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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, June 10, 2010.

Met at two minutes past one o'clock P.M. (Mr. Brewer in the Chair).

Distinguished Guests.

There being no objection, the President introduced, in the rear of the Chamber, Susan Carlo and Allise Hewes of New York City. They are the mother and sister of Senator Kennedy's college intern, Daniel Hewes, who is leaving after six months of State House service. The Senate welcomed them with applause and they withdrew from the Chamber. They were guests of Senator Kennedy.

Communication.

A communication from the Department of Energy Resources (under the provisions of Section 12 of Chapter 25A of the General Laws) submitting proposed final regulations for renewable energy portfolio standards,-- **was placed on file.**

Petitions.

Petitions were severally presented and referred, as follows:

By Mr. Morrissey, a petition (accompanied by bill, Senate, No. 2474) of Michael W. Morrissey and Robert J. Nyman (by vote of the town) for legislation relative to the continued use of Memorial Park in the town of Rockland.

Under Senate Rule 20, to the Committee on Municipalities and Regional Government.

By the same Senator, a petition (accompanied by bill, Senate, No. 2475) of Michael W. Morrissey and Robert J. Nyman (by vote of the town) for legislation relative to the position of deputy police chief in the town of Rockland.

Under Senate Rule 20, to the Committee on Public Service.

Reports of a Committee.

By Ms. Creem, for the committee on the Judiciary, on petition, a Bill to authorize transfer of supplementary proceedings when the judgment debtor moves to another district (Senate, No. 1639);

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

By Ms. Creem, for the committee on the Judiciary, on petition (accompanied by bill, Senate, No. 1570), a Bill authorizing the warrantless arrest for reckless negligent vehicular homicide and reckless or negligent operation (Senate, No. 2472); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1670), a Bill relative to testimony in criminal proceedings (Senate, No. 2473);

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

PAPERS FROM THE HOUSE

Bills

Authorizing the town of Westwood to grant 3 licenses for the sale of wine and malt beverages to food stores (House, No. 4089,-- on petition) [Local approval received]; and
Relative to health insurance coverage for retired employees of the town of Brookline (House, No. 4451,-- on petition) [Local approval received];

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

Reports

Of the committee on Public Health, asking to be discharged from further consideration

Of the petition (accompanied by bill, Senate, No. 867) of Richard T. Moore for legislation relative to centers of excellence;

Of the petition (accompanied by bill, Senate, No. 872) of Richard T. Moore, Patricia D. Jehlen, Martin J. Walsh, Michael Brady and other members of the General Court for legislation to prohibit mandatory overtime for the health care workforce;

Of the petition (accompanied by bill, Senate, No. 876) of Richard T. Moore, Bill Bowles, Susan C. Tucker, Richard J. Ross and other members of the General Court for legislation to promote the nursing profession and promote safe patient care; and

Of the petition (accompanied by bill, Senate, No. 890) of Marc R. Pacheco, James B. Eldridge, Anthony D. Galluccio, Michael O. Moore and other members of the General Court for legislation relative to patient safety;

And recommending that the same severally be referred to the committee on Health Care Financing.

Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence.

There being no objection, at three minutes past one o'clock P.M., the Chair (Mr. Brewer) declared a recess subject to the call of the Chair; and, at eight 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.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-
Resolutions (filed by Messrs. Brewer, Tolman, Donnelly and Richard T. Moore, Ms. Chandler, Ms. Tucker, Mr. Michael O. Moore and Ms. Creem) "recognizing Admetech Foundation as the host of the Second Annual Prostate Cancer Awareness Day at the Massachusetts State House on June 16, 2010";

Resolutions (filed by Mr. Pacheco) "congratulating Joshua Richard Kenn on the attainment of his Eagle Scout award";

Resolutions (filed by Mr. Ross) "congratulating Derrick P. Mahan upon his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Pacheco) "congratulating Stephen Anthony Mantia on the attainment of his Eagle Scout award";

Resolutions (filed by Mr. Pacheco) "congratulating Michael Joseph Pratt on the attainment of his Eagle Scout award";

Resolutions (filed by Mr. Pacheco) "congratulating Dr. Robert M. Sullivan on his retirement as superintendent of the Middleborough Public Schools; and

Resolutions (filed by Messrs. Tarr, Brewer, Richard T. Moore, Donnelly, Tisei, Hedlund and Tolman and Ms. Spilka)

"supporting the United States Army Community Covenant Program."

Communication.

The Clerk read the following communication:

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

June 10, 2010

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

Dear Mr. Clerk:

On Wednesday, May 26th and Thursday, May 27th I was absent from the Chamber during formal session. A number of roll call votes were taken during this time. Had I been present my position on the following 42 items would have been recorded as follows:

**Roll Call
No.**

Title

Vote

247	Chelmsford Land Taking	In the affirmative
248	Ruling of the Chair	In the affirmative
249	Surviving Children of Service Members	In the affirmative
250	Taxpayer Bill of Rights	In the negative
251	Disclosure of Corporate Expenditures	In the affirmative
252	Public Benefits Restrictions	In the affirmative
253	Repeal \$25 Fee to Contest Vehicle Violations	In the negative
254	Tax Credit Transparency	In the affirmative
255	Desecration of Veterans' Monuments	In the affirmative
256	Minimum Targeted Ch. 70	In the negative
257	Administrative Efficiency for Local Aid Support	In the negative
258	Cigar Bars	In the affirmative
259	Probation Reform	In the affirmative
260	Budget Transparency	In the affirmative
261	Continuity of Veterans' Services	In the affirmative
262	Concord Land Taking	In the affirmative
263	Independent Contractors	In the affirmative
264	DEP Indoor Air Quality	In the negative
265	Fair Employment and Security	In the negative
266	Zero-Based Budgeting	In the affirmative
267	Administrative Law Appeals	In the affirmative

268	Equitable Pay at Quasi-Publics	In the affirmative
269	NHESP Trust Waiver	In the affirmative
270	Restaurant Rejuvenation III	In the affirmative
271	Workforce Training Fund	In the affirmative
272	Prudent Financial Management	In the negative
273	Youth at Risk Program	In the affirmative
274	Privatization Limits Increase	In the affirmative
275	Employee Calendar Reform	In the negative
276	Employee Calendar Reform	In the affirmative
277	SPED Circuit Breaker	In the affirmative
278	Regional School Transportation	In the affirmative
279	Kindergarten Expansion Grants	In the affirmative
280	MCAS Standard of Testing	In the negative
281	Shannon Grants	In the affirmative
282	Prescription Advantage Lifeline	In the affirmative
283	Managed Care for Medicaid	In the negative
284	Repealing Nursing Home Tax	In the negative
285	Suspension of the Rules	In the affirmative
286	Municipal Health Plan Design	In the affirmative
287	GIC Threshold	In the affirmative
288	FY11 Budget as Amended	In the affirmative

I respectfully request that this communication be printed in the Senate Journal. Thank you in advance for your assistance in this matter.

Sincerely,
BENJAMIN B. DOWNING, State Senator
Berkshire, Hampshire and Franklin District

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

PAPERS FROM THE HOUSE
Emergency Preambles Adopted.

An engrossed Bill designating the East Brookfield District Courthouse as the Francis H. George Courthouse (see Senate, No. 1575), 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 3 to 0.**
The bill was signed by the President and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Melissa Gordon, an employee of the Trial Court (see Senate, No. 2433), 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 6 to 0.**
The bill was signed by the President and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Howard Ray, an employee of the Department of Early Education and Care (see Senate, No. 2452), 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 7 to 0.**
The bill was signed by the President and sent to the House for enactment.

Engrossed Bills —Land Takings for Conservation Etc.

An engrossed Bill authorizing the town of Westport to lease a portion of the Westport town farm to the trustees of reservations (see House, No. 4368, amended) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,-- was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twelve minutes past two o'clock P.M., as follows, to wit (*yeas 38 - nays 0*) **[Yeas and Nays No. 291]:**

INSERT ROLL CALL [291]

The yeas and nays having been completed at nineteen minutes past two o'clock P.M., the bill was passed to be enacted, two thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

An engrossed Bill relative to the proper conservation of Muskeget Island (see House Bill, printed in House, No. 4613) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage; and, this being a bill which had been submitted by the Governor, under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution; and also a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing the bill to be enacted was determined by a call of the yeas and nays, at twenty minutes past two o'clock P.M., as follows, to wit (*yeas 38 - nays 0*) **[Yeas and Nays No. 292]:**

INSERT ROLL CALL [292]

The yeas and nays having been completed at twenty-four minutes past two o'clock P.M., the bill was passed to be enacted, two thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Orders of the Day.

Bills

Authorizing the town of Erving to establish an other post employment benefits trust fund (Senate, No. 2387); and

Relative to the sewer service area for the town of Lunenburg (House, No. 4561);
Were severally read a second time and ordered to a third reading.

The House Bill relative to the agreement among the states to elect the President by national popular vote (House, No. 4156),--
was read a third time.

After debate, and pending the question on passing the bill to be engrossed, in concurrence, at the request of Messrs. Tisei and Knapik, the bill was laid over until the next session, under the provisions of Senate Rule 31, with several amendments for consideration to be printed in the Calendar.

Matters Taken Out of the Notice Section of the Calendar.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered as follows:
The House Bill authorizing the appointment of special police officers in the town of Millis (House, No. 1882) (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.**

The House Bill authorizing the city of Methuen to repay the borrowing of certain monies for a period of up to 20 years (House, No. 4404),-- **was read a third time and passed to be engrossed, in concurrence, with the amendment previously adopted by the Senate.**
Sent to the House for concurrence in the amendment.

Report of a Committee.

Mr. Berry, 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 relative to assault and battery on health care providers (House, No. 1696, amended).

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

Pending the question on ordering the bill to a third reading, Mr. Berry moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following text:-

“Chapter 265 of the General Laws is hereby amended by striking out section 13I, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 13I. Whoever commits an assault or an assault and battery on an emergency medical technician, an ambulance operator, an ambulance attendant or a health care provider as defined in section 1 of chapter 111, while the technician, operator, attendant or provider is treating or transporting a person in the line of duty, shall be punished by imprisonment in the house of correction for not less than 90 days nor more than 2 1/2 years or by a fine of not less than \$500 nor more than \$5,000, or both.”; and by inserting before the enactment clause the following emergency preamble:-

“Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the immediate safety of health care personnel, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”.

Pending the question on adoption of the amendment, Mr. Tisei moved that the amendment be further amended by inserting at the end thereof the following section: -

“SECTION X. Notwithstanding any special or general law to the contrary an instructor of the reserve officer training corps affiliated with any public secondary school of the commonwealth shall be exempt of the requirement to pay union dues under the provisions chapter 150E.”

Mr. Berry rose to a point of order which, being stated, was that the amendment was beyond the scope of the bill.

The President stated that the bill before the Senate, House, No. 1696, amended, concerns the protection of certain health care providers from assault and battery while the providers are doing their jobs. The bill is amending Chapter 265 of the General Laws which contains criminal violations against a person who commits assault and battery. The amendment offered by the Senator from Middlesex and Essex concerns a union issue for certain public employees under Chapter 150E of the General Laws.

Therefore, the Senator’s point of order is well taken and the amendment is beyond the scope of the bill currently before the body.

Mr. Tisei doubted the ruling of the Chair.

After debate, the question on should the ruling of the Chair stand was determined by a call of the yeas and nays at twenty-six minutes before four o’clock P.M., on motion of Mr. Tarr, as follows, to wit (31 yeas – 5 nays) [Yeas and Nays No. 293]:

INSERT ROLL CALL “293”

The yeas and nays having been completed at twenty-one minutes before four o’clock P.M., the ruling of the Chair stands, and the amendment was laid aside.

The pending amendment, previously moved by Mr. Berry, was then considered; and it was adopted.
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.

Petition.

On motion of Mr. Tisei, Senate Rule 20 and Joint Rule 12 were suspended on the petition (accompanied by bill) of Richard R. Tisei for legislation relative to fairness in employment,-- **and the same was referred to the committee on Public Service.**
Sent to the House for concurrence.

Report of Committees.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Cynthia Stone Creem for legislation to enhance reporting requirements for candidates and committees.
The rules were suspended, on motion of Ms. Creem, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Election Laws.
Sent to the House for concurrence.

HOUSE PAPERS

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 4751) Danielle W. Gregoire for legislation to further regulate the certification of real estate management companies;

Under suspension of Joint Rule 12, to the committee on Consumer Protection and Professional Licensure.

Petition (accompanied by bill, House, No. 4750) of Stephen Stat Smith, Paul J. Donato and others relative to the opening and closing of swimming pools under the jurisdiction of the Department of Conservation and Recreation;

Under suspension of Joint Rule 12, to the committee on Environment, Natural Resources and Agriculture.

Petition (accompanied by bill, House, No. 4752) of Brian S. Dempsey for legislation to authorize the Massachusetts Rehabilitation Commission to establish a sick leave bank for Bethany M. Tsioropoulos, an employee of said commission;

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

House Order.

The following House Order (having been approved by the committees on Rules of the two branches, acting concurrently):

Ordered, that the Senate committee on Post Audit and Oversight, the House committee on Post Audit and Oversight and the joint committee on Environment, Natural Resources and Agriculture be authorized to sit jointly for the purpose of holding hearings, making further finding together with any recommendations for legislation, and conducting an investigation and study of the rupture of the MetroWest Water Supply on May 1, 2010 (House, No. 4702),-- **was laid before the Senate.**

There being no objection, the rules were suspended, on motion of Mr. Petruccelli, and the order was adopted, in concurrence.

Order Adopted.

On motion of Mr. Petruccelli,

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