

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.

Wednesday, December 31, 2008.

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

Communication.

A communication from the Honorable Richard R. Tisei, Senate Minority Leader, announcing the appointment (pursuant to Section 33 of Chapter 215 of the Acts of 2008) of Ms. Cathy Flynn of Methuen as his designee to serve on the State Advisory Council on Early Education and Care.
The communication was placed on file.

Report.

A report of the Plymouth County Registry of Deeds (under the provisions of Section 4 of Chapter 4 of the Acts of 2003 and section 2KKK of Chapter 29 of the General Laws) submitting a plan for expenditure from the County Registers Technological Fund (copies having been forwarded as required to the Senate Committees on Ways and Means and Post Audit and Oversight and the Committee on Economic Development and Emerging Technologies) (received Tuesday, December 30, 2008),— **was placed on file.**

PAPERS FROM THE HOUSE.

Petitions were referred, in concurrence, as follows:

Joint petition (accompanied by bill, House, No. 5191) of Louis L. Kafka and James E. Timilty (by vote of the town) that the town of Sharon be authorized to issue licenses to certain food stores for the sale of wine and malt beverages not to be drunk on the premises;

To the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, House, No. 5185) of Sean Garballey (by vote of the town) relative to the appointment of firemen and policemen in the town of Arlington, notwithstanding the maximum age requirement;

To the committee on Public Service.

Bills

Establishing a sick leave bank for Germaine Mayers, an employee of the Middlesex Superior Court Probation Department (House, No. 5173,— on petition);

Establishing the Massachusetts food policy council (House, No. 5182,— on House, No. 3853);

Establishing a sick leave bank for Genevieve O'Brien, an employee of the Trial Court of the Commonwealth (House, No. 5186,— on petition);

Relative to certain public nuisances (House, No. 5189,— on House, No. 5169);

Providing for the financial stability of the city of Springfield (House, No. 5192,— on House, No. 5076); and
A Resolve providing for an investigation and study by a special commission relative to Lyme Disease (House, No. 4802,— on House, No. 4201);

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

Bills

Relative to the Middlesex Canal Commission (House, No. 813,— on petition);

Relative to warehousing (House, No. 1488,— on petition);

Relative to unpaid municipal fines (House, No. 4883,— being a committee bill);

Authorizing the town of Provincetown to impose a lien upon property in the town of Truro to secure unpaid water fees and charges (House, No. 5099, changed,— on petition);

Validating the actions taken at annual town elections held in the town of Dalton (printed in House, No. 5152,— being a message from His Excellency the Governor); and

Validating the actions taken at an annual town meeting and special town meeting of the town of Rockland (printed in House, No. 5153,— 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

Relative to the park department in the town of Braintree (House, No. 4237,— on petition) [Local approval received];

Relative to elections in the town of Braintree (House, No. 4458,— on petition) [Local approval received];

Providing for the filling of certain vacancies in the town of Braintree (House, No. 4459,— on petition) [Local approval received];

Relative to vacancies in certain elected offices in the town of Braintree (House, No. 4489,— on petition) [Local approval received];

Relative to the positions of treasurer and tax collector in the town of Becket (House, No. 4940,— on petition) [Local approval received];

Authorizing the town of Littleton to issue pension obligation bonds or notes (House, No. 5156,— on petition) [Local approval received];

Authorizing Antonio F. Dinis to take the civil service examination for the position of police officer in the town of Milford (House, No. 5157, changed,— on petition) [Local approval received]; and

Authorizing Louis Magliozzi to take the civil service examination for appointment as a police officer in the town of Burlington notwithstanding age (House, No. 5162,— on House, No. 5138) [Local approval received];

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

Communication.

The following communication, which was received in the Office of the Clerk of the Senate at nine minutes past nine o'clock on Wednesday, December 31, 2008, was read and placed on file to wit:

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

December 30, 2008.

Honorable Therese Murray
Senate President
Massachusetts State Senate
State House
Boston, MA 02133

Dear President Murray:

I hereby resign my position as State Senator representing the 2nd Plymouth and Bristol district. It has been an honor and privilege serving with you and the rest of my colleagues in the Massachusetts Senate. Thank you for your kindness over the years.

Sincerely,
ROBERT S. CREEDON,
Senator.

On motion of Mr. Hedlund, the above communication was 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 Mr. Pacheco) “congratulating Daniel Joseph Duggan III on becoming an Eagle Scout”;
Resolutions (filed by Ms. Walsh) “congratulating Paul Brideau on the occasion of his Court of Honor”;
Resolutions (filed by Ms. Walsh) “congratulating Liam Concannon on the occasion of his Court of Honor”; and
Resolutions (filed by Ms. Walsh) “congratulating Andrew Kiritsy on the occasion of his Court of Honor”.

PAPERS FROM THE HOUSE.
Emergency Preambles Adopted.

An engrossed Bill relative to the retirement of certain employees of the Massachusetts Water Resources Authority (see House, No. 2682, changed), 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. Petrucci) and sent to the House for enactment.**

An engrossed Bill designating the Department of Youth Services facility in the town of Westborough as the Zara Cisco Brough Princess White Flower facility (see House, No. 3231), 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. Petrucci) and sent to the House for enactment.**

An engrossed Bill establishing a sick leave bank for Sharon Peeler-La Fountain, an employee of the Department of Correction (see House, No. 5158, changed), 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. Petrucci) and sent to the House for enactment.**

Engrossed Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to the establishment of a tax amnesty program (see House, No. 5143) [being the text contained in Section 9 of the Supplemental Appropriations Bill (see House, No. 5132)] for message, see House, No. 4934],— **came from the House with an amendment in the form approved and corrected by the committee on Bills in the Third Reading as follows:—**
“in section 1, in line 2, by striking out the word “may” and inserting in place thereof the word “shall”.”
The message, as amended 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. Hedlund, and the Governor’s amendment House, No. 5142, as amended, was considered forthwith.
On motion of Mr. Hedlund, the Governor’s amendment, as amended, was adopted, in concurrence.
Sent to the House for re-enactment.

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 Senate Bill relative to drag racing in the city of Taunton (Senate, No. 1411),— **was read a third time.**
Pending the question on passing the bill to be engrossed, Mr. Pacheco moved that the bill be amended by striking out section 4.
This amendment was adopted.
The bill (Senate, No. 1411, amended) was then passed to be engrossed.
Sent to the House for concurrence.

The Senate Bill relative to the interest rate on certain betterment assessments in the town of Wareham (Senate, No. 2155) (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 authorizing the town of Wareham to grant 8 additional licenses for the sale of all alcoholic beverages to be drunk on the premises (Senate, No. 2741) (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. Pacheco moved that the bill be amended in section 1, by striking out the third and fourth paragraphs and inserting in place thereof the following paragraph:—
“If a license granted under this act is cancelled, revoked or no longer in use, the license shall be returned physically, with all of

the legal rights, privileges and restrictions pertaining thereto to the licensing authority which may then grant the license to a new application at the same location and under the same conditions as specified in this act. No license granted under this act may be reissued to a new applicant unless the applicant files with the licensing authority a letter from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid.”

This amendment was adopted.

The bill (Senate, No. 2741, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill authorizing the town of Tewksbury to issue pension funding bonds or notes (Senate, No. 2890),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed.**

Sent to the House for concurrence.

The House Bill relative to the Groton Country Club Authority (House, No. 4008),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the town of Lincoln to establish a post employment health insurance trust fund (House, No. 4775),— **was read a second time, ordered to a third reading, 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 House Bill exempting the school custodians in the town of South Hadley from the civil service law (House, No. 4419).

There being no objection, the rules were suspended, on motion of Mr. Hedlund, 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 exempting the position of school custodian in the town of South Hadley from the civil service law”.

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 House Bill validating the actions taken by the town of Webster open town meeting and establishing a charter for the town of Webster (printed in House, No. 5133).

There being no objection, the rules were suspended, on motion of Mr. Hedlund, 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 validating the actions taken by the town of Webster at certain annual and special town meetings”.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill relative to a medical emergency response plan for schools (Senate, No. 2673),— **ought to pass.**

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

Sent to the House for concurrence.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill relative to the District Court of Malden (House, No. 1408),— **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Hedlund, 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 relative to the First District Court of Eastern Middlesex”.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill establishing a Charles River water quality commission (House, No. 5041),— **ought to pass, with an amendment in section 1, by striking out the words “February 1, 2009” and inserting in place thereof the following words: “March 1, 2010”.**

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

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

Sent to the House for concurrence in the amendment.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill relative to the operation of low-speed motor vehicles (House, No. 5013),— **ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2898.**

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

was amended, as recommended by the committee on Ways and Means.

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

Sent to the House for concurrence in the amendment.

PAPERS FROM THE HOUSE.

Engrossed Bills.

An engrossed Bill relative to animal fighting or cruelty (see House, No. 1527, amended) (which originated in the House), 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. Petruccelli) and again laid before the Governor for his approbation.

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

To promote breastfeeding (see Senate, No. 2438, amended);

Relative to the retirement benefits of emergency medical technicians (see Senate, No. 2659, amended);

Establishing a selectmen-administrator form of government for the town of Newbury (see Senate, No. 2801);

Relative to the conversion of a credit union chartered in the Commonwealth to a federal charter (see House, No. 1106);

Relative to police auctions (see House, No. 1981, changed);

Relative to the appointment of certain persons to the police and fire department of the city of Malden (see House, No. 3974, amended);

Authorizing the appointment of Darryl Sencabaugh for the position of firefighter in the town of Wilmington (see House, No. 4841);

Authorizing the town of Sudbury to regulate certain property tax exemption eligibility requirements (see House, No. 4860);

Authorizing the town of Westborough to grant an additional license for the sale of wines and malt beverages to be drunk on the premises (see House, No. 4874);

Increasing the fine for parking in posted bus stops (see House, No. 4891); and

Authorizing the city of Lowell to lease certain city-owned land (see House, No. 5127).

Engrossed Resolve.

An engrossed Resolve providing for an investigation and study by a special commission relative to economic opportunities in the Commonwealth (see House, No. 5164) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed and was signed by the Acting President (Mr. Petruccelli) and laid before the Governor for his approbation.

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for John Vitale, an employee of the Trial Court (see House, No. 5101, 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. Petruccelli) and sent to the House for enactment.**

Order Adopted.

On motion of Mr. Hedlund,—

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 Mr. Hedlund, at twenty-five minutes before twelve o'clock noon, the Senate adjourned to meet on the following Monday at eleven o'clock A.M.