

JOURNAL OF THE HOUSE.

Wednesday, June 25, 2008.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford 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 of Hope and Truth, we begin this day's legislative session with a prayer for guidance and direction. Each day we face new legislative proposals which are often complex, emotional and controversial. In Your goodness, inspire us to make the right, just, timely and ethical decisions, so that constituents and the common good are well-served. During these times of economic, political and societal uneasiness in our communities, help us to be open, creative and fair in dealing with people and their concerns. Grant us the wisdom and the courage to strengthen our basic traditional institutions, so that we will enjoy stable, peaceful and economically exciting communities.

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

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

Resolutions.

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

Resolutions (filed by Messrs. deMacedo of Plymouth and Calter of Kingston) congratulating the Plymouth North High School baseball team for winning the 2008 state championships;

Resolutions (filed by Mr. Sannicandro of Ashland) commending Daniel O'Connor of Framingham, Massachusetts, for his placement on the US Olympic boxing team as an alternate to the 2008 Beijing Summer Olympics; and

Resolutions (filed by Messrs. Stanley of Waltham and Kaufman of Lexington) congratulating Keith McHugh on receiving the Eagle Award of the Boy Scouts of America;

Mr. Scaccia of Boston, 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. deMacedo of Plymouth, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Order.

The following order (filed by Mr. Kaufman of Lexington) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the committee on Public Service be granted until Friday, July 11, 2008 within which to report on current House Bill number 4776, relative to the appointment and status of the fire chief and the board of fire commissioners in the city of Fall River.

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Mr. Scaccia of Boston, for the committees on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of Mr. deMacedo of Plymouth, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

Annual and Special Reports.

Annual report of The Life Initiative (under Section 2(e) of Chapter 259 of the Acts of 1998) submitting its 2007 annual report and statement of financial condition of the Massachusetts Life Insurance Community Investment Initiative, LLC; and

A report of the Secretary of the Executive Office of Public Safety (under Section 2 of Chapter 170 of the Acts of 2004) relative to the use of electronic weapons;
Severally were placed on file.

Papers from the Senate.

A report of the committee of conference on the disagreeing votes of the two branches with reference to the House amendment (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4373) of the Senate Bill to generate renewable energy and efficiency now (Senate, No. 2468), recommending the passage of a Bill relative to green communities (Senate, No. 2768), came from the Senate with the endorsement that it been accepted by said branch.

The report bore the further endorsement that the following language had been inadvertently omitted and should have been the proposed language in subsection (d) of Section 11F of Chapter 25A [located in SECTION 32] of the report of the committee of conference on the disagreeing votes of the two branches, relative to green communities (Senate, No. 2768) [The errata sheet having been signed by all of the members of the conference committee.]

"(d) Every retail electric supplier providing service under contracts executed or extended on or after January 1, 2009, shall provide a minimum percentage of kilowatt-hour sales to end-use customers in the commonwealth from Class II renewable energy generating sources. For the purposes of this section, a Class II renewable energy generating source is one that began commercial operation before December 31, 1997 and generates electricity using any of the following: (1) solar photovoltaic or solar thermal electric energy; (2) wind energy (3) ocean thermal, wave or tidal energy; (4) fuel cells utilizing renewable fuels; (5) landfill gas; (6) energy generated by existing hydroelectric facilities, provided that such existing facility shall meet appropriate and site-specific standards that address adequate and healthy river flows, water quality standards, fish passage and protection measures and mitigation and enhancement opportunities in the impacted watershed as determined by the department in consultation with relevant state and federal agencies having oversight and jurisdiction over hydropower facilities; and provided further, that only energy from existing facilities up to 5 megawatts shall be considered renewable energy and no such facility shall involve pumped storage of water nor construction of any new dam or water diversion structure constructed later than January 1, 1998; (7) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; (8) low emission advanced biomass power conversion technologies using fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but

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not limited to biodiesel, organic refuse-derived fuel, or algae; (9) marine or hydrokinetic energy as defined in section 3; or (10) geothermal energy. A facility in clause (7) shall not be a Class II renewable generating sources unless it operates or contracts for one or more recycling programs approved by the department of environmental protection. At least 50 per cent of any revenue received by the facility through the sale of Massachusetts RPS-eligible renewable energy certificates shall be allocated to such recycling programs. A Class II renewable generating source may be located behind the customer meter within the ISO-NE control area provided that the output is verified by an independent verification system participating in the NEPOOL GIS accounting system and approved by the department."

The report was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House, the question being on acceptance of the report of the committee of conference.

The following order (having been reported by the committees on Rules of the two branches, acting concurrently) 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 10, the committee on Bonding, Capital Expenditures and State Assets be granted until June 25, 2008 within which to make its final report on current House document numbered 4743, relative to bonding, capital expenditures and state assets.

Under suspension of the rules, on motion of Mr. Flynn of Bridgewater, the order was considered forthwith.

Pending the question on adoption of the order, in concurrence, the same member moved to amend it by striking out the date "June 25" and inserting in place thereof the date "Wednesday, July 2".

The amendment was adopted.

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

Bills

Further regulating rates of pilotage and pilot requirements (Senate, No. 515, amended by striking out section 1 and inserting in place thereof the following section:

"SECTION 1. Section 3 of chapter 103 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding any regulation to the contrary in determining the eligibility of applicants for consideration for appointment to any status as pilot candidate or for a warrant or full branch pilot commission, the pilot commission shall adopt regulations providing for preference to veterans as defined in clause Forty-third of section 7 of chapter 4 of the General Laws and those who were honorably discharged from or currently serving in the Armed Forces of the United States, including the Army, Navy, Air Force, Marine Corps and Coast Guard and the National Oceanic and Atmospheric Administration Officer Corps. If an active duty member or veteran applicant has a valid United States Coast Guard-issued Unlimited Master's License or First Class Federal Pilotage endorsement for any part of Boston Harbor, he shall be eligible for preference for appointment as a state-commissioned pilot apprentice. No person's status as a veteran or as a military reservist, and no person's susceptibility to recall to military active duty, shall affect that person's eligibility for selection for pilot candidate training or for warrant or full branch pilot commission.") (on a petition);

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Establishing the Nantucket Community Housing Bank (Senate, No. 2544) (on Senate, No. 1773) [Local Approval Received.];

Establishing the Martha's Vineyard Housing Bank (Senate, No. 2546) (on Senate, No. 1776);

Further regulating the maximum age for the appointment of veterans as police officers and firefighters (Senate, No. 2560, amended by striking out the second sentence and inserting in place thereof the following sentence:- "Notwithstanding the first sentence, a veteran who has not exceeded the maximum age set forth in 10 U.S.C. 505(a) for original enlistment in the Armed Forces of the United States shall be exempt from the age restriction imposed by this section.", (on a petition);

Establishing a sick leave for Karen Fowles, an employee of the Massachusetts Rehabilitation Commission (Senate, No. 2730, amended by adding the following sentence:- "Sick leave bank days may not be used for absences unrelated to the illness or disability that necessitated the establishment of the sick leave bank as determined by the commission.") (on a petition);

Relative to public access to recreational trails (Senate, No. 2759) (on Senate bill No. 559);

Establishing the Massachusetts Military Reservation Fire Department (Senate, No. 2760) (on Senate, No. 2682);

Relative to rates for human and social service programs (Senate, No. 2764, amended in section 9 (as printed), in line 64, by inserting after the word "Laws" the words:- ", and shall identify potential efficiencies and cost savings and any legislative action necessary to facilitate realizing such efficiencies and savings", and in line 86, inserting after the word "agency" the words: "and initiatives undertaken to promote efficiency or reduce or control costs and the results thereof") (on Senate bill No. 65); and

Relative to the regulation of snow and recreation vehicles (Senate, No. 2772) (on Senate Bill No. 2771) [Representative Flanagan of Leominster and Sandlin of Agawam, for the committee on Transportation, dissenting.]

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

A Bill to improve dropout prevention and reporting of graduation rates (Senate, No. 2766) (on Senate Bill No. 2462), passed to be engrossed by the Senate, was read; and it was referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Bills

Punishing assault and battery by means of a bodily substance upon correctional facility employees (Senate, No. 1341) (on a petition);

Establishing a project mitigation contribution or linkage program for open space and historic preservation in the city of Somerville (Senate, No. 2167) (on a petition) [Local Approval Received];

Authorizing the establishment of a municipal open space and historic preservation trust fund in the city of Somerville (Senate, No. 2171) (on a petition) [Local Approval Received]; and

Authorizing the sale of alcoholic beverages on golf courses (Senate, No. 2769) (on House Bill No. 227); and

A Resolve providing for an investigation and study by a study a special commission relative to the licensing of docking pilots (Senate, No. 2770, amended in line 24 by inserting after the word "appropriate." the following sentence: "The members of the special commission may also make recommendations for any changes relative to the appointment of commissioners pursuant to section 2 of chapter 103 of the General Laws.") (on Senate Bill No. 2767);

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

Reports of Committees.

By Mr. Walsh of Lynn, for the committee on Community Development and Small Business, on Senate, Nos. 148, 152, 154 and 224 and House, Nos. 152, 175, 184 and 4519, an Order relative to authorizing the committee on Community Development and Small Business to make an investigation and study of certain Senate and House documents concerning business entities in the Commonwealth (House, No. 4879).

By the same member, for the same committee, on Senate No. 149, an Order relative to authorizing the committee on Community Development and Small Business to make an investigation and study of a certain Senate document No. 149, concerning the town of Wareham (House, No. 4880) [Representative Gifford of Wareham dissenting].

By the same member, for the same committee, on House, Nos. 167, 185 and 187, an Order relative to authorizing the committee on Community Development and Small Business to make an investigation and study of certain House documents concerning consumer rebate reform (House, No. 4881).

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Scaccia of Boston, for said committees, reported, in each instance, asking to be discharged from further consideration of said orders; and recommending that the same severally be referred to the House committee on Rules.

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

By Mr. Walsh of Lynn, for the committee on Community Development and Small Business, on a petition, a Bill establishing the Commonwealth community fund (House, No. 186). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Mr. Walsh of Lynn, for the committee on Community Development and Small Business, on a petition, a Bill establishing a revolving fund for municipal building repair (House, No. 3840). Read; and referred, under Joint Rule 1F, to the committee on Bonding and Capital Expenditures and State Assets.

By Mr. Walsh of Lynn, for the committee on Community Development and Small Business, on a petition, a Bill requiring pet shop owners to provide basic pet care information to consumers (House, No. 147).

By the same member, for the same committee, on a petition, a Bill relative to small business regulatory impact statements (House, No. 165).

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the Resolve establishing a special commission relative to tick borne illness (House, No. 4201) be scheduled for consideration by the House, with an amendment previously recommended by the committee on Ways and Means (House, No. 4802) pending. Placed in the Orders of the Day for the next sitting, the question being on ordering the resolve to a third reading, with the amendment pending.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the Bill establishing a nursing facility conversion pilot program (House, No. 608) be scheduled for

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consideration by the House, with an amendment previously recommended by the committee on Health Care Financing (House, No. 4766) pending.

By the same member, for the same committee, that the Bill relative to a special commission on seafood marketing (House, No. 777, changed) be scheduled for consideration by the House, with an amendment previously recommended by the committee on Ways and Means (House, No. 4794) pending.

By the same member, for the same committee, that the Bill relative to hospital and clinic medical record retention (House, No. 2179) be scheduled for consideration by the House, with an amendment previously recommended by the committee on Health Care Financing (House, No. 4767) pending.

By the same member, for the same committee, that the Bill to provide employees at state and community colleges holding special state police officer powers with line of duty death benefits (House, No. 2550) be scheduled for consideration by the House, with an amendment previously recommended by the committee on Ways and Means (House, No. 4797) pending.

By the same member, for the same committee, that the Bill relative to the retirement benefits of certain employees of DSS (House, No. 2798) be scheduled for consideration by the House, with an amendment previously recommended by the committee on Ways and Means (House, No. 4798) pending.

By the same member, for the same committee, that the Bill relative to cooperative purchasing agreements (House, No. 3198) be scheduled for consideration by the House, with an amendment previously recommended by the committee on State Administration and Regulatory Oversight (House, No. 4810) pending.

By the same member, for the same committee, that the Resolve reviving and continuing the special commission on middle education in the Commonwealth (House, No. 3775) be scheduled for consideration by the House, with an amendment previously recommended by the committee on Ways and Means (House, No. 4800) pending.

By the same member, for the same committee, that the Bill designating architect emeritus status (House, No. 4229) be scheduled for consideration by the House, with an amendment previously recommended by the committee on Ways and Means (House, No. 4803) pending.

By the same member, for the same committee, that the Bill relative to discharging sewage from marine vessels into waters of the Commonwealth designated as no discharge areas (House, No. 4336) be scheduled for consideration by the House, with an amendment previously recommended by the committee on Ways and Means (House, No. 4805) pending.

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

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

Senate bills

Relative to educational expenditures in the town of Milton (Senate, No. 2486);

Establishing a special reserve fund in the town of Sunderland (Senate, No. 2686); and

Directing the Registrar of Motor Vehicles to transfer a certain distinctive registration plate (Senate, No. 2757); and

House bills

Relative to the Information Technology Advisory Board (House, No. 348);

Relative to coupon use for the purchase of Milk (House, No. 780);

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Relating to medical malpractice liability of health professionals in emergency response (House, No. 1013);
Relative to public safety officers and safe hypodermic syringes (House, No. 1526, changed);
Relating to spectating at or creating depictions of animal fighting or cruelty (House, No. 1527);
Relative to the penalties for aiding or being present at an exhibition of fighting animals (House, No. 1529);
Relative to nursing mothers (House, No. 1568);
Granting discretion to the Superior Court to allocate certain settlement proceeds (House, No. 1622);
To prohibit the use of certain liability waivers as against public policy (House, No. 1625);
Relating to police auctions (House, No. 1981, changed);
Relative to patient's rights (House, No. 2262);
Relative to the voluntary closure of long term care facilities (House, No. 2267);
Providing protection for the rivers in the Commonwealth (House, No. 3852);
Relative to the Groton Country Club Authority (House, No. 4008);
Relative to the designation of a certain bridge in the town of Falmouth the Raleigh D. Costa Memorial Bridge (House, No. 4435);
Validating a certain election in the town of Medway (printed in House, No. 4545);
Relative to blood donation (House, No. 4547);
Relative to certain affordable housing in the city of Boston (House, No. 4710);
Authorizing the town of Belmont to place a certain question relative to the granting of a club license for the sale of alcoholic beverages in the town of Belmont (House, No. 4757);
Relative to affordable housing in the town of Chelmsford (House, No. 4758);
Authorizing the town of Wayland to establish a department of public works (House, No. 4759);
Relative to the historical commission of the town of Lincoln (House, No. 4760);
Authorizing the appointment of retired police officers as special police officers in the town of Norwood (House, No. 4763);
Relative to mercury management (House, No. 4773);
Regulating notaries public to protect consumers from fraud and other abuses (House, No. 4774); and
Designating a certain bridge in the towns of Marshfield and Scituate as the Francis R. Powers Memorial Bridge (House, No. 4809);
Severally placed in the Orders of the Day for the next sitting for a second reading.
By Mr. Kaufman of Lexington, for the committee on Public Service, on a joint petition, a Bill establish a sick leave bank for Mary Mercurio, an employee of the Department of Social Services (House, No. 4868).
By the same member, for the same committee, on House, No. 4855, a Bill establishing a sick leave bank for Sarah Carmichael, an employee of the Department of Youth Services (House, No. 4882).
Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.
Mr. Donato of Medford, for said committee, reported that the matters be scheduled for consideration by the House; and, under said rule, they were placed in the Orders of the Day for the next sitting for a second reading.

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Motion to Reconsider.

Enteral formulas. Ms. Rogeness of Longmeadow moved that the vote be reconsidered by which the House, at the preceding sitting, passed to be engrossed, the House Bill increasing coverage of nonprescription enteral formulas (House, No. 925).

The motion to reconsider was placed, under Rule 54, in the Orders of the Day for the next sitting.

Recess.

At eleven minutes after eleven o'clock A.M., on motion of Ms. Rogeness of Longmeadow (Mr. Donato of Medford being in the Chair), the House recessed until a quarter before twelve o'clock noon; and at twenty-five minutes before one o'clock P.M. the House was called to order with Mr. Donato in the Chair.

Orders of the Day.

The House Bill relative to the licensing of sheet metal workers and sheet metal contractors (House, No. 4804), 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. Sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,--

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

At twenty-seven minutes after one o'clock P.M., on motion of Ms. Rogeness of Longmeadow (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M.