The Commonwealth of Massachusetts

JOURNAL OF THE HOUSE.



THURSDAY, MARCH 15, 2018.

[30]*

JOURNAL OF THE HOUSE.

Thursday, March 15, 2018.

Met according to adjournment at eleven o'clock A.M., with Ms. Peake of Provincetown 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 Father Rick Walsh of the Paulist Center of Boston, Chaplain of the House, as follows:

God of Power and Might, we pray for our elected officials of this House chamber and we pray also for their staff.

Today we pray for the many persons who are still without electrical power in various regions, mostly in Barnstable County. We give thanks for the many workers who are laboring around the clock to restore energy to our fellow citizens.

Various sources of power and energy have been discovered and developed over the years by citizens of Massachusetts. Tomorrow will mark the anniversary of the first launch of a liquid fueled rocket. Clark professor and Worcester native Robert H. Goddard conducted this successful experiment in Auburn on March 16, 1926. Goddard went on to become a valuable aerospace engineer. NASA named its space flight center in Bethesda, Maryland after him. The launch site in Auburn is a national historic landmark.

May God continue to bless our Commonwealth.

At the request of the Chair (Ms. Peake), the members, guests and employees joined with her in reciting the pledge of allegiance to the flag.

Message from the Governor.

A message from His Excellency the Governor recommending legislation relative to enhancing the background record check procedures of the Department of Early Education and Care (House, No. 4310), was filed in the office of the Clerk on Wednesday, March 14.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on the Judiciary. Sent to the Senate for concurrence.

Statement Concerning Mr. Donato of Medford.

A statement of Mr. Rushing of Boston concerning Mr. Donato of Medford was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Donato of Medford, was unable to be present in the House Chamber for today's sitting due to a scheduling conflict. If he could have been present for the taking of the vote on the question on adoption of the Order relative to updating the structures, policies, procedures and operations of the human

Prayer.

Pledge of allegiance.

Early education,—background checks.

Statement concerning Mr. Donato of Medford.

resources function for the House of Representatives, including those that relate to ensuring a workplace free of sexual harassment and retaliation (House, No. 4311, published as amended), he would have voted in the affirmative. His missing of roll calls today was due entirely to the reason stated.

Statement Concerning Mr. Walsh of Framingham.

A statement of Mr. Rushing of Boston concerning Mr. Walsh of Framingham was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Walsh of Framingham, was unable to be present in the House Chamber for today's sitting due treatment at Dana Farber that does not permit him to be present at the formal session. If he could have been present for the taking of the vote on the question on adoption of the Order relative to updating the structures, policies, procedures and operations of the human resources function for the House of Representatives, including those that relate to ensuring a workplace free of sexual harassment and retaliation (House, No. 4311, published as amended), he would have voted in the affirmative. His missing of roll calls today was due entirely to the reason stated.

Statement concerning Mr. Walsh of Framingham.

Resolutions.

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

Resolutions (filed by Ms. Hogan of Stow) congratulating Eli K. Bachtell on achieving the rank of Eagle Scout with the Boy Scouts of America;

Resolutions (filed by Ms. Hogan of Stow) congratulating Garrett D. Magnussen on achieving the rank of Eagle Scout with the Boy Scouts of America; and

Resolutions (filed by Mr. Kulik of Worthington) congratulating Doctor J. Lynn Griesemer on the occasion of her retirement;

Mr. Galvin of Canton, 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. Kafka of Stoughton, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Eli Bachtell. Garrett Magnussen.

J. Lynn Griesemer.

Petitions.

Petitions severally were presented and referred as follows:

By Representative Dykema of Holliston and Senator Spilka, a joint petition (accompanied by bill, House, No. 4307) of Carolyn C. Dykema and Karen E. Spilka (by vote of the town) that the town of Holliston be authorized to convert a license for the sale of wine and malt beverages not to be drunk on the premises to a license for the sale of all alcoholic beverages not to be drunk on the premises. To the committee on Consumer Protection and Professional Licensure.

By Representative Kulik of Worthington and Senator Hinds, a joint petition (accompanied by bill, House, No. 4308) of Stephen Kulik and Adam G. Hinds (by vote of the town) that the town of Huntington be authorized to contribute 60 per cent of the costs of premiums for health insurance and other certain benefits; and

Holliston,—alcoholic beverages.

Huntington,—insurance premiums.

By Ms. Provost of Somerville, a petition (accompanied by bill, House, No. 4309) of Denise Provost and others (with the approval of the mayor and city council) that the city of Somerville be authorized to offer exemptions for certain owner occupied residential properties for water and sewer charges and rates;

Somerville,—residential exemptions.

Severally to the committee on Municipalities and Regional Government.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Ms. Fiola of Fall River, a petition (subject to Joint Rule 12) of Carole A. Fiola and others for legislation to establish a special commission to research current logistical issues related to outpatient methadone centers and to identify alternatives to the distribution of outpatient methadone treatment.

Methadone treatment,—study.

By Mr. O'Day of West Boylston, a petition (subject to Joint Rule 12) of James J. O'Day and others relative to the treatment of substance use disorders.

Substance use disorders.

By Mrs. Orrall of Lakeville, a petition (subject to Joint Rule 12) of Keiko M. Orrall, Michael J. Rodrigues and Carole A. Fiola for legislation to authorize the commissioner of Capital Asset Management and Maintenance to release certain land in the town of Berkley from the operation of an agricultural preservation restriction.

Berkley, land.

By Mr. Roy of Franklin, a petition (subject to Joint Rule 12) of Jeffrey N. Roy, Richard J. Ross and Karen E. Spilka for legislation to establish a sick leave bank for Sara Parmenter, an employee of the Department of Correction.

Sara Parmenter, sick leave.

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

Paper from the Senate.

A Bill permitting a certain parcel of land in the town of New Braintree to be used for a solar farm and other municipal purposes (Senate, No. 2189) (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.

New Braintree, land.

Reports of Committees.

By Mr. Murphy of Weymouth, for the committee on Steering, Policy and Scheduling, that the following House bills be scheduled for consideration by the House:

Relative to disability benefits (House, No. 2515); and

Providing for the appointment of a treasurer-collector in the town of Stockbridge (House, No. 4162) [Local Approval Received];

Under suspension of Rule 7A, in each instance, on motion of Mr. Kafka of Stoughton, the bills severally were read a second time forthwith; and they were ordered to a third reading.

Disability benefits. Stockbridge, treasurercollector.

By Mr. Galvin of Canton, for the committees on Rules of the two branches, acting concurrently, asking to be discharged from further consideration:

Of the Bill creating a special commission to study the equity of chapter 21J and 21O (House, No. 2921); and

Of the Bill relative to the conservation of Atlantic striped bass (House, No. 4274);

Petroleum releases, commission. Atlantic striped bass.

And recommending that the same severally be referred to the House committee on Rules.

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

By Mr. Golden of Lowell, for the committee on Telecommunications, Utilities and Energy, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 4230) of Linda Dean Campbell and others relative to the reserve power systems of publicly owned treatment works,— and recommending that the same be referred to the committee on Environment, Natural Resources and Agriculture. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Treatment works.reserve power.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill relative to the protection of children (House, No. 1963). Referred, under Joint Rule 1E, to the committee on Health Care Financing.

Child abuse and neglect.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Resolve providing for an investigation and study by a special commission relative to gender-responsive programming for juvenile justice system involved girls (House, No. 119).

Gender-responsive programming,study.

By the same member, for the same committee, on a joint petition, a Bill establishing a special commission on two-generation approaches to childhood education (House, No. 1969).

Family poverty, study.

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

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill relative to the payment of funeral expenses for poor and indigent persons (House, No. 117).

By the same member, for the same committee, on a petition, a Bill improving

outcomes for transition age youth (House, No. 1957). By the same member, for the same committee, on a petition, a Bill providing

for a study by the Executive Office of Health and Human Services relative to nonprofit group homes (House, No. 1960).

By the same member, for the same committee, on a petition, a Bill relative to foster care recruitment (House, No. 1962).

By the same member, for the same committee, on a petition, a Bill relative to cueing and supervision in the PCA program (House, No. 1967).

By the same member, for the same committee, on a petition, a Bill relative to the re-homing of children (House, No. 2798).

By the same member, for the same committee, on a petition, a Bill relative to youth emancipation alternatives (House, No. 2799).

By Mr. Honan of Boston, for the committee on Housing, on a petition, a Bill establishing an office of the condominium ombudsman (House, No. 669).

By the same member, for the same committee, on a petition, a Bill relative to water and sewer rate relief (House, No. 690).

By Mr. Golden of Lowell, for the committee on Telecommunications, Utilities and Energy, on House, Nos. 2695 and 3385, a Bill relative to anaerobic digestion (House, No. 4303).

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

Indigent,funeral expenses.

Transition age youth.

Nonprofit group homes.

Foster care.

PCA program.

Re-homing children.

Youth emancipation.

Condominium ombudsman.

Water and sewer rates.

Anaerobic digestion.

Means.

By Mr. Golden of Lowell, for the committee on Telecommunications, Utilities and Energy, on a petition, a Bill relative to energy efficiency (House, No. 1724, changed in line 3 by inserting after the word "fuel" the words "or technology").

Energy efficiency.

By the same member, for the same committee, on House, No. 2697, a Bill relative to hydro (House, No. 4304).

Hydroelectric power.

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

Emergency Measure.

The engrossed Bill designating a certain bridge in the town of Lee as the Lou Digrigoli Memorial Bridge (see House, No. 4156, changed and amended), 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.

Lee,— DiGrigoli bridge.

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 4 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.

Bill enacted.

Engrossed Bills.

Engrossed bills

Authorizing the town of Leyden to continue the employment of police chief Daniel J. Galvis (see House, No. 3449, amended);

Bills enacted.

Authorizing the Deerfield Area Fire Protection District to continue the employment of Fire Chief Chester Yazwinski (see House, No. 3957, amended); and

Relative to the funding of the other post-employment benefits liability trust fund in the town of Northbridge (see House, No. 4084);

(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.

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

The Senate Bill establishing a sick leave bank for Linda Thernize-Williams, an employee of the Department of Transitional Assistance (Senate, No. 2251, amended), 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 forthwith, under suspension of Rule 47, on motion of Mr. Kafka of Stoughton; and it was passed to be engrossed, in concurrence.

Third reading bill.

Recess.

At eleven minutes after eleven o'clock A.M., on motion of Mr. Vieira of

Falmouth (Ms. Peake of Provincetown being in the Chair), the House recessed until a quarter after one o'clock P.M.; and at twenty-eight minutes before two o'clock the House was called to order with Mrs. Haddad of Somerset in the Chair.

The House thereupon took a further recess, on motion of Mr. Silvia of Fall River, until a half past two o'clock P.M.; and at twenty-six minutes before three o'clock, the House was called to order with Mrs. Haddad of Somerset in the Chair.

Report of a Committee.

Mr. Galvin of Canton, for the committee on Rules, reported an Order relative to authorizing the Counsel to the House of Representatives to contract with an outside third-party vendor to conduct a series of comprehensive surveys of appointed officers and employees of the House (House, No. 4296).

Under suspension of the rules, on motion of Ms. Decker of Cambridge, the order was considered forthwith; and it was adopted.

Emergency Measures.

The engrossed Bill establishing a sick leave bank for Linda Thernize-Williams, an employee of the Department of Transitional Assistance (see Senate, No. 2251, amended), 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 25 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 Senate) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill designating a certain park in the city of Quincy as the Richard "Dick" Herbert Memorial Park (see House, No. 4298), 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 15 to 0. Sent to the Senate for concurrence.

Engrossed Bill – Land Taking.

The engrossed Bill relative to veterans' housing in the city known as the town of Agawam (see House Bill printed as Senate, No. 2014, 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 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 314 in Supplement.]

Human resources policies.

Linda Thernize-Williams, sick leave.

Bill enacted.

Quincy,— Herbert park.

Agawam, land.

Bill enacted (land taking),—yea and nay No. 314.

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.

The Speaker being in the Chair,—

The Order relative to updating the structures, policies, procedures and operations of the human resources function for the House of Representatives, including those that relate to ensuring a workplace free of sexual harassment and retaliation (House, No. 4291), was discharged from its position in the Orders of the Day and was considered, under suspension of Rule 47, on motion of Ms. Decker of Cambridge.

Human resources function,—procedures.

After remarks on the question on adoption of the order (Mrs. Haddad of Somerset being in the Chair), Ms. DiZoglio of Methuen moved to amend it by adding the following rule:

"100. The House shall not include a non-disparagement or non-disclosure clause in any agreement.".

After debate 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 21 members voted in the affirmative and 131 in the negative.

[See Yea and Nay No. 315 in Supplement.]

[Ms. Atkins of Concord answered "Present" in response to her name.] Therefore the amendment was rejected.

Ms. Decker of Cambridge and other members of the House then moved to amend the order by adding the following rule:

- "100. (a) No member, officer or employee shall execute any agreement to settle any legal claim or potential legal claim by any current or former member, officer or employee unless said agreement is executed pursuant to this rule.
- (b) No member, officer or employee shall execute any agreement to settle any legal claim or potential legal claim brought by any current or former member, officer or employee without the approval of Counsel, the Director and the EEO Officer. Counsel, the Director and the EEO Officer shall each independently review the claim or potential legal claim brought by any current or former member, officer or employee and confirm that the claim or potential claim does not relate to sexual harassment or retaliation based on a claim of sexual harassment. Counsel, the Director and the EEO Officer shall not approve any settlement of a legal claim or potential legal claim brought by any current or former member, officer or employee pursuant to this subsection if Counsel, the Director or the EEO Officer reasonably believes such legal claim or potential legal claim relates to sexual harassment or retaliation based on a claim of sexual harassment.
- (c) No member, officer or employee shall execute any agreement to settle any legal claim or potential legal claim of sexual harassment, or retaliation based on a legal claim or potential legal claim of sexual harassment, by any current or former member, officer or employee unless said agreement is executed pursuant to this subsection.

No member, officer or employee shall execute any agreement to settle a legal claim or potential legal claim of sexual harassment, or retaliation based on a legal claim or potential legal claim of sexual harassment, by any current or former member, officer or employee unless:

1. the request to negotiate said agreement was initiated, in writing, by the

Amendment rejected,— yea and nay No. 315.

person filing or eligible to file the legal claim or potential legal claim or a person legally authorized to represent that person;

- 2. the person filing the legal claim or eligible to file the legal claim is given 15 days to review and consider the agreement;
- 3. the duration of any non-disclosure or non-disparagement provision of the agreement to settle the legal claim or potential legal claim is for a finite period of time as agreed to by the parties;
- 4. the agreement to settle the legal claim or potential legal claim specifically provides that no provision of the agreement, including any non-disclosure or non-disparagement provision of the agreement, shall preclude any party from participating in an investigation by Counsel, the Director, the EEO Officer, a Committee on Professional Conduct or any law enforcement agency; and
- 5. the agreement is approved in writing by Counsel, the Director and the EEO Officer.
- (d) In the case of an agreement to settle any legal claim or potential legal claim of sexual harassment pursuant to this Rule by a member, the Speaker and Minority Leader shall appoint a Special Committee on Professional Conduct pursuant to Rule 96 to determine if the member shall be required to personally reimburse the House for all or part of the settlement amount. Upon a determination by the Special Committee that the member shall be required to personally reimburse the House for all or part of the settlement amount, it shall determine the amount to be reimbursed and immediately notify the member of that amount
- (e) Upon request of a party to an agreement, Counsel shall waive any non-disclosure or non-disparagement provision of any agreement executed prior to the effective date of this Rule by the House and any current or former member, officer or employee, to allow said current or former member, officer or employee to report or discuss a claim of sexual harassment or retaliation based on sexual harassment."

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, as required under the provisions of House Rule 33F; and on the roll call 153 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 316 in Supplement.]

Therefore the consolidated amendment was adopted.

Ms. Provost of Somerville then moved to amend the order in proposed Rule 94, in line 295, by adding the following sentence: "Such assessment shall be completed within two weeks from the date of receiving a complaint.". The amendment was adopted.

The same member then moved to amend the order in proposed Rule 88, in line 64, by inserting after the word "harassment" the words ", or any individual who witnesses something they think may be harassment,". The amendment was adopted.

Ms. Provost then moved to amend the order in proposed Rule 94 by adding the following sentence: "If the EEO Officer believes that interim measures are warranted to protect complainants during the investigation, then the EEO shall recommend such measures to the appropriate supervisory individual or body.". The amendment was adopted.

Ms. Provost of Somerville then moved to amend the order in proposed Rule 90, in line 301, by striking out the following: "employment." and inserting in place thereof the following: "employment including exit interviews for terminated employees.". The amendment was adopted.

Ms. Decker of Cambridge then moved to amend the order in proposed Rule 88, in line 5, by striking out the word "Definitions.", in line 46 by striking out the word "parties" and inserting in place thereof the word "party", in line 48 by striking out

Consolidated amendment adopted,—yea and nay No. 316.

the word "Policy.", in line 61 by striking out the word "employee" and inserting in place thereof the word ", employee", in line 72 by striking out the word "Examples."; and in line 110 by striking out the word "Retaliation.";

In proposed Rule 89, in line 117, by striking out the words "Equal Employment Opportunity Officer", and in line 135 by striking out the word "resolving" and inserting in place thereof the word ", resolving";

In proposed Rule 90, in line 178, by striking out the words "Director of Human Resources"; and by adding the following subsection:

"(h) The Committee on Personnel and Administration, in consultation with the Director, shall develop policies to address individuals who provide services to the House in a volunteer capacity or otherwise without receiving compensation.";

In proposed Rule 91, in line 236, by striking out the words "Human Resources Web Portal";

In proposed Rule 92, in line 243, by striking out the words "Director of Employee Engagement";

In proposed Rule 93, in line 255, by striking out the word "Complaints", in line 264 by striking out the word "to" and inserting in place thereof the word ", to", in line 270 by striking out the word "with" and inserting in place thereof the word ", with";

In proposed Rule 94, in line 288, by striking out the word "Investigations"; and in line 318 by striking out the words "remedial, or" and inserting in place thereof the words "remedial or";

In proposed Rule 95, in line 319, by striking out the word "Discipline";

In proposed Rule 96, in line 361, by striking out the words "Special Committees on Professional Conduct", in line 376 by inserting after the word "that" the word "it"; and in line 399 by striking out the word "that" and inserting in place thereof the word ", that";

In proposed Rule 97, in line 409, by striking out the words "Confidentiality of Investigations", in lines 416 and 423 by striking out the word ", or" and inserting in place thereof, in each instance, the word "or", in line 433 by striking out the word ", and" and inserting in place thereof the word "and", in lines 440 and 459, by striking out the words "authority or" and inserting in place thereof, in each instance, the words "authority, or"; and in line 464, by inserting after the word "document" the words "; provided, however, that the committee may use pseudonyms to conceal the identity of the complainant if the circumstances of the complaint so warrant";

In proposed Rule 98, in line 470, by striking out the words "Supplemental Policies, Procedures and Guidelines";

In proposed Rule 99, in line 479, by striking out the word "Transition"; and

In proposed Rule 100 (inserted by amendment), in subsection (e), by striking out the words "a party to an agreement" and inserting in place thereof the following: ", the party described in paragraph numbered 1 above or the complaintant".

The amendments were adopted.

On the question on adoption of the order, the sense of the House was taken by yeas and nays at the request of Ms. Decker of Cambridge; and on the roll call 151 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 317 in Supplement.]

Therefore the order (House, No. 4311, published as amended) was adopted.

The House Bill establishing the position of town manager in the town of Ayer (House, No. 4080), reported by the committee on Bills in the Third Reading to be

Order adopted—yea and nay No. 317.

Third reading bill.

correctly drawn, was discharged from its position in the Orders of the Day and read a third time forthwith, under suspension of Rule 47, on motion of Ms. Benson of Lunenburg.

Pending the question on passing the bill to be engrossed, Mr. Speliotis of Danvers moved to amend it by adding the following section:

"SECTION 6. This act shall take effect upon its passage.".

The amendment was adopted; and the bill (House, No. 4080, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered. That when the House adjourns today, it adjourn to meet on M

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

Next sitting.

Mr. Vieira of Falmouth then moved that the House adjourn; and the motion prevailed. Accordingly, without proceeding to consideration of the matters in the Orders of the Day, at twenty minutes before six o'clock P.M. (Mrs. Haddad of Somerset being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.