

JOURNAL OF THE HOUSE.

Tuesday, June 11, 2002.

Met according to adjournment, at eleven o'clock A.M., with Mr. Sullivan of Braintree 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:

Ever Blessed God, for a moment, we focus our attention on You and on the relevance of spiritual realities and priorities. In a spirit of humility and trust, we pray that our hearts and minds, at all times, will be open to You and filled with Your gifts of peace, goodness and wisdom. During these days of uneasiness and fear of terrorist incidents, inspire us to build confidence in You and in each other, as we work together for a peaceful and better tomorrow. In coping with current world-wide economic, political and cultural changes, teach us to respect the accomplishments of our predecessors as we try to build a prosperous society for the present and for our children's future.

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

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

Silent Prayer.

At the request of the Chair (Mr. DiMasi of Boston), the members, guests and employees stood in a moment of silent prayer for the speedy recovery of Representative Mary Jane Simmons of Leominster, who is in her district struggling with illness.

Statement Concerning Representative Fox of Boston.

A statement of Mr. DiMasi of Boston concerning Ms. Fox of Boston 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 one of our colleagues, Representative Fox of Boston, will not be present in the House Chamber for today's sitting due to official business in her district. Any roll calls that she may miss today will be due entirely to the reason stated.

Statement Concerning Representative Kafka of Sharon.

A statement of Mr. DiMasi of Boston concerning Mr. Kafka of Sharon 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 one of our colleagues, Representative Kafka of Sharon, will not be present in the House Chamber for today's sitting due to personal business outside of the country. Any roll calls that he may miss today or for the next few days will be due entirely to the reason stated.

Statement Concerning Representative Koutoujian of Newton.

A statement of Mr. DiMasi of Boston concerning Mr. Koutoujian of Newton 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 one of our colleagues, Representative Koutoujian of Newton, will not be present in the House Chamber for today's sitting due to being in Russia on an education mission with the American Council of Young Political Leaders sponsored by the U.S. State Department. Any roll calls that he may miss today or for the next few days will be due entirely to the reason stated.

Statement Concerning Representative Malia of Boston.

A statement of Mr. DiMasi of Boston concerning Ms. Malia of Boston 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 one of our colleagues, Representative Malia of Boston, will not be present in the House Chamber for today's sitting due to a prior commitment in her district. Any roll calls that she may miss today will be due entirely to the reason stated.

Statement Concerning Representative Merrigan of Greenfield.

A statement of Mr. DiMasi of Boston concerning Mr. Merrigan of Greenfield 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 one of our colleagues, Representative Merrigan of Greenfield, will not be present in the House Chamber for today's sitting due to official business in his district. Any roll calls that he may miss today or for the next few days will be due entirely to the reason stated.

Statement Concerning Representative Peterson of Grafton.

A statement of Mr. Marini of Hanson concerning Mr. Peterson of Grafton 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 one of our colleagues, Representative Peterson of Grafton, will not be present in the House Chamber for today's sitting due to a previously scheduled surgical procedure for a family member. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement Concerning Representative Spellane of Worcester.

A statement of Mr. DiMasi of Boston concerning Mr. Spellane of Worcester 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 one of our colleagues, Representative Spellane of Worcester, will not be present in the House Chamber for today's sitting due to a previously scheduled family commitment. Any roll calls that he may miss today will be due entirely to the reason stated.

Guest of the House.

During the session, the Chair (Mr. DiMasi of Boston) declared a recess subject to the call of the Chair, there being no objection; and introduced Kellie Breen, a fourth grade student at Palmer Elementary School in Rehoboth, who sang the song "Good Night My Someone" from the musical "The Music Man". Ms. Breen, accompanied by her mother, Cheryl Breen, was the guest of Representative Travis of Rehoboth.

Resolutions.

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

Resolutions (filed by Mr. Finneran of Boston) congratulating Eileen Marie McDevitt Our on the occasion of her retirement;

Resolutions (filed by Mr. Merrigan of Greenfield) honoring three Revolutionary War heroes of the town of Warwick;

Resolutions (filed by Messrs. O'Brien of Kingston and Straus of Mattapoisett) congratulating Matthew Fahey on receiving the Eagle Award of the Boy Scouts of America; and

Resolutions (filed by Messrs. O'Brien of Kingston and Straus of Mattapoisett) congratulating Matthew Schofield on receiving the Eagle Award of the Boy Scouts of America;

Mr. DiMasi 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. Walrath of Stow, 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 engrossed Bill relative to contracts between court reporters and an attorney, party or party having a financial interest in an action (see Senate, No. 978) came from the Senate with an amendment in line 21 (as printed) by inserting after the word "courts" the words "or to other contracts with governmental entities".

Under suspension of Rule 35, on motion of Mr. Quinn of Dartmouth, 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 following order (reported from the committees on Rules of the two branches, acting concurrently) came from the Senate with the endorsement that it had been adopted by said branch:

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 Friday, July 12, 2002, within which to make reports on matters referred to them.

Under suspension of the rules, on motion of Mr. Jones of North Reading, the order was considered forthwith; and it was adopted, in concurrence.

Reports of Committees.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill providing for certain information technology improvements (Senate, No. 2256) 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 5133 [General Obligation Bond: \$300,000,000.00]. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

The amendment recommended by the committee on Ways and Means was adopted; and the bill (Senate, No. 2256, amended) was ordered to a third reading.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill protecting consumers from unsolicited loans (Senate, No. 7, amended) ought to pass with certain amendments.

By the same member, for the same committee, that the Bill providing support to individuals with disabilities and their families (Senate, No. 2218) ought to pass with certain amendments.

By the same member, for the same committee, that the Bill relative to falsifying an emergency transmission (House, No. 412) ought to pass with an amendment.

By the same member, for the same committee, that the Bill providing for the use of uniform accounting principles (House, No. 1213) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 5134).

By the same member, for the same committee, that the Bill facilitating low interest financing for Massachusetts charitable institutions (House, No. 4351) ought to pass with an amendment.

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matters be scheduled for consideration by the House; and, under said rule, they were placed in the Orders of the Day for the next sitting for a second reading with the amendments pending.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the following bills ought to pass:

Senate bills:

Bill authorizing the Metropolitan District Commission to grant certain easements for underground electric transmission cables (Senate, No. 625);

Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land located in the towns of Becket and Otis in exchange for certain other land located in the town of Otis (Senate, No. 1590, amended);

Bill establishing a sick leave bank for Marilyn Anufrom, an employee of the Wrentham Development Center (Senate, No. 1861, amended);

Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the city of Waltham (Senate, No. 1879);

Bill relative to the disposition of certain state-owned property in the town of New Salem (Senate, No. 1918, amended);

Bill relative to the Massachusetts Technology Development Corporation (Senate, No. 2118, amended);

Bill increasing benefits to children who are survivors of an accidental death (Senate, No. 2185);

Bill authorizing the Department of Highways to acquire land in the city of Quincy for the purpose of flood control and prevention (Senate, No. 2232);

Bill relative to the identification of burial grounds and cemeteries on certain state-owned land (Senate, No. 2315);

Bill relative to farmer distillery licenses (Senate, No. 2328); and

Bill relative to the conveyance of a certain parcel of land in Grafton (Senate, No. 2330); and

House bills:

Bill to provide for placement of certain children without loss of custody (House, No. 207);

Bill relative to the temporary relocation of utility wires (House, No. 249);

Bill relative to the taxation of certain military organizations (House, No. 1888);

Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain easement (House, No. 4260);

Bill relative to the retirement benefits of certain public employees (House, No. 4456); and

Bill relative to Mr. Thomas Mellett (House, No. 5072, changed);

Severally referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matters be scheduled for consideration by the House; and, under said rule, they were placed in the Orders of the Day for the next sitting for a second reading.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the city of Worcester to place a conservation restriction on Green Hill Park (see House, No. 4939) (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.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 137 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 368 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The House Bill to insure adequate bond protection for all construction contracts for which bonds are issued in the Commonwealth (House, No. 2433) was read a second time; and it was ordered to a third reading.

At eighteen minutes after eleven o'clock A.M., on motion of Mr. Smizik of Brookline (Mr. O'Flaherty of Chelsea being in the Chair), the House recessed until one o'clock P.M.; and at fourteen minutes after one o'clock the House was called to order with Mr. DiMasi of Boston in the Chair.

The House Resolutions memorializing the Congress of the United States to adopt a resolution approving the development of a national geologic repository (House, No. 5119), reported by the committee on Bills in the Third Reading to be correctly drawn, were considered.

After remarks on the question on adoption of the resolutions (Mr. DiMasi of Boston being in the Chair), Ms. Jehlen of Somerville asked for a count of the House to ascertain if a quorum was in attendance. A count showed that 91 members were in attendance.

Therefore a quorum was present.

Mrs. Paulsen of Belmont and other members of the House moved that the resolutions be amended by substitution of Resolutions memorializing the Congress of the United States to

conduct further research on the development of a national geologic repository and provide funding for on-site storage of spent nuclear fuel and waste.

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 Ms. Donovan of Woburn; and on the roll call 31 members voted in the affirmative and 105 in the negative.

[See Yea and Nay No. 369 in Supplement.]

[Representatives Scaccia of Boston, Stanley of West Newbury and Walrath of Stow answered “Present” in response to their names.]

Therefore the amendment was rejected.

The Resolutions (House, No. 5119) then were adopted.

Emergency Measure.

The engrossed Bill authorizing additional borrowing for the Massachusetts Bay Transportation Authority and the Central Artery/Ted Williams Tunnel Project (see House, No. 5123), 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 24 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 House) was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a “loan” bill as defined by Section 3 of Article LXII of the Amendments to the Constitution); and on the roll call 135 members voted in the affirmative and 4 in the negative.

[See Yea and Nay No. 370 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The House Bill revising the membership of the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority (House, No. 4991) was read a second time.

Pending the question on ordering the bill to a third reading, Messrs. Turkington of Falmouth and Atsalis of Barnstable moved that it be amended in section 9 by adding at the end thereof the following paragraph:

“The city of New Bedford shall pay to the Authority 50% of the net operating losses, if any, incurred on any freight or passenger service operated by the Authority from said city.”.

Pending the question adoption of the amendment, the same members moved that the amendment offered by them be amended by adding at the end thereof the following paragraph:

“At the end of the calendar year the Authority shall prepare a report calculating said operating losses in accordance with generally accepted accounting principles and shall submit the same to the State Auditor for his approval. The amount certified by said State Auditor shall be paid to the Authority by the State Treasurer and assessed on the City of New Bedford in accordance with the above procedures.”.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Quinn of Dartmouth; and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 76 members voted in the affirmative and 63 in the negative.

[\[See Yea and Nay No. 371 in Supplement.\]](#)

Therefore the further amendment was adopted.

The amendment offered by Messrs. Turkington and Atsalis, as amended, then also was adopted.

Messrs. Turkington of Falmouth and Atsalis of Barnstable then moved that the bill be amended in section 18, in line 1, by striking out the word “The” and inserting in place thereof the words “At such time as a lease is signed between the Department of Environmental Management, the city of New Bedford, and the Steamship Authority for long term use of said state pier in New Bedford by the Steamship Authority, the”.

After debate (Mr. DiMasi of Boston being in the Chair), the amendment was adopted.

Messrs. Turkington of Falmouth and Atsalis of Barnstable then moved that the bill be amended in section 5, in lines 4 to 8, inclusive, by striking out the following: “the member from Dukes County shall serve an initial term to expire on December 31, 2004; the members from Nantucket and Barnstable shall serve initial terms to expire on December 31, 2003; the member from Falmouth shall serve an initial term to expire on December 31, 2002” and inserting in place thereof the words “Any member currently serving shall remain on the reconstituted Authority board until the expiration of his or her current term”.

The amendment was adopted.

The same members then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 19. This Act shall not go into effect until such time as the litigation pending US Federal District Court between the city of New Bedford and the Steamship Authority is finally adjudicated, or dismissed with prejudice.”.

The amendment was adopted.

Messrs. Turkington and Atsalis then moved that the bill be amended in section 11, in line 1, by striking out the word “Two” and inserting in place thereof the word “Three”.

The amendment was adopted.

Messrs. Turkington of Falmouth and Atsalis of Barnstable then moved that the bill be amended in section 9, in line 13, by striking out the following: “35%” and inserting in place thereof the following: “40%”, and in said line by striking out the following: “45%” and inserting in place thereof the following: “40%”; and in section 11, in line 21, by striking out the following: “30%” and inserting in place thereof the following: “35%”, and in line 22 by striking out the following: “40%” and inserting in place thereof the following: “35%”.

The amendments were adopted.

The same members then moved that the bill be amended in section 4, in lines 8 and 9, by striking out the words “town of Nantucket by the selectmen” and inserting in place thereof the words “Nantucket County by the County Commissioners”.

The amendment was adopted.

Messrs. Turkington and Atsalis then moved that the bill be amended by striking out section 18 and inserting in place thereof the following section:

“SECTION 18. Section 53 of Chapter 7 of the General Laws is hereby amended by inserting at the end of the paragraph entitled ‘Agency’, the following:— and the Woods Hole, Martha’s Vineyard and Nantucket Steamship Authority.”.

The amendment was adopted.

Mr. Turkington of Falmouth then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 19. This act must be accepted by the Towns of Barnstable and Falmouth and the City of New Bedford by ballot vote at an annual or special election.”.

The amendment was adopted.

Mrs. Provost of Sandwich then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 20. That a special commission to consist of two members of the senate, three members of the house of representatives and ten persons to be appointed by the governor, one

of whom shall be a member of the Upper Cape Water Supply Cooperative, one of whom shall be a member from the Massachusetts Military Reservation Commission, one of whom shall be a member of the Cape Cod Commission, one of whom shall be a selectman from the town of Bourne or his designee, one of whom shall be a selectmen from the town of Barnstable or his designee, one of whom shall be a selectmen from the town of Sandwich or his designee, is hereby established for the purpose of making an investigation and study relative to certain real estate or owned or leased by the Steamship Authority on Cape Cod and the Steamship Authority's ability to circumvent local zoning and water protection bylaws.

Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the last Wednesday of June, two thousand and three.”.

The amendment was rejected.

The same member then moved that the bill be amended by inserting after section 7 (as printed) the following section:

“SECTION 5A. Clause (b) of section 4 of said chapter 701, as most recently amended by section 105 of chapter 33 of the acts of 1991, is hereby further amended by adding the following sentence:— Any real estate owned or leased by the Authority on Cape Cod which sits on an aquifer from which drinking water is extracted shall be subject to applicable city or town zoning ordinances and by-laws.”.

The amendment was adopted; and the bill (House, No. 4991, amended) was ordered to a third reading.

Order.

On motion of Mr. Finneran of Boston,—

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

Accordingly, without further consideration of the remaining matters of the Orders of the Day, at seventeen minutes after five o'clock P.M., on motion of Mr. Turkington of Falmouth (Mr. DiMasi of Boston being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.

