

JOURNAL OF THE HOUSE.

Wednesday, July 31, 2013.

Met according to adjournment at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

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

Resolutions.

Resolutions (filed with the Clerk by Mr. Arciero of Westford) congratulating Chief Richard Joseph Rochon on the occasion of his retirement from the town of Westford Fire Department, were referred, under Rule 85, to the committee on Rules. Richard Joseph Rochon.

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

Petitions.

Mr. Straus of Mattapoisett presented a petition (accompanied by bill, House, No. 3605) of William M. Straus and Marc R. Pacheco (by vote of the town) that the town of Marion be authorized to impose liens upon properties in the towns of Rochester and Wareham which connect to the water and sewer systems of the town of Marion; and the same was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence. Marion,— easements.

Mr. Sannicandro of Ashland presented a petition (subject to Joint Rule 12) of Tom Sannicandro for legislation to establish a sick leave bank for Mary Ford, an employee of the Department of Correction; and the same was referred, under Rule 24, to the committee on Rules. Mary Ford,— sick leave.

Papers from the Senate.

The engrossed Bill relative to distribution of regional greenhouse gas initiative auction proceeds (see House, No. 3561), being a printed copy of Section 36 contained in the engrossed Bill making appropriations for the fiscal year 2014 (see House, No. 3538), which had been returned by His Excellency the Governor with recommendation of amendments (for message, see Attachment F of House, No. 3566), came from the Senate with the endorsement that it had been amended by said branch in the form contained in House document 3566, Attachment F (as previously perfected by the House committee on Bills in the Third Reading [which had been rejected by the House on July 24 (see House Journal, page 214)] as corrected by the Senate committee on Bills in the Third Reading). Greenhouse gas initiative auction proceeds.

The amendments were referred, under Rule 35, to the committee on Bills in the Third Reading.

Said committee reported that the amendments were correctly drawn; and the report was accepted.

The House then concurred with the Senate in its amendments.

Juvenile jurisdiction.

The House Bill expanding juvenile jurisdiction (House, No. 1432), 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 1841.

The amendment was referred, under Rule 35, to the committee on Bills in the Third Reading.

Bills

Worcester,—land.

Authorizing the Department of Conservation and Recreation and the city of Worcester to create and operate a multi purpose rectangular field at Lake Avenue Park in Worcester (Senate, No. 1460, amended in section 1, in line 2 by striking out the words “the department” and inserting in place thereof the words “capital asset management and maintenance, in consultation with the commissioner”, in line 7 by striking out the word “conveyance” and inserting in place thereof the word “instrument”, and in said line by inserting after the word “commissioner” the words “of capital asset management and maintenance”, in line 10 by striking out the word “of” and inserting in place thereof the words “not to exceed”, in line 11 by inserting after the word “facility” the words “as determined by the commissioner of capital asset management and maintenance”; by inserting after section 2 the following section:

“SECTION 2A. the city shall assume all costs associated with engineering, surveys, appraisals and other expenses deemed necessary by the commissioner of capital asset management and maintenance to execute the agreement authorized in this act.”; by striking out section 4; and 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 the city of Worcester to create and operate an athletic field at Lake Park, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”) (on a petition); and

Background checks.

Relative to background checks (Senate, No. 1839) (on Senate bill No. 1136); and a

Olympics.

Resolve to establish a commission to study the feasibility of hosting the summer Olympics (Senate, No. 1840) (on Senate, No. 1623);

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

Pittsfield,—charter.

A Bill revising the charter of the city of Pittsfield (Senate, No. 1803, amended in section 22, in line 650, by striking out the word “signatures” and inserting in place thereof the words “however, that the signatures for the office of ward city councilor shall be from certified voters in the ward for which the councilor shall be elected”; and, in line 834, by inserting after the word “officials” the words “; provided, however, that the signatures for a recall petition for the office of ward councilor ward city councilor shall be from certified voters in the ward for which the councilor was elected”) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Reports of Committees.

Mr. Dempsey of Haverhill, for the committee on Ways and Means, that the House Bill establishing a sales tax holiday in 2013 (printed as Senate, No. 175), ought to pass with an amendment by adding the following section:

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“SECTION 7. Not later than December 31, 2013, the commissioner of revenue shall certify to the comptroller the amount of foregone revenue from any sales tax holiday enacted by the General Court in calendar year 2013. Notwithstanding the last paragraph of section 2H of chapter 29 of the General Laws, for the purpose of compensating for that amount of foregone revenue the comptroller shall transfer to the General Fund such amount of foregone revenue, the proceeds of one-time settlements or judgements that would otherwise be transferred to the Commonwealth Stabilization Fund, according to a schedule approved by the secretary of administration and finance and considering the cash flow needs of the commonwealth.” [Representative Sciortino of Medford dissenting]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

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

The amendment recommended by the committee on Ways and Means, was adopted.

Pending the question on ordering the bill, as amended, to a third reading, Mr. Jones of North Reading and other members of the House moved to amend it by adding the following section:

“SECTION 8. Notwithstanding any general or special law or regulation to the contrary, nothing shall preclude a retailer from allowing a customer to purchase an item during the sales tax holiday if that customer has previously placed an order for said item and upon the customer’s own initiative has cancelled the order in anticipation of the sales tax holiday. Penalties under section 73 of chapter 62C of the General Laws or any other penalties associated with ‘back dating’ or ‘forward dating’ relative to the sales tax holiday shall not be applicable to any situation in which a retailer permits a customer to cancel an order at the customer’s own initiative in anticipation of the sales tax holiday.”.

The amendment was rejected.

Mr. Kuros of Uxbridge then moved to amend the bill by striking out sections 1 through 6, inclusive, and inserting in place thereof the following five sections:

“SECTION 1. Notwithstanding any general or special law to the contrary, for the days of August 10, 2013, August 11, 2013, and August 12, 2013, an excise shall not be imposed upon nonbusiness sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. For the purposes of this act, tangible personal property shall not include telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

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SECTION 2. Notwithstanding any general or special law to the contrary, for the days of August 10, 2013, August 11, 2013, and August 12, 2013, a vendor shall not add to the sales price or collect from a nonbusiness purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. The commissioner of revenue shall not require a vendor to collect and pay excise upon sales at retail of tangible personal property purchased on August 10, 2013 and August 11, 2013. An excise erroneously or improperly collected during the days of August 10, 2013, August 11, 2013, and August 12, 2013, shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.

SECTION 3. Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days of August 10, 2013, August 11, 2013, and August 12, 2013.

SECTION 4. On or before December 31, 2013, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, pursuant to this act. The commissioner shall file a report with the joint committee on revenue and the house and senate committees on ways and means detailing by fund the amounts under general and special laws governing the distribution of revenues under chapter 64H of the General Laws which would have been deposited in each fund, without this act.

SECTION 5. The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary for the implementation of this act.”

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by striking out sections 1 through 6, inclusive, and inserting in place thereof the following section:

“SECTION 1. Chapter 64H of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting, after section 6, the following new section:—

Section 6A. The commissioner of revenue is hereby authorized and directed to annually designate, by July 15 of each calendar year, a two-day weekend in August during which no excise shall be imposed upon non-business sales at retail in the commonwealth of tangible personal property, as defined in section 1 of this chapter, but for the purposes of this section, tangible personal property shall not include telecommunications, gas, steam, electricity, motor vehicles, boats, meals, or any single item whose price is in excess of \$2,500.

For the days designated by the commissioner pursuant to the provisions of this section, a vendor in the commonwealth shall not add to the sales price or collect from any non-business purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of this chapter. The commissioner of revenue shall not require any vendor to collect and pay excise upon sales at retail of tangible per-

sonal property purchased on said designated days. Any excise erroneously or improperly collected during the designated days shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals, or any single item whose price is in excess of \$2,500.

When choosing the designated days, the commissioner shall take into consideration the observance of any religious and secular days of observation occurring therein; provided further, that the commissioner shall designate such days so as to maximize the economic benefit to the commonwealth.

Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days designated by the commissioner.

On or before December 31 of each year, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, because of this act. The commissioner shall issue a report, detailing by fund the amounts under general and special laws governing the distribution of revenues under this chapter which would have been deposited in each fund, without this act.

The commissioner of revenue shall issue instructions or forms, or promulgate rules or regulations, necessary for the implementation of this act.”.

The amendment was rejected.

Mr. Hill of Ipswich then moved to amend the bill by adding the following section:

“SECTION 8. Section 20 of chapter 46 of the acts of 2013 is hereby repealed.”.

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

“SECTION 8. Notwithstanding any general or special law to the contrary, any penalties associated with the improper administration of the sales tax holiday as a result of regulations from the Department of Revenue shall not be applied retroactively.”.

The amendment was rejected.

The bill (printed as Senate, No. 175, amended) then was ordered to a third reading.

Subsequently under suspension of the rules, on motion of Mr. Dempsey of Haverhill, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time, its title having been changed by said committee to read: “An Act establishing a certain sales tax holiday in 2013.”.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Speliotis of Danvers 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 to provide forthwith for a certain exemption from

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the sales tax, 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 (printed as Senate, No. 175, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Orders of the Day.

Third reading bill.

The Senate Bill authorizing the town of Templeton to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (Senate, No. 1795), 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.

Id.

The House Bill authorizing the town of Templeton to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 3465), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Recess.

Recess.

At fourteen minutes before twelve o'clock noon, on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House recessed subject to the call of the Chair; and at a quarter after one o'clock P.M. the House was called to order with Mr. Donato in the Chair.

Emergency Measures.

Sales tax holiday.

The engrossed Bill establishing a certain sales tax holiday in 2013 (see House bill printed as Senate, No. 175, 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 4 to 0. Sent to the Senate for concurrence.

Bill enacted.

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 sent to the Senate.

EBT program.

The engrossed Bill to study the prevention of fraud in the EBT program (see House, No. 3556, 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 5 to 0. Sent to the Senate for concurrence.

Bill re-enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly

prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill relative to sex offenders (see House, No. 3558, 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. Sex offenders.

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 4 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) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate. Bill re-enacted.

The engrossed Bill relative to a hospital merger market impact review (see House, No. 3559, 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. Hospital mergers.

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 4 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) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate. Bill re-enacted.

The engrossed Bill relative to judicial compensation (see House, No. 3564, 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. Judicial compensation.

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 4 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) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate. Bill re-enacted.

Engrossed Bill.

The engrossed Bill authorizing the town of Templeton to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (see Senate, No. 1795) (which originated in the Senate), Bill enacted.

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

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-six minutes after two o'clock P.M., on motion of Mr. Hill of Ipswich (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.