

## JOURNAL OF THE HOUSE.

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Thursday, December 4, 2008.

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:

Gracious God, the Ultimate Source of Goodness and Truth, at the beginning of today's legislative session we pause for a moment of personal reflection and prayer. We believe that Your guidance and assistance enables us to comprehend more clearly the issues of the day and to make reasoned and thoughtful legislative decisions. In these uneasy worldwide political and economic times, inspire us to select the most responsible and reasonable options which are open to us. Grant us the wisdom, courage and self-confidence to listen carefully to the concerns of the electorate and to address the current needs of people and our communities. May we remain faithful, with Your help, to You, Your ways, Your Commandments and our own religious beliefs and commitments. Teach us to recognize and respect the accomplishments of our predecessors as we together plan for both today and for the future of our Commonwealth.

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.

### *Guests of the House.*

During the session, the Chair (Mr. Donato of Medford) declared a brief recess, and introduced former Representative and long-time member of the joint committee staff, Gary Jones of Brookline, accompanied by several students from his Harvard University class on state legislatures. They were the guests of the Chair.

### *Resolutions.*

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

Resolutions (filed by Mr. Koutoujian of Waltham) commending the Federal Advisory Committee on Immunization Practices on its designation of the week of December 8, 2008, as Influenza Awareness Week; and

Resolutions (filed by Mr. Pignatelli of Lenox) honoring Tom Cinella on the occasion of the dedication of "Coach C Court";

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Fagan of Taunton, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

*Order.*

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

Bonding,  
Capital  
Expenditures and  
State Assets  
committee,  
extension  
of time for  
reporting.

*Ordered.* That, notwithstanding the provisions of Joint Rule 10, the committee on Bonding, Capital Expenditures and State Assets be granted until Monday, December 15, 2008, within which time to make its final report of certain current House documents 4903, 5014 and 5031.

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. Flynn, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

*Papers from the Senate.*

Nantucket,  
sewer  
systems.

The engrossed Bill authorizing the establishment of the Nantucket Sewer Commission and Sewer Districts in the town of Nantucket (see House, No. 4213), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see House, No. 5135), came from the Senate with the endorsement that said branch had non-concurred with the House in the adoption of said amendment. The bill bore the further endorsement that it had been amended by the Senate in section 11, in line 4, inserting after the word "restrooms" the following: "or other public service uses as defined by the municipality; provided, however, that such uses may include, but shall not be limited to, affordable housing constructed pursuant to chapters 40B and 40R of the General Laws."

On motion of Mr. Turkington of Falmouth, the House then receded from its amendment. Under suspension of Rule 35, on further motion of the same member, the amendment adopted by the Senate (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Middlefield,  
recall.

A Bill relative to recall in the town of Middlefield (Senate, No. 2871, amended in section 2, in line 14, by inserting after the word "office." the following sentence: "On the date the affidavit is filed, the clerk shall determine and inform the first named voter on the affidavit the number of signatures needed to achieve the 25 per cent of registered voters."; in lines 15 to 18, inclusive, by striking out the sentence contained therein and inserting in place the following two sentences: "The recall petition shall be returned and filed with the clerk by 12:00 p.m. on the Saturday that follows a 30-day period from the date the affidavit is filed. The recall petition shall have been signed by at least 25 per cent of the registered voters of the town."; and, in lines 19, 20 and 21, by striking out the sentence contained therein.) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

William L.

A petition of Bruce E. Tarr and Harriett L. Stanley (by vote of the town) for legislation to designate a certain bridge in the town of Newbury as the William L. Plante Memorial Bridge, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Transportation.

Plante  
Memorial  
Bridge.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2893) was referred, in concurrence, to the committee on Transportation.

*Reports of Committees.*

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the Senate Bill relative to credit union mortgages (Senate, No. 2854) be scheduled for consideration by the House.

Credit union,  
mortgages.

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

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the Senate Bill establishing a sick leave bank for Sharon Brady (Senate, No. 2891) be scheduled for consideration by the House.

Sharon  
Brady,  
sick leave.

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

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill authorizing the city of Salem an additional liquor license to Arcari Restaurant Group (House, No. 5089) be scheduled for consideration by the House.

Salem,  
liquor  
license.

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

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill relative to the retirement allowance of Louis Cataldo a retired employee of the Barnstable County Sheriff's Office and retired chief of police of the town of Dennis (House, No. 5094) be scheduled for consideration by the House.

Louis  
Cataldo.

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

By Mr. Bradley of Hingham, for the committee on Election Laws, on a message from His Excellency the Governor, a Bill validating the actions taken at annual town elections held in the town of Dalton (printed in House, No. 5152). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Dalton,  
annual  
elections.

*Motions to Discharge Certain Matters in the Orders of the Day.*

Tax amnesty program.

Mr. Verga of Gloucester moved that the engrossed Bill relative to the establishment of a tax amnesty program by the commissioner of revenue (see House, No. 5143) (being section 9 contained in the engrossed Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 5132), which had been returned to the House by His Excellency the Governor with recommendation of amendment (for message, see House, No. 5142), be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the form contained in House document numbered 5142, as perfected by said committee, as follows:

By inserting before the words "Notwithstanding any general or special law to the contrary," the following:

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

SECTION 1.", in clause (iv) by striking out "neglect, provided that the scope of the amnesty program in terms of the particular tax types and periods covered, including any limited look-back period for unfiled returns, shall be determined by the commissioner, and further provided" and inserting in place thereof the words "neglect; provided, however, that the scope of the amnesty program in terms of the particular tax types and periods covered, including any limited look-back period for unfiled returns, shall be determined by the commissioner, and provided further", and in the last sentence by striking out "September 1, 2009," and inserting in place thereof the following: "September 1, 2009;"; by inserting before item 1201-0101 the following paragraph:

"SECTION 2. Section 2 of chapter 182 of the acts of 2008 is hereby amended by inserting after item 1201-0100 the following item:— " , and in said item by striking out 'fiscal year; provided, that' and inserting in place thereof the words 'fiscal year; provided, however, that''"; and the report was accepted.

Pending the question on adoption of the amendment, Mr. Jones of North Reading moved to amend the proposed substitute text in section 1, in line 2, by striking out the word "may" and inserting in place thereof the word "shall". The further amendment was adopted.

The amendment recommended by the Governor, as amended, then also was adopted. Sent to the Senate for concurrence.

Westborough,  
Chef Sun  
Restaurant.

The House Bill authorizing the town of Westborough to grant an additional license for the sale of wine and malt beverages to be drunk on the premises (House, No. 4874), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time, under suspension of Rule 47, on motion of Mr. Verga of Gloucester; and it was passed to be engrossed. Sent to the Senate for concurrence.

Taunton,  
Dwayne P.

The House Bill exempting Dwayne P. Burgo from maximum age requirement for applying for civil service appointment as a police officer in the city of Taunton (House, No. 5086), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time, under suspension of Rule 47, on motion of Mr. Verga of Gloucester; and it was passed to be engrossed. Sent to the Senate for concurrence.

Burgo.

*Recess.*

Recess.

At nine minutes before twelve o'clock noon, on motion of Mr. Galvin of Canton (Mr. Donato of Medford being in the Chair), the House recessed until the hour of three o'clock P.M.; and at twenty-six minutes before four o'clock the House was called to order with Mr. Donato in the Chair.

*Paper from the Senate.*Newburyport,  
land  
conveyance.

The House Bill authorizing the Commissioner of Capital Asset Management to convey certain land to the city of Newburyport (House, No. 5038) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out section 1 and inserting in place thereof the following section:

"SECTION 1. Notwithstanding sections 40F to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may lease for a term of 99 years, for nominal consideration and subject to such other terms and conditions as the commissioner, in consultation with the military division, may prescribe, a certain parcel of land to the city of Newburyport for the establishment of a park and learning center and for the restoration of the historic 1822 Powder House. The parcel of land shall consist of 0.41 acres, more or less, in the city of Newburyport, with the buildings thereon, including said Powder House, which is currently under the care and control of the Massachusetts National Guard, being a portion of the land conveyed to the commonwealth by the city of Newburyport by deed dated September 18, 1980, and recorded in the southern Essex district registry of deeds book 2799, page 270. The exact boundaries of the parcel shall be determined by the commissioner prior to the execution of the lease authorized by this act. The lease shall contain the restriction required in section 2."

Under suspension of Rule 35, on motion of Mr. Costello of Newburyport, 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.

*Report of a Committee.*Michael  
German,  
sick leave.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill establishing a sick leave bank for a certain employee of the Department of Mental Retardation (House, No. 5151, changed) be scheduled for consideration by the House.

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

*Motions to Discharge Certain Matters in the Orders of the Day.*

The Senate Bill restricting the authority of the Holyoke Power & Electric Company and the Holyoke Water Power Company (Senate, No. 2554), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time, under suspension of Rule 47, on motion of Mr. Kafka of Stoughton; and it was passed to be engrossed, in concurrence.

House bills

Relative to the employment benefits trust fund of the town of Arlington (House, No. 4140) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the town of Lincoln to establish a post employment health insurance trust fund (House, No. 4775);

Authorizing the town of Sudbury to regulate certain property tax exemption eligibility requirements (House, No. 4860); and

Authorizing the establishment of an affordable housing fund in the town of Harwich (House, No. 5077);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time, under suspension of Rule 47, on motion of Mr. Kafka of Stoughton, in each instance; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

The House Bill relative to needlestick injury prevention in public health facilities and settings (House, No. 2056) was read a third time, under suspension of Rule 47, on motion of Mr. Kafka of Stoughton.

The committee on Bills in the Third Reading reported recommending that the bill be amended by substitution of a bill with the same title (House, No. 5159); and the report was accepted.

The amendment was adopted; and the substituted bill was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill designating a certain bike path in the town of Millbury as the Honorable Richard J. Dwinell Memorial Blackstone Valley Bike Path (House, No. 5102) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time, under suspension of Rule 47, on motion of Mr. Kafka of Stoughton.

Pending the question on passing the bill to be engrossed, Mr. Frost of Auburn moved to amend it in lines 2 and 3 by striking out the words “, extending from the Worcester city line to the bike path parking lot at North Main Street”.

The amendment was adopted; and the bill (House, No. 5102, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Holyoke utilities, regulate.

Arlington, retirement funds.

Lincoln, health insurance.

Sudbury, property tax.

Harwich, affordable housing.

Needlestick injury prevention.

Millbury, Dwinell Bike Path.

Automatic sprinkler systems, installation.

The House Bill further regulating the installation of automatic sprinkler systems (House, No. 2284, changed) was read a second time, under suspension of Rule 47, on motion of Mr. Garballey of Arlington.

The amendment 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. 4969),— was adopted.

The substituted bill then was ordered to a third reading.

*Orders of the Day.*

The motion of Mr. Galvin of Canton, that further consideration of the engrossed Bill authorizing the town of Westwood to grant a license for the sale of wines and malt beverages not to be drunk on the premises at a food store (see House, No. 4832) be postponed until after disposition of the remaining matters in the Orders of the Day, was negatived.

The bill (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, then was passed to be enacted. Mr. McMurtry of Dedham moved that this vote reconsidered, and the motion to reconsider was considered forthwith; and it was negatived. The bill then was signed by the acting Speaker and sent to the Senate.

*Emergency Measures.*

The engrossed Bill establishing a sick leave bank for Brenda De Los Santos, an employee of the Department of Transitional Assistance (see Senate, No. 2882), 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.

The engrossed Bill establishing a sick leave bank for Maryan Labaire, an employee of the Department of Children and Families (see House, No. 5118, changed), 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 6 to 0. Sent to the Senate for concurrence.

The engrossed Bill establishing a sick leave bank for Tracy Kelly, an employee of the Trial Court (see House, No. 5119), 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.

Westwood, liquor license.

Bill enacted.

Brenda De Los Santos, sick leave bank.

Maryan Labaire, sick leave.

Tracy Kelly, sick leave.

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.

Alan Antonucci, sick leave.

The engrossed Bill establishing a sick leave bank for Alan Antonucci, an employee of the Middlesex sheriff's office (see House, No. 5144), 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 6 to 0. Sent to the Senate for concurrence.

Judy Romano, sick leave.

The engrossed Bill establishing a sick leave bank for Judy M. Romano, an employee of the Department of Public Health (see House, No. 5145), 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 6 to 0. Sent to the Senate for concurrence.

Bill re-enacted.

#### *Engrossed Bills.*

The engrossed Bill relative to animal fighting or cruelty (see House, No. 1527, amended) (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

Bills enacted.

#### Engrossed bills

To improve school campus air quality (see Senate, No. 2628);

Relative to the appointment of the board of assessors, town collector and town treasurer in the town of Orange (see Senate, No. 2788);

(Which severally originated in the Senate);

Protecting certain military personnel from deceptive practices (see House, No. 4508, amended);

Relative to the charter of the town of Westborough (see House, No. 4944); and

Establishing the office of town manager in the town of Upton (see House, No. 4975);

(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.

Cemeteries and burials.

The engrossed Bill relative to cemeteries and burials (see House, No. 4752) (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.

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

The same member then moved to amend the bill in section 1B, in line 3 (as engrossed), by striking out the following: "501(c)(3)" and inserting in place thereof the following: "501(c)"; and by striking out sections 2, 3 and 4 and inserting in place thereof the following section:

"SECTION 2. Section 8 of chapter 115 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sentence:— The definitions contained in section 1 of chapter 114 shall be applicable to this section and section 9."

The amendments were adopted. Sent to the Senate for concurrence.

#### *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 ten minutes after four o'clock P.M., on motion of Mr. Lepper of Attleboro (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.