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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, October 30, 2008.

Met according to adjournment at eleven o'clock A.M. (Mr. Rosenberg in the Chair).

Reports.

A report of the Bristol County Registry of Deeds (under the provisions of Section 4 of Chapter 4 of the Acts of 2003) submitting its spending plan for technology improvement to the registry (copies having been forwarded to the Senate and House committees on Ways and Means and the Senate and House committees on Post Audit and Oversight) (received Friday, October 24, 2008),— **was placed on file.**

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 M.C.I. Plymouth (received Wednesday, October 29, 2008),— **was read and sent to the House for its information.**

Papers from the House.

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5125) of James R. Miceli and Bruce E. Tarr (by vote of the town) for legislation to make certain changes in the jurisdiction of the water and sewer commission of the town of Wilmington;

Joint petition (accompanied by bill, House, No. 5126) of Kevin J. Murphy and others (with the approval of the mayor and city council) that the city of Lowell be authorized to pay funeral and burial expenses of employees killed or who sustain injuries resulting in death in the performance of their official duties;

Joint petition (accompanied by bill, House, No. 5127) of Kevin J. Murphy and others (with the approval of the mayor and city council) that the city of Lowell be authorized to lease certain retail space in the parking garage located on Middlesex Street in said city; and

Petition (accompanied by bill, House, No. 5128) of Joseph F. Wagner (with the approval of the mayor and board of aldermen) for legislation to establish a city council form of government in the city of Chicopee;

Severally to the committee on Municipalities and Regional Government.

A Bill relative to the town of Duxbury (House, No. 4380,— on petition) [Local approval received],— **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

The report of the Special Commission established (under Chapter 2 of the Resolves of 2007) providing for an investigation and study relative to examining hygienic procedures relative to band instruments (House, No. 5124),— **was referred, in concurrence, to the committee on Education.**

Recess.

There being no objection, at one minute past eleven o'clock A.M., the Chair (Mr. Rosenberg) declared a recess, subject to the call of the Chair; and at one minute before 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.

Distinguished Guests.

There being no objection, the Chair (Ms. Spilka) introduced, in the rear of the chamber, Cub Scouts Pack 119, Dens 5 and 7 from the town of Ashland.

Order Adopted.

Messrs. Rosenberg and Tisei offered the following order, to wit:

Whereas, on October 27, 2008, criminal complaint number 08-1772-TSH, naming as defendant Dianne Wilkerson, the Senator from the Second Suffolk District, was filed in the United States District Court for the District of Massachusetts; and
Whereas, the court case and criminal investigation are open and the Senate wishes to take no action that would in any manner prejudice or interfere with the administration of justice in the federal court; and

Whereas, in 1997, Senator Dianne Wilkerson pleaded guilty to and was convicted of willfully failing to file federal income tax returns, in violation of 26 U.S.C. SS 7203 (Criminal Action No. 97-10243-EFH in the United States District Court for the District of Massachusetts) while serving as a Senator; and
Whereas, in March 1998 and July 2008, Senator Dianne Wilkerson entered into disposition agreements with the Office of the Attorney General of Massachusetts and the Massachusetts Office of Campaign and Political Finance related to numerous violations of campaign finance laws during her 1992 and 1994 campaigns for Senate, in her 1995 annual filing and the years 2000 through 2007; and

Whereas, Senate Rule 12A provides for referring questions of conduct of members to the Committee on Ethics and Rules by order of the Senate; therefore be it

Ordered, that the question of the conduct of the Senator from the Second Suffolk District in this matter be referred to the Committee on Ethics and Rules for its consideration. Except as provided in Rule 12A, all proceedings of the Committee shall be confidential. Time is of the essence and the Committee shall make its report to the Senate as soon as possible.

Under the rules, referred to the committee on Ethics and Rules.

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

The order was then considered; and it was adopted.

Resolutions.

The following resolutions (having been filed with the Clerk by Messrs. Rosenberg and Tisei, Ms. Chandler and Mr. Buoniconti) were considered, as follows:—

Resolutions calling on Senator Dianne Wilkerson to resign her position as Senator from the Second Suffolk District.

Whereas, on October 27, 2008, criminal complaint number 08-1772-TSH, naming as defendant Dianne Wilkerson, the Senator from the Second Suffolk District, was filed in the United States District Court for the District of Massachusetts; and

Whereas, in 1997, Senator Dianne Wilkerson pleaded guilty to and was convicted of willfully failing to file federal income tax returns, in violation of 26 U.S.C. SS 7203 (Criminal Action No. 97-10243-EFH in the United States District Court for the District of Massachusetts) while serving as a Senator; and

Whereas, in March 1998 and July 2008, Senator Dianne Wilkerson entered into disposition agreements with the Office of the Attorney General of Massachusetts and the Massachusetts Office of Campaign and Political Finance related to numerous violations of campaign finance laws during her 1992 and 1994 campaigns for Senate, in her 1995 annual filing and the years 2000 through 2007; and

Whereas, these incidents raise questions of violations of Rule 10 of the Rules of the Senate, which requires that senators avoid improper exertion of their influence as senators and avoid the appearance of same;

Whereas, in a letter to the Senate President dated October 30, 2008, Senator Dianne Wilkerson stated that she would abide by the decisions of the Senate; therefore be it

Resolved, that the membership of the Massachusetts Senate does hereby request that Senator Dianne Wilkerson resign immediately her position as Senator from the Second Suffolk District.

Under the rules, referred to the committee on Ethics and Rules.

Subsequently, Mr. Downing, for the said committee, reported, recommending that the resolutions ought to be adopted.

The resolutions were considered forthwith, and adopted.

On motion of Ms. Menard, the above resolutions were ordered printed in the Journal of the Senate.

Communications.

The Clerk read the following communications:

OFFICE OF THE PRESIDENT
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1007

October 30, 2008.

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

Dear Mr. Clerk:

I am writing to inform you of a vote recently taken by the Democratic Caucus of the Senate.

On October 30, 2008, the Majority Party Caucus voted to remove the Honorable Dianne Wilkerson as Senate Chair of the Joint Committee on State Administration and Regulatory Oversight; as Vice-Chair of the Joint Committee on Financial Services; and as a member of the Senate Committee on Ways and Means; the Joint Committee on Bonding, Capital Expenditures and State Assets; the Joint Committee on Education; the Joint Committee on Tourism, Arts and Cultural Development and the Joint Committee on Mental Health and Substance Abuse.

The Majority Party Caucus also voted to confirm the appointment of Senator Stephen M. Brewer as the Senate Chair of the Joint Committee on State Administration and Regulatory Oversight.

Thank you for your time and attention to this matter.

Sincerely yours,
THERESE MURRAY,
President of the Senate.

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

October 30, 2008.

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

Dear Mr. Clerk:

I am writing to inform you that I am hereby resigning from the Senate Ethics and Rules Committee and appointing Senator Bruce E. Tarr to replace me on the committee.

Sincerely,
RICHARD R. TISEI,
State Senator.

On motion of Ms. Menard, the above communications were ordered printed in the Journal of the Senate.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:—
Resolutions (filed by Messrs. Baddour and Tarr) “congratulating Sacred Hearts Parish of Haverhill on the occasion of its one

hundredth anniversary”;
Resolutions (filed by Mr. Creedon) “congratulating Gennaro D’Amico on the occasion of the his ninetieth birthday”;
Resolutions (filed by Ms. Creem) “congratulating the Coolidge Corner Theatre of Brookline, Massachusetts on its seventy-fifth anniversary”;
Resolutions (filed by Ms. Creem) “on the retirement of Reverend Howard M. Haywood”;
Resolutions (filed by Ms. Fargo) “congratulating Carol C. Clevon on the occasion of her eightieth birthday”;
Resolutions (filed by Ms. Jehlen) “recognizing the Winchester Historical Society and Sanborn House Historical and Cultural Center on the celebration of the Sanborn House’s one hundredth birthday on November 2, 2008”;
Resolutions (filed by Ms. Menard) “on the fortieth anniversary of People Incorporated of Fall River”; and
Resolutions (filed by Messrs. Tisei and McGee) “honoring former Melrose Mayor James E. Milano on the occasion of his 100th year celebration.”

Papers from the House.
Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Stephen Kazarian, an employee of the Department of Correction (see Senate, No. 2880), 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 9 to 0. The bill was signed by the President and sent to the House for enactment.**

A Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 5132,— on House, No. 5115, in part),— **was read. There being no objection, the rules were suspended, on motion of Mr. Panagiotakos, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

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 relative to establishment of a capital improvement trust fund in the town of Stoneham (House, No. 4073),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill relative to the town manager in the town of Westborough (House, No. 4944),— **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 department of public works in the town of Merrimac (House, No. 5114),— **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.

The Senate Bill relative to consumer protection in life insurance contracts (Senate, No. 2818),— **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 of House document numbered 5130. The rules were suspended, on motion of Mr. Morrissey, and the House amendment was considered forthwith and adopted, in concurrence.**

A petition (accompanied by bill, House, No. 5134) of Stephen Kulik and others relative to the number of signatures on nomination papers of candidates for elective offices of the regional government of Franklin County,— **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Election Laws.**

Recess.

There being no objection, at a quarter past one o’clock P.M., the President declared a recess subject to the call of the Chair; and, at a quarter past three o’clock P.M., the Senate reassembled, Ms. Spilka in the Chair (having been appointed by the President, under authority conferred in Senate Rule 4, to perform the duties of the Chair).

Papers from the House.
Emergency Preamble Adopted.

An engrossed Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 5132), 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 (Ms. Spilka) and sent to the House for enactment.

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 relative to foods containing artificial trans fats (House, No. 4346, amended),— **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.

Engrossed Bills.

The following engrossed bills (the first two 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 (Ms. Spilka) and laid before the Governor for his approbation, to wit:

Relative to consider protection in life insurance contracts (see Senate, No. 2818, amended);

Establishing a sick leave bank for Stephen Kazarian, an employee of the Department of Correction (see Senate, No. 2880);

Relative to certain health insurance options for municipal retirees (see House, No. 4516, amended);

Establishing a sick leave bank for Linda McKinley, an employee of the Department of Transitional Assistance (see House, No. 5045, amended);

Establishing a sick leave bank for Claire Smallcomb, an employee of the Trial Court (see House, No. 5110); and

Making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 5132).

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 sixteen minutes before four o'clock P.M., the Senate adjourned to meet on the following Monday at eleven o'clock A.M.