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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, September 15, 2005.

Met at thirteen minutes past one o'clock P.M. (Mr. Havern in the Chair).

The Chair (Mr. Havern), members, guests and employees then recited the pledge of allegiance to the flag.

Distinguished Guests.

The President in the Chair, there being no objection, during consideration of the Orders of the Day, the President recognized Mr. Antonioni for the purpose of an introduction. Mr. Antonioni introduced, seated in the rear of the Chamber, Krista Burgoyne of Bolton. Krista is the reigning champion of the National Student Baking Championship. She was accompanied to the Chamber by her parents and grandparents. She brought in a cake for the members and staff to enjoy.

There being no objection, during the consideration of the Orders of the Day, the President handed the gavel to Mr. Hart for the purpose of an introduction. Mr. Hart introduced seated in the rear of the Chamber, Fran Collins of South Boston. Mr. Collins recently gave his kidney to his ill brother, the Senate recognized him as a hero.

Petition.

Mr. Brewer presented a petition (accompanied by bill, Senate, No. 2188) of Stephen M. Brewer (by vote of the town) for legislation to validate the proceedings of the annual town elections in the town of Royalston [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Election Laws. Sent to the House for concurrence.**

Resolutions.

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

Resolutions (filed by Mr. Joyce) “congratulating Carl Frank Desberg on receiving the Eagle Award of the Boy Scouts of America”;

Resolutions (filed by Mr. Montigny) “on the dedication of the United States Postal Service Building to the Honorable Judge George N. Leighton”; and

Resolutions (filed by Mr. Tarr) “recognizing the bicentennial of the Meeting House of the Independent Christian Church, Unitarian Universalist, of Gloucester.”

PAPER FROM THE HOUSE.

The Senate Bill providing a charter for the city of Melrose (Senate, No. 2174),— came from the House passed to be engrossed, in concurrence, *with an amendment*, in section 1, in Article 6, in Subsection 6-7, by striking out the first sentence contained therein and inserting in place thereof the following sentence: “Except as otherwise may be provided by law, no official of the city of Melrose shall knowingly and intentionally expend in any fiscal year any sums in excess of the appropriations duly made in accordance with law, or involve the city in any contract for the future payment of money in excess of these appropriations.”.

The rules were suspended, on motion of Mr. Brown, and the House amendment was considered forthwith.

Pending the question on concurring in the House amendment, Mr. Tisei moved that the Senate concur with the House amendment with further amendment:

In section 1, in paragraph (a) of section 2-2 of article 2, by adding the following sentence:— “The method of election of the president shall be prescribed within the rules of the board of aldermen.”;

In said section 1, in section 7-4 of article 7, by inserting after the word “public” the following words:— “and conducted on or before the thirtieth day preceding the date of the election.”;

In said section 1, in paragraph (e) of section 8-2 of article 8, by striking out in the second sentence the words “and in each of the wards into which the city is divided for the purpose of elections”; and

In said section 1, in paragraph (b) of section 8-3 of said article 8, by inserting after the words “section 8-2” the following words:— “as they relate to the filing and certification of signatures”.

The further amendment was adopted.

The House amendment, as amended, was then adopted.

Sent to the House for concurrence in the further amendment.

Report of a Committee.

By Ms. Resor, for the committee on Environment, Natural Resources and Agriculture, on petition, a Bill relative to the towns of Westborough and Shrewsbury treatment of wastewater (printed as House, No. 4199);

There being no objection, the rules were suspended, on motion of Mr. Brown, 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.

Report of Committees.

By Ms. Menard, 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 for legislation to authorize a retroactive veteran’s annuity to Paul Bartel, Jr.

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

Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

To establish the Massachusetts Nursing and Allied Health Workforce Development Trust Fund (Senate, No. 737);

Establishing the Purple Heart highway (Senate, No. 1930); and

Relative to chapter VII of the general by-laws of the town of Essex (Senate, No. 2075);

Were severally read a second time and ordered to a third reading.

The House bills

Establishing a sick leave bank for Earle Bercier, an employees of the Department of Correction (House, No. 4056);

Authorizing the retirement of Zanaida Flores of the Boston Police Department (House, No. 4120);

Establishing a sick leave bank for Kathleen A. Sammataro, an employee of the Trial Court (House, No. 4310) (its title having been changed by the committee on Bills in the Third Reading); and

Establishing a sick leave bank for Sandra Spiros, an employee of the Trial Court (House, No. 4325) (its title having been changed by the committee on Bills in the Third Reading);

Were severally read a third time and passed to be engrossed, in concurrence.

Recess.

At twenty-seven minutes past one o'clock P.M., at the request of Mr. Lees, for the purpose of a minority caucus, the Chair (Mr. Havern) declared a recess; and, at fourteen minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

There being no objection, during the consideration of the Orders of the Day, the following matters were severally considered:

Engrossed Bills Returned by Governor With His Objections Thereto.

The engrossed Bill relative to creditable service for vocational education teachers (see Senate, No. 2057), which, on Thursday, August 18, 2005, had been again laid before His Excellency the Governor for his approbation,— was returned to the Senate Clerk by His Excellency the Governor on Thursday, August 25, 2005, twenty-eight minutes before four o'clock P.M., with his objections thereto in writing [for message, see Senate, No. 2185].

The message (Senate, No. 2185) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of Article LVI of the Amendments to the Constitution.

After remarks, the question on passing the bill, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at five minutes before two o'clock P.M., as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 140**]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Brown, Scott P.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne —

38.

NAYS — 0.

The yeas and nays having been completed at one minute before two o'clock P.M., the bill was passed by the Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.

Sent to the House for its action.

The engrossed Bill providing timely access to emergency contraception (see Senate, No. 2073, changed and amended), which, on Monday, July 25, 2005, had been laid before His Excellency the Governor for his approbation,— was returned to the Senate

Clerk by His Excellency the Governor on Thursday, August 25, 2005, twenty-five minutes past four o'clock P.M., with his objections thereto in writing [for message, see Senate, No. 2170].

The message (Senate, No. 2170) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of Article LVI of the Amendments to the Constitution.

The question on passing the bill, the objections of His Excellency the Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at three minutes past two o'clock P.M., as follows, to wit (yeas 37 — nays 0) [**Yeas and Nays No. 141**]:

YEAS.

Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Brown, Scott P.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne —
	37.
Menard, Joan M.	

NAYS — 0.

ABSENT OR NOT VOTING.

Antonioni, Robert A. — **1.**

**The yeas and nays having been completed at eight minutes past two o'clock P.M., the bill was passed by the Senate, notwithstanding the objections of His Excellency the Governor, two-thirds of the members present and voting having approved the same.
Sent to the House for its action.**

PAPERS FROM THE HOUSE.

Engrossed Bill Returned by Lieutenant-Governor With Her Objections Thereto.

The engrossed Bill relative to car rental transactions in the city of Revere (see House, No. 4180, amended), which, on Wednesday, July 20, 2005, had been laid before His Excellency the Governor for his approbation,— came from the House the same having been returned by Her Honor the Lieutenant-Governor, Acting Governor, with her objections thereto in writing [for message, see House, No. 4300], and having passed that branch, notwithstanding said objections.

The message (House, No. 4300) was read; and the Senate proceeded to reconsider the bill, in accordance with the provisions of the Constitution.

After remarks, the question on passing the bill, in concurrence, the objections of the Acting Governor to the contrary notwithstanding, was determined by a call of the yeas and nays, as required by Chapter I, Section I, Article II, of the Constitution, at eleven minutes past two o'clock P.M., as follows, to wit (yeas 35 — nays 2) **[Yeas and Nays No. 142]:**

YEAS.

Antonioni, Robert A.	Montigny, Mark C.
Augustus, Edward M., Jr.	Moore, Richard T.
Baddour, Steven A.	Morrissey, Michael W.
Barrios, Jarrett T.	Murray, Therese
Berry, Frederick E.	Nuciforo, Andrea F., Jr.
Brewer, Stephen M.	O'Leary, Robert A.
Brown, Scott P.	Pacheco, Marc R.
Buoniconti, Stephen J.	Panagiotakos, Steven C.
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Havern, Robert A.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
McGee, Thomas M.	Walsh, Marian — 35.
Menard, Joan M.	

NAYS

Knapik, Michael R. Lees, Brian P. — **2.**

ABSENT OR NOT VOTING.

Wilkerson, Dianne — **1.**

The yeas and nays having been completed at fourteen minutes past two o'clock P.M., the bill was passed by the Senate, notwithstanding the objections of the Acting Governor, two-thirds of the members present and voting having approved the same.

Engrossed Bill — Land Taking for Conservation, Etc.

An engrossed Bill providing a temporary sewer easement in the town of Andover (see Senate, No. 2088, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at a quarter past two o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 143]:**

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Brewer, Stephen M.	Nuciforo, Andrea F., Jr.
Brown, Scott P.	O'Leary, Robert A.

Buoniconti, Stephen J.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Hart, John A., Jr.	Tarr, Bruce E.
Havern, Robert A.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Joyce, Brian A.	Tolman, Steven A.
Knapik, Michael R.	Tucker, Susan C.
Lees, Brian P.	Walsh, Marian
McGee, Thomas M.	Wilkerson, Dianne —

38.

NAYS — 0.

The yeas and nays having been completed at seventeen minutes past two o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Orders of the Day.

The Orders of the Day were further considered, as follows:

The Senate Bill relative to the Dukes County land bank (Senate, No. 1199),— **was read a second time and, after remarks, was ordered to a third reading.**

The House Bill relative to living organ donation (House, No. 476),— **was read a third time and, after remarks, was passed to be engrossed, in concurrence.**

The House Bill providing incentives to the motion picture industry (House, No. 4252, amended),— was read a third time. **Pending the question on passing the bill to be engrossed, in concurrence, Mr. Timilty moved that the bill be laid on the table; and, in accordance with the provisions of Senate Rule 24, the consideration of the motion to lay on the table was postponed, without question, until the next session.**

PAPERS FROM THE HOUSE.

Engrossed Bills.

An engrossed Bill providing for an affordable housing trust fund in the town of Hamilton (see House, No. 4136) (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 President and laid before the Governor for his approbation.**

Engrossed Bills.

Ms. Menard in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair), the following engrossed bills (both 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 financial conditions in the Chesterfield Goshen Regional School District (see House, No. 2603, changed); and

Amending the charter of the city of Chicopee (see House, No. 4117).

Order Adopted.

On motion of Mr. Montigny,—

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.

Adjournment in Memory of Leon Brathwaite.

The Senator from Suffolk and Middlesex, Mr. Tolman, and the Senator from Bristol and Plymouth, Ms. Menard, presented a request that when the Senate adjourns today, it do so as a mark of respect to the memory of Leon Brathwaite of Cambridge.

Mr. Brathwaite was a renowned owner of a Boston gallery and framing shop, a lifelong Cambridge resident, and a leader of the greater Boston African American community.

Accordingly, as a mark of respect to the memory of Leon Brathwaite, at twenty-five minutes before three o'clock P.M. on motion of Mr. Tolman, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.