Tuesday, November, 1, 2011.

Met according to adjournment, at eleven o'clock A.M., with Ms. Reinstein of Revere in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Pledge of allegiance.

At the request of the Chair (Ms. Reinstein), the members, guests and employees joined with her in reciting the pledge of allegiance to the flag.

Statement Concerning Representative Spiliotis of Peabody.

A statement of Mrs. Haddad of Somerset concerning Ms. Spiliotis of Peabody was spread upon the records of the House, as follows:

Statement concerning Ms. Spiliotis of Peabody.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Spiliotis of Peabody, is unable to be present in the House Chamber for today's sitting due to illness. Her missing of roll calls today is due entirely to the reason stated.

Resolutions.

Felix D. Arroyo.

Resolutions (filed with the Clerk by Mr. Sánchez of Boston) honoring Felix D. Arroyo, were referred, under Rule 85, to the committee on Rules.

Mr. Binienda of Worcester, for said committee, reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Mariano of Quincy, 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 Executive Office for Administration and Finance, submitting special reports as follows:

Low and moderate income housing.

So much as relates to the financing and production of housing for low and moderate income residents (see Section 9 of Chapter 119 of the Acts of 2008) [Copies of said report forwarded to the House committees on Ways and Means and Bonding, Capital Expenditures and State Assets and the joint committee on Housing];

Higher education capital improvements.

So much as relates to providing for the public higher education capital improvement needs of the Commonwealth (see Section 13 of Chapter 258 of the Acts of 2008) [Copies of said report forwarded to the House committees on Ways and Means and Bonding, Capital Expenditures and State Assets and the joint committee on Higher Education];

Capital facility repairs.

So much as relates to providing for capital facility repairs and improvements for the Commonwealth (see Section 25 of Chapter 304 of the Acts of 2008) [Copies of said report forwarded to the House committees on Ways and Means and Bonding, Capital Expenditures and State Assets]; and

Land, parks and clean energy.

So much as relates to providing for the preservation and improvement of land, parks, and clean energy in the Commonwealth (see Section 34 of Chapter 312 of the Acts of 2008) [Copies of said report forwarded to the House committees on Ways and Means and Bonding, Capital Expenditures and State Assets and the joint committee on Environment, Natural Resources and Agriculture];

Merrimack Valley Transit Authority.

From the Merrimack Valley Regional Transit Authority (see section 8(g) of Chapter 161B of the General Laws) submitting its annual report for the fiscal year 2011; and

Nantucket Transit Authority.

From the Nantucket Regional Transit Authority (see section 8(g) of Chapter 161B of the General Laws) submitting its annual report for the fiscal year 2011;

Severally were placed on file.

Petitions.

Boston,—Art Commission.

Mr. Rushing of Boston presented a petition (accompanied by bill, House, No. 3784) of Byron Rushing and others (with the approval of the mayor and city council) relative to the nominating process for candidates to the Boston Art Commission; and the same was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

Public office,—oaths.

By Mr. Bastien of Gardner, a petition (subject to Joint Rule 12) of Richard Bastien for a legislative amendment to the Constitution relative to the oaths and affirmations of public office.

Senate,—terms.

By the same member, a petition (subject to Joint Rule 12) of Richard Bastien for a legislative amendment to the Constitution relative to Senators' terms of office.

Lobster,—regulating.

By Mr. Cantwell of Marshfield, a petition (subject to Joint Rule 12) of James M. Cantwell for legislation to further regulate the possession and sale of lobster parts in the Commonwealth.

Everett,—Ralph Cecere.

By Mr. Wong of Saugus, a petition (subject to Joint Rule 12) of Donald H. Wong relative to the retirement allowance payable to Ralph Cecere, a former teacher in the city of Everett.

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

Papers from the Senate.

Alcoholic beverage,—licensing.

A Bill further regulating certain licenses for the sale of alcoholic beverages (Senate, No. 2033, amended by striking out sections 4, 9 and 10; 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 forthwith to further regulate certain licenses for the sale of alcoholic beverages, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.") (on Senate bill No. 1851), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Petitions were referred, in concurrence, as follows:

Bellingham,—alcoholic beverages.

Petition (accompanied by bill Senate, No. 2049) of Richard T. Moore and Kevin J. Kuros (by vote of the town) for legislation authorizing the town of Bellingham to grant an additional license for the sale of wines and malt beverages not to be drunk on the premises. To the committee on Consumer Protection and Professional Licensure.

Dudley,—validate elections.

Petition (accompanied by bill Senate, No. 2048) of Richard T. Moore and Kevin J. Kuros (by vote of the town) for legislation validating certain elections in the town of Dudley; and

Wilbraham,—validate actions.

Petition (accompanied by bill Senate, No. 2051) of Gale D. Candaras (by vote of the town) for legislation to validate the actions taken at the town meeting in the town of Wilbraham;

Severally to the committee on Election Laws.

Historical Commission,—projects.

A petition (accompanied by bill) of Michael J. Rodrigues, David B. Sullivan, Steven Howitt, Marc R. Pacheco and other members of the General Court for legislation relative to certain projects referred to the Massachusetts Historical Commission for consultation, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Tourism, Arts and Cultural Development.

The House then concurred with the Senate in the suspension of said rule; and, on motion of Mr. Mariano of Quincy, the petition (accompanied by bill, Senate, No. 2053) was referred, in non-concurrence, to the committee on State Administration and Regulatory Oversight. Sent to the Senate for concurrence in the reference.

Reports of Committees.

Amherst,—land conveyance.

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 Ellen Story and Stanley C. Rosenberg for legislation to authorize the Department of Transportation to acquire certain parcels of land in the town of Amherst. Under suspension of the rules, on motion of Mr. Sannicandro of Ashland, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the State Administration and Regulatory Oversight. Sent to the Senate for concurrence.

"Evergreen" collective bargaining.

By Mr. Scibak of South Hadley, for the committee on Public Service, on Senate, No. 1404 and House, No. 1654, a Bill to clarify terms of collective bargaining agreements (House, No. 3786). Read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

Senate bills

Leominster,—bridge.

Designating a certain bridge in the city of Leominster as the Jonathan Roberge Memorial Bridge (Senate, No. 1741); and

Newbury,—capital fund.

Authorizing the town of Newbury to use certain fund balances for capital expenditures (Senate, No. 1934) [Local Approval Received]; and

House bills

Natick,—police chief.

Regarding the duration of contract with the chief of police in the town of Natick (House, No. 3333) [Local Approval Received];

Weston,—salaries.

Relative to the regulation of salaries of employees of the town of Weston serving in the armed forces of the United States (House, No. 3463) [Local Approval Received]; and

Banking.

Updating certain banking laws (House, No. 3775);

Severally placed in the Orders of the Day for the next sitting for a second reading.

Recess.

Recess.

At seven minutes after eleven o'clock A.M., on motion of Mr. Hill of Ipswich (Ms. Reinstein of Revere being in the Chair), the House recessed until a quarter after twelve o'clock noon; and at twenty-eight minutes after twelve o'clock, the House was called to order with the Mr. Donato of Medford in the Chair.

Emergency Measure.

Luis Rodriguez,—sick leave bank.

The engrossed Bill establishing a sick leave bank for Luis Rodriguez, an employee of the Department of Children and Families (see House, No. 3731), 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 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.

Engrossed Bills.

Engrossed bills

Bills enacted.

Exempting Dimitri P. Karpouzis from the maximum age requirement for police officers in the town of Ashland (see Senate, No. 1891) (which originated in the Senate); and

Authorizing the city of Easthampton to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 3639) (which 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.

Report of a Committee.

Pension reform,—procedures.

Mr. Binienda of Worcester, for the committee on Rules, reported (under the provisions of House Rules 7B and 7C), an Order relative to special procedures for consideration of the recommended House text [see House, No. 3778] of the Senate Bill providing for additional pension reform and benefits modernization [see Senate, No. 2018] (House, No. 3785). The order then was considered forthwith; and it was adopted.

Orders of the Day.

Second reading bills.

Senate bills

Relative to a parcel of land in Taunton (Senate, No. 1050, amended);

Exempting the position of police chief in the town Marblehead from the civil service law (Senate, No. 1929); and

Validating the actions taken at the annual town election in the town of Hampden (Senate, No. 2026); and

House bills

Relative to spear fishing (House, No. 247);

Relating to controlled substances and medical treatment (House, No. 2256);

Relative to manslaughter (House, No. 2849);

Authorizing the town of Natick to allow a lease of up to ninety-nine years for the former East School (House, No. 3332);

Relative to town meeting warrants in the town of Templeton (House, No. 3460);

Providing for a selectman-town manager form of government in the town of Foxborough (House, No. 3649); and

Authorizing the town of Hull to extend the lease of a certain building in the town (House, No. 3650);

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

Second reading bill amended.

The Senate Bill authorizing Holyoke Community College to borrow funds for the acquisition and renovation of certain real property in the city of Holyoke (Senate, No. 1901), was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 3777,— was adopted.;

The bill, as amended, then was ordered to a third reading.

Id.

The Senate Bill relating to the improvement of Route 2, Crosby's Corner Interchange, in the towns of Lincoln and Concord (Senate, No. 2022), was read a second time.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 3779,— was adopted.

The bill, as amended, then was ordered to a third reading.

Id.

The House Bill to establish the Massachusetts Uniform Trust Code (House, No. 3756), was read a second time.

The amendments previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 3780),— was adopted.

The bill, as amended, then was ordered to a third reading.

Engrossed Bills — Land Takings.

Milton,— Ulin Skating Rink.

The engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to lease the Max Ulin Skating Rink in the town of Milton (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 put upon its final passage.

Bill enacted (land taking),— yea and nay No. 125.

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 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 125 in Supplement.]

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

Needham,— easement.

The engrossed Bill authorizing the town of Needham to convey a parcel of land and grant an easement to support natural gas transmission (see House, No. 3667) (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.

Bill enacted (land taking),— yea and nay No. 126.

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 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 126 in Supplement.]

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

Orders of the Day.

House of Representatives,— redistricting.

The House Bill relative to establishing Representative districts in the General Court (printed in House, No. 3770, appendix A), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

After debate on the question on passing the bill to be engrossed, Mr. Durant of Spencer moved to amend it in section 1, in line 384, by striking out the words "East Brookfield"; and in line 387, by inserting after the word "Dudley," the words "the town of East Brookfield,". The amendments were rejected.

Mr. Peterson of Grafton then moved to amend the bill in section 1, in line 172, by striking out the following: "precincts 1 and 3 of the town of Westborough" and inserting in place thereof the following: "precincts 1 and 2 in the town of Southborough"; and, in line 181, by striking out the following: "the town of Southborough, and precinct 2, of the town of Westborough" and inserting in place thereof the following: "precinct 3 in the town of Southborough, and precincts 1 and 3 in the town of Westborough". The amendments were rejected.

Mr. Ayers of Quincy and other members of the House then moved to amend the bill in section 1, in line 354, by striking out the following: "of precinct 3 of ward 3, of the city of Quincy,"; and, in line 256, by striking out the following: "5 of ward 3" and inserting in place thereof the following: "precinct 3 of ward 3". The amendments were rejected.

House of Representatives,— redistricting.

Mr. Hill of Ipswich then moved to amend the bill in section 1, in line 75, by striking out the following: "precincts 2 and 3 of the town of Boxford" and inserting in place thereof the words "the town of Rowley"; in line 80, by striking out the word "Rowley" and inserting in place thereof the following: "precincts 1 and 3 in the town of Boxford"; and, in line 112, by striking out the following: "precinct 1 of the town of Boxford" and inserting in place thereof the following: "precinct 2 of the town of Boxford". The amendments were rejected.

Messrs. Brownsberger of Belmont and Garballey of Arlington then moved to amend the bill in section 1, in line 218, by striking out the figure ", 2", and in said line by inserting after the figures "13" the figures ", 14"; and, in line 221, by striking out the following: "4, 8, 10, 12 and 14" and inserting in place thereof the following: "2, 4, 8, 10 and 12". The amendments were adopted.

Mr. Levy of Marlborough then moved to amend the bill in section 1, in line 168, by striking out the word ", Maynard"; in line 168 by striking out the word "all" and inserting in place the word "both"; in line 169, by striking the words "town of Bolton," and inserting in place the words "towns of Berlin, Bolton and Lancaster, all"; in lines 170 and 171, by striking out the following: "precinct 1 of ward 2, ward 3, ward 4, ward 5, ward 6 and precinct 2 of ward 7 of"; in lines 171 and 172, by striking out the following: "precincts 1 and 3 of the town of Northborough, and precincts 1 and 3 of the town of Westborough, both" and inserting in place thereof the following: "precinct 1 of the town of Southborough,"; in line 181, by inserting after the word "Middlesex;" the following "precincts 2 and 3, of"; in line 181, by striking out the following: "precinct 2," and inserting in place the following "precincts 2 and 3,"; in line 194, by striking out the word "city" and inserting in place the word "town"; in lines 194 and 195, by striking out the following: "ward 1, precinct 2 of ward 2, and precinct 1 of ward 7 in the city of Marlborough," and inserting in place thereof the words "the town of Maynard,"; in line 399, by striking out the word "Berlin,"; in lines 399 and 400 by striking out the following: "Lancaster, precincts 2 and 4 of the town of Northborough, and" and inserting in place thereof the word "Northborough,"; and, in line 400, by inserting after the word "Sterling," the following: "and precinct 1, of the town of Westborough,". After debate the amendments were rejected.

Mr. Levy then moved to amend the bill in section 1, in line 171, by striking out the following: "precincts 1 and" and inserting in place the words "the town of Berlin, and precinct", in line 172, by striking out the word "both" and inserting in place the word "all", in line 399, by striking out the word "Berlin", and also, in line 399, by inserting after the word "precincts" the figure "1, ". The amendments were rejected.

Ms. Dykema of Holliston then moved to amend the bill in section 1, in line 170, by striking out the following: ", ward 6, and precinct 2 of ward 7" and inserting in place the following: "and ward 6"; in line 172, by striking out the following: "1 and 3" and inserting in place the following: "2, 3 and 5"; in line 176, by striking out the figure "4" in inserting in place the figure "3"; and, in line 180, by striking out the words "the towns of Holliston and Hopkinton, both" and inserting in place the following: "precinct 4 in the city of Framingham, and the towns of Holliston and Hopkinton, all". The amendments were rejected.

Quorum.

Pending the question on passing the bill, as amended, to be engrossed, Mrs. Haddad of Somerset asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,— yea and nay No. 127.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 155 members were recorded as being in attendance.

[See Yea and Nay No. 127 in Supplement.]

Therefore a quorum was present.

Bill passed to be engrossed,— yea and nay No. 128.

After remarks on the question on passing the bill, as amended, to be engrossed (Mr. the Speaker being in the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Moran of Boston; and on the roll call (Mr. Donato of Medford being in the Chair) 151 members voted in the affirmative and 3 in the negative.

[See Yea and Nay No. 128 in Supplement.]

[Mr. Winslow of Norfolk answered "Present" in response to his name.]

Therefore the bill (printed in House, No. 3770, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Supplemental appropriations.

The House Bill making appropriations for the fiscal year 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3781), was read a second time; and it was ordered to a third reading.

Subsequently, the noon recess having terminated, 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.

After debate on the question on passing the bill to be engrossed, Mr. Lombardo of Billerica moved to amend it by adding the following two sections:

"SECTION 10. Section 2 of chapter 64H of the Massachusetts General Laws, as appearing in the 2010 official edition, is hereby amended by striking out the figure '6.25', in line 3, and inserting in place thereof the following figure:— 5.75.

SECTION 11. Section 10 of this act shall be effective for the taxable year beginning on January 1, 2012.".

Quorum.

Pending the question on adoption of the amendment, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,— yea and nay No. 129.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 154 members were recorded as being in attendance.

[See Yea and Nay No. 129 in Supplement.]

Therefore a quorum was present.

Mr. Dempsey of Haverhill then moved that the amendment offered by Mr. Laombardo be amended by striking out the text of said amendment and inserting in place the following section:

Supplemental appropriations.

"SECTION 10. There shall be a study conducted by the department of revenue on the fiscal implications to the commonwealth of decreasing the sales tax rate from 6.25 per cent to 5.75 per cent. The commissioner of the department of revenue shall file a report on such fiscal implications of decreasing said rate with a recommendation as to its feasibility with the House and Senate committees on Ways and Means on or before April 1, 2012.".

Further amendment adopted,— No. 130.

On the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Lombardo of Billerica; and on the roll call 122 members voted in the affirmative and 34 in the negative.

[See Yea and Nay No. 130 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Lombardo of Billerica then moved to amend the bill by adding the following section:

"SECTION 11. Section 3 of Chapter 68 of the acts of 2011, is hereby amended by striking out the figure '$833,980,293' and inserting in place thereof the following figure:— $1,177,980,293.".

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill moved to amend it by striking out the proposed new section and inserting in place the following section:

"SECTION 11. There shall be a study conducted by the executive office of administration and finance on the feasibility of increasing the funding distributed to cities and towns through the General Appropriations Act. If the secretary for administration and finance finds that increasing such funding is feasible, the secretary shall file a report with recommendations for any necessary cuts to other items in the General Appropriations Act in order to balance the budget with the House and Senate committees on Ways and Means on or before April 1, 2012.".

Further amendment adopted,— yea and nay No. 131.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Lombardo of Billerica; and on the roll call 121 members voted in the affirmative and 34 in the negative.

[See Yea and Nay No. 131 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 2, in line 11, by [A] striking out item 0411-1000 and inserting in place the following item:

"0610-2000 ..... $700,000".

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill and other members of the House moved to amend it by striking out [at "A"] the following: "striking out item 0411-1000 and inserting in place" and inserting in place the following: "inserting after item 0411-1000".

Further amendment adopted,— yea and nay No. 132.

On the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 155 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 132 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Ms. Orall of Lakeville then moved to amend the bill by adding the following section:

"SECTION 12. Chapter 68 of the Acts of 2011 is hereby amended in section 2, by inserting in item 0521-0000, after the word 'education' the following:— ; provided further, $57,844 shall be made available for reimbursements to municipalities for costs associated with the special primary and the special election to fill the house of representatives. seat for the twelfth Bristol district; provided further, that the state secretary shall only reimburse the municipalities for costs that have previously been certified by the division of local mandates within the office of the state auditor; and provided further, that any unexpended funds in this item shall be made available in fiscal year 2012"; and by striking out the figures "$4,900,000" and inserting in place thereof the figures: "$4,957,887.". The amendments were adopted.

Mr. Dempsey of Haverhill then moved to amend the bill in section 5, in line 159, by inserting after the word "item", the following: "; provided however, that notwithstanding the aforementioned provision, in the event of a projected deficiency the department shall continue to meet it obligation to provide 60 days advance notice of any changes to eligibility, benefits, policy or administration of the program"; and in section 6, in line 188, by inserting after the word "item" the words ", including those who have been approved for such assistance". The amendments were adopted.

Mr. Winslow of Norfolk then moved to amend the bill in section 7, in line 327, by inserting after the word "programs" the words ", including a written recommendation of whether future appropriations should be expended to purchase homes in foreclosure or which are offered for sale below the balance of mortgages due with the consent of mortgagees".

Amendment rejected,— yea and nay No. 133.

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 the same member; and on the roll call 38 members voted in the affirmative and 116 in the negative.

[See Yea and Nay No. 133 in Supplement.]

Therefore the amendment was rejected.

Mr. Webster of Pembroke and other members of the House then moved to amend the bill by adding the following section:

"SECTION 13. The General Laws, as appearing in the 2008 Official Edition, are hereby amended by inserting after chapter 117A the following new chapter:—

CHAPTER 117B.
Restrictions on Public Benefits.

Section 1. Definitions. As used in this chapter the following terms shall have the following meanings unless the context clearly requires otherwise:— 'Emergency Medical Condition,' the same meaning as provided in section 1396b (v) (3) of Title 42 of the United States Code. 'Federal Public Benefits,' the same meaning as provided in section 1611 of Title 8 of the United States Code. 'State Public Benefits,' the same

Supplemental appropriations.

meaning as provided in section 1621 of Title 8 of the United States Code.

Section 2. (a) Except as otherwise provided in subsection (3) of this section or where exempted by federal law, on and after July 1, 2012, each agency or political subdivision of the commonwealth shall verify the lawful presence in the United States of every natural person eighteen years of age or older who applies for state public benefits or for federal public benefits which are for the benefit of the applicant. (b) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin. (c) Verification of lawful presences in the United States shall not be required: For any purpose for which lawful presence in the United States is not required by law, ordinance, or rule; For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure; For short-term, non-cash, in-kind emergency disaster relief; For public health assistance for immunization with respect to diseases and for testing and treatment of symptoms of communicable diseases; For programs, services, or assistance, such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by Federal laws or regulations that: Deliver in-kind services at the community level, including services through public or private nonprofit agencies; Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and Are necessary for the protection of life or safety or; For parental care. (d) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen years of age or older for federal public benefits or state public benefits by requiring the applicant to: (1) Produce: A valid Massachusetts driver license or a Massachusetts identification card, issued pursuant to section 8 of chapter 90 of the General Laws, and 540 Code of Massachusetts Regulation (CMR) 2.06 (3) (b); A United States military card or military dependent's identification card; or A United States Coast Guard Merchant Mariner card; or A Native American tribal document. (2) If such documentation as required in subparagraph (1) of subsection (d) of this section cannot be lawfully produced, execute a notarized affidavit stating: That he or she is a United States citizen or legal permanent resident; or That he or she is otherwise lawfully present in the United States pursuant to federal law. (e) Notwithstanding the requirements of subparagraph (1) of subsection (d) of this section, the Commissioner of the Department of Revenue may issue emergency rule, to be effective until December 31, 2012, providing for additional forms of identification or a waiver process to ensure that an individual seeking benefits pursuant to this section proves lawful presence in the United States. This subsection and all emergency rules authorized hereunder shall cease to be effective as of December 31, 2012. (f) A person who knowingly makes a false, fictitious, or fraudulent statement or representation in an affidavit executed pursuant to subsection (4) of this section shall pay a fine of not less than $1,000 and not more than $5,000, or shall be sentenced to serve not less than 6 months nor more than 1 year in the House of Corrections. Each time that a person receives a public benefit based upon such a statement or representation they make shall constitute a separate violation of this section. (g) (1) For an applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States, verification of lawful presence for federal public benefits or state or local public benefits shall be made through the Federal Systematic Alien Verification for Entitlement program, referred to in this section as the "SAVE program", operated by the United States Department of Homeland Security. Until such verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence for purposes of this section. (2) The secretary of each executive office of the commonwealth shall promulgate regulations to ensure that each agency or political subdivision has access to the SAVE program by way of the executive office under which it is organized. Each executive office shall be responsible for the verification through the SAVE program of all its sub agencies. Each executive office shall enter into a memorandum of understanding or any other requirement pursuant to the SAFE program in order to streamline the verification process. Each executive office shall keep account of all applications submitted through its subdivisions and transfer back to its subdivisions any costs on an annual basis. (h) Agencies or political subdivisions of the commonwealth may adopt variations of the requirements of paragraph (b) of subsection (4) of this section to improve efficiency or reduce delay in the verification process or to provide for adjudication of unique individuals circumstances in which the verification procedures in the section would impose unusual hardship on a legal resident of the commonwealth; provided, that the variations shall be no less stringent than the requirements of this section, including provisions to timely execute notarized affidavits. (i) It shall be unlawful for an agency or political subdivision of the commonwealth to provide a federal public benefit or state or local public benefit in violation of this section. Each agency or department that administers a program that provides state of local public benefits shall provide an annual report with respect to its compliance with this section to the auditor and to the House and Senate chairs of the joint committee on state administration and regulatory oversight. (j) Errors and significant delays by the SAVE program shall be reported to the United States Department of Homeland Security which monitors the SAVE program and its verification application errors and significant delays and report yearly on such errors and delays, to ensure that the application of the SAVE program is not wrongfully denying benefits to legal residents of the State.

Section 3. If any provision of this act or the application thereof to any person or circumstance is held by any court to be unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of the section are declared to be severable.".

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill moved to amend it by striking out the proposed new section and inserting in place the following section:

"SECTION 13. Notwithstanding any general or special law to the contrary, the house and senate committees on post audit and oversight shall investigate whether the commonwealth should authorize a study

Supplemental appropriations.

of the services provided by the commonwealth to residents and non-residents of the commonwealth and the monetary distinction between such residents. In considering the feasibility of such a study, the committees shall consider any potential civil rights violations that could occur if such a study was conducted; the cost to the commonwealth in commencing such a study and preparing any subsequent reports; and the necessity of conducting such a study given the compliance with existing citizenship verification measures for the receipt of public assistance benefits. The committees may consult with the secretaries of health and human services, administration and finance, education, labor and workforce development, public safety and security, and housing and economic development as to the feasibility of such a study. The committees shall inform the membership of the General Court of the investigation by filing a report with the clerks of the house and senate no later than June 30, 2012.".

Further amendment adopted,— yea and nay No. 134.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Lombardo of Billerica; and on the roll call 110 members voted in the affirmative and 45 in the negative.

[See Yea and Nay No. 134 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment.

Bill passed to be engrossed,— yea and nay No. 135.

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 Hill of Ipswich; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 135 in Supplement.]

Therefore the bill (House, No. 3788, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Paper from the Senate.

Council and Senate,— redistricting.

A Bill establishing Executive Councillor and Senatorial districts (Senate, No. 2045, amended in section 1, in lines 66 to 80, inclusive, by striking out the following:

"Hampden — Consisting of the cities of Chicopee, ward 2, precinct A, ward 4, precincts A and B, ward 5, precinct B, and Springfield, ward 1, ward 2, ward 3, ward 4, ward 5, precincts A to C, inclusive, E and H, ward 6, precincts A and C, and E to G, inclusive, ward 8, precincts A to F, inclusive, and H, and the town of West Springfield in the county of Hampden.

First Hampden and Hampshire — Consisting of the cities of Chicopee, ward 1, precincts A and B, ward 5, precinct A, ward 6, precincts A and B, ward 7, precinct A, ward 8, precinct B, and ward 9, precincts A and B, and Springfield, ward 5, precincts D, F and G, ward 6, precincts B, D and H, ward 7, and ward 8, precinct G, and the towns of East Longmeadow, Hampden, Longmeadow, Ludlow and Wilbraham in the county of Hampden; and the towns of Belchertown and Granby in the county of Hampshire.

Second Hampden and Hampshire — Consisting of the cities of Chicopee, ward 2, precinct B, ward 3, precincts A and B, ward 7, precinct B, ward 8, precinct A, Holyoke, and Westfield and the towns of Agawam, Granville, Montgomery, Russell, Southwick, and Tolland, in the county of Hampden; and the towns of Easthampton and Southampton in the county of Hampshire." and inserting in place thereof the following:

"Hampden — Consisting of the cities of Chicopee, ward 2, precincts A and B, ward 3, precincts A and B, ward 4, precincts A and B, and Springfield, ward 1, ward 2 precincts A to F, inclusive, and H, ward 3, ward 4, precincts A to E, inclusive, G and H, ward 5, precincts A to C, inclusive, and E, ward 6, precincts A and C, and E to G, inclusive, ward 8, precincts B to H, inclusive, and the town of West Springfield in the county of Hampden.

First Hampden and Hampshire — Consisting of the cities of Chicopee, ward 1, precincts A and B, ward 5, precincts A and B, ward 6, precincts A and B, ward 8, precinct B and ward 9, precinct B and Springfield, ward 2, precinct G, ward 4, precinct F, ward 5, precincts D, F, G and H, ward 6, precincts B, D and H, ward 7 and ward 8, precinct A and the towns of East Longmeadow, Hampden, Longmeadow, Ludlow and Wilbraham in the county of Hampden; and the towns of Belchertown and Granby in the county of Hampshire.

Second Hampden and Hampshire — Consisting of the cities of Chicopee, ward 7, precincts A and B, ward 8, precinct A, ward 9, precinct A, Holyoke and Westfield and the towns of Agawam, Granville, Montgomery, Russell, Southwick and Tolland, in the county of Hampden; and the towns of Easthampton and Southampton in the county of Hampshire."; in line 98, by striking out the words "Stoneham and Wakefield" and inserting in place thereof the following: "Stoneham, Wakefield and Winchester, precincts 1 to 3, inclusive, and 8,"; in line 107, by striking out the figure "1" and inserting in place the figure "5", in line 113, by striking out the following: "wards 1 and" and inserting in place thereof the following: "precincts 1, 1A, 2 and 2A", in line 124, by striking out the following: "wards 3 to 6, inclusive," and inserting in place thereof the following: "precincts 3, 3A, 4, 4A, 5, 5A, 6 and 6A", in line 147, by striking out the following: "10, inclusive, and 11" and inserting in place thereof the following: "11, inclusive"; and in section 3, in line 185, by inserting after the word "ballot" the following: "for the 2012 presidential primary") (on a special report), passed to be engrossed by the Senate, was read; and it was 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 Mr. Moran of Boston, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently under suspension of the rules, on motion of Pedone of Worcester, the bill (having been 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.

Emergency Measure.

House of Representatives,— redistricting.

The engrossed Bill relative to establishing Representative districts in the General Court (see House bill printed in House, No. 3770, amended) having been certified by the Clerk to be rightly and truly

House of Representatives,— redistricting.

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 89 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.

Recess.

Recess.

At fourteen minutes after six o'clock P.M., on motion of Mr. Wong of Saugus (Mr. Donato of Medford being in the Chair), the House recessed until a half past six o'clock P.M., and at that time, the House was called to order with the Mr. Donato in the Chair.

Orders of the Day.

Pensions,— modernization.

The Senate Bill providing for additional pension reform and benefits modernization (Senate, No. 2018) was read a second time.

The amendments previously recommended by the committee on Ways and Means,— that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 3778; and by striking out the title and inserting in a new title,— were rejected.

Mr. Dempsey of Haverhill then moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 3787; and by striking out the title and inserting in place the following title: "An Act providing for pension reform and benefit modernization".

The amendments were adopted; and the bill (Senate, No. 2018, amended) was ordered to a third reading.

Emergency Measure.

Council and Senate,— redistricting.

The engrossed Bill establishing executive councilor and senatorial districts (see Senate, No. 2045, 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 2 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.

Order.

On motion of Mr. DeLeo of Winthrop,—

Next sitting.

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at one o'clock P.M.

Mr. Wong of Saugus then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at fourteen minutes before seven o'clock P.M. (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at one o'clock P.M.