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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Monday, July 11, 2011.

Met according to adjournment at one o'clock P.M. (Mr. Rosenberg in the Chair).

Petitions.

Petitions were severally presented and referred, as follows:

By Michael O. Moore, a petition (accompanied by bill, Senate No. 1961) of Michael O. Moore and Paul K. Frost (by vote of the town) for legislation to authorize the town of Millbury to issue an additional liquor license [Local approval received];

**Under Senate Rule 20, to the committee on Consumer Protection and Professional Licensure.
Sent to the House for concurrence.**

By Mr. Rosenberg, a petition (subject to Joint Rule 12) of Stanley C. Rosenberg and Ellen Story for legislation to provide a labor/management workplace and education trust fund at the University of Massachusetts Amherst;

Under Senate Rule 20, to the committees on Rules of the two branches, acting concurrently.

Reports of Committees.

By Mr. Joyce, for the committee on Bonding, Capital Expenditures and State Assets, that the Senate Bill relative to an exclusive and perpetual easement within Monroe State Forest (Senate 1899, changed),-- **ought to pass;**

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

By Mr. Keenan, for the committee on Mental Health and Substance Abuse, on Senate, No. 984 and House, No. 1416, a Bill regarding proportional payments of the Massachusetts Child Psychiatry Access Project (Senate, No. 1960);

Referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. DiDomenico, for the committee on Community Development and Small Business, on petition, a Bill relative to smart growth housing trust fund (Senate, No. 75);

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

Recess.

There being no objection, at one minute past one o'clock P.M. the Chair (Mr. Rosenberg) declared a recess, subject to the call of the Chair; and, at two minutes past 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 considered forthwith and adopted, as follows:
Resolutions (filed by Mr. Donnelly) “congratulating the Massachusetts Hospital Association on the occasion of its seventy-fifth anniversary.”

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

July 14, 2011

Mr. William F. Welch
Clerk of the Senate
Room 335, State House
Boston, MA 02133

Dear Mr. Clerk:

On June 9, 2011 I was absent from the Senate Chamber during the roll call votes on S. 1905, specifically amendments #2, #12, #20, and the vote on the final bill as amended. Had I been present, I would have voted in the affirmative for all votes.

I respectfully request that a copy of this letter be printed in the Senate Journal as part of the official record for Thursday, June 9, 2011.

Thank you for your attention to this matter.

Sincerely,
BRIAN A. JOYCE
State Senator

On motion of Mr. Berry, the above communication was ordered printed in the Journal of the Senate.

PAPERS FROM THE HOUSE
Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Nancy Whittier, an employee of the Trial Court (see House, No. 3496), 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 6 to 0.**
The bill was signed by the President and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (the first 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:

Authorizing an early retirement incentive program in the city of Taunton (see Senate, No. 1886); and
Increasing the membership of the board of selectmen in the town of Rehoboth (see House, No. 3293, amended).

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill relative to municipal health insurance (see House, No. 3580) [being the text contained in Sections 51, 52, 58, 199, 200, 201 and 202 of the General Appropriations Bill (see House, No. 3535)] [for message, see Attachment F of House, No. 3581],— **came from the House with endorsement that the House adopted the amendment as approved by the committee on Bills in the Third Reading and further amended:**

In Section 1, by striking out the definition of “Savings” and inserting in place thereof the following definition:-
“‘Savings’, for the purposes of sections 21, 22 and 23, shall mean the difference between the total projected premium costs for health insurance benefits provided by a political subdivision with changes made to health insurance benefits under section 22 or 23 for the first 12 months after the implementation of such changes and the total projected premium costs for health insurance benefits provided by that subdivision without such changes for the same 12 month period.”; by striking out section 2 and inserting in place thereof the following section:

“SECTION 2. Section 12 of said chapter 32B is hereby amended by adding the following paragraph:-

The board of a trust or joint purchase group established by 2 or more governmental units may vote to implement changes to copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features which do not exceed those which an appropriate public authority may offer under section 22; provided, however, that each governmental unit that is a member of a trust or group shall comply with the requirements set forth in section 21 before any such changes may be applied to the health insurance coverage of such governmental unit's subscribers. If such changes to the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features do not exceed those permitted under section 22, such changes shall be approved in accordance with the provisions of section 21.”; in Section 3, in subsection 21, by striking out subsection (d) and inserting in place thereof the following subsection:

“(d) The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 22; provided, however, that any increases to plan design features have been made in accordance with the provisions of section 22. The municipal health insurance review panel shall approve the appropriate public authority's immediate implementation of the proposed changes under section 23; provided, that the panel confirms that the anticipated savings under those changes would be at least 5 per cent greater than the maximum possible savings under section 22. If the panel does not approve implementation of changes made pursuant to section 22 or section 23, the public authority may submit a new proposal to the public employee committee for consideration and confirmation under this section.”; in Subsection 22, by striking out subsection (a) and inserting in place thereof the following subsection:

“(a) Upon meeting the requirements of section 21, an appropriate public authority of a political subdivision which has undertaken to provide health insurance coverage to its subscribers by acceptance of any other section of this chapter may include, as part of the health plans that it offers to its subscribers not enrolled in a Medicare plan under section 18A, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a non-Medicare plan with the largest subscriber enrollment; provided, however, that for subscribers enrolled in a Medicare plan pursuant to section 18A the appropriate public authority may include, as part of the health plans that it offers to its subscribers, copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features that are no greater in dollar amount than the copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a Medicare plan with the largest subscriber enrollment. The appropriate public authority shall not include a plan design feature which seeks to achieve premium savings by offering a health benefit plan with a reduced or selective network or providers unless the appropriate public authority also offers a health benefit plan to all subscribers that does not contain a reduced or selective network of providers.” , in subsection (b) by striking out the first paragraph and inserting in place thereof the following paragraph:

“An appropriate public authority may increase the dollar amounts for copayments, deductibles, tiered provider network copayments and other cost-sharing plan design features; provided that, for subscribers enrolled in a non-Medicare plan, such features do not exceed plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a non-Medicare plan with the largest subscriber enrollment and, for subscribers enrolled in a Medicare plan under section 18A, such features do not exceed plan design features offered by the commission pursuant to section 4 or 4A of chapter 32A in a Medicare plan with the largest subscriber enrollment; provided, however, that the public authority need only satisfy the requirements of subsection (a) of section 21 the first time changes are implemented pursuant to this section; and provided, further that the public authority meet its obligations under subsections (b) to (h), inclusive, of section 21 each time an increase to a plan design feature is proposed. “, by striking out subsection (e) and inserting in place thereof the following subsection:

“(e) The first time a public authority implements plan design changes under this section or section 23, the public authority shall not increase before July 1, 2014, the percentage contributed by retirees, surviving spouses and their dependents to their health insurance premiums from the percentage that was approved by the public authority prior to and in effect on July 1, 2011; provided, however, that if a public authority approved of an increase in said percentage contributed by retirees before July 1, 2011, but to take effect on a date after July 1, 2011, said percentage increase may take effect upon the approval of the secretary of administration and finance based on documented evidence satisfactory to the secretary that the public authority approved the increase prior to July 1, 2011.”; by striking out sections 4 to 7, inclusive, and inserting in place thereof the following 4 sections:

“SECTION 4. Notwithstanding any general or special law to the contrary, an appropriate public authority that implements changes to health insurance benefits pursuant to sections 22 and 23 of chapter 32B of the General Laws shall delay implementation of such changes, as to those subscribers covered by a collective bargaining agreement or section 19 agreement that is in effect on the date of implementation of such changes, of any changes to the dollar amounts of copayments, deductibles or other cost-sharing plan design features that are inconsistent with any dollar limits on copayments, deductibles or other cost-sharing plan design features that are specifically included in the body of that collective bargaining agreement or section 19 agreement, until the initial term stated in that collective bargaining agreement or section 19 agreement has ended.”

SECTION 5. Nothing in this act shall be construed to alter, amend or affect chapter 36 of the acts of 1998, chapter 423 of the acts of 2002, chapter 27 of the acts of 2003 or chapter 247 of the acts of 2004.

SECTION 6. Notwithstanding any general or special law to the contrary, the group insurance commission shall prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before January 1, 2012, if such political subdivision provides notice to the group insurance commission on or before September 1, 2011, that it is transferring its subscribers to the group insurance commission under sections 19 or 23 of chapter 32B of the General Laws; provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before April 1, 2012, if such political subdivision provides notice to the group insurance commission on or before December 1, 2011, that it is transferring its subscribers to the group insurance commission under said sections 19 or 23 of said chapter 32B; provided further, the commission shall also prescribe procedures to permit a political subdivision to transfer all subscribers for whom it provides health insurance coverage to the commission on or before July 1, 2012, if such political subdivision provides notice to the group insurance commission on or before March 1, 2012, that it is transferring its subscribers to the group insurance commission under said sections 19 or 23 of said chapter 32B.

SECTION 7. Notwithstanding any general or special law to the contrary, unless otherwise agreed, a governmental unit transferring its subscribers to the group insurance commission under section 23 of chapter 32B of the General Laws shall use current contribution ratios in existence for each class of plan for each collective bargaining unit in order to transfer to the commission. If a governmental unit was not offering both a preferred provider organization plan or an indemnity plan on the date of transfer to the commission, the governmental unit's initial contribution ratio toward the commission's preferred provider organization plans and indemnity plans shall be the ratio that the governmental unit was contributing toward its preferred provider organization plan or indemnity plan for each collective bargaining unit on that date. Except as specifically provided in this section, all contribution ratios shall remain subject to bargaining pursuant to chapter 32B of the General Laws and chapter 150E of the General Laws."

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.

After debate, the question on the adoption of the Governor's amendment was determined by a call of the yeas and nays, at twenty-four minutes before three o'clock P.M., on motion of Mr. Brewer, as follows, to wit (*yeas 37 — nays 0*) [**Yeas and Nays No. 50**]:

YEAS

Baddour, Steven A.	Kennedy, Thomas P.
Berry, Frederick E.	Knapik, Michael R.
Brewer, Stephen M.	McGee, Thomas M.
Candaras, Gale D.	Montigny, Mark C.
Chandler, Harriette L.	Moore, Michael O.
Chang-Diaz, Sonia	Moore, Richard T.
Clark, Katherine M.	Murray, Therese
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Eldridge, James B.	Ross, Richard J.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 37.
Keenan, John F.	

NAYS — 0.
ABSENT OR NOT VOTING
Downing, Benjamin B. Rush, Michael F. —**3.**
Fargo, Susan C.

**The yeas and nays having been completed at twenty minutes before three o'clock P.M., the Governor's amendment was adopted, in concurrence (as corrected BTR).
Sent to the House for re-enactment.**

Engrossed Bill.

An engrossed Bill establishing a sick leave bank for Nancy Whittier, an employee of the Trial Court (see House, No. 3496) (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.

Engrossed Bills — Land Takings for Conservation Etc.

An engrossed Bill authorizing the town of Andover to exchange certain parcels of land with the Andover Village Improvement Society (see Senate, No. 1028, amended) (which originated in the Senate), 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 before three o'clock P.M., as follows, to wit (*yeas 36 - nays 0*) [**Yeas and Nays No. 51**]:

YEAS

Baddour, Steven A.	Keenan, John F.
Berry, Frederick E.	Kennedy, Thomas P.
Brewer, Stephen M.	Knapik, Michael R.
Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Eldridge, James B.	Ross, Richard J.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 36.

NAYS — 0.
ABSENT OR NOT VOTING
Downing, Benjamin B. Rush, Michael F. —**3.**
Fargo, Susan C.

The yeas and nays having been completed at a quarter before three 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 President and laid before the Governor for his approbation.

An engrossed Bill providing for the abandonment of a certain Wakefield sewer easement (see Senate, No. 1569, changed and amended) (which originated in the Senate), 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 fourteen minutes before three o'clock P.M., as follows, to wit (*yeas 36 - nays 0*) [**Yeas and Nays No. 52**]:

YEAS

Baddour, Steven A.	Keenan, John F.
Berry, Frederick E.	Kennedy, Thomas P.
Brewer, Stephen M.	Knapik, Michael R.
Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Eldridge, James B.	Ross, Richard J.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 36.

NAYS — 0.

ABSENT OR NOT VOTING

Downing, Benjamin B. Rush, Michael F. — **3.**
Fargo, Susan C.

The yeas and nays having been completed at twelve minutes before three 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 President and laid before the Governor for his approbation.

An engrossed Bill authorizing the transfer of certain parcels of land in the town of Ipswich (see Senate, No. 1930) (which originated in the Senate), 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 eleven minutes before three o'clock P.M., as follows, to wit (*yeas 36 - nays 0*) [**Yeas and Nays No. 53**]:

YEAS

Baddour, Steven A.	Keenan, John F.
Berry, Frederick E.	Kennedy, Thomas P.

Brewer, Stephen M.	Knapik, Michael R.
Candaras, Gale D.	McGee, Thomas M.
Chandler, Harriette L.	Montigny, Mark C.
Chang-Diaz, Sonia	Moore, Michael O.
Clark, Katherine M.	Moore, Richard T.
Creem, Cynthia Stone	Pacheco, Marc R.
DiDomenico, Sal N.	Petrucelli, Anthony
Donnelly, Kenneth J.	Rodrigues, Michael J.
Donoghue, Eileen M.	Rosenberg, Stanley C.
Eldridge, James B.	Ross, Richard J.
Finegold, Barry R.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. — 36.

NAYS — 0.

ABSENT OR NOT VOTING

Downing, Benjamin B. Rush, Michael F. — **3.**
 Fargo, Susan C.

The yeas and nays having been completed at nine minutes before three 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 President and laid before the Governor for his approbation.

Recess.

Mr. Tolman in the Chair, there being no objection, at ten minutes past three o'clock P.M. the Chair (Mr. Tolman) declared a recess, subject to the call of the Chair; and, at fourteen minutes past six o'clock P.M., the Senate reassembled, the 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).

PAPERS FROM THE HOUSE

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill relative to municipal health (see House, No. 3580, 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. Donnelly) 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 re-enacted; and it was signed by the Acting President (Mr. Donnelly) and again laid before the Governor for his approbation.

Order Adopted.

On motion of Mr. Ross,--

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow 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-two minutes past six o'clock P.M., the Senate adjourned to meet again tomorrow at eleven o'clock A.M.