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## UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



### JOURNAL OF THE SENATE.

Wednesday, July 28, 2010.

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

#### *Distinguished Guests.*

There being no objection, the Chair (Ms. Menard) handed the gavel to Ms. Candaras for the purpose of an introduction. Ms. Candaras then introduced, in the rear of the Chamber, Eric Gregoire and Jake Olivera. Eric was the student speaker for the signing of the State University bill which was signed today by the Governor. He is also the president of the student body of Fitchburg State University. Jake is a member of the Ludlow School Committee and Deputy Executive Director of the Council of State Colleges. They were accompanied by family and friends. The Senate welcomed them with applause and they withdrew from the Chamber.

#### *Communications.*

The following communications were severally presented and placed on file:

Communications from the Honorable Richard R. Tisei, Senate Minority Leader, announcing the following appointments: Senator Robert L. Hedlund to the Special Commission established (pursuant to Section 168 of the Acts of 2010) to study the feasibility of transferring personnel that are currently funded from the capital budget to the operating budget and transferring capital projects funding from the operating budget to the capital budget;

Senator Richard J. Ross to the Special Commission established (under Chapter 2 of the Resolves of 2010) to study the range of services and supports necessary for individuals with autism spectrum disorders to achieve their full potential throughout their respective lifespans; and

Senator Richard J. Ross to the Special Commission established (under Chapter 132 of the Acts of 2009) to study the feasibility and costs of establishing a functional magnetic resonance imaging and neuropsychological cognitive testing program for all military forces of the Commonwealth prior to and upon return from deployment.

### PAPERS FROM THE HOUSE

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

Petition (accompanied by bill, House, No. 4936) of John V. Fernandes and Richard T. Moore (by vote of the town) that the town of Milford be authorized to issue a license for the sale of wines and malt beverages to be drunk on the premises to Tanglewood Drive, LLC;

Petition (accompanied by bill, House, No. 4937) John V. Fernandes and Richard T. Moore (by vote of the town) to authorize the town of Milford to grant a license for the sale of all alcoholic beverages not to be drunk on the premises to Paul J. Moffi ; and

Petition (accompanied by bill, House, No. 4938) of John V. Fernandes and Richard T. Moore (by vote of the town) that the town

of Milford be authorized to issue a license for the sale of wines and malt beverages not to be drunk on the premises to Tyco, Inc.;  
**Severally to the committee on Consumer Protection and Professional Licensure.**  
Petition (accompanied by House, No. 4939) of Robert M. Koczera (by vote of the town) that employees of the department of public works in the town of Acushnet be exempt from the civil service law;  
**To the committee on Public Service.**

#### *Bills*

Relative to pension divestment in the Republic of Iran (House, No. 4297, amended,-- on Senate, No. 1089 and House Nos. 2474, 3484 and 3727);  
Relative to price adjustment (House, No. 4508,-- on House, No. 2968)  
Relative to Plimoth Plantation (House, No. 4510,-- on House, No. 3616);  
Authorizing the Division of Capital Asset Management and Maintenance to transfer the control of certain land in the city of Boston (House, No. 4778,-- on petition);  
Conveying certain property to the town of Sherborn (House, No. 4783,-- on House, No. 3006);  
Authorizing the commissioner of Capital Asset Management and Maintenance to convey certain land to the town of Tewksbury (House, No. 4822,-- on House, No. 4701);  
Relative to the registration and inspection of street rods and custom vehicles (House, No. 4871, amended,-- on House, No. 3199, 3201 and 4557);  
Authorizing the city of Cambridge to grant a permanent easement on and over certain strips of land owned by the city of Cambridge in Watertown (House, No. 4874,-- on petition) [Local approval received];  
Authorizing the granting of easements upon land of the Commonwealth located in the city of Cambridge (House, No. 4875,-- on petition); and  
Relative to insurance coverage for Autism (House, No. 4935, amended,-- on House, No. 3809);  
**Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.**

#### *Bills*

Relative to scrap metal dealers (House, No. 328, changed,-- on petition);  
Relative to inhalant abuse (House, No. 4254,-- on petition);  
Validating action taken at a special town election held in the town of Ashfield (printed in House, No. 4612,-- being a message from his Excellency the Governor); and  
Validating the actions taken at a certain town election in the town of Hopkinton (printed in House, No. 4893,-- being a message from his Excellency the Governor);  
**Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules**

A Bill relative to retirement benefits for Stanley Daoust (House, No. 4709, amended,-- on petition) [Local approval received],--  
**was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

#### *Recess.*

There being no objection, at eleven minutes past one o'clock P.M., the Chair (Mr. Brewer) declared a recess subject to the call of the Chair; and, at twenty-four minutes before two o'clock P.M., the Senate reassembled, Ms. Menard 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 (Ms. Menard), members, guests and employees then recited the pledge of allegiance to the flag.

### **PAPERS FROM THE HOUSE**

The Senate Bill relative to mortgage foreclosures (Senate, No. 2407),-- **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 4934, amended.**  
**The rules were suspended, on motion of Mr. Brewer, and the House amendment were considered forthwith and adopted, in concurrence.**

#### *Engrossed Bills.*

The following engrossed bills (all of which originated in the House), 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. Menard) and laid before the Governor for his approbation, to wit:  
Relative to the protection of children (see House, No. 1589);  
Relative to the police department of the University of Massachusetts (see House, No. 4409, amended); and  
Authorizing certain Massport employees to receive benefits from the Bayswater Environmental Program (see House, No. 4511).

#### *Engrossed Bill—Land Taking for Conservation Etc*

An engrossed Bill authorizing the town of North Andover to amend a certain conservation restriction (see House, No. 4194) (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 twenty-one minutes before two o'clock P.M., as follows, to wit (*yeas 34 - nays 0*) [Yeas and Nays No. 350]:

#### INSERT ROLL CALL "350"

The yeas and nays having been completed at five minutes before 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 Acting President (Ms. Menard) and laid before the Governor for his approbation.

#### *Reports of Committees.*

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 Senate Bill relative to the appointment of town managers (Senate, No. 793).

**There being no objection, the rules were suspended, on motion of Mr. Timilty, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act relative to the appointment of executive secretaries and town managers".**

**Sent to the House for concurrence.**

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 the qualifications, service and salary of county managers (House, No. 1993).

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

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 the pooling of tips (House, No. 4814) (the committee on Ethics and Rules recommending that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2576).

**There being no objection, the rules were suspended, on motion of Mr. Buoniconti, and the bill was read a second time and was amended, as recommended by the committee on Ethics and Rules.**

**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 Senate Bill relative to the street list (Senate, No. 332),-- ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2574).

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

**The bill (Senate, No. 2574) was then 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 establishing the Essex County Commission on the Status of Women (House, No. 3410),-- **ought to pass.**

**There being no objection, the rules were suspended, on motion of Mr. Tarr, 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. Panagiotakos, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Susan Spera, an employee of the Department of Developmental Services (House, No. 4717),-- **ought to pass.**

**There being no objection, the rules were suspended, on motion of Mr. Brewster, 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. Panagiotakos, for the committee on Ways and Means, that the House Bill adding safeguards to the prescription monitoring program (House, No. 4879, amended),-- **ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2575; and by striking out the title and inserting in place thereof the following title: "An Act adding safeguards to the prescription monitoring program and furthering substance abuse education and prevention".**

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

**After remarks, the bill, as amended, was then ordered to a third reading and read a third time.**

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at twenty-three minutes before three o'clock P.M., on motion of Ms. Flanagan, as follows, to wit (yeas 37 – nays 0) [Yeas and Nays No. 351]:

INSERT ROLL CALL “351”

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

Sent to the House for concurrence in the amendment.

#### PAPERS FROM THE HOUSE

##### Engrossed Bills —Land Takings for Conservation Etc

An engrossed Bill authorizing the town of Manchester-by-the-Sea to grant an easement over certain land acquired for water supply purposes (see House, No. 4304, 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 sixteen minutes before three o'clock P.M., as follows, to wit (yeas 36 - nays 0) [Yeas and Nays No. 352]:

INSERT ROLL CALL “352”

The yeas and nays having been completed at eleven minutes before three 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 Acting President (Ms. Menard) and laid before the Governor for his approbation.

An engrossed Bill relative to certain easements in the town of Andover (see House, No. 4318) (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 ten minutes before three o'clock P.M., as follows, to wit (yeas 37 - nays 0) [Yeas and Nays No. 353]:

INSERT ROLL CALL “353”

The yeas and nays having been completed at five minutes before three 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 Acting President (Ms. Menard) and laid before the Governor for his approbation.

##### Report of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill to create a silver alert community response system (House, No. 4916),-- ought to pass, with an amendment in subsection (b) of section 1, by inserting after the word “created”, in line 17, the following words:- “, subject to available funds,”; in subsection (c) of said section 1, by inserting after the word “shall”, in line 25, the first time that it appears, the following words:- “, subject to available funds,”; in section 2, by striking out, in line 36, the word “annual”; and in said section 2, by striking out, in line 41, the words “shall consider coordinating” and inserting in place thereof the following words:- “may coordinate”.

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

After remarks the bill, as amended, was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at eight minutes past three o'clock P.M., on motion of Mr. O’Leary, as follows, to wit (yeas 36 – nays 0) [Yeas and Nays No. 354]:

INSERT ROLL CALL “354”

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

Sent to the House for concurrence in the amendment.

#### PAPERS FROM THE HOUSE

The Senate Bill relative to comprehensive siting reform for land based wind projects (House, No. 4619),— came from the House with the endorsement that the House had NON-concurred in the further Senate amendment striking out the words, “NO SECTION 1.” and inserting in place thereof the following section:-

“SECTION 1. This act shall be construed in a manner to achieve its public purposes, which are to encourage the development of clean, renewable, electric generating plants and ancillary facilities powered by wind, ensure that such facilities are sited in appropriate locations based on clear, predictable and protective environmental, cultural and historic resource standards and streamline the permitting of such facilities at the state and local level and reduce delays associated with appeals of such permits.”; In line 3, by striking out the word “department”, the second time it appears, and inserting in place thereof the following word:- “division”;

By inserting after section 2 the following 3 sections:-

“SECTION 2A. Said section 10 of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words ‘or other local governmental body’ and inserting in place thereof the following words:- , other local governmental body or other local governmental bodies acting jointly on a regional basis.

SECTION 2B. Said section 10 of said chapter 25A, as so appearing, is hereby further amended by inserting after the word ‘locations’, in lines 27 and 28, the following words:- within the municipality, other local governmental body or other local governmental bodies acting jointly on a regional basis.

SECTION 2C. Said section 10 of said chapter 25A, as so appearing, is hereby further amended by inserting after the word ‘municipality’, in lines 29, 42 and 43, each time it appears, the following words:- , other local governmental body or other local governmental bodies acting jointly on a regional basis.”;

In line 11, by striking out the word “division” and inserting in place thereof the following words:- “energy facilities siting board”; in line 18, by striking out the words “local governmental body” and inserting in place thereof the following word:- “municipality”;

In section 3, in proposed section 69T of chapter 164 of the General Laws by striking out the definition of “Regional planning agency” and inserting in place thereof the following definition:-

“‘Regional planning agency’, an agency with regulatory authority to issue permits, licenses or other governmental approvals for particular land uses within its jurisdiction.”;

In line 25, by striking out the words “ , test towers”; in line 35, by striking out the word “environment” and inserting in place thereof the following word:- “environmental”; in line 39, by striking out the words “sections 4 and 69V of chapter 25D” and inserting in place thereof the following words:- “section 69V and section 4 of chapter 25D. The siting of offshore wind facilities shall be governed by the integrated ocean management plan established under section 4C of chapter 21A.”; in line 79, by insert after the word “Association” the following words:- ; provided, however, that the same municipal official may not serve on the energy facilities siting board and the advisory group established in this subsection; in line 88, by inserting after the word “megawatts” the following words:- “or related test towers”; in line 89, by inserting after the word “facility” the following words:- “or related test towers”; in line 93, by striking out the words “clerk of the local governmental body,” and inserting in place thereof the following words:- “city or town clerk”; in lines 95 and 161, by striking out the word “division” , each time it appears, and inserting in place thereof the following words:- energy facilities siting board; in line 190, by striking out the words “Notwithstanding the provisions of any other law to the contrary.”;

In said section 3, in the second sentence of subsection (h) of proposed section 69V of chapter 164 of the General Laws, by striking out , the words “If the” and inserting in place thereof the following words:- “Notwithstanding any general or special to the contrary, if the”; in said proposed section 69V of said chapter 164, by striking out subsection (k); in subsection (m) of said proposed section 69V of said chapter 164 by adding the following words:- “The energy facilities siting board may retain said fees for the purpose of reviewing applications to construct wind energy facilities. Any remaining balances of said fees at the end of a fiscal year shall not revert to the General Fund, but instead shall be available to the energy facilities siting board during the following fiscal year for the purposes set forth in sections 69U to 69X, inclusive. Nothing in this section shall change the level or use of siting fees for any other type of facility subject to section 69J ½ of this chapter.”;

In section 4, in section 1 of proposed chapter 25D by striking out the definition of “Local governmental body”; in said section 1 of said proposed chapter 25D by striking out the definition of “Regional planning agency” and inserting in place thereof the following definition:-

“‘Regional planning agency’, an agency with regulatory authority to issue permits, licenses or other governmental approvals for particular land uses within its jurisdiction.”;

In line 302 by striking out the words “local governmental bodies” and inserting in place thereof the following word:-

“municipalities”; in lines 303, 305, 309, 333, 386, 389 and 391 by striking out the words “local governmental body”, each time they appear, and inserting in place thereof the following word:- “municipality”; in line 306, by striking out the word “may” and inserting in place thereof the following word:- “shall”;

In said section 4, in section 2 of proposed chapter 25D by adding the following sentence: “In all other municipalities, the municipality may establish a wind energy permitting board.”;

In said section 4, in section 3 of proposed chapter 25D by striking out the first 2 sentences and inserting in place thereof the following 3 sentences:- “A wind energy permitting board established under section 2 may be composed of 3 or 5 members appointed by the city manager in the case of a city under a Plan E form of government, the mayor in the case of all other cities or the board of selectmen in the case of a town. A 3 member board shall consist of 1 member of the zoning board of appeals, 1 representative of the conservation commission, if any, and 1 member of the planning board. A 5 member board shall consist of 2 members of the conservation commission, 1 member from the zoning board of appeals and 2 members from the planning board.”;

in line 360 and in lines 407 and 408, by striking out, each time they appear, the words, "clerk of the local governmental body" and inserting in place thereof the following words:- "city or town clerk"; in line 362 by striking out the word "application" and inserting in place thereof the following words:- "complete application or from the date the applicant elects to proceed on the information provided";

In section 4, in section 4 of proposed chapter 25D by striking out subsection (n); and in line 497, by striking out the figure "2" and inserting in place thereof the following figure:- "1"; in line 511 by striking out the words "by the division of green communities"; and

In section 14, by striking out the second sentence, and had asked for a committee of conference on the disagreeing votes of the two branches; and that Representatives Finegold of Andover, Kane of Holyoke and Peterson of Grafton had been appointed the committee on the part of the House.

On motion of Mr. Morrissey, the Senate insisted on its amendment and concurred in the appointment of a committee of conference; and Senators Morrissey, Downing and Knapik were appointed on the part of the Senate.

The bill was returned to the House endorsed accordingly.

A Bill authorizing the city of Beverly to convey certain land located in the city of Beverly (House, No. 4905,-- on petition) [Local approval received],-- was read.

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

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

Petition (accompanied by bill, House, No. 4945) of Garrett J. Bradley and Robert A. Hedlund (by vote of the town) relative to authorizing the town of Hingham to become a permanent member of the Massachusetts Water Resources Authority;

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

Petition (accompanied by House, No. 4947) of Peter V. Kocot and Stanley C. Rosenberg for legislation to establish a sick leave bank for Edward Driscoll, an employee of the Trial Court;

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

Petition (accompanied by House, No. 4946) of James M. Grafton and Richard R. Tisei relative to the eligibility of David L. Grafton for appointment to the position of firefighter within the Commonwealth;

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

The Senate Bill requiring adequate education relative to the proper safety and operation of a motorcycle for minors (Senate, No. 2344),-- 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 4727.

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

The Senate Bill authorizing certain development in the Fort Point Channel in the city of Boston (Senate, No. 2376),-- came from the House passed to be engrossed, in concurrence with an amendment in section 1, in line 12, by striking out the words "and chapter 170 of the acts of 1880" and inserting in place thereof the following " , chapter 170 of the acts of 1880 and chapters 402 and 403 of the acts of 1939".

The rules were suspended, on motion of Mr. Hart, and after remarks, the House amendment was considered forthwith and adopted, in concurrence.

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 forthwith:

The House Bill authorizing the town of Brewster to use certain town-owned land for general town purposes, including renewable energy projects (House, No. 4450) (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. O'Leary moved that the bill be amended by striking out section 3 and inserting in place thereof the following 3 sections:-

"SECTION 3. As a condition of the change in use authorized in section 1, if the parcel is used for renewable energy development purposes, the town of Brewster shall transfer a parcel of land under the care, custody, management and control of the board of selectmen and dedicated for general municipal purposes to the conservation commission and such parcel shall be dedicated for conservation, park or water protection purposes. If no suitable parcel is available for transfer to the conservation commission, the town shall acquire a parcel of land or a conservation restriction as defined in section 31 of chapter 184 of the General Laws upon private or public land. Any land so acquired shall placed under the jurisdiction of the conservation commission and shall be dedicated or restricted to conservation, park or water protection purposes. The parcel dedicated pursuant to this section, shall be of equal or greater size and value for conservation, park or water supply purposes as the disturbed area of the parcel described in section 1.

SECTION 4. If the land conveyed pursuant to section 1 ceases to be used for the purposes described in said section 1, the use of the land shall revert to the town of Brewster for conservation, water supply or public park purposes.

SECTION 5. This act shall take effect upon its passage.”

The amendment was adopted.

The bill, as amended, was then passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence.

The House Bill providing for development and operation of a new Parker’s River Marina in the town of Yarmouth (House, No. 4321) (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. O’Leary moved that the bill be amended by inserting after the word “town”, in line 8, the following words:- “for public use”.

The amendment was adopted.

The bill, as amended, was then passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence.

The House Bill authorizing the town of Cohasset to grant certain interests in land acquired for conservation open space and water protection purposes (House, No. 4322) (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 town of Cohasset to use a certain parcel of water supply land for general municipal purposes (House, No. 4844),-- was read a third time and passed to be engrossed, in concurrence.

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Relative to health insurance and other benefits in the town of Phillipston (House, No. 4196);

Establishing the Caleb Chase Gift Account for the town of Harwich (House, No. 4587);

Authorizing the town of Gardner to convey certain land under the control of the Gardner Conservation Commission (House, No. 4679);

Authorizing the town of Danvers to grant an additional license for the sale of wines and malt beverages (House, No. 4817); and

Providing an easement for affordable senior apartments in the town of Harvard (House, No. 4850);

Were severally read a second time and ordered to a third reading.

The House Bill authorizing the town of Winthrop and the Winthrop Housing Authority to grant certain easements for underground electric and intelligence transmission and distribution cables (House, No. 4766, amended),-- was read a second time and ordered to a third reading. The rules were suspended, on motion of Mr. Petrucci, and the bill was read a third time and passed to be engrossed, in concurrence.

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The Senate Bill relative to uniform wage compliance and recordkeeping (Senate, No. 678),-- was considered, the main question being on passing the bill to be engrossed.

The pending further amendment, previously moved by Mr. McGee, striking out the text of the pending amendment (Tisei, et al) and inserting in place thereof the following text:- By inserting before section 1 the following section:-

“SECTION 1A. Chapter 149 of the General Laws is hereby amended by inserting after section 147H the following section:-

Section 147I. (a) An individual whose work is performed solely in the individual’s place of residence shall be exempt from the requirements of clause (2) of subsection (a) of section 148B of chapter 149, but not clause (1) or clause (3) of said subsection (a) of said section 148B of said chapter 149. This section does not apply to other persons who work with or for the individual.

(b) The exception provided in subsection (a) shall not apply to an individual who has been coerced, threatened or intimidated into establishing an independent business nor shall it apply to individuals who telecommute or work remotely from home.

(c) Each individual seeking this exemption shall register with the state secretary and such registration shall be issued without a fee. The registration shall include, but not be limited to, the following information: (i) name of the individual seeking the exemption; (ii) the nature of the independently established business; (iii) the address of the residence at which the work is performed; and (iv) proof that the address listed is the applicant's legal residence. The state secretary shall issue regulations necessary to ensure registration under this section. The application for registration shall be typewritten, printed or in such other form as the state secretary shall prescribe. The application for registration shall be executed by the individual seeking the exemption. The registration shall be renewed every 3 years.”-- was considered.

Mr. McGee requested that the pending motion for a call of the yeas and nays on the pending further amendment be withdrawn; and this motion prevailed.

After debate, the further amendment (McGee) was adopted.

The pending amendment (Tisei, et al), as amended (McGee) was then considered; and it was adopted.

After further remarks, the bill (Senate, No. 678, amended) was then passed to be engrossed.

Sent to the House for concurrence.

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Report of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill regulating notaries public to protect consumers (Senate, No. 1845),-- ought to pass, with amendments:

By striking out section 4; and by striking in section 5, proposed section 18A in its entirety and inserting in place thereof the following section:-

“Section 18A (a) The attorney general or district attorney may prosecute any person committing a violation under this chapter. Any person convicted of committing such violation shall be punished for a first offense by a fine of not more than \$1,000 or by imprisonment in a jail or house of correction for not more than 6 months, or by both such fine and imprisonment, and for subsequent offenses by a fine of not more than \$5,000 or by imprisonment in a jail or house of correction for not more than one year, or by both such fine and imprisonment. The attorney general or district attorney may file a petition for injunctive relief against any person who violates this chapter. If the attorney general, district attorney or the state secretary has cause to believe that, as a result of official misconduct, a person holding the office of notary public is unsuitable to hold that office, the attorney general, district attorney or the state secretary shall provide notice to the governor of such official misconduct. Any conviction based on a violation of this chapter shall be grounds for the revocation of a notary’s appointment. If the court finds that a person so convicted either knew or should have known his conduct to be in violation of this chapter, the court may require such person to pay to the commonwealth a civil penalty of not more than \$5,000 for each such violation and also may require the person to pay the reasonable costs of investigation and litigation of such violation, including reasonable attorneys’ fees.

(b) A person having an interest or right that is or may be adversely affected by a violation of section 18 may initiate an action for private remedies and, if the attorney general or district attorney has not done so, for injunctive relief. Such person may be awarded actual damages and, if the court finds that person against whom the action is brought either knew or should have known his conduct to be in violation of section 18, punitive damages of not more than \$5,000 per violation, and attorney’s fees and court costs.

(c) A violation of section 18 shall constitute an unfair and deceptive act or practice pursuant to chapter 93A.

(d) It shall not be a defense in an action under this section that the conduct that is the subject of the action, in whole or in part, occurred primarily or substantially outside the commonwealth.; and by striking in section 5, in proposed section 24, the date “July 1, 2009” and inserting in place thereof the following date:- “July 1, 2011”.

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

The bill (Senate, No. 1845, amended) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

Recess.

There being no objection, at eighteen minutes before four o’clock P.M., the Chair (Ms. Menard) declared a recess subject to the call of the Chair; and, at twenty-two minutes before five o’clock P.M., the Senate reassembled, Ms. Menard in the Chair.

#### PAPERS FROM THE HOUSE

Emergency Preamble Adopted.

An engrossed Bill relative to mortgage foreclosures (see Senate, No. 2407, 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 (Ms. Menard) and sent to the House for enactment.

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 certain land in the town of Sherborn (printed in House, No. 4614).

There being no objection, the rules were suspended, on motion of Mr. Tarr, 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 making a technical correction in a special act relative to certain land in the town of Sherborn”.

#### PAPER FROM THE HOUSE.

A Bill authorizing the City of Boston Parks and Recreation Commission to lease certain real property under its control and owned by the city of Boston. (House, No. 4663,-- on petition) [Local approval received],--was read.

There being no objection, the rules were suspended, on motion of Mr. Tarr, 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 authorizing the Boston Parks and Recreation Commission to lease certain real property”.

Engrossed Bill.

An engrossed Bill relative to mortgage foreclosures (see Senate, No. 2407, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the Acting President (Ms. Menard) and laid before the Governor for his approbation.

On motion of Mr. Tarr, at a quarter before five o'clock P.M., the Senate stood in recess until tomorrow at eleven o'clock A.M.