

JOURNAL OF THE HOUSE.

Wednesday, July 9, 2008.

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:

Prayer.

Eternal God, Lord of the Universe, we are grateful to You for our material and spiritual blessings and gifts which give meaning and direction to our daily lives. We believe that You continue to watch over and care for each of us at all times and in all circumstances. As elected leaders, with the responsibility to protect and foster the common good and the well-being of constituents, grant us the wisdom to listen intently to the suggestions and the many needs of the people in our districts. In resolving the legislative options which are open to us, may we be guided by right reason and the insight and the spirit of the founders of this nation. Teach us to continue our longtime national policy of respecting the dignity of each human person as we unite all segments of our society in seeking safe, peaceful and economically dynamic communities.

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

Statement of Representative St. Fleur of Boston.

A statement of Ms. St. Fleur of Boston was spread upon the records of the House, as follows:

Statement of Representative St. Fleur of Boston.

MR. SPEAKER: I would like to call to the attention of the House the fact that I will not be present in the House Chamber for the remainder of today's sitting due to illness. Any roll calls that I may miss will be due entirely to the reason stated.

Papers from the Senate.

Dukes County Jail and House of Correction, inspection.

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to an inspection of the Dukes County Jail and House of Correction, in the town of Edgartown, was spread upon the records of the House; and returned to the Senate.

Petitions were referred, in concurrence, as follows:

Concord, voter information.

Petition (accompanied by bill, Senate, No. 2789) of Susan C. Fargo and Cory Atkins (by vote of the town) for legislation to authorize the town of Concord to send certain information to registered voters in the town of Concord. To the committee on Election Laws.

Petition (accompanied by bill, Senate, No. 2788) of Stephen M. Brewer and Christopher J. Donelan (by vote of the town) for legislation relative to the appointment of the board of assessors, town collector and town treasurer in the town of Orange. To the committee on Municipalities and Regional Government.

Orange, appointments.

Reports of Committees.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to authorizing the directing the Commissioner of Capital Asset Management and Maintenance to convey certain land in the town of Westport (House, No. 4778) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4949). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Westport, land.

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

Under suspension of Rule 7A, on motion of Mr. Rodrigues of Westport, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill (House, No. 4949) was ordered to a third reading.

By Mr. Rodrigues of Westport, for the committee on Consumer Protection and Professional Licensure, on House, Nos. 203, 2252, 4770 and 4831, an Order relative to authorizing the committee on Consumer Protection and Professional Licensure to make an investigation and study of certain House documents concerning consumer protection related issues (House, No. 4950). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Consumer protection, study.

Subsequently Mr. Scaccia of Boston, for said committees, reported asking to be discharged from further consideration of said order; and recommending that the same be referred to the House committee on Rules.

Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. Scaccia of Boston, for the committee on Rules, that the Resolve relative to protecting the archaeological and fossil resources of western Massachusetts (House, No. 787) ought to pass.

Archaeological, geologic fossil, Polish history.

By the same member, for the same committee, that the Bill relative to preserving Polish heritage in the Pioneer Valley (House, No. 1184) ought to pass.

Greatest places, identify.

By the same member, for the same committee, that the Resolve establishing a great places in Massachusetts commission (House, No. 3417) ought to pass.

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

Prepaid legal services.

By Mr. Mariano of Quincy, for the committee on Financial Services, on a recommitted petition, a Bill relative to professional licensing standards (House, No. 3926). Read; and referred, under Rule 33, to the committee on Ways and Means.

Westborough, Chef Sun

Restaurant.

By Mr. Rodrigues of Westport, for the committee on Consumer Protection and Professional Licensure, on a petition, a Bill authorizing the town of Westborough to grant an additional license for the sale of wine and malt beverages to be drunk on the premises (House, No. 4874) [Local Approval Received].

Danvers,
Sawadsee
Restaurant.

By the same member, for the same committee, on the joint petition, a Bill authorizing the town of Danvers to issue one additional liquor license for the sale of wine and malt beverages (House, No. 4875) [Local Approval Received].

Fairhaven,
liquor
license.

By the same member, for the same committee, on a petition, a Bill authorizing the town of Fairhaven to issue a common victualer beer and wine license to Jevon K. Malcom, owner and Lis M. Malcom, manager of Jevon Enterprises, 116 Scoticut Neck Road in the town of Fairhaven (House, No. 4898) [Local Approval Received].

Topsfield,
ballot
question.

By Mr. Bradley of Hingham, for the committee on Election Laws, on a message from His Excellency the Governor, a Bill authorizing the State Secretary to place the office of selectman on the state election ballot in the town of Topsfield (printed in House, No. 4884).

Oak Bluffs, val-
idate
election.

By the same member, for the same committee, on a message from His Excellency the Governor, a Bill validating the action taken at the special town election held in the town of Oak Bluffs (printed in House, No. 4932).

Needham,
retirement
fund.

By Mr. Pedone of Worcester, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to the post retirement liability fund in the town of Needham (House, No. 4826) [Local Approval Received].

Rolling Rock,
glacial rock.

By Mr. Cabral of New Bedford, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill designating rolling rock as the official glacial rock of the Commonwealth (House, No. 4823).

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

Kayak
safety.

Motion to Reconsider.

Mr. Costello of Newburyport moved that the vote be reconsidered by which the House, at the preceding sitting, ordered to a third reading the House Bill relative to kayak safety (House, No. 2382); and the motion to reconsider prevailed.

Pending the recurring question on ordering the bill to a third reading, the amendment previously recommended by the committee on Public Safety and Homeland Security,— that the bill be amended in section 4, in lines 8 and 9, by inserting after the word “Association” the words “or American Red Cross certification in small craft safety and basic water rescue”,— was adopted.

The bill (House, No. 2382, amended) then was ordered to a third reading.

Third
reading
bill.

Orders of the Day.

The House Bill relative to the uniform probate code (House, No. 1633), 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.

Senate bills

Second
reading
bills.

Authorizing the Commissioner of Capital Asset Management and Maintenance and the Commissioner of Agricultural Resources to grant an easement on land in the city of Northampton subject to an agricultural preservation restriction (Senate, No. 2676);

Establishing a sick leave bank for Mark Stanton, an employee of the Department of Public Health (Senate, No. 2677);

Establishing a sick leave bank for Lois Tobin, an employee of the Department of Mental Retardation (Senate, No. 2678);

Authorizing a change of use of certain land in the town of Leicester (Senate, No. 2689); and

Establishing a sick leave bank for David S. Vitale, an employee of the Trial Court (Senate, No. 2710, amended); and

House bills

Related to insurance accountability (House, No. 1019);

Relative to health insurance premiums (House, No. 4689);

Relative to promoting supplemental insurance coverage (House, No. 4690);

Authorizing the town of Lincoln to establish a post employment health insurance trust fund (House, No. 4775);

Authorizing the expansion of the Adams Fire District (House, No. 4845); and

Authorizing the town of Sudbury to regulate certain property tax exemption eligibility requirements (House, No. 4860);

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

Second reading
bill amended.

The Senate Bill authorizing the Division of Capital Asset Management and Maintenance to grant a certain easement over lands held for conservation and recreation purposes (Senate, No. 2511) was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4947,— was adopted.

The bill (Senate, No. 2511, amended) then was ordered to a third reading.

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The House Bill relative to the sale of prepaid cell phones (House, No. 3277) was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4799),— was adopted.

The substituted bill then was ordered to a third reading.

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The House Bill relative to group marketing plans (House, No. 4613) was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4948),— was adopted.

The substituted bill then was ordered to a third reading.

Second reading
bill amended.

The recommitted House Bill relative to the cremation of bodies of certain deceased persons (House, No. 4927) was read a second time.

The amendment previously recommended by the committee on Public Health,— that the bill be amended by substitution of a bill with the same title (House, No. 4929),— was adopted.

The substituted bill then was ordered to a third reading.

Eminent domain.

The House Bill relative to eminent domain takings (House, No. 1770), 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, Representatives Jones of North Reading and Walz of Boston moved to amend it in section 1, in line 7, by inserting after the word “large” the words “or by public agencies”; and by adding at the end of said section the following sentence: “In the event that property taken pursuant to this chapter of Chapter 80A is not used for the purpose for which it was taken within five (5) years of the taking, the governmental authority that took the property must offer to sell the property to the owner from whom it was acquired, or his or her known or ascertainable heirs or assigns, at the price which was paid for the property or for the fair market value of the property at the time of the sale, whichever is less, and if the offer is not accepted within 180 days from the date it is made, the property may be sold to any other person, but only at public sale after legal notice is given.”; and the amendment was adopted.

The bill (House, No. 1770, amended) then was passed to be engrossed. Sent to the Senate for concurrence.

Recesses.

Recesses.

At twenty-four minutes before twelve o'clock noon, on motion of Ms. Rogeness of Longmeadow (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at twenty-seven minutes before two o'clock the House was called to order with Mr. Donato in the Chair.

The House thereupon took a further recess, on motion of Mr. Peterson of Grafton, until the hour of two o'clock; and at that time the House was called to order with Mr. Pedone of Worcester in the Chair.

Quorum.

Quorum.

Mr. Bradley of Hingham thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Pedone), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (Mr. Donato of Medford being in the Chair) 151 members were recorded as being in attendance.

[See Yea and Nay No. 413 in Supplement.]

Therefore a quorum was present.

U. S. President,

Orders of the Day.

popular vote.

The House Bill relative to the agreement among states to elect the President by national popular vote (House, No. 678) was considered.

After debate on the question on ordering the bill to a third reading, at twenty-two minutes before three o'clock P.M., on motion of Mr. Bradley of Hingham (Mr. Donato of Medford being in the Chair), the House recessed until the hour of three o'clock; and at that time the House was called to order with Mr. Donato in the Chair.

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

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 147 members were recorded as being in attendance.

[See Yea and Nay No. 414 in Supplement.]

Therefore a quorum was present.

After remarks on ordering the bill to a third reading, Mr. Straus of Mattapoisett and other members of the House moved to amend it by striking out all after the enacting clause and inserting in place thereof the following:

“There shall be a Commission created to review and study whether the Commonwealth of Massachusetts should adopt an Agreement Among the State To Elect The President of the United States By National Popular Vote.

Said Commission shall consist of the Speaker of the House or his designee, the Senate President or her designee, the Chairs of the Joint Committee on Election Laws, the Chairs of the Joint Committee on the Judiciary, the Minority Leaders of the House and Senate or their designee, the Secretary of the Commonwealth or his designee, the Attorney General of the Commonwealth or her designee and the Governor of the Commonwealth or his 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, 2009.”

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. Rush of Boston; and on the roll call 39 members voted in the affirmative and 117 in the negative.

[See Yea and Nay No. 415 in Supplement.]

Therefore the amendment was rejected.

After debate on the question on ordering the bill to a third reading, Mr. O'Flaherty of Chelsea moved that further consideration thereof be postponed until Thursday, July 31.

After debate on the motion to postpone, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 43 members voted in the affirmative and 112 in the negative.

[See Yea and Nay No. 416 in Supplement.]

Therefore the motion to postpone was negatived.

Recess.

Quorum.

Quorum,
yea and nay
No. 414.

Amendment
rejected,
yea and nay
No. 415.

Motion to
postpone
negatived,
yea and nay
No. 416.

Motion to recess negatived, yea and nay No. 417.

Pending the question on ordering the bill to a third reading, at a quarter before six o'clock P.M., Mr. O'Flaherty moved that the House recess until the hour of seven o'clock.

On the motion to recess, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 38 members voted in the affirmative and 117 in the negative.

[See Yea and Nay No. 417 in Supplement.]

Therefore the motion to postpone was negatived.

After remarks 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. Bradley of Hingham; and on the roll call 119 members voted in the affirmative and 37 in the negative.

[See Yea and Nay No. 418 in Supplement.]

Therefore the bill (House, No. 678) was ordered to a third reading.

Bill ordered to a third reading, yea and nay No. 418.

The House Bill relative to clean energy biofuels (House, No. 4821) (its title having 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. Dempsey of Haverhill moved to amend it by substitution of a bill with the same title (House, No. 4951), which was read.

The amendment was adopted.

After debate on the question on passing the substituted bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 419 in Supplement.]

Therefore the bill (House, No. 4951) was passed to be engrossed. Sent to the Senate for concurrence.

Energy biofuels.

Bills passed to be engrossed, yea and nay No. 419.

Recess.

At twenty-five minutes after six o'clock P.M., on motion of Mr. Jones of North Reading (Mr. Donato of Medford being in the Chair), the House recessed until the hour of seven o'clock; and at ten minutes after seven o'clock the House was called to order with Mr. Donato in the Chair.

U. S. President, popular vote.

Mr. Bradley of Hingham then moved that the rules be suspended in order that the House might read a third time forthwith the House Bill relative to the agreement among states to elect the President by national popular vote (House, No. 678).

After debate on the question on suspension of the rules, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 127 members voted in the affirmative and 27 in the negative.

[See Yea and Nay No. 420 in Supplement.]

Therefore the rules were suspended; and the bill was read a third time.

Rules suspended, yea and nay No. 420.

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, Messrs. Straus of Mattapoisett and Rush of Boston moved to amend it in section 4, in line 12, by adding after the word "winner" 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".

Amendment rejected, yea and nay No. 421.

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. Rush; and on the roll call 38 members voted in the affirmative and 115 in the negative.

[See Yea and Nay No. 421 in Supplement.]

Therefore the amendment was rejected.

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

"SECTION 1. Section 8 of chapter 53 of the General Laws, as appearing in the 2004 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.

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. 422.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 34 members voted in the affirmative and 120 in the negative.

[See Yea and Nay No. 422 in Supplement.]

Therefore the amendment was rejected.

Mr. Frost of Auburn then moved to amend the bill in section 1, in Article IV, by inserting after the words "have taken effect in each state" the following: " ; provided however, that in no event shall this agreement take effect until such time as a total of 3/4 of the states have enacted this agreement".

Amendment rejected, yea and nay No. 423.

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 34 members voted in the affirmative and 120 in the negative.

[See Yea and Nay No. 423 in Supplement.]

Therefore the amendment was rejected.

Mr. Bradley of Hingham then moved to amend the bill by substitution of a bill with the same title (House, No. 4952), which was read.

After remarks the amendment was adopted.

On the question on passing the substituted bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 116 members voted in the affirmative and 37 in the negative.

[See Yea and Nay No. 424 in Supplement.]

Therefore the bill was passed to be engrossed. Mr. Bradley of Hingham moved that this vote be reconsidered; and the motion to reconsider was negatived. The bill (House, No. 4952) then was sent to the Senate for concurrence.

Bill passed
to be
engrossed,
yea and nay
No. 424.

Next
sitting.

Order.

On motion of Mr. DiMasi of Boston,—

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

Accordingly, without further consideration of the remaining matter in the Orders of the Day at twelve minutes after eight o'clock P.M., on motion of Mr. Rushing of Boston (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.