

JOURNAL OF THE HOUSE.

Thursday, August 10, 2006.

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

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

Eternal God, in Whom we place our trust and hope, we depend upon Your guidance in our efforts to serve You and constituents in a conscientious and responsible manner. Help us to keep all legislative and public policy items clear in our minds in our daily struggle to meet the needs and expectations of the people in this era of change and possible terrorist activities. Inspire us to remain faithful to our high ideals, personal political and religious, and to protect the integrity of our basic institutions.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance.

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.

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

Hazardous materials mitigation.

A message from His Excellency the Governor returning with recommendation of amendment the engrossed Bill relative to hazardous materials mitigation [see House, No. 1315, amended] (for message, see House, No. 5248) was filed in the office of the Clerk on Friday, July 28.

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. Golden of Lowell, to the committee on Bills in the Third Reading.

Messages from the Governor — Vetoes.

Easton, veterans benefits.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill authorizing reimbursement to the town of Easton for veterans' benefits [see House, No. 4917] (for message, see House, No. 5260) was filed in the Office of the Clerk on Wednesday, August 9.

The message was read; and, it was placed, under House Rule 12, in the Orders of the Day for the next sitting.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill relative to aiding public housing authorities [see House, No. 5243] (for message, see House, No. 5265) was filed in the Office of the Clerk on Wednesday, August 9.

Housing authorities.

The message was read; and, it was placed, under House Rule 12, in the Orders of the Day for the next sitting.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill relative to calculating employee retirement benefits [see House, No. 5245] (for message, see House, No. 5266) was filed in the Office of the Clerk on Wednesday, August 9.

Retirement benefits.

The message was read; and, it was placed, under House Rule 12, in the Orders of the Day for the next sitting.

Communication.

A communication from the Executive Office of Transportation and Construction (under the provisions of item 6000-0100 of Section 2 of Chapter 26 of the Acts of 2003) submitting copies of several quarterly and special reports, including STIP funding, Chapter 90 PWED fund, and certain payroll reports, was placed on file.

Transportation and Construction Office, reports.

Annual and Special Reports.

Annual reports

Of the Blackstone River and Canal Commission (under Chapter 568 of the acts of 1981) for the calendar year 2005; and

Blackstone Valley.

Of the Division of Standards (under section 57 of chapter 98 of the General Laws) for the year 2005;

Division of Standards.

A semi-annual report of the Insurance Fraud Bureau (under the provisions of Section 99 (k) of Chapter 398 of the Acts of 1991) on the disposition of matters referred to said bureau;

Insurance Fraud Bureau.

A monthly report of the Division of Unemployment Assistance (under the provisions of Chapter 142 of the Acts of 2003) relative to the condition of the Commonwealth's Unemployment Insurance Trust Fund for the month of June, 2006; and

Unemployment insurance trust fund.

A report of the special commission established (under the provisions of Chapter 1 of the Resolves of 2006) to make an investigation and study of the siting and use of liquefied natural gas;

Liquefied natural gas.

Severally were placed on file.

Petitions.

Mr. Murphy of Burlington presented a petition (accompanied by bill, House, No. 5140) of Charles A. Murphy and Robert A. Havern (by vote of the town) for legislation to place on the ballot in the town of Burlington a certain question relative to prohibiting elected officials from holding more than one elective office of said town; and the same was referred to the committee on Election Laws. Sent to the Senate for concurrence.

Burlington, elected officials.

Petitions severally were presented and referred as follows:

Leicester,
development.

By Mr. Binienda of Worcester, petition (subject to Joint Rule 12) of John J. Binienda and Edward M. Augustus, Jr., that the Division of Capital Asset Management and Maintenance be authorized to release non-development covenant restrictions on certain land in the town of Leicester.

Foxborough,
Feeling
Roxy, Inc.

By Mrs. Coppola of Foxborough, petition (subject to Joint Rule 12) of Virginia M. Coppola and others that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land located in the town of Foxborough.

Plum Island,
sewer and
water.

By Mr. Costello of Newburyport, petition (subject to Joint Rule 12) of Michael A. Costello relative to the rates of interest to be charged upon apportioned betterment assessments by the town of Newbury and the city of Newburyport for the extension of water and sewer services to Plum Island.

Devens
Regional
Enterprise
Zone.

By Mr. Hargraves of Groton, petition (subject to Joint Rule 12) of Robert S. Hargraves and others for legislation to place a certain non-binding question on the ballot in the current year in the towns of Ayer, Harvard and Shirley relative to the operation and administration of the Devens Regional Enterprise Zone.

Worcester,
land
conveyance.

By Mr. Leary of Worcester, petition (subject to Joint Rule 12) of James B. Leary that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land located in the city of Worcester to said city to be used for medical and technological purposes.

Education,
transitory
enrollment.

By Mr. Sciortino of Medford, petition (subject to Joint Rule 12) of Carl M. Sciortino, Jr., that the Department of Education be directed to include transitory student enrollment in the calculation of financial assistance for school districts in the Commonwealth.

Water and
sewer,
employees.

By Mr. Walsh of Boston (by request), petition (subject to Joint Rule 12) of Charles Livingston for legislation to exempt members of Local Lodge 100 from certain residency requirements of municipal water and sewer commissions.

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

Order.

The following order (filed by Mr. Wagner of Chicopee) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

Transportation
committee,
extension
of time for
reporting.

Ordered. That, notwithstanding the provisions of Joint Rule 10, the committee on Transportation be granted until Friday, September 29, 2006, within which time to make its final report on House numbers 2023 and 5181.

Mr. Scaccia of Boston, for the committees on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of Mr. Wagner, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

Papers from the Senate.

Senior
housing.

The House Bill relative to senior housing (House, No. 3189) came from the Senate passed to be engrossed, in concurrence, with an amendment adding the following section:

“SECTION 3. This act shall apply only to dwelling units constructed after the effective date of this act.”

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

The same member then moved that the House concur with the Senate in its amendment with a further amendment by striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. Section 4 of chapter 151B, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 192 to 193 inclusive, the words ‘, on 1 parcel or on contiguous parcels of land, totaling at least 5 acres in size’ and inserting in place thereof the following words:— provided that the housing owner or manager register biennially with the department of housing and community development.

SECTION 2. Section 4 of chapter 151B, as appearing in the 2004 Official Edition, is hereby amended by striking out, in lines 259 to 261 inclusive, the words ‘, on 1 parcel or on contiguous parcels of land, totaling at least 5 acres in size’ and inserting in place thereof the following words:— provided that the housing owner or manager register biennially with the department of housing and community development.

SECTION 3. This act shall apply only to dwelling units constructed after January 1, 2007.”

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.

The House Bill increasing the statute of limitations for sexual crimes against children (House, No. 5234) came from the Senate passed to be engrossed, in concurrence, with amendments in section 6 (as changed by the House committee on Bills in the Third Reading), in paragraph (e), inserting after the first sentence the following two sentences: “The commonwealth shall establish and maintain comparable convalescent or nursing homes, infirmaries, charitable homes for the aged, and intermediate care facilities for the mentally retarded, and rest homes for level 3 sex offenders to be placed in or transferred to for care. Residence in one of these facilities established for level 3 offenders, shall not be a violation of this section.”; striking out section 7 (as changed by the House committee on Bills in the Third Reading) and inserting in place thereof the following two sections:

Crimes
against
children.

“SECTION 7. Chapter 127 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by adding the following section:—

Section 133D½. Any person under court ordered parole supervision or under community parole supervision for life for any offense listed within the definition of ‘sex offense’, a ‘sex offense involving a child’ or a ‘sexually violent offense’ shall, as a requirement of such parole, wear a global positioning system device, or any comparable device, administered by the board at all times for the length of

Crimes
against
children.

his parole for any such offense. The board shall, in addition to any other condition, establish defined geographic exclusion zones including, but not limited to, the areas in and around the victim's residence, place of employment and school and other areas defined to minimize the probationer's contact with children, if applicable. If the parolee enters an excluded zone, as defined by the terms of his parole, the parolee's location data shall be immediately transmitted to the police department in the municipality wherein the violation occurred and the board, by telephone, electronic beeper, paging device or other appropriate means. If the board or the parolee's parole officer believes that the parolee has violated his terms of parole by entering an excluded zone as prescribed in this section, the board or parole office shall cause the parolee to be taken into temporary custody in accordance with section 149A of chapter 127. The fees incurred by installing, maintaining and operating the global position system device, or comparable device, shall be paid by the parolee. If a parolee establishes his inability to pay such fees, the board may waive them.

SECTION 7A. Chapter 265 of the General Laws is hereby amended by adding the following section:—

Section 47. Any person who is placed on probation for any offense listed within the definition of 'sex offense', a 'sex offense involving a child' or a 'sexually violent offense', as defined in section 178C of chapter 6, shall, as a requirement of any term of probation, wear a global positioning system device, or any comparable device, administered by the commissioner of probation, at all times for the length of his probation for any such offense. The commissioner of probation, in addition to any other conditions, shall establish defined geographic exclusion zones including, but not limited to, the areas in and around the victim's residence, place of employment and school and other areas defined to minimize the probationer's contact with children, if applicable. If the probationer enters an excluded zone, as defined by the terms of his probation, the probationer's location data shall be immediately transmitted to the police department in the municipality wherein the violation occurred and the commissioner of probation, by telephone, electronic beeper, paging device or other appropriate means. If the commissioner or the probationer's probation officer has probable cause to believe that the probationer has violated this term of his probation, the commissioner or the probationer's probation officer shall arrest the probationer pursuant to section 3 of chapter 279. Otherwise, the commissioner shall cause a notice of surrender to be issued to such probationer.

The fees incurred by installing, maintaining and operating the global position system device, or comparable device, shall be paid by the probationer. If an offender establishes his inability to pay such fees, the court may waive them.”; in section 8 (as changed by the House committee on Bills in the Third Reading) by striking out “An indictment or complaint for an offense set forth in section 13B, 13F, 22A, 23 or 24B of chapter 265” and inserting in place thereof the following: “An indictment or complaint for an offense set forth in section 13B, 13F, 13L, 22A, 23 or 24B of chapter 265”; and inserting after section 9 (as changed by the House committee on Bills in the Third Reading) the following section:

“SECTION 9A. The second paragraph of said section 63 of said chapter 277, as so appearing, is hereby further amended by adding the following sentence:— The period of limitation for a prosecution for any such offense shall not commence during any period: (1) during which the victim refrains from disclosing the offense to law enforcement authorities as a result of threats of physical harm directed at the victim or at another member of the victim's immediate family; (2) during which the victim refrains from disclosing the abuse to law enforcement authorities as a result of a physical or psychological condition caused by the abuse, which would cause an objectively reasonable person to fail to recognize the causal connection between the abuse and the injury it caused; and (3) during which the defendant caused a material witness or material evidence to be out of the commonwealth or otherwise unavailable to law enforcement authorities shall not commence.”.

Under suspension of Rule 35, on motion of Mr. Jones of North Reading, the amendments were considered forthwith.

The committee on Bills in the Third Reading reported recommending that the House non-concur with the Senate in its amendments; and the report was accepted.

The House then non-concurred with the Senate in its amendments; and the bill was returned to that branch endorsed accordingly.

Reports of Committees.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the Senate Bill exempting from inspection certain electrical substation air tanks (Senate, No. 2696) be scheduled for consideration by the House.

Air tanks,
inspections.

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

A report of the committee on Public Service, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, House, No. 5038) of John W. Scibak and others for legislation to establish a sick leave bank for Kathreen Tessier, an employee of the Department of Revenue, was considered forthwith, under suspension of the rules, on motion of Mr. Scibak of South Hadley.

Kathreen
Tessier,
sick leave.

Pending the question on acceptance of the report, the same member moved that it be amended by substitution of the Bill establishing a sick leave bank for Kathreen Tessier, an employee of the Department of Revenue (House, No. 5038), which was read.

The amendment was adopted, and, under further suspension of rules, on motion of Mr. Scibak, the bill was read a second time; and it was ordered to a third reading.

By Mrs. Walrath of Stow, for the committee on Health Care Financing, that the following bills ought to pass:

Senate bills
Protecting disabled persons from financial exploitation (Senate, No. 394, amended) [Estimated cost: \$1,000,000.00]; and

Disabled,
exploitation.

Restaurants,
allergies.

Promoting food allergy awareness in restaurants (Senate, No. 2643) [Estimated cost: \$214,900.00]; and

Women,
sentencing.

The House Bill providing alternative sentencing programs for women (House, No. 1731) [Estimated cost: \$500,000.00].

Student
safety.

By Mr. Scaccia of Boston, for the committee on Rules, that the Bill relative to student safety (House, No. 5040) ought to pass.

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

Motor fuel,
unfair sale.

Mr. Scaccia of Boston, for the committee on Rules, on House No. 5007, reported, in part, a Bill further regulating the unfair retail sale of motor fuel at prices below cost (House, No. 3680). Read; and referred, under Rule 33, to the committee on Ways and Means.

Engrossed Bills.

Bill
enacted.

The engrossed Bill relative to retirement benefits for Stuart Freedman (see House, No. 4518) (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.

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The engrossed Bill validating the actions taken by the town of Norton (see House bill printed in House, No. 5120) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted (more than two-thirds of the members having agreed to pass the same); and it was signed by the acting Speaker and sent to the Senate.

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The engrossed Bill authorizing the town of Shrewsbury to exchange certain land (see House, No. 4739) (which originated in the House), 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.

Next
sitting.

On motion of Mr. DiMasi of Boston,—
Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

At twenty-four minutes before twelve o'clock noon, on motion of Mr. Honan of Boston (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.