

JOURNAL OF THE HOUSE.

Monday, July 1, 2002.

Met according to adjournment, at eleven o'clock A.M.

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

Holy Spirit of God, this morning, and usually daily, we pray for an increase in our hearts and minds of Your spiritual gifts of wisdom, counsel patience and charity towards all. We believe that Your gifts enable us to recognize and follow Your ways in our daily living and to achieve the goal for which we have been placed on this earth. Strengthened by Your always available guidance, our most complex political and personal challenges can be addressed in a thoughtful and reasonable manner. In these uneasy and changing times, inspire us to make responsible, just and ethical decisions and choices which serve the best interests of the people, our communities and future generations.

Bestow Your blessings on the Speaker, the members and employees of this House and their families. Amen.

At the request of the Speaker, the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Resolutions.

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

Resolutions (filed by Mr. Kaufman of Lexington and other members of the House) memorializing the Congress of the United States and the citizens of Massachusetts to speak out against anti-semitism; and

Resolutions (filed by Mr. Petersen of Marblehead) recognizing the one hundred and fiftieth anniversary of the incorporation of the town of Swampscott;

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

Resolutions (filed with the Clerk by Mr. Rushing of Boston and other members of the House) on the occasion of the visit of His Excellency Pedro Pires, President of the Republic of Cape Verde, were referred, under Rule 85, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Rushing, 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.

Bills

Relative to creditable service for vocational education teachers (Senate, No. 2029) (on Senate, No. 1454);

Authorizing the State Retirement Board to grant a certain pension to Michael G. Sweeney (Senate, No. 2236, amended in lines 27 to 31, inclusive, by striking out the sentence contained therein and inserting in place thereof the following sentence: "When such a child reaches age 23 or no longer meets the qualifications for receipt of the pension allocation provided in this section, that child's pension allocation shall cease and any remaining qualified children shall continue to receive the same amount each received before any child's allocation ceased.") (on a petition);

Relative to the retirement options of certain educational support personnel (Senate, No. 2344, amended in section 2, in line 6, by striking out the word "membership" and inserting in place thereof the word "creditable"; and in section 3, in line 3, by striking out the following: "July 1, 2001" and inserting in place thereof the words "the effective date of this act", and in lines 6 and 7 by striking out the following: "on or after July 1, 2002 and before January 1, 2003" and inserting in place thereof the following: "within 180 days after the effective date of this act") (on Senate bill, No. 1361);

Relative to the penalty for a third conviction for operating under the influence (Senate, No. 2371) (on Senate bill, No. 178);

Authorizing the Metropolitan District Commission and the Massachusetts Bay Transportation Authority to enter into certain temporary construction agreements and convey certain permanent easements to facilitate the reconstruction of the Red Line Charles/MGH Station in Boston (Senate, No. 2373) (on Senate bill, No. 1616);

To transfer certain land to the town of Lenox for natural resources purposes (Senate, No. 2374) (on Senate bill, No. 2290); and

Relative to the licensing of telecommunications professionals (Senate, No. 2375, amended in section 15, in line 123, by inserting after the word "energy" the words "and municipal electric plants and their employees"; in line 169 by striking out the following: "18-month" and inserting in place thereof the following: "24-month"; in line 256 by striking out the word "two" and inserting in place thereof the figure "3"; and by adding at the end thereof the following paragraph, as changed by the Senate committee on Bills in the Third Reading:

"Section 18. A person, firm or corporation licensed by the board of electrical, system and telecommunications examiners in accordance with chapter 141 of the General Laws or person, firm or corporation licensed by the commissioner of public safety in accordance with sections 57 to 61, inclusive, of chapter 147 of the General Laws on the effective date of this act who provides the board with satisfactory evidence that he has the qualifications for the type and

categories of license applied for under section 9 of chapter 141A of the General Laws of chapter shall not be required to make payment of the fees required in said chapter 141A.”) (on Senate bill No. 2341);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 33, to the committee on Ways and Means.

Bills

Providing for a plaque for Edward Cohen (Senate, No. 1564) (on a petition);

Relative to the issuance of certain bonds by the city of Quincy (Senate, No. 2367) (on a petition) [Local Approval Received]; and

Limiting indemnity responsibility for general contractors and subcontractors in construction work (Senate, No. 2378) (on Senate bill No. 1561);

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A petition (accompanied by bill, Senate, No. 2379) of Robert A. Havern, Jay R. Kaufman, J. James Marzilli, Jr. and Anne M. Paulsen (by vote of the town) for legislation to authorize the town of Arlington to enact a by-law to protect places of special cultural, architectural and historical significance, was referred, in concurrence, to the committee on Local Affairs.

A petition of the Hickory Hill Association, Inc., by Thomas A. DeRiemer, clerk, for legislation relative to the powers of homeowners’ associations in subdivisions, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Local Affairs.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2390) was referred, in concurrence, to the committee on Local Affairs.

Reports of Committees.

By Mr. Rogers of Norwood, for the committee on Ways and Means, asking to be discharged from further consideration of the Bill relative to the disposition of certain state-owned property in the city of Somerville (House, No. 5138),— and recommending that the same be referred to the 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, on House, No. 4458, reports, in part, a Bill relative to the terms of certain bonds issued by the Commonwealth (House, No. 5198).

By Mr. Toomey of Cambridge, for the committee on Public Safety, on House, No. 2228, a Bill relative to the wrongfully convicted (House, No. 5199).

By Mr. Hall of Westford, for the committee on State Administration, on House, No. 5146, a Bill relative to authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey easements for the transmission of natural gas over lands under the control of the Department of Environmental Management for conservation/recreation purposes in the town of North Andover to Maritimes & Northeast Pipelines, L. L. C. (House, No. 5200).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Toomey of Cambridge, for the committee on Public Safety, that the recommitted Bill to enhance pedestrian safety at pedestrian crosswalks (House, No. 1088) ought to pass with an amendment substituting therefor a Bill to enhance safety at pedestrian crosswalks (House, No. 5201). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

By Miss Garry of Dracut, for the committee on Counties on the part of the House, that the Bill relative to membership in county retirement systems (House, No. 3181) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

By Mr. Sullivan of Braintree, for the committee on Transportation, on a petition, a Bill relative to the repair of a certain road in the city of Leominster (House, No. 5118). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Engrossed Bills.

Engrossed bills

Relative to the Insurers Insolvency Fund (see House, No. 1784, amended);

Relative to fees of justices of the peace (see House, No. 2745, changed);

Authorizing the town of Mashpee to grant additional licenses for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 4234, amended); and

Relative to workers' compensation coverage for sole proprietors, partnerships and corporate officers (see House, No. 4348, 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 Speaker and sent to the Senate.

Orders of the Day.

The Senate Bill authorizing the town of Andover to convey land to the Andover Village Improvement Society (Senate, No. 1046, 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 amendments previously adopted by the

House.

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

The House Bill relative to payment of certain medical expenses of Boston firefighters Joseph Cady and Alonzo P. Brooks (House, No. 4056), 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. Sent to the Senate for concurrence.

Senate bills

Facilitating the use of land transfer of development rights (Senate, No. 1011);

Authorizing the town of Arlington to use a certain parcel of park land for public way purposes (Senate, No. 2023); and

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

House bills

Making technical amendments to the Uniform Commercial Code covering provisions dealing with secured transactions (House, No. 4575);

Designating a certain bridge in the town of Andover as the Joseph A. Horan Bataan Corrigidor Veterans Memorial Bridge (House, No. 5022);

Authorizing the town of Rochester to pay a certain unpaid bill (House, No. 5049);

Authorizing the town of Dedham to reimburse certain sewer use fees (House, No. 5058);

Relative to the acceptance of the Community Preservation Act by the town of Buckland (House, No. 5078); and

Authorizing the town of Westford to issue an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 5130);

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

The House Bill further regulating the sale of insurance by motor vehicle rental companies (House, No. 4636) was read a second time.

The amendment previously recommended by the committee on Insurance,— that the bill be amended by substitution of a Bill relative to protection offered in connection with rental agreements (House, No. 5174),— was adopted.

The substituted bill then was ordered to a third reading.

The House report of the committee on Local Affairs, ought NOT to pass (for the reason that it would be unconstitutional to enact such special law), on the petition (accompanied by bill, House, No. 5111) of Stephen Kulik and Stanley C. Rosenberg (by vote of the town) for legislation to provide for the appointment of a town clerk-collector-treasurer in the town of Deerfield, was considered.

Pending the question on acceptance of the report, the petition was referred to the committee on Rules, on motion of Mr. Kulik of Worthington.

Recess.

At twenty minutes after eleven o'clock A.M., the Speaker declared a recess until one o'clock P.M.; and at nineteen minutes after one o'clock the House was called to order with Mrs. Harkins of Needham in the Chair.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing Fire District Number Two in the town of South Hadley to convey certain parcels of land to the Commonwealth for conservation purposes (see House, No. 5029, amended) (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 145 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 374 in Supplement.\]](#)

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

Resolutions.

Resolutions (filed with the Clerk by Mr. Marini of Hanson and other members of the House) affirming the reference to One Nation Under God in the Pledge of Allegiance, were referred, under Rule 85, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules, then reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mr. Jones of North Reading, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith.

After debate on the question on adoption of the resolutions, the sense of the House was taken by

yeas and nays, at the request of Mr. deMacedo of Plymouth; and on the roll call 137 members voted in the affirmative and 6 in the negative.

[See Yea and Nay No. 375 in Supplement.]

Therefore the resolutions were adopted.

Subsequently a statement of Ms. Wolf of Cambridge 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 on the preceding roll call, I inadvertently voted in the affirmative. My attempt to reset my voting button failed due to a malfunction in my reset button. Had said button been operating properly, I would have been recorded in the negative.

Orders of the Day.

The motion (Mr. Koczera of New Bedford) that the vote be reconsidered by which the House, on Tuesday last, adopted resolutions (filed by him), was negatived.

The House Bill relative to enhancing English opportunities for all students in the Commonwealth (House, No. 5010) was considered.

Pending the question on ordering the bill to a third reading, Mr. Cabral of New Bedford moved that it be amended by substitution of a bill with the same title, which was read.

After debate on the question on adoption of the amendment, Mr. Larkin of Pittsfield moved the previous question on the pending amendment.

On the motion for the previous question, the sense of the House then was taken by yeas and nays, at the request of the same member; and on the roll call 69 members voted in the affirmative and 78 in the negative.

[See Yea and Nay No. 376 in Supplement.]

Therefore the motion to order previous question on the pending amendment was negatived.

After further 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. Marini of Hanson; and on the roll call 34 members voted in the affirmative and 114 in the negative.

[See Yea and Nay No. 377 in Supplement.]

Therefore the amendment was rejected.

Mr. Larkin of Pittsfield then moved that the bill be amended by adding at the end thereof the following three sections:

“SECTION 29. Notwithstanding the provisions of section fifty-three of chapter fifty-four of the

General Laws to the contrary, the attorney general and state secretary shall jointly review any ballot question title and one sentence statement describing the effect of a yes or no vote prepared jointly by the attorney general and state secretary pursuant to section fifty-three of chapter fifty-four for Initiative Petition 01-11, assigned House number 4839, submitted for the November 2002 statewide election, to determine whether any changes should be made in said title and statement based upon passage of this act. The attorney general and state secretary shall make any changes they determine necessary in said title and statement to ensure an accurate, fair and neutral ballot question title and one sentence statement describing the effect of a yes or no vote for said Initiative Petition. The state secretary shall determine whether sufficient time exists prior to publication of the voter information guide for the November 2002 statewide election to publish said title and statement in the Massachusetts register and allow for judicial review pursuant to said section fifty-three of said chapter fifty-four.

Notwithstanding the provisions of any general or special law to the contrary, the attorney general shall also review any summary he prepared for said Initiative Petition to determine whether any changes should be made in said summary based upon passage of this act, and shall make any changes he determines necessary to ensure a fair, concise, summary of said Initiative Petition, if the state secretary determines that sufficient time exists prior to publication of the voter information guide for the November 2002 statewide election to make such changes.

SECTION 30. Section 1 shall take effect on January 1, 2003.

SECTION 31. Sections 2 to 28, inclusive, shall take effect on July 1, 2003.”;

and by inserting before the enacting clause the following emergency preamble:

“*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith English language opportunities for all students in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

Mr. Marini of Hanson thereupon raised a point of order that the amendments were improperly before the House for the reason that they went beyond the scope of the pending bill.

In answer to the point of order, the Chair (Mrs. Harkins of Needham) stated that the point of order was well taken; and the amendments were laid aside accordingly.

Mr. Marini of Hanson and other members of the House then moved that the bill then moved that it be amended by substitution of a bill with the same title, which was read.

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. Marini; and on the roll call 22 members voted in the affirmative and 122 in the negative.

[See Yea and Nay No. 378 in Supplement.]

Therefore the amendment was rejected.

Mr. Larkin of Pittsfield then moved that the bill be amended by striking out sections 9 and 10 and inserting in place thereof the following two sections:

“SECTION 9. Said section 38G of said chapter 71, is hereby further amended by adding after the twenty-second paragraph, the following paragraph:—

In addition to any other requirements in this section, in order to receive a provisional or standard educator certificate, persons applying for such certification shall have completed such courses or training sessions as the board shall require in second language acquisition.

SECTION 10. Section 38Q of said chapter 71, as appearing in the 2000 Official Edition, is hereby amended by adding at the end of the first paragraph the following sentence:— In any school district with limited English proficient students, the plan shall provide training for teachers in second language acquisition techniques for the recertification of teachers and administrators. All professional development plans required by this section shall be filed annually with the commissioner of education.”.

The amendment was adopted.

Mr. Larkin and other members of the House then moved that the bill be amended in section 16, in line 31, by inserting after the word “language” the words “; provided further, that any school district with fifty or more limited English proficient students in any one language group at the elementary school level shall offer at least two different types of full-time English language learners programs which shall be approved by the school committee for said students; provided further, that any school district with fifty or more limited English proficient students in any one language group at the middle school level shall offer at least two different types of full-time English language learners programs which shall be approved by the school committee for said students; provided further, that any school district with fifty or more limited English proficient students in any one language group at the high school level shall offer at least two different types of full-time English language learners programs which shall be approved by the school committee for said students; provided further, that in approving the types of English language learners programs to be offered, the school committee shall give strong consideration to programs requested by the parents or legal guardians of limited English proficient students.”; and in section 17, in line 192, by inserting after the word “frameworks.” the following sentence: “Such programs may include, but not be limited to, modified bilingual-world language bilingual education.”.

The amendments were adopted; and (the Speaker being in the Chair) the bill (House, No. 5010, amended) was ordered to a third reading.

Order.

On motion of Mr. Marini of Hanson,—

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

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at eight minutes after five o'clock P.M., on motion of Mr. Marini of Hanson (the Speaker being in the Chair), the House adjourned, to meet on Wednesday next at eleven o'clock A.M., in an Informal Session.