

**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.

*Friday, July 23, 2010.*

Met at three minutes past eleven o'clock A.M. (Mr. Donnelly 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. Donnelly) then led the members, guests and employees in the recitation of the pledge of allegiance to the flag.

#### *Communications.*

Several communications were received from the Honorable Therese Murray, President of the Senate, announcing the following appointments:

Senator Mark C. Montigny to the Special Commission established (pursuant to Section 168 of Chapter 131 of the Acts of 2010) to make an investigation and study of the feasibility of transferring personnel that are currently funded from the capital budget to the operating budget and transferring capital projects funded from the operating budget to the capital budget;

Senator Jennifer L. Flanagan to the Special Commission established (pursuant to Chapter 2 of the Resolves of 2010) to make an investigation and study of the range of support services necessary for individuals with autism spectrum disorders to achieve their full potential across their lifespan; and

Senator Benjamin B. Downing to the Special Commission established (pursuant to Section 162 of Chapter 31 of the Acts of 2010) to make an investigation and study of in-state tuition retention.

**The communications were severally placed on file.**

#### *Committees Discharged*

Mr. Berry, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration

Of the Senate Order relative to authorizing the joint committee on Election Laws to make an investigation and study of a certain current Senate document relative to election laws (Senate, No. 2559);

Of the Senate Order relative to authorizing the joint committee on State Administration and Regulatory Oversight to make an investigation and study of a certain current Senate document (Senate, No. 2561); and

Of the Senate Order relative to authorizing the joint committee on Telecommunications, Utilities and Energy to make an investigation and study of certain current Senate documents relative to consumer protection related issues in the Commonwealth (Senate, No. 2560);

**And recommending that the same severally be referred to the committee on Ethics and Rules.**

**Under Senate Rule 36, the reports were severally considered forthwith and accepted.**

Ms. Creem, for the committee on the Judiciary, reported, asking to be discharged from further consideration of the petition (accompanied by bill, (Senate, No. 2526) of Michael O. Moore, Harriette L. Chandler and John J. Binienda (with the approval of the mayor and city council) for legislation relative to the enforcement of illegal dumping violations in the City of Worcester,--  
**and recommending that the same be referred to the committee on Environment, Natural Resources and Agriculture.**

**Under Senate Rule 36, the report was considered forthwith and accepted.  
Sent to the House for concurrence.**

#### **PAPERS FROM THE HOUSE**

A petition (accompanied by bill, House, No. 4918) of Daniel K. Webster (by vote of the town) for legislation to authorize the town administrator of the town of Pembroke to approve all warrants for the expenditure of funds made by said town,-- **was referred, in concurrence, to the committee on Municipalities and Regional Government.**

##### *Bills*

Relative to early education and care by family child care providers (House, No. 4917,-- on House, No. 494); and  
Relative to special license plates for certain military personnel (House, No. 4923,-- on House, No. 4588);  
Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

##### *Bills*

Providing equity for school principals (House, No. 371, changed,-- on petition);  
Relative to disabled firefighters (House, No. 4463,-- on petition); and  
Eliminating the word "retardation" from the General Laws (House, No. 4922,-- on House, No. 176);  
Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules

##### *Bills*

Relative to health insurance and other benefits in the town of Phillipston (House, No. 4196,-- on petition) [Local approval received];  
Establishing the Caleb Chase gift account for the town of Harwich (House, No. 4587,-- on petition) [Local approval received];  
Authorizing the town of Westford to lease a certain parcel of land for camp purposes (House, No. 4662,-- on petition) [Local approval received]; and  
Authorizing the city of Gardner to convey certain land under the control of the Gardner Conservation Commission (House, No. 4679,-- on petition) [Local approval received];  
**Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

Notice was received from the House announcing the following appointment by the Minority Leader of the House of Representatives:

That Dr. Vito R. S. Cardone, a member of the public from the town of Lynnfield, to the Biomedical Research Advisory Council established (under Section 9 of Chapter 111L of the General Laws, as enacted by Section 1 of Chapter 27 of the Acts of 2005) to report annually on the provisions of said law including an update on the current state of pre-implantation embryo research relating to human embryonic stem cell research in the Commonwealth.

#### *Engrossed Bill Returned With Recommendation of Amendment.*

The engrossed Bill further regulating funeral processions (see Senate, No. 1884, amended) (which on Tuesday, July 13, 2010, had been laid before the Governor for his approbation), was returned to the Senate Clerk by the Lieutenant-Governor, Acting Governor, on Friday, July 23, 2010, at a quarter before ten o'clock A.M., with a message recommending an amendment.

**The message (Senate, No. 2568) was read and the Senate proceeded to reconsider the bill, in accordance with the provisions of Article LVI of the Amendments to the Constitution.**

**Pending action thereon, the bill was referred to the committee on Bills in the Third Reading, on motion of Mr. Hedlund.**

#### **PAPER FROM THE HOUSE**

##### *Engrossed Bill.*

An engrossed Bill establishing a sick leave bank for Sharon Baert, an employee of the Department of Developmental Services (see Senate, No. 2466, 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 (Mr. Donnelly) and laid before the Governor for his approbation.

#### *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 regulating elections in the town of Yarmouth (House, No. 4243),-- **was read a third time and passed to be engrossed, in concurrence.**

The House Bill establishing a Shellfish Mitigation receipts reserved for appropriation fund in the town of Dennis (House, No. 4245),-- **was read a third time and passed to be engrossed, in concurrence.**

The House Bill relative to transfer of land in the town of Plymouth (House, No. 4264, amended),-- **was read a third time.** Pending the question on passing the bill to be engrossed, Mr. Berry presented an amendment in section 1, by adding the following sentence: - "The Commonwealth, acting by and through the department of conservation and recreation, and the Wildlands Trust of Southeastern Massachusetts, Inc. may release a portion of the conservation restriction granted to them by the town of Plymouth by an instrument dated June 23, 2006, and recorded in the Plymouth county registry of deeds in book 33062, pages 261 – 283 on the parcel of land to be conveyed pursuant to this act."

**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 House Bill authorizing the city known as the town of Amesbury to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 4818) (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. Baddour presented an amendment in section 1, by striking out, in line 3, the words "Peter Suorsa d/b/a Apps B Taps," and inserting in place thereof the following words:- "Apps N' Taps, LLC, located".

**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 comprehensive siting reform for land based wind projects (Senate, No. 2260),-- **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 of House document numbered 4886.**

**Senate Rule 36 was suspended, on motion of Mr. Hedlund, and the House amendment was considered forthwith.**

Mr. Panagiotakos requested that the Senate concur with the House amendment with a further amendment by 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 17, by striking out the word "division" and inserting in place thereof the following words:- "energy facilities siting board";

In line 24, 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 31, by striking out the words ", test towers";

In line 45, 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 84, 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 91, by inserting after the word “megawatts” the following words:- “or related test towers”;

In line 92, by inserting after the word “facility” the following words:- “or related test towers”;

In line 96, 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 98 and 163, by striking out the word “division” , each time it appears, and inserting in place thereof the following words:- energy facilities siting board;

In line 191, by striking out the words “Notwithstanding the provisions of any other law to the contrary,”;

In 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 section 3, in said proposed section 69V of said chapter 164, by striking out subsection (k);

In said section 3, 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 4, 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 301 by striking out the words “local governmental bodies” and inserting in place thereof the following word:- “municipalities”;

In lines 302, 304, 332, 385, 388 and 390 by striking out the words “local governmental body”, each time they appear, and inserting in place thereof the following word:- “municipality”;

In line 305, 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 359 and in lines 406 and 407, 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 361 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 line 454, by striking out the figure “2” and inserting in place thereof the following figure:- “1”;

In line 468 by striking out the words “by the division of green communities”; and

In section 14 by striking out the second sentence.

**The further amendment was adopted.**

**The Senate then concurred in the House amendment, as amended.  
Sent to the House for concurrence in the further amendment.**

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

Petition (accompanied by bill, House, No. 4925) of Christine E. Canavan, Thomas P. Kennedy and Michael Brady for legislation to establish a sick leave bank for Christopher Lemoing, an employee of the sheriff's department of Plymouth County;

Petition (accompanied by House, No. 4926) of William M. Strauss for legislation establishing a sock leave bank for Matthew Normandeau, an employee of the Bristol County Sheriff's Office; and

Petition (accompanied by House, No. 4927) of Brian P. Wallace that the Department of Revenue be authorized to establish a sick leave bank for Donald F. Johnson, an employee of said department;

**Severally, under suspension of Joint Rule 12, to the committee on Public Service.**

*Order Adopted.*

On motion of Mr. Hedlund,

*Ordered*, That when the Senate adjourns today, it adjourn to meet again on Monday next at three o'clock P.M., in a full formal session without a calendar.

On motion of the same Senator, at nineteen minutes past eleven o'clock A.M., the Senate adjourned to meet again on Monday next at three o'clock P.M.