

Thursday, August 9, 2012.

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.

Message from the Governor — Bills Returned with Recommendation of Amendment.

A message from His Excellency the Governor returning with recommendation of amendment the engrossed Bill relative to payment for use of ambulance services [see House, No. 3917, amended] (for message, see House, No. 4381), was filed in the office of the Clerk on Tuesday, August 7. Ambulance services,— payment.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was thereupon “before the General Court and subject to amendment and re-enactment”.

Pending the question on adoption of the amendment recommended by His Excellency, the bill was referred, on motion of Mr. O’Day of Worcester, to the committee on Bills in the Third Reading.

A message from His Excellency the Governor returning with recommendation of amendment section 32 of the engrossed Bill making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects [see House, No. 4334, amended] (for message see House, No. 4386), was filed in the office of the Clerk on Tuesday, August 7. Supplemental appropriation bill.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the section was thereupon “before the General Court and subject to amendment and re-enactment”.

Pending the question on adoption of the amendment recommended by the Governor, the section (published as House, No. 4384), was referred, on motion of Mr. O’Day of West Boylston, to the committee on Bills in the Third Reading. Beaches,— water quality.

Message from the Governor — Supplemental Appropriation Bill Returned with Disapprovals and Reduction.

A message from His Excellency the Governor returning with his disapproval of certain items contained sections 2, 2A and 2C.I, reduction of item 0340-0400 contained in section 2C.I; and disapproval of sections 33, 36 and 40 of the engrossed Bill making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects [see House, No. 4334, amended] (for message, see House, No. 4385), was filed in the office of the Clerk on Tuesday, August 7. Supplemental appropriation bill.

The message was read; and it was referred, under Rule 30, to the committee on Ways and Means.

*Message from the Governor — Economic Growth Bill
Returned with Disapprovals.*

Economic
growth.

A message from His Excellency the Governor returning with his disapproval of sections 7, 26, 27, 28, 31, 32, 33, 34, 35A, 37, 38 through 46, 96 and 99 contained in the engrossed Bill relative to infrastructure investment, enhanced competitiveness, and economic growth in the Commonwealth [see House, No. 4352, amended] (for message, see House, No. 4387), was filed in the office of the Clerk on Tuesday, August 7.

The message was read; and it was referred, under Rule 30, to the committee on Ways and Means.

Guests of the House.

North
Attleborough
Honey
Badgers.

During the session, the Chair (Mr. Donato of Medford) declared a brief recess and introduced the North Attleborough Honey Badgers 7th Grade Girls Division 2 National Basketball Champions. Representing the team was Coach Matt Forbes, accompanied by players Ashley Ahern, Katie Nelson, Julie Strachan, Molly Lahiff, Nia Atkins, Caroline Collard, Sam Taggart, Emily Schromm and Emma Forbes. They were the guests of Representative Poirier of North Attleboro.

Bailee
Militello
and
family.

During the session, the Chair (Mr. Donato) declared a brief recess and turned the gavel over to Representative Ferrante of Gloucester. Ms. Ferrante then introduced Bailee Militello. Young Bailee opened a lemonade stand to support and assist the Cardone family of Gloucester after a devastating fire destroyed their home, raising over one thousand dollars for the victims. Bailee was accompanied by her mother, Briana Militello, her father, Jimmy Militello and her brother, Jimmy, Jr. They were the guests of Ms. Ferrante.

Resolutions.

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

Edward
Thomas
Hogan.

Resolutions (filed by Mr. Hill of Ipswich) congratulating Edward Thomas Hogan on receiving the Eagle Award of the Boy Scouts of America;

Walter
Woods.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Walter Woods for his years of service to the Massachusetts Water Resources Authority; and

Elizabeth
Freeman.

Resolutions (filed by Mr. Pignatelli of Lenox) on the occasion of the two hundred and thirty-first anniversary of the emancipation of Elizabeth Freeman;

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

Communications.

Communications

From the Department of Housing and Community Development (pursuant to item 7004-0101 contained in section 2 of Chapter 139 of the Acts of 2012) submitting proposed regulatory changes and subregulatory guidance for field operations not related to health and safety risks (copies of said communication forwarded to the committee on Ways and Means and the committee on Children, Families and Persons with Disabilities); and Housing and Community Development.

From the Department of Housing and Community Development (pursuant to item 7004-0101 contained in section 2 of Chapter 139 of the Acts of 2012) submitting proposed regulatory changes and subregulatory guidance for field operations related to health and safety risks (copies of said communication forwarded to the committee on Ways and Means and the committee on Children, Families and Persons with Disabilities); Id.

Severally were placed on file.

Petitions.

Petitions severally were presented and referred as follows:

By Representative Boldyga of Southwick and Senator Welch, a joint petition (accompanied by bill, House, No. 4388) of Nicholas A. Boldyga and James T. Welch (with the approval of the mayor and city council) relative to the charter of the city known as the town of Agawam; and Agawam,—charter.

By Mr. Galvin of Canton, a petition (accompanied by bill, House, No. 4389) of William C. Galvin and others (by vote of the town) for legislation to create the position of treasurer-collector in the town of Avon; Avon,—treasurer-collector.

Severally to the committee on Municipalities and Regional Government.

By Representative Gifford of Wareham and Senator Pacheco, a joint petition (accompanied by bill, House, No. 4390) of Susan Williams Gifford and Marc R. Pacheco (by vote of the town) for legislation to allocate the local option meal tax for the purchase of capital items. To the committee on Revenue. Wareham,—meals tax.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Representative Beaton of Shrewsbury and Senator Moore, a joint petition (subject to Joint Rule 12) of Matthew A. Beaton that the Secretary of Administration and Finance complete a study of the reduction and closing of the Irving A. Glavin Regional Center in Shrewsbury. Glavin Center,—closure.

By Ms. Coakley-Rivera of Springfield, a petition (subject to Joint Rule 12) of Cheryl A. Coakley-Rivera and others relative to death benefits for police officers and firefighters. Public safety officers,—death benefits.

By Mr. Jones of North Reading, a petition (subject to Joint Rule 12) of Bradley H. Jones, Jr., relative to the availability of epinephrine auto-injectors in schools. Schools,—epinephrine.

Property tax assessments.

By Mr. Walsh of Framingham, a petition (subject to Joint Rule 12) of Chris Walsh, Tom Sannicandro and Karen E. Spilka relative to property tax assessments.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

Prescription drugs.

The Senate Bill relative to the prescription drug diversion, abuse and addiction (Senate, No. 2125, amended), came from the Senate with the endorsement that said branch had concurred with the House in its amendment (striking out all after the enacting clause and inserting in place thereof the text contained in House, No. 4346, amended), with a further amendment 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 further regulate forthwith prescription drug diversion, abuse and addiction, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

Under suspension of Rule 35, on motion of Ms. Malia of Boston, the further amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Premature infant care.

The House Bill relative to premature infant hospital discharge and quality improvement (House, No. 3826), 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 2406.

Under suspension of Rule 35, on motion of Mrs. Haddad of Somerset, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Phosphorus runoff.

The House Bill relative to reducing phosphorus runoff (House, No. 4306), came from the Senate passed to be engrossed, in concurrence, with amendments striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2403, amended in section 7, in line 64, by inserting after the word “with” (the second time it appears) the words “and with the approval of”; and by striking out sections 8 and 9 and inserting in place thereof the following two sections:

“SECTION 8. Notwithstanding subsection (k) of section 2 of chapter 128 of the General Laws, any rule, regulation, ordinance or bylaw relative to nutrient management and fertilizer guidelines: (i) of a city or town in existence prior to July 1, 2013 shall remain enforceable by that city or town; (ii) adopted under chapter 561 of the acts of 1973, chapter 831 of the acts of 1977 and chapter 716 of the acts of 1989, shall remain enforceable, so long as such rule, regulation, ordinance or bylaw is not less restrictive than regulations adopted by department of agricultural resources; or (iii) adopted in accordance with a regional water resources management plan under chapter 312 of the acts of 2008, shall be enforceable, so long as such rule, regulation, ordinance or bylaw is not less restrictive than regulations adopted by the department of agricultural resources.

SECTION 9. Notwithstanding subsection (k) of section 2 of chapter 128 of the General Laws, any rule, regulation, ordinance or bylaw relative to nutrient management and fertilizer guidelines: (i) specific to sewerage sludge of a city or town in existence prior to July 1, 2013 shall remain enforceable by that city or town; (ii) adopted consistent with a comprehensive water resources management plan or integrated water resources management plan approved by the department of environmental protection shall be enforceable, so long as such rule, regulation, ordinance or bylaw is not less restrictive than regulations adopted by the department of agricultural resources; or (iii) a regional water resources management plan under chapter 312 of the acts of 2008 shall be enforceable, so long as such rule, regulation, ordinance or bylaw is not less restrictive than regulations adopted by the department of agricultural resources.”; and by striking out the title and inserting in place thereof the following title: “An Act relative to the regulation of plant nutrients.”.

Under suspension of Rule 35, on motion of Mr. Fernandes of Milford, the amendments were considered forthwith.

Messrs. Fernandes of Milford and Peterson of Grafton then moved that the House concur with the Senate in its amendments with a further amendment by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4394. The further amendment was adopted.

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

Bills

Clarifying the definition of commercial motor vehicles (Senate, No. 1772) (on a petition); Commercial vehicles.

Relative to defense against abusive waivers (Senate, No. 2407) (on Senate bill No. 972); and Abusive waivers.

Relative to voluntary towing reform (Senate, No. 2411) (on Senate bill No. 1682); Voluntary towing.

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 petition (accompanied by bill, Senate, No. 2413) of Gale D. Candaras (by vote of the town) for legislation to authorize the lease of certain property in the town of Ludlow, was referred, in concurrence, to the committee on Municipalities and Regional Government. Ludlow Community Center.

Reports of Committees.

By Mr. Scibak of South Hadley, for the committee on Public Service, on a petition, a Bill establishing a sick bank for Timothy J. O’Brien (House, No. 4378). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling. Timothy J. O’Brien,—sick leave bank.

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 Mr. Straus of Matapoisett, the bill was read a second time forthwith; and it was ordered to a third reading.

Municipal
collaboration.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the House Bill to promote municipal collaboration and regionalization throughout the Commonwealth (House, No. 3732), be scheduled for consideration by the House.

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

The amendment previous recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4370),— was considered.

Pending the question on adoption of the amendment, Mr. Madden moved to amend the proposed substitute bill by adding the following two sections:

“SECTION 14. Notwithstanding the provisions of paragraph (2) of subsection (b) of section 5 of chapter 44B, as amended by section 77 of chapter 139 of the acts of 2012, projects approved by a municipality utilizing community preservation funding for the acquisition of artificial turf for athletic fields before July 1, 2012 shall be authorized as a permitted use of community preservation funding.

SECTION 15. Section 14 shall take effect upon passage.”

The further amendment was adopted.

The amendment, as amended, then also was adopted; and the substituted bill (House, No. 4370, amended) was ordered to a third reading.

Labor and
Workforce
Development,—
study.

By Ms. Coakley-Rivera of Springfield, for the committee on Labor and Workforce Development, on House, Nos. 531, 533, 536, 539, 545, 547, 1395, 1399, 2301 and 2304, an Order relative to authorizing the committee on Labor and Workforce Development to make an investigation and study of certain House documents relative to labor and workforce development issues (House, No. 4391).

Mental Health
and Substance
Abuse,—
study.

By Ms. Malia of Boston, for the committee on Mental Health and Substance Abuse, on House, Nos. 552, 553, 1419, 2314 and 2877, an Order relative to authorizing the committee on Mental Health and Substance Abuse to make an investigation and study of certain House documents relative to mental health and substance abuse issues (House, No. 4392).

Tourism, Arts
and Cultural
Development,—
study.

By Ms. Peake of Provincetown, for the committee on Tourism, Arts and Cultural Development, on House, Nos. 892, 1781 and 3067, an Order relative to authorizing the committee on Tourism, Arts and Cultural Development to make an investigation and study of certain House documents concerning cultural funding (House, No. 4393).

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Mr. Binienda of Worcester, for said committees, reported, in each instance, asking to be discharged from further consideration of the orders; and recommending that the same severally be referred to the House committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Sheriffs,—
civil
process.

By Mr. O’Flaherty of Chelsea, for the committee on the Judiciary, on House, No. 2824, a Bill to reform sheriff civil process operations (House, No. 4382). Read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. O’Flaherty of Chelsea, for the committee on the Judiciary, on House, No. 3739, a Bill to include substituted cathinones, also known as “bath salts,” in class C substances (House, No. 4383). Class C substances,— bath salts.

By Ms. Spiliotis of Peabody, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to administrative reorganization of the city of Malden (House, No. 4311) [Local Approval Received]. Malden,— reorganization.

By the same member, for the same committee, on a petition, a Bill amending the administrative organization of financial officers in the city of Malden (House, No. 4312) [Local Approval Received]. Id.

By the same member, for the same committee, on a petition, a Bill relative to authorizing the board of selectmen of the town of Saugus to hire an auditing firm to conduct annual audits (House, No. 4315) [Local Approval Received]. Saugus,— audits.

By the same member, for the same committee, on a joint petition, a Bill for the Falmouth retirement system (House, No. 4317). Falmouth,— retirement.

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

Emergency Measure.

The engrossed Bill relative to the prescription drug diversion, abuse and addiction (see Senate, No. 2125, 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. Prescription drug abuse.

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 8 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 Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate. Bill enacted.

Engrossed Bill.

The engrossed Bill relative to license plates in the Commonwealth (see Senate, No. 2387, amended) (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. License plates.

Pending the question on passing the bill to be enacted, Mr. Straus of Mattapoisett moved that Rule 40 be suspended; and the motion prevailed. Rule 40 suspended.

The same member then moved to amend the bill (as amended by the House [see House document numbered 4369]) in section 2, in line 23, by inserting after the word “force” the words “shall work in consultation with officials from the United States Department of Justice, United States Immigration and Customs Enforcement, and United States Department of Homeland Security and”; in line 29, by inserting after the word “designee” the words “; the secretary of transportation or a designee” and in line 48, by inserting after the word “; accessibility.” the following sentence: “The study required by this section is to be peer reviewed by research institutions qualified in the subject area to verify research methodology and conclusions.”

The amendments were adopted; and the bill (Senate, No. 2387, amended) then was sent to the Senate for concurrence.

Reconsideration.

Recreation
vehicles.

Mr. Dempsey of Haverhill asked that the vote be reconsidered a second time by which the House ordered to a third reading the Senate Bill relative to the use of off-highway and recreation vehicles (Senate, No. 2381, amended), and the motion to reconsider was entertained forthwith; and it prevailed.

The same member then moved that the vote be reconsidered by which the House, on Monday last, adopted an amendment, recommended by the committee on Ways and Means, adding a section 4; and the motion to reconsider prevailed. The amendment then was rejected.

The bill (Senate, No. 2381) then was ordered to a third reading.

Orders of the Day.

Third
reading
bill.

The Senate Bill authorizing governmental bodies to enter into contracts for the inspection, maintenance, repair or modification of water storage facilities (Senate, No. 2126, 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.

Id.

The Senate Bill establishing the afterschool and out-of-school time coordinating council (Senate, No. 2111, 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.

Order.

On motion of Mr. DeLeo of Winthrop,—

Next
sitting.

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

At sixteen minutes after twelve o'clock noon, on motion of Mr. Frost of Auburn (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.