

JOURNAL OF THE HOUSE.
Wednesday, July 9, 2003.

Met at twelve minutes after one o'clock P.M., with Mr. DiMasi of Boston in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows: Holy Spirit God, the Ultimate Source of Goodness and Truth, we open our hearts and minds to You and Your ways. We depend upon Your direction and counsel as we evaluate and address the items on today's legislative calendar. Your guidance enables us to see issues more clearly and gives us the courage to make the right, but perhaps unpopular, decisions in our effort to legislate wisely and prudently. In assessing the needs of the people and our communities in these changing times, grant us the wisdom to be guided by solid principles, traditional values and accurate information. Inspire us to be leaders who listen to others, who work with others and plan with others in building a just and stable society.

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

At the request of the Chair (Mr. DiMasi), 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 unable to be present in the House Chamber for the remainder of yesterday's sitting due to official business outside of the State House. Had I been present for the taking of yeas and nays numbers 176, 177 and 178, I would have voted, in each instance, in the negative. Had I been present for the taking of yeas and nays number 179, I would have voted in the affirmative. Any roll calls that I may have missed yesterday is due entirely to the reason stated.

Statement of Representative Callahan of Sutton.

A statement of Ms. Callahan of Sutton 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 being unavoidably delayed on my way to the State House. Any roll calls that I may have missed today is due entirely to the reason stated.

Statement of Representative Creedon of Brockton.

A statement of Mrs. Creedon of Brockton 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 yesterday I was inadvertently not recorded under House Rule 49 on yeas and nays number 160. It was my intention to have been recorded in the affirmative on said vote.

Statement Concerning Representative Fagan of Taunton.

A statement of Mr. DiMasi of Boston concerning Mr. Fagan of Taunton 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 Fagan of Taunton, was not in present in the House Chamber for today's sitting due to a previously scheduled family obligation. Had he been present for the taking of yea and nay numbers 181 to 193, inclusive, he would have voted, in each instance, in the affirmative. Any roll calls that he missed today was due entirely to the reason stated.

Statement of Representative Fox of Boston.

A statement of Ms. Fox of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that 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.

Mr. Donato of Medford presented a petition (accompanied by bill, House, No. 3945) of Paul J. Donato, Vincent P. Ciampa, J. James Marzilli, Jr., and Charles E. Shannon (with the approval of the mayor and city council) relative to preliminary elections in the city of Medford in the current year; and the same was referred to the committee on Election Laws. Sent to the Senate for concurrence.

Mr. Toomey of Cambridge presented a petition (subject to Joint Rule 12) of Timothy J. Toomey, Jr., relative to the establishment of a sick leave bank for Duarte O. Raposo, an employee of the Trial Court of the Commonwealth; and the same was referred, under Rule 24, to the committee on Rules.

Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Toomey, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary. Sent to the Senate for concurrence.

Papers from the Senate.

The engrossed Bill designating certain bridges and a park in the town of Billerica (see House, No. 1036) came from the Senate with an amendment in section 1, in line 3 (as printed), striking out the word "George" and inserting in place thereof the word "Gordon".

Under suspension of Rule 35, on motion of Mr. Greene of Billerica, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The House Bill consolidating Massachusetts Housing Finance Agency mortgage loans (House,

No. 3734) came from the Senate passed to be engrossed, in concurrence, with an amendment 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 authorize forthwith the consolidation of certain loans of the Massachusetts Housing Finance Agency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

Under suspension of Rule 35, on motion of Mr. Honan of Boston, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, Senate, No. 2032) of Charles E. Shannon and Paul C. Casey (by vote of the town) for legislation relative to the issuance of additional liquor licenses in the town of Winchester; and

Petition (accompanied by bill, Senate, No. 2034) of Andrea F. Nuciforo, Jr. and Daniel E. Bosley (by vote of the town) for legislation to authorize the town of Adams to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises;

Severally to the committee on Government Regulations.

Petition (accompanied by bill, Senate, No. 2021) of Robert A. O’Leary and Shirley Gomes (by vote of the town) for legislation relative to the issuance of bonds by the town of Orleans for the purpose of creating and/or preserving affordable housing. To the committee on Housing and Urban Development.

Petition (accompanied by bill, Senate, No. 2022) of Susan C. Tucker, Barry R. Finegold, David M. Torrisi and William A. Lantigua (with the approval of the mayor and city council) for legislation to authorize the city of Lawrence to use certain park land for school purposes. To the committee on State Administration.

Petition (accompanied by bill, Senate, No. 1986) of Jarrett T. Barrios (with the approval of the mayor and city council) for legislation relative to the revaluation of real and personal property in the city of Revere; and

Petition (accompanied by bill, Senate, No. 2033) of Charles E. Shannon and Paul C. Casey (by vote of the town) for legislation to establish a local fund for the educational and municipal benefit of the town of Winchester and its residents;

Severally to the committee on Taxation.

A petition of Cheryl A. Jacques and John A. Lepper for legislation to authorize the state teachers’ retirement board to grant creditable service to Jeffrey Newman, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Service.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2037) was referred, in concurrence, to the committee on Public Service.

Reports of Committees.

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

The Senate Bill designating a portion of state highway Routes 1A and 133 in the towns of Newbury, Rowley, Ipswich and Essex and the cities of Newburyport and Gloucester as a scenic byway (Senate, No. 1898); and

House bills

Relative to the use of motorcyclist's head gear in parades (House, No. 206, changed);

To limit the siting of power generation plants (House, No. 515);

Redefining the mandate of the Energy Facilities Siting Board (House, No. 516);

Promoting the timely and orderly review of petitions to construct energy facilities (House, No. 528);

Relative to energy conservation measures (House, No. 535) [Representative Patrick of Falmouth dissenting.];

Placing certain providers of services to the Commonwealth under the ethics law (House, No. 838);

Relative to private non-profit agencies (House, No. 839);

Relative to including private non-profit corporations which receive public funds under the provisions of the open meeting and open records laws (House, No. 840);

To enhance pedestrian safety at pedestrian crosswalks (House, No. 1342);

Further regulating the use of lights on motor vehicles (House, No. 1739);

Relative to speed limits in cities and towns (House, No. 1917);

Relative to child passenger safety (House, No. 1918);

To amend the current fine for failing to stop for a pedestrian at a non-signalized intersection (House, No. 3394); and

Relative to the appointment of retired police officers as special police officers in the town of Acushnet (House, No. 3923) [Local Approval Received];

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

By Mr. Toomey of Cambridge, for the committee on Public Safety, ought NOT to pass, on the petition (accompanied by bill, House, No. 979) of James H. Fagan relative to the suspension of licenses to operate motor vehicles for driving under the influence of intoxicating liquor.

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; and, under said rule, it was placed in the Orders of the Day for the next sitting, the question, being on acceptance.

Motions to Discharge Certain Matters in the Orders of the Day.

Mr. Wagner of Chicopee moved that the House Bill providing for an accelerated transportation development and improvement program for the Commonwealth (House, No. 3914) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) then was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Patrick of Falmouth moved that the Bill authorizing the town of Mashpee to convey certain conservation land (House, No. 3846) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed. The bill then was read a second time; and it was ordered to a third reading.

Quorum.

Mr. Rogers of Norwood asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. DiMasi of Boston), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum. Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 147 members were recorded as being in attendance.

[See Yea and Nay No. 180 in Supplement.]

Therefore a quorum was present.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4005), returning with His disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4004), reported, in part, in each instance, that section 678 and item 5930-1000 (contained in section 2) stand (as passed by the General Court).

Under suspension of the rules, in each instance, on motion of the same member, said section and item were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Section 678, which had been vetoed by the Governor, was considered, as follows:

“SECTION 678. There is hereby established a Fernald Developmental Center Land Reuse Committee. The committee shall include the mayor of the city of Waltham or his designee, the planning director of the city of Waltham, the commissioner of the Massachusetts department of mental retardation, the ward councilor from the city of Waltham representing the ward in which the campus is located, 4 citizens of Waltham to be appointed by the mayor of the city of Waltham, the state representative from the ninth Middlesex house district, the state representative from the tenth Middle-sex house district, and the senator from the third Middlesex senate district. The commissioner of the division of capital asset management and maintenance shall appoint a representative from the division to be a non-voting member of the committee, and who shall attend each of the meetings of the committee. The committee shall be responsible for representing the interests of the town in all deliberations with the division of capital asset maintenance and management about the reuse and future development of the developmental center property. The committee shall, with the assistance of the division, develop a Comprehensive Reuse Consensus Plan for Fernald Developmental Center State Property, which shall provide a detailed description, by parcel, of how the property is to be developed upon closure of the Fernald campus. The plan shall include a description of any potential environmental degradation of the property, along with a proposal for environmental remediation, and a proposed cost for the cleanup, including, but not limited to, any building

demolition required on the site. The goals of the plan may include, but shall not be limited to, preservation of open space, creation of affordable housing, development of new business, the creation of recreational opportunities, the development of new community residences for the mentally retarded consumers of Fernald Center, and any other applicable community priorities. Upon approval by the reuse committee, the plan shall be presented to the Waltham city council for approval, and, if endorsed by majority vote of the council, filed with the division of capital asset management and maintenance. The plan shall also be submitted to the chairs of the house and senate committees on ways and means, and to the house and senate chairs of the joint committee on state administration, along with copies of authorizing legislation, if any, necessary to effectuate the provisions of the reuse plan. If the reuse plan provides for the conveyance of land from the state to the city of Waltham, the legislation shall provide that the price paid for such parcel be for the full and fair market value of the property determined by independent appraisal, for the uses described in the plan, including, but not limited to, any restrictions or and requirements imposed by the plan. The reuse committee shall meet as necessary to complete said reuse plan, but shall not meet less than once per month.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 128 members voted in the affirmative and 22 in the negative.

[\[See Yea and Nay No. 181 in Supplement.\]](#)

Therefore section 678 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 5930-1000 (contained in section 2), which had been reduced by the Governor, was considered, as follows:

“5930-1000 For the operation of facilities for the mentally retarded, including the maintenance and operation of the Glavin Regional Center; provided, that in order to comply with the provisions of the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close intermittent care facilities for the mentally retarded, called ICF/MRs, managed by the department and shall endeavor within available resources to discharge clients residing in the ICF/MRs to residential services in the community when the following criteria are met: 1) the client is deemed clinically suited for a more integrated setting, 2) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service and, 3) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in ICF/MRs; provided further, that any client transferred to another ICF/MR as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed ICF/MR; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include a preliminary plan for the closure of the Fernald Developmental Center; provided further, that the report shall include: the number of clients transferred from facility care into the community, the community supports provided

to clients discharged from facility care into the community and the current facility bed capacity relative to the number of clients in ICF/MRs managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at ICF/MRs resulting from the transfer of clients from one ICF/MR to another; provided further, that the department shall submit the report no later than February 15, 2004; provided further, that the Fernald Developmental Center shall not be closed prior to October 2004 to insure adequate community, client, and family member input into the closure planning process; provided further, that the department may allocate funds from this item to items 5920-2000, 5920-2010, and 5920-2025, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving inpatient care at ICF/MRs; and provided further, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item 163,661,641”.

[The Governor reduced the item to \$162,963,187 and disapproved the following wording: “; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include a preliminary plan for the closure of the Fernald Developmental Center; provided further, that the report shall include: the number of clients transferred from facility care into the community, the community supports provided to clients discharged from facility care into the community and the current facility bed capacity relative to the number of clients in ICF/MRs managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at ICF/MRs resulting from the transfer of clients from one ICF/MR to another; provided further, that the department shall submit the report no later than February 15, 2004; provided further, that the Fernald Developmental Center shall not be closed prior to October 2004 to insure adequate community, client, and family member input into the closure planning process”.]

After remarks the question on passing said item, notwithstanding the reductions of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 141 members voted in the affirmative and 13 in the negative.

[See Yea and Nay No. 182 in Supplement.]

Therefore item 5930-1000 (contained in section 2) was passed, notwithstanding the reductions of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

At twelve minutes after two o'clock P.M., on motion of Mr. Rogers of Norwood (Mr. DiMasi of Boston being in the Chair), the House recessed until a quarter after three o'clock; and at sixteen minutes before four o'clock the House was called to order with the Speaker in the Chair.

Section 641, which had been vetoed by the Governor, was considered, as follows:

“SECTION 641. Notwithstanding any general or special law to the contrary, the department of transitional assistance shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004

on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of effort requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Transitional Aid to Needy Families Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 130 members voted in the affirmative and 23 in the negative.

[\[See Yea and Nay No. 183 in Supplement.\]](#)

Therefore section 641 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the city of Fall River (see House, No. 3831) (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 149 members voted in the affirmative and 6 in the negative.

[\[See Yea and Nay No. 184 in Supplement.\]](#)

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

Reports of a Committee.

Mr. Rogers of Norwood, for the committee on Ways and Means, on a message from His Excellency the Governor (for message, see House, No. 4005), returning with His disapproval of certain items and sections and parts of certain items, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2004 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 4004), reported, in part, in each instance, that certain items (contained in

section 2) and certain sections stand (as passed by the General Court).

Under suspension of the rules, in each instance, on motion of the same member, the items and sections were considered; and the sense of the House, in each instance, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution, as follows:

Section 640, which had been vetoed by the Governor, was considered, as follows:

“SECTION 640. Notwithstanding any general or special law to the contrary, the office of child care services shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004 on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of effort requirements of the federal Child Care Development Block Grant. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Child Care Development Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 131 members voted in the affirmative and 23 in the negative.

[See Yea and Nay No. 185 in Supplement.]

Therefore section 640 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 1599-1971 (contained in section 2), in which the Governor had disapproved certain wording, was considered, as follows:

“1599-1971 For the cost of hired and leased equipment, vehicle repair, and sand, salt, and other control chemicals used for snow and ice control; provided, that the secretary of administration and finance shall submit to the house and senate committee on post audit and oversight and the house and senate committees on ways and means a report no later than October 1, 2003 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1997, 1998, 1999, 2000, 2001, 2002 and 2003; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001, 2002 and 2003; (c) a detailed account of the administrative oversight exercised by either the secretary of administration and finance, the secretary of transportation and construction, or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; and (e) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice; and provided further, that no funds shall be expended from this appropriation until said secretary, the commissioner of highways and any other officer of the commonwealth involved

in snow and ice control efforts has submitted all documentation, testimony, data and other information as required by the provisions of this appropriation 15,000,000”.

[The Governor disapproved the following wording: “; provided, that the secretary of administration and finance shall submit to the house and senate committee on post audit and oversight and the house and senate committees on ways and means a report no later than October 1, 2003 which shall include, but not be limited to, the following: (a) a list of amounts paid to each vendor from state appropriations for snow and ice control efforts for fiscal years 1997, 1998, 1999, 2000, 2001, 2002 and 2003; (b) a comparison of the average snowfall by county as reported by the national weather service and the amount of state snow and ice control effort funds appropriated by county for fiscal years 1998, 1999, 2000, 2001, 2002 and 2003; (c) a detailed account of the administrative oversight exercised by either the secretary of administration and finance, the secretary of transportation and construction, or the department of highways for snow and ice control efforts, including an explanation of measures taken to verify services provided, audit vendor payment vouchers, or any other measures taken to ensure accountability relative to the expenditure of the state funds for snow and ice control efforts; (d) a comparison delineated by county of the commonwealth of the amounts expended on snow and ice control efforts to the daily snowfall amounts as reported by the national weather service; and (e) any other information that said secretary determines is necessary to account for and explain the extraordinary expenditure of state appropriations for the control and removal of snow and ice”.]

After remarks the question on passing said item, notwithstanding the disapproval of the Governor of said wording, was determined by yeas and nays, as required by the Constitution; and on the roll call 130 members voted in the affirmative and 23 in the negative.

[See Yea and Nay No. 186 in Supplement.]

Therefore item 1599-1971 (contained in section 2) was passed, notwithstanding the disapproval of the Governor of said wording (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 693, which had been vetoed by the Governor, was considered, as follows:

“SECTION 693. Notwithstanding any general or special law to the contrary, the terms of all appointed members of the board of higher education shall expire on August 30, 2003.

Commencing on September 1, 2003, and continuing for the terms hereinafter stated and until successors are appointed, the board of higher education shall include among its appointed members not fewer than 7 persons appointed by the governor from among the members of the board of higher education serving as of June 30, 2003. Of the appointed members of said board, a student member shall be appointed for a term to expire May 30, 2004. Of the remaining appointed members, 1 shall be appointed for a 1-year term, 1 shall be appointed for a 2-year term, 1 shall be appointed for a 3-year term, 2 shall be appointed for a 4-year term, and 1 shall be appointed for a 5-year term. The member chosen to represent the state university shall be elected for a 2-year term. The member chosen to represent the state colleges shall be elected for a 3-year term. The member chosen to represent the community colleges shall be elected for a 4-year term. The term of the chairperson of the board of higher education shall continue under the provisions which existed prior to the effective date of this act.”.

The question on passing said section, notwithstanding the objections of the Governor, was

determined by yeas and nays, as required by the Constitution; and on the roll call 131 members voted in the affirmative and 23 in the negative.

[See Yea and Nay No. 187 in Supplement.]

Therefore section 693 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Mrs. Harkins of Needham having taken the Chair,— Section 616, which had been vetoed by the Governor, was considered, as follows:

“SECTION 616. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state board of retirement, established under section 18 of chapter 10 of the General Laws, shall establish and implement a retirement incentive for public employees, hereinafter referred to as the retirement incentive program, in accordance with this section. In order to be deemed eligible by the board for any of the benefit options under the retirement incentive program, an employee: (i) shall be an employee of the commonwealth on the effective date of this act; (ii) shall be a member in active service of the state retirement system on the effective date of this act; (iii) shall be classified in Group 1 of said retirement system in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32; (iv) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the date of retirement requested in his written application for retirement with the board; (v) shall have received his pay advices via the commonwealth’s human resources compensation management system or the University of Massachusetts’ human resources management information system or whose regular compensation is funded from federal, trust or capital accounts, pursuant to chapter 29 of the General Laws; and (vi) shall have filed a written application with the board in accordance with subsection (b).

The application filed for retirement under this act may be delivered in person or by mail to the state board of retirement. No employee shall be eligible for more than 1 of the incentives offered in this act and no employee may become eligible for 1 incentive by virtue of the application of a different incentive.

Words used in this act shall have the same meaning as when they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance with this act shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

Elected officials and anyone serving as a chief justice or an associate justice of the supreme judicial court, a chief justice or an associate justice of the appeals court, or a justice of the trial court shall not be eligible to participate in the retirement incentive program.

(b) Notwithstanding section 5 of chapter 32 of the General Laws that requires a retirement date within 4 months of the filing of an application for superannuation retirement, in order to receive the retirement benefit provided by this act, an eligible employee, except as otherwise provided in this section, shall file his application for retirement with the state board of retirement after July 15, 2003 and not later than September 1, 2003. The retirement date requested shall be October 1, 2003, except for employees of the state board of retirement for whom the retirement date requested shall be November 1, 2003.

To ensure the successful completion of the academic year, employees of the University of Massachusetts and employees of state and community colleges shall file their applications for retirement within the period required in this section, but the retirement date requested shall be December 31, 2003. The president of the University of Massachusetts and the chancellor of higher education may identify job titles which may elect to retire earlier than December 31, 2003. Said president and said chancellor shall each file a complete list of titles and corresponding job title codes with the state board of retirement not later than January 15, 2003, but no retirement shall be effective earlier than August 29, 2003.

(c) An employee who is eligible for the retirement incentive program may request in his application for retirement that the state board of retirement credit him with an additional retirement benefit in accordance with this section. Each such employee shall request and receive a combination of years of creditable service and years of age, in full year increments, the sum of which shall not be greater than 5 years, for the purposes of determining his superannuation retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws.

Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of his regular compensation as determined in accordance with said section 5 of said chapter 32.

(d) For a married employee who retires and receives an additional benefit under this act, an election of a retirement option under section 12 of chapter 32 of the General Laws shall not be valid unless (i) it is accompanied by the signature of the member's spouse indicating the member's spouse's knowledge and understanding of the retirement option selected; or (ii) a certification by the state board of retirement that the spouse has received notice of such election as provided in this section. If a member who is married files an election which is not signed by the spouse, the state board of retirement shall notify the member's spouse within 15 days by registered mail of the option election and the election shall not take effect until 30 days after the date on which the notification was sent, any such election may be changed by the member at any time within 30 days or at any other time permitted under said chapter 32. Nothing in this section shall affect the effective date of any retirement allowance but, in the event of any election having been filed which is not so accompanied, the payment of any allowance so elected shall not be commenced earlier than 30 days after the state board of retirement sends the required notice.

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following: (i) a full explanation of the retirement benefits provided by this act; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under the existing chapter 32 of the General Laws; (iii) the election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to the retirement allowance; and (vi) the effect of federal and state taxation on retirement income. The group insurance commission shall provide counseling about the provision of health care benefits under chapter 32A of the General Laws. Each such employee shall sign a statement that he has received the counseling or that he does not want to receive the counseling prior to the approval by the state board of retirement of such

employee's application for superannuation benefits and the additional benefit provided by this act.

Pursuant to section 98 of said chapter 32, the state treasurer may make advance payments in an amount not to exceed any retirement allowance actually due to an employee who is eligible for and who has filed an application for retirement under the retirement incentive program and who does not receive a retirement allowance within 60 days after submitting a retirement application, during such period as is necessary for the processing of the application for retirement. Notwithstanding any special or general law to the contrary, the state board of retirement may employ retired former employees of said board through December 31, 2004, to assist it in the implementation of the retirement incentive program authorized by this section, and in the administration of tasks related thereto.

(f) The secretary of administration and finance may fill an executive branch position vacated as a result of an applicant's participation in the retirement incentive program if the secretary determines that the position is vital to the public health, public safety or other critical operations of the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated; provided, further, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated. The refilling of positions vacated by employees from federal and trust accounts pursuant to retirement incentive program shall not be subject to the limitations set forth in the retirement incentive program; provided further, that agencies with positions vacated from federal and trust accounts shall first fill such positions with qualified persons currently employed by the commonwealth and paid with state funds; provided, however, that if no such qualified personnel are currently employed by the commonwealth, agencies may hire new employees to backfill such positions vacated from federal and trust accounts.

(g) Notwithstanding any general or special law to the contrary, no person shall be hired or appointed by the trial court on a permanent or temporary basis to fill a position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the chief justice for administration and management determines that a position is critical and essential to the operations of or services provided by the commonwealth, such chief justice shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said chief justice for administration and management shall prepare 1 or more supplementary schedules in the same form if the chief justice shall determine that a

supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with the committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated.

(h) The comptroller, in conjunction with the state board of retirement, shall certify to the house and senate committees on ways and means by November 1, 2003 the total value of compensation of the last pay period prior to October 1, 2003, by line item, of each individual that has enrolled in the retirement incentive program.

(i) Notwithstanding any general or special law to the contrary, no person shall be hired by a state agency, as defined in section 1 of chapter 6A of the General Laws, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the secretary of administration and finance determines that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, said secretary shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with such title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2001 to June 30, 2005, inclusive, that said secretary shall have determined that the position shall be filled. The secretary shall prepare 1 or more supplementary schedules in the same form if he shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and said secretary may fill any such positions before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated.

The comptroller shall authorize the payment of any regular compensation, including paid leave,

vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (j).

(j) The secretary of administration and finance shall list each position made vacant by the retirement of an employee from a state agency, as defined in section 1 of chapter 6A of the General Laws, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the state agency, as defined in said section 1 of said chapter 6A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(k) Notwithstanding any general or special law to the contrary, no person shall be hired by a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of higher education shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated. The board of higher education shall not create a position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (l) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (l).

(l) The board of higher education shall list each position made vacant by the retirement of an employee of a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in said section 5 of said chapter 15A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions have been refilled, the date on which they were refilled and the annual salary of each refilled position.

(m) Notwithstanding any general or special law to the contrary, no person shall be hired by a division of the University of Massachusetts on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of trustees of the University of Massachusetts shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and such positions may be filled prior to June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees; provided, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated.

The board of trustees or the president of the University of Massachusetts shall not create any

position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (n) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (n).

(n) The board of trustees of the University of Massachusetts shall list each position made vacant by the retirement of an employee of any division of the University of Massachusetts receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in section 5 of chapter 15A of the General Laws, which is funded by item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(o) The executive director of the public employee retirement administration commission shall analyze, study and evaluate the costs and actuarial liabilities attributable to the additional benefits payable in accordance with this act. Said commission shall file a report with the secretary of administration and finance, the joint committee on public service and the house and senate committees on ways and means on or before January 15, 2004.

(p) A state agency with an employee opting into the retirement incentive program under this act shall submit to the house and senate committees on ways and means a report detailing the amounts of sick and vacation time accrued for each such employee.

(q) Notwithstanding any general or special law or any collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this act, an employee who elects to retire under this act and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment within 30 days and shall receive 1/4 of such payment on October 1, 2003, 1/4 of such payment on July 1, 2004, 1/4 of such payment on July 1, 2005, and 1/4 of such payment on July 1, 2006. Each such employee shall sign a statement that he has agreed to receive 1/4 of such payment on October 1, 2003, 1/4 of such payment on July 1, 2004, 1/4 of such payment on July 1, 2005, and 1/4 of such payment on July 1, 2006 prior to the approval by the state board of retirement of the employee's application for superannuation benefits and the additional benefit provided by this act. The state board of retirement shall deny an application for early retirement under this act by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this section is in effect at the time of that application, unless the employee organization representing that employee has filed with said board and with the secretary of administration and finance a statement waiving any such inconsistent provision of the agreement on behalf of all members of the bargaining unit who file applications under this act.

(r) The Massachusetts Turnpike Authority established pursuant to chapter 81A of the General Laws, the Massachusetts Housing Finance Agency established pursuant to chapter 708 of the acts of 1966, as amended, the Massachusetts Port Authority established pursuant to chapter 465 of the acts of 1956, as amended, the Massachusetts Water Resources Authority established pursuant to chapter 372 of the acts of 1984, as amended, and the Massachusetts Convention

Center Authority established pursuant to chapter 190 of the acts of 1982 may individually elect to allow their Group 1 employees to participate in the retirement incentive program by a majority vote of their boards of directors, which vote shall occur not later than November 1, 2003. Eligibility for the retirement incentive program shall not exceed that provided in section 1 of this act as applied to the circumstances at the particular authority or agency. Each authority and agency may restructure the retirement incentive program at its discretion but the benefit received by a retiree shall not exceed the retirement benefits provided in section 3. The effective retirement date for employees of the Massachusetts Turnpike Authority, the Massachusetts Housing Finance Agency and the Massachusetts Water Resources Authority shall be not earlier than the effective date of this act and not later than June 30, 2004.

(s) On or before March 15, 2004, the secretary of administration and finance shall file with the joint committee on public service and the house and senate committees on ways and means a report detail-ing for each state department, including each campus of the University of Massachusetts and each state and community college, the state-funded full-time equivalent standard workforce as of June 30, 2005 required to accommodate the spending levels authorized by the general appropriation act and supplemental appropriation acts for fiscal year 2005, the number of employees participating in the retirement incentive program, the estimated salary savings in fiscal years 2004 and 2005 as a result of such employees' participation, the number of positions vacated or expected to be vacated as a result of such employees' participation that have been or are expected to be refilled and the estimated salary costs in fiscal years 2004 and 2005 on account of such refilled positions.

After debate the question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 142 members voted in the affirmative and 13 in the negative.

[See Yea and Nay No. 188 in Supplement.]

Therefore section 616 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Item 1599-7092 (contained in section 2), in which the Governor had disapproved certain wording, was considered, as follows:

“1599-7092 For a reserve for the county correctional programs; provided that, notwithstanding any general or special laws to the contrary, the sheriffs, in conjuncture with the county government finance review board, shall develop a plan with the comptroller's office to collect and report all revenue collection and all spending on the Massachusetts Management Accounting Report-ing System; provided further, that the comptroller shall not transfer the funds from this item to item 8910-0000 until 60 days have passed from the implementation of said plan; provided further, that the county government finance review board shall, by January 1, 2004, have developed a plan for the spending of all funds for fiscal year 2004, and developed a sound fiscal spending plan for fiscal year 2005; provided further, that said board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2004 the board shall report all spending plans to the house and senate committees on ways and means; provided further, that the information shall satisfy all fiscal requirements for a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time

costs, energy costs, equipment leases, medical costs, and workers compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2004; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2004 and 2005; provided further, that the board shall release all funds from fiscal year 2004 quarterly; provided further, that any sheriff that spends more than his quarterly approved budget shall have the money allocated to him for the following quarter reduced by the excess amount overspent in the previous quarter; and provided further, that it is the intent of the General Court that no funds be spent from this item nor any funds be transferred from this item to another item until all of aforementioned restrictions and conditions have been satisfied 39,319,632”.

[The Governor disapproved the following wording: “; provided that, notwithstanding any general or special laws to the contrary, the sheriffs, in conjuncture with the county government finance review board, shall develop a plan with the comptroller’s office to collect and report all revenue collection and all spending on the Massachusetts Management Accounting Reporting System; provided further, that the comptroller shall not transfer the funds from this item to item 8910-0000 until 60 days have passed from the implementation of said plan; provided further, that the county government finance review board shall, by January 1, 2004, have developed a plan for the spending of all funds for fiscal year 2004, and developed a sound fiscal spending plan for fiscal year 2005; provided further, that said board shall build the spending plans with the direct input of the seven sheriffs still functioning under the county government system; provided further, that by January 15, 2004 the board shall report all spending plans to the house and senate committees on ways and means; provided further, that the information shall satisfy all fiscal requirements for a maintenance level of funding, including, but not limited to, collective bargaining increases, legal fees, debt services, one time costs, energy costs, equipment leases, medical costs, and workers compensation issues; provided further, that no other spending information or requests shall be submitted to the house and senate committees on ways and means by the individual sheriffs until February 15, 2004; provided further, that the board shall also provide a projection of all county funds to be collected for fiscal year 2004 and 2005; provided further, that the board shall release all funds from fiscal year 2004 quarterly; provided further, that any sheriff that spends more than his quarterly approved budget shall have the money allocated to him for the following quarter reduced by the excess amount overspent in the previous quarter”.]

After remarks the question on passing said item, notwithstanding the disapproval of the Governor of said wording, was determined by yeas and nays, as required by the Constitution; and on the roll call 131 members voted in the affirmative and 24 in the negative.

[\[See Yea and Nay No. 189 in Supplement.\]](#)

Therefore item 1599-7092 (contained in section 2) was passed, notwithstanding the disapproval of the Governor of said wording (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Subsequently a statement of Ms. Spilka of Ashland 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, due to a malfunction in the electronic voting machine, on the previous vote I was recorded as having

voted in the negative. Had the machine been operating properly, I would have been recorded as having voted in the affirmative.

Section 653, which had been vetoed by the Governor, was considered, as follows:

“SECTION 653. Notwithstanding any general or special law or regulation to the contrary, the term defined in that certain Determination of Applicability issued by the department of environmental protection dated as of February 11, 1999 and referred to as WRP File No. JD 98-6009, issued pursuant to 310 C.M.R., shall be extended, and that such activities allowed thereunder shall continue to be permitted, until a date 18 months following the filing of a certificate by the city of Boston, acting by and through the Boston redevelopment authority, to the clerk of the city of Boston, with a copy of the department, declaring that said authority has identified a water-dependent user for the area of land defined in said determination. The foregoing shall serve as a declaration of variance allowing the continuation of the activities described in the determination defined in the preceding sentence, for such period of time as defined by this section.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 120 members voted in the affirmative and 34 in the negative.

[\[See Yea and Nay No. 190 in Supplement.\]](#)

Therefore section 653 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 203, which had been vetoed by the Governor, was considered, as follows:

“SECTION 203. Section 6A of chapter 62F of the General Laws, inserted by section 71 of chapter 184 of the acts of 2002, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

For any fiscal year when expenditure from the Commonwealth Stabilization Fund is required to pay expenses of the commonwealth, the comptroller shall reimburse the commonwealth Stabilization Fund from the temporary holding fund the amount of all such appropriations from the Commonwealth Stabilization Fund, provided that said reimbursement shall not exceed the balance in the temporary holding fund. Any funds remaining in the temporary holding fund at the end of the fiscal year shall be transferred to the General Fund and shall be part of the consolidated net surplus certified by the comptroller pursuant to section 5C of chapter 29.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 131 members voted in the affirmative and 24 in the negative.

[\[See Yea and Nay No. 191 in Supplement.\]](#)

Therefore section 203 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 679, which had been vetoed by the Governor, was considered, as follows:

“SECTION 679. Notwithstanding the provisions of any general or special law to the contrary, the property located in Norfolk, Massachusetts, as identified in chapter 519 of the acts of 1980

and formerly known as the Department of Public Health Hospital, Pond-ville Hospital, is hereby added to the list of properties for which said department has responsibility, pursuant to chapter 21E of the general laws or any other applicable general or special law, for ensuring that all needed environmental remediation and related work is performed and that all contamination is eliminated from said property.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 113 members voted in the affirmative and 41 in the negative.

[See Yea and Nay No. 192 in Supplement.]

Therefore section 679 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Section 621, which had been vetoed by the Governor, was considered, as follows:

“SECTION 621. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly-owned or publicly-operated providers including, but not limited to, Neville Communities Home, Inc., Cape End Manor, Taunton Nursing Home, Hampshire Care, Our Island Home, and the Geriatric Authority of Holyoke provided that no such payment shall be made until the division determines that a home qualifies for matching federal revenue under Title XIX. The payments shall be established in accordance with Title XIX of the Social Security Act or any successor federal statute, any regulations promulgated thereunder, the commonwealth’s Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws.”.

After remarks the question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by the Constitution; and on the roll call 133 members voted in the affirmative and 21 in the negative.

[See Yea and Nay No. 193 in Supplement.]

[Ms. Stanley of West Newbury answered “Present” in response to her name.]

Therefore section 621 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

Order.

On motion of Mr. Miceli of Wilmington,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at eleven o’clock

A.M.



Mrs. Parente of Milford then moved that the House adjourn; and the motion prevailed. Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at sixteen minutes before six o'clock P.M. (Mrs. Harkins of Needham being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.

