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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Wednesday, June 7, 2006.

Met according to adjournment at one o'clock P.M. (Mr. Havern in the Chair).

Petitions.

Mr. Nuciforo presented a petition (accompanied by bill, Senate, No. 2576) of Andrea F. Nuciforo, Jr., Christopher N. Speranzo, Daniel E. Bosley, Denis E. Guyer and other members of the General Court (with approval of the mayor and city council) for legislation to authorize the conservation commission of the city of Pittsfield to convey a certain parcel of conservation land for public purposes [Local approval received],— **and the same was referred, under Senate Rule 20, to the committee on Municipalities and Regional Government.**

Sent to the House for concurrence.

Petitions were presented and referred, as follows:

By Mr. Montigny, a petition (subject to Joint Rule 12) of Mark C. Montigny, Stephen R. Canessa, John F. Quinn and Antonio F. D. Cabral for legislation to require equal benefits for all new mothers; and

By the same Senator, a petition (subject to Joint Rule 12) of Mark C. Montigny and Antonio F. D. Cabral for legislation to establish a sick leave bank for a certain employee of the Department of Social Services; **Severally, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.**

Reports of Committees.

By Ms. Murray, for the committee on Ways and Means, that the Senate Bill relative to oceans (Senate, No. 2308),— **ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2575);** **Referred, under Senate Rule 26, to the committee on Ethics and Rules.**

Mr. Buoniconti, 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 relative to special needs students (House, No. 4710).

Committee Discharged.

Ms. Murray, for the committee on Ways and Means, reported, asking to be discharged from further consideration of the House Bill relative to patient safety (House, No. 4988),— **and recommending that the same be referred to the Senate committee on Ethics and Rules.**

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

PAPERS FROM THE HOUSE.

A Bill allowing unsigned circulars (House, No. 126,— on petition),— **was read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

A Bill relative to sewer betterment assessments in the town of Richmond (House, No. 4753,— on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Havern) declared a recess subject to the call of the Chair; and, at seventeen minutes past one o'clock P.M., the Senate reassembled, the President in the Chair.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

The Senator from Worcester, Hampden, Hampshire and Franklin, Mr. Brewer, offered the following prayer:

O God, we want this day of trust to be sacred. We want our work to be done well. So we pray for clarity of mind, “to think without confusion clearly”,... for integrity of purpose, “to act from honest motives purely”,... for compassionate hearts, to love our fellowmen sincerely”,... for confident faith, “to trust in God and heaven securely.” Amen.

Distinguished Guests.

There being no objection, the President introduced his guests, Messrs. Reginald Davis, Jeffrey Goldman, Zachary Hanoyan and Jack Minsky. The guests signed the guest book and withdrew from the Chamber.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:— Resolutions (filed by Mr. Joyce) “honoring Steven James Fradkin as the ‘Democrat of the Decade’ ”;

Resolutions (filed by Mr. Pacheco) “congratulating Brandon Poli upon his elevation to rank of Eagle Scout”; and

Resolutions (filed by Mr. Pacheco) “congratulating Nicholas Poli upon his elevation to rank of Eagle Scout.”

Orders of the Day.

The Orders of the Day were considered, as follows:

Relative to the maintenance and repairs of all city of Lynn owned buildings within the city of Lynn (Senate, No. 2562);

Relating to the bargainability of health insurance for part-time municipal employees (printed as House, No. 458);

Relative to the charter of the town of Westborough (House, No. 4392);

Authorizing the town of Needham to construct and maintain a common sewer through land acquired for conservation purposes (House, No. 4767); and

Establishing the Cohasset Library Trust, Inc. (House, No. 4840);

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

The Senate Bill regulating certain musical performances and the protection of performing groups (Senate, No. 2530) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed. Sent to the House for concurrence.**

The Senate Bill relative to protecting against the displacement of current employees (printed as House, No. 457),— **was read a second time and, after remarks, was ordered to a third reading.**

The Senate Bill further regulating the Essex Regional Retirement System (Senate, No. 2263) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. McGee moved that the bill be amended by striking out section 2.

After debate, the amendment was adopted.

The bill (Senate, No. 2263, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill establishing the Martha’s Vineyard and Nantucket housing banks (Senate, No. 2555),— **was considered; the main question being on passing it to be engrossed.**

The pending motion, previously moved by Mr. Tisei, to lay the matter on the table was considered; and it was negated. Mr. O’Leary requested that when a vote is taken on the question on passing the bill to be engrossed, it be taken by a call of the yeas and the nays, and the motion prevailed.

Pending the main question on passing the bill to be engrossed, Mr. Joyce moved to lay the matter 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.

The House Bill relative to HIV and Hepatitis C prevention (House, No. 4176, amended),— **was read a third time.**

After debate, and pending the question on passing the bill to be engrossed, Messrs. Tarr, Lees and Brown moved that the bill be

amended by adding the following section:—

“SECTION 17. Section 27 of chapter 94C of the General Laws, as amended by this act, shall not take effect until the department of public health approves a program for the collection and disposal of non-commercially generated, spent hypodermic needles and lancets pursuant to section 27A of said chapter 94C.”

The amendment was rejected.

Messrs. Tarr, Lees and Brown moved that the bill be amended in section 3, in proposed section 27, by adding the following sentence:— “No licensed wholesaler druggist or pharmacist shall sell to an individual, and no person shall buy a hypodermic needle or syringe in a quantity greater than 10 without a prescription.”

The amendment was *rejected*.

Mr. Lees moved to amend the bill by adding the following section:—

“SECTION 17. The department of public health shall provide a report to the general court on the program for the collection and disposal of non-commercially generated, spent hypodermic needles and lancets pursuant to section 27A of chapter 94C of the General Laws. The report shall be filed with the clerks of the senate and house of representatives by July 20, 2006. The report shall include the proposed location of sharps collection centers, and the department shall notify each city or town of the locations of proposed collection centers in that city or town. The department shall also make this list of proposed collection centers available online. Section 27 of said chapter 94C, as amended by this act, shall take effect on September 18, 2006.”

The amendment was **adopted**.

Messrs. Lees, Tarr and Brown moved that the bill be amended by adding the following section:—

“SECTION 17. This act shall be submitted for acceptance to the registered voters of a city at a regular city election if the city council thereof so votes, and of a town at an annual town election upon petition of 200 registered voters or of 20 per cent of the total number of registered voters, substantially in the form of the following question, which shall be placed on the official ballot used for the election of officers at such city or town election:

‘Shall the city (or town) vote to accept the provisions of section 27 of chapter 94C of the General Laws, which authorizes pharmacies to sell hypodermic syringes or hypodermic needles to persons 18 or older without a prescription?’

YES.

NO.

If a majority of the votes in answer to this question is in the affirmative, then this act shall thereupon take full effect in such city or town, but not otherwise.”

The amendment was *rejected*.

Mr. Lees moved that the bill be amended in section 3, in proposed section 27A, in subsection (b), paragraph (1), clause (iii), by striking out the words “, senior centers”; and further, in said clause (iii), by inserting after the words “health offices” the following words:— “; provided that sharps collection centers may be located at senior centers only for the purpose of disposing of medically necessary hypodermic needles.”

The amendment was **adopted**.

Messrs. Lees, Tarr and Brown moved that the bill be amended by adding the following section:—

“SECTION 17. This act shall expire on January 1, 2008.”

The amendment was *rejected*.

The question on passing the bill, as amended, to be engrossed was determined by a call of the yeas and nays, at five minutes before three o'clock P.M, on motion of Mr. Lees, as follows, to wit (yeas 26 — nays 8) [**Yea**s and **Nay**s No. 287]:

YEAS.	
Augustus, Edward M., Jr.	Moore, Richard T.
Barrios, Jarrett T.	Morrissey, Michael W.
Berry, Frederick E.	Murray, Therese
Chandler, Harriette L.	Nuciforo, Andrea F., Jr.
Fargo, Susan C.	O’Leary, Robert A.
Hart, John A., Jr.	Resor, Pamela
Havern, Robert A.	Spilka, Karen E.

Jehlen, Patricia D.	Tarr, Bruce E.
Joyce, Brian A.	Tisei, Richard R.
Knapik, Michael R.	Tolman, Steven A
McGee, Thomas M.	Tucker, Susan C.
Menard, Joan M.	Walsh, Marian
Montigny, Mark C.	Wilkerson, Dianne — 26.
NAYS.	
Antonioni, Robert A.	Creedon, Robert S., Jr.
Baddour, Steven A.	Hedlund, Robert L.
Brewer, Stephen M.	Lees, Brian P.
Buoniconti, Stephen J.	Timilty, James E. — 8.
PAIRED.	
YEAS. NAYS.	
Cynthia Stone Creem	Marc R. Pacheco (present)
Stanley C. Rosenberg	Steven C. Panagiotakos (present) — 4.
ABSENT OR NOT VOTING.	
Brown, Scott P. — 1.	

The yeas and nays having been completed at three o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence.

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered as follows: The House Bill regulating reduction in rank for members of the fire department of the town of Swampscott (House, No. 4184) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the town of Burlington to accept certain streets (House, No. 4486, amended),— **was read a third time and passed to be engrossed, in concurrence.**

Report of a Committee.

Mr. Buoniconti, 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 Senate Bill designating certain bridges in the Commonwealth (Senate, No. 2559).

There being no objection, the rules were suspended, on motion of Ms. Menard, 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 designating certain bridges.”.

PAPERS FROM THE HOUSE.

A Bill relative to the financial conditions in the Pentucket Regional School District (House, No. 4883, changed,— on petition). There being no objection, the rules were suspended, on motion of Mr. Havern, 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 regulating the financial conditions in the Pentucket Regional School District".

Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill further regulating the Cherry Valley and Rochdale Water District, (see House, No. 1290, amended) [for message, see House, No. 4928],— came from the House with amendment in the form approved by the committee on Bills in the Third Reading, as follows:— "By striking out all after the enacting clause and inserting in place thereof the following:

Chapter 105 of the acts of 1996 is hereby amended by inserting after section 3 the following section:—

Section 3A. The district, acting by and through its board of water commissioners, may enter into agreements with any municipality, district, governmental unit or any other form of governmental body under section 4A of chapter 40 of the General Laws or utility company for any purpose that is consistent with the purposes for which the district was originally constituted, and which would further the interests of the inhabitants of the district. All agreements must be approved by a majority vote of the voters of the district present and voting at a district meeting; provided, that the division of local services within the department of revenue must approve any actions taken by the district according to this section."

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 Mr. Augustus and the Governor's amendment was considered forthwith and rejected, in concurrence.

Sent to the House for re-enactment.

Report of a Committee.

By Mr. Brewer, for the committee on Bills in the Third Reading, to whom was referred the amendment recommended by the Governor to the engrossed Bill relative to the Purple Heart highway in Worcester County (see Senate, No. 1930) [for message, see Senate, No. 2567],— **reported, that the amendment recommended by the Governor be considered in the following form:**

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

"SECTION 1. Chapter 180 of the acts of 1961 is hereby amended by striking out all after the enacting clause and inserting in place thereof the following text:—

State highway route 146 shall be designated and known as the Purple Heart Highway in recognition and honor of the men and women wounded or killed in the line of their military duty. The department of highways shall erect and maintain suitable markers bearing this designation. In addition, that portion of state highway route 146 between interstate highway route 290 at Brosnihan square in the city of Worcester and state highway route 146 intersection with Boston road in the town of Sutton shall be named the Blackstone Valley Parkway. The department of highways shall erect and maintain suitable markers bearing this name.

SECTION 2. Item 6033-9917 of section 2B of chapter 235 of the acts of 2000 is hereby amended by striking out the words "provided further, that the section of state highway route 146 between interstate highway route 290 at Brosnihan square in Worcester and the state highway route 146 intersection with Boston road in Sutton shall be designated the Blackstone Valley parkway;".

The President stated that under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

After remarks, the report was accepted.

Mr. Moore moved that the Senate adopt the amendment in the form recommended by the committee on Bills in the Third Reading, and the motion prevailed.

After remarks, the question on adoption of the amendment, as recommended, was determined by a call of the yeas and nays at eight minutes past three o'clock P.M., on motion of Mr. Lees, as follows to wit (yeas 36 — nays 0) [**Yea**s and **Nay**s No. 288]:

YEAS.	
Antonioni, Robert A.	Buoniconti, Stephen J.
Augustus, Edward M., Jr.	Chandler, Harriette L.
Baddour, Steven A.	Creedon, Robert S., Jr.
Barrios, Jarrett T.	Fargo, Susan C.
Berry, Frederick E.	Hart, John A., Jr.
Brewer, Stephen M.	Havern, Robert A.

Hedlund, Robert L.	O'Leary, Robert A.
Jehlen, Patricia D.	Pacheco, Marc R.
Joyce, Brian A.	Panagiotakos, Steven C.
Knapik, Michael R.	Resor, Pamela
Lees, Brian P.	Spilka, Karen E.
McGee, Thomas M.	Tarr, Bruce E.
Menard, Joan M.	Timilty, James E.
Montigny, Mark C.	Tisei, Richard R.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
Murray, Therese	Walsh, Marian
Nuciforo, Andrea F., Jr.	Wilkerson, Dianne — 36.
NAYS.	
Brown, Scott P.	Rosenberg, Stanley C. — 3.
Creem, Cynthia Stone	

**The yeas and nays having been completed at thirteen minutes past two o'clock P.M., the amendment was adopted.
Sent to the House for its action.**

Orders Adopted.

Mr. Montigny offered the following order, to wit:

Ordered, That notwithstanding the provisions of Joint Rule 10 the joint committee on Bonding, Capital Expenditures and State Assets be granted until Friday, June 30, 2006, within which time to make its final report on current Senate number 2508.

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

Subsequently, Mr. Buoniconti, for the said committees, reported, that the order ought to be adopted.

The rules were suspended, on motion of Mr. Montigny, and the order was considered forthwith and adopted.

Sent to the House for concurrence.

Mr. McGee offered the following order, to wit:

Ordered, That notwithstanding the provisions of Joint Rule 10 the committees on Children and Families and Labor and Workforce Development, acting jointly, be granted until Wednesday, June 28, 2006, within which time to make its final report on current Senate number 2535.

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

Subsequently, Mr. Buoniconti, for the said committees, reported, that the order ought to be adopted.

The rules were suspended, on motion of Ms. Spilka, and the order was considered forthwith and adopted.

Sent to the House for concurrence.

PAPERS PROM THE HOUSE.

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 President and laid before the Governor for his approbation, to wit:

Further regulating municipal affordable housing trusts funds (see House, No. 4793);

Validating certain orders passed by the Barnstable town council (see House, No. 4627);

Establishing a sick leave bank for Michael Abdow, an employee of the Trial Court (see House, No. 4834); and

Establishing a sick leave bank for Debra A. Flagg, an employee of the Department of Mental Retardation (see House, No. 4915).

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5024) of Anthony Petruccelli and others relative to the appointment of officers for the supervision of elections in the cities and towns of the Commonwealth; and

Petition (accompanied by bill, House, No. 5025) of Anthony Petruccelli and others for legislation to regulate the sealing of ballots and voting lists in conducting elections;

Severally, under suspension of Joint Rule 12, to the committee on Election Laws.

Petition (accompanied by bill, House, No. 5026) of James M. Murphy and Robert L. Hedlund that the State Retirement Board be directed to grant creditable service to Daniel Condon for certain employment in the Congress of the United States;

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

Reports of Committees.

By Mr. Buoniconti, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Stanley C. Rosenberg and Denis E. Guyer for legislation to establish appointed positions of district clerk and district treasurer for the Bernardston fire and water district.

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 Municipalities and Regional Government.

By Mr. Buoniconti, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Robert A. O'Leary, Edward M. Augustus, Jr., Mark C. Montigny, Kevin G. Honan and other members of the General Court for legislation to require automatic external defibrillator devices in health clubs.

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 Health.

Severally sent to the House for concurrence.

Mr. Buoniconti, 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 providing for the annual observance of Massachusetts History Day (House, No. 3465).

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

Pending the question on ordering the bill to a third reading, Mr. Moore moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2577; and by striking out the title and inserting in place thereof the following title: "An Act designating the annual observance of Massachusetts History Day and establishing a special commission on civic engagement and learning."

The amendment was adopted.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendments.

Sent to the House for concurrence in the amendments.

Order Adopted.

On motion of Mr. Montigny,—

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 further motion of Mr. Montigny, at twenty-three minutes past three o'clock P.M., the Senate adjourned to meet again on the following day at eleven o'clock A.M.