

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, December 15, 2011.

Met at two minutes past eleven o'clock A.M. (Mr. Petrucci in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

The Chair (Mr. Petrucci), members, guests and staff then recited the pledge of allegiance to the flag.

Petitions.

Petitions were severally presented and referred, as follows:

By Mr. Rosenberg, a petition (accompanied by bill, Senate, No. 2093) of Stanley C. Rosenberg and Denise Andrews (by vote of the town) for legislation to authorize the town of Erving to grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises;

Under Senate Rule 20, to the committee on Consumer Protection and Professional Licensure.

By Mr. Kennedy, a petition (subject to Joint Rule 12) of Thomas P. Kennedy and Geraldine Creedon for legislation to establish a sick leave bank for Christine McDonnell, an employee of the Department of Correction; and

By Mr. Petrucci, a petition (subject to Joint Rule 12) of Anthony W. Petrucci for legislation to establish a sick leave bank for Sharyn LeCesse, an employee of the Registry of Motor Vehicles;

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

Committee Discharged.

Mr. Finegold, for the committee on the Election Laws, reported, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 2051) of Gale D. Candaras (by vote of the town) for legislation to validate the actions taken at the town meeting in the town of Wilbraham,-- **and recommending that the same be referred to the committee on Municipalities and Regional Government.**

Under Senate Rule 36, the report was considered forthwith and accepted.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3847) of Joyce A. Spiliotis (with the approval of the mayor and city council) relative to the Brooks by Village polling location in the city of Peabody,-- **was referred, in concurrence, to the committee on Election Laws**

Notice was received from the House announcing the following appointments by the Minority Leader of the House of Representatives:

That Representative Steven L. Howitt of Seekonk has been appointed to serve as his designee on the Massachusetts Workforce Investment Board (under Section 85 of Chapter 3 of the Acts of 2011);

That Representative David T. Vieira of Falmouth has been appointed to serve as his designee on the special commission on Civic Engagement and Learning (under Section 167 of Chapter 68 of the Acts of 2011);

That Representative Bradford R. Hill of Ipswich has been appointed to serve as his designee on the special commission established (under Section 181 of Chapter 68 of the Acts of 2011) to investigate and study of the incidents and impacts of Lyme Disease and other tick-borne diseases in the Commonwealth;

That Representative Richard Bastien of Gardner has been appointed to serve as his designee on the special commission established (under Section 190 of Chapter 68 of the Acts of 2011) to study the need to incentivize the college scholarship system in the Commonwealth;

That Representative Kimberly N. Ferguson of Holden has been appointed to serve as his designee on the special commission established (under Section 194 of Chapter 68 of the Acts of 2011) to identify women who have made an extraordinary contribution to the Commonwealth and offer recommendations on providing recognition for these women in the State House;

That Representative Donald H. Wong of Saugus has been appointed to serve as his designee on the special commission established (under Chapter 85 of the Acts of 2011) to investigate and report on police career incentive pay program;

That Representative Todd M. Smola of Palmer has been appointed to serve as his designee on the special commission established (under Section 56 of Chapter 176 of the Acts of 2011) to study the Massachusetts public employees' pension classification system;

That Representative F. Jay Barrows of Mansfield has been appointed to serve as his designee on the special commission established (under Section 58 of Chapter 176 of the Acts of 2011) to investigate and study retiree healthcare and other non-pension benefits; and

That Representative Ryan C. Fattman of Sutton has been appointed to serve as his designee on the special commission established (under Section 59 of Chapter 176 of the Acts of 2011) to investigate and study all aspects of the ordinary and accidental disability provisions of the Massachusetts contributory retirement system as well as the provisions of injured on duty benefits and presumptions for public employees contained in the general laws.

Resolutions.

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

Resolutions (filed by Ms. Flanagan) "congratulating the Leominster High School Football Team on the occasion of its 2011 Super Bowl victory";

Resolutions (filed by Mr. Pacheco) "congratulating Steven J. Callahan on 40 outstanding years in the radio broadcasting industry"; and

Resolutions (filed by Mr. Ross) "congratulating James Patrick Wall on his elevation to the rank of Eagle Scout."

Report of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill to establish the Massachusetts Uniform Trust Code (House, No. 3780, amended),-- ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2094; by striking out the emergency preamble and inserting in place thereof the following emergency preamble:

"Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to further regulate the probate code and to establish a trust code, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."; and by striking out the title and inserting in place thereof the following title: "An Act further regulating the probate code and establishing a trust code".

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

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.

PAPERS FROM THE HOUSE

Emergency Preambles Adopted.

An engrossed Bill establishing a sick leave bank for Charles Maynard, an employee of the Department of Developmental Services (see Senate, No. 2055), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 2 to 0.**

The bill was signed by the Acting President (Mr. Petruccelli) and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Kevin W. Rose, an employee of the Bristol County Sheriff's Office (see Senate, No. 2090), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 2 to 0.**
The bill was signed by the Acting President (Mr. Petruccelli) and sent to the House for enactment.

Engrossed Bill Returned with Recommendation of Amendment.

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill establishing a special commission to study electronic benefit transfers (see House, No. 3773) [for message, see House, No. 3774],— came from the House with endorsement that the House adopted the amendment recommended by the Governor (as approved by committee on Bills in the Third Reading), as follows:

By striking out all after the enacting clause and inserting in place thereof the following:

“Notwithstanding any general or special law to the contrary, there shall be a special commission to study and report on the use of electronic benefit transfer, or EBT, cards. The commission shall consist of the commissioner of transitional assistance, or a designee; the inspector general, or a designee; two members of the house of representatives, one of whom shall be appointed by the minority leader; two members of the senate, one of whom shall be appointed by the minority leader; a representative of the Retailers Association of Massachusetts; and a representative of the interests of benefit recipients appointed by the governor. The scope of the commission shall include, but not be limited to, researching and evaluating the following: the use of EBT cards for the purchase of products other than those products for which they are intended to be used, such as firearms, tobacco, lottery tickets and alcohol; the frequency and location of out-of-state card use; the in-state stores where cards are used; the proportion of one months EBT cash assistance that is withdrawn from ATM machines rather than used in stores to directly purchase products; and the costs associated with requiring the department to include, on the front of each newly issued, re-issued and existing EBT cards, a photograph of the card holder. The commission shall research, asses and develop recommendations regarding the best method of preventing the inappropriate use of EBT cards, including implementing a monthly limit to the amount of EBT cash assistance that a recipient of cash assistance can withdraw from ATMs and the feasibility of prohibiting the purchase of certain items by restricting the ability of EBT cards to be used in purchasing those items. The commission shall also study and research the implementation of requiring stores to apply to accept EBT cards. The commission shall submit a final report of its findings and recommendations, together with drafts of legislation necessary to implement those recommendations, by filing the same with the clerks of the senate and house not later than April 1, 2012.”.

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The rules were suspended, on motion of Mr. Hedlund, and the amendment considered forthwith and adopted, in concurrence.

Sent to the House for re-enactment.

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 Mark C. Montigny for legislation to establish a sick leave bank for Adrienne S. Fiore, an employee of the Department of Developmental Services.

The rules were suspended, on motion of Mr. Hedlund, 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. 3850) of John V. Fernandes relative to the excise taxes of motor vehicles ten years old and older,-- **was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Revenue**

A Bill relative to the sale of alcoholic beverages (House, No. 1009, amended,-- on petition),-- **was read.**

There being no objection, the rules were suspended, on motion of Mr. Hedlund, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Emergency Preamble Adopted.

An engrossed Bill relative to the sale of alcoholic beverages (see House, No. 1009, amended), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 2 to 0.**
The bill was signed by the Acting President (Mr. Petrucci) and sent to the House for enactment.

Engrossed Bills.

The following engrossed bills (the first three 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 Acting President (Mr. Petrucci) and laid before the Governor for his approbation, to wit:

Authorizing the appointment of Antonio F. Dinis as a police officer in the town of Milford notwithstanding the maximum age requirements (see Senate, No. 1942);

Establishing a sick leave bank for Charles Maynard, an employee of the Department of Developmental Services (see Senate, No. 2055);

Establishing a sick leave bank for Kevin W. Rose, an employee of the Bristol County Sheriff's Office (see Senate, No. 2090);

Relative to the sale of alcoholic beverages (see House, No. 1009, amended);

Exempting the position of deputy police chief in the town of Canton from the civil service laws (see House, No. 3506);

Relative to the charter of the city known as the town of Amesbury (see House, No. 3621, amended);

Relative to the Human Resource Department of the town of Arlington (see House, No. 3651, amended); and

Exempting original labor service appointments in the town of Arlington from the civil service law (see House, No. 3654).

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.

Adjournment in Memory of William Bergevine of Attleboro

The Senator from Bristol and Norfolk, Mr. Timilty, and the Senator from Norfolk, Bristol and Middlesex, Mr. Ross, request that when the Senate adjourns today, it do so in memory of William R. Bergevine of Attleboro.

Mr. William Bergevine died at the age of 62 on Sunday, December 11, 2011.

Mr. Bergevine was a lifelong resident of the city of Attleboro, serving two years on the Attleboro Planning Board, three terms on the Attleboro School Committee, and two terms on the Attleboro City Council. Mr. Bergevine was a dedicated public servant and will be remembered for his commitment and loyalty to his family, friends and community.

Accordingly, as a mark of respect to the memory of William Bergevine of Attleboro, at seventeen minutes past twelve o'clock noon, on motion of Mr. Hart, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.