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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Monday, April 29, 2013.

Met at three 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.

Communication.

A communication from the Honorable Bruce E. Tarr, Senate Minority Leader, announcing his appointment of Robert Was, Principal, the Was Insurance Company, as his designee to the Special Commission established (under Section 264 of Chapter 224 of the Acts of 2012) to make an investigation and study on subsidized health care,-- **was placed on file.**

Report of a Committee.

By Mr. Pacheco, for the committee on Environment, Natural Resources and Agriculture, on petition, a Bill to create a process to evaluate exposure to catastrophic flooding as a result of climate change (Senate, No. 344, changed in line 61, by striking out the words "30 months of the date of enactment" and inserting in place thereof the words "6 months of the completion of the vulnerability assessments");

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

Reports of Committees on Proposals for Legislative Amendments to the Constitution.

By Mr. Finegold, for the committee on Election Laws, on the petition (accompanied by proposal, Senate, No. 12) of Therese Murray, Josh S. Cutler, James M. Cantwell, Barry R. Finegold and other members of the General Court for a legislative amendment to the Constitution relative to absentee and early voting,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 12), ought to pass;

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 61) of Jay R. Kaufman and others for a legislative amendment to the Constitution relative to vacancies in the office of Governor or Lieutenant-Governor,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 61), ought to pass (Senator Tarr of Gloucester dissenting);

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 62) of David M. Nangle for a legislative amendment to the Constitution relative to voting by qualified voters of the Commonwealth who are also poll workers,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 62), ought to pass (Senator Tarr of Gloucester dissenting); and

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 63) of William M. Straus and others for a legislative amendment to the Constitution relative to absentee voting by qualified voters of the Commonwealth,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see

House, No. 63), ought to pass;

The reports were severally read and placed on file, in accordance with the requirements of said rule.

By Mr. Finegold, for the committee on Election Laws, on the petition (accompanied by proposal, Senate, No. 10) of Walter Ziobro for a legislative amendment to the Constitution relative to the election of members of the State Senate,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 10), ought NOT to pass;

By the same Senator, for the same committee, on the petition (accompanied by proposal, Senate, No. 11) of James B. Eldridge for a legislative amendment to the Constitution to establish an independent redistricting commission,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 11), ought NOT to pass (Senator Lovely of Salem dissenting); and

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 60) of Bradley H. Jones, Jr. and others for a legislative amendment to the Constitution relative to creating an independent redistricting commission,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 60), ought NOT to pass (Senator Tarr of Gloucester dissenting);

By Ms. Clark, for the committee on the Judiciary, on the petition (accompanied by proposal, Senate, No. 13) of Cynthia S. Creem for a legislative amendment to the Constitution relative to the subject matter of initiative petitions,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 13), ought NOT to pass;

By the same Senator, for the same committee, on the petition (accompanied by proposal, Senate, No. 14) of Richard J. Ross, Bruce E. Tarr, Robert L. Hedlund, Michael R. Knapik and other members of the General Court for a legislative amendment to the Constitution to prohibit eminent domain,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 14), ought NOT to pass;

By the same Senator, for the same committee, on the petition (accompanied by proposal, Senate, No. 15) of Bruce E. Tarr, Richard J. Ross and Geoff Diehl for a legislative amendment to the Constitution relative to the reform of the Executive Council,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 15), ought NOT to pass;

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 64) of Denise Andrews and Cleon H. Turner for a legislative amendment to the Constitution relative to the terms of office of Executive Councilors and members of the General Court,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 64), ought NOT to pass;

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 65) of Thomas A. Golden, Jr., for a legislative amendment to the Constitution relative to term limits for judges,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 65), ought NOT to pass;

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 66) of Bradley H. Jones, Jr. and others for a legislative amendment to the Constitution relative to prohibiting eminent domain takings,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 66), ought NOT to pass;

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 67) of Byron Rushing and others for a legislative amendment to the Constitution relative to the subject matter of initiative petitions,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 67), ought NOT to pass;

By the same Senator, for the same committee, on the petition (accompanied by proposal, House, No. 68) of Ellen Story for a legislative amendment to the Constitution relative to the retirement of judges,-- reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 68), ought NOT to pass;

By the same Senator, for the same committee, on the petition (accompanied proposal, House, No. 69) of Martha M. Walz and others for a legislative amendment to the Constitution relative to eminent domain takings,--reported, in accordance with a provision of Joint Rule 23, recommending that the amendment proposed by said petition (see House, No. 69), ought NOT to pass; and

By Mr. Donnelly, for the committee on State Administration and Regulatory Oversight, on the petition (accompanied by proposal, Senate, No. 18) of Bruce E. Tarr, Richard J. Ross and Michael R. Knapik for a legislative amendment to the Constitution to require a supermajority vote for the utilization of rainy day funds,-- reported, in accordance with a provision of

Joint Rule 23, recommending that the amendment proposed by said petition (see Senate, No. 18), ought NOT to pass; (Senator Tarr of Gloucester and Representative Orrall of Lakeville dissenting).

Under the provisions of Joint Rule 23, the following proposals were placed on file, the time within which the said committees were required to report having expired:

Of the committee on the Revenue, ought NOT to pass (under Joint Rule 23):

On the petition (accompanied by proposal, Senate, No. 16) of James B. Eldridge, Peter V. Kocot and Sonia Chang-Diaz for a legislative amendment to the Constitution relative to creating a progressive income tax; and

On the petition (accompanied by proposal, Senate, No. 17) of Stanley C. Rosenberg, Peter V. Kocot and Jason M. Lewis for a legislative amendment to the Constitution to allow for a graduated income tax.

PAPER FROM THE HOUSE

A Bill establishing a sick leave bank for Marjorie Pettoruto, an employee of the Highway Division of the Massachusetts Department of Transportation (House, No. 3410,-- on petition),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

Resolutions.

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

Resolutions (filed by Ms. Clark) “congratulating the 2012 Melrose High School Girls Volleyball Team on winning the Division II State Championship”;

Resolutions (filed by Mr. Ross) “congratulating Brian Wanders Mak on his elevation to the rank of Eagle Scout”;

Resolutions (filed by Mr. Ross) “congratulating Jake Daniel Pantano on his elevation to the rank of Eagle Scout”;

Resolutions (filed by Ms. Spilka and Mr. Ross) “congratulating Justin Chander on his elevation to the rank of Eagle Scout”;

Resolutions (filed by Ms. Spilka and Mr. Ross) “congratulating Evan Dean on his elevation to the rank of Eagle Scout”;

Resolutions (filed by Ms. Spilka and Mr. Ross) “congratulating Patrick McLaughlin on his elevation to the rank of Eagle Scout”; and

Resolutions (filed by Ms. Spilka and Mr. Ross) “congratulating Adam Shanahan on his elevation to the rank of Eagle Scout.”

Matter Taken Out of the Orders of the Day.

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

The House Bill authorizing the city of Malden to convey a sewer easement over a portion of certain park land (House, No. 1836, changed),-- **was read a second time.**

Pending the question on ordering the bill to a third reading, Ms. Clark presented an amendment striking out sections 3 and 4 and inserting in place thereof the following section:-

“SECTION 3. This act shall take effect upon its passage.”

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.

Reports of Committees.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for John Gustavis, an employee of the Hampshire Sheriff’s Office (House, No. 3417),-- **ought to pass.**

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

Sent to the House for concurrence in the amendment.

By Mr. Keenan, for the committee on Public Health, on petition (accompanied by bill, Senate, No. 1015), a Bill relative to prescription drug distribution (Senate, No. 1776).

The bill was read. There being no objection, the rules were suspended, on motion of Mr. Finegold, and the bill was read a

second time.

Pending the question on ordering the bill to a third reading, Mr. Finegold offered an amendment, substituting a new draft entitled "An Act delaying the implementation of a certain law relative to prescription drug distribution" (Senate, No. 1778).

The amendment was adopted.

The bill (Senate, No. 1778) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

Recess.

There being no objection, at twenty minutes past eleven o'clock A.M., the Chair (Mr. Petrucci) declared a recess, subject to the call of the Chair; and, at thirteen minutes past twelve o'clock noon, the Senate reassembled, Mr. Petrucci in the Chair.

PAPERS FROM THE HOUSE

Emergency Preamble Adopted.

An engrossed Bill delaying the implementation of a certain law relative to prescription drug testing (see Senate, No. 1778), 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 3 to 0.** The bill was signed by the Acting President (Mr. Petrucci) and sent to the House for enactment.

Engrossed Bills.

An engrossed Bill authorizing the town of Milton to issue an additional license for the sale of alcoholic beverages to be drunk on the premises of a certain restaurant (see House Bill, printed in House, No. 3329) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage was passed to be enacted, two-thirds of the members present having voted in the affirmative, and signed by the Acting President (Mr. Petrucci) and laid before the Governor for his approbation.

An engrossed Bill delaying the implementation of a certain law relative to prescription drug testing (see Senate, No. 1778) (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. Petrucci) and laid before the Governor for his approbation.

Order Adopted.

On motion of Mr. Finegold,--

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

Moment of Silence.

At the request of the Chair (Mr. Petrucci), the members, guests and staff stood in a moment of silence and reflection to the memory of Walter A. Flewelling, Jr.

Adjourn In Memory of Walter A. Flewelling, Jr.

The Senator from Suffolk and Middlesex, Mr. Brownsberger, moved that when the Senate adjourns today, it adjourn in memory of Walter A. Flewelling, Jr. of Belmont.

Walter A. Flewelling, Jr. of Belmont passed away on March 11, 2013 at the age of 83.

Mr. Flewelling served the town of Belmont with dedication, kindness and tireless work for more than four decades, including twenty-two years as Selectman. Over the years he was also a member of the School Committee, the Warrant Committee, Recreation Commission, Capital Budget Committee and numerous building and facilities committees and a Town Meeting member for twenty-seven years. His first concern was always what would be best for Belmont.

Mr. Flewelling was the owner of Crimson Printing and a realtor in later years.

He is survived by his wife Marlene and his sons Walter A. Flewelling and his wife Catherine, and Richard Flewelling and his wife Angel, and grandchildren Krista and Michael.

Accordingly, as a mark of respect in memory of Walter A. Flewelling, Jr., twenty-six minutes past twelve o'clock noon, on motion of Mr. Ross, the Senate adjourned to meet again on Thursday next at one o'clock P.M.