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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Tuesday, February 12, 2006.

Met at twenty-three minutes before two o'clock P.M. (Mr. Tolman in the Chair).

There being no objection, at twenty-two minutes before two o'clock P.M., the Chair (Mr. Tolman) declared a recess subject to the call of the Chair; and, at eleven minutes past two 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.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

To establish the Whitin Reservoir Watershed District in the town of Douglas (Senate, No. 2344);
Relative to incurring indebtedness in the town of Ipswich (Senate, No. 2445, changed); and
Authorizing the town of Orleans to operate a sewer system (Senate, No. 2452);
Were severally read a second time and ordered to a third reading.

The Senate Bill regulating certain insurance benefits for elected officials of the town of Easton (Senate, No. 1525),— **was considered; and it was passed to be engrossed.**
Sent to the House for concurrence.

The Senate Bill further regulating employment contracts for school principals (Senate, No. 273) (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. Antonioni moved that the bill be amended in section 1, by striking out the third and fourth sentences and inserting in place thereof the following sentence:— “The second and all subsequent contracts shall be for not less than 3 nor more than 5 years unless both parties agree to a shorter term of employment.”

After remarks, this amendment was adopted.

The bill (Senate, No. 273, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill further regulating the disclosure of certain financial information to the division of medical assistance (House, No. 975) (its title having been changed by the committee on Bills in the Third Reading),— was read a third time.

After remarks, the question on passing it to be engrossed, in concurrence, was determined by a call of the yeas and nays, at sixteen minutes before three o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 37 — nays 0*) **[Yeas and Nays No. 175]:**

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Buoniconiti, Stephen J.	O'Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Petrucelli, Anthony
Creem, Cynthia Stone	Resor, Pamela
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — 37.
Marzilli, Jim	
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E.	Rosenberg, Stanley C. — 2.

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

The House Bill designating May 24 as Phenylketonuria Awareness Day (House, No. 3174),— was read a third time and passed to be engrossed, in concurrence.

The House Bill designating Norman Rockwell as the official artist of the Commonwealth (House, No. 4228),— was read a third time.

Ms. Menard in the Chair, after remarks, the question on passing it to be engrossed, in concurrence, was determined by a call of the yeas and nays, at three minutes before three o'clock P.M., on motion of Mr. Knapik, as follows, to wit (*yeas 36 — nays 0*)
[Yeas and Nays No. 176]:

YEAS.	
Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Brewer, Stephen M.	Moore, Richard T.
Brown, Scott P.	Morrissey, Michael W.
Candaras, Gale D.	O’Leary, Robert A.
Chandler, Harriette L.	Pacheco, Marc R.
Creedon, Robert S., Jr.	Panagiotakos, Steven C.
Creem, Cynthia Stone	Petrucelli, Anthony
Downing, Benjamin B.	Resor, Pamela
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Knapik, Michael R.	Walsh, Marian
Marzilli, Jim	Wilkerson, Dianne — 36.
NAYS — 0.	
ABSENT OR NOT VOTING.	
Berry, Frederick E.	Rosenberg, Stanley C. — 3.
Buoniconti, Stephen J.	

The yeas and nays having been completed at two minutes past three o’clock P.M., the bill was passed to be engrossed, in concurrence.

The Senate Resolve to create a cranberry heritage study commission (Senate, No. 2012),— **was considered; the question being on passing the bill to be engrossed.**

Mr. Pacheco moved that the resolve be amended by substituting a new draft entitled “A Resolve providing for an investigation and study by a special commission relative to the establishment of a cranberry heritage area” (Senate, No. 2496).

This amendment was adopted.

The resolve (Senate, No. 2496) was then passed to be engrossed.

Sent to the House for concurrence.

Matters Taken Out of the Notice Section of the Calendar.

There being no objection, during the consideration of the Orders of the Day, the following matters were taken out of the Notice Section of the Calendar and considered as follows:

The House Bill relative to the charter of the town of Braintree (House, No. 4398),— **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 further amending the charter of the town of Braintree”.**

The House Bill further regulating water betterment in the town of Brewster (House, No. 3955) (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. Sent to the House for concurrence in the amendments.**

The House Bill exempting certain positions in the city of Worcester from the civil service law (House, No. 4497) (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.**

Reports of Committees.

Mr. Downing, 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 further regulating employee compensation (Senate, No. 1059).

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

After debate, the President in the Chair, Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting at the end thereof the following section:—

“SECTION 9. Section 52C of said chapter 149 is amended by inserting at the end of said section 52C the following new section:—

Section 52D. (A) Unless otherwise provided by law, an employer, or an employer’s designee, who discloses information about a current or former employee to a prospective employer of the employee shall be absolutely immune from civil liability if the disclosed information includes any or all of the following: (1) date of employment; (2) pay level; (3) job description and duties; and (4) wage history. An employer who responds in writing to a written request concerning a former employee from a prospective employer of that employee shall be absolutely immune from civil liability if the disclosed information includes either or both of the following: (1) written employee evaluations which were conducted prior to the employee’s separation from the employer; and (2) whether the employee was voluntarily or involuntarily released from service and the reasons for the separation.”

After remarks, the amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting at the end thereof the following section:—

“SECTION 9. Said section 52C of said chapter 149, as so appearing, is hereby amended by striking lines 37 to 41 and inserting in place thereof the following:—

An employer shall notify an employee within 10 days or tale employer placing in the employee’s personnel record any information to the extent that the information is used or has been used or may be used to negatively affect the employee’s qualification for employment, promotion, transfer, additional compensation or disciplinary action. Any employer receiving a written request from an employee shall provide the employee with an opportunity to review his personnel record within five business days of such request. The review shall take place at the place of employment and during normal business hours. An employee shall be given a copy of his personnel record within five business days of submission of a written request for such copy to his employer. An employer shall not be required to allow an employee to review his personnel record on more than two (2) separate occasions in any calendar year, provided however that the notification and review caused by the placing of any negative information in the personnel record shall not be considered on of the two annually permitted reviews.”

After remarks, the amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting at the end thereof the following section:—

“SECTION 9. Section 148 of said chapter 149, is hereby amended in line 2 by striking out the words “weekly or bi-weekly” and inserting in place thereof the following words:— “weekly, biweekly or semi-monthly”.

The amendment was rejected.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting in line 4 after the words “aggrieved by a” the word:— “willful”; by inserting in line 14 after the words “aggrieved by a” the word:— “willful”; by inserting in line 24 after the words “aggrieved by a” the word:— “willful”; by inserting in line 34 after the words “aggrieved by a” the word:— “willful”; and by inserting in line 45 after the words “aggrieved by a” the word:— “willful”.

After remarks, the amendment was *rejected*.

Messrs. Tisei, Tarr, Knapik, Hedlund and Brown moved that the bill be amended by inserting at the end thereof the following sections:—

“SECTION 9. The General Laws, as appearing in the 2004 Official Edition, are hereby amended by inserting after chapter 30B the following:—

Chapter 30C.
PUBLIC CONTRACT INTEGRITY.

Section 1. For the purposes of this chapter, the following words shall have the following meanings:

'Public employer', any department, agency, or public instrumentality of the commonwealth and any person, corporation, partnership, sole proprietorship, joint venture, or other business entity providing goods or services to any department, agency or public instrumentality of the commonwealth, including but not limited to the Massachusetts Turnpike Authority, Massachusetts Water Resources Authority, Massachusetts Port Authority, and the Massachusetts Bay Transportation Authority.

'Worker documentation certification program', the electronic verification of work authorization program operated by the United States Department of Homeland Security or any equivalent work authorization program operated by the United States Department of Homeland Security, the United States Department of Labor, the Social Security Administration, other federal agency, or any private verification system authorized by the director of the department of labor to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA) and its progeny.

Section 2. No public employer shall enter into a contract for the provision of goods or services within the commonwealth unless the contractor registers and participates in a worker documentation certification program to verify information of all new employees and certifies to that effect in writing to the director of the department of labor.

Section 3. No contractor or subcontractor who enters a contract with a public employer shall enter into such a contract or subcontract in connection with the provision of goods or services in the commonwealth unless the contractor or subcontractor registers and participates in a worker documentation certification program to verify information of all employees and certifies to that effect in writing to the director of the department of labor.

Section 4. Sections 2 and 3 of this chapter shall apply as follows:

(A) On or after September 1, 2007, with respect to public employers, contractors, or subcontractors of 500 or more employees;

(B) On or after September 1, 2008, with respect to public employers, contractors, or subcontractors of 100 or more employees; and

(C) On or after September 1, 2009, with respect to all public employers, contractors, or subcontractors.

Section 5. The provisions of this chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Section 6. Except as provided in section 4 of this chapter, the director of the department of labor shall prescribe forms and promulgate rules and regulations deemed necessary in order to administer and effectuate the provisions of this chapter.

Section 7. The Inspector General shall develop and promulgate regulations for the purpose of ensuring that any person receiving funds pursuant to a contract awarded subject to the provisions of chapter 30B and section 44A of chapter 149 of the general laws is in compliance with federal laws pertaining to immigration and citizenship, including but not limited to 42 U.S.C. 1436(a). Such regulations shall include but not be limited to the ascertaining and verification of immigration and/or citizenship status through a work authorization program maintained by the United States Department of Homeland Security or its substantial equivalent.

Section 8. No contract shall be awarded by or to a public employer, and no public funds shall be expended in accordance with such a contract, unless the public employer named in the contract complies with the regulations prescribed in this chapter.

Section 9. No funds shall be expended in accordance with a contract awarded by or to a public employer which will result in the payment of any kind to a person not in compliance with any and all federal laws pertaining to immigration and citizenship, including but not limited to 42 U.S.C. 1436(a).

Section 10. The auditor is hereby authorized to conduct random audits to ensure compliance with the provisions of this chapter.

Section 11. Paragraph (c) of section 29F of chapter 29 of the General Laws, as appearing in the 2004 Official Edition, by inserting at the end thereof the following:—

(x) procurement in violation of the provisions of chapter 30C;.

Section 11. Any employer that registers and participates in the worker documentation certification program, as prescribed within this act, shall be deemed to be in satisfaction of the provisions of this act notwithstanding any fraudulent action subsequent by an employee who provides a false identification document for the purpose of soliciting, securing or maintaining employment."

After remarks, the amendment was rejected.

The bill was then ordered to a third reading, read a third time and passed to be engrossed, its title having been changes by the committee on Bills in the third Reading to read as follows: "An Act further regulating employee compensation."

Sent to the House for concurrence.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Suzanne L. Soucie, an employee of the Trial Court (House, No. 4505),— **ought to pass.**

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, in concurrence.

By Mr. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Anthony D. Galluccio, Stephen S. Smith, Robert L. Hedlund, Michael W. Morrissey and other members of the General Court for legislation relative to responsibility for damages resulting from the transportation of explosive and inflammable materials.

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

By Mr. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Anthony D. Galluccio, Stephen S. Smith, Robert L. Hedlund, Michael W. Morrissey and other members of the General Court for legislation relative to safe transportation of explosive and inflammable materials.

Senate Rule 36 was suspended, on motion of Mr. Hart, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Safety and Homeland Security.

By Mr. Downing, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Frederick E. Berry and Theodore C. Speliotis for legislation to establish a sick leave bank for Ronald James, an employee of the Department of Mental Retardation.

Senate Rule 36 was suspended, on motion of Mr. Hart, 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. Severally sent to the House for concurrence.

PAPERS FROM THE HOUSE.

The Senate Bill regulating the distribution of household cleansing products containing phosphorous (Senate, No. 536, changed),— **came from the House passed to be engrossed, in concurrence with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4523.**

Ms. Resor moved that the rules be suspended so that the matter may be considered forthwith; but objection was made thereto (Tarr).

Under Senate Rule 36, the matter was placed in the Orders of the Day for the next session.

The Senate Bill abolishing the North East Solid Waste Committee (Senate, No. 549, amended),— **came from the House passed to be engrossed, in concurrence with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4337.**

The rules were suspended, on motion of Ms. Resor, and the House amendment was considered forthwith and adopted, in concurrence.

Engrossed Bills.

The following engrossed bills (the first 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 President and laid before the Governor for his approbation, to wit:

Establishing a sick leave bank for Thomas D'Intinosanto, an employee of the Department of Mental Retardation (see Senate, No. 2349, amended);

Authorizing Brendan Gormley to take the civil service examination for firefighter in the town of Arlington notwithstanding the maximum age requirement (see House, No. 4142);

Authorizing the town of Weston to grant a license for the sale of wines at a food store (see House, No. 4177);

Authorizing the placement of a question on the ballot relative to the sale of wines and malt beverages to be drunk on the premises of certain restaurants (see House, No. 4194);

Relative to the land acquisition and maintenance fund of the town of Eastham (see House, No. 4256);

Authorizing the city of Methuen to lease a portion of a certain building to the Methuen Municipal Employees Federal Credit Union (see House, No. 4325);

Designating a certain rink in the town of Franklin as the Staff Sergeant Robert Pirelli Veterans Memorial Rink (see House, No. 4354); and

Further regulating the town administrator in the town of Somerset (see House, No. 4402).

Order Adopted.

On motion of Mr. Tisei,—

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow in a full formal session without a calendar, at a half past one o'clock P.M.

On motion of Mr. Hart, at a quarter before four o'clock P.M., the Senate adjourned to meet on the following day at a half past one o'clock P.M.