

JOURNAL OF THE HOUSE.

Thursday, September 23, 2010.

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:

God, our Creator, we turn our thoughts and attention to You as we begin this morning's legislative session. Our intention for the day is to serve You and our constituents faithfully and honorably. In these difficult and uneasy times inspire us to build confidence and trust in our constitutions, in traditional virtues and acceptable human and spiritual values. May we enjoy Your peace in our restlessness, strength in our weakness, courage in our uncertainty and light in our darkness. Teach us to approach issues in an objective and truthful manner so that our decisions will be fair, honest and serve the common good. May we deal with present issues and plan for the future of the people and the Commonwealth in a cooperative, cordial and helpful manner.

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

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.

Appointments to Special Commission.

The Speaker announced appointments to special commissions, as follows:

That Representative Dykema of Holliston had been appointed to the special commission on Water Infrastructure Finance established (under Section 145 of Chapter 27 of the Acts of 2009) to develop a comprehensive, long-range water infrastructure finance plan for the Commonwealth and municipalities;

That Dr. Patricia Maguire Meservey, President of Salem State University, had been appointed to the special commission on Higher Education In-State Tuition Retention established (under Section 162 of Chapter 131 of the Acts of 2010) to make a comprehensive study of in-state tuition retention for all institutions of higher education in the Commonwealth;

That Representative Kulik of Worthington had been appointed to the special commission on Personnel and Capital Project Transfers established (under Section 168 of Chapter 131 of the Acts of 2010) for the purpose of making an investigation and study relative to the feasibility of transferring personnel that are currently funded from the capital budget to the operating budget and transferring capital projects funded from the operating budget to the capital budget; and

That Representative L'Italien of Andover had been appointed to the special commission on Autistic Spectrum Disorder established (under Chapter 2 of the Resolves of 2010) to make an investigation and study

Autistic spectrum disorders.

to the range of services and supports necessary for individuals to achieve their full potential across their lifespan, including, but not limited to, investigating issues related to public education, job attainment and employment, including supported employment, provision of adult human services, post-secondary education, independent living, community participation, housing, social and recreational opportunities, behavioral services based on best practices to ensure emotional well-being, mental health services and issues related to access for families of children with autism spectrum disorder and adults who are from linguistically and culturally diverse communities.

Resolutions.

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

Mukden survivors.

Resolutions (filed by Messrs. Patrick of Falmouth, Perry of Sandwich and Madden of Nantucket) honoring the Mukden survivors' heroic service in World War II and their contributions to the Commonwealth;

Nathan Matzka.

Resolutions (filed by Representatives Peisch of Wellesley and Balsler of Newton) honoring Nathan Matzka on receiving the Eagle Award of the Boy Scouts of America;

Scott Murphy.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Scott Murphy on receiving the Eagle Award of the Boy Scouts of America;

Anne and Fred Schaller.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Frederick F. Schaller Jr. and Anne K. Schaller for their contributions to the Natick Historical Society;

Aaron Sewall.

Resolutions (filed by Ms. Peisch of Wellesley) honoring Aaron Sewall on receiving the Eagle Award of the Boy Scouts of America;

Wellesley Country Club.

Resolutions (filed by Ms. Peisch of Wellesley) celebrating one hundredth anniversary of the Wellesley Country Club; and

Chelsea Public Library.

Resolutions (filed by Representatives Reinstein of Revere and O'Flaherty of Chelsea) congratulating the Chelsea Public Library on the occasion of its one hundredth birthday.

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

Petition.

Nanette Bradley,—sick leave bank.

Representative DiNatale of Fitchburg presented a petition (subject to Joint Rule 12) of Stephen L. DiNatale for legislation to establish a sick leave bank for Nanette Bradley, an employee of the Department of Children and Families; and the same was referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

Richard J. Dwinell bike path.

The engrossed Bill designating a certain bike path in the town of Millbury as the Honorable Richard Dwinell Memorial Blackstone Valley Bike Path (see House, No. 3218, amended), came from the Senate with the following amendments:

Striking out all after the enacting clause and inserting in place thereof the following:

"The access area servicing the portion of the Blackstone Valley bike path in the town of Millbury located at North Main Street shall be designated and known as the Honorable Richard J. Dwinell Blackstone Valley memorial access area in recognition of former state representative Richard J. Dwinell's public service to the Commonwealth and the town of Millbury. The Massachusetts Department of Transportation shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department."; and by striking out the title and inserting in place thereof the following title: "An Act designating a certain bike path access area in the town of Millbury as the Honorable Richard J. Dwinell Blackstone Valley Memorial Access Area."

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

The House Bill authorizing the town of Clinton to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4734) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 1, in line 4, striking out the following "d/b/a Via Alto 27".

Clinton,—liquor license.

Under suspension of Rule 35, on motion of Mr. Naughton of Clinton, 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.

A Bill to eliminate racial and ethnic health disparities in the Commonwealth (Senate, No. 2593) (on Senate bill No. 810), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Health disparities.

A petition (accompanied by bill, Senate, No. 2625) of Stephen M. Brewer and Todd M. Smola (by vote of the town) for legislation to establish a special fund in the town of Brimfield, was referred, in concurrence, to the committee on Municipalities and Regional Government.

Brimfield,—fund.

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 Robert A. DeLeo for legislation designating a certain walkway in Winthrop as the John Kilmartin Walkway.

John Kilmartin Walkway.

Under suspension of the rules, on motion of Mr. Murphy of Burlington, 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.

Labor and workforce development issues, study.

By Ms. Coakley-Rivera of Springfield, for the committee on Labor and Workforce Development, on House, Nos. 19, 21, 606, 643, 1791, 1792, 1793, 1798, 1803, 1806, 1808, 1809, 1810, 1814, 1818, 1832, 1833, 1841, 1842, 1845, 1847, 1850, 1856, 1857, 1859, 1860, 1867, 1869, 1874, 1878, 1879, 3464, 3579, 3580, 3581, 3905 and 4210, an Order relative to authorizing the committee on Labor and Workforce Development to make an investigation and study of certain House documents concerning unemployment, workforce training, seasonal workers and other related labor issues (House, No. 5027). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

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

Emergency Measures.

Controlled substances.

The engrossed Bill relative to Class A controlled substances (see Senate, No. 2222, 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 9 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 Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Holly Ann Beaumier and John S. Bain, sick leave banks.

The engrossed Bill establishing a sick leave bank for Holly Ann Beaumier, an employee of the Office of Medicaid and establishing a sick leave bank for John S. Bain, an employee of the University of Massachusetts at Lowell (see Senate, No. 2618), 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 7 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 Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bills.

Bill enacted.

The engrossed Bill authorizing the town of Milton to provide certain accidental disability retirement and medical benefits to Antonio Pickens (see Senate, No. 2044) (which originated in the Senate), 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.

Orders of the Day.

The engrossed Bill relative to time-share ownership (see House, No. 4803) which had been returned to the House by His Excellency the Governor with recommendation of amendments (for message, see House, No. 4960), was considered.

Time share ownership.

The committee on Bills in the Third Reading reported recommending that the amendments recommended by the Governor be considered in the following form:

By striking out section 5 and inserting in place thereof the following: "SECTION 5. Said chapter 183B is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:

Section 29. (a) A person who has a duty to make assessments for time-share expenses shall have a lien on a time-share for any assessment levied against that time-share or fines imposed against its owner from the time the assessment or fine becomes due. In the case of either a time-share estate or a time-share license, the lien shall be enforced pursuant to section 29B. Unless the time-share instrument otherwise provides, fees, charges, late charges, fines, interest, collection agency fees and reasonable attorney's fees charged pursuant to clauses (8) and (9) of subsection (a) of section 20 shall be enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment shall be a lien from the time the first installment thereof becomes due.

(b) A lien created under this section shall be prior to all other liens and encumbrances on a time-share except: (i) liens and encumbrances recorded before the recording of the time-share instrument; (ii) mortgages or security interests on the time-share recorded before the due date of the assessment or the due date of the first installment payable on the assessment; (iii) liens for real estate taxes and other governmental assessments or charges against the time-share; and (iv) liens for unpaid taxes of the owner collectible pursuant to chapter 62C, and liens for unpaid child support obligations of the owner collectible pursuant to chapter 119A, provided that liens for such taxes or child support obligations were recorded before the due date of the assessment or the due date of the first installment payable on the assessment. This subsection shall not affect the priority of mechanics' or materialmen's liens. Liens on a time share unit, arising under this section or otherwise, shall not be subject to chapter 188.

(c) The lien created under this section shall be automatic as a matter of law, but a claim or notice of lien may be recorded in the applicable registry of deeds for a time-share estate or as required in the controlling time-share instruments for a time-share. A lien shall be dissolved upon the issuance and recording of a statement by the association pursuant to subsection (e) showing no assessment to be due and owing.

(d) This section shall not prohibit actions to recover sums for which subsection (a) creates a lien or precludes an association from recourse by any contractual or other remedy permitted by law.

(e) The lien created under this section shall include costs, including collection agency fees, reasonable attorneys' fees and all forfeiture costs incurred by the association. A person who has a duty to make assessments for time-share expenses shall furnish to a time-share

Time share
ownership.

owner, purchaser, mortgagee or a closing attorney or settlement agent, upon written request, a statement recordable in form setting forth the amount of unpaid assessments currently levied against the owner's time-share and may charge a reasonable fee for the preparation of such statement. The statement shall be furnished within 10 business days after the receipt of the request. Any time-share owner, purchaser, mortgagee, or a closing attorney or settlement agent, who is a recipient of the statement shall be entitled to rely on the contents thereof, and whoever furnished the statement may collect from such recipient only those sums of money that are set forth therein from the recipient; provided, however, that the recipient pays any amounts stated as due and owing and any amounts which subsequently may become due and owing within 60 days of the date of the statement, including collection charges, late fees, interest and additional assessments as stated therein.

(f) No time-share owner shall be exempt from liability for contribution toward the time-share liability expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of the time-share or otherwise; and no time-share owner shall be entitled to an offset, deduction or waiver of time-share liability expenses or other charges levied or lawfully assessed by the association."; and the report was accepted.

The amendment then was adopted. Sent to the Senate for its action.

Third
reading
bills.

Senate bills

Authorizing property tax exemption for certain small sheds and out-buildings in the town of Carver (Senate, No. 2255); and

Designating a certain bridge in the town of Mansfield as the Sergeant Douglas Weddleton Memorial Bridge (Senate, No. 2528);

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

Order.

Next
sitting.

On motion of Mr. DeLeo of Winthrop,—

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

At twenty-six minutes before twelve o'clock noon, on motion of Mr. Peterson of Grafton (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.