

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 15, 2011.

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

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, several guests were recognized, as follows:

The President handed the gavel to Mr. Tarr for the purpose of an introduction. Mr. Tarr then introduced, on the Rostrum, the North Shore Girl Scouts, Troop #60613 from St. Mary's of the Annunciation School in Danvers. They were guests of Senators Tarr and Berry and Representative Ferrante of Gloucester. The Senate welcomed them with applause and they withdrew from the Chamber.

The President handed the gavel to Mr. Joyce for the purpose of an introduction. Mr. Joyce then introduced, in the rear of the Chamber, four students from Milton High School who had been nominated by their teachers to attend the James Otis lecture. Mr. Joyce was delighted to welcome Kitty Sargent, Phil Rebrovic, Emma Razzman, and Maya Rosmarin to the State House, along with their teacher, Sheila Walsh. The Senate welcomed them with applause and they withdrew from the Chamber.

Communication.

A communication from the Honorable Kenneth J. Donnelly in compliance with Massachusetts General Laws Chapter 268A (received in the Office of the Clerk of the Senate on Wednesday, September 14, 2011 at seven minutes before three o'clock P.M.), -- **was placed on file.**

Petition.

Mr. Tarr presented a petition (accompanied by bill, Senate No.2009) of Bruce E. Tarr and Ann-Margaret Ferrante (by vote of the town) for legislation relative to the town of Essex [Local Approval received];

**Under Senate Rule 20, to the committee on Municipalities and Regional Government.
Sent to the House for concurrence.**

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3708) of Timothy R. Madden and Daniel A. Wolf (by vote of the town) for legislation to authorize the town of Aquinnah to refund tax payments and accrued interest from improperly assessed taxation in prior fiscal years 2005 and 2006,-- **was referred, in concurrence, to the committee on Revenue.**

A Bill establishing expanded gaming in the Commonwealth (House, No. 3711,-- on Senate, No. 150, 155, 168, 169 and 170 and House, No. 130, 1036, 1037, 1039, 1904, 1905, 3110 and 3111),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Recess.

There being no objection, at one minute past one o'clock P.M., the Chair (Ms. Chandler) declared a recess, subject to the call of the Chair; and, at twenty-four minutes past one 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 Mr. Joyce) "honoring the Friends of Borderland, Inc., and its President, Norma Urban, on the occasion of the Centennial Anniversary of the Ames Mansion"; and

Resolutions (filed by Mr. Knapik) "congratulating James J. Tierney on his retirement from the United States Air National Guard."

PAPERS FROM THE HOUSE

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 the city of Westfield to convert a seasonal license for the sale of all alcoholic beverages not to be drunk on the premises to an annual license for the sale of all alcoholic beverages not to be drunk on the premises (see Senate, No. 1939); and

Relative to the acceptance of streets as public ways in the city of Woburn (see House, No. 912).

Report of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill authorizing the Division of Capital Management and Maintenance to grant an easement over an access road in Upton (House, No. 3706),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Michael O. 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 Division of Capital Asset Management and Maintenance to grant an easement over an access road in Upton".

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Donna Jean Kelly, an employee of the Trial Court (Senate, No. 1969),-- **ought to pass with an amendment substituting a new draft with the same title (Senate No. 2013).**

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2013) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Steven Thomas, an employee of the Department of Correction (Senate, No. 1976),-- **ought to pass with an amendment substituting a new draft with the same title (Senate No. 2014).**

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time and was amended, as recommended by the committee on Ways and Means.

The bill (Senate, No. 2014) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

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 Frederick E. Berry for legislation to establish a sick leave bank for Scott Hayward, an employee of the Executive Office of Health and Human Services.

The rules were suspended, on motion of Mr. Petrucci, 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.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3713) of Michael A. Costello and Steven A. Baddour for legislation to designate a certain portion of land in the town of Salisbury as the Reverend Thomas B. Morgan Square,-- was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Transportation.

Engrossed Bills—Land Takings for Conservation Etc.

An engrossed Bill relocating certain harbor lines in the Fairhaven and New Bedford harbors (see House, No. 3402, amended) (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 twenty-six minutes before two o'clock P.M., as follows, to wit (*yeas 34 - nays 0*) **[Yeas and Nays No. 63]:**

YEAS

Baddour, Steven A. Jehlen, Patricia D.
Berry, Frederick E. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Candaras, Gale D. Knapik, Michael R.
Chandler, Harriette L. McGee, Thomas M.
Clark, Katherine M. Montigny, Mark C.
Creem, Cynthia Stone Moore, Michael O.
DiDomenico, Sal N. Moore, Richard T.
Donnelly, Kenneth J. Petruccelli, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Ross, Richard J.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Tarr, Bruce E.
Finegold, Barry R. Timilty, James E
Flanagan, Jennifer L. Tolman, Steven A.
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 34.
NAYS — 0.

ABSENT OR NOT VOTING

Chang-Diaz, Sonia Rosenberg, Stanley C.
Kennedy, Thomas P. Rush, Michael F.— 5.
Pacheco, Marc R.

The yeas and nays having been completed at twenty-two minutes before two 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 town of Truro to lease certain land to the town of Provincetown (see House, No. 573) (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 twenty-one minutes before two o'clock P.M., as follows, to wit (*yeas 34 - nays 0*) **[Yeas and Nays No. 64]:**

YEAS

Baddour, Steven A. Jehlen, Patricia D.
Berry, Frederick E. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Candaras, Gale D. Knapik, Michael R.
Chandler, Harriette L. McGee, Thomas M.
Clark, Katherine M. Montigny, Mark C.
Creem, Cynthia Stone Moore, Michael O.
DiDomenico, Sal N. Moore, Richard T.
Donnelly, Kenneth J. Petruccelli, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Ross, Richard J.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Tarr, Bruce E.
Finegold, Barry R. Timilty, James E
Flanagan, Jennifer L. Tolman, Steven A.
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 34.
NAYS — 0.

ABSENT OR NOT VOTING

Chang-Diaz, Sonia Rosenberg, Stanley C.
Kennedy, Thomas P. Rush, Michael F.— 5.
Pacheco, Marc R.

The yeas and nays having been completed at seventeen minutes before two 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.

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 establishing a business and economic development special revenue fund in the city of Marlborough (House, No. 1452),-- **was read a second time.**

Pending the question on ordering the bill to a third reading, Mr. Eldridge moved that the bill be amended by striking out all after the enacting clause and inserting in place the text of Senate document numbered 2008.

The amendment was adopted.

The bill, as amended, 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.

Orders of the Day.

Bills

Relative to a certain parcel of land in the city of Taunton (Senate, No. 1050);

Amending contract procedures in the city of Boston (Senate, No. 1054);

To authorize the town of Foxborough to sell by auction town property located at 40 School Street (Senate, No. 1888); and

To increase in the exemption for residential real property in the city of Malden from 20 per cent to 30 per cent (Senate, No. 1895);

Were severally read a second time and ordered to a third reading.

The Senate Bill providing for additional pension reform and benefits modernization (Senate, No. 2007),-- **was read a second time.**

After remarks and pending the question on adoption of the amendment previously recommended by the committee on Ways and Means that the bill be amended by substituting a new draft with the same title (Senate, No. 2010) and pending the main question on ordering the bill to a third reading, Messrs. Michael O. Moore and Timilty, Ms. Chandler, Messrs. Richard T. Moore and Hedlund and Ms. Clark moved that the bill be amended by inserting after section 3, the following section: -

“SECTION 3A. The definition of ‘wages’, in section 1 of chapter 32 of the General Laws, as appearing in section 3 of chapter 21 of the acts of 2009, is hereby amended by inserting after the word ‘firefighters’, the following words: - ‘, correctional officers.’”;

In Section 11, by striking out, in line 80, the figure “35” and inserting in place thereof the following figure:- “30”;

By striking out section 15 and inserting in place thereof the following section:-

“SECTION 15. Paragraph (i) of subdivision (4) of said section 5 of said chapter 32, as so appearing, is hereby amended by inserting after the tenth sentence the following 2 sentences:- ‘In the case of an employee who becomes a member on or after January 1, 2012, and with at least 30 years of creditable service, the on-going rate of contribution under this paragraph shall be 8.5 per cent. In the case of an employee who becomes a member on or after January 1, 2012, and with at least 35 years of creditable service, the on-going rate of contribution under this paragraph shall be 6 per cent.’”;

By striking out section 32 and inserting in place thereof the following section:-

“SECTION 32. Paragraph (b) of subdivision (1) of section 22 of said chapter 32, as appearing in the 2008 Official Edition, is hereby amended by striking out the words ‘and (vi) withhold on each pay day 11 per cent of the regular compensation of each employee who participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5 on account of such service rendered by him on or after July 1, 2001.’ and inserting in place thereof the following 5 clauses:-

(vi) withhold on each pay day 11 per cent of the regular compensation of each employee who participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5 on account of such service rendered by him on or after July 1, 2001;

(vii) withhold on each pay day 6.5 per cent of the regular compensation of each employee in Group 1 who is a member in service of the system, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after January 1, 2012 and who has least 30 years of creditable service;

(viii) withhold on each pay day 4 per cent of the regular compensation of each employee in Group 1 who is a member in service of the system, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after January 1, 2012 and who has least 35 years of creditable service;

(viii) withhold on each pay day 8.5 per cent of the regular compensation of each employee who is a member in service of the system and participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after January 1, 2012 and who has least 30 years of creditable service; and

(ix) withhold on each pay day 6 per cent of the regular compensation of each employee who is a member in service of the system and participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after January 1, 2012 and who has least 35 years of creditable service.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-nine minutes before three o'clock P.M., on motion of Mr. Michael O. Moore, as follows, to wit (yeas 34 — nays 0) [Yeas and Nays No. 65]:
YEAS

Baddour, Steven A. Jehlen, Patricia D.
Berry, Frederick E. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Candaras, Gale D. Knapik, Michael R.
Chandler, Harriette L. McGee, Thomas M.
Clark, Katherine M. Montigny, Mark C.
Creem, Cynthia Stone Moore, Michael O.
DiDomenico, Sal N. Moore, Richard T.
Donnelly, Kenneth J. Petruccelli, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Ross, Richard J.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Tarr, Bruce E.
Finegold, Barry R. Timilty, James E.
Flanagan, Jennifer L. Tolman, Steven A.
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 34.
NAYS — 0.
ABSENT OR NOT VOTING
Chang-Diaz, Sonia Rosenberg, Stanley C.
Kennedy, Thomas P. Rush, Michael F.— 5.
Pacheco, Marc R.

The yeas and nays having been completed at twenty-five minutes before three o'clock P.M., the amendment was adopted.

Mr. Donnelly and Ms. Spilka moved that the bill be amended by inserting at the end of the bill the following new section:-
“Section XX. Notwithstanding any general or special law to the contrary, for the purpose of establishing funding schedules in accordance with the provisions of chapter thirty-two of the general laws, the liabilities of said systems shall be valued as if provisions of this act, with the exception of section thirty-nine, had not been adopted.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at seventeen minutes before three o'clock P.M., on motion of Mr. Donnelly, as follows, to wit (yeas 12 — nays 22) [Yeas and Nays No. 66]:

YEAS

Donnelly, Kenneth J. Keenan, John F.
Donoghue, Eileen M. McGee, Thomas M.
Eldridge, James B. Moore, Richard T.
Fargo, Susan C. Spilka, Karen E.
Hedlund, Robert L. Tolman, Steven A.
Jehlen, Patricia D. Wolf, Daniel A. — 12.
NAYS
Baddour, Steven A. Hart, John A., Jr.
Berry, Frederick E. Joyce, Brian A.
Brewer, Stephen M. Knapik, Michael R.
Candaras, Gale D. Montigny, Mark C.
Chandler, Harriette L. Moore, Michael O.
Clark, Katherine M. Petruccelli, Anthony
Creem, Cynthia Stone Rodrigues, Michael J.
DiDomenico, Sal N. Ross, Richard J.
Downing, Benjamin B. Tarr, Bruce E.

Finegold, Barry R. Timilty, James E
Flanagan, Jennifer L. Welch, James T. — 22.
ABSENT OR NOT VOTING
Chang-Diaz, Sonia Rosenberg, Stanley C.
Kennedy, Thomas P. Rush, Michael F.— 5.
Pacheco, Marc R.

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

Mr. Donnelly moved that the bill be amended by striking out section 32 in its entirety and inserting in place thereof the following text:-

“SECTION 32. Paragraph (b) of subdivision (1) of section 22 of said chapter 32, as appearing in the 2008 Official Edition, is hereby amended by striking out the words ‘and (vi) withhold on each pay day 11 per cent of the regular compensation of each employee who participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5 on account of such service rendered by him on or after July 1, 2001.’” and inserting in place thereof the following:-
“(vi) withhold on each pay day 11 per cent of the regular compensation of each employee who participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5 on account of such service rendered by him on or after July 1, 2001;
(vii) withhold on each pay day 4 per cent of the regular compensation of each employee in Group 1 who is a member in service of the system, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after January 1, 2012 and who has least 28 years of creditable service; and
(viii) withhold on each pay day 6 per cent of the regular compensation of each employee who is a member in service of the system and participates in the alternative superannuation retirement benefit program established under subdivision (4) of section 5, in the case of an employee who became a member of a retirement system of the commonwealth or a political subdivision thereof on or after January 1, 2012 and who has least 28 years of creditable service.”

The amendment was rejected.

Messrs. Donnelly and McGee moved that the bill be amended by striking out section 11 in its entirety and inserting in place thereof the following text:-

“SECTION 11. Said paragraph (a) of said subdivision (2) of said section 5 of said chapter 32, as so appearing, is hereby further amended by inserting after the table the following table and text:-

Table Showing Percentage of the Amount of Average Annual Rate of Regular Compensation to be multiplied by the Number of Years of Creditable Service for individuals who become members of a retirement system on or after January 1, 2012
Per Cent Group 1 Group 2 Group 4

2.50 67 or older 62 or older 57 or older
2.4 66 61 56
2.3 65 60 55
2.2 64 59 54
2.1 63 58 53
2.0 62 57 52
1.9 61 56 51
1.8 60 55 50
1.7 59 -- 49
1.6 58 -- 48
1.5 57 -- 47
”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at three o'clock P.M., on motion of Mr. Donnelly, as follows, to wit (yeas 14 — nays 20) [Yeas and Nays No. 67]:

YEAS

DiDomenico, Sal N. Keenan, John F.
Donnelly, Kenneth J. McGee, Thomas M.
Donoghue, Eileen M. Moore, Richard T.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Timilty, James E
Hedlund, Robert L. Tolman, Steven A.
Jehlen, Patricia D. Wolf, Daniel A. — 14.

NAYS

Baddour, Steven A. Hart, John A., Jr.
Berry, Frederick E. Joyce, Brian A.
Brewer, Stephen M. Knapik, Michael R.
Candaras, Gale D. Montigny, Mark C.
Chandler, Harriette L. Moore, Michael O.
Clark, Katherine M. Petruccelli, Anthony

Creem, Cynthia Stone Rodrigues, Michael J.
Downing, Benjamin B. Ross, Richard J.
Finegold, Barry R. Tarr, Bruce E.
Flanagan, Jennifer L. Welch, James T. — 20.
ABSENT OR NOT VOTING
Chang-Diaz, Sonia Rosenberg, Stanley C.
Kennedy, Thomas P. Rush, Michael F.— 5.
Pacheco, Marc R.

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

Messrs. Donnelly and McGee moved that the bill be amended by striking out section 6 in its entirety and inserting in place thereof the following text:-

“SECTION 6. Section 5(1)(a) of said chapter 32, as so appearing, is hereby amended by striking out the words ‘age sixty’, in line 3, and inserting in place thereof the following words:- age 55 or any member in service or any member inactive on authorized leave of absence classified in Group 1 who became such a member on or after January 1, 2012 who has attained age 57.”

After remarks, the amendment was rejected.

Mr. Donnelly and Ms. Spilka moved that the bill be amended by inserting at the end of the bill the following text:-

“SECTION XX. Subsection (1), sub-paragraph (p) of section 4 of chapter 32 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in line 286 and 287, the words ‘engaged in teaching pupils in any non-public school in the commonwealth,’ and inserting in its place the following words:- ‘special education program in a non-public school in the commonwealth in a position that, had it been in a public school, would have been considered a teacher, and’.

SECTION XX. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after the definition of ‘Membership Service’, in lines 326 to 329 inclusive, the following definition:- ‘Nonpublic school’, an institution, not operated by the federal, state or local governments or agencies thereof, the primary function of which is (a) to educate children under the age of 18 in a course of study designed to lead to the award of a high school diploma or its equivalent, or in a special education program; or (b) to provide a college-level course of study designed to lead to the award of a college or university degree.”

The amendment was rejected.

Mr. Donnelly, Ms. Fargo, Ms. Jehlen and Mr. McGee moved that the bill be amended by inserting at the end of the bill the following text:-

“SECTION XX. Section 90C1/2 of chapter 32 of the General Laws, as appearing in the 2008 Official Edition, is amended by striking out, in line 6, the dollar amount ‘\$10,000’ and inserting in place thereof, the following dollar amount:- ‘\$15,000’.

SECTION XX. Chapter 32 of the General Laws is amended by inserting the following new section:-

Section 90D1/2. Any retirement system of a city, town, county, region, district, or authority may, upon the majority vote of the board of such system and by the local legislative body, increase the retirement allowance of any member of the retirement system, who has been retired under the provisions of this chapter or similar provision of earlier law on a superannuation, accidental disability or ordinary disability retirement allowance and who has completed at least 25 years of creditable service, to an amount not to exceed \$15,000. For the purposes of this section, local legislative body shall mean the city council subject to the provisions of its charter for a city system, a town meeting for a town system, the county retirement advisory council for a county system, the regional retirement advisory council of a regional system, the district members for a district system, and the governing body of an authority for an authority system.”

The amendment was rejected.

Messrs. Donnelly and McGee moved that the bill be amended in the second paragraph of section 101 of chapter 32, as inserted by section 28 of chapter 131 of the acts of 2010, by striking out the first sentence and inserting in its place the following new sentence:- “Any retirement system may accept the supplemental annual allowance, provided for by this section and fixed at the rate of twelve thousand dollars, by a majority vote of the board of each such system, subject to the approval of the legislative body.”

After remarks, the amendment was rejected.

Ms. Creem and Ms. Spilka moved that the bill be amended by inserting at the end thereof, the following new section:-

“Section XXX. The Treasurer is hereby directed to investigate and study ways to increase public employee participation in state sponsored deferred compensation plans, including increased outreach and access for new employees. The Treasurer shall file a report with his findings and any legislative recommendations with the house and senate clerks and the House and Senate Chairs of the Public Service Committee on or before April 30, 2012.and Senate Chairs of the Public Service Committee on or before April 30, 2012.”

After remarks, the amendment was adopted.

Ms. Creem moved that the bill be amended in section 27, by striking out the figure “\$7,500”, each time it appears, and inserting in place thereof, in each instance, the following figure:- “\$4,500”.

The amendment was adopted.

Mr. Donnelly moved that the bill be amended by inserting the following new section:-

“SECTION XX. Subdivision (1) of section 22C of Chapter 32 is hereby amended by adding after the words ‘in section one.’, in line 32, the following:-

In order to ensure the sustainability of the state and teachers’ retirement systems, the minimum annual payments by the

Commonwealth as determined by the pension funding schedule shall not be less than 6.2% of the estimated pensionable earnings of the members of the state employees retirement system, the teachers' retirement system, and pensionable earnings of teachers in the State- Boston retirement system.

SECTION XX. Subdivision (1) of section 22D of Chapter 32 shall be amended by adding after the words "such system on such date.", in line 54, the following:- "In order to ensure the sustainability of the retirement systems other than the state and teachers' retirement systems, the minimum annual payments made to those retirement systems as determined by the pension funding schedule shall not be less than 6.2% of the estimated pensionable earnings of the members of such retirement system; provided that the State- Boston retirement system shall exclude from their members pensionable earnings the earnings attributable to their members who are teachers."

After remarks, the amendment was rejected.

Ms. Jehlen and Mr. Richard T. Moore moved that the bill be amended by inserting at the end thereof the following new section: - "SECTION 48.

SECTION 1. Section 3(2)(d) of Chapter 32, as appearing in the 2008 Official Edition, is amended by adding the following new paragraph:

For purposes of this section and notwithstanding the provisions of this chapter or any other general or special law, rule or regulation to the contrary, any faculty who teach the equivalent of at least two three credit courses per semester or four three or more- credit courses per calendar year at one or more state higher education institution, including a division of continuing education, regardless of funding source, including but not limited to subsidiary account CC, shall be considered an employee eligible for membership in the state employees retirement system and shall earn creditable service for such time.

SECTION 2. Section 4(2)(b) of Chapter 32, as so appearing, is amended by inserting the following in line 447 after the word 'membership,': provided, that in the case of any faculty employed at one or more state higher education institution, the Board shall credit as at least one-half year of service, actual service teaching the equivalent of at least four three- credit courses per calendar year.

SECTION 3. Section 4(2)(c) of Chapter 32, as so appearing, is amended by adding the following paragraph:

For faculty employed at one or more state higher education institution, the Board, in accordance with the provisions of this section, shall allow credit for any previous period of service equivalent to teaching at least four three- credit courses per calendar year at one or more state higher education institution, including a division of continuing education, regardless of funding source, including but not limited to subsidiary account CC.

SECTION 4. Section 1 of Chapter 32, as so appearing, is amended by inserting the following sentence in line 428 after the word 'fund':

In the case of part-time faculty employed at one or more state higher education institution, the full salary and wages received for teaching credit courses at one or more state higher education institution, including a division of continuing education, regardless of funding source, including but not limited to subsidiary account CC, shall be regarded as regular compensation and shall be included in the salary on which deductions are to be paid to the annuity savings fund.

SECTION 5. Section 5(1)(m) of Chapter 32, as appearing in the 2008 Official Edition, is amended by adding the following paragraph:

However, notwithstanding any provision of this chapter to the contrary, any part-time faculty employed at one or more state higher education institution, whose employment first commenced on or after January first, nineteen hundred and seventy-eight, and who has not completed five or more years of creditable service before the termination of his employment, shall on the termination of his employment be entitled to a return of his accumulated deductions. Such return of said accumulated deductions shall be in lieu of any superannuation retirement allowance provided under this chapter."

After remarks, the amendment was rejected.

Messrs. Donnelly and McGee moved that the bill be amended by adding at the end of the bill the following new section:-

"Section XX. Notwithstanding the provisions of any general or special law to the contrary, a member, who retired prior to July 1, 2004 and is receiving a lesser retirement allowance in accordance with the terms of Option (b) or (c) of subdivision (2) of section 12 of chapter 32 of the General Laws, from a retirement system that accepts the provisions of this act, shall have his retirement allowance determined according to the table of mortality selected by the commission pursuant to section 336 of chapter 47 of the acts of 2004. Any retirement system may accept the provisions of this act by a majority vote of the board of each such system, subject to the approval of the legislative body. For the purposes of this act, 'legislative body' shall mean, in the case of a city, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a county, the county retirement board advisory council, in the case of a region, the regional retirement board advisory council, in the case of a district, the district members, and, in the case of an authority, the governing body. For purposes of this act, the state teachers' and state employees' retirement systems shall be deemed to have accepted the provisions of this act. The provisions of this act shall be prospective from the effective date of this act and shall not entitle any member or spouse of a deceased member to any retroactive benefits."

After remarks, the amendment was rejected.

Messrs. Donnelly and McGee moved that the bill be amended by striking section 19 and inserting in place thereof the following:-

"Section 19. Subdivision (1) of section 10 of said chapter 32, as so appearing, is hereby amended by adding the following sentence:- In no event shall the retirement allowance provided under this subdivision to any member who entered service on or after January 1, 2012 exceed eighteen thousand dollars."; and by striking section 20 and inserting in place thereof the following:-

"Section 20. Subdivision (2) of said section 10 of chapter 32, as so appearing, is hereby amended by adding the following sentence:-in no event shall the retirement allowance provided under this subdivision to any member who entered service on or after January 1, 2012 exceed eighteen thousand dollars."

After remarks, the amendment was rejected.

Ms. Jehlen and Mr. Richard T. Moore moved that the bill be amended in section 32 by adding the following clause:

“(ix) withhold on each pay day 9 per cent of the regular compensation of each teacher without professional teacher status as defined in Chapter 71, section 41, who becomes a member of a retirement system of the commonwealth or a political subdivision thereof on or after January 1, 2012.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-one minutes before four o’clock P.M., on motion of Ms. Jehlen, as follows, to wit (yeas 14 — nays 20) [Yeas and Nays No. 68]:

YEAS

DiDomenico, Sal N. Keenan, John F.
Donnelly, Kenneth J. McGee, Thomas M.
Donoghue, Eileen M. Moore, Richard T.
Eldridge, James B. Spilka, Karen E.
Fargo, Susan C. Timilty, James E
Hedlund, Robert L. Tolman, Steven A.
Jehlen, Patricia D. Wolf, Daniel A. — 14.

NAYS

Baddour, Steven A. Hart, John A., Jr.
Berry, Frederick E. Joyce, Brian A.
Brewer, Stephen M. Knapik, Michael R.
Candaras, Gale D. Montigny, Mark C.
Chandler, Harriette L. Moore, Michael O.
Clark, Katherine M. Petruccelli, Anthony
Creem, Cynthia Stone Rodrigues, Michael J.
Downing, Benjamin B. Ross, Richard J.
Finegold, Barry R. Tarr, Bruce E.
Flanagan, Jennifer L. Welch, James T. — 20.

ABSENT OR NOT VOTING

Chang-Diaz, Sonia Rosenberg, Stanley C.
Kennedy, Thomas P. Rush, Michael F.— 5.
Pacheco, Marc R.

The yeas and nays having been completed at eighteen minutes before four o’clock P.M., the amendment was rejected.

Mr. Rodrigues moved that the bill be amended by inserting, after section 38, the following section:

“SECTION 38A. Subsection (b) of said section 91 of said chapter 32, as so appearing, is hereby amended by adding the following words:- unless such earnings are consistent with public employee retirement administration commission regulations.”; and by inserting, after section 44 the following section:

“SECTION 44A. Notwithstanding any general or special law to the contrary, the public employee retirement administration commission shall develop regulations within 150 days of the effective date of this act to determine maximum earnings in the service of the commonwealth, county, city, town, district, or authority for persons retired and receiving a pension or retirement allowance from the commonwealth, county, city, town, district or authority under subsection (b) of section 91 of chapter 32 of the General Laws; provided, however that the regulations shall not allow earnings, when added to any pension or retirement allowance the member is receiving to exceed the salary that is being paid for the position from which the member was retired plus \$15,000 when added to any pension or retirement allowance; provided, further that in developing these regulations, the commission shall only permit such increase in earnings for bona fide changes in position duties and responsibilities, as determined by the commission; and provided, further that no person shall receive earnings which, when added to any pension or retirement allowance the employee is receiving would exceed the salary being paid for the position from which the employee retired under said chapter 32 of the General Laws until 180 days after the effective date of this act.”

After remarks, the amendment was adopted.

Messrs. Tolman, Richard T. Moore and McGee moved that the bill be amended by striking section 8 in its entirety;

By striking section 9 in its entirety and that the following new text be inserted in place thereof:-

“SECTION 9. Said paragraph (a) of said subdivision (2) of said section 5 of said chapter 32, as so appearing, is hereby further amended by adding the following 3 sentences:- Notwithstanding the previous sentence, if in the 3 years of creditable service immediately preceding retirement, the difference in the annual rate of regular compensation between any 2 consecutive years exceeds 100 per cent, the normal yearly amount of the retirement allowance shall be based on the average annual rate of regular compensation received by the member during the period of 3 consecutive years preceding retirement. The retirement allowance for members who become such a member on or after January 1, 2012 who have served in more than 1 group shall consist of prorated benefits attributed to service in each group to reflect the percentage of total years of service that the member served in that group. The pro-rated benefits shall be calculated in a manner prescribed by an actuary, as defined in section 1.”;

By striking section 12 in its entirety and that the following new text be inserted in place thereof:-

“SECTION 12. Paragraph (c) of said subdivision (2) of said section 5 of said chapter 32, as so appearing, is hereby amended by adding the following sentence:- The total normal yearly amount of the retirement allowance of any member of Group 1 or Group

2 or Group 4, who becomes such a member on or after January 1, 2012, shall not exceed four-fifths of the average annual rate of such member's regular compensation received during any period of 3 consecutive years of creditable service for which such rate of compensation was the highest or on the average annual rate of regular compensation received by such member during the period or periods, whether or not consecutive, constituting such member's last 3 years of creditable service preceding retirement, whichever is the greater.”;

By striking section 17 in its entirety and that the following new text be inserted in place thereof:-

“SECTION 17. Said section 5 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:-

The total normal yearly amount of the retirement allowance, as determined under this subdivision of any employee who becomes such a member on or after January 1, 2012 and retires and receives an additional benefit under the alternative superannuation retirement benefit program shall not exceed four-fifths of the average annual rate of such member's regular compensation received during any period of 3 consecutive years of creditable service for which the rate of compensation was the highest or of the average annual rate of such member's regular compensation received during the period or periods, whether or not consecutive, constituting such member's last 3 years of creditable service preceding retirement, whichever is greater.”; and

By striking section 18 in its entirety and that the following new text be inserted in place thereof:-

“SECTION 18. Subdivision (2) of section 6 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) The normal yearly amount of such allowance for any member classified in Group 1, Group 2 or Group 4 other than a veteran as defined in section 1 shall be equal to that to which the member would be entitled under section 5 as prescribed for a member of the member's group, if the member were to be retired for superannuation upon the attainment of age 55 with an amount of creditable service equal to that with which the member is credited at the date of the member's actual retirement for ordinary disability; provided, however, that if the member has attained age 55 the normal yearly amount of such allowance shall in no event be less than that to which the member would be entitled if the member were to be retired for superannuation under section 5 as prescribed for a member in the member's group; and provided, further, that the normal yearly amount of such allowance for a member who became such a member before January 1, 2012 shall not exceed four-fifths of: (i) the average annual rate of the member's regular compensation during any period of 3 consecutive years of creditable service for which such rate of compensation was the highest, and (ii) the average annual rate of regular compensation received by such member during the period or periods, whether or not consecutive, constituting the member's last 3 years of creditable service preceding retirement, whichever is greater; and provided, further, that for a member who became such a member on or after January 1, 2012 the normal yearly amount of such amount shall not exceed four-fifths of: (i) the average annual rate of the member's regular compensation during any period of 3 consecutive years of creditable service for which such rate of compensation was the highest, and (ii) the average annual rate of regular compensation received by such member during the period or periods, whether or not consecutive, constituting the member's last 3 years of creditable service preceding retirement, whichever is greater.”

After remarks, the amendment was rejected.

Ms. Clark moved that the bill be amended by inserting after section 36 the following section:-

"SECTION 36A. Section 28K of said chapter 32 as so appearing is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any employee of the commonwealth or its political subdivisions who is a representative of an employee organization, which has included in its membership employees of the commonwealth or its political subdivisions shall, while on a full-time or part-time leave of absence for the purpose of acting as a representative of said employee organization, be considered on leave of absence, without pay, for the period of the employee's assignment as a representative of such employee organization. Such employee shall, however, be credited with the creditable service the employee would have received had the employee been in active service for the full or part-time leave, and shall contribute each month to the retirement fund in an amount which the employee would have contributed had the employee remained in the service of the commonwealth or its political subdivisions. Such employee of the commonwealth or its political subdivisions shall be entitled to all benefits and privileges, except the payment of salary as provided under this chapter and chapters 30, 31, and 32 during the leave of absence."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at thirteen minutes before four o'clock P.M., on motion of Ms. Clark, as follows, to wit (yeas 34 — nays 0) [Yeas and Nays No. 69]:

YEAS

Baddour, Steven A. Jehlen, Patricia D.

Berry, Frederick E. Joyce, Brian A.

Brewer, Stephen M. Keenan, John F.

Candaras, Gale D. Knapik, Michael R.

Chandler, Harriette L. McGee, Thomas M.

Clark, Katherine M. Montigny, Mark C.

Creem, Cynthia Stone Moore, Michael O.

DiDomenico, Sal N. Moore, Richard T.

Donnelly, Kenneth J. Petrucci, Anthony

Donoghue, Eileen M. Rodrigues, Michael J.

Downing, Benjamin B. Ross, Richard J.

Eldridge, James B. Spilka, Karen E.

Fargo, Susan C. Tarr, Bruce E.

Finegold, Barry R. Timilty, James E

Flanagan, Jennifer L. Tolman, Steven A.
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 34.
NAYS — 0.

ABSENT OR NOT VOTING

Chang-Diaz, Sonia Rosenberg, Stanley C.
Kennedy, Thomas P. Rush, Michael F.— 5.
Pacheco, Marc R.

The yeas and nays having been completed at ten minutes before four o'clock P.M., the amendment was adopted.

Ms. Spilka and Mr. Keenan moved that the bill be amended by striking out section 13 and inserting in place thereof the following section:-

“SECTION 13. Said subdivision (2) of said section 5 of said chapter 32, as amended by section 7 of chapter 21 of the acts of 2009, is hereby further amended by inserting after paragraph (e) the following paragraph:-

(f) In calculating the average annual rate of regular compensation for purposes of this section, regular compensation in any year shall not include regular compensation that exceeds the average of regular compensation received in the 2 preceding years by more than 10 per cent. This paragraph shall not apply to an increase in the annual rate of regular compensation that results from an increase in hours of employment, from overtime wages, from a bona fide change in position, from a modification in the salary or salary schedule negotiated for bargaining unit members pursuant to G.L. c. 150E, or in the case of a teacher, from the performance of any services set forth in the third sentence of the first paragraph of the definition of “regular compensation” in section 1. Any withholdings excluded from the calculation of a member’s average annual rate of regular compensation pursuant to this paragraph, shall be returned to the member with interest at the assumed actuarial rate.”

After remarks, the amendment was adopted.

Messrs. Hart and Richard T. Moore, Ms. Donoghue and Ms. Spilka moved that the bill be amended by inserting at the end thereof the following new section: -

SECTION XX

Section 1. Section 1 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting, after the definition of ‘Membership service,’ the following definition:-

‘Nonpublic school,’ an institution, not operated by the federal, state or local governments or agencies thereof, the primary function of which is (a) to educate students in a course of study designed to lead to the award of a diploma or its equivalent; or (b) to provide a college-level course of study designed to lead to the award of a college or university degree.

Section 2. Section 3 of said chapter 32, as so appearing, is hereby amended by inserting after subdivision (4A) the following subdivision:-

(4B) Credit for Teachers for Nonpublic School Service after January 1, 1973. Any member in service, or any member inactive on authorized leave of absence of the teachers’ retirement system, the state retirement system or as a teacher in the State-Boston retirement system, who holds a certificate issued by the department of education or is exempted from the requirement of certification, or any member who is employed in a public institution of higher education as a faculty member or professional employee not under the jurisdiction of the human resources division within the executive office for administration and finance classification system, and who was previously employed as a teacher in a nonpublic school may receive creditable service as if that service had been rendered in a public school of the commonwealth or public institution of higher education and the member had been a member of the teachers’ retirement system, the state retirement system, or the State-Boston retirement system during the period in which the service was rendered. No credit shall be allowed until the member has paid into the annuity savings fund of the system before any retirement allowance becomes effective for the member, in 1 sum, or in installments, upon the terms and conditions that the board prescribes, makeup payments of an amount equal to 10 per cent of the regular annual compensation of the member as of the member’s most recent date of entry into membership in the teachers’ retirement system, the state retirement system, or as a teacher in the State-Boston retirement system, for each year of service purchased plus buyback interest on that amount. No credit shall be allowed and no payment shall be accepted under this paragraph until the member has completed 10 or more years of membership service, and no credit shall be allowed and no payment shall be accepted for any service on account of which the member shall be entitled to receive a retirement allowance or other similar payment from any other nonpublic school system. No credit shall be allowed if the member has received credit for 3 or more years of nonpublic school service under subdivision (4A) of this section or paragraph (p) of subdivision (1) of section 4. The creditable service allowable under this subdivision for any member shall not exceed 4 years. Members in service of a retirement system who make application for this creditable service shall be notified by the retirement board of their eligibility for this creditable service, and, if they are eligible, shall also be notified by the retirement board that they have the following options: (1) to purchase the service in a lump sum within 180 days after the notice, or (2) to enter into an installment agreement within 180 days after the notice to pay for the creditable service.”

The amendment was rejected.

Ms. Creem and Messrs. Timilty and Richard T. Moore moved that the bill be amended by inserting at the end thereof, the following new section:-

“Section XXX. Subdivision (1) of section 4 of chapter 32 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after paragraph (h½) the following paragraph:- (h¾) Any school nurse who is a member in service

of the teacher's retirement system or a municipal or city of Boston or state retirement system who is employed in a school approved by the department of education may receive creditable service for any period or periods of work experience in the nursing field. No credit shall be allowed until such member has paid into the annuity savings fund of the system before any retirement allowance becomes effective for such member, in one sum, or in installments, upon such terms and conditions as the board may prescribe, makeup payments of an amount equal to 10 percent of the regular annual compensation of the member when said member entered the retirement system for each year of service so purchased, plus buy back interest. No credit shall be allowed and no payment shall be accepted under this paragraph until the member shall have completed ten or more years of membership service. The maximum creditable service allowable under this paragraph for any member shall not exceed three years. Members in service of a retirement system eligible for said creditable service under this act shall make application for said creditable service within ninety days of being notified by the retirement board of their eligibility after becoming vested in the retirement system or for currently eligible members, within ninety days of the effective date of this act."

The amendment was rejected.

Ms. Clark and Ms. Spilka moved that the bill be amended in section 4 by striking section 4 in its entirety and substituting the following:

"SECTION 4. Paragraph (b) of subdivision (8) of section 3 of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after the third sentence the following 2 sentences:- Notwithstanding any provision of this chapter to the contrary, a member who is reinstated to, or re-enters the active service of, a governmental unit or who is eligible to receive credit for other service under this section and who does not, within 1 year from the date of reinstatement or reentry or within 1 year after January 1, 2012, whichever is later, either:

(i) pay into the annuity savings fund of the system make-up payments of an amount equal to the accumulated regular deductions withdrawn by the member, together with buyback interest; or

(ii) make provision for the repayment in installments, upon such terms and conditions as the board may prescribe, to pay into the annuity savings fund of the system make-up payments of an amount equal to the accumulated regular deductions withdrawn by the member, together with buyback interest, shall pay actuarial assumed interest instead of buyback interest on all make-up payments to be entitled to creditable service resulting from the previous employment."

The amendment was adopted.

Ms. Jehlen, Mr. DiDomenico and Ms. Spilka moved that the bill be amended by adding the following to section 44:-

"(a) If the Public Employee Retirement Advisory Committee determines through actuarial analysis that any employee group or classification as defined by contribution level funds more than 100% of their normal cost, the rates shall be adjusted to ensure that no employee group or classification group pay more than 100% of their normal costs."

After remarks, the amendment was rejected.

Mr. Keenan, Ms. Jehlen, Mr. DiDomenico, Ms. Spilka and Mr. McGee moved that the bill be amended by adding the following sections:-

"SECTION XX. Section 22C of Chapter 32 of the General Laws, as appearing in the 2008 Official Edition, is amended by adding the following:-

(5) Any surplus, which is defined as any monies in the annuity savings fund of any system, the pension fund of any system, in the pension reserve fund of any system in the PRIT fund, in the expense fund of any system or in the special fund for military service, whether from the regular deductions of members, amounts appropriated by any governmental unit, or interest or profits earned by monies in all funds, in excess of the requirements to fully fund the system, shall be held in contractual trust for the exclusive benefit of the members of the system

SECTION XX. Section 22D of Chapter 32 of the General Laws, as so appearing, is amended by adding the following:-

(12) Any surplus, which is defined as any monies in the annuity savings fund of any system, in the pension fund of any system, in the pension reserve fund of any system, in the expense fund of any system or in the special fund for military service, whether from the regular deductions of members, amounts appropriated by any governmental unit, or interest or profits earned by monies in all funds, in excess of the requirements to fully fund the system, shall be held in contractual trust for the exclusive benefit of the members of the system."

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at two minutes past four o'clock P.M., on motion of Mr. Keenan, as follows, to wit (yeas 34 — nays 0) [Yeas and Nays No. 70]:

YEAS

Baddour, Steven A. Jehlen, Patricia D.

Berry, Frederick E. Joyce, Brian A.

Brewer, Stephen M. Keenan, John F.

Candaras, Gale D. Knapik, Michael R.

Chandler, Harriette L. McGee, Thomas M.

Clark, Katherine M. Montigny, Mark C.

Creem, Cynthia Stone Moore, Michael O.

DiDomenico, Sal N. Moore, Richard T.

Donnelly, Kenneth J. Petrucci, Anthony

Donoghue, Eileen M. Rodrigues, Michael J.

Downing, Benjamin B. Ross, Richard J.

Eldridge, James B. Spilka, Karen E.

Fargo, Susan C. Tarr, Bruce E.

Finegold, Barry R. Timilty, James E
Flanagan, Jennifer L. Tolman, Steven A.
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — 34.
NAYS — 0.
ABSENT OR NOT VOTING
Chang-Diaz, Sonia Rosenberg, Stanley C.
Kennedy, Thomas P. Rush, Michael F.— 5.
Pacheco, Marc R.

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

Messrs Finegold and Joyce moved that the bill be amended by inserting, after section __, the following new section:-
“Section __. Chapter 32 of the General Laws is hereby amended by inserting after section 20 the following section:-
Notwithstanding any general or special law to the contrary and except as expressly provided otherwise, for any employee who enters service on or after January 1, 2012 and before January 1, 2018 the minimum retirement age under section 5 of chapter 32, for a member classified in either Group 1 or 2 shall be 60. For any employee who enters service on or after January 1, 2018 and before January 1, 2024 the minimum retirement age under section 5 of chapter 32, for a member classified in either Group 1 or 2 shall be 61. For any employee who enters service on or after January 1, 2024 and before January 1, 2030 the minimum retirement age under section 5 of chapter 32, for a member classified in either Group 1 or 2 shall be 62.
The secretary of administration and finance, in consultation with the commission, shall evaluate the minimum age of retirement for new employees in Groups 1 and 2 every 18 years and make recommendations to the Legislature about any recommended legislation.”

After remarks, the amendment was adopted.

Messrs. Keenan and Richard T. Moore moved that the bill be amended by adding the following section:

“SECTION XX. Subdivision (1) of section 11 of said chapter 32 is hereby amended by striking out paragraph (a), as so appearing, and inserting in place thereof the following paragraph:-

A member entitled to a return of the member's accumulated total deductions as provided for in paragraph (c) or (d) of subdivision (1) of section 4, in subdivision (4) of section 10, in paragraph (b) of subdivision (2) of section 13 or in subdivision (3) of section 25 shall, subject to subdivision (8) of section 3, this section and section 15, be paid in 1 sum the amount of his accumulated total deductions within 60 days after the member's filing with the board on a prescribed form his written request therefor. For any such member who becomes a member subsequent to January 1, 1984, who voluntarily withdraws from service with creditable service of less than 120 months, the rate of regular interest for purposes of calculating accumulated total deductions shall be 3 per cent, and any other such member who becomes a member subsequent to January 1, 1984 but before January 1, 2012, entitled to return of his accumulated total deductions shall receive 100 per cent of the rate of regular interest payable. For any member who becomes a member on or after January 1, 2012 entitled to return of his accumulated total deductions, the rate of interest for purposes of calculating accumulated total deductions shall be buyback interest, as defined in section 1 of this chapter.”

The amendment was rejected.

Ms. Spilka moved that the bill be amended, in section 32, by striking out, in line 504, the figure “35” and inserting in place thereof the figure “30”; and by striking out, in line 509, the figure “35” and inserting in place thereof the figure “30”.

The amendment was rejected.

Messrs. Keenan, Richard T. Moore and McGee moved that the bill be amended by striking out section 39 and inserting in place thereof the following section:-

“SECTION 39. Section 102 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (c) and inserting in place thereof the following new paragraph:-

(c) In any case where such former employee, spouse, or other beneficiary is receiving an annual retirement allowance, pension or annuity which is \$14,000 that shall be increased to \$15,000 on July 1, 2013 and \$16,000 on July 1, 2014, or more, exclusive of additional annuity obtained by special purchase under paragraph (g) of subdivision (1) of section 22 or any similar law, the cost of living adjustment shall be in an amount determined by applying the percentum of change determined pursuant to paragraph (a) to the sum of \$14,000 that shall be increased to \$15,000 on July 1, 2013 and \$16,000 on July 1, 2014. Whenever a cost of living adjustment is granted pursuant to said paragraph (a), the dollar amount of such increase as determined in said paragraph (a) shall be added to each retirement allowance, pension or annuity which is in excess of said maximum base amount. The sum of the dollar amount of such cost of living adjustments, together with the amount of retirement allowance, pension or annuity to which the cost of living percentum factor is applied and any amounts in excess of the sum of \$14,000 that shall be increased to \$15,000 on July 1, 2013 and \$16,000 on July 1, 2014 shall become the fixed retirement allowance, pension or annuity for all future purposes including the application of subsequent cost of living adjustments in future years; provided, however, that the limitations of this paragraph shall continue to apply.”

The amendment was rejected.

Mr. Keenan and Ms. Spilka moved that the bill be amended by adding the following section:-

“SECTION XX: Section 46 of Chapter 68 of the Acts of 2011 is hereby amended by striking the last sentence and inserting the following:- Notwithstanding any provision of this subdivision to the contrary, any adjustments to these amounts based on the next triennial funding schedule shall be limited to increases in the schedule amounts for each of the specified years; furthermore

that annual appropriations or transfers to the commonwealth's pension liability fund made starting in fiscal year 2018 shall not be less than those made in fiscal year 2017."

The amendment was adopted.

Mr. Knapik moved that the bill be amended by adding a new section:

"Notwithstanding any General Law or to the contrary, any employee shall be eligible to retire as of the effective date of this act and his retirement shall not be subject to the provisions of section 7 of chapter 21 of the acts of 2009. Their retirement shall be calculated based upon the provisions of section 5 of chapter 32 that were in effect prior to the implementation of chapter 21 of the acts of 2009."

The amendment was rejected.

Messrs. Knapik and Richard T. Moore moved that the bill be amended by inserting, after section ___, the following new section:

"SECTION ___. There shall be a special commission to study further changes to health care benefits provided to employees and retirees of the commonwealth, its political subdivisions, authorities, boards and instrumentalities. The commission shall consist of the trustees of the State Retiree Benefit Trust Fund, the chairs of the joint committee on public service, the chairs of the house and senate committees on ways and means, the house and senate minority leaders, the personnel administrator, the director of the office of employee relations, the executive director of the Massachusetts Municipal Association, and the executive director of the Public Employee Retirement Administration Commission (PERAC) or their designees, and one representative of organized labor and an economist, both of whom shall be appointed by the governor. The commission shall take into account fiscal sustainability, benefit changes, eligibility, structure of benefits, contribution changes and other items that address employee and retiree needs and fiscal impact. Specifically, the commission shall review and make specific recommendations regarding pro-rating the employer contribution for retiree health insurance based on years of service, with consideration of the Final Report of the Special Commission to Study the Massachusetts Contributory Retirement Systems. This study shall include analysis of other state models, ordinary and accidental disability, the feasibility of pro-rating contributions based on time spent in each jurisdiction, and recommendations on how to best spend the anticipated savings from pro-rating health insurance to ensure long term financial stability. Additionally, a comprehensive evaluation of total compensation for state employees shall also at least review salaries, health care benefits, sick time, vacation, holidays, life insurance, dental and vision benefits, short and long-term disability, and workers compensation. The commission shall explore further funding options, including but not limited to consolidation of non-commonwealth systems of retiree health care funding under the State Retiree Benefits Trust Fund, establishment of health savings and health retirement accounts, and establishment of a voluntary employee benefits association. The commission shall study existing pension benefits as they relate to federal Social Security Administration benefits and the structure and stability of that system. The commission shall analyze contribution levels, vesting periods, and eligibility criteria related to the age of the retirees. The commission shall study salary levels for public employees, particularly a comparison between public service and private sector hourly wages and benefits for similar job responsibilities. The commission shall engage professional advisors as needed to accomplish its purposes. The commission shall file its report with the clerks of the senate and house of representatives, including any recommendations for legislation, not later than one year after the effective date of this act."

The amendment was rejected.

Mr. Keenan moved that the bill be amended by striking out section 9 and inserting in place thereof the following section:-

"SECTION 9. Said paragraph (a) of said subdivision (2) of said section 5 of said chapter 32, as so appearing, is hereby further amended by adding the following 3 sentences:- Notwithstanding the previous sentence, if in the 5 years of creditable service immediately preceding retirement, the difference in the annual rate of regular compensation between any 2 consecutive years exceeds 100 per cent, the normal yearly amount of the retirement allowance shall be based on the average annual rate of regular compensation received by the member during the period of 5 consecutive years preceding retirement. Any active member as of January 1, 2012, who has served in more than one group may elect to receive a retirement allowance consisting of pro-rated benefits based upon the percentage of total years of service that the member rendered in each group; further, the retirement allowance for members who became members on or after January 1, 2012, and who served in more than one group, shall receive a retirement allowance consisting of pro-rated benefits based upon the percentage of total years of service that member rendered in each group. The pro-rated benefits shall be calculated in a manner prescribed by the public employee retirement administration commission."

The amendment was adopted.

Messrs. Rodrigues, Rosenberg, Michael O. Moore and Downing moved that the bill be amended by inserting the following section:

"SECTION ___. Subdivision (1) of Section 4 of Chapter 32 of the General Laws is hereby amended by inserting at the end thereof the following new paragraph:-

(t) Notwithstanding any general or special law to the contrary, any active member of the optional retirement system established pursuant to subsection (3) of section 40 of Chapter 15A of the General Laws, or optional retirement plan enrollee on an approved leave of absence, shall have one opportunity to transfer to the state employees retirement system, governed by Chapter 32 of the General Laws, with creditable service allowed for any such time they were active participants of the optional retirement program. Any such employee choosing to transfer will also be allowed creditable service for any years of participation, or portions thereof, in the state employee retirement system immediately prior to their enrollment in the optional retirement program.

(i) Eligibility for creditable service for time spent in the optional retirement program and service relinquished in the state retirement system by enrollment in the optional retirement program shall be conditioned upon the payment, in one lump sum or in installments upon such terms as the state retirement board may provide, of an amount equal to the contributions such employee would have otherwise paid into the state employees retirement system had they been a member, plus actuarial-assumed interest

for the years spent as an actively contributing member in the optional retirement plan, plus all employer contributions to the employee's optional retirement plan account. Any employee in the optional retirement program who elects to participate in the state retirement system must transfer all assets, or pay an amount equal to all such assets, accrued under the Massachusetts optional retirement plan to the state retirement system, providing that such assets shall be credited toward the purchase of creditable service.

(ii) Within thirty (30) days of enactment of this legislation, the Department of Higher Education shall notify active members of the optional retirement program, or those members on an excused leave of absence of two years or less, of their eligibility for this one-time transfer opportunity to the state employee retirement system. Eligible employees who choose to transfer to the state retirement system must make application for such transfer to the state retirement board within one hundred eighty days (180) days of notification by the state of their eligibility for this transfer. Any elections under this section shall apply to current and future active members of the optional retirement plan and those on an approved leave of absence of two years or less on the effective date of this act, and shall be for one time, only, provided, however, that any such current or future faculty member who is not tenured on the effective date of this act, shall be permitted to postpone election to participate in the state employee retirement system until acquisition of tenure, with timelines set out in this section to commence from the date of such member's tenure acquisition. No further changes in participation, either into the state retirement plan or out of the optional retirement plan, will be permitted.

(iii) Within 30 days of application for transfer to the state retirement system, such employees, subject to the rules and regulations of the state board of retirement, shall be notified by the state retirement board of their eligibility for transfer and the cost of such transfer. If eligible, such members shall have one hundred (180) days from notification to (1) transfer all assets, or an amount equal to all such assets, held in the optional retirement program and (2) pay in one lump sum or enter into an installment agreement with the state retirement board to pay any amount owed for purchase of creditable service not covered by the transfer of assets. Any money remaining in an optional retirement plan account following the transfer of an employee to the state retirement system and the complete payment for such transfer, as set forth above, will belong to the transferred employee and no longer be a part of the Massachusetts optional retirement system, providing that remaining funds will still operate as pre-tax retirement account established between the employee and the former plan provider and subject to the rules and regulations thereof.

(iv) Employees who elect to transfer to the state retirement system will no longer be members active or otherwise in the Massachusetts optional retirement system, but shall henceforth be required to make contributions to the state employee retirement system at the same rate the member contributed to the optional retirement plan. The Massachusetts Department of Higher Education and the State Board of Retirement shall take such actions that are required or appropriate to ensure that the optional retirement program and the state employees' retirement system, as hereby amended, continue to be tax-qualified plans in accordance with the Internal Revenue Code of 1986, as amended."

After remarks, the amendment was adopted.

Mr. Donnelly moved that the bill be amended by inserting at the end of the bill the following text:-

"SECTION XX. Section 12 of Chapter 32 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting in line 212 after the words 'two hundred and fifty dollars,' the following words:- 'or five hundred dollars a month, whichever is applicable to such spouse.'

SECTION XX. Section 12 of Chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after line 221 the following paragraph:-

Beginning July first, two thousand and eleven, the normal monthly member-survivor allowance provided for under this option to a spouse of a deceased member shall not be less than five-hundred dollars for members of the state teachers' and state employees' retirement system. The provisions of this paragraph shall take effect for the members of a retirement system of any other political subdivision by a majority vote of the board of such system and by the local legislative body. For the purpose of this paragraph, local legislative body shall mean a town meeting for a town system, the city council subject to the provisions of its charter for a city system, the county retirement board advisory council for a county system, the regional retirement board advisory council for a regional system, the district members for a district system and the governing body of an authority for an authority system. Acceptance shall be deemed to have occurred upon the filing of a certification of such vote with the commission."

The amendment was adopted.

Messrs. Tarr and Richard T. Moore moved that the bill be amended by striking section 44 in its entirety and inserting in place thereof the following Section:-

"SECTION 44. There shall be a special commission to study the Massachusetts public employees' pension classification system. The commission shall review and make recommendations for reform regarding the Massachusetts public employees' group classification system, with consideration of the work by the Blue Ribbon Panel on the Massachusetts Public Employees Pension Classification system and the Final Report of the Special Commission to Study the Massachusetts Contributory Retirement Systems. As part of its review, the commission shall construct a representative sampling of earnings histories to enhance analyses of the actual workings of the current system and potential changes, and shall undertake a study of switching from a final averaging period for benefits to an indexed career average. The commission shall also consider providing current employees with the option of a lower initial benefit in exchange for a more generous COLA on a cost-neutral basis.

The commission shall consist of 13 members: 1 of whom shall be the secretary of administration and finance, or the secretary's designee; 1 of whom shall be the treasurer, or the treasurer's designee; 1 of whom shall be the executive director of the public employee retirement administration commission, or the director's designee; 1 of whom shall be a private citizen, appointed by the

governor, who shall serve as chair of the commission and shall not be a member of any of the 105 contributory retirement systems; 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 3 of whom shall be members of the senate, 1 of whom shall be appointed by the minority leader; 1 of whom shall be a representative of organized labor appointed by the governor; 1 of whom shall be a member of the Massachusetts Municipal Association; and 1 of whom shall be a member of the Retired State, County and Municipal Employees Association of Massachusetts.

The public employee retirement administration commission shall conduct an actuarial analysis to determine the costs of any recommendations made by the commission. The commission shall file a report of its recommendations, together with the actuarial analysis and proposed legislation, if any, with the clerks of the house and senate, the chairs of the house and senate committee on ways and means and the chairs of the joint committee on public service not later than April 15, 2012.”

The amendment was rejected.

Mr. Tolman and Ms. Spilka moved that the bill be amended by striking section 43 in its entirety and inserting in place thereof the following new text:-

“SECTION 43. Notwithstanding any general or special law to the contrary any person who:

(b) elected Option (a) or Option (b) of subdivision (2) of section 12 of said chapter 32, or elected to enter the optional retirement program provided in section 40 of chapter 15A of the general laws for the reason that the retirement options established in section 12 of said chapter 32 were insufficient to provide a benefit to their partner in the event of their passing; and

(c) who married a person of the same sex before May 17, 2005 may change such selection to Option (c) of said subdivision (2) of said section 12 of said chapter 32 at the rate that was in effect for that option on the person’s retirement date.

In paying the retirement allowance under the new election, the board, as defined in section 1 of said chapter 32, shall make appropriate adjustments, or arrange for appropriate repayments, upon such terms and condition as the board may prescribe, so as to recover any overpayments resulting from the prior election, if applicable. The change of election under this section shall be made not later than July 1, 2012, and shall be retroactive to the date of hire. The election to change retirement options under this section shall be in a manner prescribed by the board, as defined in said section 1 of said chapter 32 and said board shall have 180 days after the submission of an application.”

The amendment was rejected.

Ms. Chandler, Mr. Richard T. Moore, Ms. Spilka and Mr. Michael O. Moore moved that the bill be amended by inserting after Section 44, the following section:-

“SECTION 44A. The human resources division shall conduct an investigation and study on the recruitment and retention of public sector employees by the commonwealth and cities and towns in the commonwealth. The chief human resources officer of the human resources division or a designee shall lead the investigation. The governor shall appoint 4 persons to serve as an advisory committee to the human resources division in its study, 3 of whom shall be human resources officers in cities or towns in the commonwealth and 1 of whom shall be an expert in the labor market of the commonwealth. The study shall concentrate on the attractiveness and competitiveness of public sector employment and shall make recommendations to improve the attractiveness and competitiveness of such employment. The human resources division shall file a report of its findings with the governor and the clerks of the house of representatives and the senate not later than June 30, 2012.”

The amendment was adopted.

Mr. Brewer moved that the bill be amended in section 9, by striking out, in line 65, the words “, as defined in section 1” and inserting in place thereof the following words:- “who is a member of the staff of the public employee retirement administration commission qualified to perform actuarial duties”;

In Section 10, by striking out, in line 69, the words “of a retirement system”;

In Section 13 in proposed paragraph (f) of subdivision (2) of section 5 of chapter 32 of the General Laws, by striking out the word “from”, the second time it appears, and inserting in place thereof the following word:- “excluding”;

In Section 28, by inserting after the words “single year”, in line 256, the following words:- “; provided, however, that nothing in this subdivision shall prohibit such retirement board members from undertaking more than 18 hours of training”;

In Section 36, by inserting after the figure “2012”, in line 785, the following words:- “the normal yearly amount of the retirement allowance shall be equal to 50 per cent of the average annual rate of the member’s regular compensation during the 12-month period of the member’s creditable service immediately preceding the date the member’s retirement allowance becomes effective, and”;

In said Section 36, by inserting after the word “years”, in line 797, the following words:- “; provided, however that any state police trainee who completes and graduates from the state police training academy on or before June 1, 2012 shall be considered a member in service before January 1, 2012 for purposes of this section”;

In Section 38, by inserting after word “unless”, in line 809, the following words:- “at least”;

By inserting after section 39, the following section:-

“SECTION 39A. Paragraph (a) of section 103 of said chapter 32, as so appearing, is hereby amended by striking out, in line 14, the figure ‘\$12,000’ and inserting in place thereof the following figure:- \$13,000.”;

In Section 40A in proposed section 107 of chapter 32 of the General Laws by striking out the words “and except as expressly provided otherwise”;

By striking out Section 43 and inserting in place thereof the following section:-

“SECTION 43. Notwithstanding any general or special law to the contrary any member of a retirement system presently receiving a retirement allowance who:

(a) retired under chapter 32 of the General Laws on or before May 17, 2004;

(b) elected Option (a) or Option (b) of subdivision (2) of section 12 of said chapter 32; and

(c) who married a person of the same sex on or before May 17, 2005 may change such selection to Option (c) of said subdivision (2) of said section 12 of said chapter 32 at the rate that was in effect for that option on the member's retirement date. The surviving spouse of a member that would otherwise meet the requirements of clauses (a) to (c), inclusive, may change the election made by the deceased member to Option (c) of said subdivision (2) of said section 12 of said chapter 32 at the rate that was in effect for that option on the member's retirement date.

In paying the retirement allowance under the new election, the board, as defined in section 1 of said chapter 32, shall make appropriate adjustments, or arrange for appropriate repayments, upon such terms and condition as the board may prescribe, so as to recover any overpayments resulting from the prior election. The change of election under this section shall be made and received by the applicable board not later than July 1, 2012, and shall be retroactive to the date of retirement. The election to change retirement option under this section shall be in a manner prescribed by the board, as defined in said section 1 of said chapter 32 and said board shall have 180 days after the submission of an application to implement the change.”; and In Section 47, by inserting after the figure “13”, in line 881, the following figure:- “, 24”.

The amendment was adopted.

The Ways and Means amendment was then adopted, as amended.

The bill (Senate, No. 2010, 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 twenty-nine minutes before five o'clock P.M., on motion of Ms. Clark, as follows, to wit (yeas 24 — nays 10) [Yeas and Nays No. 71]:

YEAS

Baddour, Steven A. Hedlund, Robert L.
Berry, Frederick E. Joyce, Brian A.
Brewer, Stephen M. Knapik, Michael R.
Candaras, Gale D. Montigny, Mark C.
Chandler, Harriette L. Moore, Michael O.
Clark, Katherine M. Murray, Therese
Creem, Cynthia Stone Petruccelli, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Ross, Richard J.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.
Hart, John A., Jr. Welch, James T. — 24.

NAYS

DiDomenico, Sal N. Keenan, John F.
Donnelly, Kenneth J. McGee, Thomas M.
Eldridge, James B. Timilty, James E.
Fargo, Susan C. Tolman, Steven A.
Jehlen, Patricia D. Wolf, Daniel A. — 10.

PAIRED.

YEAS NAYS

Moore, Richard T. (present) Pacheco, Marc R. — 2.

ABSENT OR NOT VOTING

Chang-Diaz, Sonia Rosenberg, Stanley C.
Kennedy, Thomas P. Rush, Michael F.— 4.

The yeas and nays having been completed at twenty-four minutes before five o'clock P.M., the bill was passed to be engrossed.[For text of bill, printed as amended, see Senate, No. 2018] Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Brewer,--

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

On motion of Mr. Berry, at twenty-three minutes before five o'clock P.M., the Senate adjourned to meet again tomorrow at eleven o'clock A.M.