

Thursday, June 11, 2009.

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:

God, Our Creator, at the beginning of today's formal legislative session, we pause for a moment of personal reflection and prayer for Your guidance in our daily activities and decision-making actions. We believe that Your gift of wisdom enables us to comprehend and understand more clearly the often complex and emotional issues which come before us. In these changing times, we also pray that our hearts and minds be filled with trust in You, in each other and with confidence as we face current, unusual, political, economic and employment issues. Teach us to learn from our legislative successes as well as our failures in the past as we face and resolve the unique challenges of today and of the future. As we celebrate Flag Day on Sunday may we be grateful for the dedication to freedom of our founders, the ultimate personal sacrifices of our service men and women and the patriotism of today's families, workers and friends who address and provide for the daily needs of our communities.

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.

The National Anthem then was sung by the coral group Quadrivium of the Burncoat High School Select Chorus from the city of Worcester. They were the guests of Representative O'Day of West Boylston.

Message from the Governor.

A message from His Excellency the Governor (under Section 7H of Chapter 29 of the General Laws) submitting to the General Court recommended corrective amendments to his original budget submission [see House, No. 1] (for message, see House, No. 1141), was filed in the office of the Clerk on Friday, June 5.

The message was read; and it was referred, under Rule 30, with the accompanying revised financial statements, revenue detail and revisions to the committee on Ways and Means.

Statement Concerning Representative Alicea of Charlton.

A statement of Mr. Vallee of Franklin concerning Mr. Alicea of Charlton was spread upon the records of the House, as follows:

Statement concerning Representative Alicea of Charlton.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Alicea of Charlton, will not be present in the House Chamber for today's sitting due to official business outside the Commonwealth. His missing of roll calls today is due entirely to the reason stated.

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:

Statement concerning Representative Bosley of North Adams.

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, will not be present in the House Chamber for today's sitting due to official business in Washington, D.C. His missing of roll calls today is due entirely to the reason stated.

Statement Concerning Representative Kaufman of Lexington.

A statement of Mr. Vallee of Franklin concerning Mr. Kaufman of Lexington was spread upon the records of the House, as follows:

Statement concerning Representative Kaufman of Lexington.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kaufman of Lexington, will not be present in the House Chamber for today's sitting due to official business in Washington, D.C. His missing of roll calls today is due entirely to the reason stated.

Statement Concerning Representative Torrissi of North Andover.

A statement of Mr. Vallee of Franklin concerning Mr. Torrissi of North Andover was spread upon the records of the House, as follows:

Statement concerning Representative Torrissi of North Andover.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Torrissi of North Andover, was not present in the House Chamber for today's sitting due to official business outside the Commonwealth. If he had been present for the taking of roll call numbers 148 and 149, he would have voted in the affirmative, in each instance. 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:

Jamie Jancarik.

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Jamie Jancarik on receiving the Gold Award of the Girls Scouts of America;

Chelsea Leonard.

Resolutions (filed by Mrs. Haddad of Somerset) congratulating Chelsea Leonard on receiving the Gold Award of the Girls Scouts of America;

Richard P. Brennan.

Resolutions (filed by Representatives Peterson of Grafton, Frost of Auburn, Callahan of Sutton, Kujawski of Webster and Fernandes of Milford) congratulating Richard P. Brennan on the occasion of his retirement;

Jake Carlson.

Resolutions (filed by Representatives Poirier of North Attleborough and Bowles of Attleboro) honoring Jake Carlson on receiving the Eagle Scout Award of the Boy Scouts of America;

Resolutions (filed by Representatives Poirier of North Attleborough and Bowles of Attleboro) honoring Robert Champagne on receiving the Eagle Scout Award of the Boy Scouts of America;

Robert Champagne.

Resolutions (filed by Representatives Poirier of North Attleborough and Bowles of Attleboro) honoring Nicholas Costa on receiving the Eagle Scout Award of the Boy Scouts of America;

Nicholas Costa.

Resolutions (filed by Representatives Poirier of North Attleborough and Bowles of Attleboro) honoring Christopher Reading on receiving the Eagle Scout Award of the Boy Scouts of America;

Christopher Reading.

Resolutions (filed by Representatives Linsky of Natick and Peisch of Wellesley) commending Police Chief Dennis R. Mannix on his outstanding service to the Natick community;

Dennis R. Mannix.

Resolutions (filed by Representatives L'Italien of Andover and Finegold of Andover) congratulating Andover High School principal Peter Anderson on the occasion of his retirement;

Peter Anderson.

Resolutions (filed by Mr. O'Day of West Boylston) honoring principal Thomas M. Caruso on the occasion of his retirement;

Thomas M. Caruso.

Resolutions (filed by Ms. Polito of Shrewsbury) congratulating Francis Warren on the occasion of his eightieth birthday;

Francis Warren.

Resolutions (filed by Mr. Rice of Gardner) recognizing the Reverend Father Andre E. Dargis; and

Andre E. Dargis.

Resolutions (filed by Messrs. Spellane of Worcester, Binienda of Worcester, Fresolo of Worcester, O'Day of West Boylston and Pedone of Worcester) commending Dr. Stephen E. Mills on his twenty-one years of service to the Worcester Public Schools;

Stephen E. Mills.

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. Pedone of Worcester, 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 Commissioner of Banks (under the provisions of Section 3B of Chapter 7 of the General Laws) relative to various banking fees;

Banking fees.

From the Massachusetts Clean Energy Center (under the provisions of Section 10 of Chapter 307 of the Acts of 2008) relative to investment rules and procedures and various programs;

Clean Energy Center.

From the certified public accounting firm O'Connor & Drew P.C. submitting financial statements for joint and House accounts of the Massachusetts General Court; and

Legislature,—Audits.

From the Massachusetts Turnpike Authority submitting its real estate asset inventory.

Turnpike Authority,—assets.

Severally were placed on file.

Annual and Special Reports.

Annual reports

Of the State Ethics Commission (under the provisions of Section 2 (1) of Chapter 268B of the General Laws) for the fiscal year 2008;

Ethics Commission.

Gay, etc. youth. Of the Massachusetts Commission on Gay, Lesbian, Bisexual and Transgender Youth (pursuant to Section 67(c)(2) of Chapter 3 of the General Laws) submitting its 2009 annual report representing the work of the Commission in fiscal year 2009;

Broadband Institute. Of the Executive Office of Housing and Economic Development (under the provisions of Section 6B(g) of Chapter 40J of the General Laws) relative to the operating plan of the Massachusetts Broadband Institute for the fiscal year 2009;

Property, etc. insurance. Of the Property and Casualty Initiative (under Section 3 of Chapter 259 of the acts of 1998) for the fiscal year 2008;

Status of women. Of the Commission on the Status of Women (under the provisions of Section 1 of Chapter 138 of the General Laws) submitting its report for the fiscal year 2009;

Department of Youth Services. Of the Department of Youth Services (under the provisions of Section 16 of Chapter 123A of the General Laws) relative to sexually dangerous persons; and

Emergency 9-1-1. Of the State 911 Department and State 911 Commission (under the provisions of Section 2 of Chapter 223 of the Acts of 2008) relative to the implementation of the enhanced emergency 9-1-1 public safety answering system for the calendar years 2007 and 2008;

Mortgage fees. Reports
Of the Commissioner of Banks (under Section 17 of Chapter 206 of the Acts of 2007) relative to fees proposed in connection with the licensing of mortgage loan originators;

Outside contractors. Of the Division of Capital Management and Maintenance (under the provisions of Chapter 201 of the acts of 2008) relative to employees and outside contractors in the fiscal year 2008;

Drowsy driving. Of the special commission on drowsy driving (under the provisions of Section 26 of Chapter 428 of the Acts of 2006) submitting its report "Asleep at the Wheel";

Life Initiative. Of the Life Initiative (under the provisions of Section 2G of Chapter 259 of the Acts of 1998) for the calendar year 2008; and

Public Utilities Department. Of the Department of Public Utilities (under the provisions of Section 102 of Chapter 169 of the Acts of 2008) relative to the impact on the competitive retail electricity marketplace through the existing electric utility default service adjustment mechanism; and
Quarterly report

Workforce and Development. Of the Division of Unemployment Assistance (under the provision of Chapter 142 of the Acts of 2003) relative to the condition of the Commonwealth's Unemployment Insurance Trust Fund May 2009. Severally were placed on file.

Dennis,—water district. Mr. Turner of Dennis presented a petition (accompanied by bill, House, No. 1140) of Cleon H. Turner (by vote of the town) for legislation to include elections for the Dennis Water District in elections in the town of Dennis; and the same was referred to the committee on Election Laws. Sent to the Senate for concurrence.

Auto body rates. Reports
Of the committee on Consumer Protection and Professional Licensure, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 122) of Stephen J. Buoniconti for

Petition.

Papers from the Senate.

legislation relative to auto body labor rates,— and recommending that the same be referred to the committee on Financial Services.

Of the committee on Environment, Natural Resources and Agriculture, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 366) of Steven A. Baddour, Viriato Manuel deMacedo, Matthew C. Patrick, Thomas J. Calter and other members of the General Court and others for legislation to regulate the use of off highway and recreational vehicles,— and recommending that the same be referred to the committee on Public Safety.

Severally accepted by the Senate, were considered forthwith, under Rule 42; and they were accepted, in concurrence.

A petition (accompanied by bill, Senate, No. 2077) of Stephen M. Brewer and Lewis G. Evangelidis (by vote of the town) for legislation relative to the recreation revolving fund in the town of Rutland, was referred, in concurrence, to the committee on Municipalities and Regional Government.

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

Petition (accompanied by bill, Senate, No. 2080) Gale D. Candaras for legislation to establish a sick leave bank for Tina Dunham, an employee of the Trial Court. To the committee on the Judiciary.

Petition (accompanied by bill, Senate, No. 2081) of Mark C. Montigny and Antonio F.D. Cabral for legislation to establish a sick leave bank for Adrianna Barreto, an employee of the Department of Children and Families. To the committee on Public Service.

The following communication from the Senate was spread upon the records of the House, as follows:

June 4, 2009.

Honorable Robert A. DeLeo
Speaker of the House of Representatives
Room 356 State House
Boston, MA. 02133

Dear Mr. Speaker:

I have the honor to inform you that the Honorable Therese Murray, President of the Senate, has announced the appointment of Senator Sonia Chang-Diaz to the Charles River Water Quality Commission, pursuant to Chapter 498 of the Acts of 2008.

Respectfully submitted,

WILLIAM F. WELCH,
Clerk of the Senate.

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:

Recreational vehicles,—regulating.

Rutland,—recreation revolving fund.

Tina Dunham,—sick bank.

Adrianna Barreto,—sick bank.

Charles River Water Quality Commission.

Dubik
Unruh,—
sick bank.

Petition (accompanied by bill) of William Lantigua, Susan C. Tucker and others for legislation to establish a sick leave bank for Dubik Unruh, an employee of the Department of Transitional Assistance. To the committee on Public Service.

Salem,—
National
Guard.

Petition (accompanied by bill) of John D. Keenan that the Department of Highways erect and maintain suitable markers on Route 1A and Route 114 designating the city of Salem as the birthplace of the National Guard. To the committee on Transportation.

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

Housing,—
handicap
access.

By Ms. Wolf of Cambridge, for the committee on Elder Affairs, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3879) of William Lantigua to require that certain elderly housing be handicap accessible,— and recommending that the same be referred to the committee on Housing. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Engrossed Bill.

Bill
enacted.

The engrossed Bill designating a certain structure in the town of Salisbury as the Paul H. Sullivan Sun Shade Deck (see House No. 714) (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; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

House bills

Third
reading
bills.

Establishing a sick leave bank for Keith Bianchini, an employee of the Department of Correction (House, No. 2365) (its title having been changed by the committee on Bills in the Third Reading); and

Relative to the town of Norton Water and Sewer Commission (House, No. 3698);

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

Senate bills

Second
reading
bills.

Authorizing the town of Sandwich to exchange certain parcels of land (Senate, No. 21, amended);

Authorizing the town of Bellingham to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (Senate, No. 152);

Making a technical correction in a certain law relative to oral health (Senate, No. 536); and

Amending the charter of the town of Sandwich (Senate, No. 782); and

House bills

Establishing a sick leave bank for Angela N. Wilson, an employee of the Department of Youth Services (House, No. 613);

Relative to the naming of the Joseph O'Loughlin Pond (House, No. 717);

Allowing firemen and policemen in the town of Arlington to be hired regardless of age (House, No. 2433);

Relative to unpaid municipal fines (House, No. 3588);

Authorizing the conveyance of certain parcels of land in the city of Revere (House, No. 4045); and

Validating a certain election in the town of Orange (printed in House, No. 4058);

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

Recesses.

At twenty-seven minutes after eleven o'clock A.M., on motion of Mr. Spellane of Worcester (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at that time House was called to order with Mr. Donato in the Chair.

Recesses.

The Chair (Mr. Donato) thereupon declared a further recess until a quarter after one o'clock; and at a quarter after two o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Reports of Committees.

Prior to the noon recess,— By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Bill mobilizing economic recovery in the Commonwealth (Senate, No. 2061) ought to pass with an amendment striking out all after the enacting clause and inserting in place the text contained in House document numbered 4128. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Economic
recovery.

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

Under suspension of the rules, on motion of Mr. Murphy of Burlington, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the bill (Senate, No. 2061, amended) was ordered to a third reading.

Subsequently, the noon recess having terminated, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time, under suspension of the rules, on motion of Mr. Dempsey of Haverhill.

After remarks, Mr. Peterson of Grafton 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. 147.

[See Yea and Nay No. 147 in Supplement.]

Therefore a quorum was present.

After remarks on the question on passing the amended bill to be engrossed, Mr. Jones of North Reading and other members of the House moved to amend it by inserting after section 43 the following section:

Economic
recovery.

“SECTION 43A. Notwithstanding any general or special law to the contrary, the governor of the commonwealth may suspend the provisions of sections 26 through 27H, inclusive, of chapter 149 of the General Laws, for funds received in whole or part by the federal American Reinvestment and Recovery Act of 2009. There shall further be established a special commission that shall perform a review of the impact from the suspension of these sections upon of the operation of the commonwealth including, but not limited to, the impact on the cost of delivering such contracts and the impact on the quality of design and construction of such projects. The commission shall be comprised of 11 members: 3 of whom shall be appointed by the speaker of the house of representatives, who shall serve as co-chair of the commission, 1 of whom shall be the house chair of the joint committee on labor and workforce development, 1 of whom shall be the chair of the house committee on bonding, capital expenditure & state assets, and 1 of whom shall be the house chair of the joint committee on economic development and emerging technologies; 3 of whom shall be appointed by the senate president, 1 of whom shall be the senate chair of the joint committee on labor and workforce development, who shall serve as co-chair of the commission, 1 of whom shall be the chair of the senate committee on bonding, capital expenditure & state assets, and 1 of whom shall be the senate chair of the joint committee on economic development and emerging technologies; 2 of whom shall be appointed by the house minority leader; 2 of whom shall be appointed by the senate minority leader; and the commissioner of the department of labor and workforce development, or his designee.

The commission shall report to the general court of its findings annually on or before July 1 beginning in fiscal year 2011 and ending with a final report in the fiscal year immediately following the complete disbursement of funds received from the federal American Reinvestment and Recovery Act of 2009 detailing the results of its investigation and study and recommendations, if any, together with drafts of legislation necessary to carry out its recommendations into effect by filing the same with the clerks of the senate and the house of representatives.”

After remarks the amendment was rejected.

Mr. Moran of Boston then moved to amend the bill, as amended, by inserting after section 43 the following section:

“SECTION 43A. Notwithstanding any general or special law to the contrary, no contracts or agreements entered into pursuant to this act which are funded in whole or in part by the American Recovery and Reinvestment Act of 2009 shall be provided to: any public infrastructure improvements, owned or to be owned by a municipality or the commonwealth or an agency or instrumentality thereof, including without limitation streets, sidewalks, street lighting, seawalls, docks, wharves and similar facilities, landscaping, water and wastewater facilities, storm drainage systems, bridges, culverts, tunnels, transportation facilities, parking facilities, including garages, parks, playgrounds, and recreational facilities, and all similar facilities serving an essential governmental function within or adjacent to a private educational institution, nor to any real property and buildings, struc-

tures, equipment or other property, or interests therein, forming a part thereof, on or adjacent to any private educational institution.”

The amendment was rejected.

Mr. Jones of North Reading and other members of the House moved to amend the bill, as amended, by inserting after section 43 the following section:

“SECTION 43A. There shall be a federal stimulus mobilization study commission that shall perform a review of the procedures required by this act and the potential benefits of the application of those procedures to all contracts awarded by the commonwealth. Said review shall include a review of the regulatory processes impacted by this act. The commission shall be comprised of 11 members: 3 of whom shall be appointed by the speaker of the house of representatives; 3 of whom shall be appointed by the senate president; 1 of whom shall be appointed by the house minority leader; 1 of whom shall be appointed by the senate minority leader; and the secretary of administration and finance, or his designee. None of the above appointments to the commission shall be members of the general court.

The commission shall report to the general court of its findings annually on or before July 1 beginning in fiscal year 2011 and ending with a final report in the fiscal year immediately following the complete disbursement of funds received from the American Reinvestment and Recovery Act of 2009 detailing the results of its investigation and study and recommendations, if any, together with drafts of legislation necessary to carry out its recommendations into effect by filing the same with the clerks of the senate and the house of representatives.”

After remarks the amendment was adopted.

Mr. Walsh of Boston then moved to amend the bill, as amended, in section 33, in lines [A] 710 to 717 by striking out paragraph (b), contained in those lines, and inserting in place thereof the following paragraph:

“(b) For any public works project subject to subsection (a), the specifications set forth in any request for responses shall include a requirement that, on a per project basis, not less than 20 per cent of the total hours of employees receiving an hourly wage who are directly employed on the site of the project, employed by the contractor or a subcontractor and subject to the prevailing wage, shall be performed by apprentices in bona fide apprentice training programs as provided in sections 11H and 11I of chapter 23 of the General Laws which are approved by the division of apprentice training in the department of labor and workforce development.”

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill moved to amend it by striking out the text of the amendment [at “A.”] and inserting in place thereof the following: “712 and 722, by striking out the figure “5” and inserting in place thereof, in each instance, the figures “15”. The further amendment was adopted, thus precluding a vote on the amendment offered by Mr. Walsh of Boston.

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. Dempsey of Haverhill; and on the roll call 150 members voted in the affirmative and 0 in the negative.

[See Yeas and Nays No. 148 in Supplement.]

Bill passed to
be engrossed,—
yeas and nays
No. 148.

Therefore the bill (Senate, No. 2061, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment (see House document numberd 4128, published as amended).

Paper from the Senate.

Pension system,— reform.

A report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendment (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4060) of the Senate Bill providing responsible reforms in the pension system (Senate, No. 2026), recommending a Bill providing responsible reforms in the pension system (Senate, No. 2079), came from the Senate with the endorsement that it had been accepted by said branch.

Under suspension of the rules, on motion of Mr. Spellane of Worcester, the report was considered forthwith.

Conference committee report accepted,— yea and nay No. 149.

After debate on the question on acceptance of the report, in concurrence, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 150 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 149 in Supplement.]

Therefore the report of the committee of conference was accepted, in concurrence.

Recess.

Recess.

Mr. Donato of Medford being in the Chair,— at a quarter after four o'clock P.M., on motion of Mr. Smizik of Brookline, the House recessed subject to the call of the Chair; and at twenty-one minutes before five o'clock P.M. the House was called to order by Mr. Donato.

Emergency Measure.

Pension system,— reform.

The engrossed Bill providing responsible reforms in the pension system (see Senate, No. 2079), 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 5 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the Senate) was passed to be enacted; and it was signed by the acting Speaker and Sent to the Senate.

Order.

Next sitting.

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