

JOURNAL OF THE HOUSE.

Tuesday, May 4, 2010.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Kafka of Stoughton 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:

Holy Spirit of God, we pray that at all times our hearts and minds be open to You and Your Ways. We believe that You, Your ways, spiritual gifts and precepts offer us personal peace, happiness and a sense of purpose and direction for daily living. As we carry-out our duties and responsibilities, which are often arduous, we look to You for guidance and courage in our decision-making actions. May we have a deep love of objective truth, for You are Truth, our families, neighbors and country. Inspire us to work collaboratively in a common effort to strengthen our basic institutions, our concern for the well-being of all people and our respect for moral principles and integrity. May our country be an example to all nations that we respect the dignity of all, especially to the innocent and those who depend upon others for their daily existence.

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

At the request of the Chair (Mr. Kafka), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Change in a House Standing Committee.

Representative Perry of Sandwich announced that he had resigned (at his own request) from the House committee on Ethics, effective February 2, 2010.

Resolutions.

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

Resolutions (filed by Mr. Greene of Billerica and other members of the House) congratulating the Greater Boston Chapter of the American Society of Safety Engineers on its celebration of North American Occupational Safety and Health Week and Occupational Safety and Health Professional Day;

Resolutions (filed by Mr. Greene of Billerica and other members of the House) supporting Taiwan's participation as an observer in the meetings and activities of the International Civil Aviation Organization (ICAO) and United Nations Framework Convention on Climate Change (UNFCCC);

Resolutions (filed by Messrs. Hecht of Watertown and Honan of Boston) congratulating Boston College head hockey coach Jerry York;

Boston College,—hockey team.

Resolutions (filed by Messrs. Honan of Boston, Timilty of Milton and Linsky of Natick) congratulating the Boston College men's ice hockey team for winning the 2010 National Championship; and

Arthur T. Gerald, Jr.

Resolutions (filed by Mr. Keenan of Salem) congratulating Reverend Arthur T. Gerald, Jr. on his retirement from Salem State College;

T/SGT. Elmer R. Hammond.

Resolutions (filed by Mr. Webster of Pembroke) on the occasion of renaming the American Legion Post 226 after T/SGT. Elmer R. Hammond of Hanson;

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

Order.

Joint standing committees,—extension of time for reporting.

An order (filed this day by Mr. Binienda of Worcester) relative to extending until Tuesday, May 18, 2010, the time within which joint standing committees and the committees on Rules of the two branches, acting concurrently, are authorized to make reports on all matters referred to them, was referred, under Rule 30, to the committees on Rules of the two branches, acting concurrently.

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

Papers from the Senate.

Kayaks.

The engrossed Bill relative to kayaks (Senate, No. 974) came from the Senate with the endorsement that said branch had non-concurred with the House in its amendment (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4567).

Committee of conference.

The bill bore the further endorsement that the Senate had asked for a committee of conference on the disagreeing votes of the two branches; and that Senators O'Leary, Timilty and Hedlund had been appointed the committee on the part of the Senate.

On motion of Mr. Straus of Mattapoisett, the House insisted on its amendment; and, on further motion of the same member, concurred with the Senate in the appointment of a committee of conference. Representatives Straus, Costello of Newburyport and Peterson of Grafton were appointed the committee on the part of the House. Sent to the Senate to be noted.

Civil service laws.

The House Bill exempting non-public safety employees from the civil service laws (House, No. 4198) (its title having been changed by the Senate committee on Bill in the Third Reading) came from the Senate passed to be engrossed, in concurrence, with an amendment adding the following section:

"SECTION 2. The provisions of section 1 shall not impair the civil service status of any person holding a position in the town of Brookline, including its school department, on the effective date of this act."

Under suspension of Rule 35, on motion of Mr. Smizik of Brookline, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The following order, having been approved by the committees on Rules of the two branches, acting concurrently, came from the Senate with the endorsement that it had been adopted by said branch, as follows:

"Ordered, That, notwithstanding the provisions of Joint Rule 10, the joint committee on Consumer Protection and Professional Licensure be granted until Monday, May 31, 2010 in which to make its final report on current Senate document numbered 2346 relative to consumer protection and professional licensure in the Commonwealth."

Consumer Protection and Professional Licensure committee,—extension of time for reporting.

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

The following order, having been approved by the committees on Rules of the two branches, acting concurrently, came from the Senate with the endorsement that it had been adopted by said branch, as follows:

"Ordered, That, notwithstanding the provisions of Joint Rule 10, the joint committee on the Judiciary be granted until May 21, 2010, within which time to make its final report on current Senate document numbered 977, relative to the Judiciary."

The Judiciary committee,—extension of time for reporting.

Under suspension of the rules, on motion of Mr. O'Flaherty of Chelsea, the order was considered forthwith; and it was adopted, in concurrence.

Bills

Relative to rock wall climbing safeguards (Senate, No. 959, amended in section 1, in lines 4, 7 and 11, by striking out the figures "10" and inserting in place thereof, in each instance, the figures "12"; in section 2, in line 20, by striking out the date "January 1, 2010" and inserting in place thereof the following date "June 30, 2010"; by striking out section 3 and inserting in place the following section:

Rock wall climbing,—regulate.

"SECTION 3. Section 1 shall take effect July 31, 2010. Section 2 shall take effect upon its passage."; 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 forthwith provide rock wall climbing safeguards, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety." (on a petition);

Protecting consumers from unsolicited loans (Senate, No. 2393) (on Senate bill No. 447);

Unsolicited loans.

Relative to the disposition of museum property (Senate, No. 2402) (on Senate bill No. 1864);

Museums.

Relative to sale of antique barometers, thermometers and clocks (Senate, No. 2403) (on Senate bill No. 2262);

Mercury devices.

Relative to the estate of homestead (Senate, No. 2406) (on Senate bill No. 2404); and

Homestead.

Neighborhoods. To stabilize neighborhoods (Senate, No. 2407) (on Senate bill No. 2394).

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

Tanning facilities. The Senate Bill further regulating tanning facilities (Senate, No. 2339) (on Senate, No. 903), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Infertility treatments. A report of the committee on Health Care Financing, asking to be discharged from further consideration of the Bill relative to increasing coverage for infertility treatments (Senate, No. 485),— and recommending the same be referred to the committee on Senate Ways and Means,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence, inasmuch as relates to the discharge.

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

James E. Munchbach. Petition (accompanied by bill, Senate, No. 2413) Marian Walsh for legislation to establish a sick leave bank for James E. Munchbach, an employee of the Trial Court. To the committee on the Judiciary.

Trenches. Petition (accompanied by bill, Senate, No. 2409) of Stephen M. Brewer, Anne M. Gobi and Denis E. Guyer for legislation relative to trenches on private property. To the committee on Public Safety and Homeland Security.

Michael J. Simone. Petition (accompanied by bill, Senate, No. 2412) of Stephen M. Brewer and Anne M. Gobi for legislation relative to the survivor benefits of Michael J. Simone. To the committee on Public Service.

Athol,— easements. Petition (accompanied by bill, Senate, No. 2411) of Stephen M. Brewer and Christopher J. Donelan for legislation to authorize the Department of Fish and Game to acquire land and to acquire a conservation restriction on lands of the town of Athol in exchange for grants of easements to the town of Athol. To the committee on State Administration and Regulatory Oversight.

Barre,— Purple Heart Bridge. Petition (accompanied by bill, Senate, No. 2410) of Stephen M. Brewer and Anne M. Gobi for legislation to designate a certain bridge in the town of Barre as the Purple Heart Bridge. To the committee on Transportation.

Report of the Committee on Telecommunications, Utilities and Energy on Bill introduced into the General Court by Initiative Petition.

Carbon emissions,— limit. By Mr. Finegold of Andover, for the committee on Telecommunications, Utilities and Energy, that the Act to limit carbon dioxide emissions from renewable and alternative energy sources (House, No. 4458) (introduced in the General Court by initiative petition of Susan E. Laing and others) ought not to pass.

The majority report of the committee (House, No. 4642) is as follows:

MAJORITY REPORT.

The initiative petition, HB 4458, places severe emission restrictions on a broad range of renewable energy plants, including electric biomass and waste-to-energy plants, limiting our energy choices, harming our state's economy, and preventing the state from meeting our renewable energy goals. Although this initiative petition is well intentioned — limits on emissions from biomass plants are crucial in protecting our environment — the committee believes that the language of this particular petition is too broad, preventing the development of innovative technologies such as anaerobic digestion, which efficiently converts organic waste (such as food and agricultural waste) to energy.

The Committee notes that the Department of Energy Resources is currently analyzing the life cycle greenhouse gas emissions of electric biomass facilities, inclusive of the forest's role in carbon sequestration, and will review the Department's report when it is available. If the report's findings indicate to the Committee that action needs to be taken on this issue, it will take steps to enact the necessary restrictions at that time.

This overly broad initiative petition would prevent the development of many forms of renewable energy by cutting off their access to essential incentives. The Committee recognizes that, in order to address the Commonwealth's economic, energy, and climate challenges, all renewable energy technologies must be responsibly considered. Therefore, we, the majority of the Joint Committee on Telecommunications, Utilities and Energy, recommend that the Initiative Petition HB 4458 OUGHT NOT TO PASS [Representative Ehrlich of Marblehead, dissenting].

Senators.

MICHAEL W. MORRISSEY,
KENNETH J. DONNELLY,
BRUCE E. TARR,

Representatives.

BARRY R. FINEGOLD,
CARLO P. BASILE,
VIRIATO MANUEL DEMACEDO,
STEPHEN L. DINATALE,
KARYN E. POLITO,
ANGELO J. PUPPOLO, JR.

Since Article XLVIII as amended by Section 2 of Article LXXXI of the Amendments to the Constitution requires that a vote shall be taken by yeas and nays in both houses before the first Wednesday of May upon the enactment of such law in the form in which it stands in such petition., no action was taken beyond the receipt of the report of the committee.

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:

Petition (accompanied by bill) of Michael F. Rush relative to the retirement benefit for Cecilia Davlin the surviving former wife of James Davlin. To the committee on Public Service.

Cecilia Davlin.

Natural gas leaks. Petition (accompanied by bill) of Lori Ehrlich, Steven J. D'Amico and others relative to the classification of and response to natural gas leaks. To the committee on Telecommunications, Utilities and Energy. Under suspension of the rules, on motion of Mr. Smith of Everett, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Health insurance,—coverage. Mr. Binienda of Worcester, for the committee on Rules, on the Order relative to authorizing the committee on Financial Services to make an investigation and study of certain House documents concerning financing and financial services (House, No. 4621) reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 936) of Kay Khan and others relative to requiring that certain health insurance policies include coverage for eating disorders,— and recommending that the same be recommitted to the committee on Financial Services. Under Rule 42, the report was considered forthwith; and it was accepted.

Christopher J. Doyle,—benefits. By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill authorizing the town of Wilbraham to provide certain benefits to Christopher J. Doyle (Senate, No. 2104, amended) be scheduled for consideration by the House. Under suspension of Rule 7A, on motion of Ms. Provost of Somerville, the bill was read a second time forthwith; and it was ordered to a third reading.

Child support. By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on Senate, No. 36 and House, No. 3423, a Bill to bring child support home (House, No. 3423, changed by deleting sections 1, 4 and 5 and in line 32 by striking "October 1, 2009" and inserting in its place the following: "July 1, 2010").

Family aid. By the same member, for the same committee, on House, No. 129, a Bill regarding children and families requiring assistance (House, No. 4632).

Job creation. By Ms. Forry of Boston, for the committee on Community Development and Small Business, on House, No. 4490, a Bill providing for job creation by small businesses (House, No. 4629) [Senator Eldridge of Middlesex and Worcester dissenting].

Landfills. By Mr. Straus of Mattapoisett, for the committee on Environment, Natural Resources and Agriculture, on House, No. 4562, a Bill to protect citizens of the Commonwealth from unsafe and injurious landfills (House, No. 4639).

Animals,—treatment. By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on House, No. 3589, a Bill to provide for the safe care and treatment of animals (House, No. 4635).

Collective bargaining. By Mr. Spellane of Worcester, for the committee on Public Service, on a petition, a Bill relative to collective bargaining (House, No. 2583).

Pension funding. By the same member, for the same committee, on House, No. 4439, a Bill providing municipal pension funding schedule relief (House, No. 4628).

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

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill to eliminate the use of the word retardation from the General Laws (House, No. 176).

By Mr. Spellane of Worcester, for the committee on Public Service, on a petition, a Bill relative to certain members of the Cambridge retirement system (House, No. 4280) [Local Approval Received].

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

Engrossed Bill.

The engrossed Bill authorizing the town of Millbury to pay a certain unpaid bill (see House bill printed in House, No. 4525) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same); and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Senate Bills
Relative to payment for services rendered for extraordinary storm damage in the town of Templeton (Senate, No. 2231);

Amending the charter of the town of Stoughton (Senate, No. 2238) (its title having been changed by the committee on Bills in the Third Reading); and

Authorizing the town of Chelmsford to convey certain conservation land and grant certain easements (Senate, No. 2287, amended);

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.

House bills
Modifying a conservation restriction in the town of North Andover (House, No. 598);

Relative to the Historical Districts Commission of the town of Concord (House, No. 632);

Authorizing the appointment of retired Millis police officers as special police officers in the town of Millis (House, No. 1882);

Relative to the conduct of public hearings on capital improvements plans in the town of North Andover (House, No. 1901);

Authorizing the government employers in the County of Dukes County to establish a pooled other post-employment benefits trust fund (House, No. 4105);

Designating the intersection in front of 306 Turtle Pond Parkway in the Hyde Park District of the city of Boston as Paul P. Loring Square (House, No. 4120);

Authorizing the Dukes County contributory retirement system to grant certain retirement benefits (House, No. 4174);

Authorizing the town of North Andover to amend a certain conservation restriction (House, No. 4194);

Designating the portion of state highway Route 140 located in the town of Upton as the George L. Wood Veterans of Foreign Wars

"Retardation"—use of word.

Cambridge retirement system.

Bill enacted.

Third reading bills.

Id.

Third
reading
bills.

Post #5594 and the Marshall-Leland American Legion Post #173 Roadway (House, No. 4334) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the town of Westport to lease a portion of the Westport Town Farm to the Trustees of Reservations (House, No. 4368);

Relative to the position of appointed treasurer-collector in the town of Freetown (House, No. 4415);

Authorizing the town of Brewster to use a portion of town-owned land for renewable energy projects (House, No. 4450);

Establishing the Raynham development revolving fund (House, No. 4485) (its title having been changed by the committee on Bills in the Third Reading); and

Relative to the Bayswater environmental program (House, No. 4511) (its title having been changed by the committee on Bills in the Third Reading);

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

Novelty
lighters,—
prohibit.

The House Bill prohibiting the use of novelty lighters (House, No. 4369) (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.

Pending the question on passing the bill to be engrossed, Mr. Pedone of Worcester moved to amend it in line 13 by inserting after the word "items" the following "or to standard disposable and refillable lighters that are printed or decorated with logos, labels, decals or artwork, or heat shrinkable sleeves".

The amendment was adopted; and the bill (House, No. 4369, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Dinamarie
McCarthy,—
sick leave.

The House Bill establishing a sick leave bank for Dinamarie McCarthy, an employee of the Department of Children and Families (House, No. 4615), 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. 4615, 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 on Thursday next at eleven o'clock A.M.

Next
sitting.