

JOURNAL OF THE HOUSE.

Wednesday, May 21, 2014.

Met at eight minutes after one o'clock P.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.

Silent Prayer.

James T.
Buckley.

At the request of Representatives Balsler of Newton, Khan of Newton and Lawn of Watertown, the members, guests and employees stood in a moment of silent prayer in respect to the memory of James T. Buckley, who passed away on Sunday, May 18th.

Jim was an employee of the Legislature for over 20 years in the information technology department, holding positions from Director of Data Processing to Manager of Applications.

Jim was a veteran of the United States Coast Guard. He was also a piano player and vocalist who entertained professionally for many years.

He is survived by his wife of 50 years, Margaret, his daughter Kathleen Buckley, his son James Buckley, Jr., and his wife Tracy, and four grandchildren.

He will be sorely missed by all of his family, friends and co-workers.

Marshfield
Police Officer
Robert
Quigley, Jr.

At the request of Mr. Cantwell of Marshfield, the members, guests and employees stood in a moment of silent prayer in honor of and in respect to the memory of Marshfield Police Officer Robert Quigley, Jr., who died this week after courageously fighting a lengthy illness. Officer Quigley contributed over 32 years of distinguished service to the town of Marshfield as a police officer, twenty of those years as the Resource Officer for Marshfield High School and Middle School.

Officer Quigley previously served our Nation as a Sergeant in the Army, having served for over ten years during the Vietnam era and as an Army Reservist. He was 59 years old and leaves behind his wife, Okcha.

Resolutions.

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

Robert
McRae.

Resolutions (filed by Mr. Hill of Ipswich) honoring Robert McRae for his dedication to the community of Hamilton;

Joshua E.B.
Cobb.

Resolutions (filed by Messrs. Barrows of Mansfield and Howitt of Seekonk) congratulating Joshua E.B. Cobb on receiving the Eagle Award of the Boy Scouts of America;

Thomas
Donnelly.

Resolutions (filed by Mr. Barrows of Mansfield) congratulating Thomas Donnelly on receiving the Eagle Award of the Boy Scouts of America;

Suzanne
Kennedy.

Resolutions (filed by Messrs. Fernandes of Milford and Roy of Franklin) congratulating Suzanne Kennedy on the occasion of her retirement; and

Resolutions (filed by Mr. Scibak of South Hadley) congratulating Hopkins Academy in the town of Hadley on its three hundred and fiftieth anniversary; Hadley,—
Hopkins
Academy.

Mr. Binienda of Worcester, 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. Barrows, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Communications.

Communications

From the Board of Registration in Pharmacy (see item 4510-0722 contained in Section 2 of Chapter 38 of the Acts of 2013) submitting its first annual report detailing the investigatory and disciplinary actions conducted by said board for the period September 1, 2012 to December 1, 2013; and Pharmacy
board,—
investigations.

From the Plymouth County Registry of Deeds (pursuant to Section 2KKK of Chapter 29 of the General Laws) submitting its plan for expenditure for technological improvements from the County Registers Technological Fund [copies of said plan were forwarded to the committees on Ways and Means and Post Audit and Oversight, as required by said law]; Plymouth
County
Registry of
Deeds.

Severally were placed on file.

Petitions.

Petitions severally were presented and referred as follows:

By Mr. Coppinger of Boston, a petition (accompanied by bill, House, No. 4099) of Edward F. Coppinger (with the approval of the mayor and city council) that the city of Boston be authorized to issue certain licenses for the sale of alcoholic beverages in said city. To the committee on Consumer Protection and Professional Licensure. Boston,—
liquor
licenses.

By Ms. Harrington of Groton, a petition (accompanied by bill, House, No. 4100) of Sheila C. Harrington (by vote of the town) relative to validating the actions approved at the March 15, 2014 special town meeting held in the town of Ashby. Ashby,—
town
meeting.

By Representative Madden of Nantucket and Senator Wolf, a joint petition (accompanied by bill, House, No. 4101) of Timothy R. Madden and Daniel A. Wolf (by vote of the town) that the town of Nantucket be authorized to convey a certain parcel of land to the Nantucket Land Bank. Nantucket
Land
Bank.

By the same members, a joint petition (accompanied by bill, House, No. 4102) of Timothy R. Madden and Daniel A. Wolf (by vote of the town) relative to the composition of the Nantucket Historic District Commission. Nantucket,—
Historic
District
Commission.

By the same members, a joint petition (accompanied by bill, House, No. 4103) of Timothy R. Madden and Daniel A. Wolf (by vote of the town) that the county of Nantucket be authorized to transfer a certain parcel of land to the town of Nantucket for general municipal purposes. Nantucket,—
land.

Severally to the committee on Municipalities and Regional Government.

Nantucket,—
funeral
regulations.

By Representative Madden of Nantucket and Senator Wolf, a joint petition (accompanied by bill, House, No. 4104) of Timothy R. Madden and Daniel A. Wolf (by vote of the town) that the town of Nantucket be authorized to exempt funeral directors, embalmers, funeral homes, and crematories from certain regulations. To the committee on Public Health.

Holyoke,—
David
Zolendziewski.

By Mr. Vega of Holyoke, a petition (accompanied by bill, House, No. 4105) of Aaron Vega that the retirement board of the city of Holyoke be authorized to issue killed in the line of duty pension benefits to the surviving spouse and family of Holyoke Police Officer David Zolendziewski. To the committee on Public Service.

Severally sent to the Senate for concurrence.

Norfolk
County,—
simulcasting.

By Mr. Dooley of Norfolk, a petition (subject to Joint Rule 12) of Shawn Dooley and Richard J. Ross relative to simulcast wagering in Norfolk County; and the same was referred, under Rule 24, to the committee on Rules.

Papers from the Senate.

Methuen,—
Martin B.
Parayno.

The House Bill exempting Martin B. Parayno from the maximum age requirement for firefighters in the city of Methuen (House, No. 3637, amended), came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. Section 1 of chapter 18 of the acts of 2014 is hereby amended by striking out the last sentence.

SECTION 2. Notwithstanding sections 58, 61A and 61B of chapter 31 of the General Laws or any other general or special law to the contrary, Martin B. Parayno may be certified for original appointment to the position of firefighter in the city of Methuen, notwithstanding having reached the age of 32 before taking any civil service examination in connection with the appointment. In all other respects, Martin B. Parayno shall be eligible for appointment to the position of firefighter in the city of Methuen only insofar as he qualifies and is selected for employment pursuant to said chapter 31, regulations of the civil service commission and lawful hiring practices of the city of Methuen.

SECTION 3. This act shall take effect upon its passage.”)

The amendment was referred, under Rule 35, to the committee on Bills in the Third Reading.

Bellingham,—
charter.

A Bill relative to the charter of the town of Bellingham (Senate, No. 2066) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Rockport,—
police chief.

A petition (accompanied by bill Senate, No. 2147) of Bruce E. Tarr and Ann-Margaret Ferrante (by vote of the town) for legislation to exempt the position of police chief of the town of Rockport from the civil service law, was referred, in concurrence, to the committee on Public Service.

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 Tricia Farley-Bouvier and Benjamin B. Downing for legislation to establish a sick leave bank for Thomas T. Tierney, an employee of the Massachusetts Department of Transportation. To the committee on Public Service. Thomas T. Tierney,—
sick leave.

Petition (accompanied by bill) of Cory Atkins for legislation to authorize the State Secretary to loan the Charter of the Province of Massachusetts Bay of 1691. To the committee on State Administration and Regulatory Oversight. Massachusetts Bay,—
charter.

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

By Ms. Benson of Lunenburg, for the committee on Health Care Financing, that the following bills ought to pass:

Recognizing pharmacists as healthcare providers (House, No. 2060) [Cost: Greater than \$100,000.00]; Pharmacists,—
designation.

Regarding spouses as caregivers (House, No. 3716) [Cost: Greater than \$100,000.00]; Caregivers,—
spouses.

Relative to postpartum depression screening (House, No. 3889) [Cost: Greater than \$100,000.00]; and Postpartum
depression.

Relative to certified professional midwives (House, No. 3971) [Cost: Greater than \$100,000.00]. Midwives,—
certification.

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

By Ms. Benson of Lunenburg, for the committee on Health Care Financing, that the following bills ought to pass:

Relative to patient access to information regarding breast reconstructive surgery (House, No. 1959); Breast
surgery.

Relative to physician assistants and interscholastic athletic head injuries (House, No. 1983); Head
injuries.

Relative to comportsing state laws with Department of Defense rules on the disposition of service members' remains (House, No. 1991); Military,—
bodies.

To eliminate antiquated hospital bed de-licensure rules (House, No. 2050); Hospital
beds.

Relative to abusive practices to change sexual orientation and gender identity in minors (House, No. 3907); Minors,—
orientation.

To increase capacity to address the complex needs of students with autism (House, No. 4012); Autism,—
students.

Relative to suicide prevention training in schools (House, No. 4013); Suicide.

and
Relative to emergency stock epinephrine in schools (House, No. 4014). Epinephrine.
Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Lupus
erythematosus.

By Ms. Benson of Lunenburg, for the committee on Health Care Financing, that the Bill to establish a lupus erythematosus study and registry (House, No. 1954), ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4096).

Athletics,—
safety
programs.

By the same member, for the same committee, that the Bill clarifying participation in athletic safety programs (House, No. 1982), ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4097).

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

Engrossed Bills.

Engrossed bills

Bills
enacted.

Relative to the Falmouth Historic District Commission (see Senate, No. 1941, changed); and

Establishing a charter for the town of Wrentham (see Senate, No. 2005); (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 acting Speaker and sent to the Senate.

Engrossed Bill — Land Taking.

Newton,—
land.

The engrossed Bill authorizing the temporary use of certain park lands in the city of Newton (see Senate, No. 1991) (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.

Bill enacted
(land taking),—
yea and nay
No. 376.

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 149 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 376 in Supplement.]

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

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

Mr. Golden of Lowell being in the Chair,—

Sharks,—
protection.

The House Bill relative to ocean ecology and shark protection (House, No. 4088), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day, and read a third time, under suspension of Rule 47, on motion of Mr. Nangle of Lowell; and after remarks it was passed to be engrossed. Sent to the Senate for concurrence.

Mr. Donato of Medford being in the Chair,—

Charter
schools.

The House Bill relative to improving student achievement (House, No. 4091), reported by the committee on Bills in the Third Reading to be correctly drawn, was discharged from its position in the Orders of the Day, and read a third time, under suspension of Rule 47, on motion of Ms. Peisch of Wellesley.

After debate on the question on passing the bill to be engrossed, Mr. Keenan of Salem moved to amend it (as changed by the committee on Bills in the Third Reading) by adding the following section:

“SECTION 48. The Department of Elementary and Secondary Education shall conduct a study to determine a reasonable use policy regarding extracurricular activities. Said study shall determine the feasibility of requiring that any charter school student be allowed to participate in any extracurricular activity offered exclusively in said student’s public school district, and furthermore, that any public school student be allowed to participate in any extracurricular activity offered exclusively at any charter school in the same district. The department shall issue a final report containing its findings and recommendations within one year of the effective date of this act. Said report shall be submitted to the clerks of the senate and house of representatives, who shall forward the report to the chairs of the joint committee on education and the senate and house committees on ways and means.”.

The amendment was adopted.

After remarks, Ms. Andrews of Orange moved to amend the bill by adding the following two sections:

“SECTION 49. There shall be a special commission to consist of: the house and senate chairs of the joint committee on education, who shall serve as co-chairs; the secretary of education; the commissioner of elementary and secondary education; the governor or a designee; and 1 member to be appointed by each of the following organizations: the Massachusetts Municipal Association, Inc.; the Massachusetts Business Alliance for Education, Inc.; Stand for Children, Inc.; the Massachusetts Association of School Committees, Inc.; the Massachusetts Association of School Superintendents, Inc.; the Massachusetts Teachers Association; the American Federation of Teachers Massachusetts; the Massachusetts Parent Teacher Association; the Massachusetts Association of Vocational Administrators; and the Massachusetts Association of Regional Schools, Inc. The commission shall review the impact and performance of charter schools, Horace Mann schools and school choice policy and make recommendations to the general court regarding such changes as may be appropriate. In conducting such review, the commission shall seek to determine any correlation between per capita income of students, equalized values of cities and towns, cost per student, and school performance. The review shall include, but not be limited to: class size; special education programs, including programs for English language learners; teacher salaries; extracurricular programs; and remedial programs. In carrying out the review, the commission shall examine relevant data and any reports on education outcomes produced within the 10 years preceding the issuance of a commission report. Members shall receive no compensation for their services but may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission. The department of elementary and secondary education shall furnish reasonable staff and other support for the work of the commission.

Prior to issuing its recommendations, the commission shall conduct not fewer than 8 hearings to receive testimony from members of the public. The hearings shall be held in locations that provide opportunities for residents from all geographic regions of the commonwealth to testify.

Charter schools.

It shall not constitute a violation of chapter 268A for a person employed by a school district to serve on the commission or to participate in commission deliberations that may have a financial impact on the district employing that person or on the rate at which that person may be compensated. The commission may establish procedures to ensure that no such person participates in commission deliberations that may directly affect the school districts employing those persons or that may directly affect the rate at which those persons are compensated.

The commission's recommendations, together with any proposed legislation, shall be filed within 1 year of the effective date of this act with the clerks of the senate and house of representatives who shall refer such recommendations to the appropriate committee of the general court. Within 30 days after such filing, the committee shall hold a public hearing on the recommendations.

SECTION 50. Section 40 shall not take effect until the special commission established in section 49 has filed its recommendations with the clerks of the senate and house of representatives.?

After remarks the amendment was rejected.

Mr. Hill of Ipswich then moved to amend the bill by adding the following four sections:

"SECTION 49. Section 89 of chapter 71 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting, in section (h), the following paragraph:—

Within 30 days of the approval of a new commonwealth charter school in any community, the board shall issue a written confirmation that the school meets all requirements set out in subsection (b), (e) and (f) of this section and in the implementing regulations, and a summary of the reasons therefore.

SECTION 50. Said section 89 of said chapter 71, as so appearing, is hereby further amended, in subsection (l), by inserting at the end thereof the following sentence:—

Charter schools shall not solicit applications for enrollment by offering money or gifts of any monetary value as an incentive for application.

SECTION 51. Said section 89 of said chapter 71, as so appearing, is hereby further amended, in section (ee), by striking the first sentence and inserting in place thereof the following sentence:— The board may revoke a school's charter if the school has not fulfilled any conditions imposed by the board in connection with the grant of the charter, the school has violated any provision of its charter, or the board has substantially violated any provision of this section or its implementing regulations in granting the charter.

SECTION 52. Said section 89 of said chapter 71, as so appearing, is hereby further amended by adding at the end thereof the following new subsection:—

(nn) The board shall develop procedures and guidelines for the waiver of any regulations; provided, however, that no waiver shall be issued except at the written request of the charter applicant or at the written request of the board itself, both of which shall only be for exceptional circumstances. Said waiver must be accompanied by a written explanation of the reasons for the waiver, and may only be issued by a 2/3 vote of the board.?"

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 50 members voted in the affirmative and 99 in the negative.

Amendment
rejected,—
yea and nay
No. 377.

[See Yea and Nay No. 377 in Supplement.]

[Mr. Scaccia of Boston answered “Present” in response to his name.]

Therefore the amendment was rejected.

Mr. Cabral of New Bedford then moved to amend the bill in section 1, in line 85, by inserting after the word “students” the words “; provided that the school committee may retain said programs after the school is no longer designated as a challenge school”; and by adding the following three sections:

“SECTION 49. Subsection (c) of section 1J of chapter 69, as so appearing, is hereby amended by inserting after the words ‘chapter 71A’, in line 115, the following words:— ; provided that the school committee may retain said programs after the school is no longer designated as underperforming.

SECTION 50. Subsection (n) of section 1J of chapter 69, as so appearing, is hereby amended by inserting after the words ‘chapter 71A’, in line 443, the following words:— ; provided that the school committee may retain said programs after the school is no longer designated as chronically underperforming.

SECTION 51. Subsection (c) of section 1K of chapter 69, as so appearing, is hereby amended by inserting after the words ‘chapter 71A’, in line 106, the following words:— ; provided that the school committee may retain said programs after the school is no longer designated as chronically underperforming.”

The amendments were adopted.

Mr. Dempsey of Haverhill then moved to amend the bill in section 1,

In line 53, by striking out the following: “section 9 of chapter 150E” (as changed by the committee on Bills in the Third Reading) and inserting in place thereof the following: “impasse provisions under section 9 of chapter 150E or unilateral implementation after impasse pursuant to chapter 150E”;

In line 156, by striking out the following: “ the provisions of section 9 of chapter 150E” and inserting in place thereof the following: “impasse provisions under section 9 of chapter 150E or unilateral implementation after impasse pursuant to chapter 150E”;

In line 183, by striking out the word “superintendent” and inserting in place thereof the word: “superintendent”;

In section 34 (as published), in line 346, by striking out the word “plan” and inserting in place thereof the words “memorandum of understanding”; and

In section 42 (as published), in lines 413 through 422, inclusive, by striking out the two paragraphs contained in those lines and inserting in place thereof the following paragraph:

“The board shall give preference to applications for expansions under clause (i) or clause (ii) of this paragraph for existing charter schools that have an average 3-year student attrition rate that is equal to or less than the average 3-year student attrition rate of the schools within the sending district to be determined by the department or for

Charter schools.

existing charter schools that have successfully established collaborative relationships with their sending districts on the sharing of best practices. If an existing charter school applying for an expansion under clause (i) or clause (ii) of this paragraph has an average 3-year student attrition rate that is greater than the average 3-year student attrition rate of the schools within the sending district, such charter school shall include in its application for expansion a plan to reduce its attrition rates.”.

The amendments were adopted.

Bill passed to be engrossed,—
yea and nay
No. 378.

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 Ms. Peisch of Wellesley; and on the roll call 114 members voted in the affirmative and 35 in the negative.

[See Yea and Nay No. 378 in Supplement.]

[Mr. Scaccia of Boston answered “Present” in response to his name.]

Therefore the bill (House, No. 4108, published as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DeLeo of Winthrop,—

Next sitting.

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

Accordingly, without proceeding to the matters in the Orders of the Day, at half past five o’clock P.M., on motion of Mr. Hill of Ipswich (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.