

Wednesday, May 16, 2007.

Met according to adjournment, at one o'clock P.M., with Mr. Petrolati of Ludlow 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:

Prayer.

God of Goodness and Trust, we begin this day with a prayer and with the intention of serving You, constituents and the Commonwealth in a conscientious, courageous and honorable manner. We face each day with a busy schedule. We believe that Your gracious assistance helps us to contend more easily with our legislative and personal responsibilities and challenges. As elected leaders, inspire us to propose and to adopt programs, ideals and goals which create hope and confidence in the minds and hearts of all. In addressing current and future legislative issues, teach us to be guided by traditional philosophical principles and human and spiritual values. May the well-being of all people remain a priority on our agenda.

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

Pledge of allegiance.

At the request of the Chair (Mr. Petrolati), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Silent Prayers.

First Lieutenant
Andrew J.
Bacevich, Jr.

During the session, at the request of the Messrs. Rogers of Norwood, Kafka of Stoughton and Ross of Wrentham, the members, guests and employees stood for a moment of silent prayer in memory of First Lieutenant Andrew J. Bacevich, Jr. He died on Sunday, May 13, 2007, in Sahah Ad Din Province, Iraq, from wounds sustained from an improvised explosive device.

Kyle A.
Little.

During the session, at the request of Mr. O'Day Worcester, the members, guests and employees stood for a moment of silent prayer in memory of Army Fire Specialists Kyle A. Little of West Boylston. Kyle lost his life while proudly serving his country, in the war in Iraq.

Marine Lance
Corporal
Walter
O'Haire.

During the session, at the request of the Mr. Nyman of Hanover, the members, guests and employees stood for a moment of silent prayer in memory of Marine Lance Corporal Walter O'Haire. He died on Wednesday, May 9, 2007, in Al Anbar Province, Iraq, from wounds sustained from enemy fire.

Private
First Class
Christopher
Murphy.

During the session, at the request of the Mr. Atsalis of Barnstable, the members, guests and employees stood for a moment of silent prayer in memory of Private First Class Christopher Murphy. Christopher lost his life while proudly serving his country, in the war in Iraq.

Appointment of Representative Walrath of Stow.

The Speaker announced that (under the provisions of Section 112 of Chapter 58 of the Acts of 2006) he had appointed Representative Walrath of Stow as his designee to negotiate with the federal government relative to seeking an amendment to the MassHealth demonstration waiver granted by the United States Department of Health and Human Services under section 1115(a) of the Social Security Act, as authorized by Chapter 203 of the Acts of 1996.

MassHealth demonstration waiver negotiations.

Statement Concerning Representative Fernandes of Milford.

A statement of Mr. Rogers of Norwood concerning Mr. Fernandes of Milford 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 Fernandes of Milford, was not able to be present in the House Chamber for today's sitting due to illness. If present for roll call numbers 91, 92, 93 and 95, he would have voted in the negative, in each instance. If he had been present for roll call numbers 94 and 96, he would have voted in the affirmative, in each instance. Any roll calls that he missed today is due entirely to the reason stated.

Statement concerning Representative Fernandes of Milford.

Petitions.

Petitions severally were presented and referred as follows:

By Ms. Peake of Provincetown, petition (accompanied by bill, House, No. 4037) of Sarah K. Peake and Robert A. O'Leary (by vote of the town) relative to establishing a community housing council in the town of Provincetown. To the committee on Housing.

Provincetown,—affordable housing.

By the same member, petition (accompanied by bill, House, No. 4036) of Sarah K. Peake (by vote of the town) that the town of Wellfleet be authorized to issue bonds for the cost of reconstructing a seawall in the harbor of said town. To the committee on Municipalities and Regional Government.

Wellfleet,—bonds.

Severally sent to the Senate for concurrence.

Mr. Rice of Gardner presented a petition (subject to Joint Rule 12) of Robert L. Rice, Jr., and Robert A. Antonioni for legislation to authorize the city of Gardner to purchase a certain parcel of land located in the town of Winchendon; and the same was referred, under Rule 24, to the committee on Rules.

Gardner,—Winchendon land.

Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Rice, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Municipalities and Regional Government. Sent to the Senate for concurrence.

Petitions severally were presented and referred as follows:

By Mr. deMacedo of Plymouth, petition (subject to Joint Rule 12) of Viriato Manuel deMacedo and Daniel K. Webster for legislation to include certain compounds in the classification of controlled substances.

Controlled substances.

Housing,—
lotteries.

By Mr. Kafka of Stoughton, petition (subject to Joint Rule 12) of Louis L. Kafka and William C. Galvin for legislation to provide drawings by lottery for applicants for low income and affordable housing accommodations.

Worcester
county,—
correctional
officers.

By Mr. Naughton of Clinton, petition (subject to Joint Rule 12) of John P. Fresolo and Harold P. Naughton, Jr., that the sheriff of Worcester County be authorized to adjust the pay scale for correctional officers employed by said county.

Vehicles,—
overweight
permits.

By Mr. Smola of Palmer, petition (subject to Joint Rule 12) of Todd M. Smola relative to requests for permits for owners or lessees of overweight commercial or farm vehicles.

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

Papers from the Senate.

Car buyers,—
rights.

A report of the committee on Consumer Protection and Professional Licensure, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 229) of Christopher G. Fallon for legislation to establish a car buyer bill of rights, and recommending that the same be referred to the committee on Telecommunications, Utilities and Energy,— having been accepted by the House, came from the Senate with the endorsement that said branch had NON-concurred in the discharge of the committee.

On motion of Mr. Rodrigues of Westport, the House then receded from its action; and, on further motion of the same member, the petition was recommitted to said committee on Consumer Protection and Professional Licensure.

Bernardston
Fire and Water
District.

A Bill establishing appointed positions of district clerk and district treasurer for the Bernardston Fire and Water District (Senate, No. 1198) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

M.C.I.
Shirley,—
inspection.

A report of the Department of Public Health (under the provisions of sections 5 and 20 of Chapter 111 of the General Laws) relative to an inspection of M.C.I. Shirley Medium Security Facility, in the town of Shirley, was spread upon the records of the House; and returned to the Senate.

Northampton,—
liquor licenses.

A petition (accompanied by bill, Senate, No. 2237) of Stanley C. Rosenberg and Peter V. Kocot (with the approval of the mayor and the city council of Northampton) for legislation to authorize the city of Northampton to retain any issued annual or seasonal license in the event of a license revocation or forfeiture and that the city of Northampton may convert the five currently issued seasonal all alcohol licenses for the sale of all alcoholic beverages to be drunk on the premises to annual all alcohol licenses, was referred, in concurrence, to the committee on Consumer Protection and Professional Licensure.

Orders of the Day.

House bills

Authorizing the transfer of certain land to the city of Boston (House, No. 53);

Third
reading
bills.

Designating a bridge in the city of Methuen as the Corporal David M. Vincente Bridge (House, No. 3446);

Authorizing the town of Chatham to lease certain buildings (House, No. 3952); and

Relative to the maximum age restriction for police officers for the city of Boston (House, No. 4016);

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.

The Senate Bill establishing a sick leave bank for Jacqueline C. Russo, an employee of the Department of Housing and Community Development (Senate, No. 1614) was read a second time; and it was ordered to a third reading. Second reading bill.

The Senate Bill establishing a sick leave bank for Yaniris Cabrera, an employee of the Trial Court (Senate, No. 2181) was read a second time. Second reading bill amended.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by striking out, in lines 5 and 6, the words “the balance of sick leave shall be transferred to the trial court paid leave bank” and inserting in place thereof the words “the balance of the sick leave time shall be transferred to the trial court paid leave bank”,— was adopted.

The bill (Senate, No. 2181, amended) then was ordered to a third reading.

The House Bill requiring public notice prior to restricting MassHealth coverage (House, No. 1167) was rejected. Bill rejected.

The House Bill to establish retiree health care liability funds for municipalities (House, No. 1140) was read a second time. Municipalities,— health care funds.

Pending the question on ordering the bill to a third reading, Representatives Kane of Holyoke and Polito of Shrewsbury moved to amend it in line 4 by inserting after the word “district” the words “municipal lighting plant”;

In line 13 by inserting after the word “office” the words “or in the case of a municipal lighting plant its municipal light plant board”;

In line 15 after the word “officer”, the words “or in the case of a municipal lighting plant, it’s board”;

In line 17 after the word “unit”, the words “or in the case of municipal lighting plants, it’s board”;

In line 27 after the word “fund” the words “; provided however in the case of a municipal lighting plant, the municipal light board shall designate said custodian”;

In line 29 after the word “district” the words “or municipal light board of a municipal lighting plant”;

In line 32 by inserting after the word “unit” the words “or municipal lighting plant”; and

In line 40 by inserting after the word “district” the words “by a municipal lighting plant”.

The amendments were adopted; and the bill (House, No. 1140, amended) was ordered to a third reading.

Collective bargaining.

The House Bill relative to written majority authorization cards, petitions and other written evidence of collective bargaining results (House, No. 2465) was read a second time.

Quorum.

Pending the question on ordering the bill to a third reading, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Petrolati of Ludlow), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum,—yea and nay No. 90.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 149 members were recorded as being in attendance.

[See Yea and Nay No. 90 in Supplement.]

Therefore a quorum was present.

After remarks on the question on ordering the bill to a third reading, Mr. Peterson of Grafton moved that it be recommitted to the committee on Public Service.

Motion to recommit negatived,—yea and nay No. 91.

After remarks on the motion to recommit, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 20 members voted in the affirmative and 135 in the negative.

[See Yea and Nay No. 91 in Supplement.]

[Mr. Straus of Mattapoisett answered “Present” in response to his name.]

Therefore the motion to recommit was negatived.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 1, in the definition of “Written majority authorization”, in the first sentence, by inserting after the word “designate” the words “, select or deselect”;

In section 2, at the end of the first sentence, by inserting after the word “unit” the words “; provided further, that the commission shall certify and the public employer and employee organization both shall recognize a written majority authorization deselecting an employee organization as the exclusive representative of the employees in the appropriate bargaining unit”;

In section 3, in proposed subsection (12), in the first sentence, by striking out the words “designate or select” and inserting in place thereof the words “designate, select or deselect”; and

In section 4, at the end of the first sentence, by inserting after the word “unit” the words “; provided further, that the commission shall certify and the employer and employee organization both shall recognize a written majority authorization deselecting an employee organization as the exclusive representative of the employees in the appropriate bargaining unit”.

Amendments rejected,—yea and nay No. 92.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 20 members voted in the affirmative and 135 in the negative.

[See Yea and Nay No. 92 in Supplement.]

[Mr. Straus of Mattapoisett answered “Present” in response to his name.]

Therefore the amendments were rejected.

Subsequently a statement of Mr. Walz of Boston 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 on the previous roll call I voted in the negative. However, now I find that, for some inexplicable reason, I was recorded as having voted in the affirmative.

Statement of Representative Walz of Boston.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 1, in the definition of "Written majority authorization", at the end of the first sentence, by inserting after the word "bargaining" the words "and certify such designation to be their free act and deed and to be given without consideration"; and

In section 3, in proposed subsection (12), at the end of the first sentence, by inserting after the word "bargaining" the words "and certify such designation to be their free act and deed and to be given without consideration".

After remarks the amendments were adopted.

Mr. Jones of North Reading and other members of the House moved to amend the bill in section 1; and also in section 3, by adding at the end thereof, in each instance, the following sentence: "Any organization or person collecting authorizations must notify, in writing, all employees who would be represented by said employee organization prior to the collection of any signature, and said organization must show proof of such notification to the commission at the time the writings are proffered."

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 20 members voted in the affirmative and 135 in the negative.

Amendments rejected,—yea and nay No. 93.

[See Yea and Nay No. 93 in Supplement.]

[Mr. Straus of Mattapoisett answered "Present" in response to his name.]

Therefore the amendments were rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill in section 2, in the fifth sentence; and also in section 4, in the fifth sentence, by striking out the words "ten days" and inserting in place thereof, in each instance, the following: "30 days".

The amendments were adopted; and the bill (House, No. 2465, amended) was ordered to a third reading.

Recess.

At seven minutes after three o'clock P.M., Ms. Kaprielian of Watertown took the Chair and, on motion of Mr. Petrolati of Ludlow, the House recessed until a quarter before four o'clock. At six minutes before four o'clock the House was called to order with Ms. Kaprielian in the Chair.

Recess.

Engrossed Bill — Land Taking.

The engrossed Bill relative to the sale of land by the Massachusetts Water Resources Authority (see Senate, No. 2179, amended) (which originated in the Senate), in respect to which the Senate had concurred in adoption of the emergency preamble, was put upon its final passage.

MWRA,—sale of land.

Bill enacted
(land taking),—
yea and nay
No. 94.

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. 94 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Collective
bargaining.

The House Bill relative to certain written majority authorization evidence of collective bargaining results (House, No. 2465, amended) (its title having been changed by the committee on Bills in the Third Reading), having been reported by said committee to be correctly drawn, was read a third time, under suspension of the rules, on motion of Mr. DeLeo of Winthrop.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Jones of North Reading and other members of the House moved to amend it in section 1; and also in section 3, by adding at the end thereof, in each instance, the following: “; provided, that prior to the collection of any signatures from any employee, an employee organization shall notify the employer in writing of its intent to solicit signatures from employees and that said organization shall provide proof of such notification to the commission at the time the writings are proffered; and provided further, that upon receipt of such notice, the employer shall provide each employee who would be represented by said employee organization with individual written notice of the employee organization’s intent to solicit signatures for the purpose of organizing a collective bargaining unit under this chapter”.

Amendments
rejected,—
yea and nay
No. 95.

After debate on the question on adoption of the amendments (Mr. Rogers of Norwood being in the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 23 members voted in the affirmative and 134 in the negative.

[See Yea and Nay No. 95 in Supplement.]

[Mr. Straus of Mattapoisett answered “Present” in response to his name.]

Therefore the amendments were rejected.

Bill passed
to be
engrossed,—
yea and nay
No. 96.

After remarks on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call (Ms. Kaprielian of Watertown being in the Chair) 135 members voted in the affirmative and 19 in the negative.

[See Yea and Nay No. 96 in Supplement.]

[Representatives Straus of Mattapoisett and Walz of Boston answered “Present” in response to their names.]

Therefore the bill, as amended, was passed to be engrossed. Mr. Kaufman of Lexington moved that this vote be reconsidered; and the motion to reconsider was negatived. The bill (House, No. 2465, amended) 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 tomorrow at eleven o'clock A.M. Next sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at ten minutes before five o'clock P.M., on motion of Ms. Reinstein of Revere (Ms. Kaprielian of Watertown being in the Chair), the House adjourned, to meet tomorrow at eleven o'clock A.M., in an Informal Session.