

Wednesday, July 25, 2012.

Met according to adjournment at one o'clock P.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).

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.

Message from the Governor.

A message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to authorizing the exchange of land in the town of Rockland (House, No. 4327), was filed in the office of the Clerk on Tuesday, July 24, 2012.

Rockland,—
land.

The message was read; and it was referred, under Rule 30, to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence.

Silent Prayer.

The Speaker being in the Chair,— the members, guests and employees stood in a moment of silent prayer in memory of those who had died, and in hope for a swift and complete recovery for the surviving victims, in the recent tragedy in Aurora, Colorado.

Aurora,
Colorado
victims.

Statement Concerning Representative Crendon of Brockton.

A statement of Mrs. Haddad of Somerset concerning Mrs. Crendon of Brockton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Crendon of Brockton, is unable to be present in the House Chamber for today's sitting due to a medical appointment. Her missing of roll calls today is due entirely to the reason stated.

Statement
concerning
Mrs. Crendon
of Brockton.

Guests of the House.

During the session the Speaker declared a recess and introduced U.S. Army Specialist Donald Jarvis and his parents Donna and Michael Jarvis of Haverhill. Army Specialist Jarvis served with the 182nd Engineer Company, 1203rd Engineer Battalion during Operation Iraqi Freedom from September 2007 to May 2008. He also served in Kandahar, Afghanistan from November 2011 until February 2012 when a road side bomb exploded under his vehicle, rolling it over. Army Specialist Jarvis is currently serving with the Wounded Warriors Transition Center at Fort Belvoir, VA where he is receiving treatment for a knee and traumatic brain injury that he suffered while serving in Afghanistan.

U.S. Army
Specialist
Donald
Jarvis.

They are the cousins and guest of Representative Dempsey of Haverhill.

Steve and Lisa
Xiarhos
and
Dominic
Davilla.

During the session, the Chair (Mr. Donato of Medford) declared a brief recess and introduced Steve and Lisa Xiarhos of Yarmouth Port and Dominick Davilla, Sr., of Chicago, Illinois, the parents of United States Marine Corps Corporals Nicholas G. Xiarhos and Dominic Davilla, who died in July of 2009, of wounds sustained while supporting combat operations in the Helmand Province of Afghanistan. They were present in the State House to witness the signing by the Governor of legislation designating a certain overpass in the town of Yarmouth as the Marine Corporal Nicholas G. Xiarhos Veterans Memorial Overpass. They were the guests of Representatives Atsalis of Barnstable and Turner of Dennis.

Resolutions.

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

Legislative
Leaders
Foundation.

Resolutions (filed by Mr. Diehl of Whitman and other members of the House) congratulating the State Legislative Leaders Foundation on the occasion of its fortieth anniversary; and

Jamaican
Independence.

Resolutions (filed by Ms. Fox of Boston) celebrating Jamaica's fifty years of independence;

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. Wong of Saugus, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Shrewsbury,—
land.

Representative Beaton of Shrewsbury and Senator Moore presented a joint petition (subject Joint Rule 12) of Matthew A. Beaton and Michael O. Moore (by vote of the town) relative to authorizing the Division of Capital Asset Management and Maintenance to convey certain parcels of land in the town of Shrewsbury; and the same was referred, under Rule 24, to the committee on Rules.

Deceptive
business
practices.

Mr. Binienda of Worcester presented a petition (subject to Joint Rule 12) of John J. Binienda relative to unfair or deceptive business practices; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Sánchez of Boston, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Consumer Protection and Professional Licensure. Sent to the Senate for concurrence.

Papers from the Senate.

Transportation,—
improvements.

The House Bill financing improvements to the Commonwealth's transportation system (House, No. 4193), came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all

after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2376.

Under suspension of the rules, on motion of Mr. Straus of Matapoisett, the amendment was considered forthwith. The House then non-concurred with the Senate in its amendment; and, on further motion of the same member, asked for a committee of conference on the disagreeing votes of the two branches. Representatives Straus, Kulik of Worthington and Howitt of Seekonk were appointed the committee on the part of the House. Sent to the Senate to be joined.

Conference
committee.

The House Bill relative to public access to private restrooms (House, No. 2366), came from the Senate passed to be engrossed, in concurrence, with amendments in line 14 striking out the word “two” and inserting in place thereof the word “three”; and in line 19 striking out the word “establishment” and inserting in place thereof the following: “establishment; and (5) a public restroom is not immediately accessible to the customer”.

Private
restrooms.

Under suspension of Rule 35, on motion of Mr. Kafka of Stoughton, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

The House Bill relative to the regulation of cyber cafes (House, No. 3765), came from the Senate passed to be engrossed, in concurrence, with amendments in line 44 striking out the word “or;” and also in line 44 by inserting after “chapter 271” the following: “; or (5) by any retailer whose primary business is the sale of groceries, whereby the sweepstakes is directly related to the sale of groceries and the potential prize provided through the sweepstakes may not be redeemed for cash and may only be used as a discount to reduce the price of items purchased from the retailer”.

Cyber cafe.

Under suspension of Rule 35, on motion of Mr. DeLeo of Winthrop, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

The House Bill relative to early education and care by family child care providers (House, No. 3986), came from the Senate passed to be engrossed, in concurrence, with an amendment in line 87, striking out the date “July 1, 2012” and inserting in place thereof the date “January 1, 2013.”

Child care
providers.

Under suspension of Rule 35, on motion of Mr. Khan of Newton, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith.

Mr. Peterson then moved that the House concur with the Senate in its amendment with a further amendment by inserting after section 2 the following section:

“SECTION 2A. Chapter 149 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out section 148B and inserting in place thereof the following section:—

Section 148B. (a) For the purpose of this chapter and chapter 151, an individual performing any service, except as authorized under this

Child care providers.

chapter, shall be considered to be an employee under those chapters unless:—

(1) the individual is free from control and direction in connection with the performance of the service, both under his contract for the performance of the service and in fact; and

(2) the service is performed outside the usual course of the business of the employer or the service is performed within the usual course of business of the employer and is distinguishable from similar services performed by employees; and

(3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed; and

(4) the individual is free to perform services for persons other than the employer, both under his contract for the performance of the service and in fact; and

(5) the individual uses a federal tax identification number other than his social security number when compensated for the performance of the service.

If the service is performed within the usual course of business of the employer, the individual and employer must specify in writing, signed under the pains the penalties of perjury, how the service is distinguishable from similar services performed by employees, including but not limited to the skills required to perform the service that employees do not have and the skill the individual has to perform the service. Said written agreement shall also be of a defined duration for the performance of a defined service and shall address any creation of and rights to intellectual property.

The employer may not waive its liability for injuries the individual may incur in the course of performing the service.

This subsection shall not apply to an individual who has been coerced, threatened or intimidated into establishing an independent contractor relationship.

(b) The failure to withhold federal or state income taxes or to pay unemployment compensation contributions or workers' compensation premiums with respect to an individual's wages shall not be considered in making a determination under this section.

(c) An individual's exercise of the option to secure workers' compensation insurance with a carrier as a sole proprietor or partnership pursuant to subsection

(4) of section 1 of chapter 152 shall not be considered in making a determination under this section.

(d) Notwithstanding the provisions of this section, an individual who is a party to a franchise agreement under which a person or entity licenses or authorizes the individual to sell products or services in accordance with prescribed methods and procedures and under service marks, trademarks, trade names and other intellectual property licensed under such agreement shall not be considered an employee of the person or entity that grants the license or authorization. For purpose of this section, franchise shall have the meaning given to it by the Federal Trade Commission.

(e) Notwithstanding the provisions of this section, a person with a license issued by the commonwealth who performs services as part of a program funded by the commonwealth and who is customarily

engaged in an independently established trade, occupation, profession or business shall not be considered an employee of the commonwealth or any entity which has a contract with the commonwealth to administer or provide support services for the program.

(f) Notwithstanding the provisions of this section, an individual who provides foster care services for children or adults in his own residence and who is licensed or authorized by an agency of the commonwealth or a private placement agency on behalf of the commonwealth, including the department of children and families and the department of developmental services, shall not be considered an employee of the commonwealth or any such placement agency.

(g) Whoever fails to properly classify an individual as an employee according to this section and in so doing fails to comply, in any respect, with chapter 149, or section 1, 1A, 1B, 2B, 15 or 19 of chapter 151, or chapter 62B, shall be punished and shall be subject to all of the criminal and civil remedies, including debarment, as provided in section 27C of this chapter. Whoever fails to properly classify an individual as an employee according to this section and in so doing violates chapter 152 shall be punished as provided in section 14 of said chapter 152 and shall be subject to all of the civil remedies, including debarment, provided in section 27C of this chapter. Any entity and the president and treasurer of a corporation and any officer or agent having the management of the corporation or entity shall be liable for violations of this section.

(h) Nothing in this section shall limit the availability of other remedies at law or in equity.”.

Mr. O’Day of Worcester thereupon raised a point of order that the further amendment offered by the gentleman from Grafton was improperly before the House for the reason that it was beyond the scope of the pending Senate amendment.

Point of order.

The Chair (Mr. Donato of Medford) ruled that the point of order was well taken; and the further amendment was laid aside accordingly.

The House then concurred with the Senate in its amendment.

Bills

Establishing the 104th fighter wing fire department (Senate, No. 2208, amended by striking out sections 13 and 16) (on a petition);

104th fighter wing.

Relative to water conservation (Senate, No. 2370, amended in section 2, in line 20, by striking out the words “reasonable fee” and inserting in place thereof the words “minimal fee which shall reflect the costs of accepting and processing such documentation”) (on Senate bill No. 327); and

Water conservation.

To protect public water supply land (Senate, No. 2371) (on Senate bill 328);

Water supply land.

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

A Bill establishing uniform wage compliance and record keeping and extending the statute of limitations on civil and criminal actions alleging a violation of the fair wage and hours laws (Senate, No. 924) (on a petition), came from the Senate passed to be engrossed; and was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Uniform wage compliance.

Milton,—
civil service.

A petition (accompanied by bill, Senate, No. 2368) of Brian A. Joyce and Walter F. Timitly (by vote of the town) for legislation to exempt certain position in the town of Milton from the civil service law, was referred, in concurrence, to the committee on Public Service.

New Bedford,—
land.

A petition (accompanied by bill) of Mark C. Montigny and Antonio F. D. Cabral (with the approval of the mayor and city council) for legislation to authorize the Division of Capital Asset Management and Maintenance to convey certain land in New Bedford to the city of New Bedford, came from the Senate referred, under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2367) was referred, in concurrence, to the committee on State Administration and Regulatory Oversight.

Reports of Committees.

By Mr. Binienda of Worcester, for the committees on Rules and the committee on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions;

Boston,—
public health
data.

Petition (accompanied by bill) of Jeffrey Sánchez (with the approval of the mayor and city council) relative to public health data sharing between the Department of Public Health and the Boston Public Health Commission. To the committee on Public Health.

Repeat
offenders,—
licenses.

Petition (accompanied by bill) of William Smitty Pignatelli for legislation to require specially marked licenses for repeat operating under the influence offenders. To the committee on Transportation.

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

Mortgages,—
clearing
titles.

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 petition of John H. Rogers and Michael F. Rush for legislation to provide remedies to consumers for clearing titles after the payoff of mortgages. Under suspension of the rules, on motion of Mr. Rogers of Norwood, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary. Sent to the Senate for concurrence.

Supplemental
appropriations,—
procedures.

By Mr. Binienda of Worcester, for the committee on Rules, reported (under the provisions of House Rules 7B and 7C) an Order relative to special procedures for consideration of the House Bill making appropriations for the fiscal year 2013 for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4324) (for order, see House, No. 4325). The order was considered forthwith; and it was adopted.

Registrar of
Motor
Vehicles,—

By Mr. Straus of Mattapoisett, for the committee on Transportation, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3083) of James M. Murphy for legis-

lation to require the Registrar of Motor Vehicles to collect emergency contact information from certain persons,— and recommending that the same be referred to the committee on Public Safety and Homeland Security.

emergency
contact
information.

Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, on House, No. 4285, reported, in part, a Bill making appropriations for the fiscal year 2013 for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4324) [Total appropriations: \$42,217,015.00]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Supplemental
appropriations.

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

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

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the House Bill relating to comprehensive protection from childhood sexual abuse (House, No. 469), ought to pass with an amendment by substituting therefor a Bill relative to comprehensive protection from childhood sexual abuse (House, No. 4326). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Childhood
sexual
abuse.

Mr. Kafka of Stoughton, for said committee, then reported recommending that the matter be scheduled for consideration of the House, with the amendment pending.

Under suspension of Rule 7A, on motion of the same member, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means was adopted; and the substituted bill (House, No. 4326) was ordered to a third reading.

Subsequently under suspension of the rules, on motion of Mr. Mariano of Quincy, the bill (having been 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, Mr. Mariano moved to amend it by substitution of a bill with the same title (House, No. 4329). The amendment was adopted; and the substituted 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. 4329) then was sent to the Senate for concurrence.

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Bill authorizing the division of capital asset management to grant to the city of Lowell easements over certain parcels of land (Senate, No. 2233), ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Lowell,—
land.

Mr. Kafka of Stoughton, for said committee reported that the matter be scheduled for consideration by the House. Under suspension of Rule 7A, on motion of Mr. Kafka, the bill was read a second time forthwith; and it was ordered to a third reading.

Engrossed Bills.

Bill
enacted.

The engrossed Bill establishing a sick leave bank for Lawrence Marino, an employee of the Registry of Motor Vehicles (see House, No. 4158, amended) (which originated in the House), 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 acting Speaker and sent to the Senate.

Bills
enacted.

Engrossed bills
Relative to the transfer of certain insurance policies among certain insurance company affiliates (see House, No. 3791); and
Relative to the management of town buildings, properties and facilities in the town of Foxborough (see House, No. 4052);
(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 acting Speaker and sent to the Senate.

Engrossed Bills — Land Takings.

Reading,—
easement.

The engrossed Bill authorizing the town of Reading to grant a utility easement over certain parcels of land (see House, No. 4170, amended) (which originated in the House), 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. 317.

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 (the Speaker being in the Chair) 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 317 in Supplement.]

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

Bourne
Water
District,—
land.

The engrossed Bill authorizing a lease of a certain parcel of land under the control of the Department of Fish and Game to the Bourne Water District for water distribution purposes (see Senate, No. 2215) (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. 318.

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 (Mr. Donato of Medford being in the Chair) 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 318 in Supplement.]

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

Hull,—
building
lease.

The engrossed Bill authorizing the town of Hull to extend the lease of a certain building in the town (House, No. 3650, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

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

Bill enacted
(land taking),—
yea and nay
No. 319.

[See Yea and Nay No. 319 in Supplement.]

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

The engrossed Bill authorizing the Nantucket Islands Land Bank to sell, convey or otherwise dispose of certain land situated in the town of Nantucket (see House, No. 3836) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Nantucket
Islands
Land Bank,—
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 153 members voted in the affirmative and 0 in the negative.

Bill enacted
(land taking),—
yea and nay
No. 320.

[See Yea and Nay No. 320 in Supplement.]

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

The engrossed Bill providing for the lease and refurbishment of the Bathing Beach Bathhouse in the town of Hingham (see House, No. 3856, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Hingham,—
Bathing Beach
Bathhouse.

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

Bill enacted
(land taking),—
yea and nay
No. 321.

[See Yea and Nay No. 321 in Supplement.]

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

The engrossed Bill authorizing the town of Chelmsford to lease Sunny Meadow Farms (see House, No. 3881) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

Chelmsford,—
Sunny
Meadow
Farms.

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

Bill enacted
(land taking),—
yea and nay
No. 322.

[See Yea and Nay No. 322 in Supplement.]

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

Reports of Committees.

Foreclosures,—
prevent.

Mr. Costello of Newburyport, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendments of the House Bill preventing unlawful and unnecessary foreclosures (House, No. 4096), recommending passage of a bill with the same title (House, No. 4323). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, then reported that the matter be scheduled for consideration by the House.

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

Conference
committee
report
accepted,—
yea and nay
No. 323.

After debate on the question on acceptance of the report, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 323 in Supplement.]

Therefore the report of the committee of conference was accepted. Sent to the Senate for concurrence.

Orders of the Day.

Senate bills

Relative to identification cards (Senate, No. 1718); and

Authorizing the town of Groveland to provide for the construction and maintenance of a solar generating facility on land held for water supply purposes (Senate, No. 2320);

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

Id.

Establishing a reserve fund for credit unions (House, No. 2073) (its title having been changed by the committee on Bills in the Third Reading);

Relative to the retirement of certain employees of the Massachusetts Water Resources Authority (House, No. 2968);

Relative to funding of collective bargaining agreements in the town of North Andover (House, No. 3591) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the appointment of Amy McCarthy as a police officer in the town of North Andover, notwithstanding the maximum age requirements (House, No. 3835);

Authorizing the town of Wellfleet to grant an easement on certain land in the town (House, No. 4171);

Relative to a certain parcel of land in the city of Chelsea (House, No. 4202); and

Relative to the terms of certain bonds issued by the Commonwealth (House, No. 4235) (its title having been changed by the committee on Bills in the Third Reading);

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.

Third
reading
bills.

The Senate Bill authorizing the town of Ashburnham to dispose of certain equipment (Senate, No. 2271); and

Second reading bills.

House bills

Relative to the milk producer's security fund reimbursement (House, No. 240);

Authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the town of Danvers located along Maple Street (House, No. 847);

To protect the health and safety of people in restaurants (House, No. 1462);

Relative to the health care of minors (House, No. 1500);

To strengthen the Massachusetts agricultural infrastructure relative to meat and poultry production and processing (House, No. 3351);

Discontinuing that portion of Gravelly Brook Road lying in the town of Topsfield as a county highway, and authorizing and directing the division of capital asset management to convey and grant all right, title, and interest in said discontinued portion to abutters (House, No. 3999);

Establishing the town of Acton energy efficiency fund (House, No. 4106);

Authorizing the town of Hatfield to continue the employment of the chief of police (House, No. 4142);

Authorizing the city of Springfield to exchange parcels of land (House, No. 4169);

Authorizing the town of Fairhaven to grant an easement over certain [sic] (House, No. 4172);

Amending Special Act, Chapter 327 of the Acts of 1988 to authorize the Orleans, Brewster and Eastham Groundwater Protection District to provide retirement benefits for district employees (House, No. 4175);

Exempting certain positions in the city of Gardner from the provisions of civil service laws (House, No. 4213);

Exempting certain positions in the city of Gardner from the provisions of civil service laws (House, No. 4214);

Authorizing the town of Cohasset to transfer certain interests in land (House, No. 4230);

[sic] Of special legislation authorizing the town of Braintree to grant additional liquor licenses (House, No. 4292);

Relative to the town of Fairhaven issuing a package store/all alcohol license (House, No. 4293); and

Relative to a liquor license for the Irish Social Club, Inc[sic], in the city of Boston (House, No. 4294);

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

The Senate Bill establishing a Horseneck Beach Reservation Trust Fund (Senate, No. 376, amended), was read a second time.

Second reading bill amended.

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 4297,— was adopted.

The bill (Senate, No. 376, amended) then was ordered to a third reading.

Second reading
bill amended.

The Senate Bill relative to regional 911 emergency communication districts (Senate, No. 2248, amended), 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 4299,— was adopted.

The bill (Senate, No. 2248, amended) then was ordered to a third reading.

Id. The Senate Bill authorizing the Massachusetts Department of Transportation to acquire certain parcels of land in the city of Worcester (Senate, No. 2250), 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 4300,— was adopted.

The bill (Senate, No. 2250, amended) then was ordered to a third reading.

Id. The House Bill relative to the list of legal investments prepared by the Commissioner of Banks (House, No. 290), 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. 4301),— was adopted.

The substituted bill then was ordered to a third reading.

Id. The House Bill relative to eligibility for state group health insurance (House, No. 704), was read a second time.

The amendment previously recommended by the committee on Health Care Financing,— that the bill be amended by substitution of a bill with the same title (House, No. 4217),— was adopted.

The substituted bill then was ordered to a third reading.

Id. The House Bill authorizing the commissioner of Capital Asset Management and Maintenance to convey certain land in the town of Wilmington (House, No. 832, changed), 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. 4302),— was adopted.

The substituted bill then was ordered to a third reading.

Id. The House Bill to promote health through workplace safety for social workers (House, No. 3864), was read a second time.

The amendment previously recommended by the committee on Health Care Financing,— that the bill be amended by substitution of a bill with the same title (House, No. 4254),— was adopted.

The substituted bill then was ordered to a third reading.

Id. The House Bill relative to the licensing and supervision of debt management services in the Commonwealth (House, No. 4074), 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. 4303),— was adopted.

The substituted bill then was ordered to a third reading.

The Senate Bill requiring the registration of motor vehicle glass repair shops (Senate, No. 2216, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Vehicle glass
repair shops.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Costello of Newburyport moved to amend it in section 19, in line 92, by striking out the word “or” and inserting in place thereof the word “and”.

The amendment was adopted; and the bill (Senate, No. 2216, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments.

House Bill relative to the exchange of certain land in the town of Truro (House, No. 3312), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Truro,—
land.

Pending the question on passing the bill to be engrossed, Ms. Peake of Provincetown moved to amend it by striking out section 6 and inserting in place thereof the following section:

“SECTION 6. The exchange of land authorized by this act shall be subject to subsections (a), (b) and (g) of section 16 of chapter 30B of the General Laws, but shall not be subject to section 40J of chapter 7 of the General Laws or sections 14, 15, and 15A of chapter 40 of the General Laws.”

The amendment was adopted; and the bill (House, No. 3312, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Mrs. Haddad of Somerset being in the Chair,—

The Senate Bill regarding families and children engaged in services (Senate, No. 1963, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Families and
children
engaged in
services.

After debate on the question on passing the bill, as amended, to be engrossed, in concurrence, Ms. Khan of Newton moved to amend it by inserting after section 1 the following section:

“SECTION 1A. (a) The department of mental health in collaboration with the department of youth services and the department of public health is hereby authorized and directed to conduct a comprehensive review of the mental health and substance abuse service needs of adolescents in the care of or detained in the commonwealth through the order of a juvenile court, including without limitation juveniles detained in the department of youth services or in the custody of the department of children and families, or receiving services from the department of mental health, the court clinics, probation, or otherwise, and including without limitation any such departments, offices, agencies or instrumentalities of the commonwealth, and any private organizations and agencies operating under arrangement with departments or agencies of the commonwealth. To complete said review, the

Families and children engaged in services.

department of mental health, department of youth services, and department of public health shall solicit input from the office of probation, the department of children and families, the department of education, the juvenile court, juvenile court clinics, the committee for public counsel services, the department of mental retardation, the division of insurance, the division of medical assistance, the Massachusetts Association of District Attorneys, at least one individual representing the interests of parents and families, at least one advocate for juvenile justice, at least one representative of a service provider community, and at least one representative from the Massachusetts Association of Health Plans. Said review shall be for purposes of identifying the following:

(i) existing and proposed models of alternatives to detention, within and outside the commonwealth, of providing mental health and substance abuse services to juveniles in detention, and as alternatives to detention; community resources and other dependencies which affect the appropriateness and effectiveness of models of alternatives to detention; and data demonstrating the relative efficacy, cost-effectiveness, and effect on public safety of alternative models;

(ii) unmet mental health and substance abuse needs of juveniles within the juvenile court systems of the commonwealth, including an explicit comparison of the best practices and models identified in paragraph (a) of this section with services and models available in the commonwealth;

(iii) recommendations for addressing unmet needs, including without limitation through the court clinics of the juvenile courts, and through contracting by the department of mental health for community-based services through community providers, or through consortia of community providers, local government agencies and others operating in congruence with local courts involved in the juvenile justice system.

(b) Within sixty days after the effective date hereof, the department shall post to its external website, for thirty days public comment, a proposed work plan to gather information necessary to prepare the report required by this section, in consultation with clinical, philanthropic and advocacy organizations for children, and providers of mental health and substance abuse services for minors. The proposed work plan shall be directed to submit a final report to the legislature and the governor no later than two hundred and seventy days after the effective date of this act.

(c) Within ninety days after the effective date of this act, the department shall post its final work plan on its external website.

(d) Within two hundred and ten days after the effective date of this act, the department shall post on its external website, for public comment, a draft report responsive to this section.

(e) Within two hundred and seventy days after the effective date of this act, the department shall post on its external website a final report responsive to this section, including a summary of all public comments received, and responses to such comments. The department shall also that day provide a copy of its final report to the governor, the president of the senate, the speaker of the house of representatives, the chairs of the joint committees on mental health and substance abuse, and children, families and persons with disabilities, and the legislative mental health caucus.

The amendment was adopted.

Mr. Dempsey of Haverhill then moved to amend the bill in section 1

In line 88, by inserting after the following: “section 37H” the following: “and section 37H½”;

In line 94, by striking out the word “shall” and inserting in place thereof the word “may”; and

In line 97, after the word “education”, by striking out the word “certified”;

By inserting after section 1A (inserted by amendment) the following three sections:

“SECTION 1B. Section 39E of chapter 119 of the General Laws, as appearing in the 2010 official edition, is hereby amended by inserting, after the third paragraph, the following paragraph:—

When a petition seeking a determination that a child is in need of services is presented to the clerk for filing, the clerk shall inform the petitioner that the petitioner may delay filing the petition and choose to have the child and his family referred to a family resource center, community-based services program or other entity designated by the secretary of health and human services to provide community-based services in the juvenile court district where the child resides and return to court at a later time to file a request for assistance, if needed. The clerk shall prepare, publish and disseminate to each petitioner educational material relative to available family resource centers, community-based services programs and other entities designated by the secretary of health and human services.

SECTION 1C. Said section 39E of said chapter 119 is hereby further amended by inserting, after the fifth paragraph, the following paragraph:—

The commissioner of probation shall establish a system to collect data on all petitions seeking a determination that a child is in need of services. Said system shall maintain the privacy of clients served, assist the court in addressing the needs of the population to be served and collect information related to: the racial and ethnic identity of the child; the insurance status and coverage of clients served; the length of time a child is receiving assistance from a probation officer, including the time prior to and subsequent to the filing of a petition; the identity of any public or private organization to whom a probation officer has referred a child or family for services; and any other information that may assist the commissioner and the court in evaluating the availability and effectiveness of services for children who are the subjects of such petitions. The probation officer shall gather information concerning each child and family referred to the officer including, but not limited to, insurance status and coverage and other information that may assist the commissioner of probation and the court in evaluating the availability and effectiveness of services for children who are the subjects of petitions.

SECTION 1D. Said section 39E of said chapter 119 is hereby further amended by inserting, at the end thereof, the following paragraph:—

A child who is the subject of a petition seeking a determination that a child is in need of services may not be confined in shackles or similar restraints or in a court lockup facility in connection with any proceedings under such petition. A child who is the subject of a petition shall not be placed in a locked facility or any facility designated or operated for juveniles who are alleged to be delinquent or who have been

Families and children engaged in services.

adjudicated delinquent. Such child may, however, be placed in a facility which operates as a group home to provide therapeutic care for juveniles, regardless of whether juveniles adjudicated delinquent are also provided care in such facility.”;

In section 2, in line 106, by striking out the figure “2”, and inserting in place thereof the figure “1”;

In line 120, by striking out the figure “3”, and inserting in place thereof the figure “2”;

In line 122, by striking out the words “one or more geographic regions”, and inserting in place thereof the words “each county”; and

In line 124, by striking out the word “site”, and inserting in place thereof the word “sites”;

In section 3, in line 131, by inserting after the word “health” the words “; the commissioner of the department of public health”;

In line 137, by striking out the figure “4” and inserting in place thereof the figure “3”; and

In line 160, by striking out the word “district” and inserting in place thereof the word “districts”; and

In section 4, in line 184, by striking out the figure “4” and inserting in place thereof the figure “3”.

The amendments were adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, in concurrence, Mr. O’Day of Worcester moved to amend it in section 3, in line 130, by inserting after the word “designee”, the first time it appears, the words “; a Department of Children and Families adolescent social worker approved by the regional director of the area pilot program”, and in said line, by inserting after the word “designee”, the second time it appears, the words “; and a Department of Youth Services Case Manager approved by the regional director of the area pilot program”, and, in line 131, by inserting after the word “health” the words “; and a Department of Mental Health case manager approved by the regional director of the area pilot program”. The amendments were adopted.

Bill passed to be engrossed,—yea and nay No. 324.

On the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Ms. Khan of Newton; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 324 in Supplement.]

Therefore the bill (Senate, No. 1963, amended) was passed to be engrossed, in concurrence (For text of the House amendments, see House document numbered 4330, published as amended). Sent to the Senate for concurrence in the amendments.

Right to know.

The House establishing a temporary workers right to know (House, No. 4304), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

After debate on the question on passing the bill to be engrossed, Mr. Torrasi of North Andover moved to amend it by add the following section:

“SECTION 3. This act shall take effect on January 31, 2013.”.

The amendment was adopted.

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 Ms. Forry of Boston; and on the roll call 126 members voted in the affirmative and 28 in the negative.

Bill passed to be engrossed,—
yea and nay
No. 325.

[See Yea and Nay No. 325 in Supplement.]

Therefore the bill (House, No. 4304, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Reports of Committees.

Mr. Dempsey of Haverhill, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4240), returning with his disapproval of certain items and sections and parts of certain items, and reductions in certain items, and also with recommendation of amendment of certain sections contained in the engrossed Bill making appropriations for the fiscal year 2013 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4200), reported, in part, that certain items stand (as passed by the General Court). Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

General
Appropriation
Bill.

Mr. Kafka of Stoughton, for said committee reported, in each instance, that the matters be scheduled for consideration by the House. Under suspension of Rule 7A, in each instance, on motion of Mr. Dempsey of Haverhill, the reports were considered forthwith.

Item 0339-1001 (contained in section 2) (Commissioner of Probation), which had been disapproved (in part) by the Governor was considered.

After debate on the question on passing said item, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 149 members voted in the affirmative and 0 in the negative.

Commissioner of Probation
item 0339-1001
stands,—
yea and nay
No. 326.

[See Yea and Nay No. 326 in Supplement.]

[Messrs. Costello of Newburyport and Petrolati of Ludlow answered “Present” in response to their names.]

Therefore item 0339-1001 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 7004-3036 (contained in section 2) (housing services program), which had been disapproved (in part) by the Governor was considered.

After debate on the question on passing said item, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 152 members voted in the affirmative and 0 in the negative.

Housing
services
program
item 7004-3036
stands,—
yea and nay
No. 327.

[See Yea and Nay No. 327 in Supplement.]

Therefore item 7004-3036 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Office of
Travel and
Tourism
item 7008-0900
stands,—
yea and nay
No. 328.

Item 7008-0900 (contained in section 2) (Office of Travel and Tourism), which had been disapproved (in part) by the Governor was considered.

After debate on the question on passing said item, notwithstanding the action of the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section 1, Article II of the Constitution; and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 328 in Supplement.]

Therefore item 7008-0900 passed, notwithstanding the action of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at twelve o'clock noon; and be it further

Ordered, That, notwithstanding the provisions of House Rule 12, the Clerk be authorized to print a Calendar for tomorrow's sitting containing only the supplemental appropriation bill (House, No. 4324).

Next
sitting.

Mr. Hill of Ipswich then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at six minutes before eight o'clock P.M. (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at twelve o'clock noon.