

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, May 12, 2011.

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

Communication.

A communication from the Honorable Therese Murray, President of the Senate, announcing the appointment (pursuant to Section 4C(c)(i) of Chapter 21A of the General Laws) of Senator Daniel A. Wolf to the Ocean Advisory Commission, -- was placed on file.

Report.

A report of the Massachusetts Department of Higher Education's Special Commission on In-State Tuition Retention (pursuant to Section 162 of Chapter 131 of the Acts of 2010) submitting its report to the Legislature -- May 2011, regarding studied issues related to in-state tuition retention. (Copies having been forwarded as required to the Senate Committees on Ways and Means and the Joint Committee on Higher Education) (received on May 9, 2011),-- **was placed on file.**

Reports of Committees.

By Mr. Donnelly, for the committee on State Administration and Regulatory Oversight, on Senate, No. 1872 and House, No. 3044, a Bill relative to economic development in the North Point area of the city of Cambridge (Senate, No. 1902);

Read and, under Senate Rule 26C, referred to the committee on Bonding, Capital Expenditures and State Assets.

By Mr. Michael O. Moore, for the committee on Higher Education, on Senate, No. 567 and House, No. 2786, a Bill relative to student records coordination across public higher education institutions (Senate, No. 567);

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

By Mr. McGee, for the committee on Transportation, on petition, a Bill designating the new Bridge Street Bypass Road in Salem as the "Sgt. James Ayube Memorial Drive" (Senate, No. 1875) [Local approval received];

Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

PAPERS FROM THE HOUSE

Messages were severally referred, in concurrence, as follows:

Message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to the establishment of voting precincts in the town of Harvard (House, No. 3439); and

Message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to the establishment of voting precincts in the town of Lancaster (House, No. 3440);

Severally to the committee on Election Laws.

Bills

Establishing a sick leave bank for Mark E. Lopes, an employee of the Bristol County Sheriff's Office (House, No. 3388, amended,-- on petition);
Establishing a sick leave bank for Mitch Dembowski, an employee of the Department of Developmental Services (House, No. 3393, amended,-- on petition);
Relative to the reorganization of the judicial system of the Commonwealth (House, No. 3395, amended, -- on petition);
Establishing a sick leave bank for Robert P. Hanifin, an employee of the Trial Court (House, No. 3397,-- on petition);
Establishing a sick leave bank for Michael Briggs, an employee of the Department of Youth Services (House, No. 3398,-- on petition); and
Relative to making appropriations for the fiscal year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3437,-- on House, No. 3429, in part);
Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

A Bill governing the issuance of temporary loans by the town of Winchester (House, No. 1840,-- on petition) [Local approval received];

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

Reports

Of the committee on Consumer Protection and Professional Licensure, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 100) of Carlo Basile relative to price disclosures,-- **and recommending that the same be referred to the committee on Community Development and Small Business; and**

Of the committee on Education, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2713) of Cheryl A. Coakley-Rivera, Sean Garballey, William N. Brownsberger and other members of the General Court for legislation relative to establishing a middle-skills council and the creation of regional skills academies in the Commonwealth,-- **and recommending that the same be referred to the committee on Labor and Workforce Development;**
Were severally considered forthwith, under Senate Rule 36, and accepted, in concurrence.

A communication from the Department of Energy Resources of the Executive Office of Energy and Environmental Affairs (under the provisions of section 12 of Chapter 25A of the General laws) submitting proposed final regulations (225 CMR 14.00, 15.00 and 16.00) implementing the renewable and alternative portfolio standards (RPS and APS) as required by the Green Communities Act (accompanied by bill, House, No. 3436),-- **was referred, in concurrence, to the committee on Telecommunications, Utilities and Energy.**

A communication was received from the Clerk of the House of Representatives informing the Senate that the following proposals for legislative amendments to the Constitution have been called for consideration in the Joint Session by the House of Representatives:

Proposal for a legislative amendment to the Constitution relative to the subject of initiative petitions (House, No. 529),— with reference to which the committee on the Judiciary has reported, that the amendment ought to pass [Representative Winslow of Norfolk dissenting];

Proposal for a legislative amendment to the Constitution relative to prohibiting eminent domain takings (House, No. 1824), — with reference to which the committee on the Judiciary has reported that the amendment ought to pass;

Proposal for a legislative amendment to the Constitution repealing automatic increases in compensation for members of the General Court (House, No. 1827), — with reference to which the committee on Public Service has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which said committee was required to report having expired;

Proposal for a legislative amendment to the Constitution relative to a biennial state budget (House, No. 1828), — with reference to which the joint committee on Ways and Means has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which said committee was required to report having expired;

Proposal for a legislative amendment to the Constitution limiting budget expenditure growth based on cost-of-living and population (House, No. 1829), — with reference to which the joint committee on Ways and Means has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which said committee was required to report having expired;

Proposal for a legislative amendment to the Constitution relative to home rule (House, No. 3161), — with reference to which the committees on Municipalities and Regional Government has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass, the time within which said committee was required to report having expired;

Proposal for a legislative amendment to the Constitution relative to the terms of office of Executive Councilors and members of the General Court (House, No. 1114), — with reference to which the committee on the Judiciary has reported that the amendment ought NOT to pass [Representatives Andrews of Orange, Ashe of Longmeadow and Lombardo of Billerica dissenting]; and

Proposal for a legislative amendment to the Constitution relative to eminent domain takings (House, No. 1387), — with reference to which the committee on the Judiciary has reported that the amendment ought to pass.

The communication was placed on file

There being no objection, at eighteen minutes past one o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at a quarter before two 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 Ms. Chandler) "congratulating Philip P. Madaio on being named the recipient of the Award of Merit from the Armed Forces Committee of Worcester County";

Resolutions (filed by Mr. Hedlund) "congratulating Boy Scout Troop 2 on its one hundredth anniversary";

Resolutions (filed by Mr. Richard T. Moore) "congratulating the Whitinsville Christian School Boys Varsity Basketball Team on its 2011 Division III State Championship";

Resolutions (filed by Mr. Richard T. Moore) "congratulating the St. Louis School Boys Junior Varsity Basketball Team on its 2011 New England Catholic Youth Organization Regional Championship";

Resolutions (filed by Mr. Pacheco) "congratulating Kyle L. Buak on his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Pacheco) "congratulating Michael P. DiBenedetto on his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Pacheco) "congratulating Matthew D. Joiner on his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Pacheco) "congratulating Aaron J. Larocque on his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Pacheco) "congratulating Johnathan T. Lavelle on his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Pacheco) "congratulating Michael J. Moreshead on his elevation to the rank of Eagle Scout";

Resolutions (filed by Mr. Pacheco) "congratulating Derek M. Ondovick on his elevation to the rank of Eagle Scout"; and

Resolutions (filed by Mr. Pacheco) "congratulating Alexander G. Waterman on his elevation to the rank of Eagle Scout."

PAPERS FROM THE HOUSE

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Jeffrey Botelho, an employee of the Department of Correction (see House, No. 736), 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 13 to 0. The bill was signed by the President and sent to the House for enactment.**

Engrossed Bill.

An engrossed Bill relative to the Falmouth Affordable Housing Fund (see House, No. 3255) (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 signed by the President and laid before the Governor for his approbation.

A petition (accompanied by bill, House, No. 3444) of William "Smitty" Pignatelli for legislation to make certain changes in the laws relative to the issuance of charitable life insurance policies,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Financial Services**

Reports of Committees.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill relative to making appropriations for the fiscal year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3437),- **ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 1903 [Estimated cost: \$85,460,000].**

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

Pending the question on adoption of the Ways and Means amendment, and pending the main question on ordering the bill to a third reading, Messrs. Tarr, Hedlund, Knapik and Ross moved that the proposed new text be amended by inserting at the end thereof the following new section:-

“Section X. The executive office for administration and finance shall submit a report detailing the budgetary line items anticipated to be deficient at the close of fiscal year 2011 on June 30, 2011. Said report shall include, but not be limited to, a list of the items and the anticipated deficiency, as well as any other pertinent information, and shall be filed with the clerks of the senate and the house of representatives and the house and senate ways and means committees on or before June 1, 2011.”

After remarks, the amendment was *rejected*.

Mr. Petrucci moved to amend the proposed new text by inserting the following sections:-

“SECTION 1. Section 2 of Chapter 128C of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the last clause in the fourth paragraph and inserting in place thereof the following clause:-

provided, however, that no racing meeting licensee shall simulcast live races in any racing season unless the racing meeting licensee is licensed to and actually conducts at least 720 live races over the course of not less than 80 calendar days during that racing season with no fewer than 7 races completed on any of those 80 calendar days.

SECTION 2. Section 1 is hereby repealed.

SECTION 3. Section 2 shall take effect on January 1, 2013.”

The amendment was adopted.

The pending amendment, previously recommended by the committee on Ways and Means, as amended, was then considered; and was adopted.

The bill was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

By Mr. Brewer, that the Senate Bill protecting lakes and ponds from aquatic nuisances (Senate, No. 347),-- **ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 1904).**

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

After remarks, the pending amendment, previously recommended by the committee on Ways and Means was considered; and was adopted.

The bill (Senate, No. 1904) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered, as follows, to wit:

The Senate Bill authorizing the town of Plymouth to make improvements on private ways (Senate, No. 1049),-- **was read a second time and ordered to a third reading.**

The House Bill relative to urban redevelopment in the city of Quincy (House, No. 3337),-- **was read a second time and ordered to a third reading. The rules were suspended, on motion of Mr. Keenan, and the bill was read a third time and, after remarks, was 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 facilitating urban redevelopment in the city of Quincy”.**

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered as follows:

The House Bill exempting the position of fire chief of the city of Lawrence from the civil service law (House, No. 3259),-- **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

There being no objection, at nineteen minutes past two o'clock P.M., the President declared a recess subject to the call of the Chair; and, at four minutes before three o'clock P.M., the Senate reassembled, Ms. Chandler in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

PAPERS FROM THE HOUSE *Emergency Preambles Adopted*

An engrossed Bill establishing a sick leave bank for Peggy Machado, an employee of the Department of Correction (see Senate, No. 1336, 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 9 to 0. The bill was signed by the Acting President (Ms. Chandler) and sent to the House for enactment.**

An engrossed Bill establishing a sick leave bank for Hartmut R. Andrade, an employee of the Bristol County Sheriff's Office (see Senate, No. 1881), 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 9 to 0. The bill was signed by the Acting President (Ms. Chandler) and sent to the House for enactment.**

There being no objection, at one minute before three o'clock P.M., the Chair (Ms. Chandler) declared a recess subject to the call of the Chair; and, at twenty-two minutes before four o'clock P.M., the Senate reassembled, the President in the Chair.

PAPERS FROM THE HOUSE

The House Bill making appropriations for the fiscal year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 3437, amended),-- **came from the House with the endorsement that the House had concurred in the Senate amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 1931, printed as amended with a further amendment striking out all after the enacting clause (inserted by amendments by the Senate) and inserting in place thereof the text of House document numbered 3445 . The rules were suspended, on motion of Mr. Keenan, and the House amendment was adopted, in concurrence.**

Engrossed Bills.

The following engrossed bills (the first two 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 President and laid before the Governor for his approbation, to wit:

Establishing a sick leave bank for Peggy Machado, an employee of the Department of Correction (see Senate, No. 1336, amended);

Establishing a sick leave bank for Hartmut R. Andrade, an employee of the Bristol County Sheriff's Office (see Senate, No. 1881); and

Establishing a sick leave bank for Jeffrey Botelho, an employee of the Department of Correction (see House, No. 736).

A petition of Steven L. DiNatale and Jennifer L. Flanagan relative to simulcast racing,-- **came from the House, with the endorsement that they had referred the petition to the committee on Economic Development and Emerging Technologies. On motion of Mr. Tarr, the Senate NON-concurred in the reference to the committee on Economic Development and Emerging Technologies and referred the petition to the committee on Consumer Protection and Professional Licensure. Sent to the House for its action.**

There being no objection, at sixteen minutes before four o'clock P.M., the President declared a recess subject to the call of the Chair; and, at nineteen minutes past four o'clock P.M., the Senate reassembled, Mr. McGee in the Chair (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

PAPERS FROM THE HOUSE

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill making appropriations for the fiscal year 2011 to provide for supplementing certain existing appropriations and for certain other activities and projects (see House, No. 3437, 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. McGee) and sent to the House for enactment.

Subsequently, the bill, which originated in the House, came from the House with the endorsement that it had been enacted in that branch.

The Senate then passed the bill to be enacted; and it was signed by the Acting President (Mr. McGee) and laid before the Governor for his approbation.

Order Adopted.

On motion of Mr. Hedlund,--

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

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