

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, October 13, 2005.

Met according to adjournment at eleven o'clock A.M. (Mr. Havern 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 (Mr. Havern), members, guests and employees then recited the pledge of allegiance to the flag.

Report.

A report of the Commissioner of Insurance (pursuant to the provisions of Sections 4A and 4B of Chapter 175 of the General Laws) relative to the current state of the homeowners insurance market in the Commonwealth (copies having been forwarded to the Attorney General, the Secretary of the Commonwealth, the Senate Committee on Ways and Means and the Senate Chair of the Committee on Financial Services) (received Monday, October 3, 2005),— **was read and sent to the House for its information.**

Reports of a Committee.

By Ms. Chandler, for the committee on Community Development and Small Business, on Senate, Nos. 147, 152, 156, 160, 170, 171, 173, 174, 175, 176 and 177, an Order relative to authorizing the joint committee on Community Development and Small Business to make an investigation and study of certain Senate documents relative to community development and small businesses (Senate, No. 2233); and

By the same Senator, for the same committee, on petition, a Resolve relative to a special commission to develop 401(K) plans for small businesses (Senate, No. 154, changed by striking out the words "Chairmen of the Joint Committee on Commerce and Labor" in line 9, and inserting in place thereof the words "Chairs of the Joint Committee on Community Development and Small Business"; and by striking out the words "June 1, 2003" in line 22, and inserting in place thereof the words "December 31, 2006".);

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

Resolutions.

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

Resolutions (filed by Mr. Knapik) "recognizing National Magic Week";

Resolutions (filed by Mr. Pacheco) "on the occasion of the retirement of Alice Paes"; and

Resolutions (filed by Mr. Tarr) "on the occasion of the one hundred seventy-fifth anniversary of the First Baptist Church of Gloucester."

Communication.

The Clerk read the following communication:

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

October 12, 2005.

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

Dear Mr. Clerk:

Due to a prior scheduling commitment, I was absent from the Senate Chambers on Wednesday, October 12th. As a result, I missed three roll call votes relative to the Fiscal Year 2005 Final Deficiency Budget (House Bill 4370).

Had I been present, I would have voted in the affirmative to override:

- the Governor's veto of line item 1599-4123, relative to the retroactive funding of collective bargaining agreements for various University of Massachusetts employees;
- the Governor's veto of line item 1599-4124, relative to the retroactive funding of collective bargaining agreements for higher education employees; and
- the Governor's veto of Section 19, relative to conferring the benefits provided by the above collective bargaining agreements to those employees who were covered under these contracts but retired or died after July 5th, 2003.

I respectfully request that a copy of this letter be reprinted in the Senate Journal as part of the official record for October 12th, 2005. Thank you in advance for your assistance in this matter.

Sincerely,
RICHARD R. TISEI,
State Senator,
Middlesex and Essex District.

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

Order Adopted.

Mr. Moore presented the following order, to wit:

Ordered, That a joint session of the two houses be held at 11:00 A.M. on October 19, 2005, in the Chamber of the House of Representatives for the purpose of commemorating the three hundred seventy-fifth anniversary of the first session of the General Court.

Under the rules referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Ms. Menard, for the said committees, reported, that the order ought to be adopted.

There being no objection, the rules were suspended, on motion of Ms. Fargo, and the order was considered forthwith, and it was adopted.

Sent to the House for concurrence.

PAPER FROM THE HOUSE.

The Senate Bill establishing a town manager for the town of Braintree (Senate, No. 2157),— came from the House passed to be engrossed, in concurrence, *with an amendment* in section 3, by inserting after the word "Department", in line 17, the words " , but excluding the budget for the Braintree Electric Light Department"; in line 35, by inserting after the word "Committee" the words " , but excluding the Braintree Electric Light Department"; in line 56, by inserting after the word "departments" the words " , except the Braintree Electric Light Department"; and in lines 62 and 63, by inserting after the word "department" the words " , except the Braintree Electric Light Department".

The rules were suspended, on motion of Ms. Fargo, and the House amendment was considered forthwith and adopted, in 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 Senate Bill relative to voting hours in the town of Amherst (Senate, No. 2154),— **was read a second time, 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 further regulating voting hours in the town of Amherst”.**
Sent to the House for concurrence.

Reports of Committees.

Ms. Menard, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The House Bill increasing the borrowing authority of the Ring’s Island Water District of Salisbury (House, No. 3600).
There being no objection, the rules were suspended, on motion of Mr. Tarr, 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. Menard, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Steven C. Panagiotakos and Richard R. Tisei for legislation to establish a sick leave bank for Denise Gamache, an employee of the Department of Revenue.

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

PAPER FROM THE HOUSE.

Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill authorizing the water commissioners of the Swansea Water District to appoint a clerk and a treasurer (see House, No. 3557) [for message, see House, No. 4408],— came from the House with endorsement that the House adopted the amendment recommended by the Governor (as approved by committee on Bills in the Third Reading) as follows:

By striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. Section 9 of chapter 137 of the acts of 1949 is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:— The duly elected commissioners shall annually appoint a clerk and a treasurer of the district, each for a term of 1 year.

SECTION 2. Section 9A of said chapter 137, inserted by chapter 132 of the acts of 1976, is hereby amended by inserting after the word “elected”, in line 4, the following words:— or appointed.

SECTION 3. This act shall take effect upon its passage.”

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

Recess.

There being no objection, at six minutes past eleven o’clock A.M., the Chair (Mr. Havern) declared a recess subject to the call of the Chair; and, at six minutes before three o’clock P.M., the Senate reassembled, Mr. Havern in the Chair.

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4437) of George N. Peterson, Jr., for legislation to further regulate the trapping of fur-bearing animals;

Under suspension of Joint Rule 12, to the committee on Environment, Natural Resources and Agriculture.

Petition (accompanied by bill, House, No. 4438) of Salvatore F. DiMasi, Robert E. Travaglini, Brian S. Dempsey, Michael W. Morrissey and other members of the General Court for legislation relative to heating energy assistance and relief;
Under suspension of Joint Rule 12, to the committee on Telecommunications, Utilities and Energy.

Emergency Preamble Adopted.

An engrossed Bill authorizing the Department of Highways to acquire and transfer certain parcels of land in the town of Bourne (see Senate, No. 2078), 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 establishing a town manager for the town of Braintree (see Senate, No. 2157, amended) (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 and was signed by the Acting President and laid before the Governor for his approbation.**

Order Adopted.

On motion of Mr. Tarr,—

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.

On motion of the same Senator, at four minutes before three o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.