

**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.

*Tuesday, April 28, 2009.*

Met according to adjournment at two o'clock P.M. (Mr. Rosenberg in the Chair).

#### *Distinguished Guests.*

There being no objection, the following guests were recognized as follows:

The President handed the gavel to Mr. O'Leary for the purpose of an introduction. Mr. O'Leary then introduced, in the rear of the Chamber, students and faculty from Shanghai Maritime University in China. The students are on an exchange program hosted by Massachusetts Maritime Academy and will be staying in the United States through June. The students were accompanied by Massachusetts Maritime Academy cadets and faculty.

The President handed the gavel to Ms. Creem for the purpose of an introduction. Ms. Creem then introduced, in the rear of the Chamber, members of the Carroll School for the Blind. The school serves the needs of the blind and visually-impaired persons by providing rehabilitation, skills training and educational opportunities to achieve independence and self-sufficiency. The Sail Blind Team at the Carroll Center won a bronze medal in the Blind Sailing World Championship Regatta in New Zealand. The Senate applauded their accomplishments and they withdrew from the Chamber.

The President handed the gavel to Mr. Tolman for the purpose of an introduction. Mr. Tolman then introduced, in the rear of the Chamber, Erin Richards of Brighton. Erin is currently writing a paper on underage drinking in Massachusetts for her master's program at Boston University.

#### *Petitions.*

Petitions were presented and referred, as follows:

By Ms. Candaras, a petition (subject to Joint Rule 12) of Gale D. Candaras for legislation to establish a sick leave bank for Tina Dunham, an employee of the Trial Court;

By Mr. Downing, a petition (subject to Joint Rule 12) of Benjamin B. Downing, Christopher N. Speranzo, Richard T. Moore, Brian A. Joyce and other members of the General Court for legislation to provide for greater transparency in local government;

By Mr. Downing (by request), a petition (subject to Joint Rule 12) of Pamela Mason and Denis E. Guyer for legislation relative to the alternative superannuation retirement benefit program for Pamela Mason;

By Mr. O'Leary (by request), a petition (subject to Joint Rule 12) of Linda Stetson Willoughby for legislation to grant creditable service to Linda Stetson Willoughby;

By Mr. O'Leary (by request), a petition (subject to Joint Rule 12) of Scott LaJoie, Executive Director, Hyannis Main Street

Business Improvement District, for legislation relative to business improvement districts; and

By Mr. O'Leary (by request), a petition (subject to Joint Rule 12) of Paul Cooper for the adoption of resolutions reasserting state sovereignty under the 10th Amendment of the United States Constitution;

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

*Reports of a Committee.*

By Mr. Eldridge, for the committee on Municipalities and Regional Government, on petition, a Bill to authorize the town of Sandwich to exchange certain parcels of land (Senate, No. 21) [Local approval received]; and

By the same Senator, for the same committee, on petition, a Bill to amend the town charter of Sandwich (Senate, No. 782) [Local approval received];

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

*Recess.*

There being no objection, at one minute past two o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair, and, at two minutes past three 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 Mr. Joyce) “honoring Kevin Gerard Sorgi upon the occasion of his retirement as the Milton Town Treasurer/Tax Collector”; and

Resolutions (filed by Mr. O'Leary and Ms. Murray) “congratulating Darlene Johnson Morris on the occasion of the 10-year anniversary of the Barnstable County AmeriCorps Cape Cod Program.”

At three minutes past three o'clock, P.M., Mr. Rosenberg doubted the presence of a quorum. The President, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

**Subsequently, at five minutes past three o'clock P.M., a quorum was declared present.**

**PAPER FROM THE HOUSE.**

*Engrossed Bill.*

An engrossed Bill establishing a sick leave bank for Michael P. Harrington, an employee of the Department of Conservation and Recreation (see House, No. 2579) (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 was signed by the President and laid before the Governor for his approbation.

*Orders of the Day.*

The Orders of the Day were considered as follows:

The Senate Bill authorizing the town of Bellingham to grant additional licenses for the sale of alcohol (Senate, No. 152),— **was read a second time and ordered to a third reading.**

The Senate Bill transferring county sheriffs to the Commonwealth (Senate, No. 2031, amended),— **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Joyce moved to amend the bill by striking out sections 1 and 1A and inserting in place thereof the following section:—

“SECTION 1. Section 17 of chapter 37 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following paragraph:—

The sheriffs of the counties of Barnstable, Bristol, Norfolk, Plymouth and Suffolk and of the former counties of Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex and Worcester shall each receive a salary of \$123,209. The sheriff of the county of Dukes shall receive a salary of \$97,271. The sheriff of the county of Nantucket shall receive a salary of \$71,332.”

**The amendment was adopted.**

Mr. Timilty moved to amend the bill in section 20, by striking out, in line 274, the words “retirement assets” and inserting in place thereof the following words:— “annuity savings funds”.

**The amendment was adopted.**

Mr. Joyce moved to amend the bill in section 7, by adding the following subsection:—

“(d) This section shall not apply to the land and buildings shown as Parcel C on a Plan of Land in Braintree, Mass, dated October 2, 1997, prepared by County of Norfolk Engineering Dept., 649 High Street, Dedham, filed at the Norfolk county registry of deeds in plan book 454, page 128.”

**The amendment was adopted.**

Messrs. O’Leary and Timilty moved to amend the bill in section 7a, by inserting, after subsection (c) the following subsection:—

“(d) In the event the commonwealth discontinues the use of the property for the purpose of the sheriff’s operation, the property shall revert back to the county.”

The amendment was *rejected*.

Messrs. O’Leary and Timilty moved to amend the bill in section 12, by adding the following subsection:—

“(e) Notwithstanding any general or special law or county charter to the contrary, regional services and contracts for such services, including, but not limited to, regional communication centers and law enforcement support, shall continue until expired, terminated or revoked under the terms of the agreement or contract for such services.”

**The amendment was adopted.**

Messrs. O’Leary and Timilty moved to amend the bill in section 22, by striking out, in line 324, the words “December 31, 2009” and inserting in place thereof the following words:— “June 1, 2010”.

**The amendment was adopted.**

Mr. O’Leary moved to amend the bill in section 22, by inserting after the words “county commissioner of a county of a transferred sheriff” the following words:— “as appointed by the chairs of the county commissioners of the counties of transferred sheriffs”.

**The amendment was adopted.**

Mr. Timilty moved to amend the bill in section 22, in the second paragraph, by inserting after clause (3) the following subsection:—

“(4) the best management practices associated with the current use of civil process funds, including the amount of civil process funds collected by each county sheriff and the actual disposition of said funds currently, and, in the event of consolidation, realignment, elimination or reorganization, the collection and use of civil process fees in the future;”.

**The amendment was adopted.**

Mr. Timilty moved to amend the bill in section 19, by striking out subsection (c) and inserting in place thereof the following subsection:—

“(c) The group insurance commission shall evaluate, in consultation with appropriate county officials and county treasurers, the value of any monies in a claims trust fund established pursuant to section 3A of said chapter 32B of the General Laws that would otherwise have been reserved for claims made by employees of a transferred sheriff. Any monies therein shall be transferred to the group insurance commission on the effective date of this act.”

**The amendment was adopted.**

Subsequently, Messrs. O’Leary and Timilty moved to amend the bill in section 2, in proposed section 12, in subsection (a), by inserting after the word “designee”, in line 25, the first time it appears, the following words:— “a county commissioner annually selected by the Massachusetts Association of County Commissioners”.

**The amendment was adopted.**

Mr. Panagiotakos moved to amend the bill in section 7, by adding the following subsection:—

“(d) This section shall not apply to the former Barnstable county house of correction located at the Barnstable County Complex on state highway route 6A in the town of Barnstable.”;

In section 10, by inserting after the fourth sentence the following sentence:— “If the unfunded pension liability of retirees exceeds any county’s minimum obligation to fund operations from its own revenues as set forth in this section, the retirement system for such county may extend its pension funding schedule to the extent necessary to eliminate that excess unfunded pension liability.”; and

By striking out section 23 and inserting in place thereof the following 3 sections:—

“SECTION 23. A sheriff transferred under this act shall provide a detailed account to the secretary of administration and finance of all contracts entered into before July 1, 2009; provided, however, that for any contracts entered into after April 1, 2009, the contract shall not be approved without the approval of the secretary of administration and finance. The account shall include, but not be limited to, descriptions of the nature of the contract, the length of the contract and amounts currently owed.

SECTION 24. Not less than 90 days after the effective date of this act, a sheriff transferred under this act shall provide to the secretary of administration and finance a detailed inventory of all property in the sheriff’s possession which shall include, but not be limited to vehicles, weapons, office supplies and other equipment.

SECTION 25. This act shall take effect on July 1, 2009.”

**The amendment was adopted.**

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays at two minutes past four o'clock P.M., on motion of Mr. Joyce as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 33**]:

<b>YEAS.</b>	
Baddour, Steven A.	Knapik, Michael R.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Montigny, Mark C.
Brown, Scott P.	Moore, Michael O.
Buoniconti, Stephen J.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Chang-Diaz, Sonia	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Donnelly, Kenneth J.	Panagiotakos, Steven C.
Downing, Benjamin B.	Petrucelli, Anthony
Eldridge, James B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Kennedy, Thomas P.	Walsh, Marian — 36.
<b>NAYS — 0.</b>	
<b>ABSENT OR NOT VOTING.</b>	
Candaras, Gale D.	Menard, Joan M. — 3.
Hart, John A., Jr.	

**The yeas and nays having been completed at five minutes past four o'clock P.M., the bill was passed to be engrossed [For the text of the bill, as amended, see Senate, No. 2045, printed as amended].**  
**Sent to the House for concurrence.**

The Senate Bill relative to pandemic and disaster preparation and response (Senate, No. 2028, amended) (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, after remarks, Mr. Tarr moved to amend the bill by striking section 28 and inserting the following two sections:

“SECTION 28. Notwithstanding the provisions of any law or regulation to the contrary, the Department of Public Health shall not approve any reduction in licensed acute-care, medical-surgical, critical care or other beds licensed pursuant to Chapter 111 of the General Laws if such reduction would adversely impact the pandemic preparedness of any hospital which provides one or more essential health services as defined by the department pursuant to Section 51G of said Chapter 111.

SECTION 29. This bill shall take effect upon its passage.”

After remarks, the amendment was *rejected*.

Mr. Richard T. Moore moved to amend the bill (as printed) in section 7, in subsection (c), by striking out the first sentence; in section 13, in proposed section 95, in subsection (a), by inserting after clause (4) the following clause:—

“(4½) stating that failure to comply with the order poses a serious danger to public health, if the commissioner determines that non-compliance would pose such a danger; and”; and

In section 26 (as printed), in proposed section 24G, in subsection (a), by adding the following sentence:— “The department of public health shall consult with the division of insurance in promulgating regulations regarding the waiver of administrative requirements and claims payment requirements during a public health emergency.”

**The amendment was adopted.**

The question on passing the bill to be engrossed was determined by a call of the yeas and nays at a quarter before four o’clock P.M., on motion of Mr. Richard T. Moore, as follows, to wit (*yeas 36 — nays 0*) [**Yeas and Nays No. 32**]:

<b>YEAS.</b>	
Baddour, Steven A.	Knapik, Michael R.
Berry, Frederick E.	McGee, Thomas M.
Brewer, Stephen M.	Montigny, Mark C.
Brown, Scott P.	Moore, Michael O.
Buoniconti, Stephen J.	Moore, Richard T.
Chandler, Harriette L.	Morrissey, Michael W.
Chang-Diaz, Sonia	O’Leary, Robert A.
Creem, Cynthia Stone	Pacheco, Marc R.
Donnelly, Kenneth J.	Panagiotakos, Steven C.
Downing, Benjamin B.	Petrucelli, Anthony
Eldridge, James B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R.
Jehlen, Patricia D.	Tolman, Steven A.
Joyce, Brian A.	Tucker, Susan C.
Kennedy, Thomas P.	Walsh, Marian — 36.
<b>NAYS — 0.</b>	
<b>ABSENT OR NOT VOTING.</b>	
Candaras, Gale D.	Menard, Joan M. — 3.
Hart, John A., Jr.	

The yeas and nays having been completed at eleven minutes before four o’clock P.M., the bill (Senate, No. 2028, amended) was passed to be engrossed (as corrected BTR).

Sent to the House for concurrence.

*Order Adopted.*

Mr. Tolman in the Chair, on motion of Ms. Fargo,—

*Ordered*, That when the Senate adjourns today, it adjourn to meet again on Thursday 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. McGee, at seven minutes past four o'clock P.M., the Senate adjourned to meet again on Thursday next at eleven o'clock A.M.