

JOURNAL OF THE HOUSE.
Wednesday, November 12, 2003.

Met at six minutes before two 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:

Eternal God, the Ultimate Source of Goodness and Truth, we pause for a moment of prayer and reflection in Your honor. Our hearts are filled with thanks for the material and spiritual blessings which You offer us daily. As elected leaders, we are grateful for the many opportunities, which come our way, to serve You and the people who depend upon our wise legislative judgments. Your spiritual gift of wisdom, which enlightens our minds, enables us to make sound, reasonable and just moral decisions. In carrying out our responsibilities, grant us the courage and the integrity to remain faithful to our personal, political and religious commitments. Inspire us, in our pluralistic society, to seek goals, to implement principles and to hold in high esteem human and spiritual values which respect the dignity and rights of all — from the youngest child to the most senior senior. As residents of this Commonwealth, help us in the task of recognizing, developing and utilizing the talents and gifts of all for both self-improvement and for the benefit of the common good which ensures a stable, safe, compassionate and responsible 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.

Petitions.

Mrs. Parente of Milford presented a petition (accompanied by bill, House, No. 4309) of Marie J. Parente and Richard T. Moore (by vote of the town) relative to exempting certain members of the police force in the town of Hopedale from the provisions of civil service law; and the same was referred to the committee on Public Service. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Costello of Newburyport, petition (subject to Joint Rule 12) of Michael A. Costello, Alice Hanlon Peisch, Barbara A. L'Italien, Patricia A. Haddad and William Lantigua relative to notices by the State Ethics Commission.

By Mrs. Gomes of Harwich, petition (subject to Joint Rule 12) of Arthur Aronoff, Louis Jagoda, Shirley Gomes and other members of the General Court for legislation to require persons travelling in a kayak to wear a life jacket and be equipped with a compass and whistle.

By Mr. Kennedy of Brockton (by request), petition (subject to Joint Rule 12) of Ed Miller relative to small claims procedures for failure to pay automobile rental fees.

By Mr. Leary of Worcester, petition (subject to Joint Rule 12) of James B. Leary and other

members of the General Court for legislation to designate a certain bridge in the city of Worcester as the Representative Robert J. Bohigian Bridge.

By Mr. O'Brien of Kingston, petition (subject to Joint Rule 12) of Thomas J. O'Brien, Therese Murray and Martin J. Walsh for legislation to establish a sick leave bank for Mary M. Putney, an employee of the Trial Court of the Commonwealth.

By Mrs. Walrath of Stow, petition (subject to Joint Rule 12) of Patricia A. Walrath and Robert A. Antonioni relative to the licensing fees charged to wholesalers of wines and malt beverages.

By Mr. Walsh of Boston, petition (subject to Joint Rule 12) of Martin J. Walsh and Kathi-Anne Reinstein relative to security staffing levels in state correctional institutions.

By the same member, petition (subject to Joint Rule 12) of Martin J. Walsh and Michael F. Rush relative to fees collected by constables.

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

Papers from the Senate.

A report of the committee on Health Care, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 672) of Charles E. Shannon for legislation relative to registered nurse first assistants, and recommending that the same be referred to the committee on Insurance,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence.

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

Petition (accompanied by bill, Senate, No. 2136) of Marian Walsh for legislation relative to the definition of Korean War veteran; and

Petition (accompanied by bill, Senate, No. 2137) of Robert A. Havern and Jay R. Kaufman for legislation to provide for retirement benefits earned by individuals employed for five years or longer in work shops for the training and employment of blind persons;

Severally to the committee on Human Services and Elderly Affairs.

Petition (accompanied by bill, Senate, No. 2138) of David P. Magnani and Thomas M. McGee for legislation relative to pension benefits for certain public employees. To the committee on Public Service.

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 Joseph R. Driscoll for legislation to authorize the Department of Mental Retardation to establish a sick leave bank for Shirley Morrow, an employee of said department. Under suspension of the rules, on motion of Mr. Driscoll of Braintree, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the Senate for concurrence.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Commerce and Labor to make an investigation and study of certain Senate and House documents concerning consumer protection and other related matters (House, No. 4273) reported, in part, asking to be discharged from further consideration of the petition

(accompanied by bill, House, No. 2921) of Robert M. Koczera and other members of the General Court relative to the protection of consumers from identity theft,— and recommending that the same be recommitted to the committee on Commerce and Labor. Under Rule 42, the report was considered forthwith; and it was accepted.

By Mr. Bosley of North Adams, for the committee on Government Regulations, on House, Nos. 2042 and 4119, a Bill relative to the assignment of prizes from the Massachusetts State Lottery (House, No. 4310). Read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Bosley of North Adams, for the committee on Government Regulations, on a petition, a Bill relative to the granting of licenses in the town of Lexington for the sale of alcoholic beverages by restaurants with a seating capacity of less than ninety-nine persons (House, No. 4172) [Local Approval Received].

By Mr. Casey of Winchester, for the committee on Taxation, on a petition, a Bill relative to establishing a local fund for the educational and municipal benefit of the town of Winchester and its residents (printed as Senate, No. 2033) [Local Approval Received].

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

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

Senate bills

Authorizing the town of Lunenburg to establish a capital improvement trust fund and a bond and note proceeds investment fund (Senate, No. 1144, amended) [Local Approval Received]; Relative to Ponders Hollow Road in the city of Westfield (Senate, No. 1157) [Local Approval Received];

Designating a certain portion of state highway Route 44 as the Prisoner of War-Missing in Action Highway (Senate, No. 1893, amended);

Establishing a traffic commission in the city of Westfield (Senate, No. 1932) [Local Approval Received];

Regulating the use of Lowell Park in the town of Barnstable (Senate, No. 1935) [Local Approval Received]; and

Authorizing the town of Lunenburg to convey a certain parcel of land (Senate, No. 1952) [Local Approval Received]; and

House bills

Relative to veteran's retirement benefits (printed as Senate, No. 1576);

Authorizing the town of Bridgewater to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (printed as Senate, No. 2016) [Local Approval Received];

Authorizing the town of Adams to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises (printed as Senate, No. 2034) [Local Approval Received];

Providing for distinctive motor vehicle plates for recipients of the Combat Infantry Badge (House, No. 204);

Authorizing the town of Dighton to establish a special fund (House, No. 455) [Local Approval Received];

Relative to convictions of motor vehicle violations and license sus-pensions and revocations in other states or countries (House, No. 981);
Designating a certain rest area in the town of Barnstable as the Korean War Veterans Memorial Rest Area (House, No. 1412);
Establishing a sick leave bank for Luella Erwin an employee of the Trial Court (House, No. 1528);
Relative to the dissemination of criminal record information to private detectives (House, No. 1721);
Relative to operating an uninsured motor vehicle (House, No. 2116);
Relative to appointments to police service (House, No. 3073);
Relative to the relocation and alteration of layout of High Pole Hill Road in the town of Provincetown (House, No. 3840) [Local Approval Received];
Authorizing a public waterfront walkway to be exempted from the harbor line in the Charlestown Navy Yard, city of Boston (House, No. 3857);
Establishing the Chelsea affordable housing trust fund (House, No. 3977) [Local Approval Received];
Relative to the appointment of retired police officers as special police officers in the town of Fairhaven (House, No. 3978) [Local Approval Received];
Authorizing the town of Middleton to grant certain easements (House, No. 4196) [Local Approval Received];
Relative to a certain parcel of land in the town of Hinsdale (House, No. 4199);
Designating a certain overpass in the town of Milton as the Private First Class Paul W. Curran Memorial Overpass (House, No. 4206);
Relative to absentee ballots (House, No. 4207);
Authorizing the Plymouth Airport Commission to lease certain parcels of land (House, No. 4214); and
Relative to the taxation of certain personal property (House, No. 4219);
Severally placed in the Orders of the Day for the next sitting for a second reading.

By Mr. Wagner of Chicopee, for the committee on Transportation, ought NOT to pass, on the petition (accompanied by bill, House, No. 477) of Mary E. Grant that the Department of Highways be directed to study the feasibility of making improvements to interchanges on a certain portion of state highway Route 128.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 480) of Philip Travis that the Department of Highways be authorized to perform certain reconstruction roadwork in the town of Seekonk.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 854) of Marie J. Parente and Richard T. Moore that the Department of Highways be directed to construct an access ramp on Route I-495 to the industrial areas of the towns of Milford, Bellingham and Franklin.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1234) of Harold P. Naughton, Jr., for legislation to further regulate permits by the Department of Highways for water well drilling rigs.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1415) of James F. Donahue, Sr., and Anne M. Gobi for legislation to direct the Department of Highways to evaluate the safety benefits of centerline

markings on unmarked paved roads.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1607) of Anne M. Gobi for legislation relative to certain regulations issued by the Massachusetts Turnpike Authority and the Executive Office of Transportation and Construction affecting the use of motorcycles.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1612) of Theodore C. Speliotis that the Department of Highways be directed to study the feasibility of making improvements to interchanges on a certain portion of state highway Route 128 from the city of Peabody to the city of Gloucester.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1615) of Eric Turkington and other members of the General Court for legislation to require a public hearing prior to certain state highway construction in Barnstable County.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 1792) of Joseph C. Sullivan and William M. Straus relative to the membership of the Woods Hole, Martha's Vineyard and Nantucket Steam-ship Authority.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 2908) of Colleen M. Garry that the Department of Highways be directed to erect markers at locations of highway fatalities.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3103) of Stephen P. LeDuc and other members of the General Court that the Turnpike Authority be directed to expend a certain sum of money for the erection of sound barriers along Interstate 90 in the towns of Framingham, Natick, Wayland, Hopkinton and Southborough.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3475) of David Paul Linsky for an appropriation of a certain sum of money for the construction of sound barriers on a section of Route 9 in the town of Natick.

By the same member, for the same committee, ought NOT to pass, on the petition (accompanied by bill, House, No. 3626) of Leonard H. Golder relative to the establishment of toll booths at the New Hampshire border on certain highways.

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

Mr. Kujawski of Webster, for said committee, reported that the matters be scheduled for consideration by the House; and, under said rule, they were placed in the Orders of the Day for the next sitting, the question, in each instance, being on acceptance.

Emergency Measures.

The engrossed Bill relative to the terms of certain bonds to be issued by the Commonwealth (see House bill printed in House, No. 4097), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 22 to 0. Sent to the Senate for concurrence.

The engrossed Bill relative to the terms of certain bonds to be issued by the Commonwealth (see House bill printed in House, No. 4117), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 32 to 0. Sent to the Senate for concurrence.

Engrossed Bills.

The engrossed Bill authorizing the Commissioner of Capital Asset Management and Maintenance to grant an easement to the county of Nantucket (see Senate, No. 2082, amended) (which originated in the Senate), in respect to which the Senate had concurred in adoption of the emergency preamble, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed bills

Designating a portion of state highway Route 2 as the Johnny Appleseed Trail (see Senate, No. 1621) (which originated in the Senate); and

Relative to the historic business district of the town of Chatham (see House, No. 4197) (which originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Joint Session of the Two Houses to Consider Specific Amendments to the Constitution.

At one minute past two o'clock P.M., the two Houses met in

JOINT SESSION

and were called to order by the Honorable Robert E. Travaglini, President of the Senate.

Without action on the matters duly and constitutionally assigned for consideration, on motion of Ms. Walsh, at two minutes past two o'clock P.M., the joint session was recessed until two o'clock P.M., on February 11, 2004; and the Senate withdrew from the House Chamber under the escort of the Sergeant-at-Arms.

Recess.

At twenty-nine minutes before three o'clock P.M., on motion of Mrs. Harkins of Needham (Mr. DiMasi of Boston being in the Chair), the House recessed until four o'clock P.M.; and at twenty minutes after four o'clock the House was called to order with Mr. DiMasi in the Chair.

Paper from the Senate.

The engrossed Bill relative to fiscal relief funds (see House, No. 4302, amended) [which had been the text contained in section 14A of the engrossed Bill relative to the Inland Fisheries and Game Fund (see House, No. 4248, amended), which had been returned by His Excellency the

Governor with recommendation of amendment (for message, see House, No. 4299)] came from the Senate with the endorsement that said branch had concurred with the House in its amendments with a further amendment inserting after section 1 (as printed) the following section:

“SECTION 2. Section 2 of chapter 26 of the acts of 2003 is hereby amended by inserting after item 1599-3384 the following item:—

1599-3391 For a reserve for the payment or reimbursement of certain court judgments, settlements or legal fees; provided, that in accordance with regulations promulgated by the comptroller, prior fiscal year judgments, settlements or legal fees may be paid or reimbursed from this item; provided that, not less than \$3,500,000 shall be provided for payment or reimbursement for legal fees and other costs associated with civil action number 2002-10428-DPW and civil action number 2002-11190-DPW; provided further, that \$486,000 shall be expended from this item for the resolution of the Adam Dzialo case; provided, that the comptroller shall report quarterly to the house and senate committees on ways and means on the amount expended from this item; provided further, that no amount appropriated in this item shall fund attorneys’ fees for Boulet, et al v. Cellucci, et al, civil action No. 99-CV-10617-DPW, United States District Court of Massachusetts; and provided further, that no funds shall be expended from this item for any settlements pursuant to Superior Court Civil Action NO. 03-1913, BLS Allen’s Pharmacy Cape Ann, & others vs. Christine C. Ferguson, Acting Commissioner of the Massachusetts Division of Health Care Finance and Policy 16,579,000.”.

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

Reports of Committees.

Mr. Rogers of Norwood, for the committee on Ways and Means, on House No. 3884, reported, in part, a Bill making appropriations for fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4308) [Direct Appropriations: \$102,045,547.00; Retained Revenue: \$6,535,000.00]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mrs. Walrath of Stow, the bill was read a second time forthwith; and it was ordered to a third reading.

Order.

On motion of Mr. Finneran of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at ten o’clock A.M.

At twenty-three minutes after four o’clock P.M., on motion of Mrs. Walrath of Stow (Mr. DiMasi of Boston being in the Chair) the House adjourned, to meet tomorrow at ten o’clock A.M.

