

Wednesday, March 28, 2012.

Met according to adjournment at eleven o'clock A.M., 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).

Pledge of
allegiance.

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.

Guest of the House.

Army
National
Guard
Lieutenant
Colonel
Bob Dwan.

During the session, Mr. Vallee of Franklin took the Chair, declared a brief recess, and introduced Massachusetts Army National Guard Lieutenant Colonel Bob Dwan of Dedham, who recently returned from a deployment in Afghanistan. He served as HHD Detachment Commander and Logistical Officer of the 211th Military Police Battalion, Operations Officer of the 26th Yankee Brigade, and the Garrison Commander for the New Kabul Compound in Kabul, Afghanistan. He was joined by his wife Catherine, his children Allyson, Brittany, Madyson, Robert and Christopher and his parents Daniel and Patricia Dwan. Mr. Vallee then presented him with previously adopted resolutions of the House commending him upon his return from Afghanistan. They were the guests of Messrs. Vallee and McMurtry of Dedham.

Resolutions.

Dr. Kathleen
Schatzberg.

Resolutions (filed with the Clerk by Mr. Turner of Dennis and other members of the House) congratulating Dr. Kathleen Schatzberg on the occasion of her retirement as President of Cape Cod Community College, were referred, under Rule 85, to the committee on Rules.

Mr. Binienda of Worcester, for said committee, reported that the resolutions ought to be adopted. Under suspension of the rules, on motion of Mrs. Poirier of North Attleborough, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Petitions.

Petitions severally were presented and referred as follows:

Boston
Housing
Authority.

By Mr. Honan of Boston, a petition (accompanied by bill, House, No. 4008) of Kevin G. Honan (with the approval of the mayor and city council) relative to a form of governance for the Boston Housing Authority. To the committee on Housing.

Orange,—
land.

By Representative Andrews of Orange and Senator Brewer, a joint petition (accompanied by bill, House, No. 4009) of Denise Andrews and Stephen M. Brewer (by vote of the town) for legislation to authorize the town of Orange to convey a certain parcel of land in said town. To the committee on State Administration and Regulatory Oversight.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. Chan of Quincy, a petition (subject to Joint Rule 12) of Tackey Chan relative to the payment of interest in arbitration. Arbitration,—
interest.

By Mr. Linsky of Natick, a petition (subject to Joint Rule 12) of David Paul Linsky relative to elevator inspection fees. Elevator
inspections.

By Messrs. Linsky of Natick and Swan of Springfield, a petition (subject to Joint Rule 12) of David Paul Linsky, Benjamin Swan and others relative to indigent defense counsel. Indigent
counsel.

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

Reports of Committees.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions;

Petition (accompanied by bill) of Todd M. Smola and Stephen M. Brewer for legislation to establish a sick leave bank for Kristin LaPlante, an employee of the Executive Office of Health and Human Services. Kristin
LaPlante,—
sick leave.

Petition (accompanied by bill) of Carlos Henriquez and John A. Hart, Jr., for legislation to establish a sick leave bank for Dacia Thompson, an employee of the Department of Children and Families. Dacia
Thompson,—
sick leave.

Severally to the committee on Public Service.

Under suspension of the rules, on motion of Mrs. Poirier of North Attleborough, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Honan of Boston, for the committee on Housing, on a petition, a Bill relative to energy efficiency in affordable housing (House, No. 369). Public
housing.

By the same member, for the same committee, on a petition, a Bill relative to manufactured housing communities (House, No. 2117). Manufactured
housing.

By Mr. Kane of Holyoke, for the committee on Municipalities and Regional Government, on House, Nos. 3 and 4, a Bill relative to the local mandate law (House, No. 4). Local
mandates.

By the same member, for the same committee, on a petition, a Bill relative to the enhanced disposition of surplus motor vehicles owned by the Commonwealth or authorities established by the state (House, No. 555). Surplus motor
vehicles,—
disposition.

By Mr. Kaufman of Lexington, for the committee on Revenue, on House, No. 2541, a Bill relative to property tax exemptions for renewable power systems (House, No. 4010). Renewable
power,—
property taxes.

By Mr. Kocot of Northampton, for the committee on State Administration and Regulatory Oversight, on House, Nos. 8 and 13, a Bill relative to Chapter 30B (House, No. 13). Procurements,—
regulate.

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

By Mr. Honan of Boston, for the committee on Housing, on a petition, a Bill relative to promoting local housing initiatives for economically diverse households (House, No. 1271). Local
housing,—
diversity.

Inspector
General,—
employees.

By Mr. Kocot of Northampton, for the committee on State Administration and Regulatory Oversight, on House, Nos. 8 and 12, a Bill authorizing employees of the Inspector General's office to participate in representative town meeting (House, No. 12).

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

Recess.

Recess.

At five minutes after eleven o'clock A.M., on motion of Mrs. Poirier of North Attleborough (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at six minutes after one o'clock the House was called to order with Mr. Donato in the Chair.

Engrossed Bills.

Bills
enacted.

Engrossed bills

Relative to the Dighton Water District in the town of Dighton (see Senate, No. 2174, amended) (which originated in the Senate);

Authorizing the town of Dartmouth to establish a trust fund for police officer medical benefits (see House, No. 2328);

Designating a certain bridge in the town of Dalton as the 2nd Lt. Michael J. Casey, Sr. Memorial Bridge (see House, No. 3638, amended);

Authorizing the town of Harvard to issue one-day liquor licenses (see House, No. 3715, amended); and

Relative to a certain parcel of land in the town of Freetown (see House, No. 3953);

(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.

Quorum.

Quorum.

Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,—
yea and nay
No. 209.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 153 members were recorded as being in attendance.

[See Yea and Nay No. 209 in Supplement.]

Therefore a quorum was present.

Motion to Suspend Rule 24(2).

Local Aid.

Mr. Jones of North Reading moved that Rule 24(2) be suspended in order that he might offer, from the floor, Resolutions providing for a declaration of the intent of the House of Representatives relative to the amount and distribution of local aid to the Commonwealth's cities, towns and regional school districts for fiscal year 2013.

After debate the motion to suspend Rule 24(2) was negative; and the resolutions were referred, under said rule, to the committee on Rules.

*Motion to Discharge a Certain Matter
in the Orders of the Day.*

The House Bill financing improvements to the Commonwealth's transportation system (House, No. 4000), reported by the committee on Bills in the Third Reading to be correctly drawn, was taken from its position in the Orders of the Day, and read a third time, under suspension of Rule 47, on motion of Mr. Straus of Mattapoisett.

Transportation
system,—
financing.

After remarks on the question on passing it to be engrossed, Ms. Wolf of Cambridge moved to amend the bill (as changed by the committee on Bills in the Third Reading) by adding the following section:

"SECTION 6. Prior to the consideration of the next Transportation Bond Bill, the House Ways and Means Committee with the Transportation Committee shall assess whether there is a mechanism by which to assist the MBTA in its financial bottom line for the next fiscal year by including a portion of the MBTA capital expenditures for maintaining a 'State of Good Repair' in that transportation Bond Bill."

The amendment was adopted.

Mr. Lyons of Andover and other members of the House then moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

"SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2012, the sum set forth in section 2 is hereby appropriated from the Stabilization Fund, pursuant to section 2H of chapter 29 of the General Laws unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2012. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

1599-XXXX For the construction and reconstruction of town and county ways as described in clause (b) of section 4 of chapter 6C of the General Laws, the 'chapter 90 program'; provided that a city or town shall comply with the procedures established by the Massachusetts Department of Transportation; provided further, that any city or town may appropriate for these projects amounts not in excess of the amount provided to the city or town under this item, preliminary notice of which shall be provided by the department to the city or town not later than April 1 of each year; provided further, that the appropriation shall be considered as an available fund upon approval of the commissioner of revenue under section 23 of chapter 59 of the General Laws; and provided further, that the commonwealth shall reimburse a city or town under this item, subject to the availability of funds as provided in section 9B of chapter 29 of the General Laws, within 30 days after receipt by the department of a request for reimbursement from the

Transportation
system,—
financing.

city or town, which request shall include certification by the city or town that actual expenses have been incurred on projects eligible for reimbursement under this item, and that the work has been completed to the satisfaction of the city or town according to the specifications of the project and in compliance with applicable laws and procedures established by the department \$200,000,000.

SECTION 3. Section 2H of chapter 29 of the General Laws, as appearing in the 2010 Official Edition is hereby amended by inserting after the word ‘subdivisions’, in line 14, the following words:— or (4) for the construction and reconstruction of town and county ways as described in clause (b) of section 4 of chapter 6C.

SECTION 4. Notwithstanding any general or special law to the contrary, in carrying out section 2 and all other provisions of this act, the Massachusetts Department of Transportation may enter into contracts, agreements, or transactions that may be appropriate with other federal, state, local or regional public agencies or authorities. The contracts, agreements, or transactions may relate to such matters as the department shall determine including, without limitation, the research, design, layout, construction, reconstruction or management of construction of all or a portion of these projects. In relation to any such contracts, agreements, or transactions the department may advance monies to these agencies or authorities, without prior expenditure by the agencies or authorities, and the agencies and authorities may accept monies necessary to carry out these agreements; provided, however, that the department shall certify to the comptroller the amounts so advanced; provided further, that these agreements shall contain provisions satisfactory to the department for the accounting of monies expended by any other agency or authority; and provided, further, that all monies not expended under any such agreement shall be credited to the account of the department from which they were advanced. The department shall report to the house and senate committees on ways and means on any transfers completed under this section.

SECTION 5. (a) Notwithstanding any other general or special law to the contrary, the Massachusetts Department of Transportation shall expend the sums authorized in section 2 for the following purposes: projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, on- and off-street bicycle projects, sidewalks, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under section 4(b) of chapter 6C of the General Laws, highway or mass transportation studies, including, but not limited to, traffic, environmental or parking studies, the establishment of school zones in accordance with section 2 of chapter 85 of the General Laws, improvements on routes not designated as state highways without assumption of maintenance responsibilities and, notwithstanding any general or special law to the contrary, projects to alleviate contamination of public and private water supplies cause by the department’s storage and use of snow removal chemicals which are necessary for the

purposes of highway safety and for the relocation of persons or businesses or for the replacement of dwellings or structures including, but not limited to, providing last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. section 4601 et seq., and to sell any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within 1 month after the removal. In planning projects funded by said section 2, consideration shall be made, to the extent feasible, to accommodate and incorporate provisions to facilitate the use of bicycles and walking as a means of transportation; provided, however, that nothing in this section shall be construed to give rise to enforceable legal rights in any party or a cause of action or an enforceable entitlement as to the projects described in this section.

(b) Funds authorized in section 2 shall, except as otherwise specifically provided in this act, be subject to the first paragraph of section 6 and sections 7 and 9 of chapter 718 of the acts of 1956, if applicable, and, notwithstanding any general or special law to the contrary, may be used for the purposes stated in this act in conjunction with funds of cities, towns and political subdivisions.

(c) In addition to the foregoing, the department of transportation may expend funds made available by this act to acquire from a person by lease, purchase, eminent domain under chapter 79 of the General Laws or otherwise, land or rights in land for parking facilities adjacent to a public way to be operated by the department or under contract with an individual; expend funds made available by this act for the acquisition of van-type vehicles used for multi-passenger, commuter-driven carpools and high-occupancy vehicles including, but not limited to, water shuttles and water taxis; and, in accordance with all applicable state and federal laws and regulations, exercise all powers and do all things necessary and convenient to carry out the purposes of this act.

(d) In carrying out this section, the Massachusetts Department of Transportation may enter into contracts or agreements with cities to mitigate the effects of projects undertaken under this act and to undertake additional transportation measures within the city and may enter into contracts, agreements, or transactions with other federal, state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions that may be necessary to implement these contracts or agreements with cities. Cities and other state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions may enter into these contracts, agreements, or transactions with the department. In relation to these agreements, the department may advance to these agencies, organizations or authorities, without prior expenditure by the agencies, organizations or authorities, monies necessary to carry out these agreements; provided, however, that the department shall certify to the comptroller the amount so advanced; provided further, that all monies not expended under these agreements

Transportation
system,—
financing.

shall be credited to the account of the department from which they were advanced. The department shall report to the house and senate committees on ways and means on any transfers completed under this subsection.

(e) In addition to the foregoing, the department may expend funds made available by this act for matching funds to obtain federal funds for costs associated with the design, acquisition, renovation, construction, reconstruction and other improvements for transit projects.”.

Amendment
rejected,—
yea and nay
No. 210.

After debate on the question on adoption of the amendment, the sense of the House taken by yeas and nays, at the request of Mr. Lyons of Andover; and on the roll call 13 members voted in the affirmative and 144 in the negative.

[See Yea and Nay No. 210 in Supplement.]

Therefore the amendment was rejected.

Subsequently a statement of Mr. Henriquez of Boston was spread upon the records as follows:

Statement of
Mr. Henriquez
of Boston.

MR. SPEAKER: I would like to call to the attention of the House the fact that on the previous roll call it was my intention to vote in the negative. I now find, however, that due to some inexplicable reason I was recorded as voting in the affirmative.

Mr. Winslow of Norfolk then moved to amend the bill by adding the following section:

“SECTION 7. There shall be established within the Massachusetts Department of Transportation a taskforce to review and evaluate the feasibility of amending the state specifications for road construction and bituminous concrete or pavement materials in order to increase the durability of paved public ways in the Commonwealth while decreasing any adverse environmental impacts from such specifications.

The taskforce shall be comprised of: the Secretary of the Department of Transportation, who shall serve as chair; the Director of the Pavement Research Institute at the University of Massachusetts/Dartmouth, or his designee; one person to be appointed by the President of the Senate and one person to be appointed by the Speaker of the House of Representatives, each of whom shall have expertise in materials science; one person to be appointed by the Minority Leader of the Senate and one person to be appointed by the Minority Leader of the House of Representatives, each of whom shall be citizen who regularly drive on public ways of the Commonwealth; and, the House and Senate chairs of the Joint Committee on Transportation.

The taskforce shall convene at least four public hearings and accept written public comment before making its report, which shall be filed with the Joint Committee on Transportation, and the Clerks of the Senate and House of Representatives no later than March 1, 2013.”.

The amendment was adopted.

Mr. O’Flaherty of Chelsea and other members of the House then moved to amend the bill by adding the following section:

“SECTION 8. The Department of Transportation shall commission a study to determine the impact on public safety of transporting ethanol by train through the communities of Boston, Revere and the city of Chelsea. Said report shall be completed within six months of enactment and copies shall be provided to the House Committee on Ways and Means and the Executive Office of Public Safety and Security.”.

The amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House taken by yeas and nays, at the request of Mr. Straus of Mattapoisett; and on the roll call 156 members voted in the affirmative and 0 in the negative.

Bill passed to be engrossed,—yea and nay No. 211.

[See Yea and Nay No. 211 in Supplement.]

Therefore the bill (House, No. 4000, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Orders of the Day.

Senate Bills

Authorizing the town of Wilbraham to lease certain land (Senate, No. 2051) [Local Approval Received];

Second reading bills.

Establishing the water and sewer commission of the town of Dudley (Senate, No. 2060) [Local Approval Received];

Authorizing the town of Erving to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (Senate, No. 2093, amended) [Local Approval Received]; and

Designating World Voice Week (Senate, No. 2107); and

House bills

Pertaining to definitions in the Office of the Child Advocate (House, No. 60);

Relative to reckless endangerment of persons with disabilities (House, No. 980);

Expanding the Town Forest Committee of the town of Natick from three (3) to five (5) members (House, No. 3869) [Local Approval Received];

Authorizing the town of Natick to lease certain town-owned property (House, No. 3870) [Local Approval Received];

Authorizing the town of Natick to lease certain town-owned property at 20 Middlesex Avenue (House, No. 3871) [Local Approval Received]; and

Validating the proceedings relating to the authorization of debt by the Old Colony Vocational Technical High School District (House, No. 3914);

Severally were read a second time; and they were ordered to a third reading.

The House Bill relative to dementia patients in longterm care facilities (House, No. 347), was read a second time.

Second reading bill amended.

The amendment previously recommended by the committee on Health Care Financing,— that the bill be amended by substitution of a bill with the same title (House, No. 3947),— was adopted; and the substituted bill was ordered to a third reading.

The House Bill relating to insurance company rebates (House, No. 3776), was read a second time.

Id.

The amendment previously recommended by the committee on Health Care Financing,— that the bill be amended by substitution of a bill with the same title (House, No. 3930),— was adopted; and the substituted bill was ordered to a third reading.

Norwell,—
charter.

The Senate Bill relative to the charter of the town of Norwell (Senate, No. 2186) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, in concurrence, Mrs. Nyman of Hanover moved to amend it by adding after section 7 the following paragraph:

“If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect, but not otherwise.”; and by striking out section 8 and inserting in place thereof the following section:

“SECTION 8. This act shall take effect upon its passage.”.

The amendments were adopted; and the bill (Senate, No. 2186, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendments.

Order.

On motion of Mr. DeLeo of Winthrop,—

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

Next
sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at a quarter before three o'clock P.M., on motion of Mrs. Poirier of North Attleborough (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following day at eleven o'clock A.M., in an Informal Session.