

# JOURNAL OF THE HOUSE.

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Wednesday, April 3, 2013.

Met at eight minutes after 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).

Pledge of  
allegiance.

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.

### *Statement Concerning Representative Rogers of Norwood.*

A statement of Representative Rushing of Boston concerning Representative Rogers of Norwood was spread upon the records of the House, as follows:

Statement  
concerning  
Mr. Rogers of  
Norwood.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Rogers of Norwood, is unable to be present in the House Chamber for today's sitting due to a personal matter. His missing of roll calls today is due entirely to the reason stated.

### *Resolutions.*

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

Nicholas  
Pickett.

Resolutions (filed by Ms. Cronin of Brockton) congratulating Nicholas Pickett on receiving the Eagle Award of the Boy Scouts of America;

East  
Bridgewater,—  
cheerleaders.

Resolutions (filed by Mr. Diehl of Whitman) recognizing the East Bridgewater High School girls cheerleading team on winning the New England Championship;

John  
Bejian.

Resolutions (filed by Ms. Garlick of Needham) congratulating John Bejian on receiving the Eagle Award of the Boy Scouts of America;

Ryan T.  
Colarusso.

Resolutions (filed by Ms. Garlick of Needham) congratulating Ryan T. Colarusso on receiving the Eagle Award of the Boy Scouts of America;

Jason C.  
Ho.

Resolutions (filed by Ms. Garlick of Needham) congratulating Jason C. Ho on receiving the Eagle Award of the Boy Scouts of America;

Jack G.  
O'Keefe.

Resolutions (filed by Ms. Garlick of Needham) congratulating Jack G. O'Keefe on receiving the Eagle Award of the Boy Scouts of America;

Matthew R.  
Woodard.

Resolutions (filed by Representatives Garlick of Needham and Winslow of Norfolk) congratulating Matthew R. Woodard on receiving the Eagle Award of the Boy Scouts of America; and

Suzanne G.  
Littlefield.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Suzanne G. Littlefield on her retirement as a school committee member on the town of Wellesley;

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. Cusack of Braintree, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

*Communications.*

Communications

From the Executive Office of Health and Human Services (under Section 270 of Chapter 224 of the Acts of 2012) relative to the current status of the Special Commission to review Public Payer Reimbursement Rates; and Public payer reimbursement.

From the Executive Office of Health and Human Services (under Section 277 of Chapter 224 of the Acts of 2012) relative to the Special Commission on Graduate Medical Education; Graduate medical education.

Severally were placed on file.

*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 petition of Anne M. Gobi, Stephen M. Brewer and Peter J. Durant for legislation to authorize the Spencer-East Brookfield Regional School District. Under suspension of the rules, on motion of Ms. Gobi of Spencer, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Education. Sent to the Senate for concurrence. Spencer-East Brookfield Regional School District.

By Ms. Gobi of Spencer, for the committee on Environment, Natural Resources and Agriculture, asking to be discharged from further consideration:

Of the petition (accompanied by bill, House, No. 724) of Danielle W. Gregoire relative to the liability insurance requirements for owners of underground storage tanks,— and recommending that the same be referred to the committee on Financial Services. Underground storage tanks,— insurance.

Of the petition (accompanied by bill, House, No. 708) of Sean Garballey that the Boston Metropolitan Area Planning Council conduct a study of potential flood storage at the site of the former Metropolitan District Commission's Skating Rink bordering the towns of Arlington and Belmont; Arlington and Belmont.

Of the petition (accompanied by bill, House, No. 790) of Kathi-Anne Reinstein for legislation to prohibit licensing by the Department of Environmental Protection of a third burner at the Wheelabrator facility in the town of Saugus; and Saugus,— Wheelabrator facility.

Of the petition (accompanied by bill, House, No. 791) of Kathi-Anne Reinstein relative to the licensing of a third burner at the Wheelabrator facility in the town of Saugus; Id.

And recommending that the same severally be referred to the committee on Municipalities and Regional Government.

Of the petition (accompanied by bill, House, No. 727) of Steven S. Howitt relative to exempting barber shops from certain system sewage flow design criteria; and Barber shops,— sewage.

Of the petition (accompanied by bill, House, No. 807) of Frank I. Smizik and others for legislation to promote efficiency in the use of certain natural resources; Energy efficiency.

And recommending that the same severally be referred to the committee on Public Health.

Boston,—  
boat house.

Of the petition (accompanied by bill, House, No. 768) of Michael J. Moran relative to a boat house land lease in the city of Boston;

Boston  
University  
Sailing Pavilion.

Of the petition (accompanied by bill, House, No. 769) of Michael J. Moran relative to the lease of Boston University Sailing Pavilion and youth programs;

Northeastern  
University,—  
boat house  
lease.

Of the petition (accompanied by bill, House, No. 770) of Michael J. Moran relative to the lease of Northeastern University Henderson boat house and youth access; and

Id.

Of the petition (accompanied by bill, House, No. 771) of Michael J. Moran relative to the lease of Northeastern University Henderson boat house and youth programs;

And recommending that the same severally be referred to the committee on State Administration and Regulatory Oversight.

Noise  
pollution.

Of the petition (accompanied by bill, House, No. 720) of Colette Whitby relative to excessive noise in residential areas,— and recommending that the same be referred to the committee on Telecommunications, Utilities and Energy.

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

Milton,—  
alcoholic  
beverages.

By Mr. Scibak of South Hadley, for the committee on Consumer Protection and Professional Licensure, on a message from His Excellency the Governor, a Bill authorizing the town of Milton to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises of a certain restaurant (printed in House, No. 3329).

Mattapoisett,—  
Harbormaster.

By Ms. Peake of Provincetown, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to the Harbormaster in the town of Mattapoisett (House, No. 3303) [Local Approval Received].

Revere,—  
land.

By the same member, for the same committee, on a petition, a Bill authorizing the city of Revere to transfer certain parcels of land and validating an order of the Revere City Council (House, No. 3336, changed by inserting after section 1 the following section:

“SECTION 1A. Notwithstanding any general or special law to the contrary, the transfer authorized by said section 1 shall be conditioned on the city of Revere acquiring a parcel of land commonly known as St. Mary’s located off Washington Street consisting of approximately 4.5632 acres, including 2 fields used for baseball and softball, for purposes of conservation and recreation.”; and in section 2, in lines 19 and 20, by striking out the words “as if this act had been in effect on the date of adoption of such order” and inserting in place thereof the words “in all respects”) [Local Approval Received].

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

Irene  
Archambault,—  
sick leave.

By Mr. O’Flaherty of Chelsea, for the committee on the Judiciary, on a petition, a Bill establishing a sick leave bank for Irene Archambault, an employee of the Trial Court (House, No. 3380).

Richard  
Slayman,—  
sick leave.

By Mr. Michlewitz of Boston, for the committee on Public Service, on a joint petition, a Bill establishing a sick leave bank for Richard (Rick) Slayman, an employee of the Massachusetts Department of Transportation (House, No. 3378).

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

Mr. Kafka of Stoughton for said committee then reported, in each instance, that the matters be scheduled for consideration by the House. Under suspension of the rules, in each instance, on motion of the same member, the bills severally were read a second time forthwith; and they were ordered to a third reading.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the House Bill designating the former Canton airport site as the 1st Lt. Arthur E. Farnham, Jr., and SSgt. Thomas M. Connolly, Jr., memorial park, Neponset River Reservation (House, No. 704), be scheduled for consideration by the House.

Former  
Canton  
airport,—  
naming.

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.

#### *Recess.*

At twenty minutes after eleven o'clock A.M., on motion of Mr. Kafka of Stoughton (Mr. Donato of Medford being in the Chair), the House recessed until quarter before twelve o'clock noon; and at twenty-three minutes after twelve o'clock, the House was called to order with Mr. Donato in the Chair.

Recess.

#### *Paper from the Senate.*

A petition (accompanied by bill, Senate, No. 1755) of Benjamin B. Downing and William Smitty Pignatelli (by vote of the town) for legislation to provide for the establishment and administration of rent regulations and the control of evictions in mobile home accommodations in the town of West Stockbridge, came from the Senate referred to the committee on Municipalities and Regional Government.

West  
Stockbridge,—  
housing  
regulations.

The House then non-concurred with the Senate in its reference to the committee on Municipalities and Regional Government; and on motion of Mr. Honan of Boston, the petition was referred, in non-concurrence, to the committee on Housing. Sent to the Senate for its action.

#### *Engrossed Bill — Land Taking.*

The engrossed Bill authorizing the city of Springfield to convey certain park land and to grant a license agreement over certain park land to Unifirst Corporation (see House, No. 58) (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.

Springfield,—  
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 land 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. 41.

#### **[See Yea and Nay No. 41 in Supplement.]**

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

*Reports of Committees.*

Transportation  
bill,—  
procedures.

Mr. Binienda of Worcester, for the committee on Rules, reported (under the provisions of House Rules 7B and 7C) an Order relative to special procedures for consideration of the House Bill relative to financing improvements to the Commonwealth's transportation system (House, No. 3379) and the House Bill relative to transportation finance (House, No. 3382) (for order, see House, No. 3381). Under the provisions of Rule 7C, the order was considered forthwith.

Pending the question on adoption of the order, Mr. Jones of North Reading and other members of the House moved to amend it in lines 6 and 7 by striking out the following: "Friday, April 5, 2013" and inserting in place thereof the following: "the Friday following the public hearing provided for in the second paragraph"; and by inserting after the first paragraph the following paragraph:

"*Ordered*, That, notwithstanding the provisions of any rule to the contrary, no action shall be taken on House, No. 3382, 'An Act relative to transportation finance', or substitute text recommended thereof, until such time as the Joint Committee on Transportation holds a public hearing on the subject matter contained therein. Notice of the public hearing and discharge of the bill from the Joint Committee on Transportation shall comply with the provisions of the joint rules governing such matters."

Amendment  
rejected,—  
yea and nay  
No. 42.

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. Kafka of Stoughton being in the Chair) 30 members voted in the affirmative and 123 in the negative.

**[See Yea and Nay No. 42 in Supplement.]**

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the order in lines 6 and 7 by striking out the following: "five o'clock P.M. on Friday, April 5" and inserting in place thereof the following: "twelve o'clock P.M. on Monday, April 8".

Amendment  
rejected,—  
yea and nay  
No. 43.

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 29 members voted in the affirmative and 124 in the negative.

**[See Yea and Nay No. 43 in Supplement.]**

Therefore the amendment was rejected.

On the question on adoption of the order, the sense of the House was taken by yeas and nays at the request of Mr. Peterson of Grafton; and on the roll call 120 members voted in the affirmative and 30 in the negative.

Order  
adopted,—  
yea and nay  
No. 44.

**[See Yea and Nay No. 44 in Supplement.]**

Therefore the order (House, No. 3381) was adopted.

Transportation  
system,—  
improvements.

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Bill financing improvements to the Commonwealth's transportation system (House, No. 3379) [Bond Issue: \$300,000,000.00], ought to pass. 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 of the House.

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

Mr. Donato of Medford being in the Chair,—

Mr. Dempsey of Haverhill, for the committee on Ways and Means, on House, No. 1, reported, in part, a Bill relative to transportation finance (House, No. 3382) [Total Appropriation: \$100,000.00] [Representatives deMacedo of Plymouth, D'Emilia of Bridgewater, Beaton of Shrewsbury, Diehl of Whitman, Vieira of Falmouth and Wong of Saugus dissenting]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Transportation,—  
finance.

Mr. Kafka of Stoughton, for said committee, then reported recommending that the matter be scheduled for consideration of the House. Under suspension of Rule 7A, on motion of Mr. Straus of Mattapoisett, the bill was read a second time forthwith.

Mr. Jones of North Reading thereupon raised a point of order that the bill currently before the House was broader in its scope than the subject-matter of the Governor's message upon which it was presented since it increases the gas tax and makes changes to the governing statutes of the Massachusetts Department of Transportation and the Massachusetts Bay Transportation Authority, neither of which was contained in the subject-matter of the Governor's budget recommendation.

Point of  
order.

The Chair (Mr. Donato of Medford) stated that in addition to this being an appropriation bill, on which broad latitude is allowed, on two previous occasions in answer to similar points of order that adding a revenue funding mechanism to a bill was "broader in its scope than the petitions, etc., upon which the bill was based", once on July 3, 1935, and on a second occasion, on March 25, 1964, this House ruled that it "must be held germane, in connection with a bill requiring the expenditure of a large sum of money, to provide a method for raising the same".

Therefore, consistent with those previous rulings, the Chair ruled that the point of order was not well taken.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out sections 41, 42 and 43 and inserting in place thereof the following section:

"SECTION 41. Notwithstanding any special or general law to the contrary, the provisions of sections 10 to 24, inclusive, shall not take effect until such time as the executive office of administration and finance and the department of revenue has furnished a study of its impact on the state's economy and revenue cost to the commonwealth and its cities and towns, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment and ancillary economic activity to the joint committee on revenue."

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 Mr. Peterson of Grafton; and on the roll call 30 members voted in the affirmative and 123 in the negative.

Amendment  
rejected,—  
yea and nay  
No. 45.

**[See Yea and Nay No. 45 in Supplement.]**

Therefore the amendment was rejected.

Ordering to a  
third reading,—  
yea and nay  
No. 46.

On the question on ordering the bill to a third reading, 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 120 members voted in the affirmative and 31 in the negative.

**[See Yea and Nay No. 46 in Supplement.]**

Therefore the bill was ordered to a third reading.

Subsequently statements of Messrs. Conroy of Wayland and Wagner of Chicopee were spread upon the records of the House, as follows:

Statement of  
Mr. Conroy  
of Wayland.

MR. SPEAKER: During the above taking of the yeas and nays, I was absent from the House Chamber on official business in another part of the State House. Had I been present when the vote was taken, I would have voted in the affirmative.

Statement of  
Mr. Wagner  
of Chicopee.

MR. SPEAKER: During the above taking of the yeas and nays, I was absent from the House Chamber on official business in another part of the State House. Had I been present when the vote was taken, I would have voted in the affirmative.

*Order.*

On motion of Mr. DeLeo of Winthrop,—

Next  
sitting.

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

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Accordingly, without proceeding to the matters in the Orders of the Day, at six minutes before four o'clock P.M., on motion of Mr. Hill of Ipswich (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.