

**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, September 23, 2010.*

Met according to adjournment at eleven o'clock A.M. (Mr. Petrucelli 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. Petrucelli), members, guests and employees then recited 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:

Senators Stephen M. Brewer and Anthony Petrucelli have been appointed to the Special Commission established (pursuant to Chapter 8 of the Resolves of 2008) to make an investigation and study of innovative methods for funding the conservation of forested wildlands and woodlands in the Commonwealth; and

Dr. Gary E. Maestas, Doris Shallcross and Daniel Hunter have been appointed to the Special Commission established (pursuant to Section 181 of Chapter 240 of the Acts of 2010) to make an investigation and study to develop an index of creative and innovative education in the public schools; and

A communication from the Honorable Richard R. Tisei announcing the appointment of Senator Bruce E. Tarr to the Special Commission established (pursuant to Chapter 8 of the Resolves of 2008) to make an investigation and study of innovative methods for funding the conservation of forested wildlands and woodlands in the Commonwealth.

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

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

A Bill establishing a sick leave bank for Nanette Maltais, an employee of the Department of Revenue (House, No. 5018, amended-- on petition),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Notice was received from the Speaker of the House of Representatives announcing the following appointments:

That Representative Dykema of Holliston had been appointed to the special Water Infrastructure Finance Commission established (under Section 145 of Chapter 27 of the Acts of 2009) to develop a comprehensive, long-range water infrastructure finance plan for the Commonwealth and municipalities;

That Dr. Patricia Maguire Meservey, President of Salem State University had been appointed to the special Higher Education In-State Tuition Retention Commission established (under Section 162 of Chapter 131 of the Acts of 2010) to make a comprehensive study of in-state tuition retention for all institutions of higher education in the Commonwealth;

That Representative Kulik of Worthington had been appointed to the special Personnel and Capital Project Transfer Commission established (under Section 168 of Chapter 131 of the Acts of 2010) for the purpose of making an investigation and study relative to 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; and

That Representative L'Italien of Andover had been appointed to the special Autistic Spectrum Disorder Commission established (under Chapter 2 of the Resolves of 2010) to investigate and study the range of services and supports necessary for individuals to achieve their full potential across their lifespan, including, but not limited to, investigating issues related to public education, job attainment and employment, including supported employment, provision of adult human services, post-secondary education, independent living, community participation, housing, social and recreational opportunities, behavioral services based on best practices to ensure emotional well-being, mental health services and issues related to access for families of children with autism spectrum disorder and adults who are from linguistically and culturally diverse communities.

#### *Resolutions.*

The following resolutions (having been filed with the Clerk) were severally considered forthwith and adopted, as follows:- Resolutions (filed by Mr. Morrissey) "honoring Glenn Haas for his 40 years of dedicated service to the environment of Commonwealth";

Resolutions (filed by Ms. Murray and Mr. O'Leary) "honoring the Mukden Survivors' heroic service in World War II and their contributions to the Commonwealth"; and

Resolutions (filed by Ms. Murray) "congratulating the town of Sandwich on the rededication of its restored historic town hall."

#### *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 House Bill designating the State Transportation Library as the George M. Sanborn Library (House, No. 3266, amended).

**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 Barbara Sereda, and employee of the Department of Transitional Assistance (Senate, No. 2624),-- **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.**

**Sent to the House for concurrence.**

#### *Motion To Take a Matter Out of the Orders of the Day.*

The Chair (Mr. Petrucci) asked unanimous consent to take the engrossed Bill relative to comprehensive siting reform for land based wind projects (see House, No. 4955) out of the Orders of the Day for consideration,-- **but objection was made thereto by Mr. Tarr.**

**The engrossed bill was returned to the Orders of the Day for the next session.**

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

##### *Emergency Preambles Adopted.*

An engrossed Bill relative to Class A control substances (see Senate, No. 2222, 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 (Mr. Petrucci) and sent to the House for enactment.**

An engrossed Bill establishing a sick leave bank for Holly Ann Beaumier, an employee of the Office of Medicaid and establishing a sick leave bank for John S. Bain, an employee of the University of Massachusetts at Lowell (see Senate, No. 2618), 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 (Mr. Petrucci) and sent to the House for enactment.**

#### *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. Petrucci) and laid before the Governor for his approbation, to wit:

Relative to Class A control substances (see Senate, No. 2222, amended); and

Establishing a sick leave bank for Holly Ann Beaumier, an employee of the Office of Medicaid and establishing a sick leave bank for John S. Bain, an employee of the University of Massachusetts at Lowell (see Senate, No. 2618).

*Engrossed Bill Returned with Recommendation of Amendment.*

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to time-share ownership (see House, No. 4803) [for message, see House, No. 4960],— **came from the House with an amendment in the form approved by the committee on Bills in the Third Reading as follows:**

By striking out section 5 and inserting in place thereof the following:—

“SECTION 5. Said chapter 183B is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:—

Section 29. (a) A person who has a duty to make assessments for time-share expenses shall have a lien on a time-share for any assessment levied against that time-share or fines imposed against its owner from the time the assessment or fine becomes due. In the case of either a time-share estate or a time-share license, the lien shall be enforced pursuant to section 29B. Unless the time-share instrument otherwise provides, fees, charges, late charges, fines, interest, collection agency fees and reasonable attorney's fees charged pursuant to clauses (8) and (9) of subsection (a) of section 20 shall be enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment shall be a lien from the time the first installment thereof becomes due.

(b) A lien created under this section shall be prior to all other liens and encumbrances on a time-share except: (i) liens and encumbrances recorded before the recording of the time-share instrument; (ii) mortgages or security interests on the time-share recorded before the due date of the assessment or the due date of the first installment payable on the assessment; (iii) liens for real estate taxes and other governmental assessments or charges against the time-share; and (iv) liens for unpaid taxes of the owner collectible pursuant to chapter 62C, and liens for unpaid child support obligations of the owner collectible pursuant to chapter 119A, provided that liens for such taxes or child support obligations were recorded before the due date of the assessment or the due date of the first installment payable on the assessment. This subsection shall not affect the priority of mechanics' or materialmen's liens. Liens on a time share unit, arising under this section or otherwise, shall not be subject to chapter 188.

(c) The lien created under this section shall be automatic as a matter of law, but a claim or notice of lien may be recorded in the applicable registry of deeds for a time-share estate or as required in the controlling time-share instruments for a time-share. A lien shall be dissolved upon the issuance and recording of a statement by the association pursuant to subsection (e) showing no assessment to be due and owing.

(d) This section shall not prohibit actions to recover sums for which subsection (a) creates a lien or precludes an association from recourse by any contractual or other remedy permitted by law.

(e) The lien created under this section shall include costs, including collection agency fees, reasonable attorneys' fees and all forfeiture costs incurred by the association. A person who has a duty to make assessments for time-share expenses shall furnish to a time-share owner, purchaser, mortgagee or a closing attorney or settlement agent, upon written request, a statement recordable in form setting forth the amount of unpaid assessments currently levied against the owner's time-share and may charge a reasonable fee for the preparation of such statement. The statement shall be furnished within 10 business days after the receipt of the request. Any time-share owner, purchaser, mortgagee, or a closing attorney or settlement agent, who is a recipient of the statement shall be entitled to rely on the contents thereof, and whoever furnished the statement may collect from such recipient only those sums of money that are set forth therein from the recipient; provided, however, that the recipient pays any amounts stated as due and owing and any amounts which subsequently may become due and owing within 60 days of the date of the statement, including collection charges, late fees, interest and additional assessments as stated therein.

(f) No time-share owner shall be exempt from liability for contribution toward the time-share liability expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of the time-share or otherwise; and no time-share owner shall be entitled to an offset, deduction or waiver of time-share liability expenses or other charges levied or lawfully assessed by the association.”

**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.**

**The rules were suspended, on motion of Mr. Tarr, and the Governor's amendment was considered forthwith and adopted, in concurrence.**

**Sent to the House for re-enactment.**

*Adjournment in Memory of George N. Parks*

The Senator from Hampshire and Franklin, Mr. Rosenberg, requested that when the Senate adjourns today, it adjourn in memory of UMass Minuteman Marching Band Director and music professor George N. Parks.

George Parks, who led the Minuteman Marching Band for 33-years and garnered national attention for the program, passed away suddenly on September 16th while traveling with the band to the University of Michigan at Ann Arbor.

Born in Buffalo and raised in Newark, Delaware, he was a graduate of West Chester University in Pennsylvania and earned his master of music degree from Northwestern University.

A nationally recognized band leader, George Parks inspired thousands of band members who devoted endless hours to drills, practices, road trips and public performances while also pursuing their academic studies. Under his leadership, the band received the Louis C. Sudler Trophy, the nation's top marching band honor. Along with halftime shows and performances around the

country, George Parks led the band during performances at the presidential inaugurations in 1981, 1985 and 2001 as well as three Bands of America Grand Nationals. An accomplished music educator and band instructor, he led a summer band leadership training seminar and drum major academy that drew over 3,000 participants from across the country each year. He was enshrined in the Bands of America Hall of Fame in 2006.

George Parks, a tireless advocate for a permanent band facility at the University of Massachusetts, was part of the official groundbreaking of a new \$5.7 million building last year. As a member of the Music faculty, he taught the tuba and conducting and was recognized for his commitment to education by being awarded the Distinguished Teaching Award, the Chancellor's Medal for Service to the Campus, and the Outstanding Accomplishments in Scholarly and Creative Activity. He was also named an honorary alumnus by the Alumni Association. For many years George Parks was active in and served as chair of the UMass Amherst Charitable Campaign, the annual campaign for university employees to contribute to United Way, the American Red Cross, and the Salvation Army; under his leadership, university employees repeatedly broke campus fundraising records.

Mr. Parks leaves his wife, Jeanne, and two children, Michael and Kathryn, his mother, Vesta, and brother, Patrick, both of Delaware.

Accordingly, as a mark of respect to the memory of George N. Parks, at seven minutes before twelve o'clock noon, on motion of Mr. Tarr, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.