

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, May 29, 2008.

Met at four minutes past eleven o'clock A.M. (Mr. Tolman 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. Tolman), members, guests and employees then recited the pledge of allegiance to the flag.

Petitions.

Ms. Menard presented a petition (accompanied by bill, Senate, No. 2722) of Joan M. Menard, Michael J. Rodrigues and Kevin Aguiar (with the approval of the Mayor and City Council) for legislation relative to the appointment and status of the Fire Chief and the Board of Fire Commissioners in the city of Fall River [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.**

Mr. Timilty presented a petition (subject to Joint Rule 9) of James E. Timilty, John H. Rogers, Louis L. Kafka and Richard J. Ross (by vote of the town) for legislation to establish the Walpole Economic Development and Industrial Corporation,— **and the same was transmitted, under the provisions of Section 5 of Chapter 3 of the General Laws, to the Secretary of State.**

Mr. Rosenberg presented a petition (subject to Joint Rule 12) of Stanley C. Rosenberg and Peter V. Kocot for legislation relative to leasing a certain parcel of land in the city of Northampton,— **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. Montigny, for the committee on Bonding, Capital Expenditures and State Assets, that the Senate Bill amending the conservation restrictions and agricultural preservations statutes (Senate, No. 470),— **ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2717). Referred, under Senate Rule 27, to the committee on Ways and Means.**

By Mr. Morrissey, for the committee on Consumer Protection and Professional Licensure, on Senate, Nos. 174, 205, 220 and 2410, an Order relative to authorizing the joint committee on Consumer Protection and Professional Licensure to make an investigation and study of certain current Senate documents relative to consumer protection related issues (Senate, No. 2713) [Local approval received on Senate, No. 2410];

By Mr. Antonioni, for the committee on Education, on petition (accompanied by bill, Senate, No. 298), an Order relative to authorizing the joint committee on Education to make an investigation and study of a certain current Senate document relative to teacher certification and licensure (Senate, No. 2715); and

By Mr. McGee, for the committee on Labor and Workforce Development, on petition (accompanied by bill, Senate, No. 1055), an Order relative to authorizing the joint committee on Labor and Workforce Development to make an investigation and study of

a certain current Senate document relative to apprentice training (Senate, No. 2709);
Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

By Ms. Fargo, for the committee on Public Health, on the recommitted petition (accompanied by bill, Senate, No. 1216), a Bill related to dental assistants (Senate, No. 2707);

Referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. Montigny, for the committee on Bonding, Capital Expenditures and State Assets, on petition, a Bill conveying certain property in the city of Worcester to community healthlink (Senate, No. 37);

By the same Senator, for the same committee, on petition, a Bill relative to town water department access within state highway department property in Cohasset (Senate, No. 40);

By the same Senator, for the same committee, on petition, a Bill expanding pleasure boat access to Boston harbor (Senate, No. 522);

By the same Senator, for the same committee, on petition, a Bill authorizing the city of Fitchburg to use certain park land for the Wallace Civic Center and Planetarium and to lease the same to the Commonwealth (Senate, No. 2589);

By the same Senator, for the same committee, on petition, a Bill relative to the Kasabuski Rink in Saugus (Senate, No. 2625) [Local approval received];

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 514), a Bill relative to the Ponkapoag golf course (Senate, No. 2718);

By Mr. Creedon, for the committee on Judiciary, on petition, a Bill establishing a sick leave bank for David S. Vitale, an employee of the Administrative Office of the Trial Court (Senate, No. 2710);

By Mr. Timilty, for the committee on Public Safety and Homeland Security, on petition (accompanied by bill, Senate, No. 2665), a Bill to create a state 911 department, single 911 surcharge and an enhanced 911 fund (Senate, No. 2716); and

By Mr. Baddour, for the committee on Transportation, on the recommitted petition, a Bill relative to operating a motor vehicle when approaching stationary emergency vehicles (Senate, No. 2103);

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

By Mr. Moore, for the committee on Health Care Financing, on petition, a Bill requiring pharmacies to inform the Department of Public Health of medication dispensing errors (Senate, No. 432) [Estimated cost — less than \$100,000]; and

By Ms. Fargo, for the committee on Public Health, on the recommitted petition (accompanied by bill, Senate, No. 1329), a Bill further regulating tanning facilities (Senate, No. 2708);

Severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

By Mr. Petrucci, for the committee on Municipalities and Regional Government, on petition, a Bill relative to SBA income in the town of Sunderland (Senate, No. 2686) [Local approval received];

Read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

By Mr. Montigny, for the committee on Bonding, Capital Expenditures and State Assets, ought NOT to pass, on the petition (accompanied by bill, Senate, No. 47) of Richard T. Moore for legislation to release certain land in Bellingham from the operation of an agricultural preservation restriction;

Referred, under Senate Rule 36, to the committee on Ethics and Rules.

Committee Discharged.

Mr. Moore, for the committee on Health Care Financing, reported, asking to be discharged from further consideration

Of the Senate Bill to create environmental justice (Senate, No. 2572); and

Of the Senate Bill clarifying employer sanctions for improper expenditure of withholdings or deductions from wages (Senate, No. 2579);

And recommending that the same severally be referred to the Senate committee on Ways and Means.

Under Senate Rule 36, the reports were severally considered forthwith and accepted.

Severally sent to the House for concurrence in the discharge of the joint committee.

PAPERS FROM THE HOUSE.

A message from His Excellency the Governor submitting requests for making appropriations for the fiscal year 2008 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4786),— **was referred, in concurrence, to the House committee on Ways and Means.**

A petition (accompanied by bill, House, No. 4790) of Tom Sannicandro (by vote of the town) for legislation to make certain changes in the charter of the town of Ashland [Local approval received],— **was referred, in concurrence, to the committee on Municipalities and Regional Government.**

Bills

Increasing certain retirement benefits (House, No. 2594,— on House, No. 2459);

Authorizing the town of Arlington to establish a special account for the maintenance of its bodies of water (printed in House, No. 4471,— being a message from His Excellency the Governor); and

Validating the acts and proceedings to the 2007 spring annual town meeting and 2007 fall annual town meeting to the town of Natick (printed in House, No. 4623,— being a message from His Excellency the Governor).

Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

Bills

Authorizing the town of Provincetown to grant a certain easement (House, No. 4015, amended,— on petition) [Local approval received];

Relative to election in the city of Everett (House, No. 4097,— on petition) [Local approval received];

Relative to the conservation commission of the town of West Stockbridge (House, No. 4100,— on petition) [Local approval received];

Authorizing Daniel Wesinger to take the civil service examination for firefighter in the town of Arlington (House, No. 4123,— on petition) [Local approval received];

Authorizing the board of assessors of Braintree to grant tax abatements to certain military personnel (House, No. 4240,— on petition) [Local approval received];

Establishing a neighborhood conservation district in the town of North Andover (House, No. 4279,— on petition) [Local approval received];

Relative to preliminary elections in the city of Newton (House, No. 4397,— on petition) [Local approval received];

Establishing a special fund in the town of Millis (House, No. 4544,— on petition) [Local approval received]; and

Authorizing the city of Worcester to provide certain retirement and medical benefits to firefighter Mark S. Stomski (House, No. 4711,— on petition) [Local approval received];

Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

A report of the House committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the House Bill relative to internet sales (printed as Senate, No. 258), and recommending that the same be referred to the committee on Financial Services,— **was considered forthwith, under Senate Rule 36, and accepted, in concurrence, inasmuch as relates to the reference to the joint committee.**

Notice was received from the House announcing the following appointments:

That Representatives Costello of Newburyport (as Co-Chairperson), Khan of Newton and Richardson of Framingham have been appointed by the Speaker of the House to the special commission (pursuant to section 87 of chapter 61 of the Acts of 2007) to study the existing level of services offered by the Department of Correction, county jails and house of correction.

Communication.

The Clerk read the following communication:

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

May 27, 2008.

William Welch, Clerk
Massachusetts State Senate
State House, Room 335
Boston, MA 02133

Dear Mr. Clerk:

Due to a previously scheduled medical appointment, I was unable to vote on several matters that came before the Senate on May 22, 2008. Had I been present, I would have voted in the following manner:

- No, Amendment #187
- Yes, Amendment #210

I respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record for May 22, 2008.

Thank you in advance for your attention to this important matter.

Sincerely,
FREDERICK E. BERRY,
Majority Leader.

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

Resolutions.

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

Resolutions (filed by Messrs. Moore, Augustus, Brewer and Brown, Ms. Candaras, Ms. Chandler, Ms. Fargo, Ms. Jehlen, Messrs. Joyce, McGee, Montigny, O’Leary, Pacheco and Panagiotakos, Ms. Resor, Messrs. Rosenberg and Timilty, Ms. Tucker, Mr. Tarr and Ms. Wilkerson) “memorializing the Congress of the United States to provide sufficient, timely and predictable funding for health care for veterans.”

Report of a Committee.

The following report was laid before the Senate, the time within which the said committee was required to report having expired:—

Of the committee on Telecommunications, Utilities and Energy, ought NOT to pass (under Joint Rule 10) on the recommitted petition (accompanied by bill, Senate, No. 237) of Richard R. Tisei for legislation relative to the qualification of inspectors of wire and assistant inspectors of wire employed by a city or town.

On motion of Mr. Knapik, the rules were suspended; and, on further motion of the same Senator, the petition was recommitted to the Joint Committee on Telecommunications, Utilities and Energy.

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 authorizing the city known as the town of Watertown to fill by appointment a vacancy in the Board of Trustees of the public library (House, No. 4584),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

PAPERS FROM THE HOUSE.

Orders.

The following House Orders (severally approved by the committees on Rules of the two branches, acting concurrently) were severally considered forthwith and adopted in concurrence, as follows:

Ordered, That notwithstanding the provisions of Joint Rule 10, the committee on The Judiciary shall be granted until Thursday, June 12, 2008, within which to report on House, Nos. 500, 1304, 1308, 1311, 1313, 1317, 1318, 1325, 1331, 1332, 1333, 1334, 1335, 1337, 1383, 1388, 1389, 1479, 1532, 1547, 1662, 1672, 1688, 1700, 1718, 1720, 1746, 1749, 1751, 3054, 3738, 3865, 3875, 3876, 3877, 3991 and 4476.

Ordered, That notwithstanding the provisions of Joint Rule 10, the committee on Telecommunications, Utilities and Energy shall be granted until Thursday, July 3, 2008, within which to report on House, Nos. 808, 1991, 3279, 3320, 3331, 3362 and 4364.

Ordered, That notwithstanding the provisions of Joint Rule 10, the committee on Transportation shall be granted until Thursday, June 5, 2008, within which to report on House, No. 3592.

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Transportation shall be granted until Friday, June 20, 2008, within which to report on House, No. 4642.

Engrossed Bills.

The following engrossed bills (all of which originated in the Senate), 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 (Mr. Tolman) and laid before the Governor for his approbation, to wit:

Exempting Timothy R. Grabarz and Thomas E. Cady from the maximum age requirement for appointment as a police officer in the town of Raynham (see Senate, No. 1621);

Further regulating the group insurance program of the town of Boxborough (see Senate, No. 2297); and

Authorizing the town of Orleans to operate a sewer system (see Senate, No. 2452).

An engrossed Bill establishing the North Carver Water District (see Senate, No. 2308, 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 re-enacted and was signed by the Acting President (Mr. Tolman) and again laid before the Governor for his approbation.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4808) of Geoffrey D. Hall and Susan C. Fargo for legislation to establish a sick leave bank for Anthony F. Zanette, an employee of the University of Massachusetts Medical School;

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

Petition (accompanied by bill, House, No. 4809) of Frank M. Hynes and Robert L. Hedlund for legislation to designate a certain bridge in the towns of Marshfield and Scituate as the Francis R. Powers Memorial Bridge.

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

Report of Committees.

By Mr. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 7B be suspended on the Senate petition of Bruce E. Tarr and Bradford Hill for legislation relative to the maximum age requirement for police officers in the town of Manchester-by-the-Sea.

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 Public Service. Sent to the House for concurrence.

Orders Adopted.

Mr. McGee offered the following order, to wit:

Ordered, That notwithstanding the provisions of Joint Rule 10, the committee on Labor and Workforce Development be granted until Thursday, June 19, 2008, within which to make its final report on current Senate document numbered 2476, relative to allowing students in vocational technical high schools to be involved in plumbing projects.

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

Subsequently, Mr. Downing, for the said committee reported, recommending that the order be adopted.

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

On motion of Mr. Knapik,—

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 Antone L Silva.

The Senator from Bristol and Plymouth, Mr. Montigny, requested that when the Senate adjourns today, it adjourn in memory of former Senator Antone “Tony” L. Silva.

Former Senator Antone “Tony” Silva passed away on May 16, 2008. Senator Silva represented New Bedford and Dartmouth in the Massachusetts Senate in the early 1960’s and prior to that he was in the Massachusetts House of Representatives. In 1965 he was appointed Postmaster in the New Bedford area where he served for 25 years.

Accordingly, as a mark of respect to the memory of Antone L. Silva, at eighteen minutes past eleven o'clock A.M., on motion of Mr. Knapik, the Senate adjourned to meet again Monday next at eleven o'clock A.M.