

The Commonwealth of Massachusetts

JOURNAL OF THE HOUSE.



WEDNESDAY, FEBRUARY 29, 2012.

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Wednesday, February 29, 2012.

Met according to adjournment at 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).

Prayer was offered by Reverend Jonathan Tetherly of Chicopee, Chaplain of the Hampden County Correctional Center in Ludlow, as follows:

Prayer.

Let us pray. O God of our universe, who calls us into covenant to protect Your precious creation so that all may receive its benefits. Remind us always of our responsibility to live in harmony with the earth. Instill in our consciousness, O God, a constant recognition of the changes that we have brought about in Your creation.

May the recent tornado, out of season snow storm and snowless winter strengthen in our mind the reports of our scientists; and may the Massachusetts Legislature be a beacon of reason for our whole nation and even beyond our own nation.

I pray that this legislature may act on behalf of all the residents of Massachusetts to treat us all as family.

May the family — working hard, at low pay and behind on their mortgage — be known and given aid;

May the elderly — with multiple health issues and limited geographic mobility — be understood and supported;

May the worker — unemployed for many months, through no fault of her own, standing on the brink of great negative changes in her life, unless work is found quickly — be rescued;

May the young man — in the inner city struggling with school, McDonald's employment, frustrating lack of cash and credit and gently told by criminal forces of a better income — be supported in his choices and given reasonable hope;

May the recent college graduate — condemned by debt to a life of scarcity — be given opportunity;

May those who have no home be given their own personal shelter; and

May those of means among us — vaguely aware of, but turning away from knowledge of trouble — discover the joy of providing support to a Commonwealth that cares for all of its people.

And Lord, bless this legislature. Give their minds creativity, give each one the courage to fully express his or her ideas, that the wisdom of the whole body be increased and then open our minds to cooperation and compromise so the solutions to the myriad of issues of Massachusetts may be discovered and acted upon.

I pray for Your blessing on all of us O God. Amen.

Ms. Andrews of Orange then moved that the prayer be spread upon the records of the House; and the motion prevailed.

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.

Pledge of
allegiance.

Statement Concerning Representative Pignatelli of Lenox.

A statement of Mr. Rushing of Boston concerning Mr. Pignatelli of Lenox 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 Pignatelli of Lenox, is unable to be present in the House Chamber for today's sitting due to a death in the family. His missing of roll calls today is due entirely to the reason stated.

Statement concerning Mr. Pignatelli of Lenox.

Guests of the House.

During the session, Representatives Arciero of Westford and Harrington of Groton took the Chair for the purpose of recognizing the administrators, faculty and students of the Nashoba Valley Technical High School for their heroic acts of bravery and courage of October 19, 2011. They then introduced Dr. Judith Klimkiewicz, Superintendent of the school, who provided details of the bravery of Matthew Ricard, James Creed, Rob Beaudette, Matt Kamfonik, Mike Robichaud, Ashley Curtin, Kayla Johnson and Thomas Hall, who, along with faculty members, were, on that day, able to restrain an armed and unwanted person who was approaching the school's cafeteria.

Nashoba Valley Technical High School.

Representatives Arciero and Harrington then presented to each of the students previously adopted resolutions of the House commending them for their heroic acts of bravery and courage.

Resolutions.

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

Resolutions (filed by Mr. Hill of Ipswich) commending the esteemed Chorus North Shore on eighty years of dedicated service to the community;

Chorus North Shore.

Resolutions (filed by Representatives Barrows of Mansfield, Poirier of North Attleborough and Kafka of Stoughton) congratulating David Jeffrey Elofson on achieving the Eagle Scout Award of the Boy Scouts of America;

David Jeffrey Elofson.

Resolutions (filed by Mr. Bradley of Hingham) congratulating Captain Gordon O'Brien, United States Army, Retired, on being nominated to receive the Insignia of Chevalier of the Legion of Honor;

Captain Gordon O'Brien.

Resolutions (filed by Mr. Cabral of New Bedford) congratulating Elaine Lima on the occasion of her retirement;

Elaine Lima.

Resolutions (filed by Ms. Garlick of Needham) on the occasion of naming a Coast Guard ship in honor of Robert J. Yered;

Robert J. Yered.

Resolutions (filed by Mr. Kafka of Stoughton) congratulating Michael Tait Clifford of Sharon Boy Scout Troop 95 on achieving the Eagle Scout Award;

Michael Clifford.

Resolutions (filed by Mr. Kafka of Stoughton) congratulating Brendan Patrick Clifford of Sharon Boy Scout Troop 95 on achieving the Eagle Scout Award; and

Brendan Clifford.

Resolutions (filed by Mr. Kafka of Stoughton) congratulating Brian Jonathan Fitzgerald of Sharon Boy Scout Troop 95 on achieving the Eagle Scout Award;

Brian Fitzgerald.

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

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each instance, on motion of Mr. Mariano of Quincy, 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 Department of Public Safety, on behalf of the Executive Office of Administration and Finance (pursuant to Section 3B of Chapter 7 of the General Laws) relative to the proposed promulgation of a new fee for the issuance of boiler certificates of inspection; and

Boiler inspections,— fees.

From the Pioneer Valley Transit Authority (under Section 8 of Chapter 161B of the General Laws) submitting the annual report of its accomplishments and achievements during the fiscal year 2011;

Pioneer Valley Transit.

Severally were placed on file.

Petition.

Representatives Kaufman of Lexington and Reinstein of Revere presented a petition (subject Joint Rule 12) of Jay R. Kaufman, Kathi-Anne Reinstein and others for legislation to authorize the Registrar of Motor Vehicles to issue reflective decals indicating that the driver of a vehicle may be the holder of a junior operator's license; and the same was referred, under Rule 24 to the committee on Rules.

Drivers' licenses,— decals.

Papers from the Senate.

The Senate Bill improving the administration of state government and finance (see Senate, No. 1940), came from the Senate with the endorsement that said branch had non-concurred with the House in its amendments (striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 3949).

Government,— administration and finance.

The bill bore the further endorsement that the Senate had appointed a committee of conference on the disagreeing votes of the two branches; and that Senators Baddour, Donnelly and Knapik had been appointed to the committee on the part of the Senate.

Committee of conference.

On motion of Mr. Kocot of Northampton, the House insisted on its amendments; and concurred with the Senate in the appointment of a committee of conference. Representatives Kocot, Kulik of Worthington and Hunt of Sandwich were appointed the committee on the part of the House. Sent to the Senate to be noted.

Id.

A Bill establishing the water and sewer commission of the town of Dudley (Senate, No. 2060) (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.

Dudley,— water and sewer commission.

The petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Petition (accompanied by bill, Senate, No. 2160) of John F. Keenan for legislation relative to recording the assignment of mortgages. To the committee on

Mortgages,— assignment.

the Judiciary.

Petition (accompanied by bill, Senate, No. 2161) of Robert L. Hedlund for legislation to establish a sick leave bank for Judith Christianson, an employee of the Department of Transitional Assistance. To the committee on Public Service.

Judith
Christianson,—
sick leave.

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 petition of Steven S. Howitt, Patricia A. Haddad and Michael J. Rodrigues (by vote of the town) that the town of Swansea be authorized to provide certain tax exemptions to members of the volunteer fire department of said town. Under suspension of the rules, on motion of Mrs. Haddad of Somerset, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Revenue. Sent to the Senate for concurrence.

Swansea,—
tax exemptions.

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 Cheryl A. Coakley-Rivera for legislation to impose a penalty for the fraudulent use of postal addresses.

Postal
fraud.

Petition (accompanied by bill) of Marc Lombardo and others for legislation to establish a penalty for failure to report a missing child.

Missing
children,—
reporting.

Severally to the committee on the Judiciary.

Petition (accompanied by bill) of Sarah K. Peake and others relative to the appointment of alternate members on local historical commissions. To the committee on Municipalities and Regional Government.

Historical
commissions,—
membership.

Joint petition (accompanied by bill) of David Paul Linsky and Richard J. Ross for legislation to establish a sick leave bank for Janet Ruggieri, an employee of the Massachusetts Department of Revenue. To the committee on Public Service.

Janet Ruggieri,—
sick leave
bank.

Petition (accompanied by bill) of Timothy R. Madden for legislation to further regulate the investigation of cases filed with the Massachusetts Commission Against Discrimination. To the committee on State Administration and Regulatory Oversight.

MCAD,—
investigations.

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 Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling, that the House Bill relative to a voting precinct in the town of Dracut (printed in House, No. 3958), be scheduled for consideration by the House.

Dracut,—
precincts.

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

By Mr. Michlewitz of Boston, for the committee on Election Laws, on a petition, a Bill relative to voting precincts in the city of Chicopee (House, No. 3956) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Chicopee,—
precincts.

Mr. Kafka of Stoughton, for said committee, reported that the matter be

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scheduled for consideration by the House.

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

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill creating a means for tracking the unmet need of individuals with developmental disabilities in the Commonwealth of Massachusetts (House, No. 76).

Developmentally disabled,—needs.

By the same member, for the same committee, on a petition, a Bill to encourage responsibility, cost effectiveness and meaningful lives for individuals with disabilities (House, No. 984).

Disabled persons.

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

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 adolescents at risk (House, No. 979). Read; and referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

At-risk adolescents,—study.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill to increase the Commonwealth's compliance with federal law meeting requirements of the Americans with Disabilities Act (House, No. 982, changed in line 14 by striking out the year "2011" and inserting in place thereof the year "2012").

Americans with Disabilities Act,—compliance.

By the same member, for the same committee, on a petition, a Bill for passage to independence (House, No. 983).

Turning 22 program.

By the same member, for the same committee, on a petition, a Bill to support the transition to adult services for persons with disabilities (House, No. 985).

Id.

By the same member, for the same committee, on a petition, a Bill relative to the Architectural Access Board (House, No. 2672).

Architectural Access Board.

By the same member, for the same committee, on a petition, a Bill relative to notice to a child's and parent's counsel (House, No. 2680).

Counsels,—notice.

By the same member, for the same committee, on House, No. 1859, a Bill relative to the closure of certain DDS facilities (House, No. 3964).

DDS facilities,—closure.

By Ms. Coakley-Rivera of Springfield, for the committee on Labor and Workforce Development, on a petition, a Bill making investments in youth employment and educational pathways (House, No. 540).

Youth,—employment and education.

By the same member, for the same committee, on a petition, a Bill further regulating workers' compensation (House, No. 542).

Workers' compensation.

By the same member, for the same committee, on a petition, a Bill relative to renovation and repair contracts (House, No. 1392).

Renovation and repair contracts.

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

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, on a petition, a Bill relative to reckless endangerment of persons with disabilities (House, No. 980).

Disabilities,—endangerment.

By the same member, for the same committee, on a petition, a Bill relative to court oversight of the Department of Children and Families' custodial decisions (House, No. 2679).

Custody,—oversight.

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By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on a joint petition, a Bill authorizing the town of Natick to grant an additional license for the sale of wine and malt beverages not to be drunk on the premises (House, No. 3868) [Local Approval Received].

Natick,—
alcoholic
beverages.

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

Emergency Measure.

The engrossed Bill establishing a sick leave bank for Michael Foti, an employee of the Department of Correction (see Senate, No. 2088), 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.

Michael Foti,—
sick leave
bank.

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 20 to 0. Sent to the Senate for concurrence.

Engrossed Bill.

The engrossed Bill relative to students with disabilities in post-secondary education, employment and independent living (see House, No. 3720, amended) (which originated in the House), having been certified by the Clerk to rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Bill
enacted.

Orders of the Day.

Senate bills

Validating certain elections in the town of Dudley (Senate, No. 2048); and
Relative to certain affordable housing in the city of Taunton (Senate, No. 2062);

Third
reading
bills.

Severally reported by the committee on Bills in the Third Reading to correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

House bills

Relative to affiliate transfers (House, No. 3791);
Authorizing the Division of Capital Asset Management and maintenance to grant an easement in certain land in the town Hopkinton (House, No. 3909);
Authorizing the town of Harvard to issue one-day liquor licenses (House, No. 3715);

Conveying a certain parcel of land in the city of Holyoke to Holyoke Community College (House, No. 3849) (its title having been changed by the committee on Bills in the Third Reading); and

Establishing a sick leave bank for Richard Hughes, an employee of the Massachusetts Water Resources Authority (House, No. 3891);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

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The Senate Bill protecting lakes and ponds from aquatic nuisances (Senate, No. 1904, amended) reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment previously adopted by the House.

Third reading bill.

The Senate Bill providing for recall elections in the town of Northfield (Senate, No. 1959, amended); and

Second reading bills.

House bills

To promote open space residential development (House, No. 370);

Creating smoke free elderly housing units in the Commonwealth (House, No. 383);

Creating a regional school district planning committee (House, No. 1918, changed);

Providing for nonsmoking units in elderly housing (House, No. 2110);

Naming a certain bridge in the town of Dalton (House, No. 3638); and

Relative to the powers and duties of a regional school district (House, No. 3918);

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

The House Bill relative to annual immunization against influenza for children (House, No. 582), was read a second time.

Second reading bill.

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. 3948),— was adopted.

The substituted bill then was ordered to a third reading.

The Senate Bill relative to community housing and services (Senate, No. 1967, amended), reported by the committee on Bills in the Third reading to be correctly drawn, was read a third time.

Community housing.

After debate on the question on passing the bill to be engrossed, Ms. Spiliotis of Peabody moved to amend it by adding the following section:

“SECTION 2. The department of elder affairs shall study the establishment of a comprehensive elder affairs ombudsmen program to service the needs of elderly citizens. The study shall include, but not be limited to, a review of the current ombudsmen programs in place and the identification of elderly citizens not currently being serviced by an ombudsmen program who could benefit from such services. The study shall address the implementation of a comprehensive elder care ombudsmen program that covers persons age 60 and over, acting on either their own behalf or through any individual organization or government agency, utilizing the services of community-based programs, including but not limited to, the home care program established under chapter 19A of the General Laws, residents of long term care facilities, residents of nursing homes, residents of assisted living facilities, residents of supportive housing, and other programs as defined by the secretary of the executive office of elder affairs. The study shall review the effectiveness of existing ombudsmen programs, address ways to improve and expand on existing ombudsmen programs and outline the department’s current interaction with other state agencies providing a similar service to elders. The department shall prepare a

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report on the findings and recommendations together with recommendations for legislation necessary to implement those recommendations by filing the same with the clerks of the house of representatives and the senate, the chairs of the joint committee on elder affairs and the chairs of the house and senate committees on ways and means not later than October 15, 2012.”

The amendment was adopted.

On the question on passing the bill to be engrossed, in concurrence, as amended, the sense of the House taken by yeas and nays, at the request of Mr. Honan of Boston; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 202 in Supplement.]

Therefore the bill (Senate, No. 1967, amended) was passed to be engrossed, in concurrence. Sent to the Senate for concurrence in the amendment adopted by the House (see House document numbered 3963, amended).

Bill passed to
be engrossed,—
yea and nay
No. 202.

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.

Mr. Hill of Ipswich then moved that the House adjourn; and the motion prevailed. Accordingly, without further consideration of the remaining matters in the Orders of the Day, at two o'clock P.M. (Mr. Donato of Medford being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.