

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, March 25, 2010.

Met at fourteen minutes past one o'clock P.M.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the President introduced Michael McClure, the Peace Commissioner of Spirit Merchant located in County Donegal, Ireland. He was accompanied by Evelyn Gilmore. The Senate welcomed them with applause and they withdrew from the Chamber. They were guests of Senator Tolman.

PAPERS FROM THE HOUSE.

A message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to authorizing the town of Millis to conduct its annual town election on May 11, 2010 (House, No. 4578),-- **was referred, in concurrence, to the committee on Election Laws.**

A Bill making appropriations for the fiscal year 2010 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4579, amended,-- on House, No. 4572), -- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Bills

Relative to deposits in trust for other persons (House, No. 999,-- on petition); and
Designating the city of Salem as the birthplace of the National Guard (House, No. 1145, changed,-- on petition);
Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

A Bill to authorize the town of Oxford to grant an additional liquor license for the sale of wine and malt alcoholic beverages (printed as Senate, No. 2196,-- on petition) [Local approval received],-- **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Reports

Of the committee on Environment, Natural Resources and Agriculture, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3885) of Peter V. Kocot for legislation to require the use of helmets for horseback riders and drivers of horse-drawn wagons,-- **and recommending that the same be referred to the committee on Public Safety and Homeland Security;**

Of the committee on Financial Services, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 891) of Lewis G. Evangelidis relative to health insurance claims of employees; and

Of the committee on Public Safety and Homeland Security, asking to be discharged from further consideration
Of the petition (accompanied by bill, Senate, No. 977) of Anthony W. Petrucci and Kevin G. Honan for legislation to further enhance public safety in the Commonwealth; and

Of the petition (accompanied by bill, House, No. 4462) of James Cantwell and Robert L. Hedlund for legislation to increase the penalty imposed on operators of motor vehicles involved in police chases;

And recommending that the same severally be referred to the committee on the Judiciary; and

Of the committee on Public Safety and Homeland Security, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2214) of Robert F. Fennell, David B. Sullivan and others for legislation to further regulate licensed pawnbrokers,-- **and recommending that the same be referred to the committee on Consumer Protection and Professional Licensure;**

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

Reports

Of the committee on Public Safety and Homeland Security, asking to be discharged from further consideration
Of the petition (accompanied by bill, House, No. 2296) of Joseph F. Wagner, Kathi-Anne Reinstein and others for legislation to merge the Massachusetts Bay Transportation police into the Department of State Police; and

Of the petition (accompanied by bill, House, No. 3928) of Thomas A. Golden, Jr. that the Emergency Telecommunications Board develop, implement and administer an automated emergency alert system;

And recommending that the same severally be referred to the House committee on Ways and Means;

Of the committees on Rules of the two branches acting concurrently, asking to be discharged from further consideration
Of the petition (accompanied by bill, House, No. 2948) of James Arciero relative to the conduct of committees of the General Court;

Of the petition (accompanied by bill, House, No. 2949) of Jennifer M. Callahan and Bruce E. Tarr relative to providing education and training on ethics law, interviewing skills and investigatory procedures for members of the General Court;

Of the petition (accompanied by bill, House, No. 2950) of Jennifer M. Callahan for legislation relative to legislative conduct;

Of the petition (accompanied by bill, House, No. 2951) of Bradford R. Hall, Bruce E. Tarr and others relative to taping and broadcasting legislative committee hearings;

Of the petition (accompanied by bill, House, No. 2953) of Jay R. Kaufman and Denise Provost for legislation to require the filing of justice integrity impact statements with proposed legislation relative to crime, penalties and criminal records;

Of the petition (accompanied by bill, House, No. 2954) of Robert P. Spellane for legislation to regulate the reporting of mandated health benefit bills by committees of the General Court; and

Of the petition (accompanied by bill, House, No. 3614) of Christopher N. Speranzo relative to minimizing health care costs;

And recommending that the same severally be referred to the House committee on Rules.

Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence, in so much as relates to the discharge of the joint committees.

Resolutions.

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:-
Resolutions (filed by Mr. Donnelly) "on the twenty-fifth anniversary of the tragic death of Billerica Police Officer Thomas E. Strunk who died in the line of duty";

Resolutions (filed by Messrs. McGee, Berry, Petrucci and Tarr) "celebrating the centennial anniversary of Camp Fire USA";
Resolutions (filed by Mr. McGee) "honoring the two hundredth anniversary of the establishment of the Grace Community Church of Marblehead";

Resolutions (filed by Mr. Richard T. Moore) "memorializing the Congress of the United States to strengthen the unfunded Mandates Relief Act"; and

Resolutions (filed by Ms. Murray) "urging the members of the Senate to participate in the 2010 observance of Earth Hour."

PAPERS FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill establishing the Sandwich economic initiative corporation (see Senate, No. 2073, 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 re-enacted and signed by the President and again laid before the Governor for his approbation.

The Senate Bill relative to punishing assault and battery by means of a bodily substance upon correctional facility employees (Senate, No. 997, amended),-- came from the House with the endorsement that the House had concurred in the further Senate amendment with a still further amendment striking out the Senate further amendments to section 1 and by striking out section 1 of the bill; and inserting in place thereof the following two sections:

“SECTION 1. Chapter 127 of the General Laws is hereby amended by striking out section 38B, as appearing in the 2008 Official Edition, and inserting in place thereof the following section:-

Section 38B. (a) For the purposes of this section, “bodily substance” shall mean any human secretion, discharge or emission including, but not limited to, blood, saliva, mucous, semen, urine or feces.

(b) Any person in the custody of a correctional facility, including any jail, house of correction or state prison, who commits an assault or an assault and battery upon an officer or other employee, any volunteer or employee of a contractor in any such facility or any duly authorized officer or other employee of any such facility engaged in the transportation of a prisoner for any lawful purpose shall be punished by imprisonment for not more than 2 and one-half years in a jail or house of correction or for not more than 10 years in a state prison. Such sentence shall begin from and after all sentences currently outstanding and unserved at the time of said assault or assault and battery.

(c) Any person in the custody of a correctional facility, including any jail, house of correction or state prison, who commits an assault or an assault and battery by means of a bodily substance upon an officer or other employee, any volunteer or employee of a contractor in any such facility or any duly authorized officer or other employee of any such facility engaged in the transportation of a prisoner for any lawful purpose shall be punished by imprisonment for not more than 2 and one-half years in a jail or house of correction or for not more than 10 years in a state prison. Such sentence shall begin from and after all sentences currently outstanding and unserved at the time of said assault or assault and battery.

(d) Any person with an open mental health case charged under this section shall be evaluated under the provisions set forth in section 15 of chapter 123.

SECTION 1A. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby amended by inserting after the word “ninety-four C”, in line 16, the following words:- , section 38B of chapter 127 ”.

Senate Rule 36 was suspended, on motion of Mr. Brewer, and the Senate concurred in the still further House amendment (as corrected BTR).

Report of a Committee.

By Mr. McGee, for the committee on Public Service, on petition, a Bill authorizing the town of West Springfield to continue the employment of Police Chief Thomas E. Burke (Senate, No. 2297).

The bill was read. There being no objection, the rules were suspended, on motion of Mr. Knapik, 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.

PAPER FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Candace Cabey, an employee of the Trial Court (see Senate, No. 2273, 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 4 to 0. The bill was signed by the President and sent to the House for enactment.**

Reports 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 Senate Bill designating a certain overpass in the city of Haverhill as the Captain Richard J. Cashin Overpass (Senate, No. 2328).

There being no objection, the rules were suspended, on motion of Mr. Baddour, 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 overpass in the city of Haverhill as the Captain Richard J. Cashin Memorial Overpass”.

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 designating a certain road in the town of Salisbury as the Army Sergeant Jordan Michael Shay Memorial Drive (House, No. 4412).

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

Pending the question on ordering the bill to a third reading, Mr. Baddour offered an amendment striking out sections 1 and 2 and inserting in place thereof the following section:-

“SECTION 1. The road from Beach road to the mouth of the Merrimac river, a part of which is known as State Beach road and a part of which is known as Reservation road, in the town of Salisbury, shall be designated and known as the Army Sergeant Jordan Michael Shay Memorial Drive, in memory of United States Army Sergeant Jordan Michael Shay, who was killed in the line of duty in Iraq. The department of conservation and recreation and the Massachusetts Department of Transportation shall erect and maintain suitable markers bearing that designation in compliance with their respective standards on that portion of the road under their respective control.”; and by inserting before the enacting clause the following emergency preamble:-
“Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to designate a certain road in the town of Salisbury, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.”

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.

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Relative to property tax deferments for senior citizens in the town of Winchendon (Senate, No. 1227); and

Authorizing the town of Arlington to place a certain question relative to the sale of alcoholic beverages at a town election (House, No. 4403);

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

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

After remarks, the question on passing the bill to engrossed was determined by a call of the yeas and nays, at twenty-four minutes past one o'clock P.M., on motion of Mr. Brewer, as follows, to wit (*yeas 35 - - nays 0*) [**Yeas and Nays No. 201**]:

INSERT ROLL CALL No. 201

The yeas and nays having been completed at twenty-nine minutes past one o'clock P.M., the bill was passed to be engrossed.

Sent to the House for concurrence.

Reorganization Plan No. 1 of 2010 reorganizing certain agencies of the executive department (House, No. 4447),-- **was considered.**

After remarks, the question “shall this reorganization plan be approved?” was determined by a call of the yeas and nays, at twenty-seven minutes before two o'clock P.M., on motion of Mr. Joyce, as follows, to wit (*yeas 0 - nays 35*) [**Yeas and Nays No. 202**]:

INSERT ROLL CALL NO. 202

The yeas and nays having been completed at twenty-one minutes before two o'clock P.M., Reorganization Plan No. 1 of 2010 was not approved.

Reorganization Plan No. 2 of 2010 reorganizing certain agencies of the executive department (House, No. 4541),-- **was considered.**

After remarks, the question “shall this reorganization plan be approved?” was determined by a call of the yeas and nays, at nineteen minutes before two o'clock P.M., on motion of Mr. Joyce, as follows, to wit (*yeas 35 - nays 0*) [**Yeas and Nays No. 203**]:

INSERT ROLL CALL NO. 203

The yeas and nays having been completed at sixteen minutes before two o'clock P.M., Reorganization Plan No. 2 of 2010 was approved.

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 relative to the use of a parcel of land in the city of Woburn for recreational purposes (House, No. 4449),-- **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 city of Methuen to lease a building to the Head Start Program of the Greater Lawrence Community Action Council (House, No. 4261),-- **was read a third time.**

Pending the question on passing the bill to be engrossed, in concurrence, Mr. Baddour offered an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2347.

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 in the amendment.

The Senate Bill relative to the North Carver Water District (Senate, No. 2153),-- **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Pacheco offered an amendment substituting a new draft with the same title (Senate, No. 2348).

The amendment was adopted.

The bill (Senate, No. 2348) was then passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill relative to the interest rate to be charged on certain betterment assessments in the town of Wareham (Senate, No. 2140) (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 relative to interest rates to be charged upon apportioned betterment assessments in the town of Wareham (Senate, No. 2141),-- **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

Engrossed Bill.

Mr. Panagiotakos in the Chair, an engrossed Bill providing for the financial stability of the city of Lawrence (see House, No. 4516, 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. After debate, the question on passing it to be enacted was determined by a call of the yeas and nays, at four minutes before two o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 31 - nays 4*) [**Yeas and Nays No. 204**]:

INSERT ROLL CALL NO. 204

The yeas and nays having been completed at 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 (Mr. Panagiotakos) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and laid before the Governor for his approbation.

Engrossed Bills —Land Takings for Conservation Etc.

An engrossed Bill authorizing the lease of certain agricultural land in the town of Westford (see House, No. 4193, 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 one minute past two o'clock P.M., as follows, to wit (*yeas 35 - nays 0*) [**Yeas and Nays No. 205**]:

INSERT ROLL CALL NO. 205

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

An engrossed Bill authorizing the lease of land to yacht clubs (see House, No. 4346, 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 six minutes past two o'clock P.M., as follows, to wit (*yeas 34 - nays 1*) [**Yeas and Nays No. 206**]:

INSERT ROLL CALL NO. 206

The yeas and nays having been completed at twelve 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 Acting President (Mr. Panagiotakos) and laid before the Governor for his approbation.

Engrossed Bills.

The following engrossed bills (the first two of which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, were severally passed to be enacted and were signed by the Acting President (Mr. Panagiotakos) and laid before the Governor for his approbation, to wit:

Authorizing the town of Winchendon to continue the employment of Allen J. Lafrennie as fire chief (see Senate, No. 2066);

Establishing a sick leave bank for Candace Cabey, an employee of the Trial Court (see Senate, No. 2273, amended);

Authorizing the town of North Andover to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises (see House, No. 4189);

Designating a certain bridge in the city of Fall River as the Louis Phillip Gagne Jr. Bridge (see House, No. 4274); and

Authorizing the town of Medway to continue the employment of Fire Chief Paul L. Trufant (see House, No. 4380).

An engrossed Bill relative to elections for the Dennis Water District (see House, No. 1140, 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 enacted and signed by the Acting President (Mr. Panagiotakos).

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 Thomas M. McGee and Lori Ehrlich for legislation to establish a sick leave bank for John Phelan, an employee of the Massachusetts Department of Transportation.

The rules were suspended, on motion of Mr. Brewer, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Public Service. Sent to the House for concurrence.

PAPERS FROM THE HOUSE

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

Petition (accompanied by bill, House, No. 4580) of Martin J. Walsh for legislation to require the use of proctors as monitors for instruction and training programs administered by the Division of Apprenticeship Training within the Department of Labor and Workforce Development;

Under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

Petition (accompanied by bill, House, No. 4582) of Martin J. Walsh for legislation to require contractors on public works projects to submit weekly payroll records to contracting agencies;

Under suspension of Joint Rule 12, to the committee on Labor and Workforce Development.

Petition (accompanied by bill, House, No. 4581) of Martin J. Walsh (with the approval of the mayor and city council) relative to promulgating regulations concerning public works projects in the city of Boston.

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

Order Adopted.

Mr. Downing presented the following order:

Ordered, That notwithstanding the provisions of Joint Rule 10, the Joint Committee on Revenue be granted until March 31, 2010 within which to make its final report on current Senate document numbered 1866, relative to taxation.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Downing, and the order was considered forthwith and adopted.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE

Engrossed Bills.

The following engrossed bills (both 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. Panagiotakos)

and laid before the Governor for his approbation, to wit:

Relative to assault and battery by means of a bodily substance upon correctional facility employees and expanding the prohibition on the dissemination of obscenity (see Senate, No. 997, amended); and

Authorizing the town of West Springfield to continue the employment of Police Chief Thomas E. Burke (see Senate, No. 2297).

Order Adopted.

On motion of Mr.Hart,—

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. Brewer, at eighteen minutes past two o'clock P.M., the Senate adjourned to meet again on Monday next at eleven o'clock A.M.