

JOURNAL OF THE HOUSE.

Thursday, July 19, 2001.

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

Almighty God, Whose compassion is limitless, we begin this legislative day by recognizing Your presence in our midst and our dependence upon Your guidance in making decisions and forming our consciousness. Inspire us to be equal to the high trust which people place in us, just in the exercise of our legislative authority and sensitive to the needs of the people who cannot care for themselves. Grant us the wisdom to promote harmony in our districts, civility in dealing with others, maturity in resolving conflicts and veracity in articulating issues and policies.

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

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

Statement of Representative Naughton of Clinton.

A statement of Mr. Naughton of Clinton 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 able to be present for Tuesday's sitting due to official business outside of the State House. Any roll calls that I missed that day is due entirely to the reason stated.

Resolutions.

Resolutions (filed with the Clerk by Mr. Atsalis of Barnstable) on the occasion of the twentieth anniversary of the renaming of the Barnstable Municipal Airport/Boardman-Polando Field, were referred, under Rule 85, to the committee on Rules.

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

Petitions.

Mrs. Gomes of Harwich presented a petition (accompanied by bill, House, No. 4369) of Shirley Gomes and Robert A. O'Leary (by vote of the town) that the board of selectmen of the town of Chatham be authorized to grant a certain easement in certain conservation land located in said town; and the same was referred to the committee on Local Affairs. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Ms. Candaras of Wilbraham, petition (subject to Joint Rule 12) of Gale D. Candaras that the teachers' retirement board be authorized to grant creditable service to Anna Catalanotto.

By Mr. Caron of Springfield, petition (subject to Joint Rule 12) of Paul E. Caron and other members of the House relative to the licensing and certification of swimming pool installers by the Department of Public Safety.

By Mr. Fallon of Malden, petition (subject to Joint Rule 12) of Christopher G. Fallon and Kathi-Anne Reinstein relative to group homes operated by the Department of Mental Health.

By Mr. Hillman of Sturbridge, petition (subject to Joint Rule 12) of Reed V. Hillman and Stephen M. Brewer (by vote of the town) relative to authorizing the appointment of Steven E. Granlund as a police officer in the town of Ware, notwithstanding the maximum age requirements.

By Mr. Swan of Springfield, petition (subject to Joint Rule 12) of Benjamin Swan, Gale D. Candaras, Cheryl A. Rivera, Paul E. Caron, Christopher P. Asselin and Mary S. Rogeness (with the approval of the mayor and city council) that the retirement board of the city of Springfield be authorized to grant retirement benefits to Doris Shecrellah.

By Ms. Stanley of West Newbury, petition (subject to Joint Rule 12) of Harriett L. Stanley relative to limiting liability for certain general contractors.

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

Papers from the Senate.

The House Bill relative to telecommunications lines (House, No. 1753) came from the Senate passed to be engrossed, in concurrence, with amendments inserting after section 12 the following section:

“SECTION 12A. Section 7 of said chapter 288 is hereby amended by striking out, in line 1, the words ‘the county of Hampden’ and inserting in place thereof the following words:— the division of capital asset management and maintenance.”; inserting after section 22 the following section:—

“SECTION 22A. Section 1 of chapter 459 of the acts of 1990 is hereby amended by striking out, in line 1, the words ‘the county of Hampden’ and inserting in place thereof the following words:— the division of capital asset management and maintenance.”; inserting after section 23 the following section:—

“SECTION 23A. Section 2 of said chapter 459 of the acts of 1990 is hereby amended by striking out, in line 1, the words ‘the county of Hampden’ and inserting in place thereof the following words:—the division of capital asset management and maintenance.”; and striking out section 89 and inserting in place thereof the following four sections:

“SECTION 89. The commissioner of the department of food and agriculture may approve the amendment of an existing ‘Amending Right of Way Agreement’ between Charles E. Slater and Tennessee Gas Pipeline Company, dated September 30, 1991, recorded in Berkshire County registry of deeds, Book 1341, page 0663, to provide for a 90-foot-wide easement over a parcel of land located in the town of Tyringham, the easement to be located within the existing natural gas transmission line easement recorded in Book 1341, page 0663, which parcel is owned by Charles E. Slater and is subject to an agricultural preservation restriction executed May 18, 1999 by Charles E. Slater, recorded in the Berkshire County registry of deeds at Book 1140, page 93. The amendment shall be for the construction, maintenance, repair and operation of underground telecommunication line for the transmission, reception and switching of voice, data and video signals. The amendment shall be satisfactory to the commission, shall provide for nothing above ground and shall have no detrimental effect upon the use of the parcel of land for agricultural purposes. The land, presently being used for agricultural purposes, is shown on a plan of land entitled ‘El Paso Global Networks, proposed fiber optic crossing, the Charles E. Slater property, Berkshire County, Massachusetts, ECB-L12-F0200-3-102’ on file with the commissioner.

[A] SECTION 90. The consideration paid by the El Paso Global Networks Company to the respective grantors for the use of the easements authorized by this act shall be the full and fair market value of the property taking into consideration the expected profits from the proposed use of the easements, the full and fair value in use of the easements, or another appropriate measure of the value of the easements authorized by section 1 to 89, as determined by the commissioner of the division of capital asset management and maintenance based upon one or more independent appraisals approved by the inspector general and each grantor. The inspector general shall review and approve the appraisal and the methodology utilized for the appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration.

SECTION 91. The El Paso Global Communications Company shall be responsible for any costs for appraisals, surveys and other expenses relating to the transfer of the easements or for any costs and liabilities and expenses of any nature and kind for their maintenance or operation. In the event the easements cease to be used at any time for the purposes contained herein the easements shall terminate and all interests therein shall automatically terminate and revert to the care and control of the division of capital asset management and maintenance or to the applicable municipality upon the execution and recording with the applicable registry of deeds by the commonwealth or the municipality of a written notice of the termination and reversion.

SECTION 92. The division of capital asset management and maintenance, on behalf of the commonwealth, shall deposit any sum received pursuant to this act into the general fund.”.

Under suspension of Rule 35, on motion of Mr. Bosley of North Adams, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith.

Mr. Bosley of North Adams then moved that the House concur with the Senate in its amendments with a further amendment by striking out [at “A”] section 90 (inserted by

amendment by the Senate) and inserting in place thereof the following section:

“SECTION 90. The consideration paid by the El Paso Global Networks Company to the respective grantors for the use of the easements authorized by this act shall be the full and fair market value of the property taking into consideration the permanent and temporary impacts on the value of the property resulting from the proposed use of the easements, as determined by the commissioner of the division of capital asset management and maintenance based upon one or more independent appraisals approved by the inspector general and each grantor. The inspector general shall review and approve the appraisal and the methodology utilized for the appraisal. The inspector general shall prepare a report of his review and file the report with the commissioner for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration.”.

The further amendment was adopted. The House then concurred with the Senate in its amendments, as amended. Sent to the Senate for concurrence in the further amendment.

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Petition (accompanied by bill, Senate, No. 2066) of Stephen M. Brewer and David C. Bunker, Jr., for legislation relative to penalties for impersonating a police officer. To the committee on Criminal Justice.

Petition (accompanied by bill, Senate, No. 2067) of Barbara Hopwood for legislation to further regulate condominiums. To the committee on Housing and Urban Development.

Petition (accompanied by bill, Senate, No. 2068) of Thomas G. Ambrosino, mayor, Robert E. Travaglini, Kathi-Anne Reinstein, Robert A. DeLeo and Anthony Petrucci (with the approval of the mayor and city council) for legislation to establish a building reserve fund in the city of Revere. To the committee on Local Affairs.

Petition (accompanied by bill, Senate, No. 2069) of Stephen F. Lynch for legislation to classify court officers employed by the Trial Court in Group 4 of the contributory retirement system. To the committee on Public Service.

Petition (accompanied by bill, Senate, No. 2070) of Thomas G. Ambrosino, mayor, Robert E. Travaglini, Kathi-Anne Reinstein, Robert A. DeLeo and Anthony Petrucci (with the approval of the mayor and city council) for legislation relative to certain school construction projects in the city of Revere. To the committee on State Administration.

Petition (accompanied by bill, Senate, No. 2071) of Robert S. Creedon, Jr., Michael W. Morrissey and Robert J. Nyman for legislation relative to local tax exemptions;

Petition (accompanied by bill, Senate, No. 2072) of James Thivierge for legislation relative to property tax abatements for those property owners whose real estate abuts a toxic waste site; and

Petition (accompanied by bill, Senate, No. 2073) of Andrea F. Nuciforo, Jr., for legislation

relative to the abatement of personal property taxes for certain business owners;

Severally to the committee on Taxation.

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 John A. Hart, Jr., for legislation to require creditors to have a payment center or post office box in the Commonwealth. To the committee on Banks and Banking.

Petition (accompanied by bill) of Mark J. Carron and other members of the House for legislation to prohibit retail stores from opening on Memorial Day; and

Petition (accompanied by bill) of Elizabeth Poirier and other members of the General Court relative to the discrimination against veterans in employment;

Severally to the committee on Commerce and Labor.

Petition (accompanied by bill) of Jose L. Santiago and other members of the General Court relative to the punishment for leaving the scene of a motor vehicle accident. To the committee on Criminal Justice.

Petition (accompanied by bill) of Gale D. Candaras relative to the requirement of passing the Massachusetts Comprehensive Assessment System test prior to graduation; and

Petition (accompanied by bill) of Robert Correia, Joan M. Menard, Michael J. Rodrigues and David B. Sullivan relative to establishing a fund to be known as the dollars for scholars community scholarship fund;

Severally to the committee on Education, Arts and Humanities.

Petition (accompanied by bill) of Paul C. Casey, other members of the General Court and another relative to identification for the purchase of alcoholic beverages;

Petition (accompanied by bill) of Irving Murstein relative to transferring the transportation division of the Department of Telecommunications and Energy to the Registry of Motor Vehicles; and

Petition (accompanied by bill) of Susan W. Pope and other members of the House relative to the regulation of telemarketing solicitation by the Department of Telecommunications and Energy;

Severally to the committee on Government Regulations.

Petition (accompanied by bill) of Paul E. Caron relative to the sale of tobacco to minors; and

Petition (accompanied by bill) of Brian Knuuttila, Robert A. Antonioni, Emile J. Goguen and Mary Jane Simmons relative to emergency medical care;

Severally to the committee on Health Care.

Petition (accompanied by bill) of John A. Hart, Jr., relative to the cancellation of insurance policies. To the committee on Insurance.

Petition (accompanied by bill) of Ken Moulton relative to liability for home inspections;

Petition (accompanied by bill) of Howard Kahalas for legislation to increase awards of personal injuries or property damage from defective ways;

Petition (accompanied by bill) of Anthony Herda relative to the issuance of abuse prevention orders; and

Petition (accompanied by bill) of Richard Borowicz relative to child support;

Severally to the committee on the Judiciary.

Petition (accompanied by bill) of Marie J. Parente relative to parking clerks. To the committee on Local Affairs.

Petition (accompanied by bill) of Kevin G. Honan relative to free admission to state parks for certain individuals. To the committee on Natural Resources and Agriculture.

Petition (accompanied by bill) of Geoffrey D. Hall relative to certificates of registration for motor vehicles; and

Petition (accompanied by bill) of Irving Murstein relative to requiring the licensing of trolley operators by the Registrar of Motor Vehicles;

Severally to the committee on Public Safety.

Petition (accompanied by bill) of Suzanne M. Hoey that employees of the Trial Court Department be authorized to perform volunteer services at public schools; and

Petition (accompanied by bill) of Benjamin Swan, Cheryl A. Rivera, Christopher P. Asselin and Mary S. Rogeness (with the approval the mayor and city council) that the city of Springfield be authorized to issue certain pension obligation bonds;

Severally to the committee on Public Service.

Petition (accompanied by bill) of Robert Correia, Joan M. Menard, Michael J. Rodrigues and David B. Sullivan relative to designating the city of Fall River as the scholarship city; and

Petition (accompanied by resolve) of Joseph C. Sullivan, Bruce J. Ayers, A. Stephen Tobin, Ronald Mariano and Michael W. Morrissey relative to establishing a special commission to

make an investigation and study of constructing a memorial to honor John Adams;

Severally to the committee on State Administration.

Petition (accompanied by bill) of Paul E. Caron relative to the waiving of the penalty or interest for failure to file a tax return as a result of criminal activity perpetrated against the taxpayer;

Petition (accompanied by bill) of Kent Stow relative to the taxation of residences on agricultural land;

Petition (accompanied by bill) of Frank M. Hynes relative to the excise tax on motor vehicles; and

Petition (accompanied by bill) of Paul E. Tirone and another relative to property tax exemptions for homeowners who keep fire hydrants clear during snow storms;

Severally to the committee on Taxation.

Petition (accompanied by bill) of Nancy Flavin, Michael R. Knapik and Stanley C. Rosenberg relative to designating a certain bridge in the town of Easthampton as the Pearl Harbor Veterans Memorial Bridge; and

Petition (accompanied by bill) of Daniel Coonan for legislation to provide for free tolls for motor vehicles of veterans;

Severally to the committee on Transportation.

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

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration

Of the Bill relative to the crimes of assault and battery and assault and battery by means of a dangerous weapon (Senate, No. 167, amended);

Of the Bill directing the Superintendent of State Office Buildings to install a plaque in honor of Clara Barton (Senate, No. 1581);

Of the Bill relative to condominium by-laws (Senate, No. 1877);

Of the Bill relative to the operation of certain banking laws (House, No. 25);

Of the Bill relative to the use of the term “local” in marketing certain produce and poultry products (House, No. 89);

Of the Bill relative to secure coverage and enclosure of certain loads on motor vehicles using public ways (House, No. 1271);

Of the Bill relative to the list of legal investments prepared by the Commissioner of Banks (House, No. 1339);

Of the Bill relative to the governance and management of state chartered banks (House, No. 1723);

Of the Bill promoting the timely and orderly review of petitions to construct energy facilities (House, No. 2151);

Of the Bill clarifying restrictive covenants (House, No. 2532);

Of the Bill relative to the regulation of ice cream trucks and ice cream vendors (House, No. 3172);

Of the Bill relative to the notification of employees in the event of termination of group health insurance coverage (House, No. 3549, changed);

Of the Bill requiring audible warning devices for certain motor vehicles (House, No. 3780, changed);

Of the Bill relative to safety precautions after a motor vehicle accident (House, No. 4130);

Of the Bill relative to the appointment of certain town officials (House, No. 4215);

Of the Bill to limit the siting of power generation plants (House, No. 4246);

Of the Bill redefining the mandate of the Energy Facilities Siting Board (House, No. 4247); and

Of the Bill relative to the penalties for certain traffic offenses (House, No. 4319);

And recommending that the same severally be referred to the House committee on Rules; and

Of the Bill relative to the taxation of real property (House, No. 4262); and

Of the Bill relative to notification requirements in foreclosures (House, No. 4317);

And recommending that the same severally be referred to the committee on Ways and Means.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

By Mr. Mariano of Quincy, for the committee on Insurance, on Senate, Nos. 757, 767, 768, 772, 780, 783 and 802 and House, Nos. 833, 1212, 1214, 1415, 1423, 1601, 1776, 1792, 1961, 1962, 1970, 2191, 2345, 2346, 2355, 2722, 2923, 3123, 3352, 3354, 3750 and 3876, an Order relative to authorizing the committee on Insurance to make an investigation and study of certain Senate and House documents concerning hospitals, health maintenance organizations and providers of medical services (House, No. 4375). Referred, under Joint Rule 29, to the

committees on Rules of the two branches, acting concurrently.

Mr. Scaccia of Boston, for said committees, reported, asking to be discharged from further consideration of the 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.

Subsequently Mr. Scaccia, for said committee on Rules, reported, in part, on the foregoing order, a Bill providing for insurance coverage of certain clinical trials (House, No. 4376). Read; and referred, under Rule 33, to the committee on Counties on the part of the House.

By Mrs. Simmons of Leominster, for the committee on Counties on the part of the House, that the following bills ought to pass:

Relative to the election of survivor benefits (House, No. 4084); and

Providing a minimum pension for certain retired municipal employees (House, No. 4333); and

By Mr. Scaccia of Boston, for the committee on Rules, that the Resolve providing for a special commission to study the feasibility of establishing assisted living facilities for veterans in federal hospitals (House, No. 2334) ought to pass;

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

By Mr. Hall of Westford, for the committee on State Administration, on a petition, a Bill to establish a special committee relative to municipal fraud (House, No. 2985). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Mr. Hall of Westford, for the committee on State Administration, on a petition, a Bill providing for the improvement of public libraries (House, No. 1683). Read; and referred, under Rule 32A, to the committee on Long-Term Debt and Capital Expenditures.

By Mr. Donnelly of Boston, for the committee on the Judiciary, on a petition, a Bill relative to money orders under the abandoned property law (House, No. 1805).

By Mr. Koczera of New Bedford, for the committee on Natural Resources and Agriculture, on Senate, No. 1060 and House, Nos. 88, 90, 91, 92, 93, 94, 96, 98 and 100, a Bill relative to omnibus agriculture (House, No. 4370).

By the same member, for the same committee, on House, No. 1257, a Bill to enhance the effects of regulations aimed at the protection of public health, natural resources and the environment (House, No. 4371).

By Mr. Hall of Westford, for the committee on State Administration, on House, Nos. 103 and

107, a Bill clarifying the Uniform Procurement Law, Chapter 30B (House, No. 107).

By the same member, for the same committee, on a petition, a Bill directing the Office of the Inspector General to conduct a study of leasing practices utilized by the Massachusetts Water Resources Authority (House, No. 727).

By the same member, for the same committee, on a petition, a Bill designating an official Korean War Memorial in Central Massachusetts (House, No. 923).

By the same member, for the same committee, on a petition, a Bill providing for further accountability on public works projects (House, No. 931).

By the same member, for the same committee, on a petition, a Bill relative to the determination of the lowest eligible and responsible bidder for certain public construction contracts (House, No. 1117).

By the same member, for the same committee, on a petition, a Bill relative to contracting in the Commonwealth (House, No. 1684).

By the same member, for the same committee, on House, Nos. 1878 and 2259, a Bill relative to public libraries in the Commonwealth (House, No. 2259).

By the same member, for the same committee, on a petition, a Bill to provide timely final payment for contracts for public works construction in the Commonwealth (House, No. 2427).

By the same member, for the same committee, on a petition, a Bill to promote alternative dispute resolution (House, No. 2432).

By the same member, for the same committee, on a petition, a Bill to insure adequate bond protection for all construction contracts for which bonds are issued in the Commonwealth (House, No. 2433).

By the same member, for the same committee, on a petition, a Bill to provide for cost efficient construction (House, No. 2434).

By the same member, for the same committee, on a petition, a Bill to provide interest on claims (House, No. 2436).

By the same member, for the same committee, on a petition, a Bill authorizing the Division of Capital Planning and Operations to grant an easement in certain land located in the town of Great Barrington (House, No. 2790).

By the same member, for the same committee, on a petition, a Bill relative to equity of financial assistance by the Commonwealth for public libraries (House, No. 2793).

By the same member, for the same committee, on a petition, a Bill providing for equity in the awarding of certain contracts (House, No. 2982).

By the same member, for the same committee, on a petition, a Bill relative to the establishment of a mental health trust (House, No. 2986).

By the same member, for the same committee, on a petition, a Bill relative to the State Library (House, No. 2991).

By the same member, for the same committee, on a petition, a Bill concerning a cost-benefit analysis for new rules and regulations (House, No. 3191).

By the same member, for the same committee, on a petition, a Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain easement (House, No. 4260).

By the same member, for the same committee, on House, No. 1121, a Bill to improve Indian representation within the Commission on Indian Affairs (House, No. 4372).

By the same member, for the same committee, on House, No. 3824, a Bill authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land to the town of Concord (House, No. 4373).

By the same member, for the same committee, on House, No. 3826, a Bill authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land to the town of Burlington (House, No. 4374) .

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

Engrossed Bills.

Engrossed bills

Authorizing the establishment of a library district in the towns of Mendon and Upton (see Senate, No. 1833, amended) (which originated in the Senate); and

Authorizing the conservation commission of the town of Groton to impose certain fees (see House, No. 1837) (which 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.

Paper from the Senate.

A report of the committee on Commerce and Labor, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 107) of Andrea F. Nuciforo, Jr., and Steven A. Tolman for legislation relative to the minimum wage law, and recommending that the same be referred to the Senate committee on Ways and Means,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence,

insomuch as relates to the discharge of the committee.

Order.

On motion of Mr. Hart of Boston,—

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

At seventeen minutes after eleven o'clock A.M., on motion of Ms. Kaprielian of Watertown (Mr. O'Flaherty of Chelsea being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.

