

SENATE SESSION - TUESDAY, JULY 21, 2009

CONVENES: The Senate convened at 1:01 p.m., Sen. Stanley Rosenberg of Amherst presiding.

PLEDGE: At Sen. Rosenberg's request, students in the gallery, visiting from the Boys and Girls Club of Cape Cod, led the Senate in the Pledge of Allegiance.

GUEST: At 1:04 p.m., Sen. Brown introduced a guest from Needham taking part in the intern seminar and visiting the State House with his mom. Sen. Rosenberg said his name would appear in the official journal of the Senate and then declared a recess.

RECESSES: The Senate recessed at 1;12 p.m., with the time for returning left subject to the call of the chair.

RETURNS: The Senate returned at 1:54 p.m., Sen. Murray presiding.

NEW BILLS: New House bills were referred to committees at 1:55 p.m.

RESOLUTIONS: The Senate adopted congratulatory resolutions.

BADDOUR STATEMENT: The Senate agreed to print in the journal a statement from Sen. Baddour indicating he would have voted in favor of H 4141 Commonwealth Transportation Fund were he present for Friday's session. The statement said that Baddour was unable to attend but did not say why he missed the session.

KNAPIK STATEMENT: The Senate agreed to print in its journal a statement from Sen. Knapik indicating he would have voted against H 4141 Commonwealth Transportation Fund were he present for Friday's session. The statement said Knapik missed the vote due to a prior family commitment.

FALMOUTH: The Senate enacted H 4104 relative to the Falmouth Historic District Commission.

ARLINGTON: The Senate enacted H 3471 establishing the Arlington Redevelopment board as the board of survey.

PAYROLL DEDUCTIONS: The Senate enacted H 4146 payroll deductions for charitable purposes by public employees.

CORI: Question came on enacting H 4140 providing standards allowing camps to conduct criminal history record checks of climbing wall instructors.

Sen. Tisei requested a roll call and there was support.

BY A ROLL CALL VOTE OF 35-0, BILL RE-ENACTED AT 2:03 P.M.

GRACE HARRINGTON: Sen. Murray said a visitor's grandfather held this gavel for many years. We have Grace Harrington here today. Harrington stood on the rostrum with Sen. Murray. Sen. Murray said she thinks she knows where she gets her height but she is more attractive than her grandfather. Sen. Murray said Harrington is interning this summer for Rep. Keenan.

When. Sen. Murray suggested that Harrington might be back here some day as an elected official, Harrington said, "hopefully" and Murray said, "when Sen. Berry leaves."

Harrington said thank you very much, it was nice to meet you.

LAKES AND PONDS: The Senate referred to the Committee on Environment, Natural Resources and Agriculture a Sen. Downing petition to protect lakes and ponds.

ORDERS OF THE DAY: There was no objection to proceeding with the orders of the day.

SICK LEAVE BANK: The Senate engrossed H 1150 establishing a sick leave bank for Michelle Nocera, an employee of the Middlesex Sherriff's office.

MIXED MARTIAL ARTS: Question came on engrossing S 998 regulating the sport of mixed martial arts.

Sen. Tisei said, This didn't pass in the previous session. I want to give this opportunity to the sponsor to explain the bill.

Sen. Timilty said, We don't have to go too far back in the way-back machine - we passed this in the fiscal 2008 budget. It's

very simple in its intent. It's simple, necessary and timely. It's probably one of the fastest growing sports in the world. A UFC 100 fight had over 5 million pay-per-view subscriptions. I grew up on Marvin Hagler. People who are younger than me are growing up on Kenny Florian, a resident of my district. These are disciplines that have been around for centuries. We didn't have one person suggest that this was not appropriate. This is happening all across the commonwealth. When we do get the regulations in place, it will make sure that there are doctors and trainers in the ring. It prohibits anyone over age 35 from fighting without a doctor's consent. It also prohibits anyone under 18 from fighting unless it's through a YMCA. There is \$12.4 million in ancillary spending that can come from this. I'd like to thank the gentleman from Middlesex, Essex and Sparta, the Ways and Means chair, for working on this. There were a couple amendments I had no objection to. Thirty-three percent of mixed martial arts fights end in a tap out. The rounds are five minutes each. This is something that's not new. This will be good for public safety of all participants and his will be an excellent way of generating revenue without raising taxes.

Sen. Hedlund said, I rise in support of this bill also. There are events throughout the state. Unfortunately, we can't attract the major leagues of UFC to Massachusetts. They want to be in a regulated position. The irony is, you have a Massachusetts native son competing for a title but he can't compete in his home state. I would ask for he sponsor to explain the amendments.

PACHECO AMENDMENT: Sen. Pacheco offered an amendment.

Sen. Pacheco said, This adds to the language the same benefits for those who participate in boxing. If something happens to one of the participants, there will be some monies there to assist. I think many of these contact sports, as with other issues, deal with brain injuries in the commonwealth. I have a brain injury center in Middleborough in my district. You see so many young people hurting and will not be able to participate in society because of some accident. This type of activity, we don't have any regulation at all. This is going to improve public safety. I want to make sure that we also think about the occasions where we have individuals who are hurt, as has happened in boxing, where we need to pay attention to the costs. That's what this amendment does.

The amendment was adopted.

PACHECO AMENDMENT #2 - LOCAL OPTION: Sen. Pacheco offered an amendment.

Sen. Pacheco said, Under the language of the bill, we would have to allow this sport in all communities. This amendment puts back into this proposed bill what the existing statute is so that home rule would rule. A city or town that seeks not to have mixed martial arts in their community can affirmatively vote.

Sen. Hedlund said, I'm a strong proponent of home rule for many things, including Chapter 40B, MBTA billboards and other issues. I don't necessarily disagree with the intent. I'd just like to point out that this amendment and the last amendment might be micromanaging. I think we micromanage a little bit when there are more head injuries as a result of football, and we don't micromanage those sports. I'm sure there's nobody in that facility now as a result of this type of sporting activity. They're there for a whole list of other things. We don't reach into those other activities like we are right now. I want to be careful that the nanny state mentality doesn't pervade this bill.

Sen. Timilty said, I am supportive in concept of both amendments. These are very safe exercises. It's wrestling, ju jitsu, tae kwon do. We have 16 Olympians right now participating in mixed martial arts.

The amendment was adopted.

Question came on engrossing the bill. Sen. Tisei asked for a vote by a call of the yeas and nays. There was support.

BY A ROLL CALL VOTE OF 35-0, BILL ENGROSSED.

AFFORDABLE HOUSING: Question came on engrossing H 2097 preserving publicly assisted affordable housing. The Senate adopted a Bills in Third Reading substitute text.

Question came on engrossing the bill.

Sen. Tisei said, Can he chair explain this bill and the amendment? I think this debate came up last session.

Sen. Tucker said, This is indeed essentially the same legislation we proudly voted for last session, which died in the waning hours in the House. The issue of expiring use properties has been in this building for a decade. Until this year, the parties involved were unable or unwilling to come together and agree on what we do with those thousands of units. We have an affordable housing crisis in this state. We are spending millions of dollars housing families in hotels and motels. Most of the tenants in these expiring use properties are seniors with very low income. We must come up with a process to preserve these units. It's infinitely cheaper to preserve these units than build new ones. Every member here has hundreds if not thousands of

units in their districts. We've come to a process fair to owners and communities. I want to thank owners, developers, legal minds and preservation experts who spent hundreds of hours developing this bill. This balances the private public interest. Your vote on this will be appreciated in years to come.

Sen. Chandler said, We have enough people who are homeless and struggling to find shelter. I hope this bill passes.

Sen. Tucker asked that a vote on the bill be taken by a call of the yeas and nays. There was support.

BY A ROLL CALL VOTE OF 35-0, BILL ENGROSSED

CAPE COD ELECTRICITY: Question came on engrossing S 2109 relative to reliability on Cape Cod.

Sen. Tisei said, I have no idea what this legislation does. Can the sponsor explain it?

Sen. O'Leary asked that a vote on the bill be taken by a call of the yeas and nays. There was support.

Sen. O'Leary said, This is simply a study. It is a very important study on an important issue. FERC has determined that Southeastern Mass is a congested area and doesn't meet reliability standards established under federal law. Ratepayers have been paying \$200 million over the past few years higher electric rates than they would if we met standards. They got nothing for it. Electricity is non-competitive in a deregulated market. For the past two years we've been running one of the dirtiest plants to meet reliability standards. We've all been meeting and discussing alternatives. The environment continued to be adversely impacted. There is no long-term plan in place. What we're trying to do is, with the help of DPU, force a decision, force a solution, and make it comprehensive, transparent and make it look out for our constituents.

Sen. Knapik said, I find it somewhat curious. I have great respect for the gentleman. I don't know why we're always looking for a government solution. I'm aware of a proposal to build a wind farm off Cape Cod that could provide a great deal of energy in the future. There's a proposal from the private sector, which has had great hurdles. We need more plants. We already know that. Madame President, you host a nuclear plant in your district. Wind power in the Berkshires is somewhat fluid. We talk a good game when it comes to renewables. In terms of the study commission and Cape Wind, how does it all work? We've got to have a better way of doing it.

Sen. O'Leary said, It seems the gentleman is suggesting we deregulate the distribution part of transmission. That's a regulated industry. I haven't heard anyone suggest otherwise. As you well know, the wind blows sometimes, and sometimes it doesn't blow. When you get into issues of reliability, you need a power source that operates all the time. It's power into the grid. It does not meet reliability standards under federal legislation. It isn't just about building another power plant. There's a whole host of alternatives. It isn't just about supplying new energy. The kilowatt we save is the kilowatt we don't have to produce. Any solution here has to be comprehensive. If you're into the distribution side, you see more distribution. We need to look at this in a more comprehensive way.

Sen. Pacheco said, Just to add one more point to the debate, kilowatt hours you don't use is the cheapest kilowatt. We're not getting as much efficiency as we should. We don't need to continue to build, build, build. We can be looking at power shedding. It's just that we have a strategy being implemented right now which basically says do the same old, same old. Just do the same old thing and increase the bill a little more so we shore up that sector of the industry. It's shoring up that sector of the industry. We can employ a whole lot of other strategies that deal with energy efficiency and taking the need for the power right out of the equation. Things have changed in this business. One only has to pay attention to what's happened nationally. I hope the proposal is adopted.

Sen. Knapik said, I hate to get into a debate about energy because the gentleman who just spoke has done everything in his power to raise the price of energy. There was no question that the state needs more capacity. I'm happy to screw super-duper fancy-schmancy fluorescent lights into my house, but you can't dispose of them anywhere. Here in New England, we have a major problem with how much energy we have. The people tell us that the Northeast is in desperate need of more generation but no one wants to do what is necessary to increase capacity. Secretary Clinton was in India the other day. You know what they said to do with the CAFÉ standards? Go pound sand. They want no part of our overregulation. Sometimes when the gentleman from Taunton goes on, I can't sit idly and let it happen. I'm happy to put that squiggly fluorescent bulb in as many times as I can. But it goes beyond that. We are killing businesses by the burdensome overregulation. We've got a skirmish going on with combined reporting. The global warming law is coming back to bite us. I hope the study DPU puts together will point us in the right direction. Come out to visit ISO New England.

BY A ROLL CALL VOTE OF 35-0, BILL ENGROSSED

TRIAL COURT - TRANSFER OF FUNDS: The Senate rejected a motion of Sen. Tisei to lay on the table H 4148 Gov. Deval Patrick's amendment to the fiscal 2008 budget relative to Trial Court transferability of funds.

Question came on rejecting the governor's amendment.

Sen. Tisei said, People here were surprised the governor would offer such an amendment and hen not explain it. We overwhelmingly rejected the governor's amendment. This doesn't bode well for his other amendments and vetoes. There seems to be some kind of disconnect between the governor's office and the Legislature. We do want to be helpful to the governor. There are certain things he proposes that make sense, like this one. This would allow the chief justice of the Trial Court to transfer funds between departments. It would include the department of probation. We support the governor on this. The House already has dismissed the governor's amendment. I keep asking around the chamber if anyone's heard from the governor's office. No one has. It is important that he make some kind of effort here and give us an explanation as to why he's taking the action he is. Nobody's heard anything at all from that office. This would give more tools to the judiciary to deal with the fiscal crisis. I can lay it on the table today, but this is it. I'm going to ask the governor today to lobby the Legislature and support some of the amendments you've filed. It's very disappointing so far. I'd like to lay this on the table one final time with the hope the governor will become engaged in the legislative process.

Sen. Tisei moved to lay the matter on the table. The bill was laid on the table and laid over until the next formal session.

Sen. Murray said, This is not a rule necessarily that you can lay something on the table three times. It is a courtesy that has been in place, subject to the chamber.

APPOLLO MOON LANDING: The Senate adopted a Sen. Chang-Diaz order to adjourn in memory of the 40th anniversary of the United States moon landing. Sen. Murray said, landing on the moon was the fulfillment of a challenge from a young president from Massachusetts.

ADJOURNS: The Senate adjourned at 3:07 p.m. to return Wednesday at 11 a.m. in an informal session.

END

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