

JOURNAL OF THE HOUSE.

Wednesday, October 21, 2015.

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.

Message from the Governor.

Substance
abuse,—
treatment
and
prevention.

A message from His Excellency the Governor recommending legislation relative to substance use treatment, education and prevention (House, No. 3817), was filed in the office of the Clerk on Thursday, October 15.

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

Statement Concerning Representative Lombardo of Billerica.

Statement
concerning
Mr. Lombardo
of Billerica.

A statement of Mr. Jones of North Reading concerning Mr. Lombardo of Billerica 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 Lombardo of Billerica, is unable to be present in the House Chamber for today's sitting due to the recent death of his grandmother, Edith Danforth. His missing of roll calls today is due entirely to the reason stated.

Guests of the House.

Irish mayors
Brogan and
McCallion.

During the session, the Chair (Mr. Donato of Medford), declared a brief recess and introduced Ciaran Brogan, the Mayor of Donegal, Ireland; Elisha McCallion, the Mayor of Derry, Ireland; and the former State Representative from the city of Chelsea, Eugene L. O'Flaherty. They were the guests of Messrs. Collins of Boston and Ryan of Boston.

Resolutions.

Daniel
Gawronski.

Resolutions (filed with the Clerk by Mr. Barrows of Mansfield) congratulating Daniel Gawronski on receiving the Eagle Award of the Boy Scouts of America, were referred, under Rule 85, to the committee on Rules.

Mr. Galvin of Canton, for said committee, reported that the resolutions ought to be adopted. Under suspension of the rules, 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.

Orders.

The following order (filed by Speaker DeLeo of Winthrop) was referred, under Rule 85, to the committee on Rules:

Ordered, That the precept to be issued by the Speaker, under the provisions of Section 141 of Chapter 54 of the General Laws, appointing a time for the election to fill the vacancy existing in the office of Representative in the General Court from the Twelfth Essex District shall designate Tuesday, March 1, 2016, as the time ordered by the House of Representatives for said election.

Twelfth Essex
Representative
District,—
time for election
to fill vacancy.

Mr. Galvin of Canton, for the committee on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of the same member, the order was considered forthwith; and it was adopted.

On motion of Mr. Galvin of Canton,—

Ordered, That notwithstanding any rule to the contrary, a court officer shall be assigned to cast roll call votes, except quorum roll calls, for Representative Fernandes of Milford the Chairman of the committee on the Judiciary during the hearing of said committee being held in the State House this day.

Mr. Fernandes
of Milford,—
voting.

*Communications.**Communications*

From the Berkshire Regional Transit Authority (see Section 8(g) of Chapter 161B of the General Laws) submitting financial statements, supplementary information, schedule of expenditures of federal awards and OMB a-133 auditors' reports and a management letter for the fiscal year 2015;

Berkshire
transit
authority.

From the Cape Ann Transportation Authority (see Section 8(g) of Chapter 161B of the General Laws) submitting its annual financial statements and supplementary information (containing an independent auditors' report thereon) for the fiscal year 2015;

Cape Ann
Transportation
Authority.

From the Department of Elementary and Secondary Education (see item 7061-9404 contained in Section 2 of Chapter 38 of the Acts of 2013) submitting an addendum and more complete statistics to the fiscal year 2014 MCAS support program report;

MCAS
support.

From the Department of Elementary and Secondary Education (see item 7061-9408 of Chapter 165 of the Acts of 2014 and Section 1J(z) of Chapter 69 of the General Laws) submitting a report relative to targeted intervention to schools and districts at risk of or determined to be underperforming;

Schools,—
targeted
intervention.

From the Executive Office of Health and Human Services (see item 4000-0300 contained in Section 2 of Chapter 46 of Acts of 2015) submitting a plan of implementation for an integrated eligibility system;

Integrated
eligibility
system.

From the Franklin Regional Transit Authority, (see Section 8(g) of Chapter 161B of the General Laws) submitting a schedule of expenditures of federal awards containing auditors' reports, a management letter and its audited financial statements for the fiscal year 2015;

Franklin
transit
authority.

From the Montachusett Regional Transit Authority (see Section 8(g) of Chapter 161B of the General Laws) submitting financial statements, supplementary information, schedule of expenditures of federal awards and OMB a-133 auditors' reports and a management letter for the fiscal year 2015;

Montachusett
transit
authority.

Plymouth
County,—
technology
fund.

From the Plymouth County Registry of Deeds (under 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 the report were forwarded to the committees on Ways and Means and Post Audit and Oversight, as required by said law];

Birth data
report.

From the Department of Public Health (see Section 2 of Chapter 111 of the General Laws) submitting a report containing birth data and statistics for the calendar year 2014; and

Public
utilities.

From the Department of Public Utilities (see Section 2 of Chapter 25 of the General Laws) submitting its annual report for the year 2014;

Severally were placed on file.

Petitions.

Lawrence,—
chief of staff.

Representative Moran of Lawrence and Senator L'Italien presented a joint petition (accompanied by bill, House, No. 3816) of Frank A. Moran and Barbara L'Italien (with the approval of the mayor and city council) that the city of Lawrence be authorized to appoint Eileen O'Connor Bernal to the position of chief of staff to the mayor of the city of Lawrence; and the same was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

Eric
Burton,—
sick leave.

By Mr. Brady of Brockton, a petition (subject to Joint Rule 12) of Michael D. Brady for legislation to establish a sick leave bank for Eric Burton, an employee of the Suffolk County Sheriff's Department.

Dartmouth,—
fire chief.

By Mr. Markey of Dartmouth, a petition (subject to Joint Rule 12) of Christopher M. Markey relative to the appointment of a fire chief in Dartmouth Fire District No. 2.

Wilmington,—
community
service.

By Mr. Miceli of Wilmington, a petition (subject to Joint Rule 12) of James R. Miceli relative to the implementation of the Wilmington Wildcat Community Service Program.

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

Papers from the Senate.

Bills

Susan
Metheny,—
sick leave.

Establishing a sick leave bank for Susan Metheny, an employee of the Executive Office of Health and Human Services (Senate, No. 1998, amended in line 4 by inserting after the word "Metheny." the following sentence: "Upon exhaustion of all other available leave time including personal days, vacation days, sick time and any time available pursuant to the extended leave illness bank established by section 4P of chapter 7 of the General Laws, Susan Metheny may use any time credited to the sick leave bank established by this act.") (on a petition); and

Roger
Sweeney,—
sick leave.

Establishing a sick leave bank for Roger Sweeney, an employee of the Department of Correction (Senate, No. 2035) (on Senate bill No. 2017);

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. Mr. Nangle of Lowell, for said committee, then reported, in each instance, that the matters be scheduled for consideration by the House.

Under suspension of the rules, 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.

Reports of Committees.

By Mr. Galvin of Canton, 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 that persons with traumatic brain injuries or neurological impairments be exempt from sporting, hunting, fishing or trapping license fees. To the committee on Environment, Natural Resources and Agriculture.

Sports
licensing
fees.

Petition (accompanied by bill) of Thomas A. Golden, Jr., for legislation to establish a sick leave bank for Robert A. Montalvo, an employee of the Department of Correction; and

Robert A.
Montalvo,—
sick leave.

Petition (accompanied by bill) of John J. Lawn, Jr., relative to retirement benefits for John G. Flores;

John G.
Flores.

Severally to the committee on Public Service.

Petition (accompanied by bill) of Kenneth I. Gordon relative to the rate of interest applied to judgements for tax abatements on personal property. To the committee on Revenue.

Personal
property,—
abatements.

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

By Mr. Kaufman of Lexington, for the committee on Revenue, on House, No. 3576, a Bill authorizing the town of Sudbury to amend Chapter 169 of the Acts of 2012 (House, No. 3815) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Sudbury,—
charter.

Mr. Nangle of Lowell, for said committee, then reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Nangle of Lowell, for the committee on Steering, Policy and Scheduling, that the Senate Bill relative to the charter of the town of Abington creating a department of public works (Senate, No. 1996) [Local Approval Received], be scheduled for consideration by the House.

Abington,—
public works.

Under suspension of Rule 7A, on motion of Mr. Kafka of Stoughton, the bill was read a second time forthwith; and it was ordered to a third reading.

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

Concerning the false representation of military status (House, No. 1641);

Military ID.

Declaring March the 26th as First Responders Day (House, No. 2791);

1st Responders.

Authorizing the town of Sheffield to appoint certain members to the conservation commission (House, No. 3749) [Local Approval Received];

Sheffield,—
commission.

Providing affordable housing property tax incentives in the town of Amherst (House, No. 3758) [Local Approval Received];

Amherst,—
tax incentives.

Louis Karras
overpass.

Designating a certain overpass in the town of Barnstable as the Louis Karras overpass (House, No. 3795);

Northampton,—
liquor
licenses.

Authorizing the city of Northampton to issue five above quota annual all-alcohol restaurant licenses (House, No. 3796) [Local Approval Received]; and

Electronic
wage cards.

To protect wages of employees who receive wages through an electronic wage card (House, No. 3813);

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

Emergency Measure.

Kenneth
Bascomb,—
sick leave.

The engrossed Bill establishing a sick leave bank for Kenneth Bascomb, an employee of the Department of Correction (see Senate, No. 2009), 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 3 to 0. Sent to the Senate for concurrence.

Recess.

Recess.

At seven minutes after eleven o'clock A.M., on motion of Mr. Wong of Saugus (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and, there being no objection, at three minutes before one o'clock P.M. the House was called to order with Mr. Donato in the Chair.

*Joint Session of the Two Houses to Consider Specific
Amendments to the Constitution.*

Joint
convention.

At three minutes before one o'clock P.M., the two branches met in

JOINT SESSION.

and were called to order by the Honorable Stanley C. Rosenberg, President of the Senate.

Without action on the matters duly and constitutionally assigned for consideration, on motion of Senator Rush, at one o'clock P.M., the joint session was recessed until one o'clock P.M., on Wednesday, February 3, 2016; and the Senate withdrew from the House Chamber under the escort of the Sergeant-at-Arms.

Orders of the Day.

Mental
illness,—
trials.

The Senate further amendment of the engrossed Bill relative to commitments of persons found incompetent to stand trial or not guilty by reason of mental illness (see House, No. 3672, amended), reported by the committee on Bills in the Third Reading to be correctly drawn, was adopted, in concurrence.

The Senate amendments of the House Bill establishing a sick leave bank for Vickie Myers, an employee of the Department of Correction (House, No. 51), reported by the committee on Bills in the Third Reading to be correctly drawn, were adopted, in concurrence.

Vickie
Myers,—
sick leave.

The engrossed Bill establishing a public art commission (see House, No. 3667), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see House, No. 3675), was considered.

Public art
commission.

On motion of Mr. Kulik of Worthington, further consideration of the bill was postponed, until after disposition of the remaining matters in the Orders of the Day.

Subsequently, the remaining matters in the Orders of the Day having been disposed of, the bill was considered further.

The committee on Bills in the Third Reading reported that the bill be amended, as follows:

By striking out all after the enacting clause and inserting in place thereof the following:

“Chapter 7C of the General Laws is hereby amended by adding the following section:—

Section 73. (a) There shall be a Massachusetts per cent for art program, or MPAP, to be administered by the public art commission established in subsection (b). The MPAP shall provide for the creation and preservation of public art. Under this program and in connection with construction or substantial renovation of any commonwealth-owned, managed and occupied building, not less than 0.5 per cent of the budgeted capital cost of the project, not to exceed \$250,000, shall be expended for the creation or preservation of public art in or on the site, including, but not limited to, expenses related to selection processes and design and development. The MPAP shall apply only when the budgeted capital cost of a construction or renovation project exceeds \$4,000,000.

(b) There shall be a public art commission which shall administer the MPAP by: (i) working with the division of capital asset management and maintenance, project managers and contractors to identify opportunities and locations for art; (ii) reviewing each project to ensure the relevance of and support for the public art, including engaging the relevant local site users and community stakeholders for their input; (iii) making curatorial decisions on a project-by-project basis; (iv) establishing partnerships and relationships as relevant to the program and projects with members of the commonwealth’s artist community, including artists, cultural institutions, arts organizations and educational institutions; (v) consulting with local art and cultural commissions; (vi) promoting and encouraging public art; (vii) promoting public access to and education with respect to art installations in public facilities; (viii) ensuring an inventory of and maintenance plan for the public art collection; and (ix) coordinating with the executive department to ensure compliance with and participation in the MPAP. The commission may coordinate with educational, arts and cultural organizations, municipalities and other organizations to provide alternative sources of funding for public art and programming for arts and cultural education, and research alternative funding mechanisms, including, but

Public art
commission.

not limited to, public-private partnerships that may increase the total pool of funds for public art, and may suggest the development of programming for education and promotion regarding public art. All state agencies within the executive department shall cooperate with and provide assistance to the commission as necessary.

(c) The commission shall consist of: the commissioner of capital asset management and maintenance or a designee who shall serve as chair; the executive director of the Massachusetts cultural council or a designee; 2 persons to be appointed by the president of the Massachusetts College of Art and Design, each of whom shall have a background in public art or architecture; and 5 persons to be appointed by the governor, 1 of whom shall have municipal government experience and who shall be selected from a list of 3 individuals nominated by the Massachusetts Municipal Association, Inc., 1 of whom shall be a project designer with experience in the creation and installation of public art, 1 of whom shall be an artist or representative from a nonprofit or community organization associated with the arts who shall be selected from a list of 3 individuals nominated by the executive director of the Massachusetts cultural council, and 1 of whom shall be a faculty or staff member specializing in art or architecture at a public institution of higher education in the commonwealth. At least 1 member of the commission shall be an artist and at least 1 member shall be an architect. The governor shall seek to appoint persons who are from geographically diverse regions of the commonwealth. The MPAP coordinator appointed pursuant to subsection (d) shall be a nonvoting member of the commission and shall serve as its secretary. Commission members shall serve without compensation or reimbursement for expenses. Commission members shall serve for terms of 5 years. Commissioner members may be reappointed but shall not serve for more than 2 consecutive terms. The commission shall meet at least quarterly and otherwise at the discretion of the chair.

(d) The commissioner of capital asset management and maintenance, in coordination with the commission, shall appoint an MPAP coordinator who shall report to the commissioner and shall have the requisite qualifications related to public art programs and project management to administer the MPAP. The coordinator's appointment shall be subject to approval by the commission. In coordination with the commission and any other agencies as the commissioner may deem appropriate, the coordinator shall, without limitation: (i) recommend the guidelines and parameters for the MPAP; (ii) coordinate the MPAP, including soliciting artists, setting up proposal review, overseeing artists' work and developing and managing community engagement and educational activities; (iii) research other successful funding mechanisms that increase the total pool of funds for public art; and (iv) oversee the creation of a central entity to host a variety of shared resources relating to the implementation, installation, maintenance and preservation of public art. All guidelines, policies and regulations for the MPAP shall be approved by the commission.

(e) In selecting art installations for construction or renovation projects, the commission shall give preference to artists residing in the commonwealth.

(f) The commonwealth shall have sole ownership of all artwork acquired through the MPAP, subject to exceptions approved by the commission. The artist shall retain copyright of the artwork unless otherwise noted in the contract for the work.

(g) Annually, not later than September 1, the commission shall provide a report to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on tourism, arts and cultural development and the clerks of the senate and the house of representatives describing the actions of the MPAP and the commission and any other information the commission considers pertinent.”.

The report was accepted; and the amendment was adopted. Sent to the Senate for its action.

The Senate resolutions encouraging equitable and diverse gender representation on the boards of companies in the Commonwealth (Senate, No. 1007) (reported by the committee on Bills in the Third Reading to be correctly drawn), were considered.

Corporate
boards,—
gender.

After debate on the question on adoption of resolutions, the sense of the House was taken by yeas and nays at the request of Mrs. Haddad of Somerset; and on the roll call 156 members voted in the affirmative and 0 in the negative.

Resolutions
adopted,—
yea and nay
No. 166.

[See Yea and Nay No. 166 in Supplement.]

Therefore the resolutions were adopted, in concurrence.

Reports of Committees.

Mr. Dempsey of Haverhill, for the committee on Ways and Means, on a message from His Excellency the Governor, returning with his disapproval of certain items and sections and parts of certain items and sections, and reductions in certain items contained in the engrossed Bill making appropriations for the fiscal year 2016 for the maintenance of the departments, boards commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (see House, No. 3650) (for message, see House, No. 3675), reported, in part, that section 50 stand (as passed by the General Court). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

General
Appropriation
Bill.

Mr. Nangle of Lowell, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of said rule, on motion of Mr. Dempsey, section 50 which had been vetoed by the Governor, was considered forthwith.

On the question on passing said section, notwithstanding the objections of His Excellency the Governor, the sense of the House was taken by yeas and nays, as required by Chapter I, Section I, Article II of the Constitution; and on the roll call 123 members voted in the affirmative and 33 in the negative.

Promulgation
of regulations
section 50
stands,—
yea and nay
No. 167.

[See Yea and Nay No. 167 in Supplement.]

Therefore section 50 was passed, notwithstanding the objections of the Governor (more than two-thirds of the members present and voting having voted in the affirmative). Sent to the Senate for its action.

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.

At two minutes before four o'clock P.M., on motion of Mr. Vieira of Falmouth (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.