

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.

Thursday, December 30, 2010.

Met at eight minutes past eleven o'clock A.M. (Mr. Tolman in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Mr. Tolman), members, guests and employees then recited the pledge of allegiance to the flag.

Petition.

Mr. Montigny presented a petition (subject to Joint Rule 12) of Mark C. Montigny for legislation to establish a sick leave bank for Peggy Machado, an employee of the Department of Corrections;

Referred, under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

PAPERS FROM THE HOUSE

Bills

Establishing a sick leave bank for Patrick J. Hager, an employee of the Department of Revenue (House, No. 5110, amended,-- on petition); and

Establishing a sick leave bank for Lori J. Madrazo-Bulak, an employee of the Executive Office of Health and Human Services (House, No. 5119, amended,-- on petition);

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

A Bill relative to the Charles River Water Quality Commission (House, No. 5112,-- on petition);

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

Communication.

The following communication, which was received in the Office of the Clerk of the Senate at ten minutes past four o'clock P.M., on Wednesday, December 29, 2010, was read and placed on file to wit:

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

December 22, 2010

The Honorable Therese Murray
President of the Massachusetts Senate
State House, Room 330
Boston, MA 02133

Dear Madam President,

I would like to take this opportunity to submit my resignation from the Massachusetts State Senate effective on Sunday, January 2, 2011 at noon. As you know I have been elected to the office of District Attorney for the Norfolk District, a seat which was vacated by William R. Keating who was recently elected Congressman for the 10th Congressional District. It has been a pleasure working with you and your office and I appreciate all the courtesies that have been extended to me.

I wish you the best of luck in all your future endeavors and look forward to working with you in the coming term. If I can be of any assistance to you please do not hesitate to contact me. Again, thank you for your assistance.

Sincerely yours,
MICHAEL W. MORRISSEY
Senator – Norfolk and Plymouth District.

On motion of Ms. Chang-Diaz, the above communication was ordered printed in the Journal of the Senate.

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 the Geriatric Authority of Milford (House, No. 5072),-- **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 Geriatric Authority of the town of Milford”.**

The House Bill providing for a work force reduction in the city of Malden through an early retirement incentive for certain employees (House, No. 5073),-- **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 providing for an early retirement program for certain employees in the city of Malden”.**

The House Bill establishing certain employment contracts for the town of Milford (House, No. 5088),-- **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 a certain employment contract for the town of Milford”.**

The House Bill relative to South Hadley town meeting members (House, No. 5096),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill changing the date of the annual town meeting in the town of North Reading (House, No. 5118),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed.**

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 designating a certain bridge in the town of Raynhan as the Cpl Brian Oliveira Bridge (Senate, No. 1949).

There being no objection, the rules were suspended, on motion of Mr. Morrissey, and the bill was read a second time. Pending the question on ordering the bill to a third reading, Mr. Pacheco presented an amendment, substituting a new draft with the same title (Senate, No. 2666).

The amendment was adopted.

The bill (Senate, No. 2666) was then 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 designating certain bridges under the control of the Massachusetts Department of Transportation”.

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 Senate Bill designating a certain area of the Blackstone River and Canal Heritage State Park in the town of Northbridge as the Spaulding R. Aldrich Recreation Area (Senate, No. 2160).

There being no objection, the rules were suspended, on motion of Ms. Jehlen, 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 designating a certain area of the Blackstone River and Canal Heritage State Park in the town of Northbridge as the Spaulding R. Aldridge Memorial Recreation Area”.

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 trusts for the care of animals (House, No. 1467).

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 Senate Bill establishing a sick leave bank for Beverley O'Riordan, an employee of the Department of Elementary and Secondary Education (Senate, No. 2660),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Ms. Chang-Diaz, 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 Senate Bill establishing a sick leave bank for Doreen Edwards, an employee of the Dorchester Division of the Boston Municipal Court Department (House, No. 5101),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Morrissey, 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 establishing a sick leave bank for Doreen Edwards, an employee of the Trial Court".

PAPERS FROM THE HOUSE.

A Bill authorizing the town of Milford to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 5071),-- 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.

Engrossed Bill.

An engrossed Bill relative to the purchase of flags in the Commonwealth (see House, No. 5081) (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 enacted and signed by the Acting President (Mr. Tolman) and laid before the Governor for his approbation.

Engrossed Bill Returned with Recommendation of Amendment.

The President in the Chair, a message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to the pooling of tips (see House, No. 4814) [for message, see House, No. 4983],— **came from the House with endorsement that the House adopted the amendment as approved by the committee on Bills in the Third Reading, as follows: In section 2, by striking out clauses (ii) and (iii) and inserting in place thereof the following clause: "(ii) assigning employees to their posts, shall qualify as a wait staff employee for the purpose of this section".**

The message 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.

Mr. Richard T Moore moved that the rules be suspended so that the matter may be considered forthwith; but objection was made thereto by Mr. Tolman.

The matter was placed in the Orders of the Day for the next session.

Recess.

Mr. Tolman in the Chair, there being no objection, at twenty-four minutes past eleven o'clock A.M., the Chair (Mr. Tolman) declared a recess subject to the call of the Chair; and, at fourteen minutes before three o'clock P.M., the Senate reassembled, Mr. Tolman in the Chair.

PAPERS FROM THE HOUSE

A Bill making appropriations for the fiscal year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 5128, amended,-- on petition),-- **was read.**

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

Pending the question on ordering the bill to a third reading, Mr. Panagiotakos moved that the bill be amended in section 2 by inserting, before the words "EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE", the following items:--

"ATTORNEY GENERAL
Office of the Attorney General.

0810-0007 \$50,000
0810-0045 \$190,418”;

In said section 2, by inserting, before the words “Office of the Secretary of Administration and Finance” the following items:-“

Division of Capital Asset Management.

1102-3301 \$630,000
1102-3306\$392,000”;

In said section 2, by striking out item 1599-4707 and inserting in place thereof the following item:-

“1599-4704 \$4,300,000”;

In said section 2, by striking out item 1595-5819; and

In said section 2, by inserting, after item “2810-0100”, the following item:-

“2820-0101 \$134,631”;

In said section 2, in item 4512-0200, by striking out the figure “\$335,000” and inserting in its place the following figure:-
“\$670,000”;

Inserting after section 2A the following section:-

“SECTION 2E. The sums set forth in this section are hereby appropriated for transfer from the General Fund to the trust funds named within each item unless specifically designated otherwise in this section, for the purposes and subject to the conditions specified in this section and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2011. Items in this section shall not be subject to allotment under section 9B of chapter 29 of the General Laws or reduction under section 9C of said chapter 29, without express authorization from the general court. Notwithstanding section 19A of said chapter 29, any transfer under this section shall be made by the comptroller in accordance with a transfer schedule to be developed for each item by the comptroller, after consulting with the appropriate agency secretary, the secretary of administration and finance and the state treasurer. The schedule for each appropriation shall provide for transfers in increments considered appropriate to meet the cash flow needs of each fund and all transfers under the schedule shall be completed not later than June 30, 2011. Not later than 7 days after the schedules receive final approval by the comptroller, they shall be reported to the house and senate committees on ways and means.

1595-5819 \$20,000,000”;

In section 26, by inserting after the word “affairs”, in line 296, the following words:- “or a designee”;

In said section 26, by inserting after words “services”, in line 296, the following words:- “or a designee”; and

By adding the following section:-

“SECTION 40. Sections 5, 6, 7, 8, 10, 11, 12 and 13 shall be effective for tax years beginning on and after January 1, 2011.”.

The amendment 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.

Emergency Preamble.

An engrossed Bill providing the terms of certain bonds to be issued by the Commonwealth (see House, No. 5106), 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 Acting President (Mr. Tolman) and sent to the House for enactment.

Engrossed Bills.

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

Providing for an elected tax collector in the town of Brookfield (see Senate, No. 2651);

Authorizing the town of Chelmsford to regulate the removal of aboveground utility poles, overhead wires and other associated structures and to regulate the installation of underground wires and associated structures (see House, No. 4408, amended);

Authorizing the town of Dedham to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 5025);
Relative to the financial condition of the town of Orange (see House, No. 5069); and
Authorizing the town of Millbury to grant 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 5076).

Emergency Preamble.

An engrossed Bill establishing a sick leave bank for Doreen Edwards, an employee of the Trial Court (see House, No. 5101), 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 5 to 0.**
The bill was signed by the Acting President (Mr. Tolman) and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (the first four 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. Tolman) and laid before the Governor for his approbation, to wit:
Further regulating debt collection (see Senate, No. 2557);
Amending the charter of the town of Middleborough (see Senate, No. 2617);
Establishing a special fund for the town of Brimfield (see Senate, No. 2625);
Validating certain proceedings in the town of Rutland (see Senate, No. 2647);
Relative to trusts for the care of animals (see House, No. 1467);
Authorizing the town of Milford to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 5071);
Relative to the Geriatric Authority of the town of Milford (see House, No. 5072);
Providing for an early retirement incentive program for certain employees in the city of Malden (see House, No. 5073);
Authorizing a certain employment contract for the town of Milford (see House, No. 5088);
Relative to South Hadley town meeting members (see House, No. 5096);
Providing the terms of certain bonds to be issued by the Commonwealth (see House, No. 5106); and
Changing the date of the annual town meeting in the town of North Reading (see House, No. 5118).

Emergency Preambles.

An engrossed Bill authorizing the recertification of the fiscal year 2011 tax rate for the town of Lexington (see House Bill, printed in House, No. 5126, 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 3 to 0.**
The bill was signed by the Acting President (Mr. Tolman) and sent to the House for enactment.

An engrossed Bill making appropriations for the fiscal year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 5128, 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 3 to 0.**
The bill was signed by the Acting President (Mr. Tolman) and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (both 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 (Mr. Tolman) and laid before the Governor for his approbation, to wit:
Establishing a sick leave bank for Doreen Edwards, an employee of the Trial Court (see House, No. 5101); and
Making appropriations for the fiscal year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 5128, amended)

An engrossed Bill authorizing the recertification of the fiscal year 2011 tax rate for the town of Lexington (see House Bill, printed in House, No. 5126, amended),-- **having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted, two-thirds of the members present and voting having voted in the affirmative, and the bill was signed by the Acting President (Mr. Tolman) and laid before the Governor for his approbation.**

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.

Adjournment in Memory of Patrolman John B. Maguire

The Senator from Middlesex, Mr. Donnelly, requested that when the Senate adjourns today, it adjourn in memory of Woburn Patrolman John B. "Jack" Maguire.

Patrolman John B. "Jack" Maguire, a 34 year veteran of the City of Woburn Police Department, died December 26th, in the line of duty. He was 60 years old.

Patrolman Maguire, a life-long resident of Woburn and the son of the former Woburn Police Chief Thomas J. Maguire Jr. and Esther L. Maguire, served the city of Woburn faithfully in a job he valued and loved. A graduate of Austin Prep High School and a 1973 graduate of UMASS Lowell, he went on to complete two masters degrees and to earn a Doctorate in Philosophy. Jack was an avid reader and a life-long learner always looking to learn something new.

Jack cherished spending time with his family and friends and traveling to places like Old Orchard Beach, Lake George and Montreal. Together with his beloved wife of 23 years, Desiree, and his family, he spent as much time as possible at their second home in Monson, Maine. Jack's family was his number one priority and he took great pride in being organized and well prepared for his family's future.

Along with his beloved wife Desiree, Jack is survived by his three loving children, Bryan and Tara Maguire both of Wilmington, and Sean Maguire of Woburn. He was the cherished brother of Charles T. Maguire and his wife Kathleen of Reading, and son-in-law of Rita (Carangelo) Nollett of Wilmington and the late Donald Nollett. He is also survived by many other devoted family and friends.

Accordingly, as a mark of respect to the memory of Woburn Patrolman John B. "Jack" Maguire, at nineteen minutes past five o'clock P.M., on motion of Mr. Donnelly, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.