

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.

Wednesday, August 4, 2004.

Met at one minute past eleven o'clock A.M. (Ms. Wilkerson 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 (Ms. Wilkerson), members, guests and employees then recited the pledge of allegiance to the flag.

Petition.

Mr. Moore presented a petition (subject to Joint Rule 12) of Richard T. Moore, Marie J. Parente and Jennifer M. Callahan for legislation to release certain land in Bellingham from the operation of an agricultural preservation restriction,— **and the same was referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of Committees.

By Ms. Melconian, for the committee on Science and Technology, on petition, a Bill establishing a commission on law, ethics and technology for the purpose of advising the Governor and legislature (Senate, No. 1913); and

By the same senator, for the same committee, on petition, a Bill to promote the training of retirees as volunteer science and technology teachers (Senate, No. 1918); and

By Mr. Morrissey, for the committee on Government Regulations, on the recommitted petition, a Bill restricting the authority of the Holyoke Power and Electric Company and the Holyoke Water Power Company (Senate, No. 1942);
Severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

Paper from the House.

A petition (accompanied by bill, House, No. 5024) of Emile J. Goguen and Robert A. Antonioni (with the approval of the mayor and city council) relative to the nomination of candidates to fill a vacancy in the office of ward councilor in the City of Fitchburg,— **was referred, in concurrence, to the committee on Election Laws.**

Resolutions.

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

Resolutions (filed by Mr. Joyce) “honoring James D. Gallagher, Jr. on the occasion of his fiftieth birthday”;

Resolutions (filed by Mr. Pacheco) “congratulating Patrick Barrett upon his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mr. Pacheco) “congratulating Darrell Cohn upon his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mr. Pacheco) “congratulating Peter Cohn upon his elevation to the rank of Eagle Scout”;
Resolutions (filed by Mr. Pacheco) “congratulating Joshua Dillman upon his elevation to the rank of Eagle Scout”;
Resolutions (filed by Messrs. Panagiotakos and Tarr) “congratulating the Greek National Soccer Team”; and
Resolutions (filed by Mrs. Sprague) congratulating Jesse Alan Dias of Rehoboth upon his elevation to the rank of Eagle Scout.”

Paper from the House.

A Bill relative to the sale of municipal tax receivables (House, No. 4872,— on Senate, No. 2383 and House, No. 4842),— **was read.**

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

Communications.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

August 2, 2004.

Mr. William Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

Due to unforeseen circumstances, I was absent from the Senate Chambers during a portion of the July 30th formal session and missed a number of roll call votes. Had I been present, I would have voted in the affirmative on the following matters:

- relative to overriding the Governor’s veto of budget line item 4100-0600 (Health Care Finance and Policy);
- relative to overriding the Governor’s veto of budget line item 4510-0110 (Community Health Centers);
- relative to overriding the Governor’s veto of budget line item 4510-0710 (Health Care Quality);
- relative to overriding the Governor’s veto of budget line item 4510-0790 (Regional Emergency Medical Services);
- relative to overriding the Governor’s veto of budget line item 4513-1020 (Early Intervention Services);
- relative to overriding the Governor’s veto of budget line item 4590-0912 (Western Mass. Hospital Retained Revenue);
- relative to overriding the Governor’s veto of budget line item 8400-0001 (Registry of Motor Vehicles);
- relative to overriding the Governor’s veto of budget line item 8910-0108 (Franklin County Sheriff);
- relative to overriding the Governor’s veto of budget line item 8910-0110 (Hampshire County Sheriff);
- relative to overriding the Governor’s veto of budget line item 8910-0145 (Berkshire County Sheriff);
- relative to overriding the Governor’s veto of budget Outside Section 198 (Assistant Clerk Staffing);
- relative to overriding the Governor’s veto of House Bill 4915 (Court Fees);
- relative to overriding the Governor’s veto of House Bill 4916 (Superior Court Fees);
- relative to enacting Senate Bill 2261 (Amherst Conservation Land);
- relative to enacting House Bill 4335 (DCAMM Land Conveyance to North Adams);
- relative to enacting House Bill 4730 (Sutton Leasing of Conservation Land to Waters Farm Preservation, Inc.);
- relative to overriding the Governor’s veto of budget line item 0333-1313 (Suffolk Probate Court);
- relative to overriding the Governor’s veto of budget line item 0640-0013 (State Lottery Anti-Litter Program);
- relative to overriding the Governor’s veto of budget Outside Section 299 (Hynes and Boston Common Garage Commission);
- relative to overriding the Governor’s veto of budget line item 8910-0102 (Hampden County Sheriff);
- relative to accepting the Conference Committee report on House Bill 4744 (Closing of Corporate Tax Loopholes);
- relative to overriding the Governor’s veto of budget line item 8910-0105 (Worcester County Sheriff’s Department);
- relative to overriding the Governor’s veto of budget line item 8910-0107 (Middlesex County Sheriff’s Department);

- relative to overriding the Governor's veto of budget line item 8910-0619 (Essex County Sheriff);
- relative to enacting House Bill 1208 (Authorizing the Division of Fisheries and Wildlife to Take or Acquire Conservation Restrictions in and to Lands of the Town of Clinton);
- relative to enacting House Bill 4988 (Authorizing DCAMM to Convey Certain Land to the Shrewsbury Housing Authority);
- relative to overriding the Governor's veto of Senate Bill 2344 (Lenox Reimbursement of Local Room Occupancy Taxes);
- relative to overriding the Governor's veto of budget line item 9110-1460 (Prescription Advantage Co-Payment Subsidies);
- relative to overriding the Governor's veto of budget line item 2330-0100 (Division of Marine Fisheries);
- relative to enacting Senate Bill 2462 (Authorizing DCAMM to Convey Parcels of Land in the Towns of Hopkinton and Westborough);
- relative to overriding the Governor's veto of budget line item 1102-3206 (Surplus Properties);
- relative to overriding the Governor's veto of budget Outside Section 340 (Medfield State Hospital Land Re-Use);
- relative to overriding the Governor's veto of House Bill 2367 (Health and Safety on Public Construction Projects);
- relative to enacting House Bill 4911 (Low Income Housing Tax Credit);
- relative to enacting House Bill 4885 (Authorizing the City of Northampton to Convey a Certain Parcel of Land to the Commonwealth for Highway Purposes);
- relative to enacting House Bill 5032 (Releasing Land in Plymouth from Agricultural Preservation Restrictions);
- relative to enacting House Bill 4628 (Authorizing Lancaster to Lease Certain Land);
- relative to enacting House Bill 5016 (Authorizing the Town of Sharon to Convey Certain Conservation Land to Sharon Plaza Associates);
- relative to enacting House Bill 4744 (Closing of Corporate Tax Loopholes);
- relative to enacting House Bill 5038 (Public Counsel Services);
- relative to enacting Senate Bill 2094 (Releasing Certain Land in Deerfield from the Operation of an Agricultural Preservation Restriction); and
- relative to enacting House Bill 4771 (Transportation Bond Bill).

I would appreciate having a copy of this letter printed in the Senate Journal as part of the official record for Friday, July 30, 2004. Thank you in advance for your assistance in this matter.

Sincerely,
CHARLES E. SHANNON,
State Senator,
Second Middlesex District.

On motion of Mr. Moore, the above communication was ordered printed in the Journal of the Senate.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

August 2, 2004.

Mr. William Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

During the Senate Sessions held on July 22 and 23, 2004, I was absent from the Chamber on official business of the Senate representing my colleagues at the Annual Meeting of the National Conference of State Legislatures in Salt Lake City, Utah.

I was, consequently, not recorded on several roll call votes. If I had been present, I would have voted in the affirmative on the following matters:

Roll Call- No., Subject

641 Engrossment - Senate 2466, State Police Association Arbitration
642 Engrossment - House 4969, Citizen Review Board
643 Enactment - Senate 1167, Nantucket Land Taking
644 Enactment - House 4707, Yarmouth Land Taking
645 Enactment - House 3849, Waltham Land Taking
646 Override - House 4631, Marion Low-Income Housing
647 Override - FY 2005 Budget Section 255, Nursing Facility User Fee Waiver
648 Override - FY 2005 Budget Section 256, Hynes Faculty Waiver
649 Override - FY 2005 Budget Section 305, MassHealth
650 Override - FY 2005 Budget Line Item 4000-0500, MassHealth
651 Override - FY 2005 Budget Line Item 7007-1200 Mass Tech Collaborative
652 Override - FY 2005 Budget Line Item 7113-0105, Wireless Learning
653 Override - FY 2005 Budget Section 94, Permit Zoning Requirements
654 Override - FY 2005 Budget Section 228, Waltham Pool Construction
655 Override - FY 2005 Budget Section 229, Chelsea Pool Construction
656 Override - FY 2005 Budget Line Item 0610-0140, Investment Services
657 Override - FY 2005 Budget Line Item 1102-3233, Pondville Hospital
658 Override - FY 2005 Budget Section 371, BFI Landfill
659 Override - FY 2005 Budget Section 401, Pembroke, town treasurer/collector
660 Override - FY 2005 Budget Line Item 1201-0130, DOR Audit Program
661 Override - FY 2005 Budget Line Item 4000-0112, Community Youth Centers
662 Override - FY 2005 Budget Section 167, MassHealth - Definition of 'Estate'
663 Enactment - Senate 2347, Nashua River Land Taking
664 Override - FY 2005 Budget Section 168, MassHealth - Estate Recovery
665 Override - FY 2005 Budget Section 244, Mass Health Estate II
666 Override - FY 2005 Budget Line Item 4000-0300, DMA
667 Override - FY 2005 Budget Line Item 4000-0550, Community Health Center
668 Override - FY 2005 Budget Line Item 7114-0105, Salem State College
669 Override - FY 2005 Budget Line Item 0335-0001, BMC
670 Override - FY 2005 Budget Line Item 8000-0000, Secretary of Public Safety
671 Override - FY 2005 Budget Section 171, DMR User Fee 2
672 Override - FY 2005 Budget Section 172, DMR User Fee 1
673 Override - FY 2005 Budget Section 303, DMR User Fee 3
674 Override - FY 2005 Budget Section 353, MassHighway
675 Override - FY 2005 Budget Line Item 2800-9004, DCR
676 Override - FY 2005 Budget Line Item 6000-0100, Transportation & Construction
677 Override - FY 2005 Budget Section 82, Override PRIM Board
678 Override - FY 2005 Budget Section 145, Harbormaster Permit
679 Override - FY 2005 Budget Section 181, Liquor Purchasing Source Requirements
680 Override - FY 2005 Budget Section 206, Notary Journal Elimination
681 Override - FY 2005 Budget Section 271, MassHealth
682 Override - FY 2005 Budget Section 316, Charter School
683 Override - FY 2005 Budget Section 375, COLA Study
684 Override - FY 2005 Budget Line Item 1102-3299, DCAM
685 Override - FY 2005 Budget Line Item 1599-3857, Kerr Mill Project
686 Override - FY 2005 Budget Line Item 7116-0105, Worcester State College
687 Override - FY 2005 Budget Section 20, Social Service Provider
688 Override - FY 2005 Budget Section 60, Info Tech Expenditure
689 Override - FY 2005 Budget Section 61, Contingency Contracts
690 Override - FY 2005 Budget Section 62, Agency Employee Transfer
691 Override - FY 2005 Budget Section 178, Alcohol on Premises
692 Override - FY 2005 Budget Line Item 7003-0702, Workforce Development
693 Override - FY 2005 Budget Line Item 0321-2205, Social Law Library, Suffolk
694 Override - FY 2005 Budget Section 64, Attorney Consent
695 Override - FY 2005 Budget Section 322, Spouse of Retiree
696 Override - FY 2005 Budget Section 102, Electronic PAC I
697 Override - FY 2005 Budget Section 103, Electronic PAC II
698 Override - FY 2005 Budget Section 221, Charter School
699 Override - FY 2005 Budget Line Item 7007-0500, Mass Biotech
700 Override - FY 2005 Budget Line Item 0610-0050, ABCC
701 Override - FY 2005 Budget Line Item 1000-0001, Comptroller
702 Override - FY 2005 Budget Line Item 1750-0111, Civil Service

703 Override - FY 2005 Budget Line Item 2000-0100, Environmental Affairs
704 Override - FY 2005 Budget Line Item 2000-9912, Environmental Affairs
705 Override - FY 2005 Budget Line Item 2200-0100, DEPO
706 Override - FY 2005 Budget Line Item 2820-0100, Urban Parks
707 Override - FY 2005 Budget Line Item 4000-0115, Mass Tech. Collaborative
708 Override - FY 2005 Budget Line Item 6010-0001, Department of Highways
709 Override - FY 2005 Budget Line Item 8100-0000, State Police Admin.
710 Override - FY 2005 Budget Section 162, MassHealth
711 Override - House 4391, Holyoke employees
712 Enactment - House 4150, Wareham Land taking
713 Enactment - House 4196, Middleton Easement
714 Enactment - House 4706, Yarmouth Land Taking
715 Override - FY 2005 Budget Line Item 1599-1971, Snow and Ice Control
716 Override - FY 2005 Budget Section 286, Lancaster
717 Engrossment - House 4771, Transportation Bond Bill

I would appreciate your assistance with the printing of this communication in the Senate journal. Thank you for your assistance with this request.

Sincerely,
RICHARD T. MOORE,
State Senator,
Worcester & Norfolk District.

On motion of Mr. Shannon, the above communication was ordered printed in the Journal of the Senate.

Papers From the House.

Emergency Preambles Adopted.

An engrossed Bill designating a certain portion of land at Draw 7 Park in the city of Somerville as the Patrick Sullivan Fishing Hole (see House, No. 4948), 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 5 to 0.

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

An engrossed Bill relative to the Uncompensated Care Trust Fund (see House, No. 4929), 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.

An engrossed Bill authorizing the State Secretary to place an election in the town of Dracut on the state ballot (see House Bill, printed in House, No. 5025), 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.

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 John A. Hart, Jr. for legislation relative to civil service and the fire department of the city of Boston.

Senate Rule 36 was suspended, on motion of Mr. Tisei, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the House for concurrence.

Papers from the House.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5042) of Timothy P. Murray (mayor), Michael V. O'Brien (city manager), John J. Binienda and other members of the General Court (with the approval of the city council) relative to the penalty for illegally dumping refuse or materials in the city of Worcester;
To the committee on Criminal Justice.

Petition (accompanied by bill, House, No. 5043) of Mark V. Falzone relative to authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land in the town of Saugus to Thomas G. Kennedy;
Under suspension of Joint Rule 12, to the committee on State Administration.

Reports of a Committee.

A report of the committee on Government Regulations, ought NOT to pass (under Joint Rule 10), on the 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 (the time within which the said committee was required to report having expired).

There being no objection, the rules were suspended, on motion of Mr. Shannon, and the matter was considered forthwith.

On further motion of the same Senator, the petition was recommitted to the committee on Government Regulations.

Subsequently, by Mr. Morrissey, for the committee on Government Regulations, on petition, a Bill authorizing the town of Westborough to grant an additional license for the sale of wines and malt beverages to be drunk on the premises (Senate, No. 2326) [Local approval received].

The bill 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.
Sent to the House for concurrence.

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 school department in the town of Fairhaven (House, No. 4401, changed),— **was read a third time and passed to be engrossed, in concurrence.**

Papers from the House.

A Bill relative to the position of town administrator in the town of Wayland (House, No. 4784,— 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 relative to the sale of alcoholic beverages to be drunk on the premises of clubs or war veterans' organizations in the town of Natick (House, No. 4882,— on House, No. 4378) [Local approval received on House, No. 4378],— **was read.**

There being no objection, the rules were suspended, on motion of Mr. Shannon, 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 relative to the sale of alcoholic beverages to be drunk on the premises of clubs or veterans' organizations in the town of Natick."

A Bill relative to school building custodians in the city of Somerville (House, No. 4957,— on petition) [Local approval received],— **was read.**

There being no objection, the rules were suspended, on motion of Mr. Tisei, 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 placing health inspector under the supervision of the division of inspectional services in the city of Somerville (House, No. 4958,— on petition) [Local approval received],— **was read.**

There being no objection, the rules were suspended, on motion of Mr. Shannon, 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 placing the health inspector under the supervision of the Division of Inspectional Services in the city of Somerville."

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:

Providing for recall elections in the town of Blandford (see House, No. 4280);

Providing for a retirement incentive for W. Philip Barrett and Claire Salois as employees of the city of Methuen (see House, No. 4452);

Relative to fire safety in the Commonwealth (see House, No. 4550, amended);

Requiring continuing education for licensed plumbers and gas fitters (see House, No. 4750);

Designating a certain portion of land at Draw 7 Park in the city of Somerville as the Patrick Sullivan Fishing Hole (see House, No. 4948); and

Relative to Joseph Fernandes (see House, No. 5020).

An engrossed Bill relative to the Uncompensated Care Trust Fund (see House, No. 4929) (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.**

An engrossed Bill authorizing the State Secretary to place an election in the town of Dracut on the state ballot (see House Bill, printed in House, No. 5025) (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.**

Recess.

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

Order Adopted.

On motion of Mr. Shannon,—

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

On motion of Mr. Shannon, at eleven minutes before twelve o'clock noon, the Senate adjourned to meet on the following day at eleven o'clock A.M.