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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, October 27, 2011.

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

Distinguished Guests.

There being no objection, the President handed the gavel to Mr. Tarr for the purpose of an introduction. Mr. Tarr then introduced, in the rear of the Chamber, Andrew Garfield and Lisa Hogan. They are the founders and owners of Glevum Associates LLC, a Burlington company that specializes in conducting Face-to-Face Research and Analysis in conflict and post-conflict societies. Andrew is the company's President and Lisa is the CEO. Glevum has operated in Afghanistan and Iraq since 2007. The company's clients represent a wide range of academic, governmental and media interests. Glevum currently works with five Afghan and two Iraqi research partners, employing over 1,500 Afghan and Iraqi research managers and supervisors, pollsters, moderators and interviewers. This gives Glevum an unrivaled field research capability that enables the company to develop, field, process and analyze larger survey projects in as little as 60 days, all while operating in the most extreme conditions and in the midst of major combat operations.

Earlier this month, Andrew and Lisa travelled to the Inc 500 awards in Washington, DC, where they were recognized as one of the seven "Faces of Inc 500 2011" after Glevum placed 141st on Inc's list of top 500 companies. Lisa has also been recognized by Inc Magazine online as the owner of the tenth fastest growing female owned company in the country and the first in Massachusetts. The Senate applauded their accomplishments and they withdrew from the Chamber.

There being no objection, the President handed the gavel to Mr. Keenan for the purpose of an introduction. Mr. Keenan then introduced, in the rear of the Chamber, Melissa Rocha, Lindsey Daggett and Alex Peppino; three sophomores from Rockland High School. The students were taking a tour of the State House and were job shadowing for the day. The Senate welcomed them with applause and they withdrew from the Chamber.

Communications.

The following communications were severally received and placed on file:

The Honorable Therese Murray, President of the Senate, has announced the following appointments to various special commissions and boards:

Senator Salvatore N. DiDomenico to the Special Commission established (pursuant to Section 190 of Chapter 68 of the Acts of 2011) to make an investigation and study to the need to incentivize the Commonwealth's college scholarship system;

Dr. Julie Boatright Wilson (pursuant to Section 4R(b) of Chapter 7 of the General Laws) to the Caseload Forecasting Advisory Board;

Senators Susan C. Fargo and Daniel A. Wolf and Ms. Kristin Alexander of Woods Hole to the Special Commission established (pursuant to Section 181 of Chapter 68 of the Acts of 2011) to make an investigation and study of the incidence and impacts of Lyme disease and other tick-borne diseases in the Commonwealth;

Senator Richard T. Moore to the Special Commission established (pursuant to Section 167 of Chapter 68 of the Acts of 2011) to make an investigation and study of civic engagement and learning; and

Senators Patricia D. Jehlen and Stanley C. Rosenberg to the Special Commission established (pursuant to Section 189 of Chapter 68 of the Acts of 2011) to make an investigation and study of the Commonwealth's criminal justice system;

The Honorable Bruce E. Tarr, Senate Minority Leader, has announced the following appointments to various special commissions:

Senator Richard J. Ross to the Special Commission established (pursuant to Section 167 of Chapter 68 of the Acts of 2011) to make an investigation and study of civic engagement and learning; and

Senators Robert L. Hedlund to the Special Commission established (pursuant to Section 181 of Chapter 68 of the Acts of 2011) to make an investigation and study of the incidence and impacts of Lyme disease and other tick-borne diseases in the Commonwealth;

The Honorable Martin J. Benison, Comptroller of the Commonwealth, announcing (pursuant to Section 2E of Chapter 68 of the Acts of 2012) the transfer schedule from the account of the Executive Office of Education (1595-7066) – Science, Engineering and Mathematics Grant Fund; and

The Honorable Martin J. Benison, Comptroller of the Commonwealth, announcing (pursuant to Section 2E of Chapter 68 of the Acts of 2012) the transfer schedule from the account of the Executive Office for Health and Human Services (1595-1069) – Health Insurance Technology Trust.

Reports of Committees.

By Mr. Kennedy, for the committee on Consumer Protection and Professional Licensure, on petition (accompanied by bill, Senate, No. 128), a Bill to establish an annual caterer's license for the service of alcohol beverages at private functions (Senate, No. 2042);

By Mr. Pacheco, for the committee on Environment, Natural Resources and Agriculture, on Senate, No. 333 and House, No. 1148, a Bill relative to the powers of the Department of Agricultural Resources (Senate, No. 2046); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 335), a Bill to promote the care and well being of livestock (Senate, No. 2047);

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

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3763) of Paul McMurty (by vote of the town) for legislation relative to a revised charter for the town of Westwood,-- **was referred, in concurrence, to the committee on Municipalities and Regional Government.**

Bills

Establishing a sick leave bank for Dinamarie McCarthy, an employee of the Department of Children and Families (House, No. 3749, amended,-- on petition); and

To provide retirement options for nonprofit organizations (House, No. 3754,-- on House, No. 2411);

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

A Bill removing the requirement to provide notice to the Department of Mental Health of a license granted to a guardian to sell real estate (House, No. 2263,-- on petition),-- **was read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

A Bill relative to the granting of club and special licenses for the sale of alcoholic beverages in the town of Weston (House, No. 3459,-- on petition) [Local approval received],-- **was read and, under Senate Rule 26, placed in the Orders of the Day for the next session.**

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Welch) declared a recess subject to the call of the Chair; and, at six minutes before two o'clock P.M., the Senate reassembled, the President in the Chair.

The President, members, guests and employees then recited the pledge of allegiance to the flag.

Resolutions.

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

Resolutions (filed by Mr. Berry) “recognizing the month of October, 2011 as Physical Therapy Month in the Commonwealth”; and

Resolutions (filed by Mr. McGee, Ms. Candaras, Ms. Chandler, Ms. Creem, Messrs. Donnelly, and Eldridge, Ms. Fargo and Messrs. Hart, Joyce, Michael O. Moore, Pacheco, Rush, Tarr, and Wolf) “recognizing the Korean War Veterans Association's commemoration of the sixtieth anniversary of the Korean War.”

Report of a Committee.

Mr. Rosenberg, for the Special Joint Committee on Redistricting, reported a Bill establishing executive councillor and senatorial districts” (Senate, No. 2045).

The bill was read.

Order Adopted.

Mr. Rosenberg offered the following order:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, Senate Bill establishing executive councillor and senatorial districts (Senate, No. 2045), shall be placed in the Orders of the Day for a second reading on Tuesday, November 1, 2011.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 12:00 noon, on Monday, October 31, 2011. All such amendments shall be second-reading amendments but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Ethics and Rules.

Subsequently, Mr. Berry, for the said committee, reported, recommending that the order ought to be adopted.

There being no objection, the rules were suspended, on motion of Mr. Keenan, and the order was considered forthwith; and it was adopted.

The bill (Senate, No. 2045) was then placed in the Orders of the Day for a second reading for Tuesday, November 1, 2011.

Petition.

On motion of Ms. Chang-Díaz, Senate Rule 20 and Joint Rule 12 were suspended on the Senate petition, presented by Ms. Chang-Díaz, (accompanied by bill) of Sonia Chang-Díaz for legislation to prevent fiscal abuse in educational collaboratives,-- **and the same was referred to the committee on Education.**
Sent to the House for concurrence.

Report of Committees.

By Mr. Berry, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Stephen M. Brewer and Denise Andrews for legislation to establish a sick leave bank for Charles Maynard, an employee of the Department of Developmental Services.

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

Petitions were severally referred, in concurrence, as follows, to wit:

Petition (accompanied by bill, House, No. 3765) of Robert A. DeLeo and Martha Coakley for legislation relative to the regulation of cyber cafes, so-called, for conducting sweepstakes;

Petition (accompanied by bill, House, No. 3766) of Bradley H. Jones, Jr., Viriato Manuel deMacedo, George N. Peterson, Jr., and other members of the General Court for legislation relative to the crime of failing to notify law enforcement officials of a missing or deceased child; and

Petition (accompanied by bill, House, No. 3768) of Michael J. Finn and James T. Welch for legislation relative to vehicular homicide while under the influence of an intoxicating substance;

Severally, under suspension of Joint Rule 12, to the committee on the Judiciary.

Petition (accompanied by bill, House, No. 3767) of Bradley H. Jones, Jr., Bruce E. Tarr, David T. Vieira and other members of the General Court for legislation relative to competitively solicited proposals from renewable energy developers;

Under suspension of Joint Rule 12, to the committee on Telecommunications, Utilities and Energy.

Emergency Preamble Adopted

An engrossed Bill establishing a sick leave bank for Scott Hayward, an employee of the Executive Office of Health and Human Services (see Senate, No. 2038), 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 8 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:

Relative to the contributions of certain employees in the town of Plymouth (see Senate, No. 1346);

Authorizing the town of Rochester to establish a water department and water supply system (see House, No. 576, amended);

Authorizing the water commissioners to act as sewer commissioners in the town of Freetown (see House, No. 1164);

Exempting certain positions in the town of Burlington from the civil service law (see House, No. 3488);

Exempting the position of fire chief of the town of Natick from the civil service law (see House, No. 3508); and

Authorizing the town of Hanover to grant an additional license for the sale of wines and malt beverages to be drunk on the premises (see House, No. 3721).

Engrossed Bills—Land Takings for Conservation Etc.

An engrossed Bill authorizing the Massachusetts Department of Transportation to acquire certain parcels of land in the town of Hopkinton (see House, No. 3341, 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 two minutes past two o'clock P.M., as follows, to wit (*yeas 34 - nays 0*) [**Yeas and Nays No. 103**]:

YEAS

Baddour, Steven A.	Jehlen, Patricia D.
Brewer, Stephen M.	Joyce, Brian A.
Candaras, Gale D.	Keenan, John F.
Chandler, Harriette L.	Kennedy, Thomas P.
Chang-Diaz, Sonia	Knapik, Michael R.
Clark, Katherine M.	McGee, Thomas M.
Creem, Cynthia	Montigny, Mark C.
Stone	
DiDomenico, Sal N.	Moore, Michael O.
Donnelly, Kenneth J.	Pacheco, Marc R.

Donoghue, Eileen M.	Petrucelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.
Flanagan, Jennifer L.	Timilty, James E
Hart, John A., Jr.	Welch, James T.
Hedlund, Robert L.	Wolf, Daniel A. — 34.

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E.	Rosenberg, Stanley C.
Moore, Richard T.	Rush, Michael F.— 4 .

The yeas and nays having been completed at seven minutes past 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 a design and build contract for and lease of a recreational facility in the city known as the town of Braintree (see House, No. 3660, 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 eight minutes past two o'clock P.M., as follows, to wit (*yeas 34 - nays 0*) [**Yeas and Nays No. 104**]:

YEAS

Baddour, Steven A.	Jehlen, Patricia D.
Brewer, Stephen M.	Joyce, Brian A.
Candaras, Gale D.	Keenan, John F.
Chandler, Harriette L.	Kennedy, Thomas P.
Chang-Diaz, Sonia	Knapik, Michael R.
Clark, Katherine M.	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.
DiDomenico, Sal N.	Moore, Michael O.
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Petrucelli, Anthony
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Ross, Richard J.
Fargo, Susan C.	Spilka, Karen E.
Finegold, Barry R.	Tarr, Bruce E.

Flanagan, Jennifer L. Timilty, James E
Hart, John A., Jr. Welch, James T.
Hedlund, Robert L. Wolf, Daniel A. — **34.**

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E. Rosenberg, Stanley C.
Moore, Richard T. Rush, Michael F.— **4 .**

The yeas and nays having been completed at eleven minutes past 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 certain structures to be exempted from certain harbor lines in Chelsea Creek (House, No. 3690) (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 twelve minutes past two o'clock P.M., as follows, to wit (*yeas 34 - nays 0*) [**Yeas and Nays No. 105**]:

YEAS

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

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E. Rosenberg, Stanley C.

Moore, Richard T. Rush, Michael F.— 4 .

The yeas and nays having been completed at fourteen minutes past 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 Division of Capital Asset Management and Maintenance to grant an easement over an access road in the Upton State Forest (House, No. 3706) (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 a quarter past two o'clock P.M., as follows, to wit (*yeas 34 - nays 0*) [**Yeas and Nays No. 106**]:

YEAS

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

NAYS — 0.

ABSENT OR NOT VOTING

Berry, Frederick E. Rosenberg, Stanley C.
Moore, Richard T. Rush, Michael F.— 4 .

The yeas and nays having been completed at seventeen minutes past 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.

Orders of the Day.

The House Bill relative to vendor contracts (House, No. 3726),-- **was read a third time and passed to be engrossed, in concurrence, with the amendment previously adopted by the Senate. Sent to the House for concurrence in the amendment.**

The Senate Bill further regulating certain licenses for the sale of alcoholic beverages (Senate, No. 2033, amended) (its title having been changed by the committee on Bills in the Third Reading),-- **was read a third time. Pending the question on passing the bill to be engrossed, on motion of Mr. Brewer the further consideration thereof was postponed until then next session.**

Matters Taken Out of the Orders of the Day.

There being no objection, the following matters were taken out of the Orders of the Day and considered as follows:

The House Bill amending the home rule charter of the city of Easthampton (House, No. 3505),-- **was read a second time. Pending the question on ordering the bill to a third reading, Mr. Knapik moved that the bill be amended by striking out section 1 and inserting in place thereof the following section:-**

“SECTION 1. The charter of the city of Easthampton, which is on file in the office of archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 1-7 and inserting in place thereof the following section:-

SECTION 1-7. DEFINITIONS

Unless another meaning is clearly apparent from the manner in which the word or phrase is used the following words and phrases as used in this charter shall have the following meanings:

‘Charter’, this charter and any amendment to it hereafter adopted.

‘City’, the city of Easthampton.

‘City Bulletin Boards’, the bulletin board in the city hall on which the city clerk posts official notices of meetings and upon which other official city notices are posted, and the bulletin boards at any other locations as may be designated city bulletin boards by the city council.

‘City Agency’, any multiple member body, any department, division, or office of the city of Easthampton.

‘City Officer’, when used without further qualification or description, a person having charge of an office or department of the city who in the exercise of the powers or duties of such position exercises some portion of the sovereign power of the city.

‘Emergency’, a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action or response.

‘Full Council’ or ‘Full Multiple Member Body’, the entire authorized complement of the city council, school committee or other multiple member body notwithstanding a vacancy which might exist.

‘General laws’, laws enacted by the state legislature which apply alike to all cities and towns, to all cities, or to a class of two or more cities and or cities and towns of which Easthampton is a member.

‘General Laws’, the General Laws of the Commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

‘Initiative Measure’, a measure proposed by the voters through the initiative process provided under this charter.

‘Local Newspaper’, a newspaper of general circulation within Easthampton, with either a weekly or daily circulation.

‘Majority Vote’, when used in connection with a meeting of a multiple member body shall mean a majority of those present and voting, unless another provision is made by ordinance, by law, or by its own rules. When used in connection to the city council, “majority vote” shall always refer to a majority of the full council membership.

‘Measure’, any ordinance, order, resolution, or other vote or proceeding adopted, or which might be adopted by the city council or the school committee.

‘Multiple Member Body’, any board, commission, committee, subcommittee or other body consisting of two or more persons whether elected, appointed or otherwise constituted, but not including the city council or the school committee.

‘Referendum Measure’, a measure adopted by the city council or the school committee which is protested under the referendum procedures of this charter.

‘Voters’, registered voters of the city of Easthampton.”.

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.

The House Bill validating the acts and proceedings at a certain town caucus in the town of Westhampton (House, No. 3623),-- **was read a second time, ordered to a third reading, read a third time and was passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act relative to the town caucus in the town of Westhampton”.**

The House Bill providing a simplified procedure for municipal acceptance of subdivision roads in the city known as the town of Franklin (House, No. 1459) (its title having been changed by the committee on Bills in the third Reading),-- **was read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the town of Needham to convey a parcel of land and grant an easement to support natural gas transmission (House, No. 3667),-- **was read a third time and passed to be engrossed, in concurrence.**

Order Adopted.

On motion of Mr. Hart,--

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

On motion of Mr. Brewer, at twenty-one minutes past two o'clock P.M., the Senate adjourned to meet again on Monday next at eleven o'clock A.M.