

HOUSE RECORD

First Year of the 160th General Court Calendar and Journal of the 2007 Session

Vol. 29

Concord, N.H.

Wednesday, September 5, 2007

No. 60

HOUSE JOURNAL No. 22

Wednesday, September 5, 2007

The House assembled at 10:00 a.m. and was called to order by the Speaker.

Prayer was offered by House Chaplain, Reverend Jared A. Rardin, Pastor of the South Congregational Church in Concord.

Somewhere during these summer months, O God, perhaps in a moment with our toes in the sand, with our eyes on a sunset or with an unexpected moment to simply rest and breathe again, somewhere during these summer months, You reminded us of a wisdom we once knew in our time of youth, but since forgot. We are often wiser, stronger, more hopeful, more helpful, when we slow down. When doing gives way, if only briefly, to being and lists give way to life. How quickly we forget, O God, of how rich each moment is all by itself. Would that we might recapture some of that Holy awareness for today and for the days to come. Help us in our work to pause just enough to embrace the fullness of life You have placed within our grasp so that our service for the sake of others might make possible greater fullness of life for them as well. In the Holy Spirit of Your spacious name we pray. Amen.

Rep. Donald Flanders, member from Laconia, led the Pledge of Allegiance.

LEAVES OF ABSENCE

Reps. DeChane, Forsing, Hunter, John Kelley, Evalyn Merrick and Stevens, the day, illness.
Reps. Ahlgren, Benn, Bergin, Carson, DeJoie, Stephanie Eaton, Fargo, Hebert, Holden, Hutz, George Katsakiores, Phyllis Katsakiores, John Knowles, Mary Ann Knowles, Leishman, McLeod, Miller, Morrison, O'Brien, Pearson, Rochette, Michael Rollo, Serlin, Kimberly Shaw, Sprague and Yvonne Thomas, the day, important business.
Reps. Billian and Goodwin, the day, illness in the family.

INTRODUCTION OF GUESTS

Sally Humphries, Barbara and Steve Mouring, and Anna, Steve Jr., Danny, Abby and Timmy Mouring; wife, daughter, son-in-law and grandchildren of Rep. Humphries. Peter

Fay, brother of Rep. Flockhart. Timothy McGuire and Mary Zwick, guests of Rep. Mooney. Phil Saperia, guest Rep. Butler. Mark and Shirlee Butt, guests of Rep. Parkhurst.

COMMUNICATION

July 18, 2007

Ms. Karen Wadsworth
Clerk of the House of Representatives
State House
Concord, NH 03301

Dear Karen:

Please be advised that the following representative-elect was sworn into office by the Governor and Executive Council on this day:

Merrimack County District No. 9

David R. Boutin, r, Hooksett (1465 Hooksett Rd., #80) 03106

Sincerely,

William M. Gardner
Secretary of State

COMMUNICATION

August 22, 2007

Ms. Karen Wadsworth
Clerk of the House of Representatives
State House
Concord, NH 03301

Dear Karen:

Please be advised that the following representative-elect was sworn into office by the Governor and Executive Council on this day:

Rockingham County District No. 14

Jim Webber, d, Kensington (5 Wild Pasture Rd) 03833

Sincerely,

William M. Gardner
Secretary of State

GOVERNOR'S VETO MESSAGE ON HB 143

July 2, 2007

By the authority vested in me, pursuant to part II, article 44 of the New Hampshire Constitution, on July 2, 2007, I vetoed HB 143, an act relative to the apportionment of damages in civil cases.

New Hampshire's system of comparative fault is a hybrid system that works to balance the interests of injured plaintiffs with those of defendants bearing relatively low percentages of fault for causing damages. When multiple individuals or entities are responsible for causing harm, the New Hampshire approach is to ensure that injured plaintiffs receive just compensation, and that the degree of negligence of all responsible parties is appropriately

weighed when apportioning damages among the negligent parties. Injured victims should be compensated fairly, but not at the disproportionate expense of those bearing relatively minor fault.

Under New Hampshire law, for the purpose of apportioning damages in a civil case, the jury is instructed to determine the amount of damages to be awarded to each plaintiff and then allocate fault in proportionate share to anyone who contributed to the incident giving rise to the plaintiff's injuries. Fault may be apportioned against any individual or entity who was negligent and whose conduct was a substantial factor in causing the harm – including persons or entities that are parties to the lawsuit, parties who previously settled their lawsuits, or are immune from liability, or are not otherwise before the court.

HB 143 would change existing law and allow the jury to allocate fault only between those individuals or entities that remain parties to the lawsuit at the conclusion of the trial. This change in law would prohibit the jury from apportioning fault to certain individuals or entities who carry significant degrees of fault for the plaintiff's injuries, but who either settled claims prior to conclusion of the lawsuit, or who are not parties to a particular lawsuit for other reasons. I cannot support this change in the law because it is unfair for a defendant with a low degree of fault to have to pay a disproportionately large share of the damages.

The attorney general has testified that the passage of HB 143 will result in increased litigation costs and higher judgments borne by the taxpayers of the State of New Hampshire. I believe these concerns warrant further study.

There may be steps that we can take to better ensure that injured victims are fully compensated under the law. I remain open to considering improvements to our existing statutory system of comparative fault, apportionment of liability and contribution laws. I encourage those interested in this bill to communicate closely with one another and to continue their work next session.

Respectfully submitted,
John H. Lynch
Governor

The question being, notwithstanding the Governor's veto, shall vetoed **HB 143**, relative to the apportionment of damages in civil cases, become law?

Reps. Lasky and DiFruscia spoke in favor.

Pursuant to the New Hampshire Constitution, Part II, Article 44, a roll call, requiring a two-thirds vote of the House for approval, was taken.

YEAS 65 NAYS 254

YEAS 65

BELKNAP

Arsenault, Beth

CARROLL

Bridgham, Robert

Cunningham, Howard

CHESHIRE

Burridge, Delmar

Butcher, Suzanne

Eaton, Daniel

Mitchell, Bonnie

Richardson, Barbara

Sad, Tara

Weber, Lucy

COOS

Hatch, William

GRAFTON

Friedrich, Carol
Pierce, David

Laliberte, Suzanne

Lovett, Sid

Mulholland, Catherine

HILLSBOROUGH

Campbell, David
Hall, Betty
Lasky, Bette
Mooney, Maureen
Sullivan, Daniel

Cote, David
Hammond, Jill
Levesque, Melanie
Nagle, Maureen
Sysyn, Mary

Gorman, Mary
Johnson, Stephen
Lisle, Carolyn
Scannell, David

Hackel, Paul
Kaelin, Michael
Mack, Ron
Simon, Anthony

MERRIMACK

Baxley, Maureen
Richardson, Gary

Brueggemann, Donald
Wallner, Mary

Clarke, Claire
Wheeler, Deborah

Foose, Robert

ROCKINGHAM

Brown, C. Pennington
Kennedy, James
Nord, Susi

Cali-Pitts, Jacqueline
Kepner, Susan
Webber, James

Grote, Otto
Moody, Marcia

Kelley, Jane
Moore, Bennett

STRAFFORD

Brown, Jennifer
Smith, Marjorie

Cyr, James
Srnc, Robert

Hofemann, Roland
Vachon, Dennis

Schmidt, Peter

SULLIVAN

Cloutier, John
Jillette, Arthur Jr

Converse, Larry
Nielsen, Ellen

Franklin, Peter
Phinizy, James

Houde, Matthew

NAYS 254

BELKNAP

Allen, Janet
Millham, Alida
Russell, David
Wendelboe, Fran

Boyce, Laurie
Nedeau, Stephen
Thomas, John
Whalley, Michael

Clark, Charles
Pilliod, James
Tilton, Franklin
Wood, Jane

Flanders, Donald
Reever, Judith
Tobin, William

CARROLL

Brown, Carolyn
Denley, William
Merrow, Harry

Buco, Thomas
Heard, Virginia
Patten, Betsey

Butler, Edward
Knox, J. David

Chandler, Gene
Martin, James

CHESHIRE

Allen, Peter
Dunn, J. Timothy
Johnson, Jane
Plifka, Stanley Jr

Butterworth, Timothy
Emerson, Susan
Lerandeau, Alfred
Roberts, Kris

Butynski, William
Espieffs, Peter
Loll, Thomas
Robertson, Timothy

Chase, William
Hunt, John
Parkhurst, Henry
Weed, Charles

COOS

King, Frederick
Tholl, John Jr

Remick, William

Stohl, Eric

Theberge, Robert

GRAFTON

Aguiar, James
Cooney, Mary
Harding, A Laurie
Solomon, Peter

Almy, Susan
Estes, Carole
Matheson, Robert
Sorg, Gregory

Bleyler, Ruth
Gionet, Edmond
Nordgren, Sharon
Williams, Burton

Bulis, Lyle
Hammond, Lee
Preston, Philip

HILLSBOROUGH

Baroody, Benjamin
Beck, Catriona
Christiansen, Lars
Crane, Elenore Casey
Dokmo, Cynthia
Essex, David
Foster, Linda
Goley, Jeffrey
Hansen, Ryan
Hogan, Edith
Jean, Claudette
L'Heureux, Robert
Manney, Pamela

Barry, Richard
Bergeron, Jean-Guy
Clemons, Jane
Daler, Jennifer
Drisko, Richard
Farley, Michael
Gargasz, Carolyn
Goyette, Peter
Harvey, Suzanne
Infantine, William
Judy, Jean
Lawrence, James
Matarazzo, Anthony
Sr

Batula, Peter
Chase, Claudia
Cote, Peter
Daniels, Gary
Elliott, Nancy
Fletcher, Richard
Garrity, Patrick
Graham, John
Hawkins, Ken
Irwin, Anne-Marie
Kopka, Angeline
Lessard, Rudy
Messier, Irene

Beaulieu, Jane
Christensen, Chris
Coughlin, Pamela
Day, Russell
Emerton, Larry
Forest, Armand
Ginsburg, Ruth
Haefner, Robert
Hinkle, Peyton
Jasper, Shawn
Kurk, Neal
Long, Patrick
Movsesian, Lori

O'Connell, Timothy
Peterson, Andy
Renzullo, Andrew
Schulze, Joan
Smith, Sandra
Stepanek, Stephen
Vaillancourt, Steve

O'Neil, James
Pilotte, Maurice
Reuschel, Michael
Shattuck, Gilman
Soucy, Connie
Sullivan, Francis
Villeneuve, Maurice

Ober, Lynne
Price, Pamela
Rosenwald, Cindy
Shaw, Barbara
Spaulding, Jayne
Tahir, Saghir
Winters, Joel

Ober, Russell III
Reeves, Sandra
Rowe, Robert
Smith, David
Spratt, Stephen
Ulery, Jordan

MERRIMACK

Anderson, Eric
Boutin, David
Ehlers, Eileen
Hamm, Christine
Kidder, David

Beauchesne, Suzanne
Brown, Carole
French, Barbara
Hess, David
Kjellman, Eleanor
Glynn

Blanchard, Elizabeth
Davis, Frank
Gile, Mary
Humphries, Charlie
Lockwood, Priscilla

Bouchard, Candace
DeStefano, Stephen
Greco, Vincent
Kelly, Sally
MacKay, James

Osborne, Jessie
Reardon, Tara
Tilton, Joy
Williams, Robert

Owen, Derek
Reed, Dennis
Tupper, Frank
Yeaton, Charles

Porter, Margaret
Ryan, Jim
Walz, Mary

Potter, Frances
Shurtleff, Stephen
Webb, Leigh

ROCKINGHAM

Abbott, Dennis
Belanger, Ronald
Case, Frank
DiFruscia, Anthony
Fesh, Bob
Garrity, James
Headd, James
Ingram, Russell
Lister, Charlotte
McKenna, Daniel
Packard, Sherman

Allen, Mary
Bishop, Franklin
Casey, Kimberley
Dumaine, Dudley
Flanders, John Sr
Gould, Kenneth
Henson, John
Introne, Robert
Lund, Howie
McMahon, Charles
Pantelakos, Laura

Baldasaro, Alfred
Borden, David
Charron, Gene
Elliott, Robert
Flockhart, Eileen
Griffin, Mary
Hopfgarten, Paul
Itse, Daniel
Major, Norman
Moore, Benjamin
Powers, James

Bedrick, Jason
Camm, Kevin
Day, Judith
Emiro, Frank
Garcia, Marilinda
Guthrie, Joseph
Hutchinson, Karen
Kappler, Lawrence
Marsh, Michael
Nowe, Ronald
Priestley, Anne

Quandt, Marshall
Robertson, Carl
Splaine, James
Welch, David

Quandt, Matthew
Russell, Trink
Stiles, Nancy
Wells, Roger

Rausch, James
Sanders, Elisabeth
Waterhouse, Kevin
Weyler, Kenneth

Reagan, John
Snow, Richard
Weare, Everett
Winchell, George

STRAFFORD

Berube, Roger
Browne, Brendon
Knowles, William
Rous, Emma

Brennan, William
Burke, Rachel
Mickelonis, Shawn
Spang, Judith

Brown, Julie
Hubbard, Pamela
Perry, Robert
Wall, Janet

Brown, Larry
Kaen, Naida
Rollo, Deanna
Watson, Robert

SULLIVAN

Donovan, Thomas
and the veto was sustained, lacking the necessary two-thirds.

Gagnon, Raymond

Rodeschin, Beverly

Skinder, Carla

UNANIMOUS CONSENT

Reps. Stiles and Vaillancourt addressed the House.

Rep. Eaton moved that the remarks made by Rep. Stiles be printed in the Permanent Journal.

Adopted.

CLERK'S NOTE

The remarks made by Rep. Stiles will be printed in the Permanent Journal.

The House recessed at 11:30 a.m.

RECESS

(Deputy Speaker Foster in the Chair)

The House reconvened at 12:30 p.m.

SENATE MESSAGES

The Senate has voted to sustain the Governor's veto on the following bills:

SB 109, relative to emergency powers of the supreme court.

SB 213-FN-A, establishing a comprehensive cancer plan fund, requiring master settlement agreement strategic contribution fund payments to be deposited in such fund, and establishing a comprehensive cancer plan oversight board.

The Senate has passed Bills and Resolutions with the following titles, in passage of which it asks the concurrence of the House of Representatives:

SB 266-FN-A, relative to a capital appropriation for the Laconia district court renovation.

MOTION TO SUSPEND HOUSE RULES

Reps. Wallner and Whalley moved that House Rules be so far suspended as to permit introduction and consideration at the present time of **SB 266-FN-A**, relative to a capital appropriation for the Laconia district court renovation, without the required referral to committee, public hearing and report from committee and, if passed, to allow for immediate third reading.

Adopted.

RESOLUTION

Rep. Wallner offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bill numbered 266 shall be by this resolution read a first and second time by the therein listed title.
Adopted.

INTRODUCTION OF SENATE BILL

First, second reading

SB 266-FN-A, relative to a capital appropriation for the Laconia district court renovation.

Rep. Bouchard moved Ought to Pass and spoke in favor.

Rep. Graham spoke in favor.

Adopted.

THIRD READING MOTION

Rep. Wallner offered the following: RESOLVED, that SB 266 be read by title only and that it be read a third time by this resolution, and that its title be the same as adopted, and that it be passed at the present time.

Adopted.

Third reading and final passage

SB 266-FN-A, relative to a capital appropriation for the Laconia district court renovation.

ADJOURNMENT FROM THE EARLY SESSION

Rep. Wallner offered the following: RESOLVED, that the House now adjourn from the early session and that the business of the late session be in order at the present time.

Adopted.

LATE SESSION

ADJOURNMENT

Rep. Wallner moved that the House stand in recess for the purpose of enrolling ***SB 266-FN-A***, relative to a capital appropriation for the Laconia district court renovation, at the completion of which the House will stand adjourned to the Call of the Chair.

The House recessed at 12:45 p.m.

RECESS

(Rep. Daniel Eaton in the Chair)

ENROLLED BILL REPORT

The committee on Enrolled Bills has examined and found correctly enrolled Senate Bill numbered 266.

Rep. Hager, Sen. D'Allesandro for the Committee

The House stands adjourned to the Call of the Chair.