

Thursday, November 3, 2011.

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).

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.

Silent Prayer.

James E. Milano Jr.

At the request of the Chair (Mr. Donato of Medford), will the members, guests and employees please stand in a moment of silent tribute to the memory of James E. Milano, Jr., former Mayor of the city of Melrose, who passed away on Wednesday, November 2, 2011. Mayor Milano served as mayor for twenty years and served as an alderman for seven years.

He is survived by his nieces Patricia Anderson and her husband Arthur of Melrose, Carol Riccardi of Melrose, nephews Joseph A. Milano III and his wife Alice of Naples, Florida, Arthur Milano and his wife Sara of Pittsfield and Marilyn Zwiercan and her husband Charles of Medford. Also survived by numerous grand nieces and nephews, great grand nieces and nephews and great great grand nieces.

Resolutions.

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

Medfield,—
Korean War.

Resolutions (filed by Ms. Garlick of Needham) on the occasion of the dedication of the Korean War plaque; and

Thomas
Leary.

Resolutions (filed by Ms. Garlick of Needham) on the occasion of the retirement of Police Chief Thomas Leary;

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

Reports of Committees.

Power outages,—
rebates.

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 Daniel B. Winslow and others for legislation to provide power outage rebates to consumers. Under suspension of the rules, on motion of Mr. Kafka of Stoughton, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Telecommunications, Utilities and Energy. Sent to the Senate for concurrence.

Recess.

At five minutes after eleven o'clock A.M., on motion of Mr. deMacedo of Plymouth (Mr. Donato of Medford being in the Chair), the House recessed until a quarter before twelve o'clock noon; and at ten minutes before twelve o'clock the House was called to order with the Mr. Donato in the Chair.

Papers from the Senate.

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. 3788), came from the Senate passed to be engrossed, in concurrence, with amendments in section 2, in item 0610-2000, striking out the figures "\$700,000" and inserting in place thereof the figures "\$222,807"; by inserting after item 0610-2000 the following item under the following caption:

"TREASURER AND RECEIVER GENERAL.

Office of the Treasurer and Receiver General.

0612-0105 \$200,000";

By inserting after item 1410-0010 the following item:

"1410-0012 \$477,193";

By striking out section 3 and inserting in place thereof the following two sections:

"SECTION 3. Chapter 132 of the acts of 2009 is hereby amended by striking out section 11 and inserting the following section:

Section 11. Notwithstanding any general or special law to the contrary, a resident of the commonwealth who is sent overseas as a member of the United States Armed Forces and is eligible to receive benefits under clauses (1) and (2) of section 16 of chapter 130 of the acts of 2005 may receive such benefits; provided, however, that an eligible resident shall receive the full bonus allowed by said clause (1) of said section 16 of said chapter 130 upon return after his first deployment to the Afghanistan or Iraq area as those areas are described by proper federal authority, and shall receive the full bonus allowed under clause (2) of said section 16 of said chapter 130 after his first deployment within the continental limits of the United States or outside the continental limits of the United States other than in the Afghanistan or Iraq areas. He shall thereafter receive 50 per cent of the bonus defined in either clause (1) or (2) of said section 16 of said chapter 130 after each subsequent return from deployment to the areas defined under each section, provided that appropriated funding is available and the state treasurer certifies that the relevant account has sufficient funds to maintain such an initiative.

SECTION 3A. Item 1102-3307 of section 2 of chapter 68 of the acts of 2011 is hereby amended by adding the following words:—; and provided further, that no funds shall be transferred from this item.";

In section 6, in line 164, inserting after the word "assistance" the words "but have not yet entered into an agreement for tenancy";

Supplemental
appropriations.

Inserting after section 8 the following section:

“SECTION 8A. (a) Notwithstanding section 28 of chapter 53 of the General Laws, or any other general or special law to the contrary, the state primary for the calendar year 2012 shall be held on Thursday, September 6.

(b) For the purposes of determining the day and time for performing any act prescribed by any general or special law applicable to the state primary for calendar year 2012, such state primary shall be deemed to be held on the day provided in subsection (a).”;

Striking out sections 10 and 11;

In section 12, in lines 330 and 331, striking out the following: “and provided further, that any unexpended funds in this item shall be made available in fiscal year 2012.”; and

Striking out section 13; and adding the following three sections:

“SECTION 12A. Notwithstanding any general or special law to the contrary, the commonwealth shall provide \$10,000,000 from the Commonwealth Stabilization Fund for the federal Low Income Home Energy Assistance Program described in line item 7004-2033, for the purposes of assisting low-income elders, working families and other households with the purchase of heating oil, propane, and natural gas and electricity and other primary or secondary heating sources; provided however, that no such funds shall be expended unless federal funds for this purpose are unavailable as of November 7, 2011; provided further, that expenditure of these supplemental funds shall be made in accordance with the state plan submitted by the department of housing and community development in accordance with the federal program; provided further, that the department shall establish the maximum assistance for which a household is eligible commensurate with the increased funding provided in this item; provided further, that upon receipt of federal funding, the department of housing and community development shall refund all such funds to the Commonwealth Stabilization Fund.

SECTION 12B. The executive office of housing and economic development shall analyze and project the costs and expenditures associated with the low income heat and energy assistance (LIHEAP) program in the commonwealth for fiscal year 2012, and shall submit a report to the General Court to include, but not be limited to, the following: the disbursement of available state and federal funds for heat and energy assistance prior to the implementation of this act; the projected funding needs for the program for the remainder of the fiscal year; and the determination of whether current appropriations and anticipated federal funds are currently sufficient to meet the resident demand for assistance from this program.

Said executive office shall submit a report to the executive office for administration and finance, house and senate committees on ways and means, and the clerks of the house and the senate not later than December 15, 2011.

SECTION 12C. The executive office for administration and finance shall, in consultation with other state agencies, study and development recommendations, legislative or otherwise, to ensure that all reasonable, cost-effective measures are in place to verify the eligibility of

those receiving any benefits funded by the state, ensuring that those who are not lawfully entitled to benefits do not receive them. Said recommendations shall be filed with the house and senate committees on ways and means and the clerks of the house and senate by January 5, 2012.”.

Under suspension of the rules, on motion of Mr. Dempsey of Haverhill, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith.

The same member then moved that the House concur with the Senate in its amendment with further amendments in section 2, in item 0610-2000, by striking out the figures “\$222,807” (inserted by amendment by the Senate) and inserting in place thereof the figures “\$700,000” (stricken out by amendment by the Senate); and by striking out item 1410-0012 (inserted by amendment by the Senate); and by striking sections 12A, 12B and 12C (inserted by amendment by the Senate). The further amendments were adopted.

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

Subsequently the bill then came from the Senate with the endorsement that said branch had concurred with the House in its further amendments in section 2 and striking out section 12A; and non-concurred with the House with its further amendment striking out sections 12B and 12C.

On motion of Mr. Dempsey the House insisted on its further amendments (striking out sections 12B and 12C); and the bill was returned to the Senate endorsed accordingly.

The House Bill relative to vendor contracts (House, No. 3726), came from the Senate passed to be engrossed, in concurrence, with an amendment in section 2, in line 13, inserting after the word “vendor’s” the word “direct”.

Vendor
contracts.

Under suspension of Rule 35, on motion of Mr. Pedone of Worcester, 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.

Emergency Measure.

The engrossed Bill establishing a sick leave bank for Jay Brinkerhoff, an employee of the Supreme Judicial Court (see House, No. 3752), 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.

Jay
Brinkerhoff,—
sick leave
bank.

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 6 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill
enacted.

Engrossed Bill.

Bill enacted.

The engrossed Bill establishing a sick leave bank for Elaine Strout-Clements, an employee of the Trial Court (see House, No. 3704, amended) (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.

Orders of the Day.

Senate bills.

Third reading bills.

Relative to compensated absences in cities and towns (House, No. 3666); and

Further defining a scenic byway in the towns of Arlington, Lexington, Lincoln and Concord (House, No. 3712) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Electronic benefits transfers,—study.

The engrossed Bill establishing a special commission to study electronic benefit transfers (see House, No. 3778) [being a published copy of Section 97 contained in the engrossed Bill making appropriations for the fiscal years 2011 and 2012 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 3737, amended), which had been returned to the House by His Excellency the Governor with recommendation of amendment (for message, see House, No. 3774)], was considered.

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

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

“Notwithstanding any general or special law to the contrary, there shall be a special commission to study and report on the use of electronic benefit transfer, or EBT, cards. The commission shall consist of the commissioner of transitional assistance, or a designee; the inspector general, or a designee; 2 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 2 members of the senate, 1 of whom shall be appointed by the minority leader; a representative of the Retailers Association of Massachusetts; and a representative of the interests of benefit recipients appointed by the governor. The scope of the commission shall include, but not be limited to, researching and evaluating the following: the use of EBT cards for the purchase of products other than those products for which they are intended to be used, such as firearms, tobacco, lottery tickets and alcohol; the frequency and location of out-of-state card use; the in-state stores where cards are used; the proportion of one month’s EBT cash assistance that is withdrawn from ATM machines rather than used in stores to directly purchase products; and the costs associated with requiring the department to include, on the front of each newly issued, re-issued and existing EBT cards, a photograph of the cardholder. The commission shall research, assess and develop recommendations regard-

ing the best method of preventing the inappropriate use of EBT cards, including implementing a monthly limit to the amount of EBT cash assistance that a recipient of cash assistance can withdraw from ATMs and the feasibility of prohibiting the purchase of certain items by restricting the ability of EBT cards to be used in purchasing those items. The commission shall also study and research the implementation of requiring stores to apply to accept EBT cards. The commission shall submit a final report of its findings and recommendations, together with drafts of legislation necessary to implement those recommendations, by filing the same with the clerks of the senate and house not later than April 1, 2012.”; and the report was accepted.
The amendment then was adopted. Sent to the Senate for its action.

Recess.

At thirteen minutes after twelve o’clock noon, on motion of Mr. deMacedo of Plymouth (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o’clock P.M.; and at eight minutes after one o’clock P.M., the House was called to order with the Mr. Donato in the Chair.

Engrossed Bills.

Engrossed bills
Relative to district councilors elected at the 2011 election in the town of Amesbury (see House, No. 3620); and

Authorizing the town of Amesbury to place a certain question relative to the fluoridation of the public water supply on the town’s election ballot (see House, No. 3622);

(Which severally 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.

At twenty four minutes after one o’clock P.M., on motion of Mr. deMacedo of Plymouth (Mr. Donato of Medford being in the Chair), the House recessed subject to the call of the chair; and at twenty-one minutes after two o’clock P.M., the House was called to order with the Mr. Donato in the Chair.

The engrossed Bill relative to vendor contracts (see House, No. 3726, amended) (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.

Recess.

At three minutes before three o’clock P.M., on motion of Mr. deMacedo of Plymouth (Mr. Donato of Medford being in the Chair), the House recessed subject to the call of the chair; and at six minutes after three o’clock P.M., the House was called to order with the Mr. Donato in the Chair.

*Paper from the Senate.*Pension
reform.

The Senate Bill providing for additional pension reform and benefits modernization (see Senate, No. 2018), came from the Senate with the endorsement that said branch had non-concurred with the House in its amendments (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 3790).

Committee of
conference.

The bill bore the further endorsement that the Senate had appointed a committee of conference on the disagreeing votes of the two branches; and that Senators Clark, Brewer and Knapik had been appointed to the committee on the part of the Senate.

Id.

On motions of Mr. Scibak of South Hadley, the House insisted on its amendments; and concurred with the Senate in the appointment of a committee of conference. Representatives Scibak, Dempsey of Haverhill and Fattman of Sutton were appointed the committee on the part of the House. Sent to the Senate to be noted.

*Emergency Measure.*Supplemental
appropriations.

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. 3788, 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 3 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.

*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-four minutes before four o'clock P.M., on motion of Mr. deMacedo of Plymouth (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.