

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, December 28, 2010.

Met at one minute past eleven o'clock A.M. (Mr. Tolman 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 (Tolman), members, guests and employees then recited the pledge of allegiance to the flag.

Report of a Committee.

By Mr. McGee, for the committee on Public Service, on petition, a Bill establishing a sick leave bank for Beverley O'Riordan, an employee of the Department of Elementary and Secondary Education (Senate, No. 2660);

Read and, under Senate Rule 27, referred to the committee on Ways and Means.

PAPERS FROM THE HOUSE

Bills

Relative to home service contracts (House, No. 4957,-- on House, No. 987);

Establishing a sick leave bank for Robert Manning, an employee of the Dorchester division of the Boston Municipal Court (House, No. 5117,-- on petition); and

Relative to college and career readiness for Massachusetts public school students (House, No. 5120,-- on House Nos. 470 and 471);

Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

A Bill relative to South Hadley town meeting members (House, No. 5096,-- on petition) [Local approval received];

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

Resolutions.

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:

Resolutions (filed by Ms. Fargo) "honoring Sergeant Kevin Duffey of the United States Army on his valor during combat in Afghanistan."

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 relative to the financial condition of the town of Orange (House, No. 5069),-- **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 town of Dedham to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (House, No. 5025),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

PAPERS FROM THE HOUSE

A Bill authorizing the town of Millbury to issue two additional licenses for the sale of all alcoholic beverages to be drunk on the premises (House, No. 5076,-- on petition) [Local approval received],-- **was read.**

There being no objection, the rules were suspended, on motion of Mr. Richard T. Moore, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act authorizing the town of Millbury to grant 2 additional licenses for the sale of all alcoholic beverages to be drunk on the premises".

Engrossed Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill protecting our natural resources (see House, No. 4943) [for message, see House, No. 4994],-- **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 all after the enacting clause and inserting in place thereof the following:

"SECTION 1. The third paragraph of section 80A of chapter 131 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the third and fourth sentences and inserting in place thereof the following 2 sentences:- If no response is provided by the municipal board of health within 10 calendar days or the application is denied, the applicant or the applicant's duly authorized agent may transfer the application for the emergency permit to the director. If the director, in consultation with the state department of public health, determines that such a threat exists, it shall immediately issue the emergency permit to alleviate the existing threat to human health and safety for a period not exceeding 10 days.

SECTION 2. Said section 80A of said chapter 131, as so appearing, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

If the threat to human health and safety has not been alleviated within the 10-day period, the applicant or his duly authorized agent shall apply to the granting authority for an extension permit to continue the use of alleviation techniques specified in this section for a period not exceeding 30 days. If the granting authority, in consultation with the state department of public health, determines that such a threat to human health or safety exists, as defined in this section, the granting authority shall immediately issue an extension permit.

SECTION 3. Said section 80A of said chapter 131, as so appearing, is hereby further amended by striking out, in lines 78, 79 and 86, the word 'director' and inserting in place thereof, in each instance, the following words:- 'granting authority'.

SECTION 4. Said section 80A of said chapter 131, as so appearing, is hereby further amended by striking out, in lines 88 to 90, inclusive, the words "any or all of the previous four paragraphs shall not preclude the applicant or his duly authorized agent from applying to the municipal board of health" and inserting in place thereof the following words:- this section shall not preclude the applicant or his duly authorized agent from applying to the municipal board of health or division.

SECTION 5. Said section 80A of said chapter 131, as so appearing, is hereby further amended by striking out the eighth and ninth paragraphs and inserting in place thereof the following paragraph:-

Every board of health within the commonwealth that issues an emergency permit under this section shall report annually to the division the number of permit applications, the number of permits granted, the location for which the emergency permits were authorized, the results of granting the emergency permits and other information that may be required by the division. The division shall provide a report annually to the joint committee on environment, natural resources and agriculture on the aggregation of the boards of health reports, the number of permit applications the division received, the number of permits it granted, the location for which the emergency permits were authorized, the results of granting the emergency permits and recommendations regarding wildlife management under this section."

The message, as amended, 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. Timilty, and the Governor's amendment, as amended, was considered forthwith.

Mr. Rosenberg presented an motion that the Senate concur in the Governor's amendment with a further amendment striking out all after the enacting clause and inserting in place thereof the following text:-

"SECTION 1. Section 80A of chapter 131 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word 'paragraph.', in line 51, the following sentence:- The municipal board of health, or its duly authorized agent, shall issue a decision within 10 days of receipt of an application.

SECTION 2. The third paragraph of said section 80A is hereby amended by striking out the third sentence and inserting in place thereof the following sentence: - If denied, the municipal board of health shall inform the applicant, or his duly authorized agent, of the right to appeal such denial to the department of public health or the director.

SECTION 3. Said section 80A of said chapter 131, as so appearing, is hereby further amended by striking out the ninth paragraph and inserting in place thereof the following paragraph:-

Every board of health that issues an emergency permit pursuant to this section shall report annually to the division: (i) the number

of permit applications; (ii) the number of permits granted; (iii) the location for which the emergency permits were authorized; (iv) the results of granting the emergency permits, including the methods used to alleviate a threat; (v) the number and species of animals taken pursuant to the permit; and (vi) other information that may be required by the division. The division shall annually submit a report including an aggregation of the information listed in clauses (i) to (v), inclusive, and recommendations for legislation as a result of findings suggested by the data in the report to the joint committee on environment, natural resources and agriculture.”

The amendment was adopted.

The Governor’s amendment, as amended, was adopted, in concurrence.

Sent to the House for concurrence in the further amendment.

Engrossed Bill.

An engrossed Bill relative to a lien for architects, engineers, land surveyors and site professionals (see Senate, No. 2512, 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. Tolman) and laid before the Governor for his approbation.

A petition (accompanied by bill, House, No. 5127) of Paul J. Donato for legislation to establish a sick leave bank for Stephen Costa, an employee of the Massachusetts Rehabilitation Commission,- was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Public Service.

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 Gale D. Candaras for legislation relative to certain utility rates.

The rules were suspended, on motion of Ms. Chang-Diaz, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Telecommunications, Utilities and Energy.

Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Morrissey,--

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 Mr. Tarr, at eighteen minutes past eleven o’clock A.M., the Senate adjourned to meet again on Thursday next at eleven o’clock A.M.