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The Commonwealth of Massachusetts

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**JOURNAL OF THE HOUSE.**



THURSDAY, JULY 23, 2009.

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# JOURNAL OF THE HOUSE.

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Thursday, July 23, 2009.

Met according to adjournment at eleven o'clock A.M., in an Informal Session, 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, we reserve this moment in today's legislative session for a brief period of reflection, quiet and prayer. We take the time to recognize Your presence in our midst and Your openness to listen to our personal concerns and needs. We believe that Your gift of wisdom enables us to clarify our thoughts, to evaluate accurately our challenges and responsibilities and to make reasoned and sound decisions. In this era of great changes in all levels of daily living, inspire us to be leaders who build trust and hope in the hearts and minds of constituents. In Your goodness help us to select legislative and administrative options which serve the immediate and future interests of the people and the Commonwealth. May we continue to work together on all issues in order to promote the material and spiritual well-being of all people.

Prayer.

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.

Pledge of allegiance.

### *Resolutions.*

Resolutions (filed with the Clerk by Mr. Atsalis of Barnstable) congratulating Alexander Lloyd Gleason on attaining the rank of Eagle Scout from the Boy Scouts of America, were referred, under Rule 85, to the committee on Rules.

Alexander  
Lloyd  
Gleason.

Mr. Binienda of Worcester, for said committee, reported that the resolutions ought to be adopted. Under suspension of the rules on motion of Mr. Fagan of Taunton, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

### *Papers from the Senate.*

#### Bills

Regulating the sport of mixed martial arts (Senate, No. 998, changed in line 48 by inserting after the word "physician," the word "promoter," and in line 112 by striking out the word "but" and inserting in place thereof the word "however", and amended by striking out section 6 and inserting in place thereof the following section:

Mixed  
martial arts  
regulations.

"SECTION 6. Said chapter 147 is hereby further amended by striking out section 40A, as so appearing, and inserting in place thereof the following section:—

Mixed martial arts regulations.

Section 40A. Every licensee holding or conducting any boxing, kickboxing, mixed martial arts, or other unarmed combative sporting event or sparring match or exhibition shall, prior to the commencement of the feature bout of the event, pay to the state treasurer, in addition to the payment required under section 40, a sum equal to 1 per cent of the total gross receipts from the sale of tickets or from admission fees; provided, however, that if such match or exhibition is conducted as an incidental feature in an event or entertainment of a different character, such portion of the total receipts shall be paid to the commonwealth as the commission may determine or as may be fixed by rule adopted under section 46. The sums shall be credited by the treasurer to a fund to be known as the boxers' fund which shall be administered by the boxers' fund board for the use and benefit including funeral expenses of boxers or former boxers in need of assistance, or for a contestant in a regulated event under the purview of the boxing commission who needs assistance as a result of an injury suffered while participating in the event.

The commission shall enforce the provisions of this section.”; and by striking out section 10 (on a petition);

Cape Cod,—electricity.

Relative to electricity reliability on Cape Cod (Senate, No. 2109) (on Senate bill No. 1529); and

Affordable housing.

To preserve publicly assisted affordable housing (Senate, No. 2111) (on Senate, No. 2097).

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

Rutland,—bond proceeds.

A Bill relative to the use of certain bond proceeds in the town of Rutland (Senate, No. 2033) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

Lake and ponds,—protect.

Petition (accompanied by bill, Senate, No. 2113) of Benjamin B. Downing, William Smitty Pignatelli, Stephen M. Brewer, Robert L. Hedlund and other members of the General Court for legislation to protect lake and ponds. To the committee on Environment, Natural Resources and Agriculture.

Emergency response fund.

Petition (accompanied by bill, Senate, No. 2112) of James B. Eldridge, Jennifer L. Flanagan, Jennifer M. Callahan, James Arciero and other members of the General Court for legislation to establish a state emergency response fund. To the committee on Public Safety and Homeland Security.

*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:

Small claims procedure.

Petition (accompanied by bill) of William Smitty Pignatelli relative to small claims procedure. To the committee on the Judiciary.

Petition (accompanied by bill) of Michael J. Rodrigues for legislation to establish a sick leave bank for Betty Green, an employee of the Department of Revenue. To the committee on Public Service. Betty Green,—  
sick leave bank.

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

By Mr. Binienda of Worcester, for the committee on Rules, that Joint Rule 7A be suspended on the petition of Joann DeBettencourt (with the approval of the county commissioners) relative to authorizing the contributory retirement system of the county of Dukes County to recalculate the retirement benefits of Joann DeBettencourt. Under suspension of the rules, on motion of Mr. Kafka of Stoughton, the report was considered forthwith. Joint Rule 7A was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence. Joann DeBettencourt,—  
sick leave bank.

By Mr. Binienda of Worcester, for the committee on Rules, that Joint Rule 7B be suspended on the petition of Cleon H. Turner and others (by vote of the town) for legislation to amend the charter of the town of Yarmouth. Under suspension of the rules, on motion of Mr. Murphy of Burlington, the report was considered forthwith. Joint Rule 7B was suspended; and the petition (accompanied by bill) was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence. Yarmouth,—  
charter.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill establishing a sick leave bank for Kathleen Ginn an employee of the Department of Developmental Services (Senate, No. 2089), be scheduled for consideration by the House. Kathleen Ginn,—  
sick leave bank.

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

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill establishing a sick leave bank for Michele Merenda, an employee of the Department of Transitional Assistance (House, No. 1149), be scheduled for consideration by the House. Michele Merenda,—  
sick leave bank.

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

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill establishing a sick leave bank for Amy S. Fein, an employee of the Department of Public Health (House, No. 1888), be scheduled for consideration by the House. Amy S. Fein,—  
sick leave bank.

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

Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the Bill relative to the use of 463 Commercial Provincetown,—  
land use.

Provincetown,—  
land use.

Street in the town of Provincetown (House, No. 4093), be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Ms. Peake of Provincetown, the bill was read a second time forthwith.

The same member moved to amend the bill by adding the following two sections:

“SECTION 2. Notwithstanding Chapter 91 of the General Laws or any other general or special law, rule or regulation to the contrary, no amendment to Waterways License No. 2057 issued May 3, 1939 pursuant to said Chapter 91 recorded at Book 551, Page 363, Barnstable County Registry of Deeds and no new waterways license pursuant to said Chapter 91 shall be required for the renovation and use of the structure located at 463 Commercial Street, Provincetown, MA as a privately owned single family structure so long as any renovation and use does not increase the area of tidelands presently occupied and/or displaced by the structure as shown on Waterways License Plan No. 2057.

SECTION 3. The present title holder and any future successor and assigns shall provide a dedicated public pedestrian access way for common use by the public from Commercial Street to the beach, free of charge, for daylight use only. The property owner shall keep the public pedestrian access way clear of all obstacles, trash and debris, and maintain it in a manner that allows year-round, safe pedestrian access.”

The amendment was adopted; and the bill (House, No. 4093, amended) was ordered to a third reading.

Restaurants,—  
food allergy  
training.

A report of the committee on Consumer Protection and Professional Licensure, ought not to pass, on the petition (accompanied by bill, House, No. 245) of Robert F. Fennell relative to food allergy awareness training for restaurant employees, was considered forthwith, under suspension of the Rule 7A, on motion of Mr. Smizik of Brookline.

Pending the question on acceptance of the report, the petition was recommitted, on motion of Mr. Speliotis of Danvers.

Creditors,—  
unwanted  
communications.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill to reduce unwanted communication from creditors to protect the peace and privacy of residents (House, No. 4131),— and recommending that the same be recommitted to the committee on Consumer Protection and Professional Licensure. Under Rule 42, the report was considered forthwith; and it was accepted.

Motor  
vehicles,—  
storage.

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on House, No. 234, a Bill relative to the consumer protection and safety of persons towed in the Commonwealth (House, No. 4170).

Clean  
energy.

By Mr. Dempsey of Haverhill, for the committee on Economic Development and Emerging Technologies, on House, No. 4072, a Bill relating to clean energy (House, No. 4168).

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

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on House, No. 276, a Bill relative to the maximum storage charges on motor vehicles involuntarily towed (House, No. 4171). Towed vehicles,— charges.

By the same member, for the same committee, on House, No. 3651, a Bill clarifying the continuing education requirements for real estate brokers and sales persons (House, No. 4169). Real estate brokers.

By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to changes to the charter of the town of Lunenburg (House, No. 635) [Local Approval Received]. Lunenburg,— charter.

By the same member, for the same committee, on a petition, a Bill relative to the establishment of an enterprise fund for the Brook School Apartments in the town of Weston (House, No. 1124) [Local Approval Received]. Weston,— apartments.

By the same member, for the same committee, on a petition, a Bill relative to the town of Nahant's ability to issue bond anticipation notes (House, No. 1133) [Local Approval Received]. Nahant.

By the same member, for the same committee, on a petition, a Bill authorizing the city of Melrose to establish traffic safety zones (House, No. 4055) [Local Approval Received]. Melrose.

By Mr. Spellane of Worcester, for the committee on Public Service, on a petition, a Bill providing for the work force reduction of the city of Worcester through an early retirement incentive program for certain employees (Printed as Senate, No. 2021, changed in section 1 by adding the following paragraph: Worcester,— early retirement program.

“The total annualized cost of regular compensation paid out by the city, in fiscal year 2010 for refilled positions shall not exceed 20 percent of the total annualized cost of regular compensation which would have been paid out during fiscal year 2010 by the city for the positions vacated pursuant to the retirement incentive program had such positions not been vacated; provided further that the total annualized cost of regular compensation paid out by the city, in the subsequent four fiscal years for refilled positions shall not exceed 20 percent of the total annualized cost of regular compensation which would have been paid out during that fiscal year by the city for the positions vacated pursuant to the retirement incentive program had such positions not been vacated.” [Local Approval Received].

By Mr. Kaufman of Lexington, for the committee on Revenue, on a petition, a Bill authorizing the abatement of certain property tax assessments in the town of Lexington (House, No. 1135) [Local Approval Received]. Lexington,— abatements.

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

*Emergency Measure.*

The engrossed Bill establishing a sick leave bank for Michelle Nocera, an employee of the Middlesex Sheriff's Office (see House, No. 1150), 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. Michelle Nocera,— sick leave bank.

A separate vote was taken, as required by the provisions of Article XLVII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 7 to 0. Sent to the Senate for concurrence.

*Orders of the Day.*

House bills

Third reading bills.

Establishing a sick leave bank for Dolores Tower, an employee of the Department of Developmental Services (House, No. 1160) (its title having been changed by the committee on Bills in the Third Reading);

Establishing a sick leave bank for Crystal Pollack, an employee of the Department of Developmental Services (House, No. 1161) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the city of Attleboro to continue the employment of Ronald M. Churchill (House, No. 1884); and

Establishing the position of municipal hearing officer in the town of Southbridge (House, No. 4116);

Severally having been 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.

Third reading bill amended.

The House Bill establishing a sick leave bank for Sara Dubik-Unruh, an employee of the Department of Transitional Assistance (House, No. 1142), having been reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

The committee on Bills in the Third Reading reported recommending that the bill be amended in line 4 by inserting after the name "Dubik-Unruh." the following sentence: "Sick leave bank days shall not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the department.;" and the report was accepted.

The amendment then was adopted; and the bill (House, No. 1142, amended) was passed to be engrossed. Sent to the Senate for concurrence.

*Order.*

On motion of Mr. DeLeo of Winthrop,—

Next sitting.

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

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At twenty nine minutes after eleven, on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.