots for city of Brockton elections (House, No. 4337) [Local Approval Received];

Brockton veterans.

Relative to the release of a conservation restriction in the town of Grafton (House, No. 4352) [Local Approval Received];

Grafton.

Trusts.

Buses.

Charlton.

Quincy Quarry.

Excavations.

Braintree. Exempting the position of deputy police chief of the town of Braintree from civil service (House, No. 4379) [Local Approval Received];

Amherst. Relative to voting precincts in the town of Amherst (printed in House, No. 4421); and

Northbridge. Authorizing the town of Northbridge to issue an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 4490);

Severally placed in the Orders of the Day for the next sitting for a second reading.

Combat veterans, license plates. By Mr. Toomey of Cambridge, for the committee on Public Safety, ought NOT to pass, on the petition (accompanied by bill, House, No. 398) of Thomas P. Kennedy that the Registrar of Motor Vehicles be directed to issue distinctive license plates for combat veterans.

Breathalyzer refusal. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1333) of Gale D. Candaras, Stephen M. Brewer, Reed V. Hillman and Susan W. Pope relative to the loss of license to operate a motor vehicle for the refusal of a breathalyzer.

Drunk driving penalties. By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2127) of Reed V. Hillman, Stephen M. Brewer, Frank M. Hynes, Matthew C. Patrick and Charles A. Murphy relative to subsequent convictions for operating a motor vehicle while under the influence of alcoholic beverages or controlled substances [Representative Hill of Ipswich dissenting].

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

Mr. Kujawski of Webster, for said committee, reported that the matters be scheduled for consideration by the House; and, under said rule, they were placed in the Orders of the Day for the next sitting, the question, in each instance, being on acceptance.

Orders of the Day.

Third reading bill. The Senate Bill relative to the police department in the town of Bridgewater (Senate, No. 2071), 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.

H. The House Bill relative to certain housing in the city known as the town of Methuen (House, No. 4416), 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. Sent to the Senate for concurrence.

Order.

Next sitting. On motion of Mr. Finneran of Boston,—
Ordered, That when the House adjourns today, it adjourn to meet on Thursday next at ten o'clock A.M.

At twelve minutes after eleven o'clock A.M., on motion of Mr. Peterson of Grafton (Mrs. Walrath of Stow being in the Chair), the House adjourned, to meet on Thursday next at ten o'clock A.M.