

JOURNAL OF THE HOUSE.

Wednesday, December 31, 2008.

Met at six minutes after 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:

Gracious God, on this New Year's Eve, we pause for a moment to reflect on the happenings and events in our lives during the past twelve months. We have enjoyed happy moments, pleasant surprises and perhaps a few disappointments during the course of this year. But there are countless blessings in our daily lives for which we are truly thankful. Each day, our daily intention has been to serve You, Our Creator, our constituents and our families to the best of our human ability. We hope that we have been successful in these endeavors during the course of this year. Today, our thoughts turn to the new year and new year resolutions. Serious and positive resolutions may enable us to find purpose, meaning, satisfaction and personal peace in our daily living. May we, as elected leaders, continue to work together in our diverse society to make our communities peaceful, safe, prosperous and aware of the needs of all the members, both young and seniors, in our communities and neighborhoods.

Grant Your blessings to the Speaker, the members and employees of this House and their families. May we all enjoy a happy and peaceful New Year. Amen.

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.

Message from the Governor — Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor returning with recommendation of amendment the engrossed Bill authorizing the city of Lowell to pay funeral and burial expenses of employees killed in performance of duty [see House, No. 5126] (for message, see House, No. 5196) was filed in the office of the Clerk on Tuesday, December 30.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was thereupon "before the General Court and subject to amendment and re-enactment".

Pending the question on adoption of the amendment recommended by His Excellency, the bill was referred, on motion of Mr. Golden of Lowell, to the committee on Bills in the Third Reading.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that

Michael Pemberton-Myatt, sick leave.

Joint Rule 12 be suspended on the petition of Linda Dorcena Forry that the Information Technology Division be authorized to establish a sick leave bank for Michael Pemberton-Myatt, an employee of said division. Under suspension of the rules, on motion of Ms. Peisch of Wellesley, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Newbury,
William
Plante
Bridge.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill designating a certain bridge in the town of Newbury as the William L. Plante Bridge (House, No. 5129) be scheduled for consideration by the House.

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.

Productive
workers,
compensation
audits.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill to provide incentives for productive workers compensation audits (House, No. 4573) be scheduled for consideration by the House, with an 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. 5027),— pending.

Under suspension of Rule 7A, on motion of Mr. Smizik of Brookline, 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.

Worcester,
healing
garden.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill relative to designating a certain area in the city of Worcester as a place of peace healing garden (House, No. 5093) be scheduled for consideration by the House, with an 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. 5183),— pending.

Under suspension of Rule 7A, on motion of Mr. Peterson of Grafton, 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.

Children,
protection.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill relative to technical corrections regarding the further protection of children (House, No. 5109) be scheduled for consideration by the House.

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

Pending the question on ordering the bill to a third reading, Mr. Cabral of New Bedford moved to amend it by adding the following two sections:

“SECTION 75. Section 178L of chapter 6 of the general laws, as appearing in the 2006 official edition, is hereby amended by replacing section 1(a) with the following:—

Not less than 180 days prior to the release or parole of a sex offender from custody or incarceration, the board shall notify the sex offender of his right to submit to the board documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to the public and his duty to register according to the provisions of section 178E. If the sex offender is a juvenile at the time of such notification, notification shall also be mailed to the sex offender’s legal guardian and his most recent attorney of record. Such sex offender may submit such evidence to the board within 30 days of receiving such notice from the board. Upon a reasonable showing, the board may extend the time in which such sex offender may submit such documentary evidence by no more than 30 days. The board may extend the time which such sex offender may submit such documentary evidence after the 30 days, but only after additional reasonable showing and not more than 30 days at a time. Upon receiving such evidence, the board shall notify the sex offender within 30 days of the board’s recommended sex offender classification, his duty to register, if any, his right to petition the board to request an evidentiary hearing to challenge such classification and duty, his right to retain counsel to represent him at such hearing and his right to have counsel appointed for him if he is found to be indigent as determined by the board using the standards under chapter 211D; provided, however, that such indigent offender may also apply for and the board may grant payment of fees for an expert witness in any case where the board in its classification proceeding intends to rely on the testimony or report of an expert witness prepared specifically for the purposes of the classification proceeding. If the offender is found to be indigent as determined by the board using the standards under chapter 211D, counsel shall be appointed within 20 days. Such sex offender shall petition the board for such hearing within 20 days of receiving such notice. The board shall conduct such hearing within 60 days from the latter of petition from the sex or appointment of counsel. The failure timely to petition the board for such hearing shall result in a waiver of such right and the registration requirements, if any, and the board’s recommended classification shall become final.

SECTION 76. Section 178L of chapter 6 of the general laws, as appearing in the 2006 official edition, is hereby amended by replacing section 1(c) with the following:—

In the case of any sex offender not in custody, upon receiving registration data from the agency, the police department at which the sex offender registered, the sentencing court or by any other means, the board shall promptly notify the sex offender of his right to submit to the board documentary evidence relative to his risk of reoffense and the degree of dangerousness posed to the public and his duty to register, if any, according to the provisions of section 178E. If such sex offender is a juvenile at the time of such notification, notification shall also be mailed to the sex offender’s legal guardian and his most recent attorney of record. Such sex offender may submit such evidence to the board within 30 days of receiving such notice from the board. Upon a reasonable showing, the board

Children,
protection.

may extend the time in which such sex offender may submit such documentary evidence by no more than 30 days. The board may extend the time which such sex offender may submit such documentary evidence after the 30 days, but only after additional reasonable showing and not more than 30 days at a time. Upon reviewing such evidence, the board shall notify the sex offender within 30 days of the board's recommended sex offender classification, his duty to register, if any, his right to petition the board to request an evidentiary hearing to challenge such classification and duty, his right to retain counsel to represent him at such hearing and his right to have counsel appointed for him if he is found to be indigent as determined by the board using the standards under chapter 211D; provided, however, that such indigent offender may also apply for and the board may grant payment of fees for an expert witness in any case where the board in its classification proceeding intends to rely on the testimony or report of an expert witness prepared specifically for the purposes of the classification proceeding. If the offender is found to be indigent as determined by the board using the standards under chapter 211D, counsel shall be appointed within 20 days. Such sex offender shall petition the board for such hearing within 20 days of receiving such notice. The board shall conduct such hearing within 60 days from the latter of petition from the sex offender or appointment of counsel. The failure timely to petition the board for such hearing shall result in a waiver of such right and the registration requirements, if any, and the board's recommended classification shall become final."

The amendment was adopted; and the bill (House, No. 5109, amended) was ordered to a third reading.

Emergency Measure.

John
Vitale,
sick leave.

The engrossed Bill establishing a sick leave bank for John Vitale, an employee of the Trial Court (see House, No. 5101, 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 8 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.

Bills
enacted.

Engrossed bills
Relative to the retirement of certain employees of the Massachusetts Water Resources Authority (see House, No. 2682, changed);

Designating the Department of Youth Services facility in the town of Westborough as the Zara Cisco Brough Princess White Flower facility (see House, No. 3231); and

Establishing a sick leave bank for Sharon Peeler-LaFountain, an employee of the Department of Correction (see House, No. 5158, changed);

(Which severally originated in the House);

In respect to each of which the Senate had concurred in adoption of the emergency preamble, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Engrossed bills

Relative to public access to recreational trails (see Senate, No. 2759); Bills
enacted.

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

(Which severally originated in the Senate);

Relative to the uniform probate code (see House, No. 1633, amended);

Relative to certain licenses for the sale of all alcoholic beverages to be drunk on the premises in the town of Hingham (see House, No. 4501, amended); and

Relative to retirement benefits for Louis Cataldo (see House, No. 5094, amended);

(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.

Orders of the Day.

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), 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. Third
reading
bill.

House bills

Amending the town of Wilmington sewer act (House, No. 5125, changed); Third
reading
bills.

Authorizing the board of selectmen of the town of Weston to issue a license for the sale of all alcoholic beverages to be consumed on the premises of the Josiah Smith Tavern and Bar (House, No. 5190) (its title having been changed by the committee on Bills in the Third Reading); and

Relative to the registration and inspection of street rods and custom vehicles (House, No. 5194);

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. Severally sent to the Senate for concurrence.

Department of
Telecommu-
nications and
Cable.

The House Bill relative to the Department of Telecommunications and Cable (printed in House, No. 4816) (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.

Pending the question on passing the bill to be engrossed, Mr. Dempsey of Haverhill moved to amend it by adding the following section:

“SECTION 58. Section 107 of chapter 169 of the acts of 2008 is hereby amended by striking out in the second paragraph the word ‘January 1, 2009’ and inserting in place thereof the following word:— January 30, 2009.”

The amendment was adopted; and the bill (printed in House, No. 4816, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

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.

Next
sitting.

At ten minutes after twelve o’clock noon, on motion of Mr. Jones of North Reading (Ms. Forry of Boston being in the Chair), the House adjourned, to meet on Monday next at eleven o’clock A.M., in an Informal Session.