

JOURNAL OF THE HOUSE.
Wednesday, November 19, 2003.

Met according to adjournment, at eleven o'clock A.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: God, Our Creator, we depend upon You for our daily existence and guidance as we try to legislate fairly and wisely on behalf of the people of this Commonwealth. Today's needs and the expectations of the people are great, but for a variety of reasons our human and material resources seem too limited. In our diverse society and in these uncertain times, inspire us to select legislative options which are good, just and right and thus avoid choices which undermine the common good and a stable society. Your assistance empowers us to make thoughtful, non-emotional and compassionate decisions as we work together to build trust in each other, in our basic institutions and in our ability to plan for a better future. 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.

Guest of the House.

During the session, the Speaker declared a brief recess and introduced Connie Rizoli, a long-time valued employee of the House of Representatives. Mrs. Rizoli, who was retiring after 36 years of dedicated service to the legislature, then addressed the House briefly. Accompanied by her husband, House Counsel Louis Rizoli, she was the guest of the Speaker and the entire membership of the House.

Resolutions.

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

Resolutions (filed by Representatives Balser of Newton, Demakis of Boston, Golden of Boston and Smizik of Brookline) commemorating the celebration of Hanukkah;

Resolutions (filed by Mr. Greene of Billerica) congratulating Evelyn McKenna Haines on the occasion of her retirement;

Resolutions (filed by Mrs. Poirier of North Attleborough) on the occasion of the fiftieth anniversary of the founding of the North Attleboro Lions Club;

Resolutions (filed by Mr. Scibak of South Hadley) recognizing the Franklin-Hampshire Juvenile Court's participation in National Adoption Day; and

Resolutions (filed by Mrs. Walrath of Stow) congratulating Leigh Russell Audin on receiving the Eagle Award of the Boy Scouts of America;

Mr. Petrolati of Ludlow, 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. Smizik, 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 grant of easements by the city of Newton to the Massachusetts Water Resources Authority (House, No. 4009) (its title having been changed by the Senate committee on Bills in the Third Reading), came from the Senate passed to be engrossed, in concurrence, with an amendment inserting after section 4 the following section:

“SECTION 4A. Pursuant to subsection (D) of section 9 of chapter 372 of the acts of 1984, the Massachusetts Water Resources Authority, notwithstanding any other special or general law, ordinance or regulation to the contrary, may convey to Jay Cashman, Inc., a Massachusetts corporation, a certain parcel of land owned by the authority in the city of Quincy, consisting of approximately 12 acres. The parcel of land, generally located on South street, is part of a larger parcel commonly known as the Fore River Shipyard, and is more particularly described in a plan titled ‘Subdivision Plan of Land, Lot 7, Fore River Shipyard, Quincy, MA’, dated January 9, 2002, by BSC Group, signed by James Peterson, Registered PLS. The consideration for the conveyance shall be \$2,211,000.”.

Under suspension of Rule 35, on motion of Mr. Mariano of Quincy, 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 relative to the duties of the clerk and assistant clerks of the Supreme Judicial Court for Suffolk County (House, No. 4211) came from the Senate passed to be engrossed, in concurrence, with amendments in lines 7 and 8 by striking out the word “exclusively”; in line 11 by striking out the words “exclusive care, custody and control” and inserting in place thereof the words “care and custody”; and in lines 29 and 30 by striking out the word “exclusive”.

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

Bills

Amending the definition of a veteran (Senate, No. 822) (on Senate, Nos. 745, 758, 782, 789, 790, 803 and 813 and House, Nos. 374, 375, 704, 705, 709, 710, 914, 917 and 2813);

Relative to selective service registration (Senate, No. 2119) (on Senate bill No. 1275);

To amend the conservation restrictions and agricultural preservation statutes (Senate, No. 2147) (on Senate bill No. 1192);

Authorizing the city known as the town of Weymouth to grant access to its sewer system and to assess charges therefor (Senate, No. 2148) (on Senate bill No. 1222);

Authorizing the Metropolitan District Commission to lease certain property in the city of Newton and the city of Boston (Senate, No. 2152) (on Senate bill No. 737);

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

Bills

Relative to damages for securities law violations under the Consumer Protection Act (Senate, No. 91) (on a petition);

Relative to the estate of homestead (Senate, No. 995) (on a petition);

Relative to the public records law (Senate, No. 1671, amended by striking out all after the enacting clause and inserting in place thereof the following:

“Section 3 of chapter 55 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:—

The director shall not disclose publicly any correspondence or communication to a candidate, political committee, or ballot question committee which contains a deadline for response until the deadline has passed or the director has received a response, whichever is earlier. Notices of future filing requirements and notices of failure to file a required report, however, shall be public records when issued.”) (on a petition);

Relative to the issuance of certain bonds by the city of Revere (Senate, No. 2057) (on a petition) [Local Approval Received];

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A report of the committee on Health Care, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 651) of Therese Murray, Susan C. Fargo, John A. Hart, Jr., Thomas J. O’Brien and other members of the General Court for legislation relative to “Taylor’s Law” pertaining to the nature of Board of Registration in Medicine adjudicatory hearings, and recommending that the same be referred to the Senate committee on Ways and Means,— accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence, inasmuch as relates to the discharge of the committee.

Subsequently, a Bill relative to adjudicatory hearings of the Board of Registration in Medicine (“Taylor’s Law”) (Senate, No. 2151) (on said Senate bill No. 651), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the House committee on Ways and Means.

Reports of Committees.

By Mr. Casey of Winchester, for the committee on Taxation, on a petition, a Bill relative to property classification (House, No. 1980, changed by adding at the end thereof the following section:

“SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of revenue shall consider the changes in real estate values to be an ‘extraordinary circumstances’ for the purposes of paragraph 2 of section 23D of Chapter 59 of the General Laws, and shall allow cities and towns to issue a third quarter preliminary tax in fiscal year 2004.”). 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 Mr. Petrolati of Ludlow, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Mr. Casey, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time.

Pending the question on passing the bill to be engrossed, the same member moved that it be amended by substitution of a Bill to further regulate property tax classifications in cities and towns (House, No. 4329), which was read.

The amendment was adopted; and the bill was referred, under Joint Rule 29, to the committee on Rules of the two branches, acting concurrently.

Mr. Scaccia of Boston, for said committee then reported that the foregoing bill ought to pass. Referred, under Rule 33, to the committee on Ways and Means.

Mr. Rogers of Norwood, for said committee then reported that the foregoing bill ought to pass. Under suspension of the rules on motion of Mr. Casey of Winchester, the bill was considered forthwith; and it was passed to be engrossed. Sent to the Senate for concurrence.

Emergency Measure.

The engrossed Bill relative to the reform of the unemployment insurance system (see Senate, No. 2150), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 16 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bills.

Engrossed bills

Authorizing the town of Dracut to issue an additional license for the sale of all alcoholic beverages not to be drunk on the premises (see House, No. 3922, amended); and

Authorizing a ballot question in the town of Belmont relative to the granting of licenses for the sale of alcoholic beverages (see House, No. 3975);

(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.

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

Mr. Petrolati of Ludlow moved that the House Bill authorizing the town of Bourne to lease certain conservation land (House, No. 4076), 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 (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. Petrolati of Ludlow moved that the House Bill authorizing the town of Middleton to grant certain easements (House, No. 4196), 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 (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. Petrolati of Ludlow moved that the House Bill relative to the disposition of certain state-owned land in the city of Medford (House, No. 3076), 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 (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. Petrolati of Ludlow moved that the Senate Bill authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the town of Washington (Senate, No. 1972, changed and amended), 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.

The amendments recommended by the committee on Ways and Means,— that the bill be amended in section 1, by inserting after the word “survey.”, in line 9, the following paragraph: “Pursuant to section 40E of chapter 7 of the General Laws and pursuant to provisions within the last will and testament of the late Harry C. Shaw of Washington, Massachusetts dated January 18, 1956, together with the first codicil to said will and testament dated March 7, 1960 and the second codicil to said will and testament dated June 29, 1962, title to the parcel is currently held by the commonwealth.”; and by striking out the paragraph contained in lines 10 to 24, inclusive,— were adopted.

The bill (Senate, No. 1972, changed and amended) then was ordered to a third reading.

Mr. Dempsey of Haverhill moved that the Senate Bill facilitating electronic transactions (Senate, No. 2076, amended), 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 (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, in concurrence.

Mr. Speliotis of Danvers moved that the House Bill releasing certain land located in the town of Danvers from the operation of an agricultural preservation restriction (House, No. 1594), 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 (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. Timilty of Milton moved that the House Bill designating a certain overpass in the town of Milton as the Private First Class Paul W. Curran Memorial Overpass (House, No. 4206), 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 (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. Bosley of North Adams moved that the House Bill authorizing the town of Monroe to lease certain land (House, No. 3993, changed) 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 (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. Bosley of North Adams moved that the House Bill authorizing the town of Florida to lease certain land (House, No. 4163, changed) 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 (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. Rogers of Norwood moved that the report (in part) of the committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment of the House Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4311) (for report, see House, No. 4330) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed. The report was accepted. The same member moved that this vote be reconsidered; and the motion to reconsider was negatived. The report then was sent to the Senate for concurrence.

Mr. Scaccia of Boston moved that the House Bill relative to the notarization of documents including electronic notarization (House, No. 4217, changed) (its title having been changed by the committee on Bills in the Third Reading), 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 (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. Costello of Newburyport moved that the Senate Bill relative to mutual aid agreements (Senate, No. 1342, amended) 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 (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, in con-currence.

Recess.

At seventeen minutes after eleven o'clock A.M., on motion of Mr. Smizik of Brookline (Mr. DiMasi of Boston being in the Chair), the House recessed until one o'clock P.M.; and at twenty minutes after one o'clock the House was called to order with Mr. DiMasi in the Chair.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the town of Braintree to lease certain property (see House, No. 4098) (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 157 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 465 in Supplement.]

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

Paper from the Senate.

The following order came from the Senate with the endorsement that it had been adopted by said branch, as follows:

Ordered, That notwithstanding the provisions of Joint Rule 12B, any matter making or supplementing an appropriation for the current fiscal year shall carryover into the second annual session of the current General Court in the same legislative status as it was at the conclusion of the first annual session or special session held during the current calendar year. Mr. Petrolati of Ludlow having taken the Chair,— Mr. DiMasi of Boston moved that Rule 7A be suspended so that the order might be considered forthwith.

On the question on suspension of Rule 7A, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 134 members voted in the affirmative and 23 in the negative.

[See Yea and Nay No. 466 in Supplement.]

Therefore Rule 7A was suspended.

After remarks on the question on adoption of the order, in concurrence, Mr. DiMasi of Boston moved that it be amended by striking out the text contained therein and inserting in place thereof the following:

“Ordered, That notwithstanding the provisions of Joint Rule 12B, any appropriation bill returned by His Excellency the Governor on or after the third Wednesday of November of the first annual session of the General Court, with reduction or disapproval under the provisions of Section 5 of Article LXIII as amended by Section 4 of Article XC of the Amendments to the Constitution, shall continue to exist upon termination of the first annual session of the General Court for the purpose of reconsideration of items or parts of items or sections contained in said bills [“A”]; and be it further

Ordered, That notwithstanding the provisions of Joint Rule 12B, the Bill providing for investments in emerging technologies to stimulate job creation and economic opportunity in the Commonwealth (House, No. 3955) or any reports based, in whole or in part, on said bill shall continue to exist upon termination of the first annual session of the General Court.”.

After remarks on the question on adoption of the amendment, Mr. Jones of North Reading and other members of the House moved that the proposed substitute text be amended by inserting after the word “bill” [at “A”] the words “; provided further, that any such matter shall be considered only after it is printed on the calendar by the clerk and listed in the orders of the day”.

After debate the further amendment was adopted.

On the question on adoption of the amendment offered by Mr. DiMasi, as amended, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 136 members voted in the affirmative and 23 in the negative.

[See Yea and Nay No. 467 in Supplement.]

Therefore the amendment, as amended, was adopted.

The order, as amended, then also was adopted. Sent to the Senate for concurrence in the amendment.

Recess.

Mr. DiMasi of Boston having returned to the Chair,— at thirteen minutes after three o'clock P.M., on motion of Mr. Petrolati of Ludlow, the House recessed until half past three o'clock P.M.; and at thirteen minutes before four o'clock the House was called to order with Mrs. Harkins of Needham in the Chair.

Engrossed Bill.

Mr. Scaccia of Boston being in the Chair,— The engrossed Bill relative to the duties of the clerk and assistant clerks of the Supreme Judicial Court for Suffolk County (see House, No. 4211, 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.

Reports of Committees.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing the Department of Highways and the city of Westfield to divert the use of certain parcels of land in the city of Westfield (Senate, No. 2087) 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.

Mrs. Harkins of Needham having returned to the Chair,— Under suspension of Rule 7A, on motion of Mr. Humason of Westfield, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on further motion of Mr. Humason, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, in concurrence.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to certain utility regulations (House, No. 1458) 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. Mariano of Quincy, the bill was read a second time forthwith; and it was ordered to a third reading.

Recesses.

At twenty-three minutes before five o'clock P.M., the Chair (Mrs. Harkins of Needham) declared a recess until half past six o'clock; and at twenty minutes before seven o'clock the House was called to order with Mr. Correia of Fall River in the Chair. The House thereupon took a further recess, on motion of Mr. Pedone of Worcester, until seven o'clock; and at that time the House was called to order with the Speaker in the Chair.

Engrossed Bills.

Engrossed bills

Relative to mutual aid agreements (see Senate, No. 1342, amended); and

Facilitating electronic transactions (see Senate, No. 2076, amended);

(Which severally originated in the Senate);

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 Speaker and sent to the Senate.

Engrossed Bill — Land Taking.

The engrossed Bill relative to grant of easements by the city of Newton to the Massachusetts Water Resources Authority (see House, No. 4009, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 159 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 468 in Supplement.\]](#)

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

Report of a Committee.

Mr. Larkin of Pittsfield, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendments (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2131 and striking out the title and inserting in place thereof the following title: "An Act to promote job creation, economic stability and competitiveness in the Massachusetts economy.") of the House Bill providing for investments in emerging technologies to stimulate job creation and economic opportunity in the Commonwealth (House, No. 3955), reported, in part, a Bill for investments in emerging technologies to promote job creation, economic stability and competitiveness in the Massachusetts economy (House, No. 4328).

The same member then moved that the rules be suspended in order that the report might be considered forthwith.

After debate on the motion to suspend the rules, the sense of the House was taken by yeas and

nays, at the request of Mr. Jones of North Reading; and on the roll call 124 members voted in the affirmative and 35 in the negative.

[\[See Yea and Nay No. 469 in Supplement.\]](#)

Therefore the rules were suspended.

After debate (Mr. DiMasi of Boston having taken the Chair), the report was accepted. The report then was sent to the Senate.

Emergency Measure.

The engrossed Bill making appropriations for the fiscal year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4330), 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 33 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays, at the request of Mr. Rogers of Norwood; and on the roll call 158 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 470 in Supplement.\]](#)

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

Suspension of Rule 1A.

The Chair (Mr. DiMasi of Boston) placed before the House the question on suspension of Rule 1A in order that the House might continue to meet beyond the hour of nine o'clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provision of said rule; and on the roll call 123 members voted in the affirmative and 36 in the negative.

[\[See Yea and Nay No. 471 in Supplement.\]](#)

Therefore Rule 1A was suspended.

Paper from the Senate.

The House Bill relative to the taxation of corporations (printed in House, No. 3727, changed) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 1 (as printed), in line 9, by inserting after the word "commissioner" the following: "and consistent with Section 3A of chapter 62C".

Under suspension of Rule 35, on motion of Mr. Rogers of Norwood, 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.

Reports of Committees.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill relative to criminal offender record information checks for assisted living employees (House, No. 1677) 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. Rogers, the bill was read a second time forthwith; and it was ordered to a third reading.

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 2003 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, that item 4403-2120 (contained in section 2) stand (as passed by the General Court).

Under suspension of the rules, on motion of the same member, said item was considered, as follows:

“4403-2120 For certain expenses of the emergency assistance program as herein delineated: (i) contracted family shelters; (ii) transitional housing programs; (iii) programs to reduce homelessness in Barnstable, Dukes and Nantucket counties; (iv) residential education centers for single mothers with children; (v) intake centers, so-called; (vi) hotel and motel payments on behalf of homeless families; and (vii) voucher shelters, so-called; provided, that eligibility shall be limited to families with income at or below 100 per cent of the federal poverty level; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States; provided further, that the department shall take all steps necessary to enforce regulations to prevent abuse in the emergency assistance program; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized; provided further, that no funds may be expended for heat or utility arrearages; provided further, that an otherwise eligible household shall be authorized for temporary emergency shelter even if that household has been authorized to receive a rental arrearage payment within the past 12 months; provided further, that eligible households shall be placed in shelter as close as possible to their home community, unless the household requests otherwise; provided further, if the closest available placement is not within 20 miles of the household’s home community, the household shall be transferred to an appropriate shelter within 20 miles of its home community at the earliest possible date, unless the household requests otherwise; provided further, that the department may add up to 150 new units of scattered site shelter over and above those contracted for in fiscal year 2003 provided that these new units shall be used to reduce the population placed in hotels and motels, and

upon a determination that this action shall not entail additional costs to the family shelter program; provided further, that these new units shall be located in areas of greatest need to facilitate placement of eligible families within 20 miles of their home communities; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the number of families who apply for emergency assistance funded family shelter, the number of families approved for shelter, the number of families denied shelter along with reasons for denials, the home community of families receiving shelter, the number of families receiving shelter within each home community, the number of available shelter slots within each home community, the income level of families receiving shelter, the number of families receiving shelter who had previously accessed state-funded programs to reduce homelessness and the programs that had been accessed, the composition of families receiving shelter, the reason that the household is seeking emergency family shelter, and any other information that the department determines to be necessary in evaluating the operation of the emergency assistance family shelters program; provided further, that the report shall also include information, by type of shelter, on average length of stay, average cost per household served, average number of shelter slots not used either as the result of no placement being made or of a placed family not making use of shelter, and an analysis of this data, including an analysis of causes relating to any significant differences in the data for each type of shelter; provided further, that the report shall also provide a status report on efforts to increase the number of units of scattered site shelter above the number contracted for in fiscal year 2003, any barriers encountered to increasing the number of units of scattered site shelter, and the plan of action or recommendations for overcoming any barriers encountered; provided further, that the department shall make every effort to insure that children receiving services from this item are able to continue attending school in the community in which they lived prior to receiving services funded from this item; provided further, that no hotel or motel stay funded from this item shall establish tenancy on the part of the family; provided further, that in promulgating, amending, or rescinding regulations with respect to eligibility or benefits under this program, the department shall take into account the amounts available to it for expenditure in this item so as not to exceed the amount appropriated herein; provided further, that notwithstanding the provisions of any general or special law to the contrary, 30 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for the program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that nothing herein shall give rise to or shall be construed as giving rise to enforceable legal rights in any party or an enforceable entitlement to services other than to the extent that such rights or entitlements exist under the regulations promulgated by the department; and provided further, that nothing in the preceding proviso shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency in this item 75,728,399”.

[The Governor reduced the item by striking out the following wording: “; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the number of families who apply for emergency assistance funded family shelter, the number of families approved for shelter, the number of families denied shelter along with reasons for denials, the home community of families receiving shelter, the number of families receiving

shelter within each home community, the number of available shelter slots within each home community, the income level of families receiving shelter, the number of families receiving shelter who had previously accessed state-funded programs to reduce homelessness and the programs that had been accessed, the composition of families receiving shelter, the reason that the household is seeking emergency family shelter, and any other information that the department determines to be necessary in evaluating the operation of the emergency assistance family shelters program; provided further, that the report shall also include information, by type of shelter, on average length of stay, average cost per household served, average number of shelter slots not used either as the result of no placement being made or of a placed family not making use of shelter, and an analysis of this data, including an analysis of causes relating to any significant differences in the data for each type of shelter; provided further, that the report shall also provide a status report on efforts to increase the number of units of scattered site shelter above the number contracted for in fiscal year 2003, any barriers encountered to increasing the number of units of scattered site shelter, and the plan of action or recommendations for overcoming any barriers encountered; provided further, that the department shall make every effort to insure that children receiving services from this item are able to continue attending school in the community in which they lived prior to receiving services funded from this item”.]

The question on passing said item, notwithstanding the reduction of the Governor, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and Section 5 of Article LXIII of the Amendments to the Constitution; and on the roll call 136 members voted in the affirmative and 23 in the negative.

[\[See Yea and Nay No. 472 in Supplement.\]](#)

Therefore item 4403-2120 (contained in section 2) was passed, notwithstanding the reduction 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 Department of Highways and the city of Westfield to divert the use of certain parcels of land in the city of Westfield (see Senate, No. 2087) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 159 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 473 in Supplement.\]](#)

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

Report 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 2003 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, that section 681 stand (as passed by the General Court).

Under suspension of the rules, on motion of the same member, said section was considered, as follows:

“SECTION 681. Notwithstanding any general or special law to the contrary, no funds from the Health Care Quality Improvement Trust Fund or appropriated in items 4000-0600 of any general appropriation act shall be used directly or indirectly by a recipient nursing home or health care facility for political contributions, lobbying activities, entertainment expenses or efforts to assist, promote, deter or discourage union organizing. As a condition of receiving monies from the fund or item 4000-0600, a nursing home or health care facility shall provide a certification to the division of medical assistance that no funds shall be used for such activities. If the division determines that a recipient of monies from the fund or item 4000-0600 has spent such monies in violation of this section, the recipient nursing home or health care facility shall be required to document the cost of such activity. The division of medical assistance shall conduct an investigation or audit if a complaint is filed by any person alleging a violation of this section. The division shall consider that there is a rebuttable presumption that such activities were funded in part from such monies and shall require the recipient nursing home or health care facility to provide all appropriate information and documentation showing that no such monies were used for activities in violation of this section. An expense, including legal and consulting fees and salaries of supervisors and employees, incurred for research for, preparation, planning or coordination of, or carrying out an activity to assist, promote or deter union organizing shall be treated as paid or incurred for that activity. An expense incurred in connection with:

- (1) addressing a grievance or negotiation or administering a collective bargaining agreement;
- (2) performing an activity required by federal or state law or by a collective bargaining agreement; or
- (3) obtaining legal advice about rights and responsibilities under federal or state law shall not be treated as paid or incurred for activities to assist, promote, deter or discourage union organizing.

Monies spent in violation of this section shall be reimbursed to the fund or the division of medical assistance as appropriate.”.

The question on passing said section, notwithstanding the objections of the Governor, was determined by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and Section 5 of Article LXIII of the Amendments to the Constitution; and on the roll call 136 members voted in the affirmative and 23 in the negative.

[\[See Yea and Nay No. 474 in Supplement.\]](#)

Therefore section 681 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 town of Bourne to lease certain conservation land (see House, No. 4076) (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 159 members voted in the affirmative and 0 in the negative.

[\[See Yea and Nay No. 475 in Supplement.\]](#)

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

Papers from the Senate.

A Bill making certain changes to the tax laws of the Commonwealth (Senate, No. 2149, amended by inserting after section 2 the following two sections:

“SECTION 2A. Section 36 of chapter 62C, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:—

An application for an abatement or a refund of an overpayment of any tax where a return which is required to be filed has not been timely filed, shall be made and filed, along with the overdue return, within 3 years from the date that the return was due to be filed, without regard to extensions, or within 2 years of the date that the tax was paid, whichever is later. An application for an abatement or refund filed beyond those alternate deadlines shall be denied by the commissioner. An application for refund of an overpayment of any tax where no return is required shall be made by the taxpayer within 2 years from the time such tax was paid. An application for an abatement or refund in any other circumstance, including either where no return is required to be filed, or where the return has been filed in a timely manner, shall be made within the periods provided under section 37 of this chapter.

SECTION 2B. Said chapter 62C is hereby further amended by striking out section 39, as so appearing, and inserting in place thereof the following section:—

Section 39. Any person aggrieved by the refusal of the commissioner to abate or to refund any tax, in whole or in part, whether such refusal results from the denial of an abatement application made under section 36 or section 37, may appeal therefrom, within 60 days after the date of notice of the decision of the commissioner or within 6 months after the time when the application for abatement is deemed to be denied as provided in section 6 of chapter 58A, as follows:

(a) appeals from the decision of the commissioner as to the value of an asset of the estate for purposes of chapter 65C shall be made by filing a petition with the clerk of the appellate tax board;

(b) appeals from the decision of the commissioner as to all other matters arising under chapter

65C shall be made by filing a petition with either the clerk of the appellate tax board or the probate court having jurisdiction of the estate of the decedent;

(c) appeals from the commissioner's refusal to abate any other tax or to refund any tax, in whole or in part, whether such refusal results from the denial of an abatement application made under section 36 or section 37, shall be made by filing a petition with the clerk of the appellate tax board. If, on hearing, the board or the court, whichever the case may be, finds that the person making the appeal was entitled to an abatement or a refund, it shall make such abatement or refund as it sees fit. If a tax so abated has been paid, the state treasurer, upon presentation to him of the notice of the decision of the board, or the court, shall repay to the petitioner the amount of the abatement and interest computed in accordance with section 40.") (reported, in part, on House bill No. 4254), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Mr. Rogers of Norwood, for said committee, reported recommending the bill 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 the rules, on motion of Mr. Casey of Winchester (Mrs. Harkins of Needham being in the Chair), the bill was read a second time forthwith; and it was ordered to a third reading.

A Bill authorizing the Massachusetts Water Resources Authority to grant access to its sewer system to a certain property in the town of Hingham (Senate, No. 1221) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Mr. Rogers of Norwood, for said committee, reported that the foregoing bill 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 the rules, on motion of Mr. Mariano of Quincy, the bill was read a second time forthwith; and it was ordered to a third reading.

Emergency Measures.

The engrossed Bill relative to the taxation of corporations (see House bill printed in House, No. 3727, changed), 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 52 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill to further regulate property tax classifications in cities and towns (see House, No. 4329), 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 38 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill relative to investments in emerging technologies to promote job creation, economic stability and competitiveness in the Massachusetts economy (see House, No. 4328), 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 Speaker being in the Chair) the preamble was adopted, by a vote of 24 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays, at the request of Mr. Larkin of Pittsfield; and on the roll call 146 members voted in the affirmative and 12 in the negative.

[\[See Yea and Nay No. 476 in Supplement.\]](#)

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

Order.

On motion of Mr. DiMasi of Boston,—

Ordered, That when the House adjourns today, it adjourn to meet tomorrow at one o'clock P.M. Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at twenty-seven minutes after eleven o'clock P.M., on further motion of Mr. DiMasi (the Speaker being in the Chair), the House adjourned, to meet tomorrow at one o'clock P.M., in an Informal Session.