

## **JOURNAL OF THE HOUSE.**

Wednesday, January 30, 2002.

Met according to adjournment, at eleven o'clock A.M., with Mrs. Walrath of Stow 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:

Eternal God, the Creator of All People and of the Universe, we pause for a moment of prayer and reflection to put into clear focus and in prospective our own concerns, needs and expectations, as well as the many complex political issues of this day. We recognize our own limitations and our inability to resolve, to everyone's satisfaction, the items which come before us. Strengthened by Your assistance and Your gift of wisdom, inspire us to select the best legislative options which are available to us and best serve the people whom we represent. As elected leaders, help us to make intelligent, reasonable and sound judgments which are in accord with right reason, our own principles, ideals and values.

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

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

### *Message from the Acting Governor.*

Mrs. Harkins of Needham being in the Chair,—

A message from Her Honor the Lieutenant-Governor, Acting Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to providing for the 2002 annual town election in the town of Milton to be held on March 26, 2002 (House, No. 4883) was filed in the office of the Clerk on Monday, January 28.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Election Laws. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred, Mr. Wagner of Chicopee, for said committee, reported on the foregoing message, a Bill relative to providing for the 2002 annual town election in the town of Milton to be held on March 26, 2002 (printed in House, No. 4883). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

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

*Statement of Representative Bradley of Hingham.*

A statement of Representative Bradley of Hingham was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I will not be present in the House Chamber for the remainder of today's sitting due to a personal family matter. Any roll calls that I may miss today will be due entirely to the reason stated.

*Statement of Representative Hill of Ipswich.*

A statement of Representative Hill of Ipswich was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. I was not recorded on the first quorum roll call today, because I was not notified that a roll call was in progress.

*Statement of Representative Koczera of New Bedford.*

A statement of Representative Koczera of New Bedford was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was not present in the House Chamber for a portion of today's sitting due to official business in another part of the State House. Any roll calls that I may have missed today is due entirely to the reason stated.

*Guests of the House.*

During the session, the Chair (Mr. DiMasi of Boston) declared a brief recess; and introduced Lorna Brunelle of Middleboro, Erica Swartz of Lakeville and Cheri Kelly of Quincy, who sang the "Star Spangled Banner". Instructors and performers at the Burt Wood School of Performing Arts in the town of Lakeville, they were the guests of Representatives O'Brien of Kingston and Straus of Mattapoisett.

*Resolutions.*

The following resolutions were referred, under Rule 85, to the committee on Rules:

Resolutions (filed with the Clerk by Mr. Brown of Wrentham) congratulating Joseph Michael Almeda on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Brown of Wrentham) congratulating Matthew Christopher Almeda on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Coppola of Foxborough) congratulating Dustin Benoit on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Coppola of Foxborough) congratulating Michael Coyne on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Coppola of Foxborough) congratulating Michael Hebner on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mrs. Creedon of Brockton) congratulating Brian Patrick Shea on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Representatives Goguen of Fitchburg and Simmons of Leominster) congratulating Douglas F. Brailey, Jr., on receiving the Eagle Award of the Boy Scouts of America; and

Resolutions (filed by Mr. Lepper of Attleboro) congratulating John P. Lee on the occasion of his retirement and honoring him for his many years of dedicated service as city solicitor to the city of Attleboro;

Mr. Honan 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 Mrs. Paulsen of Belmont, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

#### *Orders.*

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

*Ordered*, That, notwithstanding the provisions of Joint Rule 10, joint standing committees and the committees on Rules of the two branches, acting concurrently, be granted until Tuesday, December 31, 2002 within which to make reports on matters referred to them.

Mr. Scaccia of Boston, for said committees, then reported recommending that the order ought to be adopted. Under suspension of the rules, on motion of Mrs. Paulsen of Belmont, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

The following order (filed by Mr. Finneran of Boston) was referred, under Rule 24, to the committee on Rules:

*Ordered*, That, notwithstanding the provisions of an order previously adopted, the Joint Rules of the previous General Court shall remain in effect until Tuesday, December 31, 2002 as the temporary Joint Rules of the present General Court.

Mr. Scaccia of Boston, for said committee, then reported recommending that the order ought to be adopted. Under suspension of the rules, on motion of Mrs. Paulsen of Belmont, the order was considered forthwith.

Pending the question on adoption of the order, further consideration thereof was postponed, on motion of Mr. Rushing of Boston, until after the noon recess.

*Petitions.*

Petitions severally were presented and referred as follows:

By Mr. Fallon of Malden, petition (accompanied by bill, House, No. 4879) of Christopher G. Fallon, Paul J. Donato and Richard R. Tisei (with the approval of the mayor and city council) relative to the withdrawal of candidates nominated for elective office in the city of Malden; and

By Mr. Ruane of Salem, petition (accompanied by bill, House, No. 4880) of J. Michael Ruane (with the approval of the mayor and city council) relative to providing recall elections in the city of Salem;

Severally to the committee on Election Laws.

By Mr. Donato of Medford, petition (accompanied by bill, House, No. 4878) of Paul J. Donato and Vincent P. Ciampa (with the approval of the mayor and city council) relative to establishing the city of Medford stadium and athletic commission. To the committee on Local Affairs.

By Mr. Goguen of Fitchburg, petition (accompanied by bill, House, No. 4881) of Emile J. Goguen (with the approval of the mayor and city council) for legislation to exempt the position of chief of police in the city of Fitchburg from the provisions of the civil service law. To the committee on Public Service.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mrs. Cleven of Chelmsford, petition (subject to Joint Rule 12) of Carol C. Cleven and other members of the General Court relative to reviving and continuing the Governor's Advisory Council on Alzheimer's Disease.

By Mr. Koutoujian of Newton, petition (subject to Joint Rule 12) of Peter J. Koutoujian, Thomas M. Stanley, Steven A. Tolman and Susan C. Fargo relative to essential services of the Deaconess Waltham Hospital.

By Mr. Larkin of Pittsfield, petition (subject to Joint Rule 12) of Peter J. Larkin and other members of the General Court relative to enhancing English opportunities for all students of the Commonwealth.

By Ms. Polito of Shrewsbury, petition (subject to Joint Rule 12) of Karyn E. Polito that the Registrar of Motor Vehicles be authorized to issue distinctive Red Sox insignia license plates for the establishment of a state fund to be know as the Jimmy Fund of the Dana Farber Cancer Institute.

By Mr. Stanley of Waltham, petition (subject to Joint Rule 12) of David F. Gatley (mayor), Steven A. Tolman, Peter J. Koutoujian, Thomas M. Stanley and others relative to the closing of any hospital located in the city of Waltham.

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

*Papers from the Senate.*

A Bill designating a certain bridge in the town of Sharon as the Lance Corporal Daniel J. Dabreu Memorial Bridge (Senate, No. 2190) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Reports

Of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to an inspection of the Bridgewater Complex Kitchen, located in the town of Bridgewater; and

Of the Bureau of Special Investigations (under the provisions of Section 11(8) of Chapter 14 of the General Laws) submitting its report for the month of December, 2001;

Severally were spread upon the records of the House; and returned to the Senate.

*Reports of Committees.*

By Mr. Dempsey of Haverhill, for the committee on Public Service, on a petition, a Bill exempting Herbert Stacey and Timothy Getchell from maximum age requirements for applying for civil service appointment as a police officer in the city of Methuen (House, No. 4853) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

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

By Mr. Casey of Winchester, for the committee on Taxation, on a petition, a Bill authorizing the town of Winchester to establish stabilization funds (House, No. 4831) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

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

By Mr. Casey of Winchester, for the committee on Taxation, on House, Nos. 4692 and 4705, an Order relative to authorizing the committee on Taxation to make an investigation and study of certain House documents concerning the towns of Burlington and Franklin (House, No. 4882). Referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Scaccia of Boston, for said committees, reported asking to be discharged from further consideration of said order; and recommending that the same be referred to the House committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mrs. Parente of Milford, for the committee on Long-Term Debt and Capital Expenditures, that the Bill relative to the terms of certain notes issued by the Commonwealth (printed in House, No. 4765) ought to pass. Referred, under Rule 33, to the committee on Ways and Means.

#### *Engrossed Bills.*

The engrossed Bill establishing Congressional districts (see House Bill printed in House, No. 4778, Appendix A, amended) (which originated in the House) (which had been returned by Her Honor the Lieutenant-Governor, Acting 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, without amendment; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill relative to a special fund in the town of Plymouth (see Senate, No. 1030) (which originated in the Senate), 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.

#### *Orders of the Day.*

The Senate Bill limiting the amount of fees that staffing agencies may charge employees for transportation (Senate, No. 2095), 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.

#### House bills

Exempting certain positions in the town of Burlington from the civil service law (House, No. 4307) (its title having been changed by the committee on Bills in the Third Reading); and

Providing for an early retirement incentive program for certain employees of the Springfield Water and Sewer Commission (House, No. 4685);

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.

#### Senate bills

Further regulating the minimum size of American lobsters (Senate, No. 1847);

Relative to the declaration of non-cash dividends by trust companies (Senate, No. 1873);

Authorizing affordable housing covenants in the town of Nantucket (Senate, No. 2006, amended); and

Relative to motor homes (Senate, No. 2178); and

#### House bills

Relative to the charter of the city of Chelsea (House, No. 4820);

Authorizing the town of Brewster to establish a capital investment fund (House, No. 4828);

Authorizing the town of North Andover to grant a certain conservation restriction (House, No. 4830, changed);

Authorizing the city of Waltham to continue the use of certain park land for water purposes (House, No. 4833); and

Providing for a betterment program for private road improvements in the city of Gloucester (House, No. 4835);

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

At twenty-five minutes before twelve o'clock noon, on motion of Mr. Casey of Winchester (Mrs. Harkins of Needham being in the Chair), the House recessed until one o'clock P.M.; and at seven minutes after one o'clock the House was called to order with Mr. DiMasi of Boston in the Chair.

The House thereupon took a further recess, on motion of Mrs. Harkins, until a quarter before two o'clock P.M.; and at four minutes after two o'clock the House was called to order with Mr. DiMasi in the Chair.

The Senate Bill providing equitable coverage of services under health plans (Senate, No. 2139), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, Mr. O'Brien of Kingston asked for a count of the House to ascertain if a quorum was present. The Chair (Mr.

DiMasi of Boston), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

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.

**[\[See Yea and Nay No. 237 in Supplement.\]](#)**

Therefore a quorum was present.

After debate Mr. Mariano of Quincy moved that the bill be amended in section 1, in line 10, in section 2, in line 12, in section 3, in line 11, and also in section 4, in line 10, by inserting after the word “services”, in each instance, the words “for peri and post menopausal women”; in section 1, in line 24, in section 2, in line 28, in section 3, in line 26, and also in section 4, in line 24, by striking out, in each instance, the word “all”; in section 1, in line 24, in section 2, in line 27, in section 3, in line 26, and also in section 4, in line 24, in section 2, in line 27, in section 3, in line 26, and also in section 4, in line 24, by inserting after the word “therapy”, in each instance, the words “for peri and post menopausal women”; in section 1, in line 28, in section 2, in line 31, in section 3, in line 30, and also in section 4, in line 27, by inserting after the word “devices”, in each instance, the following: “, provided that in covering all FDA approved prescription contraceptive methods, nothing herein precludes the use of closed or restricted formulary”; and by adding at the end thereof the following section:

“SECTION 5. The provisions of this act shall apply to all policies, contract, plans and certificates of insurance issued or delivered within the commonwealth on or after January 1, 2003, and to all policies, contracts, agreements, plans and certificates of insurance in effect before that date upon renewal on or after January 1, 2003.”.

The amendments were adopted.

After debate Ms. Wolf of Cambridge asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. DiMasi of Boston), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 150 members were recorded as being in attendance.

**[\[See Yea and Nay No. 238 in Supplement.\]](#)**

Therefore a quorum was present.

After remarks Representatives Wolf of Cambridge and Blumer of Framingham moved that it be amended in section 1, in line 6 and also in line 20, in section 2, in line 5 and also in line 20, in section 3, in line 4 and also in line 19, and also in section 4, in line 4 and also in line 18, by striking out, in each instance, the words “, except policies providing supplemental coverage to Medicare or to other government programs.”.

After debate the amendments were adopted.

Mrs. Poirier of North Attleborough and other members of the House then moved that the bill be amended in section 1, in lines 29 to 36, by striking out the paragraph contained therein and inserting in place thereof the following:

“(c) Notwithstanding paragraphs (a) and (b) of this section and any other provision of law to the contrary—

(i) Provision of contraceptive services and prescription contraceptive drugs and devices, and of benefits for such services, drugs and devices, shall not apply to any church affiliated or religiously based organization issuing, delivering, renewing or purchasing a policy when such organization objects to the provision thereof on moral or religious grounds.

(ii) A policy excluding contraceptive services and prescription contraceptive drugs and devices shall be issued to any person with such moral or religious objection.

(iii) Nothing in this section shall be construed to authorize the refusal to provide any services, prescription drugs and devices, or of benefits therefore, that are prescribed for purposes other than to prevent pregnancy.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Tobin of Quincy; and on the roll call 49 members voted in the affirmative and 107 in the negative.

**[\[See Yea and Nay No. 239 in Supplement.\]](#)**

Therefore the amendment was rejected.

On the question on passing the bill, as amended, to be engrossed, in concurrence, the sense of the House was taken by yeas and nays, at the request of Miss Reinstein of Revere; and on the roll call 139 members voted in the affirmative and 16 in the negative.

**[\[See Yea and Nay No. 240 in Supplement.\]](#)**

Therefore the bill, as amended, was passed to be engrossed, in concurrence. Ms. Wolf of Cambridge moved that this vote be reconsidered; and the motion to reconsider was entertained forthwith; and it was negatived. The bill (Senate, No. 2139, amended) then was sent to the Senate for concurrence in the amendments.

The House Bill promoting energy efficiency and conservation (House, No. 4006, amended) was considered.

Pending the question on passing the bill to be engrossed, Mr. Bosley of North Adams moved that it be amended by adding at the end thereof the following two sections:

“SECTION 4. Section 2 of chapter 166A is hereby amended by adding the following:—

There shall be established in the department of telecommunications and energy a division of community antennae television. Subject to the provisions of section 4 of chapter 25, the chairman of the department shall designate a director of said division who shall have the full scope of authority of all provisions of this chapter, including, but not limited to, presiding at hearings pursuant to section 2A; the right to maintain or intervene in an action pursuant to section 12; the authority to regulate rates pursuant to section 15; the authority to promulgate rules and regulations pursuant to section 16; its enforcement powers pursuant to section 17; and all other authority to carry out the duties and responsibilities of this chapter. Appeals of any decision, order, or ruling of the director may be brought within 14 days of the issuance of said decision to the full body of the commissioners of the department. When so requested by any party interest, the department shall rule upon any question of substantive law properly arising in the course of any proceeding before the division within 14 days. Except as otherwise provided in this chapter, appeals taken from the orders of the department shall be governed by section 5 of chapter 25.

SECTION 5. Section 4 of this act shall take effect as of December 31, 2001.”.

The amendment was adopted; and the bill (House, No. 4006, amended) was passed to be engrossed. Sent to the Senate for concurrence.

The Senate Bill relative to certain school construction projects in the towns of Milton and Winchester and the cities of Brockton, Revere and Waltham (Senate, No. 2228) was read a second time; and it was ordered to a third reading.

Subsequently (the Speaker being in the Chair), under suspension of the rules, on motion of Mr. Casey of Winchester, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time forthwith.

Pending the question on passing the bill to be engrossed, in concurrence, the Mr. Timilty of Milton moved that it be amended in section 3, in line 11, by inserting after the word “contracts.” the following sentence: “Submission of bidding documents, for the review by the Inspector General as provided in this section, and notice and advertising thereof, before the effective date of this Act, shall be regarded as being within this Act, provided this Act is effective before any contracts are awarded pursuant to said bidding documents.”; and the amendment was adopted.

Mr. Hall of Westport then moved that the bill be amended in section 2, in line 3, by inserting after the word “Laws” the following: “except for the form of contract set forth in paragraph (c) of subsection (4) of said section 44F”; and by inserting after section 5 the following section:-

“SECTION 5A. Subsection (1) of section 39F of chapter 30 of the General Laws shall be applicable to all subcontract executed in connection with any school building program undertaken pursuant to this act.”.

The amendments were adopted.

Mr. Connolly of Everett then moved that the bill be amended in section 1, in line 2, by inserting after the word "Brockton" word "Everett"; and in section 3, in line 2, by inserting after the word "Brockton" the word "Everett".

The amendments were rejected; and the bill (Senate, No. 2228, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments.

*Order.*

On motion of Mr. Donato of Medford,—

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