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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Monday, September 26, 2005.

Met according to adjournment at 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 Hampden and Hampshire, Mr. Knapik, led the Chair (Ms. Walsh), members, guests and employees in the recitation of the pledge of allegiance to the flag.

Petitions.

Mr. Brewer presented a petition (accompanied by bill, Senate, No. 2208) of Stephen M. Brewer and Todd M. Smola (by vote of the town) for legislation to authorize the town of Palmer to grant 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Consumer Protection and Professional Licensure.**
Sent to the House for concurrence.

Mr. Montigny presented a petition (subject to Joint Rule 12) of Mark C. Montigny for legislation to prohibit sexual relationships between teachers and students,— **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. Joyce, for the committee on Housing, on petition, a Bill relative to assessing the future need for elderly housing in the Commonwealth (Senate, No. 809); and

By the same Senator, for the same committee, on petition, a Resolve establishing a commission on affordable housing on state owned land (Senate, No. 811);
Severally read and, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Mr. Antonioni, for the committee on Education, on Senate, Nos. 323 and 346 and House, Nos. 1065 and 1083, a Bill relative to student records (Senate, No. 2206);
Read and, under Rule 26, referred to the committee on Ethics and Rules.

By Mr. Joyce, for the committee on Housing, on petition (accompanied by bill, Senate, No. 785), a Bill relative to employer assisted housing (Senate, No. 2207);

By Mr. Buoniconti, for the committee on Public Service, on petition, a Bill relative to disability or death caused by certain conditions of cancer (Senate, No. 1446); and

By the same Senator, for the same committee, on Senate, No. 1500 and House, No. 289, a Bill directing the State Retirement Board to retire Robert Emmet Fitzgerald (Senate, No. 1500);

By Mr. Baddour, for the committee on Transportation, on petition (accompanied by bill, Senate, No. 2176), a Bill to promote the development of alternative fuels and the use of alternative fuel in vehicles in the Commonwealth (Senate, No. 2209);

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

Committee Discharged.

Ms. Resor, for the committee on Environment, Natural Resources and Agriculture, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 517) of Richard T. Moore, Bruce E. Tarr and Edward G. Connolly for legislation to protect the public health by reforming the Commonwealth's medical waste law,— and recommending that the same be referred to the committee on Health Care Financing.

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

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A message from His Excellency the Governor recommending legislation relative to reforming education (House, No. 4375),— **was referred, in concurrence, to the committee on Education.**

A Bill maximizing federal reimbursement for family planning services (House, No. 4178,— on petition),— **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Resolutions.

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

Resolutions (filed by Mr. Berry) “on the occasion of the retirement of Mary J. Kelly”;

Resolutions (filed by Mr. Joyce) “congratulating Anthony S. Aprea of West Bridgewater upon his elevation to the rank of Eagle Scout”;

Resolutions (filed by Messrs. Morrissey, Augustus, Berry, Havern, Hedlund, Montigny and Moore, Ms. Resor, Mr. Rosenberg, Ms. Spilka, Mr. Timilty and Ms. Tucker) “memorializing the Federal Communications Commission relative to the early termination fees imposed by cellular telephone companies”;

Resolutions (filed by Messrs. O’Leary and Morrissey) “honoring Ruthann Boyd upon her retirement”; and

Resolutions (filed by Ms. Spilka, Messrs. Antonioni, Augustus, Baddour, Barrios, Berry, Brown and Buoniconti, Ms. Chandler, Ms. Creem, Messrs. Havern, Hedlund, Joyce, Montigny, Moore and Morrissey, Ms. Murray, Mr. O’Leary, Ms. Resor, Messrs. Rosenberg, Tisei and Tolman) “recognizing the fiftieth anniversary of the ARC of Massachusetts.”

PAPERS FROM THE HOUSE.

Engrossed Bills.

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:

Authorizing the water commissioners of the Swansea Water District to appoint a clerk and a treasurer (see House, No. 3557); and

Granting pension benefits to Robert Welby of the Boston Police Department (see House, No. 4121).

An engrossed Bill relative to federal reimbursement services for children with Autism (see House, No. 4177) (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.**

Reports of Committees.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill authorizing the Division of Capital Asset Management and Maintenance to lease certain land in the town of Spencer to the Worcester County 4H Center (Senate, No. 35),— ought to pass, with an amendment in section 1, by striking out, in line 4, the words “environmental management” and inserting in place thereof the following words:— “conservation and recreation”; by inserting after the word “day”, in lines 16 and

30, the following words, in each instance:— “or residential”; by inserting, after the first sentence, the following sentence:— “The property is currently being used for the same purposes for which it would be used under the proposed lease.”; in section 2, by striking out, in line 4, the word “his” and inserting in place thereof the following word:— “this”; in section 4, by inserting after the word “two”, in line 2, the following word:— “consecutive”; and in section 4, by striking out, in lines 4 through 7, the words “may be terminated upon notice to the committee, and the land and building together with any improvements thereon shall revert to the commonwealth under the care and control of the department” and inserting in place thereof the words “shall terminate upon written notice from the division”.

There being no objection, the rules were suspended, on motion of Mr. Knapik, and the bill was read a second time and was amended as recommended by the committee on Ways and Means.

The bill (Senate, No. 35, amended) was then ordered to a third reading.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to foster care and adoption in the Commonwealth (Senate, No. 2147),— ought to pass.

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

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill establishing a task force within the Board of Registration in Medicine to study medical spas (Senate, No. 2191),— ought to pass.

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

By Ms. Murray, for the committee on Ways and Means, that the House Bill authorizing Capital Asset Management and Maintenance to convey certain land to the town of Hingham (House, No. 1430),— ought to pass, with an amendment in section 1, by striking out, in line 5, the words “open space purposes” and inserting in place thereof the following words:— “the purposes of restoring, preserving or enhancing areas of scenic beauty or special environmental value” ; by inserting after the words “Map 46”, in line 6, the following words:— “and recorded in the registry of deeds for Plymouth county at Plymouth in book 8513, page 117. The exact boundaries of the parcel shall be determined by the commissioner in consultation with the department of highways after completion of a survey.”; and by adding the following section:

“SECTION 2. The town of Hingham shall assume all costs associated with the engineering, surveys, appraisals, deed preparation and other expenses considered necessary by the commissioner of capital asset management and maintenance to execute the conveyances authorized by this act. All money paid to the commonwealth by the town of Hingham as a result of this act shall be deposited with the department of highways.”.

There being no objection, the rules were suspended, on motion of Mr. Knapik, and the bill was read a second time, and was amended, as recommended by the committee on Ways and Means. The bill, as amended, was then ordered to third reading.

By Ms. Murray, for the committee on Ways and Means, that the House Bill relative to illegal dumping in the city of Worcester (House, No. 1748),— ought to pass, with an amendment inserting after the enacting clause the following section:—

“SECTION 1. There shall be a pilot program in the city of Worcester to determine the effectiveness of permitting cities to establish their own fines and other penalties for illegal dumping within the city limits and of further permitting cities to retain the revenues generated by such fines for the purpose of financing enforcement against illegal dumping.”; by striking out section 6 (as printed) and adding the following section:

“SECTION 6. All fines and penalties imposed for violations of this act shall be paid to the city of Worcester. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the city shall establish and maintain a special account to be known as the Disposal Enforcement Fund into which all such payments shall be deposited. The city treasurer may invest funds in the account in the manner authorized by sections 55 and 55B of chapter 44 of the General Laws, and any interest earned on the account shall be credited to and become part of the account. The city shall appropriate and expend amounts from the account for the purpose of financing the enforcement of this act, removing improperly deposited material from the property governed by this act and financing programs and personnel involved in the collection and lawful disposal of unwanted household goods generated by residents of the city.”; and in section 7 (as printed) by adding the following sentence:— “This act shall cease to be effective on December 31, 2008.”.

There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was considered; and it was amended, as recommended by the committee on Ways and Means. The bill, as amended, was then ordered to a third reading.

By Ms. Murray, for the committee on Ways and Means, that the House Bill providing death benefits for volunteer firefighters and other volunteer public safety personnel (House, No. 4369),— ought to pass, with an amendment in section 1 (as printed) by adding the following paragraph:—

“(f) This section shall not apply to any city, town or district which opts not to accept it, in a municipality, by vote of the legislative body, subject to the charter of the municipality; or, in a district, by vote of the district at a district meeting. It shall be the policy of the general court that it will not act favorably on any future appropriation request by a municipality or district for accidental death benefits under another provision of law.”.

There being no objection, the rules were suspended, on motion of Mr. Knapik, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means. The bill, as amended, was then ordered to a third reading.

By Mr. Antonioni, for the committee on Education, on petition, a Bill to provide a framework for civic education in the Commonwealth (Senate, No. 340).

Read and, under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Ms. Menard, for the committees on Rules of the two branches, acting concurrently, reported, that the bill ought to pass.

The rules were suspended, on motion of Mr. Baddour, and the bill was read a second time and was ordered to a third reading.

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 Robert A. Antonioni for legislation to authorize the state board of retirement to grant creditable service to Joseph Rappa.

Senate Rule 36 was suspended, on motion of Mr. Baddour, 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. 4379) of William M. Straus and others for legislation to authorize the towns of Fairhaven, Marion, Mattapoisett and Rochester to convey certain land to the Mattapoisett River Valley Water District;
Under suspension of Joint Rule 12, to the committee on Municipalities and Regional Government.

Petition (accompanied by bill, House, No. 4380) of David M. Nangle relative to the taxation of telecommunication services and bundled telecommunication services;
Under suspension of Joint Rule 12, to the committee on Revenue.

Committee of Conference.

The House Bill providing incentives to the motion picture industry (House, No. 4252, amended),— came from the House with the endorsement that the House had NON-concurred in the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2187), and had asked for a committee of conference on the disagreeing votes of the two branches; and that Representatives Binienda of Worcester, O’Brien of Kingston and Webster of Hanson had been appointed the committee on the part of the House.

On motion of Mr. Knapik, the Senate insisted on its amendment and concurred in the appointment of a committee of conference; and Senators Cream, Timilty and Lees were appointed on the part of the Senate.

The bill was returned to the House endorsed accordingly.

A Bill relative to welfare reform (House, No. 4378, printed as amended,— on House, No. 3866),— was read.

Mr. Baddour moved that the rules be suspended so that the matter could be considered forthwith; but objection was made thereto by Mr. Knapik.

Order Adopted.

On motion of Mr. Tarr,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Wednesday 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-two minutes past eleven o’clock A.M., the Senate adjourned to meet on the following Wednesday at eleven o’clock A.M.