

## **JOURNAL OF THE HOUSE.**

Thursday, April 25, 2002.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Walsh 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:

Holy Spirit of God, enlighten, guide and direct us in our effort to recognize, sort out and respond to our personal and legislative opportunities and obligations. In praying for Your always available assistance, we believe that we are both sustained and strengthened during the course of the day. As elected officials with serious responsibilities, inspire us to be thoughtful, considerate and patient in evaluating the suggestions and agenda items of others, even when the requests seem unreasonable. In Your goodness, teach us to remain faithful to our core human and spiritual values and principles as we work together, in a spirit of trust, to build more peaceful, safe and prosperous communities.

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

At the request of the Chair (Mr. Walsh), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

### *Messages from the Acting Governor.*

A message from Her Honor the Lieutenant-Governor, Acting Governor, relative to providing for capital facility improvements and repairs for the Commonwealth (House, No. 5037) was filed in the office of the Clerk on Tuesday, April 23.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Long-Term Debt and Capital Expenditures.

A message from Her Honor the Lieutenant-Governor, Acting Governor, submitting recommendations for making appropriations for the fiscal year 2002 to provide for

supplementing certain existing appropriations and for certain other activities and projects (House, No. 5038) was filed in the office of the Clerk on Tuesday, April 23.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Ways and Means.

A message from Her Honor the Lieutenant-Governor, Acting Governor, relative to providing for a tax amnesty program for increased discovery and collection of delinquent tax obligations (House, No. 5039) was filed in the office of the Clerk on Tuesday, April 23.

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

#### *Resolutions.*

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

Resolutions (filed by Mr. Atsalis of Barnstable) congratulating Margery McCarthy on the occasion of her retirement; and

Resolutions (filed by Mr. Hill of Ipswich) commending the sister city liaison of the towns of Boxford, Massachusetts and Boxford, county of Suffolk in the United Kingdom;

Mrs. Harkins of Needham, 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. Peterson of Grafton, 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 authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of West Boylston (House, No. 4494) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2314.

Under suspension of Rule 35, on motion of Mr. Naughton of Clinton, 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.

The House Bill authorizing the town of Bellingham to establish a tax stabilization fund (House, No. 4732) came from the Senate passed to be engrossed, in concurrence, with an amendment in lines 10 to 13, inclusive, by striking out the sentence contained therein and inserting in place thereof the following sentence: "The principal and interest thereon shall be reserved to mitigate the loss of taxes and revenues resulting from the termination of any in lieu of tax agreement between the town and any power and electric generating plant located in the town."

Under suspension of Rule 35, on motion of Mrs. Parente of Milford, 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.

A House petition of Maryanne Lewis, Marc R. Pacheco and another relative to displaced janitors or building maintenance personnel of certain contractors or subcontractors, came from the Senate with the endorsement that said branch had concurred in the suspension of Joint Rule 12, non-concurred in the reference to the committee on State Administration and that it had been referred, in non-concurrence, to the committee on Commerce and Labor.

On motion of Ms. Lewis of Dedham, the House receded from its reference; and the petition (accompanied by bill, House, No. 5040) was referred, in concurrence, to the committee on Commerce and Labor.

#### *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 Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of Patricia A. Haddad and Joan M. Menard for legislation to authorize the Trial Court to establish a sick leave bank for Holly Andersen, an employee of said court. To the committee on the Judiciary.

Petition (accompanied by bill) of Philip Travis and Jo Ann Sprague relative to authorizing the Rehoboth Water District to hold its annual district meetings at the Dighton-Rehoboth Regional High School building. To the committee on Local Affairs.

Under suspension of the rules, on motion of Mr. Timilty of Milton, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

Mr. Scaccia of Boston, for the committee on Rules, asking to be discharged from further consideration of the residue of the Order relative to authorizing the committee on Taxation to make an investigation and study of certain House documents concerning income tax rates and incentives (House, No. 4678),— and recommending that the same be recommitted to the committee on Taxation. Under Rule 42, the report was considered forthwith; and it was accepted.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from Her Honor the Lieutenant-Governor, Acting Governor (House, No. 1A), reported, in part, a Bill making appropriations for the fiscal year 2003 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 5100) [Direct Appropriations: \$20,867,752,774.00; Retained Revenue: \$192,147,571.00; Lottery Distribution: \$778,091,951.00; and Total Appropriation: \$21,837,992,296.00]. 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 the provisions of House, Order, No. 5033, amended, the bill was placed in the Orders of the Day for Monday, May 6, for a second reading.

By Mr. Donnelly of Boston, for the committee on the Judiciary, on a petition, a Bill relative to trustees of the Kuzeja real estate trust capital asset-land transfer (House, No. 4657). Read; and referred, under Rule 33, to the committee on Ways and Means.

#### *Emergency Measure.*

The engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of West Boylston (see House, No. 4494, 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 5 to 0. Sent to the Senate for concurrence.

*Engrossed Bills.*

Engrossed bills

Authorizing the town of Bellingham to establish a tax stabilization fund (see House, No. 4732, amended); and

Providing for the annual observance of Luther Burbank Day (see House, No. 4877);

(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 including employees of the Central Massachusetts Regional Planning Commission in the group insurance plan (Senate, No. 2131, 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. Sent to the Senate for concurrence in the amendment previously adopted by the House.

The Senate Bill relative to contracts between court reporters and an attorney, party or party having a financial interest in an action (Senate, No. 978), 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

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

Authorizing the town of Somerset to issue an additional license for the sale of wine and malt beverages not to be drunk on the premises (House, No. 4827); and

Relative to nuclear power plants (House, No. 4913, amended) (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.

The House Bill relative to the public distribution of free smoking or tobacco products (House, No. 235) (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, Mrs. Walrath of Stow moved that it be amended in lines 24 to 29, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

“(d) Nothing in this section shall be construed to preempt any existing law, ordinance, bylaw, regulation or rule which requires a permit or license for the sale of tobacco products, or which regulates the sale, use, or distribution of tobacco products. Nothing in this regulation shall prohibit any city, town or board of health from enacting or enforcing any law, ordinance, bylaw, regulation or rule which requires a permit or license for the sale of tobacco products, or which regulates the sale, use, or distribution of tobacco products. Without limiting the generality of the foregoing, nothing in this section shall prohibit any city, town, or board of health from enacting or enforcing any law, ordinance, bylaw, regulation or rule pertaining to the sale and distribution of tobacco products whose provisions are more stringent than those contained in this section. Without limiting the generality of the foregoing, nothing in this section shall prohibit any city, town, or board of health from enacting or enforcing any law, ordinance, bylaw, regulation or rule which imposes a monetary penalty, permit suspension or permit revocation for a violation of the local law. In cases where the ordinance, bylaw, regulation or rule is more restrictive than the provisions of this section, it shall control to the extent of any inconsistency with this section.”.

The amendment was adopted; and the bill (House, No. 235, amended) was passed to be engrossed. Sent to the Senate for concurrence.

*Recesses.*

At sixteen minutes after eleven o'clock A.M., on motion of Mrs. Walrath of Stow (Mr. Walsh of Boston being in the Chair), the House recessed until a half past one o'clock P.M.; and at seventeen minutes before two o'clock the House was called to order with Mr. Walsh in the Chair.

The House thereupon took a further recess, on motion of Mr. Peterson of Grafton, until three o'clock; and at that time the House was called to order with Mr. Walsh in the Chair.

*Emergency Measure.*

Mr. Cabral of New Bedford being in the Chair,—

The engrossed Bill requiring certain religious officials to report abuse of children (see Senate, No. 2230, 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 5 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 Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

*Order.*

Mr. Walsh of Boston having returned to the Chair, on motion of Mr. Finneran of Boston,—

*Ordered*, That, when the House adjourns today, it adjourn to meet on Monday next at one o'clock P.M.

At twenty-two minutes before four o'clock P.M., on motion of Mr. Cabral of New Bedford (Mr. Walsh of Boston being in the Chair), the House adjourned, to meet on Monday next at one o'clock P.M., in an Informal Session.