

JOURNAL OF THE HOUSE.

Wednesday, March 12, 2008.

Met according to adjournment, at half past eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

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

God, Our Creator, at the beginning of today's legislative session, we first pause for a moment of personal prayer and thoughtful reflection. We pray for guidance and wisdom to sort out and organize correctly the many legislative items which come to us for our consideration. As elected leaders upon whom the people depend for wise, reasoned and ethical decisions, help us to be fully aware of the many human, social, economic and spiritual needs of all people in our districts. Teach us to be mindful of the oneness of the worldwide human family. In this age of violence against innocent people, inspire us to work together as members of the one human family to seek peace, security, justice and respect for each individual person.

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

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.

Appointment to a Special Commission.

The Speaker announced the appointment of Representative Rushing of Boston to the Health Disparities Council, pursuant to Chapter 58 of the Acts of 2006 and Section 16O of Chapter 6A of the General Laws.

Statement Concerning Representative Sullivan of Fall River.

A statement of Mr. Rogers of Norwood concerning Mr. Sullivan of Fall River, 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 Sullivan of Fall River, will not be present in the House Chamber for today's sitting due to his being involved in a motor vehicle accident while travelling to the State House. Any roll calls that he may miss today will be due entirely to the reason stated. Representative Sullivan of Fall River.

Petitions.

Mr. Dempsey of Haverhill presented a petition (accompanied by bill, House, No. 4599) of Brian S. Dempsey (with the approval of the mayor and city council) that the city of Haverhill be authorized to sell a certain parcel of land located in the town of Boxford; and the same was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence.

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Petitions severally were presented and referred as follows:

By Mr. Atsalis of Barnstable, petition (subject to Joint Rule 12) of Demetrius J. Atsalis for legislation to regulate the payment of services to certain retired public employees.

By Mr. Cabral of New Bedford, joint petition (subject to Joint Rule 12) of Cory Atkins and others for legislation to protect consumers in establishing rates for the costs of catastrophic insurance policies for homeowners.

By Ms. Callahan of Sutton, petition (subject to Joint Rule 12) of Jennifer M. Callahan that the Registry of Motor Vehicles be authorized to issue laminated copies of learners' permits for operators of motor vehicles.

By Mr. Fagan of Taunton, petition (subject to Joint Rule 12) of James H. Fagan for legislation to provide for judicial review by the Juvenile Court of students suspended or expelled by superintendents of schools.

By Mr. Koutoujian of Waltham, joint petition (subject to Joint Rule 12) of Peter J. Koutoujian and others relative to the penalty for the crime of rape by fraud involving deceptive practices and behavior.

By Mr. Kulik of Worthington, joint petition (subject to Joint Rule 12) of Stanley C. Rosenberg and Stephen Kulik that the Division of Capital Asset Management and Maintenance be authorized to release a parcel of land located in the town of Sunderland from a certain agricultural preservation restriction.

By Ms. Richardson of Framingham, petition (subject to Joint Rule 12) of Pam Richardson relative to the penalty for the removal of stone walls and fences without approval of the owners of such barriers.

By Mr. Smith of Everett, petition (subject to Joint Rule 12) of Stephen Stat Smith for legislation to establish a sick leave bank for Gary Tuck, an employee of the Department of Revenue.

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

Papers from the Senate.

A report of the committee on Veterans and Federal Affairs, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 2140) of Richard T. Moore and Paul K. Frost for legislation to modernize assistance to veterans who retire from public service, and recommending that the same be referred to the committee on Public Service,-- accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence.

A petition of Joan M. Menard for legislation to permit a municipal committee in the town of Freetown to conduct raffles, came from the Senate referred, under suspension of Joint Rule 7B, to the committee on Municipalities and Regional Government.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2551) was referred, in concurrence, to the committee on Municipalities and Regional Government.

A petition of Robert A. O'Leary for legislation relative to certain benefits for Lynda Watts, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

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The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2549) was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules, that Joint Rule 7B be suspended on the petition of Anthony J. Verga and others that the retirement board of the city of Gloucester be directed to grant certain creditable service for retirement purposes to William Dugan. Under suspension of the rules, on motion of Mr. Verga of Gloucester, the report was considered forthwith. Joint Rule 7B was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

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:

Joint petition (accompanied by bill) of Michael J. Rodrigues and others that the Division of Capital Asset Management and Maintenance be directed to convey a certain parcel of land in the town of Westport to Edward Peter Haley. To the committee on Bonding, Capital Expenditures and State Assets.

Joint petition (accompanied by bill) of Denis E. Guyer and Stanley C. Rosenberg relative to the decreased enrollment of schools receiving state grants and the closing and disposition of such schools. To the committee on Education.

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

By Mrs. Haddad of Somerset, for the committee on Education, on House, Nos. 385, 416, 418, 442, 452, 476, 477, 542, 549, 552, 570 and 596, an Order relative to authorizing the committee on Education to make an investigation and study of certain House documents concerning governance, parents and bilingual education (House, No. 4596).

By the same member, for the same committee, on House, Nos. 392, 428, 479, 482, 485, 517, 529, 569 and 573, an Order relative to authorizing the committee on Education to make an investigation and study of certain House documents concerning education personnel (House, No. 4597).

By the same member for the same committee, on House, Nos. 403, 421, 511, 559, 574 and 583, an Order relative to authorizing the committee on Education to make an investigation and study of certain House documents concerning special education and health education (House, No. 4598).

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 said 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 Ms. Reinstein of Revere, for the committee on Elder Affairs, on a petition, a Bill requiring defibrillators in senior housing facilities (House, No. 599).

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By the same member, for the same committee, on a petition, a Bill to improve long term care career ladder grant program (House, No. 613).

By the same member, for the same committee, on a petition, a Bill relative to services offered in assisted living facilities (House, No. 621).

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

By Ms. Reinstein of Revere, for the committee on Elder Affairs, on a petition, a Bill relative to assisted living facilities (House, No. 610).

By the same member, for the same committee, on a petition, a Bill relative to certain licenses fees for senior citizens (House, No. 612).

By the same member, for the same committee, on a petition, a Bill to assist mature workers and older adults in planning and executing paid and/or volunteer encore careers (House, No. 4420).

By Mr. Verga of Gloucester, for the committee on Veterans and Federal Affairs, on a petition, a Bill authorizing certain public employees creditable retirement service for service in the armed forces (House, No. 2139, changed in lines 2 and 3 by striking out the following: "as last amended by section (2) of chapter 71 of the acts of 1996,").

By the same member, for the same committee, on a petition, a Bill extending certain benefits for military personnel on active duty (House, No. 3707).

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

By Mr. Honan of Boston, for the committee on Housing, on a petition, a Bill relative to open space residential development (House, No. 1244).

By the same member, for the same committee, on a petition, a Bill relative to lodging houses (House, No. 1271).

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

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

Senate bills

Regulating certain insurance benefits for elected officials of the town of Easton (Senate, No. 1525); and

Authorizing the establishment of the Whittin Reservoir Watershed District in the town of Douglas (Senate, No. 2344); and

House bills

To provide access to information for parents' evaluators (House, No. 391);

Relative to accommodations for special needs students taking the MCAS examination (House, No. 457);

Relative to the placement of twins in classrooms (House, No. 460);

Providing for a charter for the town of Groton (House, No. 4490); and

Establishing a department of public works in the town of Merrimac (House, No. 4494);

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

Distinguished Guest of the House.

During the session, the Speaker took the Chair, declared a brief recess and acknowledged the presence of Tzipora Livni, Vice Prime Minister and Minister of Foreign Affairs of Israel.

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The Speaker also acknowledged the presence of Senate President Therese Murray as well as several Senators and Constitutional Officers.

Invocation then was offered by Rabbi Howard Jaffi of the Temple Isaiah in Lexington.

Minister Livni, the guest of the Speaker, Representatives Kaufman of Lexington and other members of the House, then addressed the House.

At the request of the Speaker, a special committee, consisting of Representatives Kaufman of Lexington, Wolf of Cambridge, Balser of Newton and Finegold of Andover and Senators Creem, Rosenberg, Spilka and Chandler, along with the Sergeant-at-Arms of the House and the Chief Court Officer of the Senate then escorted Minister Livni to the Senate Reading Room for the purpose of a reception in her honor.

Recess.

At half past twelve o'clock noon, on motion of Mr. Donato of Medford (the Speaker being in the Chair), the House recessed until the hour of two o'clock P.M.; and at fourteen minutes after two o'clock the House was called to order with Mr. Donato in the Chair.

Engrossed Bills.

Engrossed bills

Increasing the local property tax relief to nonprofit veterans organizations in certain cities and towns (see House, No. 3045); and

Establishing a charter for the town of Medway (see House, No. 4460);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The House Bill making appropriations for the fiscal year 2008 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4589), was considered, the main question being on concurring with the Senate in its amendment.

Pending the question on adoption of a further amendment (previously offered by Mr. DeLeo of Winthrop), - that the bill be amended by inserting after section 3A (inserted by amendment by the Senate) a section 3B, - Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 139 members were recorded as being in attendance. No. 273.

[See Yea and Nay No. 273 in Supplement.]

Therefore a quorum was present.

Subsequently a statement of Mr. D'Amico of Seekonk was spread upon the records of the House, as follows:

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MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous roll, neither I nor Representatives Alicea of Charlton, Costello of Newburyport, Donelan of Orange, Fagan of Taunton, Hargraves of Groton and Perry of Sandwich were recorded due to attending legislative hearings in another part of the State House.

The further amendment then was adopted.

After debate on the question on concurring with the Senate in its amendment, as amended, 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 126 members voted in the affirmative and 20 in the negative.

[See Yea and Nay No. 274 in Supplement.]

[Representatives Atkins of Concord, Binienda of Worcester and Straus of Mattapoisett answered "Present" in response to their names.]

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

Senate bills

Establishing the position of municipal hearing officer to conduct hearings of violation notices issued in the city of Somerville in accordance with Section 21D of Chapter 40 of the General Laws (Senate, No. 2166);

Relative to health inspectors of the city of Somerville (Senate, No. 2168);

Further regulating the department of public works of the city of Somerville (Senate, No. 2169, amended);

Approving the conveyance of property by the county of Nantucket (Senate, No. 2224);

Establishing a sick leave bank for Kathryn McGaffey, an employee of the Department of Social Services (Senate, No. 2447); and

Further regulating the educational requirements for operating boilers under a special license (Senate, No. 2488); and

House bills

Relative to voting equipment (House, No. 639);

Relative to political committees (House, No. 683);

Relative to voter registration for program participants (House, No. 686);

Relative to savings bank life insurance (House, No. 949);

To clarify the law relative to the supervision of limited purpose trust companies by the Commissioner of Banks (House, No. 965);

Relative to group auto discounts on bank account balances under the safe driver insurance plan (House, No. 1086);

Relative to the Massachusetts Credit Union Share Insurance Corporation (House, No. 1090, changed);

Relating to expanded access to managed care for MassHealth beneficiaries (House, No. 1169);

Relative to public access of private restroom facilities (House, No. 2121);

Authorizing the town of Lakeville to pay benefits to the survivors of call firefighters and reserve police officers (House, No. 3956);

Reducing the minimum seating capacity of a restaurant that is authorized to apply to the licensing authority of the town of Arlington for permission to serve all alcoholic beverages in the town of Arlington (House, No. 4124);

Relative to the park department in the town of Braintree (House, No. 4237);

Relative to preliminary elections in the city of Newton (House, No. 4397);

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Authorizing the town of Shirley to establish an account for the Longley Acres Conservation Area (House, No. 4430);

Authorizing the town of Longmeadow to continue the employment of Police Chief Robert Danio (House, No. 4437);

Authorizing the town of Walpole to release a certain restriction (House, No. 4491);

Authorizing the town of Westborough to grant an additional license for the sale of wines and malt beverages to be drunk on the premises (House, No. 4504);

Relative to the Grafton and South Grafton water districts (House, No. 4513);

Authorizing the town of Chatham to issue 2 additional licenses for all alcoholic beverages to be drunk on the premises (House, No. 4522);

Establishing a sick leave bank for Brian Leonard, an employee of the Department of Revenue (House, No. 4532); and

Establishing a voting precinct in the town of Hingham (House, No. 4591); and

The Senate Resolve providing for an investigation and study by a special commission relative to the establishment of a cranberry heritage area (Senate, No. 2496).

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

The House Bill financing the production and preservation of housing for low and moderate income residents (House, No. 4472) was considered, the main question being on ordering the bill to a third reading.

The amendment previously recommended by the committee on Bonding, Capital Expenditures and State Assets,- - that the bill be amended by substitution of a bill with the same title (House, No. 4592),- - was rejected.

The amendment previously recommended by the committee on Ways and Means,- - that the bill be amended by substitution of a bill with the same title (House, No. 4594),- - was adopted.

The substituted bill (House, No. 4594) then was ordered to a third reading.

The House Bill placing certain questions on the ballot of the November 2008 Presidential election (House, No. 4500) was read a second time.

The amendment previously recommended by the committee on Election Laws,- - that the bill be amended by substitution of a bill with the same title (House, No. 4558),- - was adopted.

The substituted bill then was ordered to a third reading.

The House Resolutions providing for a declaration of intent of the House of Representatives and the Senate relative to the amount and distribution of local aid to the Commonwealth's cities, towns and regional school districts for fiscal year 2009; provided, further that timely notice to cities, towns and regional school districts relative to the amounts of school and municipal aid and Lottery distributions is essential for an orderly and rational budget process at the local level (House, No. 4595), reported by the committee on Bills in the Third Reading to be correctly drawn, were considered.

Pending the question on adoption of the resolutions, Mr. DeLeo of Winthrop asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 147 members were recorded as being in attendance. No. 275.

[See Yea and Nay No. 275 in Supplement.]

Therefore a quorum was present.

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After debate on the question on adoption of the resolutions, Mr. Jones of North Reading and other members of the House moved to amend them by substitution of Resolutions providing for a declaration of intent of the House of Representatives and the Senate relative to the minimum amount and distribution of local aid to the Commonwealth's cities, towns and regional school districts for fiscal year 2009.

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. Peterson of Grafton; and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 26 members voted in the affirmative and 125 in the negative.

[See Yea and Nay No. 276 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the resolutions by adding at the end thereof the following: "and be it further

Resolved, That notwithstanding any general or special law to the contrary, in the event taxable revenue available for appropriation or supplemental appropriation for fiscal year 2009 exceeds \$20,987,000,000, in the absence of any changes in statute relating to taxation enacted after January 15, 2008, it is the intent of the House of Representatives that the treasurer be directed to make fifty percent of such excess taxable revenue, up to \$200,000,000, available for distribution to the cities, towns and regional school districts of the commonwealth ratably according to the foundation enrollment of each such district, as defined in Chapter 70 of the General Laws; provided, that in the event of such direction, it is the intent of the House of Representatives that the treasurer be further directed to notify the house and senate chairs of the committee on ways and means, the house and senate chairs of the joint committee on education, the commissioner of education, the commissioner of revenue and the commissioner of administration of any distribution which is made according to this section not less than 30 days prior to the date such distribution is planned."

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. Peterson of Grafton; and on the roll call 20 members voted in the affirmative and 130 in the negative.

[See Yea and Nay No. 277 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the resolutions by adding at the end thereof the following: "and be it further

Resolved, That it is the intent of the House of Representatives that, by the fiscal year ending June 30, 2013, not less than forty per cent of all revenues received by the commonwealth in each fiscal year from the sales tax, the corporate excise tax and the personal income tax shall be distributed to cities and towns as local aid through programs including but not limited to Chapter 70 educational funding, lottery aid and additional assistance."

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. Peterson of Grafton; and on the roll call 19 members voted in the affirmative and 129 in the negative.

[See Yea and Nay No. 278 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the resolutions by adding at the end thereof the following: "and be it further

Resolved, That, by March 15th of each calendar year, the House of Representatives and the Senate shall adopt a resolution relative to the amount and distribution of local aid to the cities, towns and regional school districts of the commonwealth."

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The amendment was rejected.

On the question on adoption of the resolutions, the sense of the House was taken by yeas and nays, at the request of Mr. Hynes of Marshfield; and on the roll call (Mr. Donato of Medford being in the Chair) 150 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 279 in Supplement.]

Therefore the resolutions (House, No. 4595) were adopted. Sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,--

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

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at five minutes before six o'clock P.M., on motion of Mr. O'Flaherty of Chelsea (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.