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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Wednesday, June 27, 2012.

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

Distinguished Guests.

There being no objection, the President introduced, in the rear of the Chamber, Rear Admiral Lothrop S. Little, Commander, Naval Reserve Forces Command and Paul J. Brawley, Lt. Commander, U.S. Navy. Rear Admiral Little briefly addressed the Senate promoting Navy Week and stressing the importance of the U.S. Navy, was welcomed with applause and withdrew from the Chamber.

Reports of a Committee.

By Mr. Petrucci, for the committee on Financial Services, on petition, a Bill regulating pharmacy audits (Senate, No. 458);
Referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. Petrucci, for the committee on Financial Services, on petition, a Bill relative to coverage under the Massachusetts Property Insurance Underwriting Association (Senate, No. 449);
Read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

PAPERS FROM THE HOUSE.

Petitions were severally referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4171) of Sarah K. Peake and Daniel A. Wolf (by vote of the town) for legislation relative to authorizing the town of Wellfleet to grant an easement on a certain parcel of land in said town;
To the committee on Municipalities and Regional Government.

Petition (accompanied by bill, House, No. 4142) of Peter V. Kocot (by vote of the town) for legislation that Thomas J. Osley may continue employment with the police department of the town of Hatfield;
To the committee on Public Service.

Bills

Relative to establishing a sick leave bank Lawrence Marino, an employee of the Massachusetts Department of Transportation (House, No. 4158, amended,-- on petition); and
Relative to establishing a sick leave bank for Chereel Stafilopatis, an employee of the Executive Office of Health and Human Services (House, No. 4166, amended,-- on petition);
Were severally read and, under Senate Rule 27, referred to the committee on Ways and Means.

Bills

Relative to Hamilton Development Corporation (House, No. 3710,-- on petition) [Local approval received];

Relative to leasing Sunny Meadow Farm in the town of Chelmsford (House, No. 3881,-- on petition) [Local approval received]; Authorizing the conveyance, lease and change of use of certain park lands in the city of Worcester (House, No. 4033,-- on petition) [Local approval received]; and Reestablishing a charter for the city of Northampton (House, No. 4102,-- on House, No. 4001) [Local approval received on House, No. 4001];

Were severally 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 two o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at three o'clock P.M., the Senate reassembled, the President in the Chair.

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

Resolutions.

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

Resolutions (filed by Mr. Pacheco) "congratulating Doctor Jean F. MacCormack on her retirement as Chancellor of the University of Massachusetts Dartmouth."

PAPERS FROM THE HOUSE.

The Senate Bill providing for the implementation of education evaluation systems in school districts (Senate, No. 2315),-- **came from the House passed to be engrossed, in concurrence, with an amendment inserting before the enacting clause the following emergency preamble: "Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith the implementation of education evaluation systems in school districts, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."**

The rules were suspended, on motion of Ms. Chang-Diaz, and the House amendment was considered forthwith and adopted, in concurrence. (as corrected BTR)

The following House Orders (severally approved by the committees on Rules of the two branches, acting concurrently) were considered as follows:

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Financial Services shall be granted until Tuesday, July 31, 2012, within which to report on current Senate documents numbered 442 and 1856 and a current House document numbered 3322.

The rules were suspended, on motion of Mr. Petrucci and the order was considered forthwith; and, after remarks, was adopted, in concurrence.

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Public Service shall be granted until Tuesday, July 31, 2012, within which to report on a current House document numbered 3980.

The rules were suspended, on motion of Mr. Brownsberger and the order was considered forthwith; and, after remarks, was adopted, in concurrence.

Matter Taken Out of the Notice Section.

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

The Senate Bill authorizing the town of Ashburnham to dispose of certain equipment (Senate, No. 2271), -- **was read a third time and passed to be engrossed.**

Sent to the House for concurrence.

Orders of the Day.

The Orders of the Day were considered as follows:

The Senate Bill allowing access to a decedent's electronic mail accounts (Senate, No. 2205),-- was read a second time.

The pending amendment, previously recommended by the committee on Ways and Means, substituting a new draft entitled "An Act relative to access to a decedent's electronic mail accounts" (Senate No. 2313),-- **was considered.**

Ms. Creem moved that the proposed new draft be amended by striking the word "or" in line 5, and inserting in place thereof the following:-"and"; and further moved that the bill be amended by inserting, after the word "that" in line 14, the following:- "it offered opt-out language, separate and distinct from the standard agreement or terms of service, whereby".

The amendment was adopted.

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

The bill (Senate, No. 2313, amended) was then ordered to a third reading.

The rules were suspended, on motion of Ms. Creem, and the bill was read a third time and passed to be engrossed.

Sent to the House for concurrence.

Order Adopted.

Mr. Kennedy offered the following order:

Ordered, That notwithstanding the provision of Joint Rule 10 the Joint Committee on Consumer Protection and Professional Licensure be granted until July 31, 2012 within which to make its final report on current Senate documents numbered 103, 104, 1943, 2049, 2239 and 2294 relative to consumer protection and professional licensure.

Under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Ms. Spilka, for the said committees, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Mr. Kennedy, and after remarks, the order was considered forthwith and adopted.

Sent to the House for concurrence.

PAPER FROM THE HOUSE.

Emergency Preamble Adopted.

Mr. Rosenberg in the Chair, an engrossed Bill providing for the implementation of education evaluation systems in school districts (see Senate, No.2315, 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 10 to 0.**

The bill was signed by the Acting President (Mr. Rosenberg) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair) and sent to the House for enactment.

Report of a Committee of Conference.

Mr. McGee, for the committee of conference, to whom was referred the matters of difference between the two branches with reference to the Senate amendment to the House Bill financing improvements to the Commonwealth's transportation system (House, No. 4000, amended) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2220), reported (in part), a "Bill financing improvements to the Commonwealth's transportation system" (Senate, No. 2329).

The rules were suspended, on motion of Mr. McGee, and the report was considered forthwith and accepted.

Sent to the House for concurrence in the report of the committee of conference

PAPERS FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill providing for the implementation of education evaluation systems in school districts (see Senate, No. 2315, amended) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was passed to be enacted and signed by the Acting President (Mr. Rosenberg) and laid before the Governor for his approbation.

The House Bill relative to certain reforms relative to the Massachusetts Department of Transportation (House, No. 4174, amended),-- came from the House with the endorsement that the House had concurred in the Senate amendments striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2317; 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 to provide forthwith for financing and reforms to the commonwealth's public transportation system, 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 relative to financing and reforming public transportation in the Commonwealth.", with a further amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4215.

There being no objection, the rules were suspended, on motion of Mr. McGee and the further House amendment was considered forthwith.

Pending the question on concurring in the further House amendment, at twenty minutes past four o'clock P.M., Mr. Tarr doubted the presence of a quorum. The President, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently, at twenty-two minutes past four o'clock P.M., a quorum was declared present.

After debate, the question on concurring in the further House amendment was determined by a call of the yeas and nays at nine minutes before five o'clock P.M., on motion of Mr. Hedlund, as follows to wit (yeas 27 — nays 9) [Yeas and Nays No. 235]:

YEAS

Brewer, Stephen M. Hedlund, Robert L.

Brownsberger, William N. Jehlen, Patricia D.

Chandler, Harriette L. Joyce, Brian A.

Chang-Diaz, Sonia Keenan, John F.

Clark, Katherine M. Kennedy, Thomas P.
Creem, Cynthia Stone McGee, Thomas M.
DiDomenico, Sal N. Montigny, Mark C.
Donnelly, Kenneth J. Pacheco, Marc R.
Donoghue, Eileen M. Petruccelli, Anthony
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Rush, Michael F.
Fargo, Susan C. Spilka, Karen E.
Flanagan, Jennifer L. Wolf, Daniel A. — 27.
Hart, John A., Jr.

NAYS

Candaras, Gale D. Ross, Richard J.
Finegold, Barry R. Tarr, Bruce E.
Knapik, Michael R. Timilty, James E
Moore, Michael O. Welch, James T. — 9
Moore, Richard T.

ABSENT OR NOT VOTING

Berry, Frederick E. Rodrigues, Michael J.—2.

The yeas and nays having been completed at three minutes before five o'clock P.M., the further House amendment was adopted.
Emergency Preamble Adopted.

An engrossed Bill financing improvements to the Commonwealth's transportation system (see Senate, No. 2329), 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 14 to 0.

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

A Bill validating the actions taken at a certain town election held in the town of Rowe (printed in House, No. 4194,-- being a message from his Excellency the Governor),-- was read.

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

A petition (accompanied by bill, House, No. 4216) of Stephen L. DiNatale for legislation to remove the Department of Telecommunications and Cable from jurisdiction over wireless service, including mobile radio telephone service, or radio utilities,-- was referred, in concurrence, under suspension of Joint Rule 12, to the committee on Telecommunications, Utilities and Energy.

Recess.

There being no objection at nine minutes past five o'clock P.M., the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at three minutes past six o'clock P.M., the Senate reassembled, the President in the Chair.

PAPERS FROM THE HOUSE

Engrossed Bill—State Loan.

An engrossed Bill financing improvements to the Commonwealth's transportation system (see Senate, No. 2329) (which originated in the Senate), having been certified by the Senate Clerk to be rightly and truly prepared for final passage, was put upon its final passage; and, this being a bill providing for the borrowing of money, in accordance with the provisions of Section 3 of Article LXII 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 three minutes past six o'clock P.M., as follows to wit (yeas 36 - nays 0) [Yeas and Nays No. 236]:

YEAS

Brewer, Stephen M. Joyce, Brian A.
Brownsberger, William N. Keenan, John F.
Candaras, Gale D. Kennedy, Thomas P.
Chandler, Harriette L. Knapik, Michael R.
Chang-Diaz, Sonia McGee, Thomas M.
Clark, Katherine M. Montigny, Mark C.
Creem, Cynthia Stone Moore, Michael O.
DiDomenico, Sal N. Moore, Richard T.
Donnelly, Kenneth J. Murray, Therese
Donoghue, Eileen M. Pacheco, Marc R.
Downing, Benjamin B. Petruccelli, Anthony
Eldridge, James B. Rosenberg, Stanley C.
Fargo, Susan C. Ross, Richard J.
Finegold, Barry R. Rush, Michael F.
Flanagan, Jennifer L. Spilka, Karen E.

Hart, John A., Jr. Tarr, Bruce E.
Hedlund, Robert L. Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. — 36.
NAYS — 0.
ABSENT OR NOT VOTING
Berry, Frederick E. Timilty, James E. —3.
Rodrigues, Michael J

The yeas and nays having been completed at eight minutes past six 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.

Emergency Preamble Adopted; Engrossed Bill Enacted.

An engrossed Bill relative to financing and reforming public transportation in the Commonwealth (see House, No. 4174, 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 7 to 0. The bill was signed by the President and sent to the House for enactment.

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

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

Moment of Silence.

At the request of the President, the members, guests and employees stood in a moment of silence and reflection to the memory of Francis "Red" McGovern.

Order Adopted.

On motion of Mr. Brewer,--

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow at one o'clock P.M., in a full formal session with a calendar.

Adjournment in Memory of Francis "Red" McGovern

The Senator from Essex and Middlesex, Mr. Finegold moved that when the Senate adjourns today, it do so in memory of Francis "Red" McGovern.

Born and raised in Lawrence, Red McGovern was a Democratic Party icon in the Merrimack Valley who made an impact on scores of politicians. He passed away this past Monday, June 25th at the age of 99.

Red was the oldest of four children born to C. Frank and Agnes McGovern. He was a graduate of Lawrence High School. He married Rita Elizabeth Donahue at the age of 20 and the couple had 10 children together; the two were married for 41 years until Rita's passing.

Red worked as a sub-station operator for the Massachusetts Electric Company for 29 years, and later opened his own real estate office at the age of 70, but politics was his main passion. His office in Lawrence served as the headquarters for the St. Patrick's Day Parade Committee and the campaign office for many political hopefuls, including his niece, former State Senator Patricia McGovern. He was also involved in US Senator John Kerry's first run for office. People always said if you wanted to run for office in the Merrimack Valley, you consulted Red first.

His friends say Red was the most loyal friend that the City of Lawrence ever had. He will be remembered for his kindness, his humility, and his ability to tell a great story. He will be missed by many.

Red is survived by 8 of his children, his brother Albert J. McGovern of Florida, 30 grandchildren, 59 great grandchildren, 6 great-great grandchildren, as well as numerous nieces, nephews and cousins.

Accordingly, as a mark of respect to the memory of Francis "Red" McGovern, at twenty-one minutes past six o'clock P.M., on motion of Mr. Tarr, the Senate adjourned to meet again tomorrow at one o'clock P.M.