

**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.



Thursday, December 5, 2002.

Met at seven minutes past eleven o'clock A.M.

### *Communications.*

The following communications were severally placed on file:

Communication from Michael J. Ashe, Jr., sheriff, Hampden County submitting its plan of corrective action (received Monday, November 4, 2002); and

Communication from the Department of Education under the provisions of Section 7 of Chapter 150E of the General Laws submitting a copy of a request for an appropriation necessary to fund a collective bargaining agreement between the Board of Higher Education and the Massachusetts Teachers Association/Massachusetts Community College Council (received Thursday, November 21, 2002).

### *Reports.*

The following reports were severally read and placed on file:

A report of the Massachusetts Highway Department (under the provisions of Sections 6010-0001 and 6010-1000 of Chapter 184 of the Acts of 2002) submitting a quarterly report on bond funded expenditures and personnel (received Tuesday, November 5, 2002);

A report of the Department of Education (under the provisions of Section 89 of Chapter 71 of the General Laws) relative to student enrollment at charter schools (received Monday, November 25, 2002); and

A report of the Massachusetts Turnpike Authority (under the provisions of Section 9 of Chapter 87 of the Acts of 2000) relative to the status of the Central Artery Tunnel project (received Tuesday, November 26, 2002).

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 inspection of the Dedham Alternative Center and the Norfolk County Correctional Center (received Tuesday, November 26, 2002),— **was read and sent to the House for its information.**

### *Committee Discharged.*

Ms. Menard, for the committee on Rules, to whom was referred the Senate Order relative to authorizing the joint committee on Public Service to sit during the recess of the General Court for the purpose of making an investigation and study of certain current Senate documents relative to creditable service (Senate, No. 2050), reported, in part, asking to be discharged from further consideration of the Senate petition (accompanied by bill, Senate, No. 1359) of James P. Jajuga and Brian S. Dempsey for legislation to authorize and direct the Teachers Retirement Board to grant creditable service to Patricia Halloran,— and

recommending that the same be recommitted to the committee on Public Service.  
**Under Senate Rule 36, the report was considered forthwith and accepted.**

#### **Paper from the House.**

A Bill authorizing the Division of Capital Asset Management and Maintenance to convey certain land in the town of Ashfield (House, No. 5217,— on House, No. 5082),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

#### *Order.*

Mr. Birmingham presented an Order relative to requesting the opinions of the Honorable the Justices of the Supreme Judicial Court on important questions of law relative to Article 48 of the Amendments to the Constitution as relates to actions of the Joint Session of the Two Branches (Senate, No. 2499),— **and, there being no objection, it was considered forthwith and adopted.**

#### *Recess.*

At the request of Senator Tarr, there being no objection, at eight minutes past eleven o'clock A.M., the President declared a recess subject to the call of the Chair; and at three minutes before three o'clock P.M., the Senate reassembled, Ms. Melconian in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

#### **PAPERS FROM THE HOUSE.**

##### ***Emergency Preambles Adopted.***

An engrossed Bill relative to the Massachusetts veterans shelter in the city of Worcester (see Senate, No. 2150, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence by a vote of 2 to 0.**  
**The bill was signed by the Acting President and sent to the House for enactment.**

An engrossed Bill designating the Merrimack Valley Regional Transit Authority Transportation Center in the city of Lawrence as the Senator Patricia McGovern Transportation Center (see Senate, No. 2359), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,— **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 2 to 0.**  
**The bill was signed by the Acting President and sent to the House for enactment.**

#### *Resolutions.*

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

Resolutions (filed by Mrs. Sprague and Mr. Joyce) “congratulating Jeanne M. Fleming on the occasion of her retirement as Town Manager from the town of Stoughton.”

#### *Petition.*

On motion of Mr. Hedlund, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Ms. Resor, (accompanied by bill) of Pamela P. Resor and Stephen P. LeDuc (with the approval of the mayor and city council) for legislation to allow an extension for the filing of tax bills in the city of Marlborough [Local approval received],— **and the same was referred to the committee on Rules.**  
**Sent to the House for concurrence in the suspension of Joint Rule 12.**

#### *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 relative to the Department of Correction’s use of segregation units for non-disciplinary purposes.

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

**Sent to the House for concurrence.**

By Ms. Menard, for the committee on Rules, on a communication from the Counsel to the Senate and the Counsel to the House of Representatives, a Bill making corrective changes in certain general and special laws (printed in Senate, No. 2497).

**The bill was read. There being no objection, the rules were suspended, on motion of Mr. Hedlund, 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.**

*Matters Taken Out of the Orders of the Day.*

There being no objection, the following matters were taken out of the Orders of the Day and considered, as follows:

The Senate Bill authorizing the Cohasset Water Commissioners to serve in other town offices (Senate, No. 1872) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed.**

**Sent to the House for concurrence.**

The Senate Bill further regulating the rights of certain employees of the city of Revere who were laid off in the years 1981 and 1982 (Senate, No. 2020),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows “An Act relative to the retirement of certain employees of the city of Revere.”**

**Sent to the House for concurrence.**

The House Bill relative to the assessment of local taxes (House, No. 376, amended),— was read a third time.

Pending the question on passing the bill to be engrossed, Ms. Walsh presented amendments inserting after the word “spouse”, in line 11, the following words:— “and is occupied by him as his domicile”; striking out the word “five”, in line 13, and inserting in place thereof the following figure:— “10”; striking out, in line 17, the words “of all or part of” and striking out, in line 55, the word “agreement.” and inserting in place thereof the following words:— “agreement; and

(6) that the tax deferral and recovery agreement shall not exceed 3 tax years, that the total amount of the taxes due, plus interest, shall be paid in 5 equal payments over a 5-year period, and that the first payment shall be due 2 years after the last day of the tax deferral.”.

**The amendments were adopted.**

**The bill was then passed to be engrossed, in concurrence, with the amendments.**

**Sent to the House for concurrence in the amendments.**

The House Bill requiring the posting of security for the seizure and impoundment of animals (House, No. 2202) was read a second time.

Pending the main question on ordering the bill to a third reading, Mr. Shannon presented amendments inserting after the word “Laws”, in line 5, the following words:—, “relating to cruelty to animals or animal fighting”; inserting after the word “days”, in line 7, the following words:— “after application for the complaint”; and striking out, in lines 51 and 52, the words “if the animal was found by a licensed veterinarian to be diseased or disabled, or”.

**The amendments were adopted.**

**The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendments.**

**Sent to the House for concurrence in the amendments.**

The House Bill relative to the sounding of certain warning devices in the town of Concord (House, No. 4226),— was read a second time.

Pending the main question on ordering the bill to a third reading, Ms. Fargo presented amendments striking out, in lines 6 and 7, the words “warning devices” and inserting in place thereof the following words: “the following safety features: (i) flashing lights in each direction which are automatically activated by an approaching train; (ii) 2 gates, one on each side of the crossing, both of which are automatically lowered by an approaching train and both of which extend across approximately one half the width of the lanes of traffic so that the entire width of the lanes of traffic is blocked when the gates are lowered; (iii) a bell that is

automatically activated by an approaching train; (iv) overhead street lights; (v) signs posted before the grade crossing in each direction warning pedestrians and motorists of the crossing ahead; (vi) posted speed limits for traffic which shall not be more than 25 miles per hour; and (vii) not more than 2 lanes of vehicular traffic in each direction at the grade crossing. Notwithstanding this act, a train shall sound its whistle in the event of an emergency.”.

**The amendments were adopted.**

**The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendments.**

**Sent to the House for concurrence in the amendments.**

The House Bill authorizing the town of Mendon to charge seniors a reduced trash fee (House, No. 4757),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act authorizing the town of Mendon to charge senior residents a reduced trash fee.”**

The Senate Bill relative to the retirement allowance of David San Antonio (printed as House, No. 5004),— **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.**

The House Bill relative to certain firearm fees (House, No. 5018),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill relative to the effective date of certain civil service laws in the town of Plainville (House, No. 5244),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

#### **PAPERS FROM THE HOUSE.**

A petition (accompanied by bill, House, No. 5388) of Thomas A. Golden Jr., and Stanley C. Panagiotakos relative to designating Regatta Field in the city of Lowell as the Anne Dean Welcome Field,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Natural Resources and Agriculture.**

A Bill authorizing the town of Winchester to borrow certain funds (House, No. 5313,— on petition), [Local approval received],— was read.

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

#### *Engrossed Bills.*

The following engrossed bills (all of which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President and laid before the Acting Governor for her approbation, to wit:

Relative to liens on buildings and land (see House Bill, printed as Senate, No. 931);

Relative to the charter of the town of Plymouth (see House, No. 5253); and

Authorizing the appointment of Alcino Fernandes as a police officer in the town of Milford, (see House, No. 5346).

On motion of Mr. Tolman,—

*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. Hedlund, at nine minutes past three o’clock P.M., the Senate adjourned to meet on the following Monday at eleven o’clock A.M.

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