

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 16, 2004.

Met at four minutes past eleven o'clock A.M. (Mr. Hart 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. Hart), members, guests and employees then recited the pledge of allegiance to the flag.

Distinguished Guests.

There being no objection, the Chair (Mr. Hart) handed the gavel to Mr. Tolman for the purpose of an introduction. Mr. Tolman introduced seated at the rear of the Chamber, Brandon and Tommy Bradley. Brandon a long-time employee at UMass and Tommy, a police officer, were visiting the State House as guests of Senator Tolman.

Communication.

A communication from the University of Massachusetts relative to the rules and regulations adopted by the Trustees of the University in 2004 (received Thursday, December 9, 2004) (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.**

Petition.

Ms. Chandler presented a petition (subject to Joint Rule 12) of Harriette L. Chandler for legislation to establish a sick leave bank for Timothy A. LeMay Jr., an employee of the Department of Correction,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of Committees.

By Mr. Creedon, for the committee on the Judiciary, on petition, a Bill establishing a sick leave bank for James E. Vesey, an employee of the Boston Municipal Court (Senate, No. 2513);

By Mr. Tolman, for the committee on Public Service, on the recommitted petition, a Bill authorizing the Teachers Retirement System to grant certain creditable service for Mary Donna Nodurf (Senate, No. 1499) (Representative Koczera of New Bedford dissenting);

Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

By Mr. Tolman, for the committee on Public Service, on petition, a Bill relative to civil service and firefighters (Senate, No. 3);
Read and, under Senate Rule 26, referred to the committee on Steering and Policy.

Committee Discharged.

Ms. Fargo, for the committee on Local Affairs and Regional Government, reported, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 2508) of Richard T. Moore (by vote of the town) for legislation to authorize the purchase of property for school and general municipal purposes in the town of Uxbridge; and

Of the petition (accompanied by bill, Senate, No. 2512) of Richard T. Moore and Mark J. Carron (with the approval of the town council) for legislation relative to the financial conditions in the town of Southbridge;

And recommending that the same be severally referred to the Senate committee on Ways and Means.

Under Senate Rule 36, the reports were severally considered forthwith and accepted.

Severally sent to the House for concurrence in the discharge of the joint committee.

PAPERS FROM THE HOUSE.

Bills

Relative to the definition of blind persons (House, No. 7,— on so much of the recommendations of the Commission for the Blind); and

Directing the Commissioner of Revenue to accept a certain application for abatement of taxes (House, No. 5123,— on House order No. 5090);

Were severally read and, under Senate Rule 26, referred to the committee on Steering and Policy.

A Bill providing for recall elections in the town of Groveland (House, No. 4171,— on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Resolutions.

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

Resolutions (filed by Mr. Knapik) “honoring Russell J. McNiff, Sr., Chief Marshal of the 2005 Saint Patrick’s Day Parade in Holyoke”; and

Resolutions (filed by Ms. Wilkerson) “commending Christine Cooper.”

PAPERS FROM THE HOUSE.

Engrossed Bills.

An engrossed Bill relative to crimes against the elders and persons with disabilities (see Senate, No. 1083, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— came before the Senate for its final passage.

Senate Rule 49 was suspended, on motion of Mr. Nuciforo.

Pending the question on passing the engrossed bill to be enacted, Mr. Creedon presented the following amendment:—

By adding the following 2 sections:—

“SECTION 8. Said section 13K of said chapter 265, as so appearing, is hereby further amended by inserting after paragraph (d) the following paragraph:—

(d½) Whoever, being a caretaker of an elder or person with a disability, wantonly or recklessly commits or permits another to commit abuse, neglect or mistreatment upon such elder or person with a disability, shall be punished by imprisonment in the state prison for not more than 3 years, or imprisonment in the house of correction for not more than 2½ years, or by a fine of not more than \$5,000, or by both such fine and imprisonment.

SECTION 9. Section 38 of said chapter 265 is hereby repealed.”

The amendment was adopted.

Sent to the House for concurrence in the amendment.

An engrossed Bill relative to the appointment of special police officers in the city of Melrose (see House Bill, printed as Senate, No. 2452) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— came before the Senate for its final passage.

Senate Rule 49 was suspended, on motion of Mr. Tolman.

Pending the question on passing the engrossed bill to be enacted, Mr. Tisei offered the following amendments:—

In section 2, by striking out the words “, section 99A of chapter 41 of the General Laws or sections 100 and 111F of said” and inserting in place thereof the following words:— “or section 99A of”;

By striking out section 7 and inserting in place thereof the following section:—

“SECTION 7. Special police officers appointed under this act shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under said section 111F of said chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks before the incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate when a special police officer reaches the age of 65. If the age limitation applicable to regular police officers serving a town increased from 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided in this section for special police officers, shall terminate at such a higher age limit, but in no event shall the benefits extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H of said chapter 32, nor eligible for any benefits pursuant thereto.”; and

In section 8, by striking out the second sentence.

The amendment was adopted.

Sent to the House for concurrence in the amendment.

Report of a Committee.

By Mr. Shannon, for the Senate committee on Bills in the Third Reading, to whom was referred the Governor’s message with recommendation of amendment to the engrossed Bill relative to the appointment of retired police officers in the town of Wakefield (see Senate, No. 2375) [for message, see Senate, No. 2507],— reported, that if the Senate adopts the amendment, it be adopted in the following form:

By striking out, in section 2, the words “, section 99A or sections 100 and 111F” and inserting in place thereof the following words:— “or section 99A”; by striking out section 7 and inserting in place thereof the following section:—

“SECTION 7. Special police officers appointed under this act shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under said section 111F of said chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks prior to the incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of said chapter 41 shall terminate when a special police officer reaches the age of 65. If the age limitation applicable to regular police officers serving a town is increased from 65 years of age, the termination of benefits under said section 111F of said chapter 41, as provided in this section for special police officers, shall terminate at such a higher age limit, but in no event shall the benefits extend beyond the age of 70 for any special police officer. Special police officers appointed under this act shall not be subject to section 85H of said chapter 32, nor eligible for any benefits pursuant thereto.”; and

In section 8, by striking out the second sentence.

The report was accepted.

The engrossed bill was then before the Senate for amendment and re-enactment. On motion of Mr. Tisei, the Senate adopted the amendment, as recommended by the committee on Bills in the Third Reading.

Sent to the House for concurrence in the amendment.

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 creditable service for ambulance paramedics in the town of Billerica (House, No. 4466, amended),— **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 group marketing plans (House, No. 4808,— on House, No. 1697),— 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.

A Bill establishing a capital depreciation fund in the town of Paxton (House, No. 5115,— on petition) [Local approval received],— was read.

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

Report of Committees.

By Mr. Brewer, for the committees on Rules of the two branches, acting concurrently, that the Senate Bill relative to the special commission on the equity of fares between modes of transportation (Senate, No. 2503, changed),— ought to pass.

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, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act relative to the special commission on the equity of fares between modes of transportation.”

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 5157) of Edward G. Connolly (with the approval of the mayor and city council) relative to the calculation of retirement allowances payable to Ralph Cecere, a former teacher in the school department of the city of Everett,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.**

Emergency Preambles Adopted.

An engrossed Bill relative to the terms of certain bonds to be issued by the Commonwealth (see House Bill, printed in House, No. 5108), 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 Acting President and sent to the House for enactment.

An engrossed Bill relative to the reporting of abuse of elders (see House, No. 1116), 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 6 to 0.

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

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:

Establishing an economic development fund in the town of Plymouth (see Senate, No. 2390);

Relative to insurance coverage for tenant relocation expenses (see House, No. 1879, amended);

Relative to the joint underwriting association (see House, No. 4672);

Authorizing the certification for appointment of Eric K. Gouck as a firefighter in the town of North Attleborough (see House, No. 4963); and

Relative to elections in the town of North Attleborough (see House, No. 5012).

A Bill exempting a certain project in the town of Needham from the provisions Chapter 193 of the Acts of 2004 (House, No. 5150,— being a message from His Excellency the Governor),— was read.

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

Pending the question on ordering the bill to a third reading, Ms. Wilkerson moved that the bill be amended by striking out section 1 and inserting in place thereof the following section:—

“SECTION 1. Until December 31, 2004, sections 44A½, 44D½ and 44D¾ of chapter 149 of the General Laws shall not apply to the project for renovations and construction of additions to Needham high school, as authorized by the town of Needham at its 2003 annual town meeting. The project shall comply with these sections after December 31, 2004, and shall also comply with all other laws.”

The amendment was adopted.

Ms. Wilkerson and Messrs. Tolman and Brown moved that the bill be amended by adding the following section:—

“SECTION 3. Notwithstanding any general or special law to the contrary, any non-compliance with any provision of chapter 149 of the General Laws by the project for renovations and construction of additions in the town of Needham, as authorized by the town of Needham at its 2003 annual town meeting and which has received a commitment for reimbursement at a reimbursement rate of 50 per cent of the costs of the project from the Massachusetts School Building Authority pursuant to chapter 70B of the General Laws, shall not result in any change in the reimbursement for the project as previously approved by the Authority.”

The amendment was 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 amendment, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act exempting a certain project in the town of Needham from certain public construction requirements.”
Sent to the House for concurrence in the amendments.

Emergency Preamble Adopted.

An engrossed Bill authorizing the conveyance of a certain parcel of land in the city of Revere (see Senate, No. 2514, 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.

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 Governor for his approbation, to wit:

Relative to the reporting of abuse of elders (see House, No. 1116, amended);

Relative to creditable service for ambulance paramedics in the town of Billerica (see House, No. 4466, amended); and

Relative to the terms of certain bonds to be issued by the Commonwealth (see House Bill, printed in House, No. 5108).

Recess.

There being no objection, at fourteen minutes past twelve o’clock noon, the Chair (Mr. Hart) declared a recess; and at eight minutes before two o’clock P.M., the Senate reassembled, Mr. Hart in the Chair.

PAPERS FROM THE HOUSE.

Engrossed Bills.

An engrossed Bill exempting a certain project in the town of Needham from certain public construction requirements (see House Bill, printed in, House, No. 5150, amended) (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 Acting President and laid before the Governor for his approbation.**

An engrossed Bill authorizing the conveyance of a certain parcel of land in the city of Revere (see Senate, No. 2514, amended) (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 Acting President and laid before the Governor for his approbation.**

The Senate Bill relative to the retirement of certain persons (Senate, No. 2458),— came from the House passed to be engrossed, in concurrence *with amendments* in section 2, in line 3, in section 3, in line 3, and in section 4, in line 5, by striking out the date “July 1, 2004” and inserting in place thereof, in each instance, the date “July 1, 2005”.

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

Order Adopted.

On motion of Mr. Brown,—

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. Brown, at five minutes before two o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.