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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Tuesday, October 20, 2009.

Met at seven minutes past one o'clock P.M. (Mr. Brewer in the Chair).

Communication.

A communication from Executive Office for Administration and Finance, Human Resources Division (under the provisions of Section 25 of Chapter 31 of the General Laws) submitting notice of revocation of certain public safety promotional list (received October 20, 2009),— **was placed on file.**

Recess.

There being no objection, at eight minutes past one o'clock P.M., the Chair (Mr. Brewer) declared a recess subject to the call of the Chair; and, at twenty-four minutes before four 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 considered forthwith and adopted, as follows:— Resolutions (filed by Mr. Joyce) “congratulating Thomas J. Ronayne III for his service to the town of Canton.”

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 Michael O. Moore for legislation to establish a sick leave bank for Paulette Moran, an employee of the Department of Mental Health.

The rules were suspended, on motion of Mr. Michael O. Moore, 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.

Orders of the Day.

The Orders of the Day were considered, as follows:

Bills

Establishing a linkage exaction program in the city of Gloucester (Senate, No. 100);

Authorizing the Board of Selectmen in the town of Tisbury to grant licenses for the sale of beer and wine in restaurants, inns and hotels (House, No. 1907);

Relative to the tenure of the city clerk, city collector and city engineer of the city of Revere (House, No. 3708, amended);

Relative to the development of certain town land in the town of Chatham (House, No. 3823); and

Authorizing the Board of Assessors of the town of Newbury to grant a real estate tax abatement (House, No. 4200);
Were severally read a second time and ordered to a third reading.

The Senate Bill updating the animal control laws of Massachusetts (Senate, No. 406),— **was considered, the main question being on ordering the bill to a third reading.**

The pending motion, previously moved by Mr. Knapik, to lay the matter on the table was considered; and it was negatived.

The pending amendment, previously moved by Ms. Jehlen and Messrs. Montigny and Rosenberg, substituting a new draft entitled “An Act further regulating animal control” (Senate, No. 2172),— was considered; and it was adopted. The bill (Senate, No. 2172) was then ordered to a third reading. The rules were suspended, on motion of Ms. Jehlen, and the bill was read a third time and passed to be engrossed. Sent to the House for concurrence.

The Senate Bill authorizing an exchange of certain parcels of land for Martha’s Vineyard Hospital (Senate, No. 2146),— **was considered, the question being on passing the bill to be engrossed. Mr. O’Leary moved that the bill be amended in section 2, by striking out, in line 10, the words “receive for” and inserting in place thereof the following words:— “acquire by deed on behalf of”. The amendment was adopted. The bill (Senate, No. 2146, amended) was then passed to be engrossed. Sent to the House for concurrence.**

The House Bill relative to clean energy (House, No. 4253),— **was considered, the question being on passing the bill to be engrossed.**
After remarks, Mr. Brewer moved that the bill be amended in section 10, by striking out, in lines 176 to 178, inclusive, the words “Notwithstanding any general or special law to the contrary, unless otherwise authorized herein no expenditure from the trust fund shall be deemed to involve a capital facility project.”; in Section 10, by striking out, in lines 187 to 188, the words “(h) Clause (9) of section 3 shall not apply to disbursements from the trust fund. (i)”; in said section 10, in line 232, by striking out the figure “200” and inserting in place thereof the following figure:— “300”; and in section 15, in line 265, by striking out the figure “8” and inserting in place thereof the following figure:— “6”.
After further debate, the amendment was adopted. The bill, as amended, was then passed to be engrossed with the above amendment and the amendment previously adopted by the Senate. Sent to the House for concurrence.

PAPER FROM THE HOUSE.

The House Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4288),— **was read.**

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

After debate, and pending the question on ordering the bill to a third reading, Messrs. Hedlund, Tarr, Brown, Tisei and Knapik moved that the bill be amended by inserting, after section 61, the following new section:—

“SECTION 62. Chapter 64A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting, after section 7A, the following section:—

Section 7B. The sale of fuel to a city or town which having consumed the same for any municipal purpose shall be exempt from the excise established by this chapter.”

After remarks, the amendment was rejected.

Mr. Hedlund moved that the bill be amended by inserting, after section 61, the following new section:—

“SECTION 62. Chapter 32B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following new section:—

Section 20. Effective January 1, 2010, a governmental unit is authorized to include, as part of the health plans (HMOs, PPOs, indemnity plans) that it offers to its employees and retirees, co-payments, deductibles and tiered provider network co-payments (or other plan design features) that are no greater in dollar amount than the highest copayments, deductibles and tiered provider network co-payments (or other plan design features) provided in any of the same class (HMOs, PPOs, indemnity plans) of health plans offered by the Group Insurance Commission pursuant to chapter 32A of the General Laws. For purposes of this section, a “Point of Service” plan offered by a governmental unit shall be considered to fall within the PPO class.

The above authorized dollar amounts for co-payments, deductibles and tiered provider network co-payments (or other plan design features) shall be increased whenever the Group Insurance Commission increases the dollar amount of copayments and/or deductibles and/or tiered provider network co-payments (or other plan design features) on the health plans that it offers.

A governmental unit may include in its health plans co-payments, deductibles and tiered provider network co-payments (or other plan design features) up to the above-referenced amounts without bargaining pursuant to Chapter 150E of the General Laws concerning the decision to do so or the impact of the decision.

Nothing herein shall prohibit a governmental unit from including in its health plans higher co-payments, deductibles or tiered provider network co-payments (or other plan design features) than those authorized by the preceding paragraphs of this section;

but such higher co-payments, deductibles or tiered provider network copayments (or other plan design features) may be included only after the governmental unit has satisfied any bargaining obligations pursuant to Chapter 150E of the General Laws. For the purpose of this section, a governmental unit shall be defined as one in which the executive committee or steering committee shall have a minimum of one-third of its membership comprised of representatives of organized labor and or retirees.”
After remarks, the amendment was rejected.

Messrs. Hedlund, Tarr, Brown and Tisei moved that the bill be amended by inserting, after section 61, the following new section:—

“SECTION 62. The Inspector General shall establish a special commission for the purpose of recovering all excess profits owed to host communities as outlined in MGL 40B and 760 CMR 56. The Inspector General shall have the ability to convey to this commission all investigatory powers as outlined in MGL 12A, Section 9.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and the nays, at one minute past five o’clock P.M., on motion of Mr. Hedlund, as follows to wit (*yeas 10 — nays 25*) [**Yeas and Nays No. 142**]:

| YEAS. | |
|------------------------------|-----------------------------------|
| Brown, Scott P. | Morrissey, Michael W. |
| Hedlund, Robert L. | O’Leary, Robert A. |
| Knapik, Michael R. | Tarr, Bruce E. |
| Montigny, Mark C. | Timilty, James E. |
| Moore, Richard T. | Tisei, Richard R. — 10. |
| NAYS. | |
| Baddour, Steven A. | Joyce, Brian A. |
| Berry, Frederick E. | Kennedy, Thomas P. |
| Brewer, Stephen M. | McGee, Thomas M. |
| Buoniconti, Stephen J. | Menard, Joan M. |
| Candaras, Gale D. | Moore, Michael O. |
| Chandler, Harriette L. | Pacheco, Marc R. |
| Chang-Diaz, Sonia | Panagiotakos, Steven C. |
| Creem, Cynthia Stone | Petrucelli, Anthony |
| Donnelly, Kenneth J. | Spilka, Karen E. |
| Downing, Benjamin B. | Tolman, Steven A. |
| Galluccio, Anthony D. | Tucker, Susan C. |
| Hart, John A., Jr. | Walsh, Marian — 25. |
| Jehlen, Patricia D. | |
| ABSENT OR NOT VOTING. | |
| Eldridge, James B. | Flanagan, Jennifer L. |
| Fargo, Susan C. | Rosenberg, Stanley C. — 4. |

The yeas and nays having been completed at five minutes past five o'clock P.M., the amendment was rejected.

Messrs. Hedlund and Tarr moved that the bill be amended by inserting, after section 61, the following new section:—
 “SECTION 62. Notwithstanding section 23 of chapter 59 of the General Laws, or any other special or general law, any city or town may amortize over the 3 fiscal years 2010, 2011, and 2012, in equal installments or more rapidly, an amount of its fiscal year 2009 revenue deficit resulting from expenditures related to snow and ice removal. The local appropriating authority as defined in section 21C of chapter 59 of the General Laws shall adopt a deficit amortization schedule before the setting of the municipal tax rate, consistent with the first sentence of this section. The commissioner of revenue may issue guidelines or instructions for reporting the amortization of deficits authorized by this section.”

The amendment was rejected.

Mr. Hedlund moved that the bill be amended by inserting, after section 61, the following new section:—

“SECTION 62. Section 12 of chapter 65 of the Acts of 2009 is hereby repealed.”

The amendment was rejected.

Mr. Hedlund moved that the bill be amended by inserting, after section 61, the following new section:—

“SECTION 62. Section 33 of chapter 90, as so appearing, is hereby amended by adding to the end thereof the following:— “(37) For the registration of every motor vehicle with specialty plates bearing facsimiles of the seal of the commonwealth owned by members of the council, senate and house of representatives and constitutional officers, the fee shall be \$1,000. Said fee shall be collected annually.”

After remarks, the amendment was rejected.

Messrs. Brewer, Pacheco and Buoniconti moved that the bill be amended, as printed, by striking out section 14 in its entirety.

The amendment was adopted.

Ms. Jehlen and Ms. Chang-Diaz moved that the bill be amended by striking out Section 49 in its entirety and in Section 2CI, by inserting after item 8910-0110 the following new item:

“OFFICE OF ELDER AFFAIRS.
 9100-1630\$100,000”.

The amendment was rejected.

The bill, as amended, was then ordered to a third reading and read a third time.

The question on passing the bill to be engrossed was determined by a call of the yeas and nays, at fourteen minutes past five o'clock P.M., on motion of Mr. Tisei, as follows, to wit (*yeas 27 — nays 8*) [**Yeas and Nays No. 143**]:

| YEAS. | |
|------------------------|----------------------------|
| Baddour, Steven A. | Kennedy, Thomas P. |
| Berry, Frederick E. | McGee, Thomas M. |
| Brewer, Stephen M. | Menard, Joan M. |
| Buoniconti, Stephen J. | Montigny, Mark C. |
| Candaras, Gale D. | Moore, Michael O. |
| Chandler, Harriette L. | Morrissey, Michael W. |
| Chang-Diaz, Sonia | Pacheco, Marc R. |
| Creem, Cynthia Stone | Panagiotakos, Steven C. |
| Donnelly, Kenneth J. | Petruccelli, Anthony |
| Downing, Benjamin B. | Spilka, Karen E. |
| Galluccio, Anthony D. | Tolman, Steven A. |
| Hart, John A., Jr. | Tucker, Susan C. |
| Jehlen, Patricia D. | Walsh, Marian — 27. |

| | |
|------------------------------|-------------------------------------|
| Joyce, Brian A. | |
| NAYS. | |
| Brown, Scott P. | O’Leary, Robert A. |
| Hedlund, Robert L. | Tarr, Bruce E. |
| Knapik, Michael R. | Timilty, James E. |
| Moore, Richard T. | Tisei, Richard R. — 8. |
| ABSENT OR NOT VOTING. | |
| Eldridge, James B. | Flanagan, Jennifer L. |
| Fargo, Susan C. | Rosenberg, Stanley C.— 4. |

**Ms. Menard in the Chair, the yeas and nays having been completed at eighteen minutes past five o’clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment.
Sent to the House for concurrence in the amendment.**

PAPER FROM THE HOUSE.

Engrossed Bill— Land Taking for Conservation Etc.

An engrossed Bill authorizing the lease of certain conservation land in the town of Easton for agricultural purposes and to establish the Tufts Farm Maintenance Fund (see House, No. 1885) (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 nineteen minutes past five o’clock P.M., as follows, to wit (*yeas 35 — nays 0*) [**Yeas and Nays No. 144**]:

| | |
|------------------------|----------------------------|
| YEAS. | |
| Baddour, Steven A. | Kennedy, Thomas P. |
| Berry, Frederick E. | McGee, Thomas M. |
| Brewer, Stephen M. | Menard, Joan M. |
| Buoniconti, Stephen J. | Montigny, Mark C. |
| Candaras, Gale D. | Moore, Michael O. |
| Chandler, Harriette L. | Morrissey, Michael W. |
| Chang-Diaz, Sonia | Pacheco, Marc R. |
| Creem, Cynthia Stone | Panagiotakos, Steven C. |
| Donnelly, Kenneth J. | Petrucelli, Anthony |
| Downing, Benjamin B. | Spilka, Karen E. |
| Galluccio, Anthony D. | Tolman, Steven A. |
| Hart, John A., Jr. | Tucker, Susan C. |
| Jehlen, Patricia D. | Walsh, Marian — 27. |

| | |
|------------------------------|-------------------------------------|
| Joyce, Brian A. | |
| NAYS. | |
| Brown, Scott P. | O’Leary, Robert A. |
| Hedlund, Robert L. | Tarr, Bruce E. |
| Knapik, Michael R. | Timilty, James E. |
| Moore, Richard T. | Tisei, Richard R. — 8. |
| ABSENT OR NOT VOTING. | |
| Eldridge, James B. | Flanagan, Jennifer L. |
| Fargo, Susan C. | Rosenberg, Stanley C.— 4. |

The yeas and nays having been completed at twenty-three minutes past five 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 (Ms. Menard) (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.

Recess.

There being no objection, at twenty-five minutes past five o’clock P.M., the Chair (Mr. Brewer) declared a recess subject to the call of the Chair; and, at eighteen minutes past six o’clock P.M., the Senate reassembled, the President in the Chair.

PAPER FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4288, 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 (Ms. Menard) and sent to the House for enactment.

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 Stephen J. Buoniconti, James T. Welch, Scott P. Brown, Michael R. Knapik and other members of the General Court for legislation to promote responsible and effective transitional assistance.

The rules were suspended, on motion of Mr. Hedlund, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Children, Families and Persons with Disabilities.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

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 (Ms. Menard) and laid before the Governor for his approbation, to wit:

Authorizing the town of Saugus to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 1120); and

Making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 4288, amended).

Order Adopted.

On motion of Mr. Hedlund,—

Ordered, That when the Senate adjourns today, it adjourn to meet again on Thursday next at eleven o'clock A.M., in a full formal session.

On motion of the same Senator, at twenty-five minutes past six o'clock P.M., the Senate adjourned to meet again on Thursday next at eleven o'clock A.M.