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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Tuesday, November 15, 2011

Met at eight minutes past one o'clock P.M. (Mr. Michael O. Moore 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, Boxford Police Chief Gordon Russell. Chief Russell began his career as a patrolman with the Boxford Police Department in May of 1970. He rose through the ranks and was promoted to Sergeant in 1980, Deputy Chief in 1981, and Chief of Police in 1993. During his tenure on the Boxford Police Department, Chief Russell has earned the respect of the town and his colleagues, and has been recognized as a dedicated leader who is passionately committed to treating every one fairly and with dignity. He was accompanied by Lieutenant Hazelwood and Lieutenant Riter. The Senate welcomed them with applause and they withdrew from the Chamber.

Reports of a Committee

By Mr. Donnelly, for the committee on State Administration and Regulatory Oversight, on petition, a Bill authorizing the Division of Capital Asset Management and Maintenance to lease a certain property in the city of Lawrence (Senate, No. 1579);

By the same Senator, for the same committee, on petition, a Bill providing the town of Saugus financial assistance for the replacement of water mains located under certain portions of the state highway route 1 (Senate, No. 1590) (Representative Levy of Marlborough dissenting);

By the same Senator, for the same committee, on petition, a Bill authorizing the transfer of a certain parcel of land in the city of Taunton (Senate, No. 1606); and

By the same Senator, for the same committee, on Senate, Nos. 1591 and 1592, a Bill authorizing the commissioner of Capital Asset Management and Maintenance to convey a parcel of land in the city of New Bedford (Senate, No. 2064);

Severally read and, under Senate Rule 26, referred to the committee on Bonding, Capital Expenditures and State Assets.

PAPERS FROM THE HOUSE.

A petition (accompanied by bill, House, No. 3793) of Christine E. Canavan, Geraldine Creedon and Brian A. Joyce (by vote of the town) relative to rent regulations and control of evictions in mobile home parks in the town of Easton,-- **was referred, in concurrence, to the committee on Housing.**

A Bill regulating secondary metal dealings (House No. 3723, amended,-- on Senate, No. 145 and House, Nos. 1021 and 3226),-- **was read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

There being no objection, at nine minutes past one o'clock P.M., the Chair (Mr. Michael O. Moore) declared a recess subject to the call of the Chair; and, at twenty-nine minutes before 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 severally considered forthwith and adopted, as follows:-

Resolutions (filed by Ms. Creem, Messrs. Baddour and Brewer, Ms. Chandler, Ms. Clark, Messrs. DiDomenico, Donnelly, Downing, and Eldridge, Ms. Fargo, Mr. Finegold, Ms. Flanagan, Mr. Hedlund, Ms. Jehlen, Messrs. Joyce, Keenan, McGee, Montigny, and Michael O. Moore, Ms. Murray, Messrs. Rosenberg and Ross, Ms. Spilka and Messrs. Tarr, Timilty and Wolf) “commemorating the celebration of Chanukah 2011”; and

Resolutions (filed by Mr. Tarr) “congratulating Boxford Chief of Police Gordon Russell on his retirement.”

Communication.

The President read the following communication:

SENATE PRESIDENT PRO TEMPORE
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1007
November 15, 2011

The Honorable Therese Murray
President of the Senate
State House, Room 332
Boston, MA 02133

Dear Madame President,

I deeply regret that I am unable to join you and my fellow Senators for the final days of this legislative session. I am still recovering from health issues related to my cancer treatment, and, although I am improving, it would be unwise for me to return to the State House at this time.

Please know that my thoughts are with all of you, especially those of you with whom I worked so closely these past few months. I am looking forward to the day when I can once again stand with you in our efforts to move our Commonwealth forward.

Sincerely,
Stanley C. Rosenberg
Hampshire & Franklin District

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

Committee of Conference Report.

Ms. Clark, for the committee of conference, to whom was referred the matters of difference between the two branches with reference to the House amendment to the Senate Bill providing for additional pension reform and benefits modernization (Senate, No. 2018) (amended by the House by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 3790),-- **reported, a bill entitled “An Act providing responsible reforms in the pension system” (Senate, No. 2079).**

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

After debate, the question on acceptance of the report was determined by a call of the yeas and nays, at nineteen minutes before three o'clock P.M., on motion of Ms. Clark, as follows, to wit (yeas 27 – nays 10) [Yeas and Nays No. 118]:

YEAS

Baddour, Steven A. Joyce, Brian A.
Berry, Frederick E. Kennedy, Thomas P.
Brewer, Stephen M. Knapik, Michael R.
Candaras, Gale D. Montigny, Mark C.
Chandler, Harriette L. Moore, Michael O.
Clark, Katherine M. Moore, Richard T.
Creem, Cynthia Stone Murray, Therese
Donoghue, Eileen M. Petruccelli, Anthony
Downing, Benjamin B. Rodrigues, Michael J.
Fargo, Susan C. Ross, Richard J.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Tarr, Bruce E.

Hart, John A., Jr. Welch, James T. — 27.
Hedlund, Robert L.
NAYS
Chang-Diaz, Sonia Keenan, John F.
DiDomenico, Sal N. McGee, Thomas M.
Donnelly, Kenneth J. Pacheco, Marc R.
Eldridge, James B. Timilty, James E
Jehlen, Patricia D. Wolf, Daniel A. — 10.
ABSENT OR NOT VOTING
Rosenberg, Stanley C. Rush, Michael F.— 2.

The yeas and nays having been completed at sixteen minutes before three o'clock P.M., the report was accepted.
Sent to the House for concurrence.
PAPER FROM THE HOUSE.

Committee of Conference Report.

A report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill establishing expanded gaming in the Commonwealth (House, No. 3711) (amended by the Senate by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2085) (House, No. 3807), -- came from the House, and was read.

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

After debate, the question on acceptance of the report of the committee of conference was determined by a call of the yeas and nays, at four minutes past three o'clock P.M., on motion of Ms. Flanagan, as follows, to wit (yeas 23- nays 14) [Yeas and Nays No. 119]

YEAS

Baddour, Steven A. Knapik, Michael R.
Berry, Frederick E. McGee, Thomas M.
Brewer, Stephen M. Moore, Michael O.
Candaras, Gale D. Moore, Richard T.
Chandler, Harriette L. Murray, Therese
Clark, Katherine M. Pacheco, Marc R.
DiDomenico, Sal N. Petrucci, Anthony
Donoghue, Eileen M. Ross, Richard J.
Flanagan, Jennifer L. Tarr, Bruce E.
Hart, John A., Jr. Timilty, James E
Joyce, Brian A. Welch, James T. — 23.
Kennedy, Thomas P.

NAYS

Chang-Diaz, Sonia Hedlund, Robert L.
Creem, Cynthia Stone Jehlen, Patricia D.
Donnelly, Kenneth J. Keenan, John F.
Downing, Benjamin B. Montigny, Mark C.
Eldridge, James B. Rodrigues, Michael J.
Fargo, Susan C. Spilka, Karen E.
Finegold, Barry R. Wolf, Daniel A. — 14.
ABSENT OR NOT VOTING
Rosenberg, Stanley C. Rush, Michael F.— 2.

The yeas and nays having been completed at seven minutes past three o'clock P.M., the report was accepted, in concurrence.
Report of a Committee.

Mr. Berry, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The Senate Bill relative to surgical technology (Senate, No. 1069) (the committee on Ways and Means having recommended that the bill be amended by substituting a new draft entitled "An Act regulating surgical technology" (Senate, No. 2058).

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

The bill (Senate, No. 2058) was then ordered to a third reading, read a third time and, after remarks, was passed to be engrossed.

Sent to the House for concurrence.

PAPER FROM THE HOUSE

Committee of Conference Report.

A report of the committee of conference of the disagreeing votes of the two branches, with reference to the Senate amendments to the House Bill relative to the commercial exploitation of people (House, No. 3483) (amended by the Senate by striking out all

after the enacting clause and inserting in place thereof the text contained in Senate document numbered 1951) (House, No. 3808), -- came from the House, and was read.

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

After remarks, the question on acceptance of the report of the committee of conference was determined by a call of the yeas and nays, at nineteen minutes before four o'clock P.M., on motion of Ms. Flanagan, as follows, to wit (yeas 37- nays 0) [Yeas and Nays No. 120]:

YEAS

Baddour, Steven A. Joyce, Brian A.
Berry, Frederick E. Keenan, John F.
Brewer, Stephen M. Kennedy, Thomas P.
Candaras, Gale D. Knapik, Michael R.
Chandler, Harriette L. McGee, Thomas M.
Chang-Diaz, Sonia Montigny, Mark C.
Clark, Katherine M. Moore, Michael O.
Creem, Cynthia Stone Moore, Richard T.
DiDomenico, Sal N. Murray, Therese
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. — 37.
Jehlen, Patricia D.
NAYS — 0.

ABSENT OR NOT VOTING

Rosenberg, Stanley C. Rush, Michael F.— 2.

The yeas and nays having been completed at fourteen minutes before four o'clock P.M., the report was accepted, in concurrence. Reports of Committees.

Mr. Berry, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The Senate Bill relative to identification cards (Senate, No. 1718).

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time and ordered to a third reading.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill establishing a sick leave bank for Jacqueline Enno (Senate, No. 1972),-- ought to pass, with an amendment substituting a new draft entitled "An Act establishing a sick leave bank for Jacqueline Enno, an employee of the Department of Developmental Services" (Senate, No. 2068).

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

The bill (Senate, No. 2068) 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 House Bill establishing a sick leave bank for Grace A. Rugnetta, an employee of the Executive Office of Health and Human Services (House, No. 3640),-- ought to pass.

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

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill adopting the Revised Uniform Anatomical Gift Act (Senate, No. 1098),-- ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2067).

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

After remarks, the bill (Senate, No. 2067) was then ordered to a third reading.

PAPERS FROM THE HOUSE

Emergency Preambles Adopted

An engrossed Bill establishing a sick leave bank for Kevin R. Byrne, Sr., an employee of the Trial Court (see House, No. 3586), 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 President and sent to the House for enactment.

An engrossed Bill establishing a sick leave bank for Saun T. Sawyer, an employee of the Department of Developmental Services (see House, No. 3701, 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 13 to 0.

The bill was signed by the President and sent to the House for enactment.

Engrossed Bill.

An engrossed Bill validating the actions taken at the annual town election in the town of Hampden (see Senate, No. 2026) (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 President and laid before the Governor for his approbation.

Orders of the Day.

The Orders of the Day were considered as follows:

Bills

Authorizing the town of Lincoln to grant a single license for the sale of wines and malt beverages not to be drunk on the premises (House, No. 3532); and

Relative to the human resource department of the town of Arlington (House, No. 3651);

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

The Senate Bill providing for annual caterer's licenses for the service of alcoholic beverages at private functions (Senate, No. 2063),-- was read a third time and passed to be engrossed.

Sent to the House for concurrence.

The Senate Bill to restore collective bargaining rights for employees of the MBTA (Senate, No. 2056),-- was read a third time. Ms. Creem, for the committee on Bills in the Third Reading, reported, recommending that the bill be amended by substituting a new draft, entitled "An Act to restore collective bargaining rights for employees of the Massachusetts Bay Transportation Authority" (Senate, No. 2066).

The report was accepted.

After remarks, the bill (Senate, No. 2066) was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill relative to the terms of collective bargaining agreements (House, No. 3789),-- was read a third time.

Pending the question on ordering the bill to a third reading, Ms. Clark moved to amend the bill in section 3, by striking out, in line 7, the word "also".

After remarks, the amendment was adopted.

The bill, as amended was then passed to be engrossed.

Remarks of Senator Katherine M. Clark.

Today I offer a technical amendment to strike the word "also" in Section 2 and my reasons are as follows:

After consultation with Senate and House Counsel, it is clear that the word "also" is redundant for the following reasons:

Section 1 amends the General Laws. As such, once enacted it has general effect and applies to all collective bargaining agreements.

Sections 2 and 3, rather than amending the General Laws, are Special Acts that address a discrete category of collective bargaining agreements. The purpose of Sections 2 and 3 is not to define the application of Section 1 or limit its scope, but rather to apply the amended general law to the discrete category of agreements defined in those sections.

And I further move that my remarks be printed in the Senate Journal.

On motion of the same Senator, the above remarks were printed in the Journal of the Senate.

Recess.

There being no objection, at eleven minutes past four o'clock P.M., the President declared a recess subject to the call of the Chair; and, at twenty-eight minutes before eight o'clock P.M., the Senate reassembled, the President in the Chair.

Suspension of Senate Rule 38A.

Ms. Creem moved that Senate Rule 38A be suspended to allow the Senate to meet beyond the hour of 8:00 P.M.; and the same Senator requested unanimous consent that the rules be suspended without a call of the yeas and nays. There being no objection, the motion was considered forthwith, and it was adopted.

PAPERS FROM THE HOUSE

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Grace A. Rugnetta, an employee of the Executive Office of Health and Human Services (see House, No. 3640), 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 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:

Providing for pension reform and benefit modernization (see Senate, No. 2065);

Establishing a sick leave bank for Kevin R. Byrne, Sr., an employee of the Trial Court (see House, No. 3586);

Establishing a sick leave bank for Saun T. Sawyer, an employee of the Department of Developmental Services (see House, No. 3701, amended); and

Relative to the commercial exploitation of people (see House, No. 3808).

The House Bill establishing congressional districts (printed in House, No 3798, Appendix A, amended,-- being an interim report of the Special Joint Committee on Redistricting),-- was read.

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time.

Ms. Spilka moved that a call of the yeas and nays be taken on the question of engrossment; and this motion prevailed.

Pending the question on ordering the bill to a third reading, Messrs. Tarr, Knapik, Hedlund and Ross moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2701.

After debate, and pending the question on adoption if the amendment, and pending the main question on ordering the bill to a third reading, Mr. Joyce moved that the amendments be laid over under the provisions of Senate Rule 31 and this motion was seconded by Mr. Hedlund.

Order Adopted.

On motion of Mr. Brewer,--

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

On motion of the Ms. Chandler, at twenty-four minutes past eight o'clock P.M., the Senate adjourned to meet again tomorrow at ten o'clock A.M.