

JOURNAL OF THE HOUSE.

Thursday, August 12, 2004.

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

God, Our Creator, we pause for a moment of prayer and reflection and to seek Your assistance and guidance during the course of this day. Your always available help enables us to keep the direction, purpose, goals and responsibilities of our lives in clear focus. We pray, too, for the wisdom to comprehend and evaluate accurately current complex political, cultural and ethical issues as well as their consequences. In Your goodness give us the intellectual and moral courage to keep our commitment to You and to our religious beliefs and practices as we carry out our daily tasks.

Prayer.

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

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

Pledge of
allegiance.

*Messages from the Governor —
Disapprovals and Reductions in
Housing Tax Credit and
Transportation Modernization Bills.*

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill relative to low income housing tax credit [see House, No. 4911] (for message, see House, No. 5052) was filed in the Office of the Clerk on Tuesday, August 10.

Low-income
housing
tax
credits.

The message was read; and it was referred, under Rule 30, to the committee on Ways and Means.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill modernizing the transportation system of the Commonwealth [see House, No. 4771] (for message, see House, No. 5053) was filed in the Office of the Clerk on Tuesday, August 10.

Transportation
bonds.

The message was read; and it was referred, under Rule 30, to the committee on Ways and Means.

Messages from the Governor — Vetoes.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill relative to veterans' retirement benefits [see printed as Senate, No. 1576, amended] (for

Veterans,
benefits.

message, see House, No. 5054) was filed in the Office of the Clerk on Monday, August 9.

The message was read; and, under House Rule 12, it was placed in the Orders of the Day for the next sitting, the question being on passing the bill, notwithstanding the said objections.

Port
Authority,
retirement
benefits.

A message from His Excellency the Governor returning with his objections thereto in writing the engrossed Bill establishing a retirement benefit for employees of the Massachusetts Port Authority [see House, No. 2149] (for message, see House, No. 5055) was filed in the Office of the Clerk on Monday, August 9.

The message was read; and, under House Rule 12, it was placed in the Orders of the Day for the next sitting, the question being on passing the bill, notwithstanding the said objections.

*Message from the Governor — Transportation
Modernization Bill Returned
with Recommendation of Amendment.*

Transportation
bonds.

A message from His Excellency the Governor returning with recommendation of amendment the engrossed Bill modernizing the transportation system of the Commonwealth [see House, No. 4771] (for message, see House, No. 5056) was filed in the office of the Clerk on Tuesday, August 10.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was thereupon “before the General Court and subject to amendment and re-enactment”.

Pending the question on adoption of the amendment recommended by His Excellency, the section (printed as House, No. 5059) was referred, on motion of Mr. Rush of Boston, to the committee on Bills in the Third Reading.

*Message from the Governor — Bills Returned with
Recommendation of Amendments.*

Fire
safety.

A message from His Excellency the Governor returning with recommendation of amendment the engrossed Bill relative to fire safety in the Commonwealth [see House, No. 4550, amended] (for message, see House, No. 5051) was filed in the office of the Clerk prior to the convening of the sitting.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was thereupon “before the General Court and subject to amendment and re-enactment”.

Pending the question on adoption of the amendment recommended by His Excellency, the bill was referred, on motion of Mr. Rush of Boston, to the committee on Bills in the Third Reading.

Subsequently said committee reported that the amendment recommended by the Governor be considered in the following form:

By inserting after section 4 the following section:

“SECTION 4A. Chapter 143 of the General Laws is hereby amended by inserting after section 97 the following sections:—

Section 97A. (a) The board of building regulations and standards shall require the owner of any building or structure or portion thereof, that includes a place of business designed or used for occupancy as a nightclub, dance hall, discotheque, bar or for similar entertainment purposes, with a capacity of 100 persons or more, and which includes 1 or more residential dwellings, to install an adequate system of automatic sprinklers throughout the building including, but not limited to, residential dwellings and in any common areas connected thereto, in accordance with the state building code. This section shall apply to the construction or substantial alteration of buildings or structures, approved by building permit on or after December 1, 2004. This paragraph shall not preclude the board of building regulations and standards from prescribing more stringent sprinkler requirements.

(b) Whoever is aggrieved by an interpretation, order, requirement, or direction of the building official under this section, or whoever is aggrieved by a failure of the building official to take action under this section, may, within 45 days after the service of notice of such interpretation, order, requirement, or direction, or failure to act to the building code appeals board as provided in section 100 of chapter 143.”; in section 5, by striking out the second and third paragraphs of the proposed section 26G½ of chapter 148 of the General Laws and inserting in place thereof the following paragraph:

“Every existing building or structure, or portions thereof, of public assembly, with a capacity of 100 persons or more, that is designed or used for occupancy as a nightclub, dance hall, discotheque, bar, or for similar entertainment purposes, including all rooms, lobbies, and other spaces connected thereto and all means of egress and entrances, including any such public assembly located within a mixed use building or structure, including a building or structure owned or controlled by the commonwealth or a political subdivision thereof, (a) which is existing, or (b) for which an approval building permit was issued before December 1, 2004, shall be protected throughout with an adequate system of automatic sprinklers, in accordance with the state building code.”; in the first sentence of the fourth paragraph of the proposed section 26G½ of chapter 148 by striking out the words “first paragraph” and inserting in place thereof the words “second paragraph”, in the last sentence of said fourth paragraph of the proposed section 26G½ of chapter 148 by striking out the word “section” and inserting in place thereof the word “paragraph.”; and in said proposed section 26G½ of chapter 148 by adding the following paragraph:

“Except as provided in the third paragraph, the head of the fire department shall enforce this section.”; in section 6, in the proposed section 34D of chapter 148 by inserting after the words “head of the” the word “fire.”; in section 7, in the third sentence of section 5 of the proposed chapter 148A by striking out, after the word “commonwealth” the words “, minus such stipend for the municipal hearing officers.”; by striking out section 10 and inserting in place thereof the following section:

“SECTION 10. On or before June 1, 2005, the secretary of the executive office of economic affairs shall file with the house and

senate committees on ways and means and with the clerks of the house of representatives and senate a plan to reduce for owners the costs associated with implementing section 5 including, but not limited to, programs utilized by the Title V program and low-interest loans and tax credits.”; in section 11, in the first sentence of the first paragraph by striking out the following: “section 5” and inserting in place thereof the following: “the second paragraph of section 26G½ of chapter 148 of the General Laws.”; by striking out section 12; and in section 13 by striking out the word “January” and inserting in place thereof the word “March.”; and the report was accepted.

The amendments were adopted. Sent to the Senate for its action.

A message from His Excellency the Governor returning with recommendation of amendment the engrossed Bill directing the commissioner of Capital Asset Management and Maintenance to place a conservation restriction on and transfer a certain parcel of land to the Kuzeja Real Estate Trust [see House, No. 3985] (for message, see House, No. 5057) was filed in the office of the Clerk on Monday, August 9.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was thereupon “before the General Court and subject to amendment and re-enactment”.

Pending the question on adoption of the amendment recommended by His Excellency, the bill was referred, on motion of Mr. Scibak of South Hadley, to the committee on Bills in the Third Reading.

Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to criminal justice legal representation (House, No. 5058) was filed in the office of the Clerk on Wednesday, August 11.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on the Judiciary. Sent to the Senate for concurrence.

Resolutions.

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

Resolutions (filed by Mr. Golden of Boston) honoring Reverend William F. Salmon;

Resolutions (filed by Mr. Greene of Billerica) honoring Dr. Syedna Mohammed Burhanuddin;

Resolutions (filed by Messrs. O’Brien of Kingston and Webster of Hanson) congratulating Scott Gerhard on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Rush of Boston) congratulating Neil Savage on the occasion of his seventy-fifth birthday; and

Resolutions (filed by Mr. Walsh of Lynn) celebrating the fiftieth anniversary of the Nahant Lions Club;

Kuzeja
Real
Estate
Trust

Public
counsel
services
committee.

William F.
Salmon.

Dr. Syedna
Burhanuddin.

Scott
Gerhard.

Neil
Savage.

Nahant
Lions
Club.

Mr. Miceli of Wilmington, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Rush of Boston, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Papers from the Senate.

The House Bill relative to the use of safety helmets for persons 16 years of age and under while operating or riding as a passenger on bicycles, in-line skates, scooters and skateboards (House, No. 1920, amended) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 2, in line 6, by inserting after the word “vehicle” the words “or riding as a passenger on any such manually-propelled vehicle”.

Under suspension of Rule 35, on motion of Mr. Scibak of South Hadley, 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.

A petition of Michael W. Morrissey, Pamela P. Resor and William F. Galvin, Secretary of the Commonwealth, for legislation relative to the Massachusetts historic rehabilitation tax credit, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Taxation.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2478) was referred, in concurrence, to the committee on Taxation.

Skate
boards,
etc.,
helmets.

Historic
rehabilitation,
tax
credits.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Reed V. Hillman for legislation to further regulate the collection of data relative to traffic stops by police departments. Under suspension of the rules, on motion of Mrs. Paulsen of Belmont, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Safety. Sent to the Senate for concurrence.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, that the Senate Bill relative to certain housing in the town of Lincoln (Senate, No. 2453) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Rush of Boston, 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 to further prevent insurance fraud (House, No. 4713) be scheduled for consideration by the House.

Police,
traffic
stops.

Lincoln,
housing.

Insurance
fraud.

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

Unsigned
circulars
and
posters.

By Mr. Scaccia of Boston, for the committee on Rules, that the Bill relative to allowing unsigned circulars and posters (House, No. 1078) ought to pass. 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 Rule 7A, on motion of Mr. Rushing of Boston, the bill was read a second time forthwith; and it was ordered to a third reading.

Sandra
Pigaga,
retirement.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to a retirement buy back from the State Board of Retirement (Senate, No. 2457) ought to pass. 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 Rule 7A, on motion of Mr. Rush of Boston, the bill was read a second time forthwith; and it was ordered to a third reading.

Brockton,
solar
energy.

By Mr. Binienda of Worcester, for the committee on Energy, on a petition, a Bill authorizing the city of Brockton to install, finance and operate solar energy facilities (House, No. 4955) [Local Approval Received]. Read; and referred, under Rule 32A, to the committee on Long-Term Debt and Capital Expenditures.

William F.
Felton,
retirement.

Mr. Scaccia of Boston, for the committee on Rules, on House No. 4605, reported, in part, a Bill authorizing the Middlesex Retirement Board to grant a certain pension (House, No. 4266) [Local Approval Received]. Read; and referred, under Rule 33, to the committee on Local Affairs and Regional Government on the part of the House.

Engrossed Bills.

Bills
enacted.

Engrossed bills
Exempting frozen foods from item pricing requirements (see House, No. 490); and

Authorizing the town of Leominster to grant a certain abatement (see House, No. 4499);

(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.

Orders of the Day.

House bills

Relative to certain tanks used for the storage of fluids (House, No. 2132, amended); and

Authorizing the town of Wayland to incur certain debt (House, No. 4450);

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.

Third
reading
bills.

Recess.

At six minutes before twelve o'clock noon, on motion of Mr. Rush of Boston (Mr. Petruccelli of Boston being in the Chair), the House recessed until a quarter before two o'clock P.M.; and at thirteen minutes before two o'clock the House was called to order with Mr. Petruccelli in the Chair.

Recess.

Engrossed Bills.

The engrossed Bill relative to fire safety in the Commonwealth (see House, No. 4550, amended) (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

Bill
re-enacted.

The engrossed Bill relative to the use of safety helmets for persons sixteen years of age and under while operating or riding as a passenger on bicycles, in-line skates, scooters and skateboards (see House, No. 1920, 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.

Bill
enacted.

Order.

On motion of Mr. Finneran of Boston,—

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

Next
sitting.

At nine minutes before two o'clock P.M., on motion of Ms. Rogeness of Longmeadow (Mr. Petruccelli of Boston being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.