

## JOURNAL OF THE HOUSE.

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Tuesday, February 28, 2006.

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).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Gracious God, we begin each day with our best and the right intentions of serving You and the people, who depend upon our mature judgements, in a conscientious and reasoned manner. Your gift of wisdom enables us to comprehend issues more clearly. The gift also assists us in making the right legislative decision in our effort to improve the quality of life for all in our communities. In our daily struggle to address the day's legislative issues and proposals, teach us to have an open mind and to be fair in listening to others. Inspire us to follow Your ways and guidelines for achieving peace of mind and personal happiness as we carry out our responsibilities.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

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.

### *Changes in House Standing Committees.*

The Minority Leader, Representative Jones of North Reading, announced that the Republican Caucus, pursuant to House Rule 18A, had ratified changes in House standing committees, as follows:

That Mrs. Pope of Wayland had been appointed to the third position on the committee on Bills in the Third Reading to fill the existing vacancy; and

That Representative Peterson of Grafton had been appointed to the eleventh position on the committee on Steering, Policy and Scheduling to fill the existing vacancy.

### *Changes in Joint Standing Committees.*

The Minority Leader, Representative Jones of North Reading, announced that the Republican Caucus, pursuant to House Rule 18A, had ratified changes in Joint standing committees, as follows:

That Representative Peterson of Grafton had been relieved of duty (at his own request) from the committee on Higher Education; and that Representative Coppola of Foxborough had been appointed to the eleventh position on said committee to fill the vacancy; and

That Representative Coppola of Foxborough had been appointed to the eleventh position of the committee on Housing and also to the eleventh position on the committee on Municipalities and Regional Government, to fill existing vacancies.

*Statement of Representative Flanagan of Leominster.*

A statement of Ms. Flanagan of Leominster was spread upon the records of the House, as follows:

Statement of Representative Flanagan of Leominster.

MR. SPEAKER: I would like to call to the attention of the House the fact that I will not be present in the House Chamber for the remainder of today's sitting due to a medical family emergency. Any roll calls that I may miss today will be due entirely to the reason stated.

*Statement Concerning Representative Kennedy of Brockton.*

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

Statement concerning Representative Kennedy of Brockton.

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Kennedy of Brockton will not be present in the House Chamber for today's sitting due to his continuing recovery from surgery. Any roll calls that he may miss today is due entirely to the reason stated.

*Guest of the House.*

During the session, the Chair (Mr. Petrolati of Ludlow) declared a brief recess and introduced Mr. John McClay of Abington. Mr. McClay will represent the Commonwealth at the World Championship for Wheelchair Bodybuilding, which will be held in West Palm Beach, Florida on March 18. He was the guest of Representatives Teahan of Whitman and Ayers of Quincy.

John McClay.

*Resolutions.*

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

Jennifer Rogers.

Resolutions (filed by Mr. Peterson of Grafton) recognizing Jennifer Rogers; and

Abington High School football team.

Resolutions (filed by Mrs. Teahan of Whitman) recognizing the Abington Green Wave football team as 2005 Super Bowl champions;

Mrs. Harkins of Needham, 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. Fallon of Malden, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

*Communication.*

A communication from the Office of the Commissioner of Probation (under the provisions of Section 5 of Chapter 211F of the General Laws) submitting a report on the Office of Community Corrections, was read for the information of the House; and it was placed on file.

Community Corrections report.

*Annual and Special Reports.**Annual reports*

Of the Water Pollution Abatement Trust (under the provisions of Section 17 of Chapter 29C of the General Laws) of the operations,

Water Pollution Abatement Trust,

properties and expenditures of said trust for the years ending June 30, 2004 and June 30, 2005;

annual report.

Of the Executive Office of Health and Human Services (under the provisions of Section 304 of Chapter 149 of the Acts of 2004) relative to employers with fifty or more employees using public health assistance during the fiscal year 2005;

Public health assistance, annual report.

Of the Department of Education (under the provisions of Section 1G(f) of Chapter 15 of the General Laws) relative to the School Breakfast and Summer Food Service Outreach Program for the calendar year 2005; and

School Breakfast.

Of the Workers' Compensation Advisory Council (under the provisions of Paragraph 2 of Section 17 of Chapter 23E of the General Laws) relative to the state of the workers' compensation system for fiscal year 2005;

Workers Compensation Advisory Council.

A monthly report of the Division of Unemployment Assistance (under the provisions of Chapter 142 of the Acts of 2003) relative to the condition of the Commonwealth's Unemployment Insurance Trust Fund for January, 2005;

Unemployment Insurance Trust Fund.

*Reports*

Of Executive Office of Environmental Affairs (under the provisions of item 2310-0200 contained in section 2 of Chapter 45 of the Acts of 2005) relative to invasive plants in the waters of the Commonwealth;

Transportation projects, expenses.

Of the Executive Office of Transportation (under the provisions of items 6000-0100 and 6010-0001 contained in section 2 of Chapter 45 of the Acts of 2005) relative to payroll, material costs and other expenses funded by the Commonwealth for certain transportation projects;

Aquatic invasive species.

Of the Office of Community Corrections (pursuant to item 0339-1004 contained in Section 2 of Chapter 45 of the Acts of 2005) containing a spending and management plan for said office;

Community Corrections, spending plan.

Of the Chief Justice for Administration and Management of the Trial Court (under the provisions of item 0330-3200 contained in Section 2 of Chapter 45 of the Acts of 2005) detailing the number of court officers and associate court officers located in each of the Trial Courts;

Trial Court, court officers.

Severally were placed on file.

*Paper from the Senate.*

A petition (accompanied by bill, Senate, No. 2388) of Edward M. Augustus, Jr., and Paul K. Frost (by vote of the town) for legislation to authorize the town of Auburn to convey a certain parcel of land, was referred, in concurrence, to the committee on Municipalities and Regional Government.

Auburn, land conveyance.

*Reports of Committees.*

By Mr. Scaccia of Boston, 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 Bruce J. Ayers and Robert K. Coughlin relative to the protection of certain wetlands in the Blue Hills Reservation. Under suspension of the rules, on motion

Black Hills Reservation.

of Ms. Flanagan of Leominster, the report was considered forthwith Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Environment, Natural Resources and Agriculture. Sent to the Senate for concurrence.

Asian  
American  
Commission.

By Mr. DeLeo of Winthrop, for the committee on Ways and Means, that the Bill establishing the Asian American Commission (Senate, No. 2201, amended) ought to pass with an amendment by striking out section 4, as follows:

“SECTION 4. Notwithstanding subsection (i) of section 67 of the General Laws, The executive director of the Asian American Commission shall initially be appointed by the state treasurer for the term of 3 years.”.

Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

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

Under suspension of Rule 7A, on motion of Mr. Dempsey of Haverhill, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the bill (Senate, No. 2201, amended) was ordered to a third reading.

Canton,  
Sam  
Swardlick  
Bridge.

By Mr. Wagner of Chicopee, for the committee on Transportation, on a petition, a Bill designating a certain bridge in the town of Canton as the Samuel “Sam” Swardlick Bridge (House, No. 4673). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

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

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

Williamsburg,  
property  
taxes.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the Senate Bill authorizing abatement of certain property tax assessments in the town of Williamsburg (Senate, No. 1694) be scheduled for consideration by the House.

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

Nursing  
services.

By Mrs. Haddad of Somerset, for the committee on Education, on Senate, No. 339 and House, No. 1037, a Bill to ensure adequate nursing services (House, No. 1037, changed in lines 14 and 15, by striking out the words “in no instance shall there be an assignment of less than one full-time registered nurse per school” and inserting in place thereof the words “each school with five hundred or more students shall be assigned at minimum one full-time physician, nurse practitioner or registered nurse”).

By the same member, for the same committee, on House, No. 1009, a Resolve providing for an investigation and study by a special commission relative to the incidence of child suicide (House, No. 4702).

Child  
suicide.

By Ms. Balsler of Newton, for the committee on Mental Health and Substance Abuse, on a petition, a Bill relative to services for persons with mental illness who are living with older family members or primary caretakers (House, No. 1612, changed by striking out, in line 7, the words “reaches the age of 65, or” and inserting in place thereof the word “has” and by inserting after the word “circumstances”, in line 8, the word “which”).

Mental  
illness  
services.

By the same member, for the same committee, on a petition, a Bill requiring notice of the treatment of minors for drug overdoses (House, No. 4572, changed by adding at the end thereof the following sentence: “At the time the physician or hospital notifies parents they are to give them the number of the Bureau of Substance Abuse Services at the Department of Public Health and the MA Substance Abuse Information and Education Helpline.”).

Minors,  
drug  
overdoses.

By Mr. Koutoujian of Waltham, for the committee on Public Health, on a petition, a Bill establishing a pilot program to reduce health care costs for the Commonwealth (House, No. 2753, changed by striking out, in line 17, the following: “June 1st 2006” and inserting in place thereof the following: “January 1, 2008”).

Health care  
costs.

By the same member, for the same committee, on a petition, a Bill relative to flavored cigarettes in the Commonwealth (House, No. 3817).

Flavored  
cigarettes.

By the same member, for the same committee, on a petition, a Bill relative to the marketing of light cigarettes and the effect on public health (House, No. 3819).

Light  
cigarettes,  
marketing.

By the same member, for the same committee, on Senate, No. 1215 and House, Nos. 3836 and 4508, a Bill further regulating early childhood immunizations (House, No. 4703).

Early  
childhood  
immunizations.

By the same member, for the same committee, on Senate, Nos. 1223 and 1224 and House, No. 2738, a Bill to reduce asthma by using safer alternatives to cleaning products (House, No. 4704).

Cleaning  
products.

By the same member, for the same committee, on Senate, No. 1298 and House, No. 2651, a Bill relative to patient navigators (House, No. 4705).

Patient  
navigators

By the same member, for the same committee, on House, No. 3640, a Bill relative to the definition of a pharmacy (House, No. 4706).

Pharmacy,  
define.

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

#### *Orders of the Day.*

##### House bills

Releasing certain land in the city of Northampton from the operation of an agricultural preservation restriction (House, No. 1270);

Third  
reading  
bills.

Establishing a post employment health insurance liability fund in the town of Sudbury (House, No. 4391) (its title having been changed by the committee on Bills in the Third Reading);

Relative to the treatment of waste water in the town of Shrewsbury (House, No. 4485); and

Authorizing the city of Revere to use certain dedicated park land for school purposes (House, No. 4546);

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.

Second  
reading  
bill.

The Senate Bill to clarify the authority of conservation commissions to impose consultant fees (Senate, No. 1167) was ordered to a third reading.

Senate bills

Second  
reading  
bills.

Increasing the term of office of the Cape Cod Mosquito Control Commissioners (Senate, No. 2099); and

Authorizing the boards of selectmen of Dukes County to designate members of the advisory board (Senate, No. 2110); and

House bills

Relative to increasing the amount of damages in small claims court (House, No. 856, changed);

Relative to mufflers (House, No. 2011);

Authorizing the Division of Capital Asset Management and Maintenance to convey certain land to the town of Stoughton (House, No. 2798);

Relative to talking books (House, No. 2857);

Relative to the disposition of certain conservation/recreation lands under the care, custody and control of the Department of Environmental Management within the town of Mashpee (House, No. 3416);

Designating the South Boston Court House as the Chief Justice Joseph F. Feeney courthouse (House, No. 3445);

Providing for the annual observance of Massachusetts History Day (House, No. 3465);

Relative to creation of certain funds in the town of Falmouth (House, No. 4134);

Authorizing the town of Ayer to convey certain land (House, No. 4203);

Relative to the use of motor scooters within the city of Chelsea (House, No. 4207);

Relative to extending the term of agreement between the town of Shrewsbury and the town of Westborough for the Westborough treatment plant (House, No. 4565); and

Relative to apprentice linemen (House, No. 4669);

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

Home health  
and home  
maker  
agencies.

The House Bill clarifying the definition of home health and homemaker agencies (House, No. 2840) was read a second time.

Pending the question on ordering the bill to a third reading, it was referred, under Joint Rule 1E, to the committee on Health Care Financing.

House bills

Schools,  
nutrition.

Relative to school served food products (House, No. 1019, changed);

ri

Relative to school food programs (House, No. 1449, changed); and

ri

Relative to nutrition awareness in schools (House, No. 1459, changed);

Severally were read a second time.

Pending the question on ordering the bills to a third reading, they were referred, in each instance, on motion of Mr. DeLeo of Winthrop, to the committee on Ways and Means.

The Senate Bill relative to the on-premises consumption of wine (Senate, No. 2213) was read a second time.

Wine,  
on premises.

Pending the question on ordering the bill to a third reading, it was referred, on motion of Mr. Scaccia of Boston to the committee on Rules.

The House Resolutions to improve the health of children through appropriate school nutrition (House, No. 1464), reported by the committee on Bills in the Third Reading to be correctly drawn, were considered.

School  
nutrition.

Pending the question on adoption of the resolutions, they were referred, on motion of Mr. DeLeo of Winthrop, to the committee on Ways and Means.

*Recesses.*

At twenty-one minutes after eleven o'clock A.M., on motion of Mr. Flynn of Bridgewater (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at eight minutes after one o'clock the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Recesses.

The House thereupon took a further recess, on motion of Mr. Dempsey of Haverhill, until half past one o'clock; and at thirteen minutes before two o'clock the House was called to order with Mr. Golden of Lowell in the Chair.

*Quorum.*

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Golden), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (Mr. Petrolati of Ludlow being in the Chair) 150 members were recorded as being in attendance.

Quorum,  
yea and nay  
No. 355.

**[See Yea and Nay No. 355 in Supplement.]**

Therefore a quorum was present.

*Paper from the Senate.*

The House Resolve providing for an investigation and study by a special commission relative to liquified natural gas siting and use in the Commonwealth (House, No. 4449) came from the Senate passed to be engrossed, in concurrence, with amendments striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2379; and striking out the title and inserting in place thereof the following title: "Resolve providing for an investigation and study by a special commission of liquified natural gas facility siting and use."

Liquified  
natural gas,  
siting.

Liquidified  
natural gas,  
siting.

Under suspension of Rule 35, on motion of Mr. Dempsey of Haverhill, the amendments (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith.

After debate on the question on concurring with the Senate in its amendments, Mr. Sullivan of Fall River moved that the amendments be amended by adding at the end thereof the following:

“By adding at the end thereof the following:

Chapter 21E of the General Laws is hereby amended by adding the following two sections:—

Section 20. A LNG import terminal must have a minimum distance of 5,280 feet from the center of the LNG tank to the nearest residential home, elderly housing complex, school, hospital, health care facility, business or developments.

Section 21. A LNG tanker must have a 5,280 foot clearance along the shore, as it travels any Massachusetts waterway, from the hull to the nearest residential home, elderly housing complex, school, hospital, health care facility, business or development.

The provisions of this act shall apply to all LNG import terminals constructed after January 1, 2005.”

Mr. Dempsey of Haverhill thereupon raised a point of order that the further amendment was improperly before the House for the reason that it went beyond the scope of the pending amendment.

In answer to the point of order, the Chair (Mr. Petrolati of Ludlow) ruled that the point of order was well taken; and the further amendment was laid aside accordingly.

After further debate on the question on concurring with the Senate in its amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Dempsey of Haverhill; and on the roll call 155 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 356 in Supplement.]**

Therefore the House concurred with the Senate in its amendments.

#### *Orders of the Day.*

The House Bill regulating the use of recording devices in motor vehicles (House, No. 2092), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Torissi of North Andover moved that it be amended by substitution of a bill with the same title (House, No. 4707); and the amendment was adopted.

After remarks on the question on passing the substituted bill to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Torissi; and on the roll call 155 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 357 in Supplement.]**

Therefore the bill (House, No. 4707) was passed to be engrossed. Sent to the Senate for concurrence.

The House Bill relative to the special education needs of children with autism spectrum disorder (House, No. 1123) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Point of  
order.

House  
concurred  
in Senate  
amendments,  
yea and nay  
No. 356.

Motor  
vehicles,  
recording  
devices.

Bill passed  
to be  
engrossed,  
yea and nay  
No. 357.

Autistic  
children,  
special  
education.

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

**[See Yea and Nay No. 358 in Supplement.]**

Therefore the bill was passed to be engrossed. The bill (House, No. 1123) then was sent to the Senate for concurrence.

#### *Order.*

On motion of Mr. DiMasi of Boston,—  
*Ordered*, That when the House adjourns today, it adjourn to meet on Thursday next at eleven o'clock A.M.

Bill passed  
to be  
engrossed,  
yea and nay  
No. 358.

Next  
sitting.

Ms. Rivera of Springfield 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 twenty-three minutes before four o'clock P.M. (Mr. Petrolati of Ludlow being in the Chair), the House adjourned, to meet on Thursday next at eleven o'clock A.M., in an Informal Session.