

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, June 3, 2004.

Met at one minute past eleven o'clock A.M. (Mr. Tolman in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Mr. Tolman), members, guests and employees then recited the pledge of allegiance to the flag.

Communication.

A communication from Stacey Parks Townsend, Executive Director, submitting the 2003 annual report of The Property and Casualty Initiative (received Tuesday, June 1, 2004),— **was placed on file.**

Committees Discharged.

Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration of the Senate Order relative to authorizing the joint committee on Criminal Justice to make an investigation and study of a certain Senate document relative to vehicular homicide (Senate, No. 2363),— and recommending that the same be referred to the Senate committee on Ethics and Rules.

Under Senate Rule 36, the report was considered forthwith and accepted.

Mr. Brewer, for the committees on Ethics and Rules, to whom was referred the Senate Order relative to authorizing the joint committee on Public Service to make an investigation and study of certain Senate documents relative to public service (Senate, No. 2302), reported, in part, asking to be discharged from further consideration of the Senate petition (accompanied by bill, Senate, No. 1931) of Robert A. Havern, Jay R. Kaufman, Anne M. Paulsen and James J. Marzilli, Jr. (by vote of the town) for legislation to increase the retirement allowance for certain retirees of the town of Arlington,— and recommending that the same be recommitted to the committee on Public Service.

Under Senate Rule 36, the report was considered forthwith and accepted.

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4762) of Eric Turkington (by vote of the town) that the town of Edgartown be authorized to grant conservation restrictions on certain parcels of land under the control of said town; and

Petition (accompanied by bill, House, No. 4763) of Eric Turkington (by vote of the town) that the town of Falmouth be authorized to grant conservation restrictions on certain parcels of land under the control of said town;

Severally to the committee on Local Affairs and Regional Government.

A Bill establishing a one trial system for civil cases (House, No. 732,— on Senate, No. 953 and House, No. 732),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill authorizing the Superintendent of State Office Buildings to install a plaque in the State House honoring Lt. Frances Y. Slanger (House, No. 619,— on petition),— **was read and, under Senate Rule 26, referred to the committee on Steering and Policy.**

Bills

Authorizing the town of North Andover to grant open space restrictions (House, No. 3847,— on petition) [Local approval received];

Authorizing the town of Bellingham to establish a compensated absence fund (House, No. 4102,— on petition) [Local approval received];

Authorizing the city of Lowell to pay an unpaid bill (House, No. 4521,— on petition) [Local approval received];
Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

A report of the committee on Local Affairs and Regional Government, asking to be discharged from further consideration of the recommitted petition (accompanied by bill, House, No. 4054) of Thomas J. O'Brien and Viriato Manuel deMacedo for legislation to authorize the Plymouth County Sheriff's Department to operate and maintain a county medical dispatch communications system, and recommending that the same be recommitted to the House committee on Ways and Means,— **was considered forthwith, under Senate Rule 36, and accepted, in concurrence, insomuch as relates to the discharge of the joint committee.**

Resolutions.

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

Resolutions (filed by Mr. Berry) “congratulating Mark Wood of Salem”;

Resolutions (filed by Ms. Chandler) “honoring John F. Monfredo on the occasion of his retirement”;

Resolutions (filed by Mr. Hedlund) “on the one hundredth birthday of Marianne I. Hanigan”;

Resolutions (filed by Mr. Joyce) “congratulating Mr. And Mrs. Robert M. Fitzgerald of Milton on receiving the Citizen of the Year Award”;

Resolutions (filed by Mr. Joyce) “on the occasion of the one hundredth anniversary of the Wampatuck Country Club of Canton”;

Resolutions (filed by Mr. Magnani) “congratulating Allan Clarke on receiving the Eagle Award of the Boy Scouts of America”;

Resolutions (filed by Mr. Magnani) “honoring Laurie and Dick Daly”;

Resolutions (filed by Mr. Magnani) “congratulating Benjamin Lebson on receiving the Eagle Award of the Boy Scouts of America”;

Resolutions (filed by Mr. Magnani) “congratulating Edward Roos on receiving the Eagle Award of the Boy Scouts of America”;

Resolutions (filed by Ms. Melconian) “honoring Ruth B. Loving on the occasion of her ninetieth birthday”;

Resolutions (filed by Mr. Rosenberg) “on the three hundred fiftieth anniversary of the founding of the city of Northampton”;

Resolutions (filed by Mr. Tisei) “congratulating Peter Lagorio on receiving the Eagle Award of the Boy Scouts of America”;

Resolutions (filed by Mr. Tisei) “congratulating Jonathan Richman on receiving the Eagle Award of the Boy Scouts of America”;
and

Resolutions (filed by Mr. Tisei) “congratulating John Patrick Walsh on receiving the Eagle Award of the Boy Scouts of America.”

Report of a Committee.

The Senate report of the committee on Local Affairs and Regional Government, ought NOT to pass (under Joint Rule 10) (the time within which the said committee was required to report having expired), on the petition (accompanied by bill, Senate, No. 2247) of Susan C. Tucker, Barry R. Finegold, Barbara A. L'Italien, Richard T. Moore and other members of the General Court for legislation to further regulate meetings of municipal boards.

There being no objection, on motion of Mr. Morrissey, the petition was recommitted to the committee on Local Affairs and Regional Government.

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 relative to the public disclosure of ownership of a cemetery corporation (Senate, No. 478),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Morrissey moved that the bill be amended by inserting before section 1 the following section:—

“SECTION 1. Section 1A of chapter 114 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following paragraph:—

Nothing in this section shall affect or modify the liability of any person subject to this section for financial misconduct or fraud in the use of the assets of the corporation.”; and by adding the following section:—

“SECTION 3. Said chapter 114 is hereby amended by inserting after section 5B, as so appearing, the following section:—

Section 5C. The corporation and its officers shall owe a fiduciary duty to a contributor to the trust fund, his heirs and legal representatives to hold and expend the funds strictly consistence with the purposes of section 5. A contributor to the trust fund, his heirs and legal representatives who were required to invest in the trust fund as a condition of purchasing a right of burial shall have all the rights and protections of chapter 110A.”.

The amendment was adopted.

The bill (Senate, No. 478, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill establishing the Ipswich affordable housing trust fund (Senate, No. 1987),— was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Tarr moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2372.

The amendment was adopted.

The bill (Senate, No. 1987, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill establishing a regional lockup facility in Worcester county (Senate, No. 2351),— **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

The House bills

Authorizing the town of Harvard to convey certain park land (House, No. 3999);

Relative to the establishment of the position of director of finance in the city of Revere (House, No. 4508);

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

The Senate bills

Relative to filling vacancies in the city council of the city of Quincy (Senate, No. 2260); and

Designating a certain bridge in the town of Barre as Private First Class Edward J. Cormier Memorial Bridge (Senate, No. 2280, changed);

Were severally read a second time, ordered to a third reading, read a third time and passed to be engrossed.

Severally sent to the House for concurrence.

The House Bill relative to the Department of Inspectional Services in the city of Lynn (House, No. 4509),— **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 Bill relative to certain retirements in the city of Holyoke (House, No. 4391,— on petition) [Local approval received],— was read.

There being no objection, the rules were suspended, on motion of Mr. McGee, 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 validating the actions taken at the special town election held by the town of New Salem (printed in House, No. 4515,— being a message from His Excellency the Governor),— was read.

There being no objection, the rules were suspended, on motion of Mr. Rosenberg, 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 (the first 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 Acting President and laid before the Governor for his approbation, to wit:

Relative to the Cherry Valley sewer district 2000-2001 project (see Senate, No. 2102);

Relative to motorcycle safety (see House, No. 2124, amended); and

Protecting the wages and tips of certain employees (see House, No. 4431, amended).

A petition (accompanied by bill, House, No. 4794) of Jennifer M. Callahan for legislation to establish a sick leave bank for Thomas McCabe, an employee of the Massachusetts Correctional Institution, Norfolk,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

A petition (accompanied by bill, House, No. 0000) of Salvatore F. DiMasi for legislation to further regulate unfair claim settlement practices involving multiple defendants in the business of insurance,— came from the House, under suspension of Joint Rule 12, referred to the committee on Insurance.

The Senate concurred in the suspension of Joint Rule 12, and NON-concurred in the reference to the committee on Insurance. On motion of Mr. Pacheco, the petition was referred to the committee on the Judiciary.

Sent to the House for its action.

House Order.

The following House Order (approved by the committees on Rules of the two branches, acting concurrently) was considered forthwith and adopted in concurrence, as follows, to wit:

Ordered, That notwithstanding the provisions of Joint Rule 10, the committee on Public Safety be granted until Wednesday, June 23, 2004, the time within which to report on current House documents numbered 2660 and 2661.

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 Senate Bill relative to creditable service for vocational education teachers (Senate, No. 1559, amended),— **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

Recess.

There being no objection, at seventeen minutes past eleven o'clock A.M., the Chair (Mr. Tolman) declared a recess subject to the call of the Chair; and, at a half past six o'clock P.M., the Senate reassembled, the President in the Chair.

On motion of Mr. Tolman, at twenty-nine minutes before seven o'clock P.M., the Senate recessed until the hour of eleven o'clock A.M., on Friday, June 4, 2004.
