

Thursday, July 26, 2012.

Met according to adjournment at twelve o'clock noon, 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.

Guests of the House.

During the session, the Chair (Mr. Donato of Medford) declared a brief recess and turned the gavel over to Representative Diehl of Whitman, who introduced the following members of the State Legislative Leaders Foundation: President Stephen Lakis, Vice-President Marcia Vandervoort, Evelene Lakis, Papalinka Paradise and Alison Bressi. After brief remarks by Representative Diehl, Representative Holmes of Boston took the Chair and read and presented resolutions of the House (adopted at the preceding sitting) congratulating the foundation on the occasion of its fortieth anniversary. Mr. Holmes then introduced President Stephen Lakis, a former staff consultant to the General Court, who addressed the House briefly. They were the guests of Messrs. Diehl and Holmes. State Legislative Leaders Foundation.

Resolutions.

Resolutions (filed with the Clerk by Mr. Mahoney of Worcester and other members of the House) congratulating Doug Hannam on the occasion of his retirement as Massachusetts District Four Little League administrator, were referred, under Rule 85, to the committee on Rules. Doug Hannam.

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

Petition.

Mr. Golden of Lowell presented a petition (subject to Joint Rule 12) of Thomas A. Golden, Jr., for legislation to establish a sick leave bank for Kathryn Woessner, an employee of the Department of Correction; and the same was referred, under Rule 24 to the committee on Rules. Kathryn Woessner,—sick leave bank.

Papers from the Senate.

Bills

Relative to designating volleyball as the official recreational sport and team sport of Massachusetts (Senate, No. 1709) (on a petition); Volleyball.

To provide for tobacco cessation benefits (Senate, No. 2121, amended by striking out all after the enacting clause and inserting in place thereof the following: Tobacco cessation benefits.

Tobacco
cessation
benefits.

“SECTION 1. Chapter 32A of the General Laws is hereby amended by inserting after section 17I the following section:—

Section 17J. The commission may provide to any active or retired employee of the commonwealth who is insured under the group insurance commission a smoking and tobacco use cessation treatment benefit. Smoking and tobacco use cessation treatment and information benefits shall include nicotine replacement therapy, other evidence-based pharmacologic aids to quitting smoking, and accompanying counseling by a physician, certified tobacco use cessation counselor, or other qualified clinician.

SECTION 2. Section 2 of chapter 118H of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following paragraph:—

The commonwealth care health insurance program shall provide, as a benefit to participants in the program, coverage for the cost of smoking and tobacco use cessation treatment and information. Smoking and tobacco use cessation and information shall include nicotine replacement therapy, other evidence-based pharmacological aids to quitting smoking, and accompanying counseling by a physician, certified tobacco use cessation counselor or other qualified clinician.” (on Senate, No. 540); and

Julie
Nantais,—
sick leave
bank.

Establishing a sick leave bank for Julie Nantais, an employee of the Department of Public Health (Senate, No. 2266) (on a petition);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Bills

Afterschool,—
council.

Establishing the afterschool and out-of-school time coordinating council (Senate, No. 2111, amended in section 2, in line 49, by inserting after the word “funding” the word “directly”; in section 3, in lines 52 to 55, inclusive, by striking out the sentence contained in those lines, and, in line 60, by striking out the date: “December 31” and inserting in place thereof the date: “June 1”) (on Senate bill No. 215);

New Bedford,—
land.

Authorizing the commissioner of the Division of Capital Asset Management and Maintenance to convey certain land in New Bedford to the city of New Bedford (Senate, No. 2367, amended by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the conveyance of certain parcels of land in the city of New Bedford, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”) (on a petition) [Local Approval Received];

Naturopathy,—
board.

Establishing a board of registration in naturopathy (Senate, No. 2377) (on Senate bill No. 1158);

Trench
safety.

Relative to trench safety (Senate, No. 2378, amended in section 7, in lines 30 and 31, by striking out the words “fencing around” and inserting in place thereof the words “covers or portable barriers to”) (on Senate bill No. 1185);

Behavioral
analysts.

Relative to the licensure of behavioral analysts (Senate, No. 2379, amended in section 2, in lines 82, 83 and 84, by striking out, the words “provided, that such practice of applied behavior analysis shall only be

conducted upon referral from a licensed mental health or medical professional whose scope of practice includes diagnosis and evaluation; and provided further” and inserting in place the word “provided”; and in lines 151 to 160, inclusive, by striking out the paragraph contained in those lines and inserting in place thereof the following paragraph:

“Section 272. Nothing in sections 264 to 277, inclusive, shall be construed to prevent qualified members of other professions or occupations including, but not limited to, physicians, psychologists, teachers, occupational therapists, members of the clergy, authorized Christian Science practitioners, attorneys-at-law, social workers, guidance counselors, clinical counselors, adjustment counselors, speech pathologists, audiologists or rehabilitation counselors from practicing applied behavior analysis if it is consistent with the accepted standards of their respective professions; provided, however, that no such physician, psychologist, teacher, occupational therapist, member of the clergy, Christian Science practitioner, attorneys-at-law, social worker, guidance counselor, clinical counselor, adjustment counselor, speech pathologist, audiologist, rehabilitation counselor or other person shall use any title or description stating or implying that such person is a licensed applied behavior analyst without holding said license.”) (on Senate bill No. 2217);

Relative to information technology producer responsibility (Senate, No. 2380) (on Senate bill No. 2078);

Information technology.

Relative to the use of off-highway and recreational vehicles (Senate, No. 2381) (on Senate bill No. 2199); and

Recreational vehicles.

Protecting the commercial value artists, entertainers and other notable personalities (Senate, No. 2382) (on Senate bill No. 1713);

Artists and entertainers.

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

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 petition 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. Under suspension of the rules, on motion of Mr. Beaton of Shrewsbury, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on State Administration and Regulatory Oversight. Sent to the Senate for concurrence.

Shrewsbury,—land.

Mr. Binienda of Worcester, for the committee on Rules, on the Order relative to authorizing the committee on Consumer Protection and Professional Licensure to make an investigation and study of certain House documents concerning licensure issues in the Commonwealth (House, No. 4256), reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 1027) of Joyce A. Spiliotis, Christine E. Canavan and Susan Williams Gifford for legislation to establish a board of registration of phlebotomists,— 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.

Phlebotomists,—regulate.

Rockland,—
land.

By Ms. Spiliotis of Peabody, for the committee on Municipalities and Regional Government, on a message from His Excellency the Governor, a Bill authorizing the exchange of land in the town of Rockland (printed in House, No. 4327). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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.

Education,—
access.

By Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the Bill relative to student access to educational services and exclusion from school (House, No. 4131), ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4332) [Representative Webster of Pembroke dissenting]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Youth
workforce.

By Mr. Binienda of Worcester, for the committee on Rules of the two branches, acting concurrently, that the Bill improving coordination of the youth workforce development system in the Commonwealth (House, No. 4288), ought to pass. Referred, under Rule 33, to the committee on Ways and Means.

Replanting
of trees.

By Mr. Binienda of Worcester, for the committee on Rules, on the Order relative to authorizing the committee on Environment, Natural Resources and Agriculture to make an investigation and study of a certain House document concerning the replanting of trees (House, No. 4289), a Bill establishing a special fund to be used for the replanting of trees (House, No. 4056).

Campaign
finance.

By Mr. Michlewitz of Boston, for the committee on Election Laws, on House, No. 1985, a Bill to strengthen the campaign finance law (House, No. 4328).

Halifax,—
land.

By Mr. Kocot of Northampton, for the committee on State Administration and Regulatory Oversight, on a joint petition, a Bill authorizing the commissioner of Capital Asset Management and Maintenance to convey certain land in the town of Halifax (House, No. 4320).

South Hadley,—
land.

By the same member, for the same committee, on a joint petition, a Bill authorizing and directing the commissioner of Capital Asset Management and Maintenance to convey certain land in the town of South Hadley (House, No. 4322).

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

Wales,—
recall
elections.

By Mr. Michlewitz of Boston, for the committee on Election Laws, on a joint petition, a Bill providing for recall elections in the town of Wales (House, No. 4281) [Local Approval Received].

Acushnet,—
manufactured
housing.

By Mr. Honan of Boston, for the committee on Housing, on a petition, a Bill providing for the establishment and administration of rent regulations and the control of evictions in manufactured housing communities in the town of Acushnet (House, No. 4221) [Local Approval Received].

Charlton,—
water
assessments.

By Mr. Kaufman of Lexington, for the committee on Revenue, on a joint petition, a Bill relative to collection of estimated water assess-

ments and general fund reimbursement in the town of Charlton (House, No. 4203) [Local Approval Received].

By Mr. Kocot of Northampton, for the committee on State Administration and Regulatory Oversight, on a petition, a Bill designating a certain corner in the town of Watertown as Menton Corner (House, No. 4287).

Watertown,—
Menton
Corner.

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

Engrossed Bills.

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

Providing for annual caterer’s licenses for the service of alcoholic beverages at private functions (see Senate, No. 2063, amended); and

Bills
enacted.

Requiring the registration of motor vehicle glass repair shops (see Senate 2216, amended);

(Which severally originated in the Senate);

Relative to public access to private restrooms (see House, No. 2366, amended); and

Relative to cyber cafes (see House, No. 3765, amended);

(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 Bill — Land Taking.

The engrossed Bill authorizing the town of Groveland to provide for the construction and maintenance of a solar generating facility on land held for water supply purposes (see Senate, No. 2320) (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.

Groveland,—
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 150 members voted in the affirmative and 0 in the negative.

Bill enacted
(land taking),—
yea and nay
No. 329.

[See Yea and Nay No. 329 in Supplement.]

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

Engrossed Bill.

The engrossed Bill relative to early education and care by family child care providers (see House, No. 3986, 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.

Early
education.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 120 members voted in the affirmative and 31 in the negative.

Bill enacted,—
yea and nay
No. 330.

[See Yea and Nay No. 330 in Supplement.]

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

Papers from the Senate.

Controlled substances.

The House Bill relative to certain controlled substances (House, No. 4160), 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 2372.

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

Pending the question on concurring with the Senate in its amendment, Messrs. Kafka of Stoughton and Ross moved to amend it by striking out the text of said amendment and inserting in place thereof the text contained in House document numbered 4331. The further amendment was adopted.

The Speaker being in the Chair,—

Amendment, as amended, adopted, in concurrence,—yea and nay No. 331.

After remarks on the question on concurring with the Senate in its amendment, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Ross of Attleboro; and on the roll call (Mr. Donato of Medford being in the Chair) 148 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 331 in Supplement.]

Therefore the House concurred with the Senate in its amendment, as amended. Sent to the Senate for concurrence in the further amendment.

Orders of the Day.

Third reading bill.

The Senate Bill authorizing the Massachusetts Department of Transportation to acquire certain parcels of land in the city of Worcester (Senate, No. 2250, amended), 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, in concurrence. Sent to the Senate for concurrence in the amendment previously adopted by the House.

House bills

Third reading bills.

Relative to identification for the sale of alcoholic beverages (House, No. 1012);

Authorizing the city of Newburyport to acquire interests in land in the town of Newbury (House, No. 4164);

Authorizing the city of Medford to grant additional licenses for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4246);

Authorizing the commissioner of Capital Asset Management and Maintenance to convey certain land to the Foxborough Housing Authority (House, No. 4272);

Establishing Commonwealth virtual schools (House, No. 4274);

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

Second reading bills.

The Senate Bill relative to access to a decedent's electronic mail accounts (Senate, No. 2313, amended); and

The House Bill to strengthen and expand the board of agriculture (House, No. 3221);

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

The Senate Bill relative to superintendency union benefits (Senate, No. 2092, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Superintendency
union
benefits.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Kulik of Worthington moved to amend it by inserting before the enacting clause the following emergency preamble:

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to allow the member towns of superintendency union 28 to enter into agreements to fund benefits for employees and retirees of the superintendency union, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”

The amendment was adopted; and the bill (Senate, No. 2092, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

The Senate Bill further regulating animal control (Senate, No. 2192, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Animal
control.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Peterson of Grafton moved to amend it in section 4, in line 150, by inserting after the word “laboratory”, the second time it appears, the words “, a biomedical corporation”; and the amendment was adopted.

The same member then moved to amend the bill in section 4, in line 179, by inserting after the word “issued.” the following clause:

“(d) This section shall not apply to a dog or cat housed in a research institution.”

The amendment was adopted.

Ms. Coakley-Rivera of Springfield then moved to amend the bill by inserting after section 30 the following section:

“SECTION 30A. Section 77 of chapter 272 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the last paragraph the following paragraph:—

Any person convicted of a crime of cruelty to an animal shall be prohibited from working in any capacity that requires them to be in contact with any animal, including a commercial boarding or training establishment, shelter, animal control facility, pet shop, grooming facility, commercial breeder service, veterinary hospital or clinic, or animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.”

The amendment was adopted.

Mr. Cusack of Braintree then moved to amend the bill in section 51, in line 826, by inserting after the word “animals” the following: “and 1 representative of a national pet industry trade association”; and the amendment was adopted.

Ms. Andrews of Orange then moved to amend the bill by inserting after section 30A (inserted by amendment), the following section:

“SECTION 30B. Chapter 140 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after section 174D the following section:

Animal
control.

Section 174E. (a) No person owning or keeping a dog shall chain or tether a dog to a stationary object including but not limited to any structure, dog house, pole or tree for longer than 24 consecutive hours. Any tethering employed shall not allow the dog to leave the owner's, guardian's or keeper's property. The tether must be designed for dogs. No logging chains and other lines or devices not for the purpose of tethering dogs may be used. No chain or tether shall weigh more than one-eighth of the dog's body weight. Nothing in this section shall be construed as prohibiting a person from walking a dog on a hand held leash. No dog under the age of 6 months shall be tethered outside for any length of time.

(b) A person owning or keeping a dog may confine such dog outside, subject to the restrictions in this section, through the use of any of the following three methods:

(1) Inside a pen or secure enclosure, if the following conditions are met:

(i) The pen or secure enclosure has adequate space for exercise with a dimension of at least 100 square feet. Commercial dog kennels with pens intended for the temporary boarding of dogs are exempt from this requirement.

(ii) The pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all 4 sides enclosed.

(iii) The minimum height of the fence is adequate to successfully confine the dog.

(2) A fully fenced, electronically fenced, or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard.

(3) A trolley system or a tether attached to a pulley in a cable run, if the following conditions are met:

(i) Only 1 dog may be tethered to each cable run.

(ii) The tether must be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which 2 adult fingers may fit. Choke collars and pinch collars are prohibited for the purposes of tethering a dog to a cable run.

(iii) There must be a swivel on at least 1 end of the tether to minimize tangling of the tether.

(iv) The tether and cable run must each be at least 10 feet in length. The cable must be mounted at least 4 feet but not more than 7 feet above ground level.

(v) The length of the tether from the cable run to the dog's collar or harness must allow continuous access to clean water and appropriate shelter at all times as described in subsection (c). The trolley system or tether must be of appropriate configuration to confine the dog to the owner's, guardian's or keeper's property, to prevent the trolley system or tether from extending over an object to an edge that could result in injury or strangulation of the dog, and to prevent the trolley system or tether from becoming tangled with other object or animals.

(c) Any person owning or keeping a dog confined outside in accordance with subsection (b) must provide the dog with access to clean water and appropriate dog shelter. The dog shelter must allow the dog to remain dry and protected from the elements. Such shelter shall be

fully enclosed on at least three sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down, and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage must be provided so that water, ice, or waste is not standing in or around the shelter.

(d) No person owning or keeping a dog may leave a dog chained or tethered outside for longer than 24 consecutive hours.

(e) Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(f) No person owning or keeping a dog may subject the dog to cruel conditions or inhumane chaining or the tethering at any time. Cruel conditions and inhumane chaining or tethering are defined as, but not limited to, the following conditions:

(1) Filthy and dirty confinement conditions, including but not limited to exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill the dog upon contact, or other circumstances that could cause harm to the dog's physical or emotional health.

(2) Taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog.

(3) Subjecting the dog to dangerous conditions, including attack by other animals.

(g) Any person who violates this section shall, for the first offense, be issued a written warning or punished by a fine of not more than \$50, for the second offense, be punished by a fine of not more than \$100, and for the third and any subsequent offense, be punished by a fine of not more than \$300, and be subject to impoundment of the dog in a local shelter at the owner's or guardian's expense pending compliance with this section or loss of ownership of the dog."

The amendment was adopted.

The bill then was passed to be engrossed, in concurrence. The bill (Senate, No. 2192, amended) then was sent to the Senate for concurrence in the amendments.

The House Bill establishing a maximum allowable check-cashing rate (House, No. 3567) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Check-cashing,—
maximum
rate.

Pending the question on passing the bill to be engrossed, Mr. Spelitis of Danvers moved to amend it in section 1, in line 6 (as published), by striking out the words "plus a service charge of one dollar", and, in lines 11 and 12 (as published), by striking out the words " plus a service charge of one dollar".

The amendments were adopted; and the bill (House, No. 3567, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Renovation
and repair
contracts.

The House Bill relative to renovation and repair contracts (House, No. 4242), 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. Coppinger of Boston moved to amend it in line 3 by inserting after the word "protection" the following: "sprinkler system as defined in section 81 of chapter 146".

The amendment was adopted; and the bill (House, No. 4242, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Supplemental
appropriations.

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), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

After remarks on the question on passing the bill, to be engrossed, Mr. Hill of Ipswich moved to amend it by adding the following section:

"SECTION 37. Chapter 199 of the Acts of 2010 is hereby amended by striking, in Section 3, the following sentence: 'Within 2 years of the effective date of this act, the department shall file a report of its activities and the developed recommendations with the governor and the clerks of the senate and house of representatives who shall forward the same to the house and senate committees on ways and means and other committees as appropriate.', and inserting in place thereof the following sentence:— The department shall file a final report not later than July 31, 2014 of its activities and the developed recommendations with the governor and the clerks of the house and senate who shall forward the same to the house and senate committees on ways and means and other committees as appropriate, provided, however, that the department shall file in the same manner an interim report not later than July 31, 2013 indicating the progress made toward completing the final report, the adequacy of data and information collected at that point and whether or not additional data must be collected to complete the report, particularly with regard to weather conditions and other factors, the time necessary to complete the final report, and any other factors which may negatively impact the completion of the final report in a timely and effective manner."

The amendment was adopted.

Representatives O'Connell of Taunton and other members of the House then moved to amend the bill by adding the following section:

"SECTION 38. Notwithstanding any general or special law to the contrary the Department of Public Health is prohibited from raising licensing fees for food vending machines greater than 100% in a calendar year."

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 Ms. O'Connell; and on the roll call 53 members voted in the affirmative and 100 in the negative.

[See Ye and Nay No. 332 in Supplement.]

Therefore the amendment was rejected.

Mr. Kuros of Uxbridge then moved to amend the bill by adding the following section:

Amendment
rejected,—
yea and nay
No. 332.

“SECTION 38. Section 1 of chapter 30B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended, in lines 87 through 88, by striking subdivision (31) of subsection (b) in its entirety.”.

The amendment was rejected.

Engrossed Resolve.

There being no objection, the Chair (Mr. Donato of Medford) then interrupted the pending bill and placed before the House the engrossed Resolve relating to the tribal-state compact between the Mashpee Wampanoag tribe and the Commonwealth of Massachusetts (see House resolve printed in House, No. 4261).

Mashpee
Wampanoag
Tribal-State
Compact.

The resolve (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, then was passed. Subsequently, Ms. Orrall of Lakeville moved that this vote be reconsidered.

On the motion to reconsider, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 27 members voted in the affirmative and 126 in the negative.

Motion to
reconsider
negated,—
yea and nay
No. 333.

[See Yea and Nay No. 333 in Supplement.]

Therefore the motion to reconsider was negated. The resolve then was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The House then returned to 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, amended).

Supplemental
appropriations.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Dempsey of Haverhill moved to amend it by striking out section 9 and inserting in place thereof the following section:

“SECTION 9. Item 0699-0015 of section 2 of chapter 68 of the acts of 2011 is hereby amended by striking out the words ‘from this item to items 0699-9100, 0699-2004, and 0699-0016’ and inserting in place thereof the following words:— from this item to items 0699-9100, 0699-2004, 0699-0016 and 0699-9101.”;

In section 10, in line 216, by striking out item number “7003-0810” and inserting in place thereof item number “7003-1206”;

By striking out section 30 (as published) and inserting in place thereof the following section:

“SECTION 30. Chapter 139 of the acts of 2012 is hereby amended by striking out section 154 and inserting in place thereof the following section:—

Section 154. (a) Notwithstanding any general or special law to the contrary, the comptroller shall dispose of the consolidated net surplus in the budgetary funds for fiscal year 2012 in the following order of precedence: (i) transfer \$15,000,000 from the General Fund to the Massachusetts Life Sciences Investment Fund established by section 6 of chapter 231 of the General Laws; (ii) transfer \$20,000,000 from the General Fund to the Health Care Workforce Transformation Trust Fund established in section 2FFFF of chapter 29 of the General Laws; (iii) distribute not more than \$2,703,119 to the New Bedford public

Supplemental
appropriations.

school district to account for the district's actual low-income enrollment, as defined by section 2 of chapter 70 of the General Laws, which amount shall be included in the district's fiscal year 2013 chapter 70 aid and shall be considered base aid for the purpose of calculating fiscal year 2014 chapter 70 aid; provided, that said amount shall be certified by the department of elementary and secondary education prior to final transfer and (iv) make available \$40,000,000 to be used as revenue in fiscal year 2013; (v) transfer any remaining amount of the consolidated net surplus to the Stabilization Fund

(b) all transfers specified in this section shall be made from the undesignated fund balances in the budgetary funds proportionally from those undesignated fund balances, but no such transfer shall cause a deficit in any of those funds; provided, however, that prior to certifying the consolidated net surplus, the comptroller shall, to the extent possible, eliminate deficits in any fund contributing to the surplus by transferring positive fund balances from any other fund contributing to the surplus.”; and by adding the following two sections:

“SECTION 38. Section 161 of chapter 139 of the Acts of 2012 is hereby repealed.

SECTION 39. Item 2840-7014 of section 2A of chapter 312 of the acts of 2008 is hereby amended by striking out the words ‘provided further, that not less than \$5,659,000 shall be expended for construction of a permanent ice skating rink in Jamaica Plain’ and inserting in place thereof the following words:— provided further, that not less than \$5,659,000 shall be expended for construction of a permanent ice skating rink and recreation center in the Jackson Square section of Roxbury and Jamaica Plain in the city of Boston; provided further that these funds shall be provided to the developer designated by the city of Boston through the selection process initiated in July 2004 and following approval of the project through the city of Boston’s Article 80 process, which approval was granted on June 16, 2011 and documented in the approved memorandum to the Boston Redevelopment Authority of the same date, and the same amount shall be expended for the same purpose in the Town of Norwood”.

The amendments were 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 Mr. Dempsey of Haverhill; and on the roll call 120 members voted in the affirmative and 33 in the negative.

[See Ye and Nay No. 334 in Supplement.]

Therefore the bill, as amended, was passed to be engrossed. The bill (House, No. 4334, published as amended) then was sent to the Senate for concurrence.

Emergency Measures.

The engrossed Bill relative to superintendency union benefits (see Senate, No. 2092, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 40 to 0. Sent to the Senate for concurrence.

Bill passed to
be engrossed,—
yea and nay
No. 334.

Superintendency
union
benefits.

The engrossed Bill relative to the terms of certain bonds issued by the Commonwealth (see House bill printed in House, No. 4235), 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. Bonds,—
terms.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 25 to 0. Sent to the Senate for concurrence.

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

The engrossed Bill preventing unlawful and unnecessary foreclosures (see House, No. 4323), 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. Foreclosures,—
prevention.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 21 to 0. Sent to the Senate for concurrence.

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

Order.

On motion of Mr. DeLeo of Winthrop,—

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

At twenty-four minutes before six o'clock P.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M., in an Informal Session.