

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.

Monday, June 9, 2008.

Met at five 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.

Distinguished Guests.

There being no objection, the Chair (Mr. Tolman) introduced, seated in the Senate gallery, three Massachusetts statewide firefighter officials. Bobby McCarthy, Jimmy Allen and President Michael Coogan were recognized for visiting the State House and withdrew from the gallery.

Reports.

A report of The Life Initiative (pursuant to Section 2(e) of Chapter 259 of the Acts of 1998) submitting its 2007 Annual Report and Statement of Financial Condition of the Massachusetts Life Insurance Community Investment Initiative, LLC (received Friday, June 6, 2008),— **was placed on file.**

The following reports were severally read and sent to the House for its information:—

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of the Western Massachusetts Regional Women's Correctional Center (received Friday, June 6, 2008);

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of the Franklin County Jail and House of Correction (received Friday, June 6, 2008); and

A report of the Department of Public Health (under the provisions of Sections 5 and 20 of Chapter 111 of the General Laws) relative to inspection of the Norfolk County Correctional Center (received Friday, June 6, 2008).

Petition.

Mr. Pacheco presented a petition (accompanied by bill, Senate, No. 2736) of Marc R. Pacheco and David L. Flynn (by vote of the town) for legislation relative to the North Raynham Water District [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.**

Reports of Committees.

By Mr. Galluccio, for the committee on Public Service, on petition, a Bill establishing a sick leave bank for Karen Fowles, an employee of the Massachusetts Rehabilitation Commission (Senate, No. 2730); and

By Mr. Baddour, for the committee on Transportation, on petition (accompanied by bill, House, No. 3592), a Bill relative to the regulation of snow and recreation vehicles (Senate, No. 2735) (Representatives Flanagan of Leominster and Sandlin of Agawam

dissenting);

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

By Mr. Petrucci, for the committee on Municipalities and Regional Government, on petition, a Bill relative to the use of certain land in the town of Leicester (Senate, No. 2689) [Local approval received];

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

PAPERS FROM THE HOUSE.

Bills

Authorizing the late filing of a tax abatement application for the owners of Three Fuller Place in Cambridge (House, No. 4226,— on petition) [Local approval received]; and

Relative to temporary loans and assessment of betterments by the town of Hingham (House, No. 4236,— on petition) [Local approval received];

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

Resolutions.

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

Resolutions (filed by Mr. Augustus) “recognizing Shrewsbury Fire Chief Gerald F. LaFlamme on the occasion of his retirement”; and

Resolutions (filed by Ms. Wilkerson) “honoring Columbus Avenue African Methodist Episcopal Zion Church on its one hundred and seventieth anniversary.”

Communication.

The Clerk read the following communication:

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

June 4, 2008.

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

Dear Mr. Clerk:

On Wednesday May 21, 2008, I was absent from the Senate floor due to a matter of significant importance to my district. I missed two roll calls relative to items contained within the fiscal year 2009 budget. The first roll call was relative to amendment 57 presented by Senator Creem entitled RELATIVE TO SENIOR CITIZEN PROPERTY TAXES and the second roll call relative to amendment 157 presented by Senator Brown entitled VETERANS PLATES. Had I been present, I would have voted in the affirmative on both amendments.

I would respectfully request that this letter be published in the Senate Journal as part of the official record. Thank you in advance for your assistance in this matter.

Sincerely,
Dianne Wilkerson,
State Senator,
Second Suffolk District.

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

Engrossed Bill Returned by Governor With Recommendation of Amendment.

The engrossed Bill authorizing the town of Orleans to operate a sewer system (see Senate, No. 2452) (which on Thursday, May 29, 2008, had been laid before the Governor for his approbation), was returned to the Senate Clerk by the Governor on Friday, June 6, 2008 at one minute before two o'clock P.M., with a message recommending an amendment.

The message (Senate, No. 2737) was read and the Senate proceeded to reconsider the bill, in accordance with the provisions of

Article LVI of the Amendments to the Constitution.

Pending action thereon, the bill was referred to the committee on Bills in the Third Reading, on motion of Mr. Tisei.

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered as follows:—

The House Bill authorizing the board of assessors of Braintree to grant tax abatements to certain military personnel (House, No. 4240),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill establishing a special fund in the town of Millis (House, No. 4544),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

Reports of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill relative to the State Library (Senate, No. 1996),— **ought to pass.**

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

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill to create a community hospital capital reserve fund (Senate, No. 2368),— **ought to pass**, with an amendment in section 1, by adding the following 6 subparagraphs:—

“(vii) Notwithstanding any provision of this act to the contrary, no loan shall be made to a nonprofit community hospital by the authority from proceeds of bonds secured by a Community Hospital Capital Reserve Fund established under this paragraph (g) unless: (a) the project to be financed by the loan has been approved by the secretary of health and human services; and (b) the loan and the issuance and terms of the related bonds have been approved by the secretary of administration and finance. In connection with any loan to a nonprofit community hospital pursuant to this paragraph, the secretary of health and human services and the secretary of administration and finance may enter into an agreement with the authority and the nonprofit community hospital to (a) require that the nonprofit community hospital provide financial statements or other information relevant to the financial condition of the nonprofit community hospital and its compliance with the terms of the loan, (b) require that the nonprofit community hospital reimburse the commonwealth for any amounts the commonwealth transfers to the Community Hospital Capital Reserve Fund under subparagraph (iii) to replenish the fund as a result of a loan payment default by the nonprofit community hospital, and (c) require compliance by the nonprofit community hospital or the authority with any other terms and conditions the secretaries may consider appropriate in connection with the loan.

(viii) When the authority notifies the secretary of administration and finance in writing that an institution eligible to use the authority under this paragraph (g) is in default as to the payment of principal or interest on any bonds issued by the authority on behalf of such institution, or that the authority has reasonable grounds to predict that the institution will not be able to make a full payment when that payment is due, the secretary of administration and finance shall direct the comptroller to withhold any funds in the comptroller’s custody that are due or payable to the institution until the amount of the principal or interest due or anticipated to be due has been paid to the authority or the trustee for the bondholders, or the authority notifies the secretary of administration and finance that satisfactory arrangements have been made for the payment of the principal and interest. Funds subject to withholding under this subparagraph include, but are not limited to, federal and state grants, contracts, allocations or appropriations.

(ix) if the authority further notifies the secretary of administration and finance in writing that no other arrangements are satisfactory, the secretary shall direct the comptroller to make available to the authority without further appropriation any funds withheld from the institution under subparagraph (viii). The authority shall apply the funds to the costs incurred by the institution, including payments required to be made to the authority or trustee for any bondholders of debt service on any bonds issued by the authority for the institution or required by the terms of any other law or contract to be paid to the holders or owners of bonds issued on behalf of the institution upon failure or default, or reasonable expectation of failure or default, of the institution to pay the principal or interest on its bonds when due.

(x) Concurrent with any notice from the authority to the secretary of administration and finance under this paragraph (g), the authority may notify any other agency, department or authority of state government that exercises regulatory, supervisory or statutory control over the operations of the institution. Upon notification, the agency, department or authority shall immediately undertake reviews to determine what action, if any, that agency, department or authority should undertake to assist in the payment by the institution of the money due or steps that the agencies of the state other than the comptroller or the authority should take to assure the continued prudent operation of the institution or provision of services to the people served by the institution.

(xi) Notwithstanding any general or special law to the contrary, in the event that a nonprofit community hospital fails to reimburse the commonwealth for any transfers made by the commonwealth to the authority to replenish the Community Hospital Capital Reserve Fund in accordance with subparagraph (iii) within 6 months of any such transfer and as otherwise provided in accordance with the terms of the agreement among the nonprofit community hospital, the authority and the commonwealth authorized under subparagraph (vii), the secretary of administration and finance may, in her sole discretion, direct the comptroller to withhold any funds in the comptroller’s custody that are due or payable to the nonprofit community hospital all or a portion of the amount the nonprofit community hospital has failed to pay to the commonwealth to reimburse the commonwealth for any

such transfers. All contracts issued by the Group Insurance Commission, the Health Insurance Connector Authority and MassHealth to any third party for the purposes of providing health care insurance paid for by the commonwealth shall provide that, at the direction of the secretary of administration and finance, the third party shall withhold payments to a nonprofit community hospital which fails to reimburse the commonwealth in accordance with the agreement authorized under subparagraph (vii) and shall transfer the withheld amount to the commonwealth. Any such withheld amounts shall be considered to have been paid to the nonprofit community hospital for all other purposes of law, and the nonprofit community hospital shall be considered to have reimbursed the commonwealth for all or a portion of any such transfers to the Community Hospital Capital Reserve Fund for purposes of the agreement authorized under subparagraph (vii).

(xii) For purposes of this paragraph (g), a community hospital excludes any hospital where the ratio of the number of physician residents-in-training to the number of inpatient beds exceeds 0.25."

The rules were suspended, on motion of Mr. Tisei, and the bill was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2368, amended) was then ordered to a third reading.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill relative to the use of a building in the town of Whitman (Senate, No. 2474),— **ought to pass.**

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

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill to establish a sick leave bank for Lois Tobin an employee of the Department of Mental Retardation (Senate, No. 2678),— **ought to pass.**

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

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill relative to the leasing of a certain parcel of land in the town of Gardner (Senate, No. 2696) ,— **ought to pass, with an amendment in section 4, line 30, by striking out the words "a co-insured" and inserting in place thereof the following words:— "additional insured"; and in section 7, line 54, by striking out the word "twelve" and inserting in place thereof the following figure: "12".**

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

The bill (Senate, No. 2696, amended) was then ordered to a third reading.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill relative to equitable coverage for annuity policies (Senate, No. 2729),— **ought to pass.**

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

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Jesse Goguen, an employee of the Department of Correction (House, No. 4736),— **ought to pass.**

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

Order Adopted.

Mr. Timilty offered the following order to wit:—

Ordered, That notwithstanding the provisions of Joint Rule 10, the joint committee on Public Safety and Homeland Security be granted until Friday, June 27th, 2008 within which time to make its final report on a certain current Senate document numbered 1349 relative to port security.

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

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

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

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:—

Joint petition (accompanied by bill, House, No. 4822) of William M. Straus, Joan M. Menard and others for legislation to further regulate "online" advertising on the Internet;

Under suspension of Joint Rule 12, to the committee on Economic Development and Emerging Technologies.

Petition (accompanied by bill, House, No. 4823) of David B. Sullivan for legislation to designate the glacial rock located in the city of Fall River as the glacial rock of the Commonwealth;

Under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

Emergency Preambles Adopted.

An engrossed Bill establishing a sick leave bank for Kimberly Chuckran, an employee of the Department of Correction (see House, No. 2513, amended), 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 (Mr. Tolman) and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Samuel Pill, an employee of the Trial Court (see House, No. 4722), 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 (Mr. Tolman) and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Carol A. Wall, an employee of the Department of Mental Retardation (see House, No. 4912), 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 (Mr. Tolman) and sent to the House for enactment.

Order.

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

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Bonding, Capital Expenditures and State Assets shall be granted until Monday, June 30, 2008, within which to report on House, No. 4732.

Order Adopted.

On motion of Mr. Tisei,—

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 a half past eleven o'clock A.M., the Senate adjourned to meet on the following Wednesday at eleven o'clock A.M.