

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, July 31, 2003.

Met at one minute 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, Ms. Chandler, then led the Chair (Ms. Walsh), members, guests and employees in the recitation of the pledge of allegiance to the flag.

Senate Standing Committee — Appointments.

Notices were received from the President and the Minority Leader that they had appointed Senators Havern, Melconian, Berry, Menard, Walsh and Knapik to the newly established Senate standing committee on Federal Financial Assistance. **The communications were placed on file.**

Communication.

A communication from the Secretary of Health and Human Services relative to the Prescription Drug Advantage Program (received Wednesday, July 30, 2003),— **was placed on file.**

Petitions.

Mr. Barrios presented a petition (accompanied by bill, Senate, No. 2057) of Thomas G. Ambrosino, mayor, and Jarrett T. Barrios (with the approval of the mayor and city council) for legislation relative to the issuance of certain bonds by the city of Revere [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Local Affairs and Regional Government.**
Sent to the House for concurrence.

Petitions were presented and referred, as follows:

By Mr. Glodis, a petition (subject to Joint Rule 12) of Guy W. Glodis for legislation relative to the average price charged for prescription drugs by the manufacturer; and

By Mr. Panagiotakos, a petition (subject to Joint Rule 12) of Steven C. Panagiotakos for legislation to establish the wrongfully convicted compensation commission;

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

Reports of Committees.

By Ms. Resor, for the committee on Natural Resources and Agriculture, on petition, a Bill providing improved management of state forests (Senate, No. 1205);

By the same Senator, for the same committee, on petition, a Bill to protect the Commonwealth's hemlock trees (Senate, No. 1209);

By the same Senator, for the same committee, on petition, a Bill to authorize the Department of Environmental Management and the Division of Fisheries and Wildlife to acquire certain conservation restrictions in and to lands owned by the cities of New Bedford and Taunton and the towns of Freetown, Lakeville, Middleborough and Rochester (Senate, No. 1229);

By the same Senator, for the same committee, on petition, a Bill protecting the natural and historic resources of the Commonwealth (Senate, No. 1254);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1228), a Bill relative to the Lynn and Nahant MDC parking facilities (Senate, No. 2054); and

By Ms. Wilkerson, for the committee on State Administration, on petition (accompanied by bill, Senate, No. 1711), a Bill to require disclosure of locations and conditions of manufacture of service and supplies furnished to the Commonwealth (Senate, No. 2055);

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

By Ms. Resor, for the committee on Natural Resources and Agriculture, on petition, a Bill to enhance the management of problem wildlife (Senate, No. 1207); and

By the same Senator, for the same committee, on petition, a Bill relative to the shellfish wardens training program (Senate, No. 1238);

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

By Mr. Morrissey, for the committee on Government Regulations, on petition (accompanied by bill, House, No. 3721), a Bill authorizing the town of Millbury to grant four additional licenses for the sale of alcoholic beverages to be drunk on the premises (Senate, No. 2056) [Local approval received on House No. 3721];

Read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

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 execution of certain mortgage-related instruments (Senate, No. 6);

Regulating the use of anabolic steroids (Senate, No. 540); and

To ensure parents of children prescribed psychotropic drugs receive adequate information (Senate, No. 674); and

The House Bill concerning the conveyance of certain park land in the town of Yarmouth (House, No. 3899); and

The Senate reports

Of the committee on Banks and Banking, ought NOT to pass:

On the petition (accompanied by bill, Senate, No. 12) of Thomas M. McGee, Robert F. Fennell and Steven M. Walsh for legislation relative to late payment fees on open end credit accounts;

On the petition (accompanied by bill, Senate, No. 18) of Charles E. Shannon, Carol A. Donovan, David P. Linsky and Brian A. Joyce for legislation relative to banking fees; and

On the petition (accompanied by bill, Senate, No. 22) of Marian Walsh for legislation to provide for consent and full disclosure in bank deposits held in trust for another.

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 Banks and Banking to make an investigation and study of Senate document numbered 7, relative to insurance sales by credit unions (Senate, No. 2046); and

Of the Senate Bill relative to a special commission to develop 401(K) plans for small businesses (Senate, No. 54);

And recommending that the same severally be referred to the Senate committee on Ethics and Rules.

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

Ms. Resor, for the committee on Natural Resources and Agriculture, reported, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 1214) of John A. Hart, Jr. and Martin J. Walsh for legislation to direct the Division of Waterways to dredge the harbor area surrounding the Old Colony Yacht Club in the city of Boston; and

Of the petition (accompanied by bill, Senate, No. 1235) of Michael W. Morrissey and Bruce J. Ayers for legislation to authorize the Division of Waterways to dredge the harbor surrounding Quincy's Marina Bay;

And recommending that the same severally be 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.

PAPER FROM THE HOUSE.

A Bill relative to the appointment of retired police officers as special police officers in the town of Acushnet (House, No. 3923,—on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Communication.

The Clerk read the following communication:

July 30, 2003.

Mr. Patrick F. Scanlan

Clerk of the Senate

State House, Room 335

Boston, MA 02133

Dear Mr. Clerk:

Due to my brief absence from the Senate chamber during the formal session on Thursday, July 17, 2003, I missed three roll call votes relative to the Governor's reductions and disapprovals made to the fiscal year 2004 budget.

Had I been present, I would have voted in the affirmative on the following roll call votes, including: roll call 272 relative to the Greater Lawrence sanitary district (Section 680) and roll call 277 relative to the commonwealth zoological corporation (line item 2800-0200). Regarding roll call 273 relative to administrative law judges (line item 2000-0500), I would have voted in the negative.

I would respectfully request that this letter be printed in the Senate Journal as part of the official record for Thursday, July 17, 2003. Thank you in advance for your assistance in this matter.

Very truly yours,
ROBERT A. ANTONIONI,
State Senator,
Worcester and Middlesex.

On motion of Mr. Knapik, the above statement was ordered printed in the Journal of the Senate.

Resolutions.

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

Resolutions (filed by Ms. Wilkerson) "honoring Judge Robert L. Carter."

PAPER FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill designating Regatta Field in the city of Lowell as the Anne Dean Welcome Field (see House, No. 1535) (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.

Reports of Committees.

By Ms. Murray, for the committee on Ways and Means, that the House Bill authorizing the Division of Capital Asset Management and Maintenance to convey an easement in certain land located in the town of Concord (House, No. 1375),— ought to pass.

There being no objection, the rules were suspended, on motion of Mrs. Sprague, 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 Ms. Murray, for the committee on Ways and Means, that the House Bill further extending the time for which certain land in Norfolk county may be used as a temporary minimum security alternative correction center (House, No. 1625),— ought to pass.

There being no objection, the rules were suspended, on motion of Ms. Chandler, 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. Hart, for the committee on Commerce and Labor, on petition, a Bill relative to the merger of Moby Dick Council, Inc., Boy Scouts of America with the Narragansett Council, Boy Scout of America (Senate, No. 1993).

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

Ms. Menard presented an amendment in section 1, by adding the following 2 sentences:— “This merger shall take effect only if the merged corporation files with the state secretary of the commonwealth corrected and restated articles of merger, providing that (a) the merged corporation may be sued in the commonwealth for any prior obligation of the Moby Dick Council, Inc., and any other obligation incurred by the merged corporation, so long as any liability remains outstanding against the corporation in the commonwealth, and (b) the merged corporation shall be bound by, and the prior obligations under clause (a) shall include, any restrictions, whether in the nature of a contract or in the nature of an express or implied trust, on the use or disposition of assets held for charitable purposes by the Moby Dick Council, Inc., and the merged corporation shall irrevocably appoint the state secretary as its agent to accept service of process in any action for the enforcement of any such obligation, including taxes, in the manner provided in chapter 181 of the General Laws. These corrected and restated articles of merger may be effective as of the date that the original articles of merger were filed with the state secretary, but only if the corrected and restated articles state that the corporation has fully complied with the preceding sentence at all times after that date.”

The amendment was adopted.

The bill (Senate, No. 1993, amended) was then 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 authorizing the merger of Moby Dick Council, Inc., Boy Scouts of America, into the Narragansett Council, Boy Scouts of America.”

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 preliminary elections in the city of Malden in the year 2003 (House, No. 3740),— **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.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4098) of Joseph C. Sullivan, Michael W. Morrissey and Brian A. Joyce that the town of Braintree be authorized to lease the Watson Park Library in said town;

Under suspension of Joint Rule 7B, to the committee on Local Affairs and Regional Government.

Petition (accompanied by bill, House, No. 4099) of Robert Correia and Joan M. Menard relative to the use of tobacco by police officers and firefighters;

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

Petition (accompanied by bill, House, No. 4100) of Shaun P. Kelly and Andrea F. Nuciforo, Jr., that the Central Berkshire Regional School District be authorized to convey a certain parcel of land located in the town of Hinsdale, notwithstanding the uniform procurement law; and

Petition (accompanied by bill, House, No. 4101) of Peter J. Koutoujian and Thomas M. Stanley that the Division of Capital Asset Management and Maintenance be authorized to sell and convey certain property in the city of Waltham;

Severally, under suspension of Joint Rule 12, to the committee on State Administration.

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. Creedon, Jr., Robert L. Hedlund, Joan M. Menard, Steven A. Tolman and other members of the General Court for legislation to further regulate the marketing of fresh meat products.

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

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 Stephen M. Brewer and other members of the General Court for legislation to provide for better management for the issuance of firearm licenses.

Senate Rule 36 was suspended, on motion of Mr. Knapik, 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.

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 Charles E. Shannon, Guy W. Glodis, Steven A. Baddour, Therese Murray and other members of the General Court for legislation relative to insurance rates.

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

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 Therese Murray for legislation to merge the South Sagamore water district with the Bourne water district.

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

Order Adopted.

On motion of Ms. Chandler,—

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.

Recess.

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

PAPERS FROM THE HOUSE.

A Bill relative to the preservation of medical services in the cities of Waltham and Quincy (House, No. 4096,— on House, No. 1, in part),— 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.

Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill providing relief and flexibility to municipal officials (see House, No. 3944) [for message, see House, No. 3968],— came from the House with endorsement that the House adopted the amendment in the following form (as recommended by the committee on Bills in the Third Reading) in the following form:

In subsection 4 of section 18, by striking out paragraph (m) and inserting in place thereof the following paragraph:

“(m) The bonds and notes issued under this chapter shall not at any time be included in the debt of the city or town for the purpose of ascertaining its legal borrowing capacity. Except as otherwise provided in this chapter, such bonds and notes shall not be subject to chapter 44.” (as corrected by Senate BTR.)

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 House amendment was considered forthwith and adopted, in concurrence. Sent to the House for re-enactment.

Recess.

There being no objection, at nineteen minutes past twelve o'clock noon, the Chair (Ms. Walsh) declared a recess subject to the call of the Chair; and at fourteen minutes past one o'clock P.M., the Senate reassembled, Ms. Walsh in the Chair.

PAPERS FROM THE HOUSE.

Emergency Preambles Adopted; Engrossed Bills Enacted.

An engrossed Bill providing relief and flexibility to municipal officials (see House, No. 3944, 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 3 to 0.

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

Subsequently, the bill, which originated in the House, came from the House with the endorsement that it had been re-enacted in that branch.

The Senate then passed the bill to be re-enacted; and it was signed by the Acting President and again laid before the Governor for his approbation.

An engrossed Bill relative to the preservation of medical services in the cities of Waltham and Quincy (see House, No. 4096, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— 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.

Subsequently, the bill, which originated in the House, came from the House with the endorsement that it had been enacted in that branch.

The Senate then passed the bill to be enacted; and it was signed by the Acting President and laid before the Governor for his approbation.

On motion of Mr. Tarr, at twenty-seven minutes past one o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.