

JOURNAL OF THE HOUSE.

Tuesday, December 30, 2008.

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

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

Prayer.

Eternal God, in these uneasy and troublesome times, we continue to place our confidence and trust in You, Our Creator. We depend upon You for the wisdom and the courage to comprehend and to address correctly the many complex issues which come before us. Your assistance enables us, as elected leaders, to focus our attention on legislative and administrative proposals in an objective and fair manner. Teach us to be open to the positive and reasonable suggestions and concerns of all citizens as we together try to build a stable, ethical and caring society in which the dignity of each person is recognized and respected. Guide our efforts to help all the members of our communities to utilize these personal talents and gifts in a productive manner so that they and the common good are well-served.

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

Pledge of allegiance.

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

Recess.

Recess.

At eighteen minutes before twelve o'clock noon, the Chair (Ms. Forry of Boston) declared a recess subject to the call of the Chair; and at seven minutes after four o'clock P.M. the House was called to order with Ms. Forry in the Chair.

Resolutions.

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

Timothy Clancy.

Resolutions (filed by Mr. Ross of Wrentham) congratulating Sergeant Timothy Clancy on his retirement after twenty-nine years of exemplary service to the Commonwealth of Massachusetts;

Paul Brideau.

Resolutions (filed by Mr. Rush of Boston) congratulating Paul Brideau upon achieving the rank of Eagle Scout;

Liam Concannon.

Resolutions (filed by Mr. Rush of Boston) congratulating Liam Concannon upon achieving the rank of Eagle Scout;

Andrew Kiritsy.

Resolutions (filed by Mr. Rush of Boston) congratulating Andrew Kiritsy upon achieving the rank of Eagle Scout; and

Michael Mainguy.

Resolutions (filed by Mr. Rush of Boston) congratulating Michael Mainguy upon achieving the rank of Eagle Scout;

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

Papers from the Senate.

The House Bill relative to certain licenses for the sale of all alcoholic beverages to be drunk on the premises in the town of Hingham (House, No. 4501) came from the Senate passed to be engrossed, in concurrence, with amendments in section 1, striking out the words "South Shore Catering Group of the South Shore Country Club" and inserting in place thereof the following:—"Country Club Management Committee of the town of Hingham, d/b/a the South Shore Country Club, which is located"; and striking out section 2 (as changed by the House committee on Bills in the Third Reading).

Hingham,
liquor
license.

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

The House Bill relative to retirement benefits for Louis Cataldo (House, No. 5094, amended) came from the Senate passed to be engrossed, in concurrence, with amendments in section 1, in the first sentence, after the words "county retirement board," inserting the words "and the Barnstable county commissioners"; and in said sentence, after the words "compensation payable to" striking out the words "the Barnstable county commissioners, and".

Louis
Cataldo.

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

The House Bill establishing a sick leave bank for John Vitale an employee of the land court (House, No. 5101) came from the Senate passed to be engrossed, in concurrence, with amendments striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2892; and striking out the emergency preamble and inserting in place thereof the following emergency preamble:—

John
Vitale,
sick leave.

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a sick leave bank for a certain employee of the trial court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

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

*Reports of Committees.*Vaillancourt
Folk Art.

By Mr. Scaccia of Boston, 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 Jennifer M. Callahan for legislation to designate Vaillancourt Folk Art as the official Christmas collectible maker of the Commonwealth. Under suspension of the rules, on motion of Ms. Callahan of Sutton, 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 service,
provisional
employees.

Mr. Scaccia of Boston, for the committee on Rules, on House, No. 4607, reported, in part, a Bill to make provisional employees in the labor service permanent employees (House, No. 2736), which was read.

Under suspension of the rules, on motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

Estate of
homestead.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to the estate of homestead (Senate, No. 2653) ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 5193. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House, with the amendment pending.

Under suspension of Rule 7A, on motion of Ms. Walz of Boston, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the bill (Senate, No. 2653, amended) was ordered to a third reading.

Custom
vehicles,
inspection.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to the registration and inspection of street rods and custom vehicles (House, No. 4315) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 5194). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House, with the amendment pending.

Under suspension of Rule 7A, on motion of Mr. Golden of Lowell, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill was ordered to a third reading.

Wholesale
Electric
Company.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill relative to the Massachusetts Municipal Wholesale Elec-

tric Company (Senate, No. 2733) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Garballey of Arlington, 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 authorizing the town of Milton to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises of a certain restaurant (Senate, No. 2300, amended) be scheduled for consideration by the House.

Milton,
liquor
license.

Under suspension of Rule 7A, on motion of Mr. Scaccia of Boston, 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 trafficking of methamphetamine (House, No. 3054) be scheduled for consideration by the House.

Methampheta-
mine.

Under suspension of Rule 7A, on motion of Ms. Rogeness of Longmeadow, 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 amending the town of Wilmington sewer act (House, No. 5125, changed) be scheduled for consideration by the House.

Wilmington,
sewer
district.

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

*Engrossed Bills and Resolves.**Engrossed bills*

Relative to the retirement benefits of emergency medical technicians (see Senate, No. 2659, amended);

Bills
enacted.

Establishing a selectmen-administrator form of government for the town of Newbury (see Senate, No. 2801);

(Which severally originated in the Senate); and

Relative to the appointment of certain persons to the police and fire department of the city of Malden (see House, No. 3974, amended) (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.

The engrossed Resolve providing for an investigation and study by a special commission relative to economic opportunities in the Commonwealth (see House, No. 5164, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed; and it was signed by the acting Speaker and sent to the Senate.

Resolve
passed.

*Reconsideration.*Municipal
fines.

Ms. Rogeness of Longmeadow moved that the vote be reconsidered by which the House, at the preceding sitting, passed to be engrossed the House Bill relative to unpaid municipal fines (House, No. 4883, amended). Subsequently the motion to reconsider was considered; and it prevailed.

Pending the recurring question on passing the bill to be engrossed, Ms. Walz of Boston moved to amend it in section 12 (as printed), in line 14, by inserting after the word "notice" the following: "unless within 14 days of receiving said notice the property owner requests a hearing before the municipal hearing officer and swears in writing under the pains and penalties of perjury that the property owner did not receive the notice of violation and does not live at the property that is the subject of the notice of violation."

The amendment was adopted; and the bill (House, No. 4883, amended) was passed to be engrossed. Sent to the Senate for concurrence.

*Motion to Discharge a Certain Matter
in the Orders of the Day.*Springfield,
finances.

The House Bill providing for the financial stability of the city of Springfield (House, No. 5076), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day, under suspension of Rule 47, on motion of Ms. Coakley-Rivera of Springfield; and it was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Swan of Springfield moved to amend it by substitution of a bill with the same title, which was read.

Pending the question on adoption of the amendment, Ms. Coakley-Rivera of Springfield moved to amend the proposed substitute bill by striking out section 6 as follows:

"SECTION 6. There shall be a committee to study the compensation of the mayor of Springfield. The committee shall consist of the state personnel administrator, who shall chair the committee, a representative of the Massachusetts Municipal Association, and a city councillor of Springfield who shall be appointed by the city council president of the city of Springfield. The committee shall report in writing to the city council and the secretary of administration and finance on or before July 1, 2009." and inserting in place thereof the following section:

"SECTION 6. Subsection (d) of section 4 of chapter 169 of the acts of 2004 is hereby amended by striking out clause (7) and inserting in place thereof the following clause:—

(7) notwithstanding any general or special law to the contrary, to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other municipal activity, otherwise within the authority of the city; provided, that executive order number 8-11-04 issued by the board shall be repealed as of July 31, 2011."

The further amendment was adopted.

The same member then moved to amend the proposed substitute bill by inserting after section 7 the following section:

"SECTION 7A. Subsection (d) of section 4 of chapter 169 of the acts of 2004 is hereby amended by striking out clause (8) and inserting in place thereof the following clause:—

(8) notwithstanding the charter or any city ordinance to the contrary, to appoint, remove, supervise and control all city employees and have control over all personnel matters; the board shall hold all existing powers to hire and fire and set the terms and conditions of employment held by other employees or officers of the city, whether or not elected; the board shall have the authority to exercise all powers otherwise available to a municipality regarding contractual obligations during a fiscal emergency; the board shall, subject to collective bargaining, require all new city employees and those current employees receiving promotions, to be residents of the city within 6 months of their appointment; provided further that the board shall not be authorized to issue a residency waiver; and no city employee or officer shall hire, fire, transfer or alter the compensation or benefits of any employee except with the written approval of the board. The board may delegate or otherwise assign these powers with the approval of the secretary."

The further amendment was adopted.

The amendment offered by Mr. Swan of Springfield, as amended, then also was adopted; and the substituted bill was passed to be engrossed. Ms. Coakley-Rivera moved that this vote be reconsidered; and the motion to reconsider was negatived. The bill (House, No. 5192, printed as amended) then was sent to the Senate for concurrence.

Orders of the Day.

The Senate Bill establishing collaborative drug therapy management (Senate, No. 2706, amended) (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; and it was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment previously adopted by the House.

Third
reading
bill.

Senate bills
Relative to public access to recreational trails (Senate, No. 2759);
and

Third
reading
bills.

Authorizing the Mashpee Water District to hold elections for the board of water commissioners concurrently with the Mashpee town elections (Senate, No. 2879);

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.

House bills
Relative to warehousing (House, No. 1488) (its title having been changed by the committee on Bills in the Third Reading);

Third
reading
bills.

Third
reading
bills.

Relative to the park department in the town of Braintree (House, No. 4237);

Providing for the filling of certain vacancies in the town of Braintree (House, No. 4459);

Relative to the positions of treasurer and tax collector in the town of Becket (House, No. 4940);

Authorizing the town of Provincetown to impose a lien upon property in the town of Truro to secure unpaid water fees and charges (House, No. 5099, changed);

Validating the actions taken at annual town elections held in the town of Dalton (printed in House, No. 5152);

Validating the actions taken at an annual town meeting and special town meeting of the town of Rockland (printed in House, No. 5153) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing Antonio F. Dinis to take the civil service examination for the position of police officer in the town of Milford (House, No. 5157) (its title having been changed by the committee on Bills in the Third Reading);

Establishing a sick leave bank for Germaine Mayers, an employee of the Middlesex Superior Court Probation Department (House, No. 5173) (its title having been changed by the committee on Bills in the Third Reading);

Establishing a sick leave bank for Genevieve O'Brien, an employee of the Trial Court of the Commonwealth (House, No. 5186); and

Relative to certain public nuisances (House, No. 5189) (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.

Municipal
trust
funds.

The engrossed Bill providing for the establishment of other post employment benefits liability trust funds in municipalities and certain other governmental units (see House, No. 5148) (which had been returned to the House by His Excellency the Governor with recommendation of amendment) (for message, see House, No. 5187), was considered.

The amendment recommended by His Excellency the Governor then was considered in the following form (as approved by the committee on Bills in the Third Reading):

In the first paragraph, by striking out the words "and (ii) approved by the actuary in the division of insurance" and inserting in place thereof the words "developed by an actuary retained by the city, town, district, county or municipal lighting plant; and (iii) reviewed and approved by the actuary of the public employee retirement administration commission."

The House then refused to adopt the amendment recommended by the Governor.

Representatives Walrath of Stow and Kaufman of Lexington then moved to amend the bill in the first paragraph by striking out the last sentence, as follows: "The schedule and any future updates shall be:

(i) developed and triennially reviewed by the board of a municipal lighting plant or by the chief executive officer of any other governmental unit; and (ii) approved by the actuary in the division of insurance." and inserting in place thereof the following sentence: "The schedule and any future updates shall be: (i) developed by an actuary retained by a municipal lighting plant or any other governmental unit and triennially reviewed by the board for a municipal lighting plant or by the chief executive officer for any other governmental unit; and (ii) reviewed and approved by the actuary in the public employee retirement administration commission." The amendment was adopted.

Sent to the Senate for its action.

The Senate Resolve providing for the establishment of a special commission to study innovative methods for funding the conservation of forested wildlands and woodlands in the Commonwealth (Senate, No. 2874) (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.

Wildlands and
woodlands,
commission.

Pending the question on passing the resolve to be engrossed, in concurrence, Mr. Jones of North Reading moved to amend it by striking out the text contained therein and inserting in place thereof the text contained in House document numbered 5195.

The amendment was adopted; and the resolve (Senate, No. 2874, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment.

The House Resolve providing for an investigation and study by a special commission relative to tick borne illness (House, No. 4802) (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.

Tick borne
illness.

Pending the question on passing the resolve to be engrossed, Representatives Callahan of Sutton and Hill of Ipswich moved to amend it in line 5, after the words "medical school or his designee" by inserting the words "the Dean of the College of Natural Resources and the Environment at the University of Massachusetts Amherst or his designee", in line 7 by striking out the number "3" and inserting in place thereof the number "4", in lines 11 and 12 by striking out the following: "and 1 of whom shall be a member of the Lyme disease association" and inserting in place thereof the words "and two members who shall be considered experts in the treatment or research of Lyme Disease for the purpose of making an investigation and study of Lyme Disease", in line 20, after the word "populations;" by inserting the following: "(4) statewide surveillance and testing for tick-borne diseases in ticks", and in line 24 by striking out the date "February 1, 2009" and inserting in place thereof the date "February 1, 2010".

The amendments were adopted; and the resolve (House, No. 4802, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,—

Next
sitting.

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

At twenty-two minutes after five o'clock P.M., on motion of Mr. Scaccia of Boston (Ms. Forry of Boston being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.