

**NOTICE:** While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

## **UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.**



### **JOURNAL OF THE SENATE.**

Thursday, June 27, 2002.

Met at twenty-nine minutes past one o'clock P.M.

The President, members, guests and employees then recited the pledge of allegiance to the Flag.

#### *Committee Appointments.*

The President announced the following appointments to Senate Standing Committees and Joint Committees of the two branches:

Senators Panagiotakos and Hart to the third and fourth position on the committee on Administration;

Senator Resor to the second position and Senator McGee to the fifth position on the committee on Ethics;

Senator Hart to the ninth position on the committee on Steering and Policy;

Senator McGee to the fifth position on the committee on Commerce and Labor;

Senator Walsh to the second position, Senator Resor to the third position, Senator O'Leary to the fourth position and Senator Hart to the fifth position on the committee on Education, Arts and Humanities;

Senator Pacheco to the second position, Senator Fargo to the fourth position and Senator Baddour to the fifth position on the committee on Government Regulations;

Senator Wilkerson to the fifth position on the committee on the Judiciary;  
Senator Baddour to the fifth position on the committee on Public Safety; and  
Senator McGee to the fifth position on the committee on Taxation.

*Petitions.*

Mr. Havern presented a petition (accompanied by bill, Senate, No. 2379) of Robert A. Havern, Jay R. Kaufman, J. James Marzilli, Jr. and Anne M. Paulsen (by vote of the town) for legislation to authorize the town of Arlington to enact a by-law to protect places of special cultural, architectural and historical significance [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Local Affairs.**

**Sent to the House for concurrence.**

Petitions were presented and referred, as follows:

By Mr. Morrissey, a petition (subject to Joint Rule 12) of Michael W. Morrissey for legislation to expand the eligibility for creditable buyback for certain members of the National Association of Government Employees; and

By Mr. Nuciforo, a petition (subject to Joint Rule 12) of Andrea F. Nuciforo, Jr. and Shaun P. Kelly for legislation to authorize a retroactive veteran's annuity to the parents of Chester L. Witanek;

**Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

A communication (having been transmitted to the Secretary of State under the provisions of Section 5 of Chapter 3 of the General Laws) was received with memorandum relative thereto from the Secretary of State indicating that the petitioners failed to file proof of notice of publication and was placed on file, to wit:—

Petition (subject to Joint Rules 9 and 12) of Michael R. Knapik and Michael F. Kane for legislation to change the corporate powers and authority of the Holyoke Water Power Company.

*Report of a Committee.*

By Mr. Tolman, for the committee on Local Affairs, on petition, a Bill authorizing the conservation commission of the town of Ipswich to convey an easement in said town (Senate, No. 2361) [Local approval received];  
**Read and, under Senate Rule 26, placed in the orders of the Day for the next session.**

PAPERS FROM THE HOUSE.

*Communication.*

A communication from the Commissioner of Banks (under Section 2A of Chapter 167 of the General Laws) submitting proposed regulations governing unfair and deceptive practices in consumer transactions (House, No. 5162) (received Friday, June 21, 2002),—**was referred, in concurrence, to the committee on Banks and Banking.**

A Bill establishing a sick leave bank for a certain employee of the Department of Social Services (House, No. 5073,— on petition),—**was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

*Orders of the Day.*

The Orders of the Day were considered, as follows:

Bills

Relative to muzzle loading rifles and shotguns (Senate, No. 2274);

Relative to court advisement (House, No. 4413);

Granting the widow and children of Steven F. Greene retirement benefits (House, No. 4625);

Relative to the identity of a minor (House, No. 4798, amended); and

Validating the action taken at the 2000 annual town meeting of the town of Amherst (printed in House, No. 4890);

**Were severally read a second time and ordered to a third reading.**

The Senate bills

Providing for a plaque for Edward Cohen (Senate, No. 1564) (its title having been changed by the committee on Bills in the Third Reading);

Authorizing the Metropolitan District Commission and the Massachusetts Bay Transportation Authority to enter into certain temporary construction agreements and convey certain permanent easements to facilitate the reconstruction of the Red Line Charles/ MGH station in Boston (Senate, No. 2373); and

To transfer certain land to the town of Lenox for natural resources purposes (Senate, No. 2374);

**Were severally read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

The House bills

Relative to the Insurers Insolvency Fund (House, No. 1784, amended);

Relative to fees of justices of the peace (House, No. 2745, changed);

Relative to workers' compensation coverage for sole proprietors, partnerships and corporate officers (House, No. 4348, amended); and

Authorizing Fire District Number Two in the town of South Hadley to convey certain parcels of land to the Commonwealth for conservation purposes (House, No. 5029) (its title having been changed by the committee on Bills in the Third Reading);

**Were severally read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the Division of Capital Asset Management and Maintenance to convey an easement to the town of Milford (House, No. 4754, amended),— **was read a third time and passed to be engrossed, in concurrence, with an amendment.**

**Sent to the House for concurrence in the amendment previously adopted by the Senate.**

Bills

Relative to disclosure of certain information regarding domain ownership on the Internet (Senate, No. 1804); and

Relative to undistributed ballots (House, No. 994);

**Were severally read a second time and, after remarks, were ordered to a third reading.**

The House Bill relative to consumer and merchant protection (House, No. 4329),— **was read a second time and, after debate, was ordered to a third reading.**

The Senate Bill limiting indemnity and insurance responsibility for general contractors and subcontractors (Senate, No. 1561) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

Pending the question on passing the bill to be engrossed, after debate, Ms. Wilkerson moved that the bill be amended by substituting a new draft entitled:— “An Act limiting indemnity responsibility for general contractors and subcontractors in construction work” (Senate, No. 2378).

**This amendment was adopted.**

**The bill (Senate, No. 2378) was then passed to be engrossed.**

**Sent to the House for concurrence.**

Mr. Rosenberg in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair), the Senate Bill relative to creditable service for vocational education teachers (Senate, No. 2029),— was read a third time.

After remarks, the question on passing it to be engrossed was determined by a call of the yeas and nays, at six minutes past two o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 39 —nays 0):

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Jacques, Cheryl A.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 39.
Menard, Joan M.	

**NAYS — 0.**

**The yeas and nays having been completed at ten minutes past two o'clock P.M., the bill was passed to be engrossed.**

**Sent to the House for concurrence.**

The Senate Bill authorizing the State Retirement Board to grant a certain pension to Michael G. Sweeney (Senate, No. 2236),— was read a third time.

Pending the question on passing the bill to be engrossed, Ms. Resor moved that the bill be amended in the second paragraph, by striking out the second sentence and inserting in place thereof the following sentence:— “When such a child reaches age 23 or no longer meets the qualifications for receipt of the pension allocation provided in this section, that child’s pension allocation shall cease and any remaining qualified children shall continue to receive the same amount each received before any child’s allocation ceased.”.

**This amendment was adopted.**

**The bill (Senate, No. 2236, amended) was then passed to be engrossed.**

**Sent to the House for concurrence.**

The Senate Bill relative to the penalty for a third conviction for operating under the influence (Senate, No. 2371) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

After remarks, the question on passing it to be engrossed was determined by a call of the yeas and nays, at sixteen minutes past two o'clock P.M., on motion of Ms. Creem, as follows, to wit (yeas 38 — nays 0):

**YEAS.**

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Jacques, Cheryl A.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Travaglini, Robert E.
McGee, Thomas M.	Tucker, Susan C.
Melconian, Linda J.	Walsh, Marian
Menard, Joan M.	Wilkerson, Dianne — 38.

**NAYS — 0.**

**ABSENT OR NOT VOTING.**

Magnani, David P. — 1.

**The yeas and nays having been completed at twenty minutes past two o'clock P.M., the bill was passed to be engrossed.**

**Sent to the House for concurrence.**

The Senate Bill creating a bureau of power linemen in the Department of Public Safety (Senate, No. 2372),— was read a third time.

**Pending the question on passing the bill to be engrossed, on motion of Mr. Morrissey, the further consideration thereof was postponed until the next session.**

The House Bill relative to health care carriers (House, No. 4676),— was read a third time.

After debate, the question on passing it to be engrossed, in concurrence, with amendments, was determined by a call of the yeas and nays, at twenty-four minutes before three o'clock P.M., on motion of Mr. Lees, as follows, to wit (yeas 34 — nays 5):

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Chandler, Harriette L.	Murray, Therese
Creedon, Robert S., Jr.	Nuciforo, Andrea F., Jr.
Creem, Cynthia Stone	O'Leary, Robert A.
Fargo, Susan C.	Pacheco, Marc R.
Glodis, Guy W.	Panagiotakos, Steven C.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Rosenberg, Stanley C.
Hedlund, Robert L.	Shannon, Charles E.
Jacques, Cheryl A.	Tolman, Steven A.
Joyce, Brian A.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 34.

NAYS.

Knapik, Michael R.	Tarr, Bruce E.
Lees, Brian P.	Tisei, Richard R. — 5.
Sprague, Jo Ann	

**The yeas and nays having been completed at nineteen minutes before three o'clock P.M., the bill was passed to be engrossed, in concurrence, with amendments.**  
**Sent to the House for concurrence in the amendments previously adopted by the Senate.**

The House Bill further regulating limited liability companies relative to certain alcoholic beverage licenses (House, No. 4727),— **was read a third time and, after remarks, was passed to be engrossed, in concurrence, with amendments.**

**Sent to the House for concurrence in the amendments previously adopted by the Senate.**

The House Bill relative to speed limits in cities and towns (House, No. 4318, amended),— was considered, the main question being on passing it to be engrossed, in concurrence.

**On motion of Mr. Glodis, the further consideration thereof was postponed until the next session.**

The Senate Bill relative to the retirement options of certain educational support personnel (Senate, No. 2344),— was considered, the main question being on passing it to be engrossed.

Mr. Joyce moved that the bill be amended by striking out in section 2, in line 6, the word "membership" and inserting in place thereof the following word:—"creditable"; by striking out in section 3, in line 3, the words "July 1, 2001" and inserting in place thereof the following words:—"the effective date of this act"; and by striking out in section 3, in lines 6 and 7, the words "on or after July 1, 2002 and before January 1, 2003" and inserting in place thereof the following words:—"within 180 days after the effective date of this act".

After remarks, this amendment was adopted.

The main question on passing the bill to be engrossed was then determined by a call of the yeas and nays, at twelve minutes before three o'clock P.M., on motion of Mr. Joyce, as follows, to wit (yeas 39 — nays 0):

**YEAS.**

Antonioni, Robert A.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Creedon, Robert S., Jr.	O'Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Fargo, Susan C.	Panagiotakos, Steven C.
Glodis, Guy W.	Resor, Pamela
Hart, John A., Jr.	Rosenberg, Stanley C.
Havern, Robert A.	Shannon, Charles E.
Hedlund, Robert L.	Sprague, Jo Ann
Jacques, Cheryl A.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A.
Lees, Brian P.	Travaglini, Robert E.
Magnani, David P.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian
Melconian, Linda J.	Wilkerson, Dianne — 39.
Menard, Joan M.	

**NAYS — 0.**

**The yeas and nays having been completed at eight minutes before three o'clock P.M., the bill (Senate, No. 2344, amended) was passed to be engrossed.  
Sent to the House for concurrence.**

The Senate Bill relative to the licensing of telecommunications professionals (Senate, No. 2375),— was read a third time, the question being on passing it to be engrossed.

Messrs. Baddour and Tarr moved to amend the bill, as printed, in section 15, by striking out section 3A and inserting the following section:—

“SECTION 3A. This chapter shall not prohibit the work of a person who holds a registration as a professional engineer or a communications distribution designer or a registration as a systems contractor or systems technician in the performance of his normal duties.”

The amendment was *rejected*.

Messrs. Baddour and Tarr moved to amend the bill, as printed, in section 15, by striking, in line 169, the word “18-month” and inserting in place thereof the following words:—“24-month”; and by striking out, in line 256, the word “two” and inserting in place thereof the following figure:— 3.

The amendment was adopted.

Mr. Morrissey moved to amend the bill, as printed, in section 15, by inserting after the word “energy”, in line 123, the following words:— “and municipal electric plants and their employees”.

The amendment was adopted.

Mr. McGee moved to amend the bill, as printed, by adding the following section:—

“SECTION 18. A person, firm or corporation licensed by the board of electrical, system and telecommunications examiners in accordance with chapter 141 of the General Laws or a person, firm or corporation licensed by the commissioner of public safety in accordance with sections 57 to 61, inclusive, of chapter 147 of the General Laws on the effective date of this act who provides the board with satisfactory evidence that he has the qualifications for the type and categories of license applied for under section 9 of chapter 141A of the General Laws of this chapter shall not be required to make payment of the fees required in said chapter 141A.”

**The amendment was adopted.**

**After debate, the bill (Senate, No. 2375, amended) was then passed to be engrossed.  
Sent to the House for concurrence.**

*Communication.*

The Clerk read the following communication:

June 26, 2002.

Mr. Patrick F. Scanlan, *Clerk*  
Massachusetts Senate  
State House, Room 335  
Boston, MA 02133

Dear Mr. Clerk:

On June 19, 2002 I was away from the State House on a personal matter, and I was therefore unable to be present for the roll call votes taken on the following items:

House Bill 4405, An Act Increasing The Penalty For Passing A School Bus.

Senate Bill 2340, An Act Creating The Crime Of Reckless Endangerment To Children.

Had I been present, I would have voted in the affirmative on both of these matters. I would respectfully request your assistance with the printing of this communication in the Senate journal. Thank you in advance for your help on this matter.

Sincerely,  
ANDREA F. NUCIFORO, JR.,  
*State Senator.*

**On motion of Ms. Melconian, the above communication was ordered printed in the Journal of the Senate.**

*Reports of Committees.*

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Guy W. Glodis for legislation to establish a sick leave bank for Marian J. Palumbo, an employee of the Trial Court of the Commonwealth.

**Senate Rule 36 was suspended, on motion of Mr. Travaglini, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary.**

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Michael W. Morrissey for legislation to allow Donald White to serve as a police officer in Holbrook past the maximum retirement age.

**Senate Rule 36 was suspended, on motion of Mr. Travaglini, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service.**

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Michael W. Morrissey for legislation to remove the maximum age of retirement for municipal police officers.

**Senate Rule 36 was suspended, on motion of Mr. Travaglini, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service.**

By Ms. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Michael W. Morrissey and Robert J. Nyman (by vote of the town) for legislation to authorize the town of Rockland to increase its motel-hotel tax to six percent and distribute the monies to the town's capital improvement and stabilization funds.

**Senate Rule 36 was suspended, on motion of Mr. Travaglini, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Taxation.**  
**Severally sent to the House for concurrence.**

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5196) of Daniel E. Bosley and other members of the General Court relative to prohibiting tax stamping on certain cigarettes; and

Petition (accompanied by bill, House, No. 5197) of Paul E. Tirone and Andrea F. Nuciforo, Jr., relative to authorizing cities and towns to make applications for correction of determinations of value;

**Severally, under suspension of Joint Rule 12, to the committee on Taxation.**

*Petition.*

On motion of Mr. Shannon, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. McGee (accompanied by bill) of Thomas M. McGee and Douglas W. Petersen (by vote of the town) for legislation to remove the position of plumbing inspector from civil service and appointment by the Board of Selectmen in the town of Marblehead [Local approval received],— **and the same was referred to the committee on Public Service.**

**Sent to the House for concurrence.**

*Resolutions.*

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—

Resolutions (filed by Mr. Moore) “congratulating the town of Uxbridge on the occasion of its two hundred and seventy-fifth anniversary celebration”;

Resolutions (filed by Mr. Pacheco) “on the occasion of the retirement of Racine Castaldo”; and

Resolutions (filed by Ms. Walsh) “congratulating Gregory Hartnett on the occasion of his Court of Honor.”

PAPER FROM THE HOUSE.

*Engrossed Bill.*

An engrossed Bill relative to assistant town clerks in certain towns (see House, No. 3151) (which originated in the House), **having been certified by the Senate Clerk to be**

**rightly and truly prepared for final passage, was passed to be enacted and was signed by the Acting President and laid before the Acting Governor for her approbation.**

*Matter Taken Out of the Notice Section of the Calendar.*

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered, as follows:

The House Bill relative to the sounding of train whistles in the town of Tewksbury (House, No. 765),— was read a third time.

Pending the question on passing the bill to be engrossed, Ms. Tucker moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following text:—

“Section 85 of chapter 11 of the acts of 1997 is hereby amended by inserting after the first paragraph the following paragraph:—

After notice and an opportunity for hearing, the board of selectmen of the town may assess a civil fine of not more than \$1,000 upon a railroad corporation that violates this section. Each sounding shall constitute a violation.”.

**This amendment was adopted.**

**The bill was then passed to be engrossed, in concurrence, with the amendment.**  
**Sent to the House for concurrence in the amendment.**

*Report of a Committee.*

By Mr. Tolman, for the committee on Local Affairs, on petition, a Bill relative to the issuance of certain bonds by the city of Quincy (Senate, No. 2367) [Local approval received];

**The bill was read. There being no objection, the rules were suspended, on motion of Mr. Morrissey, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

*Order Adopted.*

On motion of Mr. Tisei,—

*Ordered*, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o’clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

On motion of Mr. Lees, at four minutes past three o’clock P.M., the Senate adjourned to meet on the following Monday at eleven o’clock A.M.