

## JOURNAL OF THE HOUSE.

Thursday, March 23, 2006.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mrs. Candaras of Wilbraham 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:

Gracious God, we pause for a moment of prayer to focus our thoughts and attention on You and spiritual values. Your guidance helps us to keep our personal and legislative goals and priorities clear in our minds. This morning, we pray for the virtue of patience, which enables us to deal more thoughtfully and maturely with each day's stressful and complex issues and situations. The virtue of patience also enables us to be good listeners and to be open to the experiences and views of others who disagree with us on issues and policies. Inspire us to remain faithful to our own principles, beliefs and values as we carry out our daily responsibilities.

Prayer.

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

At the request of the Chair (Mrs. Candaras), the members, guests and employees joined with her in reciting the pledge of allegiance to the flag.

Pledge of allegiance.

### *Communication from Representative Rivera of Springfield.*

Notice was received that Representative Rivera of Springfield had officially changed her name to Cheryl Coakley Rivera.

Notice of name change.

### *Resolutions.*

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

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

Andrew A. Davis.

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

Daniel P. Francoeur.

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

Nicholas A. Noguiera.

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

Andrew D. Patota.

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

Chad P. Stewart.

Resolutions (filed by Messrs. O'Brien of Kingston and Webster of Hanson) congratulating Benjamin D. Borsari on receiving the Eagle Award of the Boy Scouts of America;

Benjamin D. Borsari.

Christopher James Gerhard.

Resolutions (filed by Messrs. O'Brien of Kingston and Webster of Hanson) congratulating Christopher James Gerhard on receiving the Eagle Award of the Boy Scouts of America;

John Razzar.

Resolutions (filed by Mr. Ross of Wrentham) congratulating John Farrar of Medfield on receiving the Eagle Award of the Boy Scouts of America;

Jacob R. Rahn.

Resolutions (filed by Mr. Ross of Wrentham) congratulating Jacob R. Rahn of Medfield on receiving the Eagle Award of the Boy Scouts of America;

Joshua D. Rahn.

Resolutions (filed by Mr. Ross of Wrentham) congratulating Joshua D. Rahn of Medfield on receiving the Eagle Award of the Boy Scouts of America;

Dean G. Thuma.

Resolutions (filed by Mr. Ross of Wrentham) congratulating Dean G. Thuma of Medfield on receiving the Eagle Award of the Boy Scouts of America; and

Connor D. Hogan.

Resolutions (filed by Mrs. Walrath of Stow) congratulating Connor D. Hogan on receiving the Eagle Award of the Boy Scouts of America;

Mrs. Harkins of Needham, 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. Kaufman of Lexington, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Medway, fiscal stability.

Mr. Vallee of Franklin presented a petition (accompanied by bill, House, No. 4790) of James E. Vallee and others (by vote of the town) that the town of Medway be authorized to borrow money for the purpose of achieving fiscal stability; and the same was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

Retirement allowance, forfeiture.

By Mr. Donato of Medford (by request), petition (subject to Joint Rule 12) of Joan DiGiacomo relative to the forfeiture of public retirement allowance upon conviction of certain criminal offenses.

Telephone poles, penalties.

By the same member, petition (subject to Joint Rule 12) of Paul J. Donato and others for legislation to increase the penalty for failure to remove double telephone poles.

Sex offenders, employers.

By Mr. Koutoujian of Waltham (by request), petition (subject to Joint Rule 12) of Sarafina Collura that the Sex Offender Registry Board be required to provide certain information to employers of sex offenders.

Casino, temporary operation.

By the same member (by request), petition (subject to Joint Rule 12) of Charles Pettiti relative to the issuance of a permit for the temporary operation of a casino in the Commonwealth.

Military funerals, disturbance.

By Mr. Nyman of Hanover, petition (subject to Joint Rule 12) of Robert J. Nyman relative to penalties for disturbing military funerals or memorial services.

Pentucket School District.

By Ms. Stanley of West Newbury, petition (subject to Joint Rule 12) of Harriett L. Stanley and others relative to the financial conditions in the Pentucket Regional School District.

By Mr. Walsh of Boston, petition (subject to Joint Rule 12) of Martin J. Walsh and others for legislation to place certain employees of the Turnpike and of the toll roads, bridges and tunnels of the Commonwealth in Group 2 of the public employees retirement law. Severally, under Rule 24, to the committee on Rules.

Group 2, definition.

Papers from the Senate.

The following order came from the Senate with the endorsement that it had been adopted by said branch:

Ordered, That notwithstanding the provisions of Joint Rule 10 the committee on Children and Families be granted until May 11, 2006 within which to make its final report on current Senate document numbered 959.

Children and Families, extension of time for reporting.

Under suspension of the rules, on motion of Mrs. Owens-Hicks of Boston, the order was considered forthwith.

Pending the question on adoption of the order, in concurrence, the same member moved that it be amended by inserting after the figures "959" the following: "and House documents numbered 2858, 2870 and 3864".

The amendment was adopted.

The order, as amended, then also was adopted, in concurrence. Sent to the Senate for concurrence in the amendment.

The following order came from the Senate with the endorsement that it had been adopted by said branch:

Ordered, That the joint committee on Housing is granted an extension until March 30, 2006 to report on H3167.

Housing, extension of time for reporting.

Under suspension of the rules, on motion of Mr. Rodrigues of Westport, the order was considered forthwith; and it was adopted, in concurrence.

A Bill protecting the natural and historic resources of the commonwealth (Senate, No. 2360) (on Senate bill, No. 539), passed to be engrossed by the Senate, was read; and it was referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Natural historic resources, protect.

Bills

Establishing a sick leave bank for Denise Gamache, an employee of the Department of Revenue (Senate, No. 2248, amended by adding at the end thereof the following sentence: "Whenever Ms. Gamache terminates employment with the commonwealth or requests to dissolve the sick leave bank, the remaining days in the sick leave bank shall be transferred to the extended leave bank.") (on a petition);

Denise Gamache, sick leave bank.

Regarding choice of long-term care settings (Senate, No. 2273, amended in section 1, in line 19, by inserting after the word "changes" the words ", but for each such individual, the division of health care finance and policy shall establish a rate that reflects the individual's clinical case-mix acuity and his care and benefit needs in the most appropriate setting.") (on Senate, Nos. 423, 434 and 435);

Long-term care.

Long-term care insurance.

Establishing standards for long-term care insurance (Senate, No. 2285, amended by inserting after section 2 the following section:

“SECTION 2A. Chapter 118E of the General Laws is hereby amended by striking out Section 33, as so appearing, and inserting in place thereof the following section:—

Section 33. No claim for costs of a nursing facility and other long-term care services may be made by the division under section 31 or 32 if the individual receiving medical assistance was permanently institutionalized, had notified the division that he had no intention to return home and, on the date of admission to the nursing facility or other medical institution, had long-term care insurance that, when purchased, met the requirements of 211 C.M.R. 65.00.”) (on Senate, Nos. 568, 604 and 629 and House, Nos. 1525 and 3055);

Central Credit Union Fund.

Relative to a certain corporate credit union (Senate, No. 2286) (on House No. 3021);

Alcoholic beverage vaporizers.

Prohibiting the use of alcoholic beverage vaporizers (Senate, No. 2311, amended in section 1, in lines 6 and 7, by striking out the words “give away, or permit to be sold, delivered, or given away” and inserting in place thereof the words “distribute in any manner, or permit to be sold, delivered or distributed in any manner”; by adding at the end of section 1 the following sentence: “Whoever violates this section shall be punished by a fine of not more than \$200 or by imprisonment for not more than 6 months, or both.”; in section 2, in line 5, by inserting after the word “purchase” the words “, lease or otherwise obtain”; and by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to prohibit the sale or use of alcoholic vaporizers, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.”) (on a petition);

Cigarettes, fire prevention.

Reducing the loss of life due to fires caused by cigarettes (Senate, No. 2403, amended in section 2, in lines 114 to 125, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

“(f) The commissioner, in consultation with the state fire marshal, shall review the effectiveness of this section, annually, and provide the joint committee on public safety and the committees on ways and means a report detailing his findings and recommendations for legislation, if any, to improve the effectiveness of this section. The report and recommendations shall be submitted not later than June 30th each year.”, in line 132, by inserting after the word “commonwealth.” the following paragraph:

“(h) This section shall not require additional testing if cigarettes are tested to satisfy another purpose, but are tested in a manner that satisfies this section.”, in lines 153 to 157, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

“(c) Such certification shall identify the date or dates on which the testing was conducted and, if the testing was conducted by an entity other than the manufacturer, the certification shall identify such entity and contain the signature of an officer authorized by the

entity to attest that the certification testing was conducted.”, in lines 195 to 198, inclusive, by striking out the following: “its fire safety regulations, unless the commissioner determines that cigarettes approved for sale in New York State do not meet the requirements for certification pursuant to section 2C” and inserting in place thereof the words “the New York fire safety standards for cigarettes”, in line 266, inserting after the word “relief.” the following paragraph:

“(e) Each cigarette that is subject to sections 2B to 2E, inclusive, for which a certification in accordance with section 2C has not been filed, and the manufacturer thereof shall not be eligible for inclusion in the directory of tobacco product manufacturers and cigarette brand families maintained pursuant to chapter 94F and no person shall: (1) affix an excise stamp to a package or other container of such cigarettes; or (2) sell, offer or possess for sale such cigarettes, unless and until certification in compliance with section 2C has been filed for such cigarettes and all penalties, costs or fees resulting from a violation of sections 2B to 2E, inclusive, relative to such cigarettes have been paid.”, and in lines 272 and 273, by striking out the words “available to the commissioner to support” and inserting in place thereof the words “expended by the state fire marshal, without further appropriation, for”; and by adding at the end thereof the following two sections:

“SECTION 5. This act shall take effect 180 days after its passage.

SECTION 6. This act shall be known as the Kearney O’Neill McGovern Law.”) (on Senate bill, No. 1345);

Prohibiting excessive fees on gift certificates and gift cards (Senate, No. 2442) (on Senate bill, No. 2214);

Gift cards, fees.

Relative to the conversion of Massachusetts-chartered credit unions to a federal charter (printed as House, No. 2982) (on a petition);

Credit union conversion.

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

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

Petition (accompanied by bill, Senate, No. 2445) of Stephen M. Brewer and Mark J. Carron (by vote of the town) for legislation relative to the Charlton Water and Sewer Commission; and

Charlton Water and Sewer Commission.

Petition (accompanied by bill, Senate, No. 2446) of Stephen M. Brewer and Mark J. Carron (by vote of the town) for legislation relative to the Charlton Water and Sewer Commission’s water supply;

**Severally to the committee on Municipalities and Regional Government.**

*Reports of Committees.*

By Mrs. Owens-Hicks of Boston, for the committee on Children and Families, asking to be discharged from further consideration

Of the petition (accompanied by bill, House, No. 2739) of Stephen P. LeDuc that the Department of Public Health be directed to provide for an annual assessment on the impact of the public welfare system on children in the Commonwealth,— and recommending that the same be referred to the committee on Health Care Financing;

Children, well-being.

Teens, mental health centers.

Of the petition (accompanied by bill, House, No. 4772) of Jennifer L. Flanagan and others for legislation to authorize the Department of Mental Health to establish teen drop-in centers,— and recommending that the same be referred to the committee on Mental Health and Substance Abuse;

By Ms. Kaprielian of Watertown, for the committee on Municipalities and Regional Government, asking to be discharged from further consideration

Housing, growth controls.

Of the petition (accompanied by bill, House, No. 3221) of Bradley H. Jones, Jr., and George N. Peterson, Jr., for legislation to further regulate certain restrictions on development or building permits under zoning ordinances in cities and towns;

Zoning.

Of the petition (accompanied by bill, House, No. 3222) of George N. Peterson, Jr., relative to zoning ordinances and by-laws restricting residential development in cities and towns; and

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Of the petition (accompanied by bill, House, No. 3604) of Frank M. Hynes relative to zoning appeals by abutting cities and towns;

And recommending that the same severally be referred to the committee on Housing;

Dog importation.

By Mr. Koutoujian of Waltham, for the committee on Public Health, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3650) of Kay Khan relative to the importation of dogs and cats,— and recommending that the same be referred to the committee on Environment, Natural Resources and Agriculture; and

Utilities, operating loss provisions.

By Mr. Dempsey of Haverhill, for the committee on Telecommunications, Utilities and Energy, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 1672) of Daniel E. Bosley relative to making the net operating provisions available to utility corporations,— and recommending that the same be referred to the committee on Revenue.

Under Rule 42, the reports severally were considered forthwith; and they were accepted. Severally sent to the Senate for concurrence.

Education, study.

By Mrs. Haddad of Somerset, for the committee on Education, on House, Nos. 1004, 1008, 1011, 1012, 1015, 1017, 1024, 1026, 1027, 1031, 1033, 1042, 1048, 1050, 1053, 1054, 1062, 1073, 1074, 1075, 1078, 1079, 1081, 1082, 1084, 1085, 1088, 1100, 1101, 1104, 1111, 1125, 1128, 1144, 1146, 1148, 1151, 1152, 1153, 1155, 1156, 1157, 1158, 1160, 1163, 1165, 1166, 1171, 1172, 1173, 1176, 1207, 1212, 1214, 1217, 1641, 2164, 3654, 3877 and 3880, an Order relative to authorizing the committee on Education to make an investigation and study of certain House documents concerning education in the Commonwealth (House, No. 4785).

Environmental issues.

By Mr. Smizik of Brookline, for the committee on Environment, Natural Resources and Agriculture, on House, Nos. 1279, 1327 and 4437, an Order relative to authorizing the committee on Environment, Natural Resources and Agriculture to make an investigation and study of certain House documents concerning environmental issues (House, No. 4786) [Senator Brewer, and Representative Gobi of Spencer, dissenting].

By the same member, for the same committee, on House, No. 1325, an Order relative to authorizing the committee on Environment, Natural Resources and Agriculture to make an investigation and study of a certain House document concerning deer hunting (House, No. 4787) [Representative Gobi of Spencer dissenting].

Deer hunting, study.

By the same member, for the same committee, on House, No. 1310, an Order relative to authorizing the committee on Environment, Natural Resources and Agriculture to make an investigation and study of a certain House document concerning fur bearing animals (House, No. 4788) [Senator Brewer dissenting].

Fur bearing animals, study.

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.

*Engrossed Bills.*

*Engrossed bills*

Providing for alternative members on the community development board of the city of Methuen (see Senate, No. 2021) (which originated in the Senate); and

Bills enacted.

Authorizing the town of Milford to grant an additional license for the sale of wine and malt beverages not to be drunk on the premises (see House, No. 4722) (which 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.

*Motions to Reconsider.*

Mr. Torrisi of North Andover moved that the vote be reconsidered by which the House, at the preceding sitting, adopted an Order relative to extending until Wednesday, May 17, 2006, the time within which the committee on Community Development and Small Business is authorized to report on current Senate documents numbered 148 and 167 and House document numbered 3544; and the motion prevailed.

Community Development and Small Business committee, extension of time for reporting.

Pending the recurring question on adoption of the order, the same member moved that it be amended by striking out the figures "167" and inserting in place thereof the figures "168"; and the amendment was adopted.

The order, as amended, then also was adopted. Sent to the Senate for concurrence.

Mr. Jones of North Reading moved that the vote be reconsidered by which the House, at the preceding sitting, adopted an Order relative to extending until Wednesday, July 26, 2006, the time within which the committee on Economic Development and Emerging Technologies is authorized to report on current Senate

Economic Development and Emerging Technologies committee, extension of time for reporting.

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Economic  
Development  
and Emerging  
Technologies  
committee,  
extension  
of time for  
reporting.

documents numbered 256, 257, 259, 260, 261, 262, 263, 264, 265, 267, 268, 269, 270, 271, 273, 275, 276, 278, 281, 282, 283, 284, 285, 286 and 287 and House documents numbered 22, 23, 24, 25, 605, 1476, 1479, 1480, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 2927, 2928, 2940, 3683, 3706, 3707, 3708, 3710, 3713, 3716, 3717, 3719, 3722, 3724, 3725, 3726, 3728, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3738, 3739, 3875, 4253 and 4290; and the motion prevailed.

Pending the recurring question on adoption of the order, the same member moved that it be amended by striking out the date "Wednesday, July 26" and inserting in place thereof the date "Friday, June 23"; and the amendment was adopted.

The order, as amended, then also was adopted. Sent to the Senate for concurrence.

*Orders of the Day.*

Third  
reading  
bill.

The Senate Bill relative to the membership of the Hampshire County Housing Authority (Senate, No. 2283) (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; and it was passed to be engrossed, in concurrence.

Third  
reading  
bills.

House bills  
Further regulating reporting requirements of constables (House, No. 3573); and

Relative to the treatment of waste water in the town of Westborough (House, No. 4484);

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

*Order.*

Next  
sitting.

On motion of Mr. DiMasi of Boston,—  
*Ordered*, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

At twenty-two minutes after eleven o'clock A.M., on motion of Ms. Rogeness of Longmeadow (Mrs. Candaras of Wilbraham being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.