

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, April 15, 2004.

Met at three minutes past eleven o'clock A.M. (Ms. Walsh in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Senator from Worcester and Norfolk, Mr. Moore, led, the Chair (Ms. Walsh), members, guests and employees in the recitation of the pledge of allegiance to the flag.

Petitions.

Petitions were presented and referred as follows:

By Ms. Resor, a petition (accompanied by bill, Senate, No. 2326) of Pamela P. Resor, Karyn E. Polito, Paul J.P. Loscocco and George N. Peterson, Jr. (by vote of the town) for legislation to authorize the town of Westborough to grant an additional license for the sale of wines and malt beverages to be drunk on the premises [Local approval received]; and

By the same Senator, a petition (accompanied by bill, Senate, No. 2327) of Pamela P. Resor, Karyn E. Polito, Paul J.P. Loscocco and George N. Peterson, Jr. (by vote of the town) for legislation to authorize the town of Westborough to grant 3 additional licenses for the sale of all alcoholic beverages to be drunk on the premises [Local approval received];

Severally, under Senate Rule 20, to the committee on Government Regulations.

By Ms. Menard, a petition (accompanied by bill, Senate, No. 2325) of Joan M. Menard and Patricia A. Haddad (by vote of the town) for legislation relative to the town of Swansea;

Under Senate Rule 20, to the committee on Local Affairs and Regional Government.

Severally sent to the House for concurrence.

Petitions were presented and referred, as follows:

By Mr. Lees, a petition (subject to Joint Rule 12) of Brian P. Lees for legislation relative to retirement benefits for Joan M. Reilly; and

By Ms. Menard, a petition (subject to Joint Rule 12) of Joan M. Menard and David B. Sullivan for legislation to establish a sick leave bank for Sally Lamarre;

Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of Committees.

By Ms. Murray, for the committee on Ways and Means, that the Senate bills

Codifying the hepatitis C program (Senate, No. 553);

Relative to frozen desserts and frozen dessert mix (Senate, No. 586);

Relative to licensing of milk pasteurization plants located within the Commonwealth (Senate, No. 596); and

Relative to the Department of Housing and Community Development (Senate, No. 700);

Severally ought to pass.

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

By Ms. Murray, for the committee on Ways and Means, that the Senate bills

Relative to the state wildfire team (Senate, No. 35), ought to pass, with an amendment, by striking out, in section 1, in line 7, the words “other than a temporary position in the employ of any employer” and inserting in place thereof the following words:— “in the employ of the commonwealth or of any city or town in the commonwealth, other than a temporary position,”; and by striking out, in section 1, the last sentence.;

Penalizing domestic abusers (Senate, No. 154),— ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2328);

Relative to managed care contracts with home health agencies (Senate, No. 860),— ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2329);

To protect consumers from unauthorized telephone and cable charges (Senate, No. 2031),— ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2330);

Relative to banks and banking (Senate, No. 2045),— ought to pass, with an amendment, by inserting, in section 1, after the definition of “Federal bank,” the following definition: “ ‘Federal branch’, a branch in the commonwealth of any out-of-state federal bank.”; by striking out in section 4, the last sentence; by striking out, in section 15, the definition of “Real estate” and inserting in place thereof the following definition:— “ ‘Real estate’, land or property, without geographic limitation, including improved land with a dwelling, owner occupied dwellings, or unoccupied dwellings unimproved land, farmland, a unit of a condominium, shares of stock issued by a co-operative housing corporation, industrial and commercial property, leasehold interests created in air rights over land, and any other interest in land; but a loan secured by real estate shall include a loan on a leasehold under a lease which does not expire for at least 5 years beyond the maturity date of the loan.”; and by striking out, in section 15, in lines 154, 155 and 156, the word “stock”, each time it appears; and

Requiring college students immunization against meningococcal disease (Senate, No. 2159),— ought to pass, with an amendment, in section 1, by striking out, in line 8, the word “residency” and inserting in place thereof the following word:— “matriculation”; and in section 2, by striking out, in line 2, the words “for September” and inserting in place thereof the words: “in or after August”;

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

Mr. Magnani, 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

Prohibiting illegal videotaping (Senate, No. 177);

Protecting the environment (Senate, No. 1193);

Further regulating the sale and advertising of certain produce and turkeys (Senate, No. 1200);

Authorizing the Massachusetts Highway Department to install certain signs (Senate, No. 1887);

Relative to pilotage in Massachusetts (Senate, No. 2097);

Relative to the definition of Korean War veteran (Senate, No. 2136);

Relative to the Massachusetts Credit Union Share Insurance Corporation (Senate, No. 2267);

Requiring written responses to inquiries from family members and guardians of nursing home, rest home and long-term care facility residents (Senate, No. 2275); and

To extend the ban on assault weapons and further reduce gun violence in the Commonwealth (Senate, No. 2282); and

The House bills

Relative to the removal of veterans' commemorative flag holders (House, No. 2390); and

Relative to public charities (House, No. 4234); and

The House reports

Of the committee on Insurance, ought NOT to pass, on so much of the recommendations of the Division of Medical Assistance (House, No. 57) as relates to the MassHealth insurance claim payment intercept program (accompanied by bill, House, No. 60);

Of the committee on Transportation, ought NOT to pass, on the message from His Excellency the Governor recommending legislation relative to the financial sustainability of the Massachusetts Turnpike Authority (accompanied by bill, House, No. 3804).

Committees Discharged.

Mr. Brewer, for the committee on Ethics and Rules, to whom was referred the Senate Order relative to authorizing the joint committee on Taxation to make an investigation and study of certain Senate documents relative to taxation (Senate, No. 2301), reported, in part, asking to be discharged from further consideration

Of the Senate petition (accompanied by bill, Senate No. 1737) of Susan C. Fargo, Richard T. Moore, Brian A. Joyce, Bruce E. Tarr and other members of the General Court for legislation relative to the public listing of state tax delinquents;

Of the Senate petition (accompanied by bill, Senate No. 2018) of Susan C. Fargo and Susan W. Pope (by vote of the town) for legislation to authorize the town of Lincoln to regulate certain property tax exemption eligibility requirements for the elderly; and

Of the Senate petition (accompanied by bill, Senate No. 2053) of Susan C. Fargo and Alice Hanlon Peisch (by vote of the town) for legislation to authorize the town of Weston to regulate certain property tax exemption eligibility requirements for the elderly.

And recommending that the same be severally recommitted to the committee on Taxation.

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

Mr. Tolman, for the committee on Public Service, reported, asking to be discharged from further consideration of the recommitted petition (accompanied by bill, Senate, No. 1572) of Andrea F. Nuciforo, Jr., Peter J. Larkin, William Smitty Pignatelli and other members of the General Court for legislation to include employees of the Berkshire Regional Planning Commission in the state retirement system,— and recommending that the same be referred to the Senate committee on Ways and Means.

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

Sent to the House for concurrence in the discharge of the joint committee.

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill relative to criminal offender record information checks for assisted living employees (see House, No. 4390, 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 4 to 0.

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

Bill Returned with Recommendation of Amendment.

A message from the Secretary of the Commonwealth, Acting-Governor, returning with recommendation of amendment the engrossed Bill providing for a charter for the town of Dudley (see House, No. 4428) [for message, see House, No. 4652],— came from the House with the endorsement that the House adopted the amendment (as recommended by the committee on Bills in the Third Reading), as follows:—

In Part III (as printed), by striking out, in lines 92 and 222, the word “Regional” and inserting in place thereof, in each instance, the word “Dudley”, by striking out, in lines 93 and 94 the words “Outside of the Town’s immediate control” and inserting in place thereof the words “As provided by law or agreement”, by striking out, in line 108 the words “Full time employees” and inserting in place thereof the word “Employees”, by striking out, in lines 228 and 229, the words “by the Secretary of the Communities and Development of the Commonwealth” and inserting in place thereof the words “as provided by state law”; in Part IV, by striking out, in lines 326 and 327, 340 and 341, 365 and 366, and in line 372, the words “volunteer committee members” and inserting in place thereof, in each instance, the words “multiple-member bodies”, by striking out, in line 342, the words “Assessor Advisory Committee (Board of Assessors)” and inserting in place thereof the words “Board of Assessors”, by

striking out, in line 347, the words “Central MA Planning Committee” and inserting in place thereof the words “Central Massachusetts Regional Planning Commission”, by striking out, in line 349, the words “Conservation Advisory Committee (Conservation Commission)” and inserting in place thereof the words “Conservation Commission”, by striking out, in line 415, the words “Assessor Advisory Committee” and inserting in place thereof the words “Board of Assessors”; in Part V, by striking out the sentence contained in lines 555 to 558, inclusive, and inserting in place thereof the following two sentences “Make recommendations to the Board of Selectmen for new town departments, boards, and committees, which may include reassignments of powers, duties, and responsibilities. The Board of Selectmen may recommend such changes to town meeting for implementation by adoption or revision of the town’s bylaws or of this charter, as may be applicable.”; in Part VI, by inserting after the word “and”, in line 644, the words “those providing”, by striking out, in lines 665, and 666, the words “The following officials/town employees presently appointed by the Board of Selectmen will be hired by the Town Manager.” and inserting in place thereof the words “Upon adoption of this charter, the following officials and town employees shall be appointed by the Town Manager.”, by striking out, in lines 675 and 676, the words “The following officials/employees presently appointed by the boards and commissions will be hired by the Town Manager.” and inserting in place thereof the words “Upon adoption of this charter, the following officials and town employees shall be appointed by the Town Manager.”, by striking out lines 683 to 686, inclusive, and inserting in place thereof the words “Upon adoption of this charter, the Town Manager shall appoint the Collector and Treasurer.”, by striking out, in lines 702 and 703, the words “, Highway Commission (Board of Selectmen)” and inserting in place thereof the words “by the Board of Selectmen acting as the Highway Commission”, by striking out, in line 724, the words “are hereby transferred to the DPW” and inserting in place thereof the words “Shall be transferred to DPW as soon as the DPW is established pursuant to section 9-5(d) of this chapter”, by striking out, in line 814, the words “Personnel Department” and inserting in place thereof the words “Personnel Advisory Committee”; in Part IX, by inserting after the word “established”, in line 1072, the words “except as otherwise provided in this charter”.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

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

Sent to the House for re-enactment.

A Bill extending the time for submitting nomination papers for certain State Representative districts (House, No. 4661,— on House, No. 4640),— 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, its title having been changed by the committee on Bills in the Third Reading to read as follows:” An Act extending the time for submitting nomination papers for certain state representative districts in the year 2004.”.

Resolutions.

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

Resolutions (filed by Messrs. Creedon, O’Leary and Tolman) “congratulating the Knights and Ladies of Saint Finbarr on the occasion of its one hundredth anniversary”;

Resolutions (filed by Mr. Joyce and Ms. Walsh) “congratulating Reverend F. Washington Jarvis”;

Resolutions (filed by Mr. Joyce) “honoring Joseph P. Moore for his exceptional service to the Commonwealth”;

Resolutions (filed by Mr. Knapik) “honoring Stephen M. Corrigan”;

Resolutions (filed by Mr. Knapik) “honoring Thomas Daley upon his retirement”;

Resolutions (filed by Mr. Knapik) “on the retirement of John “Jack” Danahey”;

Resolutions (filed by Mr. Knapik) “honoring L. Douglas LaPlante”;

Resolutions (filed by Mr. Montigny) “congratulating Janelle Guenette on being crowned Miss Massachusetts Junior Teenager 2004”;

Resolutions (filed by Mr. Montigny) “recognizing the week of May 8 to May 15 as Multiple Sclerosis Week”;

Resolutions (filed by Mr. Pacheco) “congratulating John Abreau, Sr.”;

Resolutions (filed by Mr. Pacheco) “honoring Harold and Peg Atkins for their outstanding community service”;

Resolutions (filed by Mr. Pacheco) “on the seventy-fifth anniversary of the Portuguese-American Civic Club of Taunton”;

Resolutions (filed by Ms. Resor) “on the fiftieth wedding anniversary of Ronald M. Leonard and Tommie J. Leonard”;

Resolutions (filed by Mrs. Sprague) “congratulating Matthew John Thomas of Rehoboth upon his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mrs. Sprague) “congratulating Joseph Driscoll Greaney of Medfield upon his elevation to the rank of Eagle Scout”; and

Resolutions (filed by Mrs. Sprague) “congratulating Perry Alexander Hall of Medfield upon his elevation to the rank of Eagle Scout.”

Report of a Committee.

A report of the committee on Taxation, ought NOT to pass (under Joint Rule 10) on the petition (accompanied by bill, Senate, No. 2099) of Thomas M. McGee, Robert A. DeLeo and Michael E. Festa for legislation to exempt sales of pilot boats from sales tax requirements (the time within which said committee had to report having expired).

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the matter was considered forthwith. On motion of Mr. Tolman, the petition was recommitted to the committee on Taxation.

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 town of Maynard to grant an easement over certain conservation land (printed in Senate, No. 2169),— was read a third time.

Ms. Resor presented an amendment striking out section 1 and inserting in place thereof the following section:—

“SECTION 1. The conservation commission of the town of Maynard may allow the department of public works of the town to construct and maintain a 15-foot-wide water main on conservation land as shown on Assessor’s Map 5, parcel 4 and referenced in a deed in the South Middlesex registry of deeds, Book 23826, Page 176. The conservation commission may require appropriate mitigation to return the conservation land to its condition before the construction.”.

The amendment was adopted.

The bill (Senate, No. 2169, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill relative to the retirement and health benefits of certain elected officials of the town of Richmond (House, No. 4236),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

Report of a Committee.

By Ms. Murray, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Sheila Mahan, an employee of the Trial Court of the Commonwealth (House, No. 4481),— ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Barrios, 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 by the committee on Bills in the Third reading to read as follows: “An Act establishing a sick leave bank for Sheila Mahan, an employee of the Trial Court.”.

PAPERS FROM THE HOUSE.

A Bill relative to the taxation of certain property in the town of Belmont (House, No. 3980,— on petition) [Local approval received],—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 to extend the service of Massachusetts National Guard Adjutant General George W. Keefe for a period of one year (printed in House, No. 4568,— being a message from His Excellency the Governor),— was read.

There being no objection, the rules were suspended, on motion of Mr. Brewer, 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 by the committee on Bills in Third Reading to read as follows: “An Act extending the service of the incumbent Adjutant General.”.

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:

Authorizing the town of Dighton to establish a special fund (see House, No. 455, amended);

Relative to police mutual aid agreements (see House, No. 593, amended);

Designating a certain bridge in the city known as the town of Methuen as the Joseph S. Franciosa Bridge (see House, No. 3898);

Relative to parking fines in the town of Chatham (see House, No. 4078);

Relative to parking fines in the town of Harwich (see House, No. 4079);

Relative to parking fines in the city of Haverhill (see House, No. 4210); and

Authorizing the city of Lowell to pay a certain unpaid bill (see House, No. 4216).

An engrossed Bill authorizing the town of Hingham to grant certain licenses for the sale of alcoholic beverages (see Senate Bill, printed in House, No. 4368) (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, 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.**

Reports 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 Robert S. Edwards for legislation to prevent soccer-related brain injuries in all public schools, vocational schools and colleges.

Senate Rule 36 was suspended, on motion of Mr. Tolman, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Education, Arts and Humanities.

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 Joan M. Menard, Patricia A. Haddad, Mark A. Howland, Robert Correia and other members of the General Court for legislation relative to the prescription advantage program.

Senate Rule 36 was suspended, on motion of Mr. Tolman, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Health Care. Severally sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4669) of David M. Torrissi and other members of the General Court that long-term care facilities be directed to notify the Department of Public Health of voluntary closures of such facilities;

Under suspension of Joint Rule 12, to the committee on Health Care.

Petition (accompanied by bill, House, No. 4670) of Robert M. Koczera and Michael F. Rush relative to the annual adjustment of disability retirement allowances; and

Petition (accompanied by bill, House, No. 4671) of Walter F. Timilty relative to the granting of eligibility to Michael Balestra for appointment to certain police departments in the Commonwealth;

Severally, under suspension of Joint Rule 12, to the committee on Public Service.

Engrossed Bill.

An engrossed Bill relative to criminal offender record information checks for assisted living employees (see House, No. 4390, 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 and was signed by the Acting President and laid before the Governor for his approbation.**

Recess.

There being no objection, at twenty-two minutes past eleven o'clock A.M., the Chair (Ms. Walsh) declared a recess subject to the call of the Chair; and, at eighteen minutes past twelve o'clock noon, the Senate reassembled, Ms. Walsh in the Chair.

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill extending the time for submitting nomination papers for certain State Representative districts (see House, No. 4661), 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.

Engrossed Bill.

An engrossed Bill providing for a charter for the town of Dudley (see House, No. 4428) (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 re-enacted and was signed by the Acting President and again laid before the Governor for his approbation.**

Bill Returned with Recommendation of Amendment.

A message from the Secretary of the Commonwealth, Acting Governor, returning with recommendation of amendment the engrossed Bill authorizing the town of Wellesley to establish a group insurance liability fund (see House, No. 3869) [for message, see House, No. 4618],— came from the House with the endorsement that the House adopted the amendment (as recommended by the committee on Bills in the Third Reading), by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4627.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

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

Sent to the House for re-enactment

Emergency Preamble Adopted.

An engrossed Bill extending the service of the incumbent Adjutant General (see House Bill, printed in House, No. 4568), 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 Bill.

An engrossed Bill extending the time for submitting nomination papers for certain State Representative districts (see House, No. 4661) (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 and was signed by the Acting President and laid before the Governor for his approbation.**

Order — Amended.

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

Ordered, That notwithstanding the provisions of Joint Rule 10, the committee on Taxation be granted until Thursday, April 15, 2004 to make its final report on current House document 4485 and current Senate documents 1804 and 2180.

Pending the question on adoption of the order, Mr. Creem offered an amendment striking out the words “Thursday, April 15, 2004” and inserting in place thereof the words “Friday, April 23, 2004”.

The amendment was adopted.

The order, as amended, was then adopted.

Sent to the House for concurrence in the amendment.

Order Adopted.

On motion of Mr. Tarr,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Tuesday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

On motion of the same Senator, at twenty-nine minutes before one o'clock P.M., the Senate adjourned to meet on the following Tuesday at eleven o'clock A.M.