

JOURNAL OF THE HOUSE.

Wednesday, March 31, 2010.

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.

Statement of Representative Fox of Boston.

A statement of Ms. Fox of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber for a portion of today's sitting because I was attending a funeral. Had I been present for the taking of yea and nay numbers 314 and 315, I would have voted, in each instance, in the affirmative. My missing of roll calls today was due entirely to the reason stated. Statement of Ms. Fox of Boston.

Statement Concerning Representative Harkins of Needham.

A statement of Mr. Mariano of Quincy concerning Mrs. Harkins of Needham 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 Harkins of Needham, is unable to be present in the House Chamber for today's sitting due to medical reasons. Her missing of roll calls today will be due entirely to the reason stated. Statement concerning Mrs. Harkins of Needham.

Statement Concerning Representative Nangle of Lowell.

A statement of Mr. Mariano of Quincy concerning Mr. Nangle of Lowell 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 Nangle of Lowell, is unable to be present in the House Chamber for today's sitting due to medical reasons. His missing of roll calls today will be due entirely to the reason stated. Statement concerning Mr. Nangle of Lowell.

Statement Concerning Representative St. Fleur of Boston.

A statement of Mr. Vallee of Franklin concerning Ms. St. Fleur of Boston 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 St. Fleur of Boston, is unable to be present in the House Chamber for today's sitting because she is addressing a United Nations Assembly, Donor's Conference on Haiti. Her missing of roll calls today is due entirely to the reason stated. Statement concerning Ms. St. Fleur of Boston.

Guests of the House.

Hingham High School,— hockey team.

During the session, Mr. Bradley of Hingham briefly took the Chair, declared a brief recess, and introduced the Hingham High School hockey team and coaches. Mr. Bradley then presented the head coach, Tony Messina, with a citation of the House of Representatives congratulating the team on winning the 2010 Super 8 Division 1A State Championship.

Resolutions.

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

Dighton Public Library.

Resolutions (filed by Mrs. Haddad of Somerset) celebrating the centennial of the Dighton Public Library; and

Cameron James Foss.

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Cameron James Foss on receiving the Eagle Award of the Boy Scouts of America;

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

Orders.

The following order (filed by Mr. Dempsey of Haverhill) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

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

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on Economic Development and Emerging Technologies be granted until Friday, May 21, 2010, the time within which to make its report on current Senate documents numbered 174, 2038, 2039, 2040 and 2042 and House documents numbered 330, 334, 337, 343, 640, 4063, 4064, 4065, 4066, 4067, 4068, 4069, 4081, 4082 and 4490.

Mr. Binienda of Worcester, for the committees on Rules, reported that the order ought to be adopted. Under suspension of the rules, on motion of Mr. Dempsey, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

The following order (filed by Mr. Straus of Mattapoisett) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

Environment, Natural Resources and Agriculture committee,— extension of time for reporting.

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on Environment, Natural Resources and Agriculture be granted until Wednesday, March 31, 2010, within which to make its final report on current Senate documents numbered 386 and 387 and current House document numbered 818.

Mr. Binienda of Worcester, for the committees on Rules, reported that the order ought to be adopted. Under suspension of the rules, on motion of Mr. Straus, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

The following order (filed by Mr. Sánchez of Boston) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on Public Health be granted until Wednesday, May 12, 2010, within which to make its final report of current Senate documents numbered 807, 834, 866, 867, 872, 876, 878, 890 and 909 and current House documents numbered 2031, 2059, 2069, 2073, 2084, 2086, 2118, 2128, 2135, 2138, 2139, 3477, 3722, 3910 and 3912.

Public Health committee,— extension of time for reporting.

Mr. Binienda of Worcester, for the committees on Rules, reported that the order ought to be adopted. Under suspension of the rules, on motion of Mr. Sánchez, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

Annual and Monthly Reports.

Annual reports

Of the Pioneer Valley Transit Authority (under Section 8 of Chapter 161B of the General Laws) of its accomplishments and achievements during the fiscal year 2009; and

Pioneer Valley Transit.

Of the State Lottery Charitable Gaming Commission (under the provisions of Section 38 of Chapter 10 of the General Laws) submitting its annual report for the year 2009; and

State Lottery Charitable Gaming Commission.

A monthly report of the Division of Unemployment Assistance (under the provisions of Chapter 142 of the Acts of 2003) relative to the condition of the Commonwealth's Unemployment Trust Fund for February, 2010.

Unemployment Trust Fund.

Severally were placed on file.

Petitions.

Petitions severally were presented and referred, as follows:

By Representative Peake of Provincetown and Senator O'Leary, a joint petition (accompanied by bill House, No. 4586) of Sarah K. Peake and Robert A. O'Leary (by vote of the town) that the town of Harwich be authorized to issue three additional licenses for the sale of all alcoholic beverages to be drunk on the premises. To the committee on Consumer Protection and Professional Licensure.

Harwich,— liquor license.

By Mr. Linsky of Natick, a petition (accompanied by bill, House, No. 4585) of David P. Linsky (by vote of the town) relative to the transfer of certain conservation land in the town of Sherborn; and

Sherborn,— land.

By Representative Peake of Provincetown and Senator O'Leary, a joint petition (accompanied by bill House, No. 4587) of Sarah K. Peake and Robert A. O'Leary (by vote of the town) that the town of Harwich be authorized to establish a special fund to assist persons with financial hardships;

Harwich,— Caleb Chase.

Severally to the committee on Municipalities and Regional Government. Severally sent to the Senate for concurrence.

Papers from the Senate.

A Bill providing a tax exemption for certain qualifying real estate in the town of Hamilton (Senate, No. 2085) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was

Hamilton,— real estate tax.

Hamilton,—
real estate
tax.

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

Mr. Kafka of Stoughton, for said committee, then reported recommending that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Hill of Ipswich, the bill was read a second time forthwith; and it was ordered to a third reading.

Wakefield,—
police chief.

A Bill exempting the position of deputy chief of police in the town of Wakefield from the civil service law (Senate, No. 2230) [Local Approval Received], passed to be engrossed by the Senate and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Quincy,—
texting
ban.

A petition (accompanied by bill, Senate, No. 2336) of Michael W. Morrissey, Bruce J. Ayers, Ronald Mariano and A. Stephen Tobin (with the approval of the mayor and city council) for legislation to ban texting while driving in the city of Quincy, was referred, in concurrence, to the committee on Transportation.

Reports of Committees.

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 following petitions:

Fire service,—
eligibility
lists.

Petition (accompanied by bill) of Eugene L. O'Flaherty relative to placement of certain persons on the civil service eligibility list for original appointment to the fire service. To the committee on Public Service.

Dennis and
Yarmouth,—
Xiarhos
Bridge.

Joint petition (accompanied by bill) of Cleon H. Turner, Robert A. O'Leary and Demetrius J. Atsalis for legislation to designate a certain bridge on Route 28 over the Bass River connecting the towns of Dennis and Yarmouth as the United States Marine Corporal Nicholas G. Xiarhos Bridge. To the committee on Transportation.

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

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration:

Christine
Frangakis,—
sick leave.

Of the Bill establishing a sick leave bank for Christine Frangakis, an employee of the department of public health (Senate, No. 2269, amended); and

Revere,—
holidays.

Of the Bill authorizing the Revere school department to be open on Suffolk county holidays (House, No. 1129) [Local Approval Received]. And recommending that the same severally be referred to the committee on Ways and Means.

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

Judith R.
Abraham,—
sick leave.

By Mr. Spellane of Worcester, for the committee on Public Service, on a joint petition, a Bill establishing a sick leave bank for Judith R.

Abraham, an employee of the Department of Developmental Services (House, No. 4574). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, the noon recess having terminated, under suspension of the rules, on motion of Mr. Kulik of Worthington, the bill (having been 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. Pedone of Worcester moved to amend it by adding the following sentence: "Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department."

The amendment was adopted; and the bill (House, No. 4574, amended) was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill authorizing the town of Manchester-by-the-Sea to grant an easement on certain water protection land (House No. 4304) [Local Approval Received] be scheduled for consideration by the House.

Manchester-
by-the-Sea,—
land.

Under suspension of Rule 7A, on motion of Mr. Hill of Ipswich, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill providing for recall elections in the town of Boxford (House No. 4381) [Local Approval Received] be scheduled for consideration by the House.

Boxford,—
recall
elections.

Under suspension of Rule 7A, on motion of Mr. Hill of Ipswich, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill to establish a sick leave bank for Frances Bonnayer (House No. 4573) be scheduled for consideration by the House.

Frances
Bonnayer,—
sick leave.

Under suspension of Rule 7A, on motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

Mr. Binienda of Worcester, for the committee on Rules, that the House Resolve providing for an investigation and study by a special commission relative to the impact of undocumented alien residing in the Commonwealth (House, No. 133, changed) ought to pass. Referred, under Rule 33, to the committee on Ways and Means.

Undocumented
aliens,—
impact.

*Engrossed Resolve.*Resolve
passed.

The engrossed Resolve providing for an investigation and study by a special commission on the reuse of Westborough State Hospital (see Senate, No. 2219, amended) (which originated in the Senate), having been certified by the Clerk to rightly and truly prepared for final passage, was passed; and it was signed by the acting Speaker and sent to the Senate.

*Orders of the Day.*Third
reading
bills.

Senate bills
Establishing a sick leave bank for John Riordan, an employee of the Trial Court (Senate, No. 2227, amended); and
Establishing a sick leave bank for Sean O'Brien, an employee of the Department of Transitional Assistance (Senate, No. 2288);
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, in concurrence.

Third
reading
bill.

The House Bill authorizing the town of Millis to conduct its annual town election on May 11, 2010 (printed in House, No. 4578), 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.

Second
reading
bills.

Senate bills
Relative to the financing of wind energy facilities in the town of Falmouth (Senate, No. 2291, amended); and
Providing for recall in the town of Colrain (printed as House, No. 4384); and
House bills
Relative to nutrition awareness in schools (House, No. 147, changed);
Revising certain provisions of the mutual holding company law (House, No. 917);
Relating to fire insurance (House, No. 957);
Making technical corrections in the law relative to discharge of certain mortgages (House, No. 996);
To promote open space residential development (House, No. 1219);
Further defining the membership of the Franklin Foundation (House, No. 4343);
Authorizing the city of Methuen to repay the borrowing of certain monies for the satisfaction of a final judgment under the applicable provisions of Chapter 44 of the General Laws for a period of up to (20) years (House, No. 4404);
Establishing a Raynham development revolving fund (House, No. 4485); and
Relative to certain banking laws (House, No. 4537).
Severally were read a second time; and they were ordered to a third reading.

House
reports.

House reports
Of the committee on Financial Services, ought NOT to pass, on the petition (accompanied by bill, House, No. 858) of Bruce J. Ayers

that banking and lending institutions be required to issue certain information on monthly statements to mortgage loan customers;

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

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 994) of James M. Murphy relative to making technical corrections in the law relative to discharge of certain mortgages;

Of the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1051) of Walter F. Timilty relative to regulating the distribution and sale of securities under the uniform securities law; and

Of the committee on Revenue, ought NOT to pass, on the petition (accompanied by bill, House, No. 3854) of Steven J. D'Amico, Patricia D. Jehlen and others relative to motion picture tax credits.

Severally were accepted.

Recess.

At half past eleven o'clock A.M., on motion of Mr. Fresolo of Worcester (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at fourteen minutes after one o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Recess.

Engrossed Bill — Land Taking.

The engrossed Bill relative to the use of a parcel of land in the city of Woburn for recreational purposes (see House, No. 4449) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Woburn,—
land.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of lands or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 152 members voted in the affirmative and 0 in the negative

Bill enacted
(land taking),—
yea and nay
No. 314.**[See Yea and Nay No. 314 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Subsequently a statement of Mr. Rogers of Norwood was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that, on the taking of the above yeas and nays, I was not recorded due to being on official business in another part of the State House. Had I been present, I would have voted in the affirmative.

Statement of
Mr. Rogers
of Norwood.*Emergency Measures.*

The engrossed Bill establishing a sick leave bank for John Riordan, an employee of the Trial Court (see Senate, No. 2227, amended), having been certified by the Clerk to be rightly and truly prepared

John
Riordan,—
sick leave.

for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 40 to 0. Sent to the Senate for concurrence.

Sean O'Brien,—sick leave.

The engrossed Bill establishing a sick leave bank for Sean O'Brien, an employee of the Department of Transitional Assistance (see Senate, No. 2288), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 40 to 0. Sent to the Senate for concurrence.

Orders of the Day.

Meraly Rivera,—sick leave.

The House Bill establishing a sick leave bank for Meraly Rivera, an employee of the Department of Children and Families (House, No. 4570), 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. Pedone of Worcester moved to amend it by adding the following sentence: "Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department."

The amendment was adopted; and the bill (House, No. 4570, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Liquor legal liability insurance.

The House Bill relative to liquor legal liability insurance (House, No. 947), 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. Pedone of Worcester moved to amend it by adding the following two sentences: "The applicant or licensee shall provide proof of such insurance coverage as is required by this section by filing a certificate of insurance in a form acceptable to the local licensing authorities on or before January 1, 2011, and for each year thereafter for which such is granted or renewed. Such insurance shall be subject to sections 5 and 6 of chapter 175A of the General Laws." After remarks the amendment was adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Koutoujian of Waltham; and on the roll call 145 members voted in the affirmative and 4 in the negative.

[See Ye and Nay No. 315 in Supplement.]

[Representatives Barrows of Mansfield, Conroy of Wayland and Galvin of Canton answered "Present" in response to their names.]

Therefore the bill (House, No. 947, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Bill passed to be engrossed,—yea and nay No. 315.

The House Bill relative to assault and battery on health care providers (House, No. 1696), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Health care providers,—assault.

After remarks on the question on passing the bill to be engrossed, Mr. Rodrigues of Westport moved to amend it by striking out all after the enacting clause and inserting in place thereof the following:

"Section 13I of chapter 265 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the language in the section and inserting in place thereof the following language:—

Section 13I. Whoever commits an assault or an assault and battery on an emergency medical technician, an ambulance operator, an ambulance attendant or a health care provider defined in section 1 of chapter 111, or anyone involved in treating or transporting in the line of duty, shall be punished by imprisonment in the house of correction for not less than 90 days nor more than 2½ years or by a fine of not less than \$500 nor more than \$5,000, or both."

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 155 members voted in the affirmative and 0 in the negative.

Amendment adopted,—yea and nay No. 316.

[See Ye and Nay No. 316 in Supplement.]

Therefore the amendment was adopted.

After debate on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. O'Flaherty of Chelsea; and on the roll call (Mr. Donato of Medford being in the Chair) 155 members voted in the affirmative and 0 in the negative.

Bill passed to be engrossed,—yea and nay No. 317.

[See Ye and Nay No. 317 in Supplement.]

Therefore the bill (House, No. 1696, 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.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-eight minutes after two o'clock P.M., on motion of Mr. Kulik of Worthington (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.