

JOURNAL OF THE HOUSE.

Wednesday, June 2, 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).

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

Lord God, Our Creator, the Ultimate Source of Wisdom, Knowledge and Goodness, we pause for a moment of prayer and reflection as we turn our thoughts and attention to You and spiritual values. Help us to keep our personal and legislative goals in clear focus so that our daily lives will have direction and meaning. Continuing in the spirit of Memorial Day, which we observed on Monday, teach us as a people to be grateful for our blessings and privileges, mindful of our obligations as citizens and open to Your inspirations as we struggle with our current economic and political challenges and great opportunities. May our elected officials be thoughtful and wise, the people civil and industrious and our society compassionate and happy. In building and strengthening our communities, may we be faithful to our traditional principles, our conscience and traditional spiritual values.

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.

Statement Concerning Representative Bosley of North Adams.

A statement of Mr. Vallee of Franklin concerning Mr. Bosley of North Adams 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 Bosley of North Adams, was unable to be present in the House Chamber for today's sittings due to business in his district. Had he been present for the taking of the yeas and nays on the question on passing to be engrossed the Bill relative to the agreement among the states to elect the President by national popular vote, he would have voted in the affirmative. His missing of roll calls today is due entirely to the reason stated.

Statement concerning Mr. Bosley of North Adams.

Statement Concerning Representative Kafka of Stoughton.

A statement of Mr. Vallee of Franklin concerning Mr. Kafka of Stoughton 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 Kafka of Stoughton, was unable to be present in the House Chamber for today's sittings due to the birth of his grandson in Israel. Had he been present for the

Statement concerning Mr. Kafka of Stoughton.

taking of the yeas and nays on the question on passing to be engrossed the Bill relative to the agreement among the states to elect the President by national popular vote, he would have voted in the affirmative. His missing of roll calls today and last week is due entirely to the reason stated.

Communications.

Communications

Green Communities Program.

From the Green Communities Program Division of the Department of Energy Resources submitting an annual report detailing the expenditures and results of said program and a proposed budget for fiscal year 2011;

Health Care Financing.

From the Division of Health Care Finance and Policy within the Executive Office of Health and Human Services submitting a final report on health care cost trends for 2010;

Id.

From the Division of Health Care Finance and Policy within the Executive Office of Health and Human Services submitting a report on endowments and surpluses of health insurers in the Commonwealth; and

Minority and Women Business Assistance.

From the State Office of Minority and Women Business Assistance submitting its annual report on the performance of the affirmative marketing program for the year 2009;

Severally were spread upon the records of the House; and placed on file.

Annual and Special Reports.

Bristol County,— technology fund.

A special report of the Bristol County Registry of Deeds (under Section 2KKK of Chapter 29 of the General Laws) submitting a plan for an expenditure of funds currently held in the County Registers Technological Fund [copies of said report forwarded by the Clerk to the House committee on Post Audit and Oversight and the House committee on Ways and Means];

MassDOT,— contracts and bridge program.

Quarterly report of the Massachusetts Department of Transportation (MassDOT) (under the provisions of Section 12 of Chapter 86 of the Acts of 2008 and Section 18 of Chapter 233 of the Acts of 2008) relative to completion estimates for contracts and the accelerated bridge program;

Annual reports

Health Care Security Trust.

Of the Health Care Security Trust (under the provisions of paragraph (h) of Section 4 of Chapter 29D of the General Laws) submitting its operating budget for fiscal year 2011;

Lehman Center for Patient Safety.

Of the Betsy Lehman Center for Patient Safety and Medical Error Reduction (under the provisions of Section 16E (f) of Chapter 6A of the General Laws) for the year 2009; and

Enhanced 911 Fund.

Of the Department of Telecommunications and Cable (under the provisions of Section 16H (b) of Chapter 6A of the General Laws) on the financial condition of the Enhanced 911 Fund for the period ending May 2, 2010;

Severally were spread upon the records of the House; and placed on file.

Petitions.

Petitions severally were presented and referred as follows:

By Mr. Conroy of Wayland, a petition (accompanied by bill, House, No. 4715) of Thomas P. Conroy, James B. Eldridge and Susan C. Fargo (by vote of the town) that the town of Sudbury be authorized to enter into certain wireless facility contracts; and

Sudbury,— contracts.

By Mr. Conroy of Wayland, a petition (accompanied by bill, House, No. 4718) of Thomas P. Conroy, James B. Eldridge and Susan C. Fargo (by vote of the town) relative to authorizing the town of Sudbury to enter into long-term lease agreements to provide for certain energy facilities at the landfill located in said town.

Sudbury,— lease.

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

Petitions severally were presented and referred as follows:

By Mr. Bradley of Hingham, a petition (subject to Joint Rule 12) of Garrett J. Bradley (by vote of the town) that the Board of Library Commissioners for the Commonwealth be directed to certify the public library of the town of Hull and providing that said library be eligible for assistance under the public libraries program.

Hull,— library.

By Mr. O'Flaherty of Chelsea, a petition (subject to Joint Rule 12) of Eugene L. O'Flaherty for legislation to amend certain adoption laws.

Adoption.

By Mr. O'Flaherty of Chelsea, a petition (subject to Joint Rule 12) of Eugene L. O'Flaherty for legislation to establish a forensic sciences advisory board within the Executive Office of Public Safety and Security.

Forensics,— advisory board.

By Mr. O'Flaherty of Chelsea, a petition (subject to Joint Rule 12) of Eugene L. O'Flaherty for legislation to establish a uniform trust code for the Commonwealth.

Uniform trust code.

Severally, under Rule 24 to the committee on Rules.

Recess.

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

Recess.

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 Danielle W. Gregoire for legislation to further regulate the certification of real estate management companies. To the committee on Consumer Protection and Professional Licensure.

Real estate management.

Petition (accompanied by bill) of Danielle W. Gregoire for issuance by the Governor of an annual proclamation setting apart the fourth Saturday of September in memory of Eunice Kennedy Shriver, the founder of the Special Olympics. To the committee on State Administration and Regulatory Oversight.

Eunice Kennedy Shriver Day.

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

Medical errors.

By Mr. Sánchez of Boston, for the committee on Public Health, on Senate, Nos. 807, 834, 866, 878 and 909 and House, Nos. 2059, 2073, 2084, 2118, 2128, 2135, 2138, 2139, 3722 and 3910, a Bill reducing medical errors and improving patient safety (House, No. 4720). Referred, under Joint Rule 1E, to the committee on Health Care Financing.

Northborough,— liquor license.

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on House, No. 4651, a Bill authorizing the town of Northborough to grant an additional license for the sale of all alcoholic beverages (House, No. 4719) [Local Approval Received].

Provincetown,— excise tax.

By Mr. Kaufman of Lexington, for the committee on Revenue, on a petition, a Bill relative to the room occupancy excise tax in the town of Provincetown (House, No. 4653) [Local Approval Received].

Duxbury,— seawalls.

By the same member, for the same committee, on a petition, a Bill relative to seawalls in the town of Duxbury (House, No. 4655) [Local Approval Received].

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

Orders of the Day.

Senate bills

Designating the East Brookfield District Courthouse as the Francis H. George Courthouse (Senate, No. 1575);

Regulating certain insurance benefits for the elected officials of the town of Newbury (Senate, No. 2096);

Exempting the position of fire chief in the city of Gloucester from the civil service law (Senate, No. 2102);

Further regulating tanning facilities (Senate, No. 2339); and

Relative to recall in the town of Middlefield (Senate, No. 2391); and

House bills

To eliminate the use of the word “retardation” from the General Laws (House, No. 176);

Relative to mercury management (House, No. 3443);

Authorizing the town of Sherborn to use certain town forest land (House, No. 4585);

Validating actions taken at a special town election held in the town of Ashfield (printed in House, No. 4612);

Promoting fairness in private construction contracts (House, No. 4641); and

Relative to the board of elementary and secondary education (House, No. 4645);

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

Second reading bills.

The House Bill to promote fairness in private construction contracts (House, No. 1804) was read a second time.

Construction,— fairness.

Pending the question on ordering the bill to a third reading, Mr. Flynn of Bridgewater moved to amend it by substitution of a Bill promoting fairness in private construction contracts (House, No. 4721), which was read.

The amendment was adopted; and the substituted bill was ordered to a third reading.

The House Bill relative to the agreement among the states to elect the President by national popular vote (House, No. 4156) was read a second time.

Presidential elections.

Pending the question on ordering the bill to a third reading, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 146 members were recorded as being in attendance.

Quorum,— yea and nay No. 404.

[See Yea and Nay No. 404 in Supplement.]

Therefore a quorum was present.

After debate on the question on ordering the bill to a third reading, Messrs. Straus of Mattapoisett and Fernandes of Milford moved to amend it in section 2, in line 20, after the word “winner”, by inserting the words “if said slate has received a minimum of forty percent of the total votes cast in each State of the United States and in the District of Columbia”. After remarks the amendment was rejected.

The same members then moved to amend the bill in section 2, in line 45, by striking out the word “when” and inserting in place thereof the following “if by January 1, 2015”. After remarks the amendment was rejected.

Mr. Frost of Auburn and other members of the House then moved to amend the bill in section 2, in lines 42 and 43, and also in line 45, by striking out the words “states cumulatively possessing a majority of the electoral votes” and inserting in place thereof, in each instance, the following “3/4 of the states cumulatively possessing no less than a majority of the electoral votes”.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 45 members voted in the affirmative and 107 in the negative.

Amendments rejected,— yea and nay No. 405.

[See Yea and Nay No. 405 in Supplement.]

Therefore the amendments were rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking all after the enacting clause an inserting in place thereof the following:

“SECTION 1. Section 8 of chapter 53 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after ‘electors’, in line 15, the following sentence:— One Presidential elector shall be chosen from each congressional district, and two Presidential electors shall be chosen at large.

Presidential elections.

SECTION 2. Chapter 54 of the General Laws, as so appearing, is hereby amended by striking out section 148 and inserting in place thereof the following section:—

Section 148. The persons chosen as Presidential electors shall meet at the state house on the date fixed by federal law next following their election at three o'clock in the afternoon and organize by the choice of a presiding officer and secretary. The state secretary shall call the meeting to order, call the roll of electors, and preside until a presiding officer shall be chosen. The secretary of the electors shall keep a journal of their proceedings and deposit the same in the office of the state secretary, where it shall be recorded and filed. Each at-large Presidential elector shall cast his ballot for the Presidential and Vice-Presidential candidates whose electors received the highest number of votes in the state. Each congressional district Presidential elector shall cast his ballot for the Presidential and Vice-Presidential candidates whose electors received the highest number of votes in his congressional district."

Amendment rejected,—yea and nay No. 406.

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. Frost of Auburn; and on the roll call (Mr. Mariano of Quincy being in the Chair) 31 members voted in the affirmative and 121 in the negative.

[See Yea and Nay No. 406 in Supplement.]

Therefore the amendment was rejected.

Recess.

At three minutes after three o'clock P.M., on motion of Ms. Forry of Boston (Mr. Mariano of Quincy being in the Chair), the House recessed until twenty minutes after three o'clock; and at twenty-nine minutes after three o'clock the House was called to order with Mr. Donato of Medford in the Chair.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking all after the enacting clause an inserting in place thereof the following:

"SECTION 1. There shall be a commission to investigate and study the impacts of adopting an agreement among the states to elect the President by national popular vote, including but not limited to, the potential for constitutional challenge and its merits, the potential dilution of minority population votes, the cost and benefits for the Commonwealth of Massachusetts.

Said Commission shall consist of the following 9 members: 1 of whom shall be appointed by the governor of the Commonwealth; 2 of whom shall be appointed by the speaker of the house of representatives, 1 of whom shall be the house chair of the joint committee on election laws; 2 of whom shall be appointed by the senate president, 1 of whom shall be the senate chair of the joint committee on election laws; 1 of whom shall be appointed by the minority leaders of the house; 1 of whom shall be appointed by the minority leader of the senate; the secretary of the Commonwealth or his designee; and the attorney general of the Commonwealth or her designee.

Said Commission shall issue a report with its findings and recommendations to the Clerks of the House of Representatives and the Senate on or before January 15, 2011."

The amendment was rejected.

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. Moran of Boston; and on the roll call 115 members voted in the affirmative and 35 in the negative.

Bill ordered to a third reading,—yea and nay No. 407.

[See Yea and Nay No. 407 in Supplement.]

Therefore the bill (House, No. 4156) was ordered to a third reading. Mr. Peterson of Grafton moved that this vote be reconsidered; and, under Rule 54, the motion to reconsider was placed in the Orders of the Day for the next sitting.

Order.

Mr. Moran of Boston then offered the following order:—

Ordered, That when the House adjourns today, it adjourn to meet forthwith for a second legislative day.

Second legislative day.

After debate 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 104 members voted in the affirmative and 44 in the negative.

Order adopted,—yea and nay No. 408.

[See Yea and Nay No. 408 in Supplement.]

Therefore the order was adopted.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at one minute before four o'clock P.M., on motion of Mr. Moran of Boston (Mr. Donato of Medford being in the Chair), the House adjourned to meet forthwith for a second legislative day.

SECOND LEGISLATIVE DAY.

Met according to adjournment.

Orders of the Day.

The motion of Mr. Peterson of Grafton, that the vote be reconsidered by which the House, at the preceding sitting, ordered to a third reading the House Bill relative to the agreement among the states to elect the President by national popular vote (House, No. 4156) was negatived.

Presidential elections.

The bill (reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time.

On the question on passing the bill to be engrossed, the sense of the House was taken by yeas and nays at the request of Mr. Moran of Boston; and on the roll call 114 members voted in the affirmative and 35 in the negative.

Bill passed to be engrossed,—yea and nay No. 409.

[See Yea and Nay No. 409 in Supplement.]

Therefore the bill (House, No. 4156) was passed to be engrossed. Mr. Peterson of Grafton moved that this vote be reconsidered; and, under Rule 54, the motion to reconsider was placed in the Orders of the Day for the next sitting.

Order.

Mr. Moran of Boston then offered the following order:—

Ordered, That when the House adjourns today, it adjourn to meet forthwith for a third legislative day.

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 102 members voted in the affirmative and 45 in the negative.

[See Yeas and Nays No. 410 in Supplement.]

Therefore the order was adopted.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at eleven minutes after four o'clock P.M., on motion of Mr. Moran of Boston (Mr. Donato of Medford being in the Chair), the House adjourned to meet forthwith for a third legislative day.

THIRD LEGISLATIVE DAY.

Met according to adjournment.

Orders of the Day.

The motion of Mr. Peterson of Grafton, that the vote be reconsidered by which the House, at the preceding sitting, passed to be engrossed the House Bill relative to the agreement among the states to elect the President by national popular vote (House, No. 4156) was negatived. The bill then was sent to the Senate for concurrence.

Paper from the Senate.

The House Order 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, came from the Senate with the endorsement that it had been adopted, in concurrence, with an amendment striking out the date "May 18" and inserting in place thereof the date "June 8".

Under suspension of the rules, on motion of Mr. Binienda of Worcester, the amendment was considered forthwith.

The same member then moved that the House concur with the Senate in its amendment with a further amendment striking out the date "June 8" and inserting in place thereof the date "June 15". The further amendment was adopted.

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

A Bill establishing a sick leave bank for Melissa Gordon, an employee of the Trial Court (Senate, No. 2433) (on a petition), passed to be engrossed by the Senate was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Engrossed Bill.

The engrossed Bill relative to the transportation of swimming pools (House, No. 4025), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The engrossed Bill relative to property tax exemptions for rental properties in the town of Wellfleet restricted as affordable housing (see House, No. 2852), which had been returned by His Excellency the Governor with recommendation of amendments (for message, see House, No. 4584), was considered.

The committee on Bills in the Third Reading reported that the amendments recommended by the Governor be considered in the following form:

In section 1 (as engrossed) by striking out, in line 3, the words "occupants and rented in accordance with" and inserting in place thereof the words "households and rented for an amount not exceeding the fair market rents established by", and, in line 4, by striking out the words "rental guidelines";

In section 2 (as engrossed) by striking out, in line 1, the words "Occupants of" and inserting in place thereof the words "Households leasing and occupying", and by striking out the last sentence and inserting in place thereof the following sentence: "For the purpose of this act, low income households shall have an income less than 80 per cent of the town of Wellfleet median household income, as established by the United States Department of Housing and Urban Development for Barnstable Town Metropolitan Statistical Area and moderate income households shall have an income between 80 per cent and 120 per cent of the town of Wellfleet median household income as calculated on the basis of the same area median income statistic as determined by the United States Department of Housing and Urban Development published income guidelines, as calculated on the basis of the same area median income statistic.";

By striking out section 3 (as engrossed) and inserting in place thereof the following section:

"SECTION 3. Maximum rents shall not exceed fair market rents established by the United States Department of Housing and Urban Development for the period commencing October 1 of the most recent year. Property owners shall submit to the town of Wellfleet or its agent information on the rents to be charged. Each year thereafter, on the first day of September, they shall submit information on annual rents charged and a signed lease to the town or its agent. Forms for this purpose shall be provided."; and

In section 4 (as engrossed) by striking out, in line 10, the word "value" and inserting in place thereof the words "rent as determined by the United States Department of Housing and Urban Development. To be eligible for exemption, the housing unit shall be leased to a low or moderate income household at such rents for the entire fiscal year for which the exemption is sought."

The report was accepted. The amendments recommended by the Governor then were adopted. Sent to the Senate for its action.

Third legislative day.

Order adopted,—yea and nay No. 410.

Presidential elections.

Joint standing committees,—extension of time for reporting.

Melissa Gordon,—sick leave.

Bill enacted.

Wellfleet,—affordable housing.

Third
reading
bill.

The House Bill authorizing the town of Cohasset to grant certain interests in land (House, No. 4322), reported by said committee to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Special Recognition.

Matthew P.
Landry.

Mr. Vallee of Franklin then took the Chair for the purpose of acknowledging the presence in the House Chamber of Matthew P. Landry, Chief of Staff of the Office of the Clerk of the House. Mr. Landry recently returned from active duty as a Lieutenant in the United States Navy.

Order.

Next
sitting.

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.

Speaker DeLeo and Representative Flynn of Bridgewater then moved that as a mark of respect to the memory of Ralph E. Sirianni, Jr., a member of the House from Winthrop from 1965 to 1974, inclusive, the House adjourn; and the motion prevailed.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty-one minutes after four o'clock P.M., on motion of Mr. Peterson of Grafton (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.