

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.

Tuesday, December 31, 2002.

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

Communications.

The following communications were severally placed on file:

Communication from University of Massachusetts relative to the rules and regulations adopted by the Trustees of the university in 2002 (received Tuesday, December 3, 2002);

Communication from Department of Education (under the provisions of Section 432 of Chapter 159 of the Acts of 2002) submitting a report on activities related to special education in the Commonwealth (received Friday, December 6, 2002); and

Communication from the Executive Office of Transportation and construction requesting a time extension on a report relative to a Water shuttle between the city of Lynn and the city of Boston (received Friday, December 27, 2002).

Reports.

The following reports were severally read and placed on file:

A report of the Massachusetts Convention Center Authority (under the provisions of Section 5(1) of Chapter 152 of the Acts of 1997) submitting its quarterly report on the status of the Boston Convention and Exhibition Center Project (received Friday, December 27, 2002);

A report of the Special Commission on Uncompensated Care (under the provisions of Section 26 of Chapter 300 of the Acts of 2002) submitting its final report (received Friday, December 27, 2002); and

A report of the Public Employee Retirement Administration Commission (under the provisions of Chapter 114 of the Acts of 2000) relative to a summary of members retiring in 2002 under alternative retirement programs (received Friday, December 27, 2002).

Reports of a Committee.

By Mr. Montigny, for the committee on Ways and Means, that the House Bills

Relative to fuel cell technology (House, No. 5063, amended),— ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2514; and

Relative to compensation for certain erroneous convictions (House, No. 5401),— ought to pass;

Severally referred, under Senate Rule 26, to the committee on Steering and Policy.

Subsequently, Ms. Resor, for the said committee on Steering and Policy, reported that the matters be severally placed in the Orders of the Day for the next session.

Reports of Committees.

Ms. Resor, for the committee on Steering and Policy, reported that the following matters be placed in the Orders of the Day for the next session:

The House bills

Relative to firefighter injuries (House, No. 1620);

Relative to the penalties for distribution of a certain drug (House, No. 1726);

Requiring audible warning devices for certain motor vehicles (House, No. 3780, changed and amended);

Relative to fraudulent statements made in insurance applications (House, No. 4707); and

Relative to the safe placement of newborns and infants (House, No. 5281).

PAPERS FROM THE HOUSE.

The Senate Bill dedicating certain lands in the towns of Pelham, Belchertown, Sunderland and Leverett under the care, custody and control of the University of Massachusetts to conservation and public recreational purposes (Senate, No. 2417),— came from the House passed to be engrossed, in concurrence *with amendments* striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 5398; and by striking out the title and inserting in place thereof the following title: “An Act relative to certain lands in the towns of Pelham, Belchertown, Sunderland and Leverett and placing certain land in the town of Deerfield under an agricultural preservation restriction.”

The rules were suspended, on motion of Mr. Hedlund, and the House amendments were considered forthwith and adopted, in concurrence.

A Bill relative to the compensation of assessors in the town of Tewksbury (House, No. 5163,— on petition) [Local approval received],— 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, in concurrence.

A Bill authorizing the appointment of the position of treasurer in the town of Norwood (House, No. 5400,— on petition) [Local approval received],— 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, in concurrence.

A Bill relative to validating certain proceedings of the Manchester Essex Regional School District (House, No. 5397,— on petition),— 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, in concurrence.

A Bill relative to civil service preference for a certain firefighter in the town of Milton (House, No. 5403,— on petition),— 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, in concurrence.

Engrossed Bill.

An engrossed Bill establishing a capital investment fund in the town of Holbrook (see Senate, No. 2485) (which originated in the Senate), **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 President and laid before the Acting Governor for her approbation.**

Matter Taken Out of the Orders of the Day.

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

The House Bill relative to the representative town meeting members in the town of Burlington (House, No. 5373),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

Recess.

There being no objection at nine minutes past eleven o'clock A.M., the President declared a recess subject to the call of the Chair; and at nineteen minutes past two o'clock P.M., the Senate reassembled, the President in the Chair.

PAPERS FROM THE HOUSE.

A Bill validating action taken at the special town meeting held by the town of Adams on November 18, 2002 (printed in House, No. 5404,— being a message from Her Honor the Lieutenant-Governor, Acting Governor)— was read.

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

A Bill relative to debt collection and loan servicing agencies subject to regulation by the Division of Banks (House, No. 12,— on House, No. 8, in part),— was read.

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

A Bill relative to the disposal of lost, abandoned, and stolen property by the Massachusetts Bay Transportation Authority (House, No. 1331,— on petition),— 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, in 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 House bills

Relative to payment of fire insurance claims to mortgagees (House, No. 2348); and

Relative to civil commitment of sexually dangerous persons (House, No. 4915);

Were severally 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 Bill designating the book "Make Way For Ducklings" as the official children's book of the Commonwealth, and designating the author Theodor Geisel as the official children's author and children's illustrator of the Commonwealth (House, No. 5374,— on House, No. 4216),— was read.

There being no objection, the rules were suspended, motion of Ms. Melconian, and the bill was read a second time.

Mr. Shannon presented an amendment by adding the following section:—

"SECTION 51. The Boston Cream Donut shall be the official donut of the Commonwealth."

The amendment was adopted.

The bill, as amended, was 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 designating the official children's book and the official children's author and children's illustrator of the Commonwealth."

Sent to the House for concurrence in the amendment.

Emergency Preambles Adopted.

An engrossed Bill relative to the recording of certain trust instruments (see Senate, No. 866), **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 3 to 0.**

The bill was signed by the President and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Saillens Dumay, an employee of the Department of Correction and extending the time for a certain report (see House, No. 5371, changed), **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 4 to 0.

The bill was signed by the President and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (the first six of which originated in the Senate), 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 President and laid before the Acting Governor for her approbation, to wit:

Relative to the enhanced emergency telephone system in the town of Braintree (see Senate, No. 2153, amended);

Dedicating certain lands in the towns of Pelham, Belchertown, Sunderland and Leverett and placing certain land in the town of Deerfield under an agricultural preservation restriction (see Senate, No. 2417, amended);

Relative to certain recorded memoranda of litigation involving real property (see, Senate, No. 2483);

Authorizing the town of Acton to lease a certain school building for residential purposes for 50 years (see Senate, No. 2490);

Relative to capital improvements in the town of Phillipston (see Senate, No..2507, changed);

Relative to the retirement allowance of David San Antonio (see Senate Bill, printed as House, No, 5004);

Relative to the assessment of local taxes (see House, 376, amended);

Relative to the tax treatment of prepaid calling arrangements (see House, No. 1320, amended);

Relative to the licensing of sign installers (see House No. 4067, amended);

Providing for the recall of elected officials in the city of Salem (see House No. 4880, changed and amended);

Relative to creditable service in the armed forces of the United States (see House, No. 5103, amended);

Relative to the compensation of assessors in the town Tewksbury (see House, No. 5163);

Relative to the South Hadley Housing Authority (see House, No. 5241, amended);

Relative to the tastings of alcoholic beverages (see House, No. 5247, ascended);

Relative to the disposition of certain taxes collected by the town of Carver (see House, No. 5316);

Exempting Daniel J. McCarthy from the maximum age requirements as a police officer in the city of Haverhill (see House, No. 5349);

Authorizing the town of Milford to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 5362);

Authorizing the town of Milford to issue an additional license for the sale of wines and malt beverages not to be drunk on the premises (see House, No. 5363);

Authorizing the city of Leominster to provide for an early incentive retirement for its workforce (see House, No. 5367, changed);

Relative to the representative town meeting members in the town of Burlington (see House, No. 5373);

Exempting David Lahey and Steven M. Moriarty from the maximum age requirement as firefighters in the city of Methuen (see House, No. 5383);

Relative to appointive powers of the board of selectmen in the town of Saugus (see House, No. 5391);

Relative to validating certain proceedings of the Manchester Essex Regional School District (see House, No. 5397); and

Authorizing the appointment of the position of treasurer in the town of Norwood (see House, No. 5400).

A Bill relative to registered real estate brokers and urea formaldehyde foam insulation (House, No. 5394,— on House, No. 442),— was read.

There being no objection, the rules were suspended, on motion of Ms. Fargo, and the bill 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 to read as follows: “An Act relative to urea formaldehyde foam insulation.”

A Bill designating two bridges and a park in the town of Billerica (House, No. 5399,— on House, No. 5321),— was read.

There being no objection, the rules were suspended, on motion of Ms. Melconian, and the bill was read a second time.

Mr. Pacheco presented the following amendments: Adding at the end thereof the following new section:

“SECTION 4. The proposed bridge on United States highway route 44 to span state highway route 58 in Carver shall be designated and known as the Frank Mazzilli bridge. The department of highways shall erect suitable markers bearing the designation in compliance with the standards of the department.”; and by striking out the title and inserting in place thereof the following title:—“An Act naming certain bridges and a park.”

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. Sent to the House for concurrence in the amendments.

Report of a Committee.

Ms. Resor, for the committee on Steering and Policy, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill relative to guaranteed products issued out of life insurance company separate accounts (printed as Senate, No. 746).

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

Recess.

There being no objection, at twenty-eight minutes before three o'clock P.M., the President declared a recess subject to the call of the Chair; and at seven minutes before four o'clock P.M., the Senate reassembled, the President in the Chair.

PAPERS FROM THE HOUSE.

A Bill authorizing Paul Thomas to be placed on the civil service list for police officer in the town of Tewksbury (House, No. 5309,— originally ought NOT to pass (under Joint Rule 10), on petition,— 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, in concurrence.

A Bill exempting the position of deputy chief of police in the city of Methuen from the civil service laws (House, No. 5382,— on petition) [Local approval received],— 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, in concurrence.

The Senate Bill protecting workers and small investors (Senate, No. 2442, amended),— came from the House passed to be engrossed, in concurrence *with an amendment* striking out all after the enacting clause and inserting in place thereof the text of House document numbered 5407.

The rules were suspended, on motion of Mr. Hedlund, and the House amendment was considered forthwith and adopted, in concurrence.

The Senate Bill relative to banks and banking (Senate, No. 2433, amended),— came from the House passed to be engrossed, in concurrence *with amendments*, striking out sections 21, 22, 24, 27, 28, 29, 30 and by striking Section 25 and inserting in place thereof the following:

“SECTION 22. Chapter 171 of the General Laws is hereby amended by striking out section 8, as so appearing, and inserting in place thereof the following section:—

Section 8. With the written consent of the commissioner, the location of the main office of a credit union may be changed.

After such notice and hearing as the commissioner may require and with his written permission and under such conditions as he may approve, a credit union may establish and maintain one or more branch offices or depots in the county wherein the main office is located or on a site within 50 miles from the premises of the main office in any city or town in another county. Any of the usual business transacted by a credit union at its main office may be transacted at a branch office. The business at a depot shall be transacted only on such days as may be designated by the board of directors and shall be limited to the receipt of deposits

and the collection of moneys due or payable to the credit union, and such business shall be subject to such other conditions, if any, as may be prescribed by the commissioner.

With the written consent of the commissioner a branch office or depot may be closed, or its location may be changed.

The offices of any credit union consolidating or merging under section 78 may be maintained as branch offices of such credit union, with the written permission of and under such conditions, if any, as may be approved by the commissioner.”.

The rules were suspended, on motion of Mr. Hedlund, and the House amendment was considered forthwith and adopted, in concurrence (as corrected B.T.R. by striking out section 32).

Engrossed Bills.

The following engrossed bills (the first three of which originated in the Senate), 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 President and laid before the Acting Governor for her approbation, to wit:

Relative to the recording of certain trust instruments (see Senate, No. 866);

Providing for a plaque for Edward Cohen (see Senate, No. 1564);

Authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the city of Waltham (see Senate, No. 1879);

Allowing Joseph McMann, a former employee of the Trial Court, an ordinary disability retirement option (see Senate, No. 2459);

Relative to certain firearm fees (see House, No. 5018, amended); and

Establishing a sick leave bank for Saillens Dumay, an employee of the Department of Correction and extending the time for a certain report (see House, No. 5371, changed).

Recess.

There being no objection, at two minutes before four o'clock P.M., the President declared a recess subject to the call of the Chair; and at twenty-one minutes past five o'clock P.M., the Senate reassembled, the President in the Chair.

Reports of a Committee.

By Mr. Montigny, for the committee on Ways and Means, that the House Bill relative to areas of critical environmental concern (House, No. 4479, amended),— ought to pass.

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, in concurrence.

By Mr. Montigny, for the committee on Ways and Means, that the House Bill limiting outdoor night lighting, conserve energy and reduce light pollution (House, No. 5360),— ought to pass.

Referred, under Senate Rule 26, to the committee on Steering and Policy.

Subsequently, Ms. Resor, for the said committee on Steering and Policy, reported that the matter be placed in the Orders of the Day for the next session.

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, in concurrence.

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill designating certain lands in the towns of Phillipston, Royalston and Templeton for conservation and public recreational purposes in conjunction with the Department of Environmental Management (see Senate, No. 2393, 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 President and sent to the House for enactment.**

Engrossed Bills.

An engrossed Bill validating certain action taken at the special town meeting held by the town of Adams (see House Bill, printed in House, No. 5404) (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, two-thirds of the members present having voted in the affirmative, and it was signed by the President and laid before the Acting Governor for her approbation.**

The following engrossed bills (the third six of which originated in the Senate), 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 President and laid before the Acting Governor for her approbation, to wit:

Relative to defining principal's contracts (see Senate, No. 2079, amended);

Designating certain lands in the towns of Phillipston, Royalston and Templeton for conservation and public recreational purposes in conjunction with the Department of Environmental Management (see Senate, No. 2393, amended);

Protecting workers and small investors (see Senate, No. 2442, amended);

Relative to gas company gate boxes (see Senate, No. 2455);

Exempting debt of the city of Lawrence for certain approved school projects from the statutory limit (see Senate, No. 2502);

Relative to establishing the Berkshire County regional housing authority (see Senate, No. 2509);

Relative to guaranteed products issued out of life insurance company separate accounts (see House Bill, printed as Senate, No. 746);

Relative to the disposal of lost, abandoned, and stolen property by the Massachusetts Bay Transportation Authority (see House, No. 1331);

Relative to payment of fire insurance claims to mortgagees (see House, No. 2348, amended);

Relative to civil commitment of sexually dangerous persons (see House, No. 4915);

Authorizing the reinstatement of Frederick Nasson as a member in service of the state retirement system (see House, No. 4985, amended);

Authorizing Paul Thomas to be placed on the civil service list for police officer in the town of Tewksbury (see House, No. 5309);

Designating the official children's book, the official children's author and children's illustrator and the official donut of the Commonwealth (see House, No. 5374, amended);

Exempting the position of deputy chief of police in the city of Methuen from the civil service laws (see House, No. 5382); and

Relative to urea formaldehyde foam insulation (see House, No. 5394).

On motion of Mr. Hedlund, at sixteen minutes past six o'clock P.M., the Senate adjourned.

[Under the provisions of Article X of the Amendments to the Constitution, the 2002 session of the General Court was dissolved on the day next preceding the first Wednesday of January, without any proclamation or other action of Her Honor the Lieutenant-Governor, Acting Governor.]

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[P.S. During the second session of the General Court held in the year 2002, _____ Acts and _____ Resolves received Executive approval; _____ became law over the objections of Her Honor the Lieutenant-Governor, Acting Governor, And _____ Acts (Chapter) became law by the will of the people at the state election, under the provisions of Article XLVIII of the Amendments to the Constitution. This summary does not include those item vetoes by the Governor on Appropriation Acts or any subsequent legislation actions on those vetoes.]