

JOURNAL OF THE HOUSE.

Wednesday, June 30, 2004.

Met according to adjournment, at one o'clock P.M.

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

Prayer.

God, Our Creator, we place our trust and confidence in You and in Your personal concern for our total material and spiritual well-being. We depend upon You for guidance in addressing the items on the Calendar and other legislative matters. Your spiritual gift of wisdom enables us to evaluate and to implement our varied responsibilities in an objective and thoughtful manner. In our diverse society, teach us to recognize and to respect the personal dignity of all people and to listen to the experiences and insights of others. If and when we disagree in our discussions, let it be on principles, policies and the relevance of legislation. Inspire us to be faithful to our personal ideals, moral and ethical principles and religious beliefs which give direction to our lives.

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

Pledge of allegiance.

At the request of the Speaker, the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Statement of Representative Connolly of Everett.

A statement of Mr. Connolly of Everett was spread upon the records of the House, as follows:

Statement of Representative Connolly of Everett.

MR. SPEAKER: I would like to call to the attention of the House the fact I voted in the affirmative on yea and nay numbered 680 during yesterday's sitting and was inexplicably not recorded.

Statement of Representative Naughton of Clinton.

A statement of Mr. Naughton of Clinton was spread upon the records of the House, as follows:

Statement of Representative Naughton of Clinton.

MR. SPEAKER: I would like to call to the attention of the House the fact I was not present in the House Chamber for yesterday's sitting due to a family illness. Any roll calls that I may have missed was due entirely to the reason stated.

Resolutions.

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

Eugenia Fortes.

Resolutions (filed by Mr. Atsalis of Barnstable and other members of the House) congratulating Eugenia Fortes on her selection to receive the 2004 Mercy Otis Warren Cape Cod Woman of the Year Award;

Donna J. Oliver.

Resolutions (filed by Messrs. O'Brien of Kingston and Howland of Freetown) on the occasion of the retirement of Donna J. Oliver;

Resolutions (filed by Messrs. O'Brien of Kingston and Howland of Freetown) on the occasion of the retirement of Judith A. Sullivan;

Judith A. Sullivan.

Resolutions (filed by Miss Reinstein of Revere) congratulating Carmela "Cam" Sordillo on the occasion of her one hundredth birthday; and

Carmella Sordillo.

Resolutions (filed by Representatives Spellane of Worcester, Ayers of Quincy, Callahan of Sutton, Kafka of Stoughton and Leary of Worcester) memorializing the Congress of the United States to reject any recommendations from the President's Commission to base postal service on profit seeking motives or to cut services to any American community;

Postal services.

Mrs. Harkins of Needham, 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. Fennell of Lynn, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Mr. Greene of Billerica presented a petition (accompanied by bill, House, No. 4940) of William G. Greene, Jr., and Robert A. Havern (by vote of the town) that clerical positions in the police department of the town of Billerica be exempt from provisions of the civil service law; and the same was referred to the committee on Public Service. Sent to the Senate for concurrence.

Billerica, civil service.

Petitions severally were presented and referred as follows:

By Mr. Golden of Boston, petition (subject to Joint Rule 12) of Brian Paul Golden and Steven A. Tolman for legislation to designate John Silber as a founder of Boston University.

Boston University, founders.

By Mr. Hillman of Sturbridge, petition (subject to Joint Rule 12) of Reed V. Hillman, Mark J. Carron, Richard T. Moore and Stephen M. Brewer that funds received from the State of Connecticut for flood control and water resources utilization of the Thames River be distributed to certain towns affected by said project.

Thames River Valley.

By Mr. Miceli of Wilmington, petition (subject to Joint Rule 12) of James R. Miceli and Susan C. Tucker for legislation to prohibit certain sex offenders from residing or being employed within one thousand feet of public and private schools.

Sex offenders.

By Ms. Rivera of Springfield, petition (subject to Joint Rule 12) of Cheryl A. Rivera (with the approval of the mayor and city council) relative to the penalty for violations of the controlled substances laws in certain areas of the city of Springfield.

Springfield, controlled substances violations.

Severally, under Rule 24, to the committee on Rules.

Paper from the Senate.

A petition of Steven C. Panagiotakos, Thomas A. Golden, Jr., Kevin J. Murphy and David M. Nangle for legislation relative to the disposition of certain land in the city of Lowell, came from the Senate referred, under suspension of Joint Rule 12, to the committee on State Administration.

Lowell, disposition of land.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2421) was referred, in concurrence, to the committee on State Administration.

Reports of Committees.

Athol, economic development corporation.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rules 12 and 9 be suspended on the petition of Christopher J. Donelan and Steven M. Brewer (by vote of the town) establishing the Athol economic development and industrial corporation. Under suspension of the rules, on motion of Mrs. Harkins of Needham, the report was considered forthwith. Joint Rules 12 and 9 were suspended; and the petition (accompanied by bill) was referred to the committee on Commerce and Labor. Sent to the Senate for concurrence.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that be suspended on the following petitions:

Worcester, illegal dumping.

Petition (accompanied by bill) of Timothy P. Murray (mayor), Michael V. O'Brien (city manager), John J. Binienda and other members of the General Court (with the approval of the city council) relative to the penalty for illegally dumping refuse or materials in the city of Worcester. To the committee on Criminal Justice.

Wayland, school construction.

Petition (accompanied by bill) of Susan W. Pope and Scott P. Brown (by vote of the town) that the town of Wayland be exempt from certain school construction requirements. To the committee on Education, Arts and Humanities.

Elisabeth H. Hathaway.

Petition (accompanied by bill) of Charlotte Harris that the Division of Professional Licensure be authorized to issue a license to Elisabeth H. Hathaway to practice as a psychologist in the Commonwealth. To the committee on Health Care.

Wayland, safe havens.

Petition (accompanied by bill) of Susan W. Pope and Scott P. Brown (by vote of the town) relative to the safe placement of newborns and infants in the town of Wayland. To the committee on Human Services and Elderly Affairs.

Adams, land.

Petition (accompanied by bill) of Daniel E. Bosley that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land located in the town of Adams to said town. To the committee on State Administration.

Hydrogenated oil products, tax exemption.

Petition (accompanied by bill) of Dan Capossela for legislation to prohibit the granting of sales tax exemptions on the sale of products containing hydrogenated oil; and

Tax abatements.

Petition (accompanied by bill) of Susan W. Pope and Scott P. Brown relative to tax abatements for Peter P. and Marlene Phildius from the town of Wayland;

Severally to the committee on Taxation.

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

By Mr. Hall of Westford, for the committee on State Administration, on a petition, a Bill authorizing the town of Norwood to lease certain land (House, No. 4847) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Norwood, land lease.

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

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

Subsequently, under suspension of the rules, on further motion of the same member, the bill was read a third time.

The committee on Bills in the Third Reading reported asking to be discharged from further consideration of the bill; and the report was accepted.

Pending the question on passing the bill to be engrossed, Mr. Rogers moved that it be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4941.

The amendment was adopted; and the bill (House, No. 4847, amended) was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill establishing a sick leave bank for Rosa A. McPherson, an employee of the Trial Court (Senate, No. 2073) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Rosa A. McPherson, sick leave bank.

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

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

Subsequently, under suspension of the rules, on motion of Mr. Timilty of Milton, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill placing certain members of the fire department of the town of Hanover under the civil service law (House, No. 4817) [Local Approval Received] be scheduled for consideration by the House.

Hanover, fire department.

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

By Mrs. Owens-Hicks of Boston, for the committee on Local Affairs and Regional Government, on a petition, a Bill amending the charter of the city of Pittsfield by deleting the commissioner of public health (House, No. 4812) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Pittsfield, charter.

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

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

Tewksbury, borrowing.

By Mrs. Owens-Hicks of Boston, for the committee on Local Affairs and Regional Government, on a petition, a Bill authorizing certain borrowing by the town of Tewksbury (House, No. 4813) [Local Approval Received].

Pembroke, borrowing.

By the same member, for the same committee, on a petition, a Bill authorizing the town of Pembroke to borrow certain sums of money (House, No. 4814) [Local Approval Received].

Mattapoisett River Valley Water District.

By the same member, for the same committee, on a petition, a Bill establishing the Mattapoisett River Valley Water District (House, No. 4839).

Severally read; and referred, under Rule 32A, to the committee on Long-Term Debt and Capital Expenditures.

Massachusetts Asset Development Commission.

By Mr. Scaccia of Boston, for the committee on Rules, that the Resolve establishing the Massachusetts Asset Development Commission (House, No. 3174) ought to pass. Referred, under Rule 33, to the committee on Ways and Means.

Damaged motor vehicles.

By Mr. Mariano of Quincy, for the committee on Insurance, on House, No. 926, a Bill relative to the repair of damaged motor vehicles (House, No. 4938).

Natural resources, safeguard.

By Mr. Greene of Billerica, for the committee on Natural Resources and Agriculture, on House No. 4825, reports, in part, a Bill safeguarding our natural resources (House, No. 4939).

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

Emergency Measure.

Whitman Armory, conveyance.

The engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land to the town of Whitman (see House, No. 4688, amended), 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 29 to 0. Sent to the Senate for concurrence.

Engrossed Bills.

Bill enacted.

The engrossed Bill relative to the Massachusetts Credit Union Share Insurance Corporation (see Senate, No. 2267, amended) (which originated in the Senate), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Engrossed bills

Relative to provisional employees in the city of Worcester (see House, No. 3839); and Bills enacted.

Providing for abatement of taxes caused by a fire in the city of Peabody on December 18, 2003 (see House, No. 4611); (Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the Speaker and sent to the Senate.

Motion to Discharge a Certain Matter in the Orders of the Day.

Mr. Rogers of Norwood moved that the House Bill relative to certain capital spending authorizations (printed in House, No. 4759), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed. Capital spending.

The bill then was read a second time; and it was ordered to a third reading.

Under suspension of the rules, on further motion of Mr. Rogers, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Quorum.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Speaker, 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 135 members were recorded as being in attendance. Quorum, yea and nay No. 684.

[See Yea and Nay No. 684 in Supplement.]

Therefore a quorum was present.

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

MR. SPEAKER: During the taking of the above, I was unable to be present in the House Chamber due to official business in another part of the State House meeting with Eric Kriss, the Executive Secretary for Administration and Finance. Statement of Representative Honan of Boston.

Engrossed Bill.

The engrossed Bill relative to special elections to fill vacancies for Senator and Representative in Congress (see Senate, No. 2404), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage. Congress, vacancies.

Pending the question on passing the bill to be enacted, Mr. Jones of North Reading moved that Rule 40 be suspended; and the motion prevailed.

The same member and other members of the House then moved that the bill be amended in section 4 by inserting after paragraph (d) the following paragraph:

“(d½) Pending an election to fill a vacancy in the office of senator in congress under this section, the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill such vacancy.”

Amendment rejected, yea and nay No. 685.

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. Jones; and on the roll call 44 members voted in the affirmative and 104 in the negative.

[See Yea and Nay No. 685 in Supplement.]

Therefore the amendment was rejected.

After debate the bill was passed to be enacted.

Mr. Jones of North Reading then moved that this vote be reconsidered, and the motion to reconsider was considered forthwith; and it was negatived. The bill then was signed by the Speaker and sent to the Senate.

Reconsideration.

Mr. Jones of North Reading moved that the vote be reconsidered by which the House, at the preceding sitting, postpone until Friday, July 30, 2004, further consideration of the question on passing to be enacted the engrossed Bill authorizing the Department of Highways to acquire certain parcels of land in the town of Bourne (see House, No. 4866); and the motion to reconsider was considered forthwith; and it prevailed.

Bourne, 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 128 members voted in the affirmative and 21 in the negative.

Bill enacted (land taking), yea and nay No. 686.

[See Yea and Nay No. 686 in Supplement.]

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

Orders of the Day.

Senate bills

Relative to the public disclosure of ownership of a cemetery corporation (Senate, No. 478, amended);

Cemeteries, ownership records. Kinder-garteners, eye tests.

Relative to eye examinations for children (Senate, No. 687, amended) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the town of Wareham to grant a conservation restriction to the Wareham land trust (Senate, No. 1171); and

Wareham, conservation restriction.

Authorizing the division of capital asset management and maintenance to lease certain property (Senate, No. 2234, amended);

Lynn, property lease.

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

Relative to dangerous buildings (House, No. 972); and Exempting the position of police chief of the town of Reading from the civil service law (House, No. 4757) (its title having been changed by the committee on Bills in the Third Reading);

Dangerous buildings. Reading, police chief.

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.

The House Bill relative to business corporations (House, No. 4833) (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.

Business corporations.

Pending the question on passing the bill to be engrossed, Mr. DeLeo of Winthrop moved that it be amended 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 make forthwith changes in certain business corporations, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”

The amendment was adopted; and the bill (House, No. 4833, amended) was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill authorizing the city of Salem to issue two additional licenses for the sale of wines and malt beverages (House, No. 4897) was read a second time; and it was ordered to a third reading.

Salem, liquor licenses.

Subsequently, under suspension of the rules, on motion of Mr. Ruane of Salem, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

The Senate Bill establishing a sick leave bank for an employee of the Department of Social Services (Senate, No. 2230); and

Carole M. Lee, sick leave bank.

House bills

Relative to the sale of food products (House, No. 862);

Providing for an exemption for water charges of certain elderly persons (House, No. 3001);

Food products, sale.

Authorizing certain actions by the town of Nantucket to mitigate the effects of large-scale residential real estate development (House, No. 4874); and

Elderly, water charges. Nantucket, real estate development.

Relative to the revision of the charter of the town of Needham (House, No. 4875, changed);

Needham, charter.

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

The House Bill relative to the protection of inland waters (House, No. 3561) was read a second time.

Inland waters, protection.

Pending the question on ordering the bill to a third reading, Mr. Howland of Freetown moved that it be amended in line 4 by

striking out the words “from time to time” and inserting in place thereof the following: “for a period of up to 60 days”.

The amendment was adopted; and the bill (House, No. 3561, amended) was ordered to a third reading.

Combat Infantry Badge.

The House Bill providing for distinctive motor vehicle plates for recipients of the Combat Infantry Badge (House, No. 204) was ordered to a third reading.

General Court, formal sessions.

The motion of Mr. Jones of North Reading,— that Rule 24(2) be suspended so that he might offer, from the floor, an Order relative to establishing July 22, 2004 as the date for the conclusion of formal business of the current session of the General Court,— was negatived.

The order then was referred, under said rule, to the committee on Rules.

Engrossed Bills — Land Takings.

Dennis and Brewster conservation.

The engrossed Bill authorizing the towns of Dennis and Brewster to grant conservation restrictions to certain land in said towns to the department of conservation and recreation (see Senate, No. 2196) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill enacted (land taking), yea and nay No. 687.

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 148 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 687 in Supplement.]

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

Sandwich, land transfer.

The engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to transfer a certain parcel of conservation/recreation land within the town of Sandwich (see Senate, No. 2117) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Bill enacted (land taking), yea and nay No. 688.

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 150 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 688 in Supplement.]

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

Emergency Measure.

The engrossed Bill relative to certain capital spending authorizations (see House bill printed in House, No. 4759), 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.

Bond authorizations.

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 16 to 0. Sent to the Senate for concurrence.

Subsequently (Mr. Larkin of Pittsfield being in the Chair), the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill enacted.

Order.

On motion of Mr. Finneran of Boston,—

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

Next sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at twenty minutes before five o’clock P.M., on motion of Ms. Rogeness of Longmeadow (Mr. Larkin of Pittsfield being in the Chair), the House adjourned, to meet tomorrow at eleven o’clock A.M., in an Informal Session.