

JOURNAL OF THE HOUSE.

Monday, July 29, 2002.

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

Gracious God, today and during the next few days, as we face our legislative and political responsibilities and perhaps difficult legislative decisions, we humbly seek Your guidance and assistance. Inspire us to be good listeners, to make thoughtful decisions and to recognize the best interests of society and the people who depend upon our sound and ethical judgements. In Your goodness, during the course of the day, teach us to show patience when patience is needed, kindness when kindness is called for and forthrightness when courage is in order. Help us to cope with the stress of daily living, the demands of constituents and the challenges of these uncertain times. May we remain faithful to You, Our Creator, and to Your guidelines for meaningful and successful living.

Grant Your blessings to 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 Brown of Wrentham.

A statement of Mr. Brown of Wrentham 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 in the House Chamber for the sitting of Wednesday last due to a family commitment. Had I been present for the taking of the yeas and nays on said day, I would have voted, in each instance, in the affirmative.

Statement Concerning Representative Mariano of Quincy.

A statement of Mr. DiMasi of Boston concerning Mr. Mariano of Quincy 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 Mariano of Quincy, will not be present in the House Chamber for today's sitting due to his attending his father's funeral. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement of Representative Rogers of New Bedford.

A statement of Mr. Rogers 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 unable to be 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.

Petitions.

Petitions severally were presented and referred as follows:

By Mr. Torrissi of North Andover, petition (accompanied by bill, House, No. 5286) of David M. Torrissi, Bruce E. Tarr, Steven A. Baddour and Bradley H. Jones, Jr. (by vote of the town) relative to authorizing the town of North Andover to grant open space restrictions; and

By Mrs. Parente of Milford, petition (accompanied by bill, House, No. 5287) of Marie J. Parente and Guy W. Glodis (by vote of the town) relative to authorizing the town of Hopedale to grant a certain parcel of conservation land for water supply purposes;

Severally to the committee on Local Affairs.

Severally sent to the Senate for concurrence.

Mrs. Provost of Sandwich presented a petition (subject to Joint Rule 12) of Ruth W. Provost and Therese Murray relative to the Sandwich Water District; and the same was referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

The House Bill authorizing the Division of Capital Asset Management and Maintenance to grant a certain easement in the town of Tewksbury to the Tewksbury Housing Authority (House, No. 4766) came from the Senate passed to be engrossed, in concurrence, with amendments in section 1, in lines 7 and 8, inserting after the word "easement" the words "shall include only the amount of land necessary for vehicular entry to, and exit from, the adjacent property and"; and adding at the end of said section the following sentence: "The Tewksbury housing authority or its contractor shall be responsible for any costs for appraisals, surveys and all other expenses and liabilities relating to the granting and exercise of the easement."

Under suspension of Rule 35, on motion of Mr. Miceli of Wilmington, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted, in concurrence.

Bills

Authorizing the Division of Capital Asset Management and Maintenance to convey certain property to the Division of Law Enforcement of the Department of Enforcement of the Department of Fisheries, Wildlife and Environmental Law Enforcement (Senate, No. 2401, amended in section 1, in lines 2, 3 and 4, by striking out the following: "notwithstanding the provisions of sections 40E-40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary" and inserting in place thereof the following: "notwithstanding any general or special law to the contrary but subject to chapter 7 of the General Laws") (on

Senate, No. 2385);

Clarifying various insurance laws (Senate, No. 2428) (on Senate bill No. 739);

Relative to certain benefits for the surviving spouses of certain state police officers (Senate, No. 2429) (on Senate bill No. 1350);

Establishing community reinvestment obligations for certain mortgage lenders (Senate No. 2430) (on Senate bill No. 2405); and

Relative to banks and banking (Senate, No. 2433, amended in section 14, in lines 29 to 39, inclusive, by striking out the paragraph contained therein and inserting in place thereof the following paragraph:

“Section 2. The main office of a bank shall be in the city or town specified in its charter or in its agreement of association. Upon the recommendation of its governing board and the affirmative vote of two-thirds of its corporators, if a savings bank, or its members, if a cooperative bank or trust company, at a meeting called for the purpose, a bank may change the location of its main office to any other city or town within the commonwealth in which it operates a branch office by appropriate amendment of its charter or its agreement of association. A certified copy of the amendment shall be filed with the commissioner and the secretary of state. The change shall become effective 60 days after the filing; but, if in the opinion of the commissioner the public would be adversely affected by the change of location of the main office, he may disapprove the same in writing within said 60-day period.”; and in section 16, after line 239, by inserting the following two paragraphs:

“10. Obligations to the extent that they are secured by securities issued or guaranteed by a United States government sponsored entity, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

11. Obligations to provide securities, incurred in connection with securities loans, which obligations are fully secured by securities convertible at the option of the bank acting as principal or agent into securities of the same issue and class as the securities that are the subject matter of the obligation.”) (on Senate bill No. 2156);

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

A Bill relative to unauthorized access to computers and penalties (Senate, No. 173) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33B, to the committee on Science and Technology.

Bills

Authorizing the town of Southwick to supply water to certain property located in the city of Westfield (Senate, No. 2370) (on a petition) [Local Approval Received];

Authorizing the town of Southwick to grant an easement to Carol K. Collins (Senate, No. 2389)

(on a petition); [Local Approval Received];

Relative to voting precincts in the city of Revere (Senate, No. 2400) (on a petition) [Local Approval Received];

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.

Reports of Committees.

Mr. Rogers of Norwood, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2119) of the House Bill relative to the production and preservation of affordable housing in the Commonwealth (House, No. 4284), reported, in part, a Bill relative to the production and preservation of affordable housing in the Commonwealth (House, No. 5288).

The report (having been approved by the committee on Bills in the Third Reading) was placed in the Orders of the Day for the next sitting, the question being on acceptance.

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 exclusive remedy for workers' compensation (House, No. 465); and

Of the Bill relative to regulations of street excavations by utility companies (House, No. 4993);

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

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

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill authorizing the town of Dedham to reimburse certain real estate taxes (House, No. 5062) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Ms. Lewis of Dedham, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill relative to the sale of certain land by the city of Chicopee (House, No. 5182) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Wagner of Chicopee, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill authorizing the Chicopee Municipal Light Plant to make certain payments to the city

of Chicopee (House, No. 5183) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Greene of Billerica, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill for relief of Nancy Lever and Lorraine Shapiro (House, No. 5211) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Torrisi of North Andover, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the House Bill relative to the issuance of certain bonds by the city of Everett (House, No. 5228) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Connolly of Everett, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Hall of Westford, for the committee on State Administration, on a petition, a Bill authorizing the Commonwealth to take or acquire conservation restrictions in and to lands of the Auburn Water District (printed as Senate, No. 2435), which was read.

Under suspension of the rules, on motion of Mr. Frost of Auburn, 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, No. 5147, a Bill authorizing the Department of Revenue to make a certain refund (House, No. 5289). Read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Bill relative to jet skis, surf jets, wet bikes, and other personal watercraft in municipalities (House, No. 5019) be scheduled for consideration by the House. Placed in the Orders of the Day for the next sitting for a second reading, with the amendment previously recommended by the committee on Rules pending.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the following matters be scheduled for consideration by the House:

House bills

Relative to the leasing of real property to civic or social organizations by municipalities (House, No. 1685);

Relative to certain tax exempt properties in the town of Burlington (House, No. 4705) [Local Approval Received];

Prohibiting the enticing of minors into motor vehicles (House, No. 4969);

Authorizing the city of Springfield to convey a certain parcel of land (House, No. 5115) [Local Approval Received];

Authorizing the town of Ware to issue an additional license for the sale of all alcoholic beverages not to be drunk on the premises (House, No. 5121) [Local Approval Received];

Authorizing the town of Adams to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 5135) [Local Approval Received];

Validating action taken at the annual town election held by the town of Huntington on May 18, 2002 (printed in House, No. 5140);

Relative to recall in the town of North Brookfield (House, No. 5150) [Local Approval Received];

Validating the actions taken at the special town meeting held by the town of Rockland on May 13, 2002 (printed in House, No. 5153); and

Regarding compensation of assessors in the town of Tewksbury (House, No. 5163) [Local Approval Received];

Severally placed in the Orders of the Day for the next sitting for a second reading.

By Mr. Dempsey of Haverhill, for the committee on Public Service, on a petition, a Bill relative to civil service placement (House, No. 5016) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill clarifying the civil service status of the positions of director of police services and director of fire services in the town of Arlington (House, No. 5233) [Local Approval Received].

Severally read; and 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.

By Mr. Scaccia of Boston, for the committee on Rules, that the Bill relative to civil commitment of sexually dangerous persons (House, No. 4915) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to the licensing of telecommunications professionals (Senate, No. 2375, amended) ought to pass with certain amendments. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendments pending.

By Mr. Cahill of Beverly, for the committee on Housing and Urban Development, on a petition, a Bill relative to the South Hadley Housing Authority (House, No. 5241) [Local Approval Received].

Mr. Casey of Winchester, for the committee on Taxation, on House No. 4678, reports, in part, a Bill relating to the confidentiality of telephone and telegraph company returns (House, No. 194).

By the same member, for the same committee, on a petition, a Bill relative to the deferral of certain sewer betterments in the town of Marion (House, No. 5114) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill relative to the interest rate and the gross receipts of those taxpayers granted an exemption on taxes on real estate in the town of Wellesley (House, No. 5166) [Local Approval Received].

By the same member, for the same committee, on a petition, a Bill authorizing cities and towns to make applications for correction of determinations of value (House, No. 5197).

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

Emergency Measures.

The engrossed Bill relative to community residency tenancy protections (see House, No. 3741, changed and 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 16 to 0. Sent to the Senate for concurrence.

The engrossed Bill relative to the terms of certain bonds issued by the Commonwealth (see House, No. 5198), 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 16 to 0. Sent to the Senate for concurrence.

Engrossed Bills.

Engrossed bills

Further regulating advertising on motor fuel dispensing devices (see Senate, No. 2327);

Relative to the retirement benefits of emergency medical technicians (see Senate, No. 2348);

(Which severally originated in the Senate);

Increasing the penalties for speed limit violations in marked construction zones (see House, No. 867);

Relative to homeowner testing for urea formaldehyde foam insulation (see House, No. 3307);

Relative to betterment assessments in the town of Provincetown (see House, No. 4147);

Authorizing the town of Hull to lease certain property (see House, No. 4224);

Relative to the use of asthma inhalers by students in public schools (see House, No. 4411);

Establishing a sick leave bank for Rachel A. Joyce, an employee of the Trial Court (see House, No. 4553, amended);

Granting retirement benefits to the widow and children of Steven F. Greene (see House, No. 4625);

Transferring certain administrative responsibilities to the chief of the police department of the town of Sandwich (see House, No. 4693, amended);

Authorizing the Division of Capital Asset Management and Maintenance to grant a certain easement in the town of Tewksbury to the Tewksbury Housing Authority (see House, No. 4766, amended);

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

Relative to the withdrawal of candidates nominated for elective office in the city of Malden (see House, No. 4879); and

Relative to voting precincts for the city of Chicopee (see House, No. 5178);

(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.

Mr. Rodrigues of Westport being in the Chair,—

The engrossed Bill further regulating business practices between motor vehicle manufacturers, distributors and dealers (see House, No. 4997, amended) (which originated in the House), 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.

Mr. O'Flaherty of Chelsea having returned to the Chair,—

Senate bills

Relative to the conveyance of a certain parcel of land in the town of Grafton (Senate, No. 2330) (its title having been changed by the committee on Bills in the Third Reading);

Releasing certain land in Hatfield from the operation of an agricultural preservation restriction (Senate, No. 2368); and

Releasing certain land in the town of Hadley from the operation of an agricultural preservation restriction (Senate, No. 2386) (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, in concurrence.

House bills

Relative to enhancing the penalties for distribution of a certain drug (House, No. 1726) (its title having been changed by the committee on Bills in the Third Reading);

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

Authorizing the city of Holyoke to enter into contracts for a sewer works system and operation (House, No. 4271, changed);

Authorizing the Division of Capital Asset Management and Maintenance to grant certain easements to the town of Plymouth (House, No. 4975);

Providing for capital facility improvements and repairs for the Commonwealth (printed in House, No. 5037);

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

Relative to the transfer of certain land in the town of Sharon (House, No. 5131);

Relative to the charter of the city of Attleboro (House, No. 5204, changed); and

Authorizing certain conveyances of land to establish the Southeastern Massachusetts Bioreserve (House, No. 5270);

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.

The House Bill authorizing the town of Dedham to send certain information to the voters of the town (House, No. 5055, changed) was read a third time.

The committee on Bills in the Third Reading reported recommending that the bill be amended

in section 2, in line 20, by striking out the word “of” (inserted by change) and inserting in place the word “or” (stricken out by change).

The amendment was adopted; and the bill (House, No. 5055, changed and amended) was passed to be engrossed. Sent to the Senate for concurrence.

Senate bills

Authorizing the State Retirement Board to grant a certain pension to Michael G. Sweeney (Senate, No. 2236, amended);

Authorizing an exchange of certain land between the town of Tewksbury and the Commonwealth (Senate, No. 2342, amended);

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);

Releasing certain land in Hadley from the operation of an agricultural preservation restriction (Senate, No. 2387); and

Establishing a board of registration of credit counselors (Senate, No. 2414); and

House bills

Providing for the equitable apportionment of certain liens (House, No. 1818);

Relative to the taxation of certain income (House, No. 1890); and

Authorizing the town of Lexington to establish a post retirement insurance liability fund (House, No. 4856);

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

The Senate Bill relative to open trenches and construction safety (Senate, No. 2234) was read a second time.

The amendments previously recommended by the committee on Ways and Means,— that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 5279; and by striking out the title and inserting in place thereof the following title: “An Act relative to excavation and trench safety.”,— were adopted.

The bill (Senate, No. 2234, amended) then was ordered to a third reading.

The Senate Bill relative to the inspection, registration, construction and reconstruction of dams (Senate, No. 2269) was read a second time.

The amendments previously recommended by the committee on Ways and Means,— that the bill be amended in section 1, in line 11, by striking out the words “,without further appropriation” and inserting in place thereof the words “subject to appropriation” , in line 13 by striking out the figure “\$500,000” and inserting in place thereof the figure “\$250,000, in line 19 by striking out the figure “\$500,000” and inserting in place thereof the figure “\$250,000,” and by adding at the end thereof the following sentence: “No expenditure made from the fund shall cause the fund to become deficient at any point during fiscal year.”; and in section 2, in line 19, by striking out the word “or” and inserting in place thereof the word “and”, and in lines 24 and 25 by inserting after the word “inclusive” the following: “The term dam shall not mean any of the following: ‘(1) any appurtenant works which temporarily impounds or diverts water used on land in agricultural use as defined pursuant to section 131 of chapter 40, (2) any barrier or appurtenant works which has a size classification of small or low hazard potential classification that is used on land in agricultural use as defined in section 131 of chapter 40, and (3) any barrier which is not in excess of six feet in height, regardless of storage capacity, or which has a storage capacity at maximum water storage elevation not in excess of fifteen acre-feet, regardless of height’.”,— were adopted.

The bill (Senate, No. 2269, amended) then was ordered to a third reading.

The Senate Bill relative to certificates of birth resulting in stillbirth (Senate, No. 2160, amended) was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Bradley of Hingham moved that it be amended in line 6 by striking out the words “each fetal death” and inserting in place thereof the words “fetal deaths”; in line 7 by inserting after the word “weeks.” (as printed), the following sentence: “The certificate will be issued only at the request of either individual listed as mother and father on the report of fetal death.”; in line 9 by striking out the words “and filing”; and in line 15 by striking out the word “designated” and inserting in place thereof the word “state”.

The amendments were adopted; and the bill (Senate, No. 2160, amended) was ordered to a third reading.

Recess.

At twenty-five minutes before twelve o’clock noon, on motion of Mrs. Walrath of Stow (Mr. O’Flaherty of Chelsea being in the Chair), the House recessed until one o’clock P.M.; and at that time the House was called to order with Mr. O’Flaherty in the Chair.

Emergency Measures.

The engrossed Bill releasing certain land in Hatfield from the operation of an agricultural preservation restriction (see Senate, No. 2368), 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 16 to 0. Sent to the Senate for concurrence.

The engrossed Bill releasing certain land in the town of Hadley from the operation of an agricultural preservation restriction (see Senate, No. 2386), 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 16 to 0. Sent to the Senate for concurrence.

Engrossed Bill — Land Taking.

The engrossed Bill relative to the disposition of certain state-owned property in the town of New Salem (see Senate, No. 1918, amended) (which originated in the Senate), 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 118 members voted in the affirmative and 23 in the negative.

[\[See Yea and Nay No. 422 in Supplement.\]](#)

[Mr. Kulik of Worthington answered “Present” in response to his name.]

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

Engrossed Bill.

The engrossed Bill relative to complaints of sexual harassment and other forms of discrimination (see Senate, No. 915) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

After remarks on the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays, at the request of Mr. DeLeo of Winthrop; and on the roll call 150 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 423 in Supplement.\]](#)

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

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the Commissioner of the Division of Capital Asset Management

to convey certain land in the town of Westborough (see House, No. 4844, 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 148 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 424 in Supplement.\]](#)

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

Paper from the Senate.

A Bill further protecting children (Senate, No. 2436) (on Senate bill No. 2420), passed to be engrossed by the Senate, was read; and it was 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. Ayers of Quincy, the bill was read a second time forthwith.

After remarks on the question on ordering the bill to a third reading, Mr. Marini of Hanson and other members of the House moved that it be amended by adding at the end thereof the following two sections:

“SECTION 6. Section 168A of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is amended by inserting in line 26 after word ‘determine’ the following words:— or to any employer.

SECTION 7. Section 172 of chapter 6 of the General Laws, as so appearing, is amended by inserting in line 5 after the word ‘agencies’ the following word:— , employers.”.

The amendment was adopted.

On the question on ordering the bill, as amended, to a third reading, the sense of the House was taken by yeas and nays, at the request of Mr. Ayers of Quincy; and on the roll call 150 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 425 in Supplement.\]](#)

Therefore the bill (Senate, No. 2436, amended) was ordered to a third reading.

Engrossed Bill.

The engrossed Bill relative to the conveyance of a certain parcel of land in the town of Grafton (see Senate, No. 2330) (which originated in the Senate), 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, at the request of Mr. Peterson of Grafton; and on the roll call 152 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 426 in Supplement.\]](#)

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 Senate Bill providing for capital facility improvements and repairs for the Commonwealth (Senate, No. 2271, amended), 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, as amended, to be engrossed, in concurrence, Mr. Hall of Westford moved that it be amended by inserting the following sections:

“SECTION 20. Subsection (a) of Section 5 of Chapter 189 of the acts of 1998, is hereby amended by inserting after the definition of ‘Commissioner’ the following:—

‘Construction management at risk’, a construction method wherein there is an entity which is responsible for the construction of the project at a guaranteed maximum price, which shall represent the maximum amount to be paid by the Commissioner for construction of the project including the fee payable to the construction manager at risk.

SECTION 21. subsection (a) of Section 5 of said Chapter 189, is hereby further amended by inserting after the definition of ‘Design/ build’ the following:— ‘division’, the division of capital asset management and maintenance.

SECTION 22. Subsection C of Section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/build’ wherever they appear, the following:— or construction management at risk.

SECTION 23. Subsection (d) of Section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/build’ the following:— or construction management at risk.

SECTION 24. Paragraph (1) of subsection (d) of section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/ build’ wherever they appear, the following:— or construction management at risk.

SECTION 25. Paragraph (2) of subsection (d) of section 5 of said Chapter 189 is hereby

amended by inserting after the word ‘equipment’ the following sentence:— Evaluation criteria for construction management at risk services shall include, but not be limited to, relevant technical and management experience of the offeror, including the financial stability and resources of the offeror.

SECTION 26. Paragraph (3) of subsection (d) of section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/ build’, the following:— or construction management at risk.

SECTION 27. Paragraph (4) of subsection (d) of section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/ build’ the following:— or construction management at risk.

Said paragraph (4) is further amended by inserting after the word ‘price’ wherever it appears, the following:— for the design/build services and 5% of the awarding authority’s estimated project costs in the case of construction manager at risk services.

SECTION 28. Paragraph (7) of subsection (d) of section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/ build’ wherever it appears, the following:— or construction management at risk.

SECTION 29. Paragraph (9) of subsection (d) of section 5 said Chapter 189 is hereby amended by adding after the words ‘design/ build’ each time it appears, the following:— or construction management at risk.

SECTION 30. Paragraph (10) of subsection (d) of section 5 said Chapter 189 is hereby amended by inserting after the words ‘design/ build’ the following:— or construction management at risk.

SECTION 31. Paragraph (12) of subsection (d) of section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/ build’ the following:— or construction management at risk.

Said paragraph (12) is further amended by inserting after the word ‘price’ the following:— or fee.

SECTION 32. Paragraph (13) of subsection (d) of section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/build’ wherever it appears, the following:— or construction management at risk.

Said paragraph (13) is further amended by inserting after the words ‘contract price’ the following:— in the case of design/build services or in the sum of the estimated project costs in the case of construction manager at risk services.

SECTION 33. Paragraph (14) of subsection (d) of section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/build’ wherever it appears, the following:— or construction management at risk.

SECTION 34. Subsection (e) of section 5 of said Chapter 189 is hereby amended by inserting after the words ‘design/build’ the following:— or construction management at risk.

SECTION 35. Section 5 of Chapter 189 of the Acts of 1998, is hereby amended by adding the following new subsection 5(f):—

(f) If the commissioner has determined that the project should be built using construction manager at risk services then the procedures utilized by the commissioner shall include but not be limited to the following:

(1) A construction manager for the Project shall be selected and awarded a contract for construction management at risk services pursuant to competitive negotiations in accordance with procedures adopted by the Commissioner and in accordance with section 5(d).

(2) The Commissioner’s contract with the construction manager for the project shall require a guaranteed maximum price, which shall represent the maximum amount to be paid by the Commissioner for construction of the project, including the fee payable to the construction manager. Following the award of the contract to the construction manager, and after selection of subcontractors in accordance with section 16, at such time as the Commissioner and the construction manager shall agree, the construction manager shall submit a proposed guaranteed maximum price. The Commissioner shall analyze the proposed guaranteed maximum price and enter into negotiations with the construction manager to agree upon a guaranteed maximum price for any project, In the event that a guaranteed maximum price cannot be agreed upon between the Commissioner and the construction manager, the Commissioner shall engage another construction manager in accordance with the provisions of this section.

(3) Payments to the construction manager shall be governed by Section 39K of chapter 30 of the General Laws. The construction manager will make periodic payment to the trade contractors as required by Section 39F of Chapter 30 and the trade contractors, for this purpose, will have all rights to pursue direct payments from the construction manager as is accorded subcontractors demanding payment for general contractors under Section 39F of Chapter 30 of the General Laws.

SECTION 36. Section 5 of Chapter 189 of the Acts of 1998, is hereby amended by adding the following new subsection 5(g):—

(g) If the commissioner has determined that the project should be built using construction manager at risk services the Division shall solicit competitive, bids for the respective trades from only prequalified trade contractors utilizing the provisions set forth in Chapter 149, sections 44A to 44J of the General Laws as they pertain to subcontractors except as modified herein.

(1) The Commissioner will establish a trade contractor selection procedure for all sub-bid classes of work under Section 44F of Chapter 149 of the General Laws and for all other classes of work selected by the awarding authority for the project for any other trades provided the sub-bid work meets the threshold value of that Section and as amended. All trade contractors seeking to provide services for the identified trades in connection with the construction of the

project, must be prequalified in order to be eligible to bid on any work for the provision of labor, material and/or equipment. A request for qualifications shall be issued for each trade contract. The Commissioner shall create a subcontractor prequalification team (the 'Prequalification Team') for the project. The Prequalification Team shall be comprised of two employees of the Division who have had management roles in the construction of large buildings, a representative from the designer and a representative from the construction manager and a subcontractor appointed by the Associated Subcontractors of Massachusetts, Inc. The Prequalification Team in consultation with the Commissioner, shall determine based upon the responses to the request for qualifications which respondents are most qualified to perform the contract.

(2) Trade Contractors shall be prequalified as follows: The construction manager shall develop detailed information describing the work required for each trade contractor and provide this information to the Division. The Division will advertise requests for qualifications (RFQ) in the Central Register and the state COMM-PASS system for each trade. The (RFQ) shall contain at a minimum the following: (a) date, time and place for submission, (b) background, authority, project information, and bidding process; (c) criteria for evaluation and selection process, (d) respondents names will be posted but the proposals will not be opened in public; (e) Contents of proposals shall be confidential until completion of evaluations. The RFQ shall identify the criteria for evaluation, which shall consist of the following, without limitation: (a) business history; (b) comparable experience; (c) past performance and references; (d) volume of work in place for the last three years; (e) projected workload for the next three years based on current contractual commitments; (f) listing of all claims, litigation, administrative proceedings, failures to meet schedule; direct payment claims; terminations; and invocation of payment and/or performance bonds; and (g) other criteria identified by the Division that is relevant to project work. The Prequalification Team shall evaluate the RFQ keeping a record of the consideration of each applicant based on criteria established and a numerical scoring system. Scores of more than 70 are required out of a possible 100 to be prequalified.

(3) The Division shall select the lowest responsible and eligible bidder for each sub trade and shall notify the construction manager of the bidding results. If the Commissioner does not select the lowest bidder for each sub trade the Commissioner shall explain the reasons for the award in writing specifying in reasonable detail the basis for the selection.”.

The amendment was adopted.

Mrs. Parente of Milford and other members of the House then moved that the bill be amended in section 2 by inserting after item 4000-2011 the following item:

“Department of Public Health.

4590-9999 For the purchase of public health equipment; provided, that the department shall award grants for public access defibrillation programs to cities and towns for the provision of automatic external defibrillator equipment; provided further, that the police or fire department or fire protection district may apply in writing to the department in a manner prescribed by the department based upon current deployment levels of automatic external defibrillators, population and geographic need to best promote availability and access to defibrillators by the

general public and to ensure that prospective first responders are appropriately trained in automatic cardiac defibrillation; provided further, that such grant requests shall be used for automatic defibrillation equipment purchase and replacement; provided further, that a city or town shall, as a condition of receiving financial assistance under this item, have implemented a plan for first responder automatic cardiac defibrillation training and documentation in accordance with this item 2,700,000”.

The amendment was adopted.

Mr. Rogers of Norwood and other members of the House then moved that the bill be amended in section 2 by inserting after item 0330-9010 the following item:

“0333-0010 For the purchase or lease of modular units or the acquisition of property interests, including lease space and temporary court facility construction, for the personnel and officers of the Norfolk county probate court, while said court is under renovation; provided however, that said personnel and officers shall be relocated within a three mile radius of the existing courthouse; and provided further, that effective January 1, 2007, said existing courthouse shall be the asset and

property exclusively of the commonwealth 5,500,000”;

in item 1102-2010 by adding at the end thereof the following: “; provided, that \$100,000 shall be expended for planning and studies and the preparation of plans and specifications for the construction of a regional vocational school located in the former county of Essex”; by inserting after item 1599-0024 the following item:

“1599-8001 For public safety equipment purchases; provided, that such equipment purchases shall enhance the commonwealth’s ability to prepare for and combat terrorism, including bioterrorism; provided further, that \$20,000,000 of the funds authorized herein shall be provided for a grant program for police departments of cities and towns and fire departments of cities, towns, districts and authorities; provided further, that the grant program shall be administered by the secretary of public safety according to the population served by each grant recipient; and provided further, that departments expending funds transferred from this item shall maximize federal reimbursement available for the purpose; provided further, that expenditures of funds from this item shall be based upon schedules prepared by the secretary of administration and finance in conjunction with the secretary of public safety submitted to the house and senate committees on ways and means, and the house and senate committees on public safety 30 days prior to the obligation of said funds; provided further, that said secretary shall file with said committees not later than October 1, 2002, an accounting of expenditures for projects contained in this item, including, but not limited to an accounting of the amount expended for equipment, hardware, software, and personnel 25,000,000”;by inserting after item 7000-9010 the following item:

*“Department of Housing and
Community Development.*

7004-9108 For urban revitalization and development projects authorized pursuant to section 54

of chapter 121B of the General Laws; provided, that notwithstanding section 53 or section 57 of said chapter 121B to the contrary, the funds may be provided to an agency of a city or town designated by the chief executive officer to act on behalf of the city or town; provided further, that not more than \$359,306 shall be expended for a matching grant to the city of Fitchburg for the urban renewal program, provided further, that \$590,000 shall be expended for the Lawrence Riverfront Project so-called, provided further, that \$118,000 shall be expended for the Pittsfield Capitol Theatre, provided further, that \$26,750 shall be expended for the Charles Hotel in Springfield, provided further, that \$26,750 shall be expended for the South Main Project, so-called in Springfield, provided further, that \$509,000 shall be expended for Lowell Acre, and provided further, that \$2,110,000 shall be expended on the Worcester Medical City project, so-called 60,000,000”;

In item 7066-2010 by adding at the end thereof the following: “; provided, that not less than \$2,000,000 shall be expended for renovations to the Massachusetts Bay Community College Framingham facility at the former Farley School; provided further, that renovations shall be undertaken by the town of Framingham; and provided further, that such expenditures shall be contingent upon and the Massachusetts Bay Community College entering into a lease agreement for the renovated facility for a period of at least ten years at a rate below the fair market value calculated in a manner that proportionally deducts the Commonwealth’s investment over the term of the lease”;

In section 3 by striking the figures “\$459,000,000” and inserting in place thereof the figures “\$553,239,806”; and by adding at the end thereof the following two sections:

“SECTION 37. The board of water commissioners of the town of Dedham, established by section 7 of chapter 193 of the acts of 1985, shall act as the sewer commissioners of the town of Dedham and shall have all the powers and duties of sewer commissioners under the General Laws.

Notwithstanding any general or special law to the contrary including other sections of this act, there is hereby instituted within the town of Dedham a pilot program whereby the sewer commissioners of said town of Dedham shall not grant an application to connect land to the town’s municipal sewerage system unless there is at the time of the application available unused sewerage capacity in the municipal sewer system. For purposes of this section, ‘available unused sewerage capacity’, shall mean the daily capacity available to the town under permit or municipal agreement, less: (1) the sum of existing daily usage by the town; and (2) the projected daily usage, calculated by the commissioners, that will result from completion of all pending municipal sewer projects, as to which funds have been appropriated at a special or annual town meeting for design or construction. In determining the daily usage expected to result from pending projects, the sewer commissioners may employ reasonable assumptions about the rate at which existing or potential users will connect to the municipal system after completion of those projects, and shall take into account only demand that is foreseeable within 20 years of the date of the calculation.

The sewer commissioners of the town shall determine and report publicly each year the available unused capacity for the system, not less than 30 days before the beginning of each fiscal year. In addition, the sewer commissioners shall make a determination of effective

capacity within 30 days of the effective date of this act, and shall not approve any connections to the municipal sewerage system until a determination is made under this section.

All votes and actions taken by the board of water commissioners acting as the board of sewer commissioners before the effective date of this act are hereby ratified, validated and confirmed in all respect as though this act had been in full force and effect at the time of taking the votes and actions.

The sewer commissioners of the town of Dedham shall file a report analyzing the overall effect of the pilot program instituted pursuant to this act with the joint committee on local affairs and the Massachusetts Water Resources Authority. Said report shall include, but not be limited to, an analysis of whether the pilot program was effective in preventing the overburdening of said town's sewerage infrastructure and capacity by setting reasonable restraints on the completion of pending municipal sewer projects. The report shall be so filed on or before April 1, 2007.

SECTION 38. The provisions of Section XXX of this act shall be repealed as of July 1, 2007.”.

The amendment was adopted; and the bill, as amended, was passed to be engrossed, in concurrence (for text of amendments, see House document numbered 5290). Mrs. Walrath of Stow then moved that this vote be reconsidered; and the motion to reconsider was negatived. The bill (Senate, No. 2271, amended) then was sent to the Senate for concurrence in the amendments.

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 in the Orders of the Day, at nine minutes after five o'clock P.M., on motion of Mr. Scaccia of Boston (Mr. O'Flaherty of Chelsea being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.

