

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, December 11, 2003.

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

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

Communications.

A communication was received from the President of the Senate of the appointment of Senators Richard T. Moore and Susan C. Tucker to the special commission (established under the provisions of Section 480 of Chapter 159 of the Acts of 2000) relative to End of Life Care.

A communication from the University of Massachusetts relative to the rules and regulations adopted by the Trustees of the University in 2003 (received Wednesday, December 10, 2003) (copies having been forwarded to the Governor, the Secretary of Administration and Finance and the Chairs of the Senate and House Committees on Ways and Means),— **was placed on file.**

Petitions.

Mr. Rosenberg presented a petition (accompanied by bill, Senate, No. 2171) of Stanley C. Rosenberg and Stephen Kulik for legislation relative to the classification of land in the town of Wendell [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Taxation. Sent to the House for concurrence.**

Petitions were presented and referred, as follows:

By Mr. Havern, a petition (subject to Joint Rule 12) of Robert A. Havern for legislation to establish a sick leave bank for Marguerite McWhinnie, an employee of the Cambridge District Court;

By Mr. Moore (by request), a petition (subject to Joint Rule 12) of Harold Klei for legislation to increase the tuition payable for school choice students attending classes in other educational jurisdictions;

By Mr. Morrissey (by request), a petition (subject to Joint Rule 12) of Sabina K. Stenberg for legislation to require students to respect senior citizen teachers; and

By the same Senator (by request), a petition (subject to Joint Rule 12) of Sabina K. Stenberg for legislation to require a cosmetologist who provide services in senior housing complexes to have a CORI check;**Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of a Committee.

Ms. Jacques, 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 Senate bills

Relative to the employment rights of volunteer ambulance service employees (Senate, No. 34);

Further regulating check cashing privacy (Senate, No. 63);

Relative to the Barnstable County charter (Senate, No. 143) ;

Relative to the crime of engaging in legal or medical running (Senate, No. 170);

Relative to the penalties for killing, maiming or poisoning of an animal (Senate, No. 198);

Relative to the reporting of child abuse to local law enforcement officials (Senate, No. 542);

Relative to the Board of Registration in Nursing (Senate, No. 569);

Relative to the compensation and expenses of members of the Board of Registration in Medicine (Senate, No. 634);

Regarding medical record retention requirements (Senate, No. 643);

Regarding eye exams for children (Senate, No. 687);

Authorizing municipalities to petition for public involvement plans in cases of hazardous material sites (Senate, No. 1234);

Relating to the distribution and sale of household cleaning products containing phosphorous (Senate, No. 1252);

Authorizing the appointment of Kenneth E. Wright as a police officer in the town of Mansfield (Senate, No. 1589);

Relative to the Dedham-Westwood Water District (Senate, No. 1965, changed);

Relative to hunter education (Senate, No. 2111);

Designating a certain roadway in the Veteran's Memorial cemetery in the town of Winchendon (Senate, No. 2126); and

Repealing certain antiquated laws pertaining to public health (Senate, No. 2157); and

The House bills

Relative to insurance fraud (House, No. 921)

Authorizing a public waterfront walkway to be exempted from the harbor line in the Charlestown Navy Yard in the city of Boston (House, No. 3857);

Relative to court advisement (House, No. 4135); and

Relative to the notarization of documents including electronic notarization (House, No. 4217, changed);

The Senate reports

Of the committee on Commerce and Labor, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 116) of Associated Industries of Massachusetts, by Robert Ruddock, Bruce E. Tarr, David P. Magnani and other members of the General Court for legislation to establish a secretary of economic development and technology; and

Of the committee on Public Service, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 1506) of Thomas M. McGee, Michael W. Morrissey, Steven M. Walsh and Kathi-Anne Reinstein for legislation to establish an early retirement incentive program for certain local government employees; and

The House report of the committee on Health Care, ought NOT to pass, on so much of the recommendations of the Division of Medical Assistance (House, No. 57) as relates to transferability between accounts (accompanied by bill, House, No. 61).

Committee Discharged.

Mr. Antonioni, for the committee on Education, Arts and Humanities, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 263) of Robert A. Havern for legislation relative to health insurance benefits for certain higher education employees,— and recommending that the same be referred to the committee on Public Service.

**Under Senate Rule 36, the report was considered forthwith and accepted.
Sent to the House for concurrence.**

PAPER FROM THE HOUSE.

Notice was received that the Speaker of the House had announced the following appointments: Representatives Harkins of Needham, Patrick of Falmouth, Spilka of Ashland, Stanley of Waltham, Murphy of Weymouth, St. Fleur of Boston and Casey of Winchester (co-chair) to the special commission established (under Section 604 of Chapter 26 of the Acts of 2003) to report on alternatives to using the property tax to fund public education.

Resolutions.

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

Resolutions (filed by Ms. Menard, Messrs. Pacheco and Montigny and Mrs. Sprague) “congratulating Bernadette ‘Bonnie’ Coughlin on the occasion of her retirement.”

Report of Committees.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Frederick E. Berry for legislation relative to the computerization of the examination for certification for the practice of public accountancy.

**Senate Rule 36 was suspended, on motion of Mr. Berry, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Government Regulations.
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 designating a certain bridge as the Paul D. Harold Memorial Bridge (Senate, No. 1980, changed),— **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 designating a certain bridge in the city of Quincy as the Paul D. Harold memorial bridge”.**

Sent to the House for concurrence.

The Senate Bill designating state highway route 146 in the town of Uxbridge as the Lydia Taft Highway (Senate, No. 1890) (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.

PAPERS FROM THE HOUSE.

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 Governor for his approbation, to wit:

Authorizing an increase in fines for parking violations on the island of Nantucket (see Senate, No. 1169);

Relative to a certain parcel of land in the town of Ipswich (see Senate, No. 1178);

Relative to certain funds of the town of Charlton (see Senate, No. 2059);

Authorizing the town of Monroe to lease certain land (see House, No. 3993, changed);

Providing for an appointed town treasurer and town collector in the town of Charlton (see House, No. 4105); and

Authorizing the town of Florida to lease certain land (see House, No. 4163, changed).

Petition.

On motion of Mr. Berry, Senate Rule 20 and Joint Rule 12 were suspended on the petition, presented by Mr. Berry, (accompanied by bill, Senate, No. 2175) of Frederick E. Berry and Joan M. Menard for legislation relative to the creation of civil unions in the Commonwealth,— **and the same was referred to the committee on Senate Ethics and Rules.**

Report of a Committee.

By Mr. Brewer, for the Senate committee on Ethics and Rules, on petition, a Bill relative to civil unions (Senate, No. 2175). **The bill was read. There being no objection, the rules were suspended, on motion of Mr. Tolman, and the bill was read a second time and ordered to a third reading.**

Orders Adopted.

Mr. Tolman offered the following order:

Whereas, there is pending before the Senate a bill, printed as Senate, No. 2175, entitled “An Act relative to civil unions” (“the bill”), a copy of which is attached to this order; and

Whereas, the bill inserts a new chapter 207A in the General Laws, providing that eligible same-sex couples may form civil unions with all “benefits, protections, rights and responsibilities” of marriage, but may not enter into a marriage; and

Whereas, on November 18, 2003, the Supreme Judicial Court, in the case of *Goodridge v. Department of Public Health*, declared that statutes may not bar same-sex couples from “the protections, benefits, and obligations of civil marriage” but delayed entry of judgment for 180 days “to permit the Legislature to take such action as it may deem appropriate in light of this opinion”; and

Whereas, grave doubt exists whether the bill, if enacted, would, violate the equal protection and due process requirements of the Constitution of the Commonwealth and articles 1, 6, 7, 10, 12 and 16 of the Declaration of Rights; therefore be it

Ordered, that the opinions of the Honorable Justices of the Supreme Judicial Court be required on the following important question of law:

Does Senate, No. 2175, which prohibits same-sex couples from entering into marriage but allows them to form civil unions with all “benefits, protections, rights and responsibilities” of marriage, comply with the equal protection and due process requirements of the Constitution of the Commonwealth and articles 1, 6, 7, 10, 12 and 16 of the Declaration of Rights? (Senate, No. 2176).

There being no objection, the order was considered forthwith; and it was adopted.

On motion of Mr. O’Leary,—

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 Ms. Fargo, at nineteen minutes before one o’clock P.M., the Senate adjourned to meet on the following Monday at eleven o’clock A.M.