

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.

Tuesday, November 19, 2013.

Met according to adjournment at one o'clock P.M. (Mr. Richard T. Moore in the Chair).

Distinguished Guests.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Ms. Donoghue and Mr. Barrett for the purpose of an introduction. Ms. Donoghue then introduced, in the rear of the Chamber, a group of Alzheimer's and dementia caregivers. Among the group were Alan Holbrook, Alexis Dandreta and Allen and Jeanne Krieger. They were visiting the State House in recognition of November being National Alzheimer's Disease Awareness Month and National Caregiver Month. Over 120,000 citizens of the Commonwealth suffer from this disease today, and it is estimated that there will be 360,000 by 2025. Each member of the group was applauded for their extraordinary efforts in caring for those affected by this disease and they withdrew from the Chamber.

There being no objection, during consideration of the Orders of the Day, the President handed the gavel to Ms. Forry for the purpose of an introduction. Ms. Forry then introduced, in the rear of the Chamber, Marvin E. Gilmore, Jr. Since 1973, Mr. Gilmore has served as the President and CEO of Community Development Corporation of Boston, Inc., a community-based private, non-profit economic development organization. He was being recognized for his fundraising efforts that have helped several charities and non-profit organizations and for having served as a trustee and board member at Youville Hospital and New England Conservatory. Mr. Gilmore is a highly decorated World War II Veteran, having served in the 458th Battery "A" Anti-Aircraft Artillery Battalion. He was recently presented with the 2013 Commonwealth Leadership Award for extraordinary commitment to serving the public by the MA Cultural Council. The Senate applauded his heroic efforts and all he does for the Commonwealth and he withdrew from the Chamber. He was also a guest of Senators Chang-Diaz and DiDomenico.

There being no objection, during consideration of the Orders of the Day, the President introduced, in the rear of the Chamber, a group of surgeons from the 2nd Annual American College of Surgeons State House Summit. One of the main goals of the group is to allow for an opportunity for the interchange of ideas and to allow for more information about the concerns that we have about the organization of the statewide trauma system. Among the group visiting the State House were Peter Masiakos, MD: Director of Pediatric Trauma at MGH, George Velmahos, MD: Chief of Trauma, Emergency Surgery and Surgical Critical Care at MGH, Fredrick Millham, MD: Chair of the State Trauma Committee, Peter Burke, MD: Chief of Trauma at Boston Medical Center, Terry Buchmiller, MD: Pediatric Surgeon at Boston Children's Hospital and President of the Massachusetts American College of Surgeons, Andrew L. Warshaw, MD: President-elect of the American College of Surgeons in Washington DC, Timothy Emhoff, MD at UMASS and Heena Santry, MD at UMASS. These surgeons were instrumental in first responding to the Marathon bombing victims. The group was applauded for their outstanding efforts and withdrew from the Chamber.

Communication.
A communication from Martin J. Benison, Comptroller, (pursuant to Chapter 38 of the Acts of 2013) submitting a revised Fiscal Year 2014 transfer schedule for account 1595-1068 (Medical Assistance Trust Fund) (received, Thursday, November 14, 2013),-- was placed on file.

Petitions.

Petitions were severally presented and referred as follows:

By Mr. Brewer, a petition (subject to Joint Rule 12) of Stephen M. Brewer and Anne M. Gobi for legislation to designate a certain bridge in the town of Barre as the Basil D. Izzi Bridge; and

By Ms. Lovely, a petition (subject to Joint Rule 12) of Joan B. Lovely for legislation to establish a public housing bullying and harassment behavior registry;

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

Reports of a Committee.

By Mr. Welch, for the committee on Health Care Financing, on petition (accompanied by bill Senate, No. 534), a Bill to establish the childhood vaccine program (Senate, No. 1922) [Estimated cost-more than \$100,000];

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

Committees Discharged.

Mr. Rosenberg, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration of the Senate Bill creating the Cape and Islands Property Insurance Commission (Senate, No. 980),-- and recommending that the same be referred to the committee on Ethics and Rules.

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

PAPERS FROM THE HOUSE.

A message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating the charter amendments approved at the May 15, 2006 annual town meeting held in the town of Swampscott (House, No. 3768),-- was referred, in concurrence, to the committee on Municipalities and Regional Government.

A petition (accompanied by bill, House, No. 3769) of John W. Scibak and Stanley C. Rosenberg (by vote of the town) to expand the town of Hadley's quota of liquor licenses,-- was referred, in concurrence, to the committee on Consumer Protection and Professional Licensure.

Bills

Establishing a sick leave bank for Chrystal Bonner, an employee of the Executive Office of Health and Human Services (House, No. 3750,-- on petition); and

Establishing a sick leave bank for India Haith, an employee of the Executive Office of Health and Human Services (House, No. 3751,-- on petition);

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

Bills

Authorizing the town of Norwood to change the use of a recreation department parcel and to erect and constitute an Eastern Massachusetts Regional Ice Skating Rink and Recreation Center (House, No. 3712,-- on petition); and

Validating the results of the annual election held in the town of Ipswich on May 21, 2013 (printed in House, No. 3717,-- being a message from His Excellency the Governor);

Were severally read and, under Senate Rule 26, referred to the committee on Ethics and Rules.

There being no objection, at one minute past one o'clock P.M., the Chair (Mr. Richard T. Moore) declared a recess subject to the call of the Chair; and, at twelve minutes past one 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.

Communications.

The Clerk read the following communications:

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE

November 18, 2013

William F. Welch
Clerk of the Senate
State House, Room 335
Boston, MA 02133

RE: Roll Call #206

Dear Mr. Clerk,

On November 14, 2013, I was chairing a hearing held by the Joint Committee on Housing and was absent from the Chamber when Roll Call #206 was taken on Senate Bill 1918, An Act relative to cardiopulmonary resuscitation certification for athletic coaches. Had I been present when the roll was called, I would have voted YES on this matter.

I would appreciate it if a copy of this letter was entered in the Journal of the Senate.

Sincerely,
JAMES B. ELDRIDGE
State Senator
Middlesex and Worcester District

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

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE

November 19, 2013

Mr. William F. Welch, Clerk
Massachusetts State Senate
State House – Room 335
Boston, MA 02133

Dear Mr. Clerk,

I was unable to be present at the formal session on Thursday, November 14, 2013 due to being out of the State of Massachusetts. Had I been in attendance I would have voted in the following ways on the roll call votes for S1918, An Act relative to cardiopulmonary resuscitation certification for athletic coaches; S1919, An Act relative to newborn pulse oximetry screening for congenital heart defects; S1337, An Act to provide further revenue to the financial literacy trust fund; and S1921, An Act preventing discrimination based on veteran's status:

In the Affirmative on Roll Call No. 206, engrossment of S1918, in the Affirmative on Roll Call No. 207, engrossment of S1919, in the Affirmative on Roll Call No. 208, engrossment of S1337, and in the Affirmative on Roll Call No. 209, engrossment of S1921.

Thank you for your time and attention to this matter.

Sincerely,
SENATOR ANTHONY PETRUCCELLI
1st Suffolk and Middlesex

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

PAPERS FROM THE HOUSE

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Janet Soboleski, an employee of the Department of Mental Health (see House, No. 3682), 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 11 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 town clerk in the town of Upton (see Senate, No. 1855);

Relative to the town treasurer-collector in the town of Hingham (see House, No. 3550); and

Establishing a sick leave bank for Maritza Miranda, an employee of the Department of Children and Families (see House, No. 3693).

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

Petition (accompanied by bill, House, No. 3773) of Stephen Kulik, Karen E. Spilka and others relating to the issuance of temporary notes by cities, towns and districts;

Under suspension of Joint Rule 12, to the committee on Municipalities and Regional Government.

Petition (accompanied by bill, House, No. 3774) of Angelo M. Scaccia and Michael F. Rush designating a certain bridge in the city of Boston as the PFC Alvin Richard Gale memorial bridge;

Under suspension of Joint Rule 12, to the committee on Transportation.

A Bill relative to the date of 2014 biennial state primaries (House, No. 3764, amended,-- on petition),-- was read.

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

Matter Taken Out of the Notice Section of the Calendar.

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 Arlington to establish a special account for the purchase, installation and maintenance of

public works of art (Senate, No. 1794),-- 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 House Bill repealing the law authorizing the town of Lincoln to grant a license for the sale of wines and malt beverages to be drunk on the premises (House, No. 3527),-- was read a second time and ordered to a third reading.

The Senate Committee Bill to restore the minimum wage (Senate, No. 1925),-- was read a second time.

After remarks, and pending the question on ordering the bill to a third reading, Messrs. Wolf, Donnelly, Eldridge, and Montigny and Ms. Chang-Diaz moved that the bill be amended by inserting after section 5 the following section:-

“SECTION 5A. Section 7 of said chapter 151, as so appearing, is hereby amended by striking out , in lines 30 and 31, the following words ‘the cash wage required to be paid such an employee on July 1, 1999’ and inserting in place thereof the following words:- 50 per cent of the minimum wage, established under section 1.”; and in section 6, by striking out, in line 21, the words “and 5” and inserting in place thereof the following words:- “, 5 and 5A”.

After debate, and pending the question on adoption of the amendment, Mr. Pacheco moved that the pending amendment (Wolf et al) be amended by striking out the amendment and inserting in place thereof the following new text:-

“SECTION __: Section 7 of said chapter 151 is hereby amended by striking out the words ‘the cash wage required to be paid such an employee on July 1, 1999’ and inserting in place thereof the following figure:- 45% of the minimum wage, as outlined in section 1 of chapter 151 of the General Laws.

SECTION __: Said Section 7 of said chapter 151 is hereby further amended by striking out the figure ‘45% of the minimum wage, as defined in section 1 of chapter 151 of the General Laws’, inserted by Section 3, and inserting in place thereof the following figure:- 60% of the minimum wage, as defined in section 1 of chapter 151 of the General Laws.”; by striking out section 6 and inserting in place thereof the following new section:-

“SECTION 6. Sections 1, 5, and __ shall take effect on January 1, 2014.”; and by striking out section 7 and inserting in place thereof the following new section:-

“SECTION 7. Sections 2 and __ shall take effect on January 1, 2015.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-three minutes before three o’clock P.M., on motion of Mr. Pacheco, as follows, to wit (yeas 13 — nays 25) [Yeas and Nays No. 210]:

YEAS.

Barrett, Michael J. Forry, Linda Dorcena

Brownsberger, William N. Jehlen, Patricia D.

Chang-Diaz, Sonia Joyce, Brian A.

Clark, Katherine M. McGee, Thomas M.

DiDomenico, Sal N. Montigny, Mark C.

Downing, Benjamin B. Pacheco, Marc R. — 13.

Eldridge, James B.

NAYS.

Brewer, Stephen M. Moore, Richard T.

Candaras, Gale D. O’Connor Ives, Kathleen

Chandler, Harriette L. Petrucci, Anthony

Creem, Cynthia Stone Rodrigues, Michael J.

Donnelly, Kenneth J. Rosenberg, Stanley C.

Donoghue, Eileen M. Ross, Richard J.

Finegold, Barry R. Rush, Michael F.

Flanagan, Jennifer L. Spilka, Karen E.

Hedlund, Robert L. Tarr, Bruce E.

Keenan, John F. Timilty, James E.

Kennedy, Thomas P. Welch, James T.

Lovely, Joan B. Wolf, Daniel A. — 25.

Moore, Michael O.

The yeas and nays having been completed at eighteen minutes before three o’clock P.M., the amendment was rejected.

Mr. Tarr moved that the pending amendment (Wolf et al) be amended by striking the text and inserting in place thereof the following:-

“SECTION XX. Section 7 of Chapter 151 of the General Laws is hereby amended by striking the following words in lines 29-31:- ‘the cash wage required to be paid such an employee on July 1, 1999’ and inserting in place thereof the following words:- ‘35% of the wage in effect under section 1’.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at two minutes before three o’clock P.M., on motion of Mr. Hedlund, as follows, to wit (yeas 8 — nays 30) [Yeas and Nays No. 211]:

YEAS.

Hedlund, Robert L. Rodrigues, Michael J.

Moore, Michael O. Ross, Richard J.
O'Connor Ives, Kathleen Tarr, Bruce E.
Petrucelli, Anthony Timilty, James E. – 8.
NAYS.
Barrett, Michael J. Forry, Linda Dorcena
Brewer, Stephen M. Jehlen, Patricia D.
Brownsberger, William N. Joyce, Brian A.
Candaras, Gale D. Keenan, John F.
Chandler, Harriette L. Kennedy, Thomas P.
Chang-Diaz, Sonia Lovely, Joan B.
Clark, Katherine M. McGee, Thomas M.
Creem, Cynthia Stone Montigny, Mark C.
DiDomenico, Sal N. Moore, Richard T.
Donnelly, Kenneth J. Pacheco, Marc R.
Donoghue, Eileen M. Rosenberg, Stanley C.
Downing, Benjamin B. Rush, Michael F.
Eldridge, James B. Spilka, Karen E.
Finegold, Barry R. Welch, James T.
Flanagan, Jennifer L. Wolf, Daniel A. – 30.

The yeas and nays having been completed at three minutes past three o'clock P.M., the amendment was rejected.
After further debate, the question on adoption of the pending amendment (Wolf et al) was then determined by a call of the yeas and nays at ten minutes past three o'clock P.M., on motion of Mr. Hedlund, as follows, to wit (yeas 31 — nays 7) [Yeas and Nays No. 212]:
YEAS.

Barrett, Michael J. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Brownsberger, William N. Kennedy, Thomas P.
Candaras, Gale D. Lovely, Joan B.
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. Pacheco, Marc R.
Donnelly, Kenneth J. Petrucelli, Anthony
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Rush, Michael F.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Welch, James T.
Forry, Linda Dorcena Wolf, Daniel A. – 31.
Jehlen, Patricia D.
NAYS.
Donoghue, Eileen M. Ross, Richard J.
Hedlund, Robert L. Tarr, Bruce E.
O'Connor Ives, Kathleen Timilty, James E. – 7.
Rodrigues, Michael J.

The yeas and nays having been completed at a quarter past three o'clock P.M., the amendment was adopted.

Mr. Pacheco moved that the bill be amended by inserting after section 5 the following section:-

“SECTION 5A. Section 7 of said chapter 151, as so appearing, is hereby amended by adding the following paragraph:-

The commissioner shall annually increase the minimum fair wage rate that an employer is required to pay a tipped employee by the percentage increase, if any, of the consumer price index as calculated for the northeast region for all urban consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the previous 12 month period and rounded up to the nearest 5 cents. The adjusted minimum fair wage rate for tipped employees shall be calculated and announced by the commissioner by April 1 of each year and shall become effective as the new minimum fair wage for tipped employees on July 1 of each year. Nothing in this paragraph shall limit the commissioner's authority, under this chapter, to raise the fair wage rate for tipped employees.”; and in section 8, by striking out, in line 23, the words “and 4” and inserting in place thereof the following words:- “, 4 and 5A”.

The amendment was rejected.

Mr. Ross moved that the bill be amended by inserting after section __, the following new section:-

“SECTION __. Section 1 of chapter 151 of the General Laws, as so appearing, is hereby further amended by adding the following:—

Notwithstanding the provisions of this section, wages paid to workers under the age of 18 for their initial 400 hours worked or their initial 90 calendar days of employment, whichever first occurs, shall not be considered oppressive or unreasonable if said wage per hour is lower than the minimum wage by not more than 20 percent, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine. Provided further, however, that any wage lower than \$8.00 per hour shall conclusively be presumed to be oppressive and unreasonable, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine."

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at eighteen minutes past three o'clock P.M., on motion of Mr. Ross, as follows, to wit (yeas 3 — nays 35) [Yeas and Nays No. 213]:

YEAS.

Hedlund, Robert L. Tarr, Bruce E. — 3.

Ross, Richard J.

NAYS.

Barrett, Michael J. Keenan, John F.

Brewer, Stephen M. Kennedy, Thomas P.

Brownsberger, William N. Lovely, Joan B.

Candaras, Gale D. McGee, Thomas M.

Chandler, Harriette L. Montigny, Mark C.

Chang-Diaz, Sonia Moore, Michael O.

Clark, Katherine M. Moore, Richard T.

Creem, Cynthia Stone O'Connor Ives, Kathleen

DiDomenico, Sal N. Pacheco, Marc R.

Donnelly, Kenneth J. Petrucci, Anthony

Donoghue, Eileen M. Rodrigues, Michael J.

Downing, Benjamin B. Rosenberg, Stanley C.

Eldridge, James B. Rush, Michael F.

Finegold, Barry R. Spilka, Karen E.

Flanagan, Jennifer L. Timilty, James E.

Forry, Linda Dorcena Welch, James T.

Jehlen, Patricia D. Wolf, Daniel A. — 35.

Joyce, Brian A.

The yeas and nays having been completed at twenty-four minutes past three o'clock P.M., the amendment was rejected.

Mr. Pacheco moved that the bill be amended by inserting after section ___, the following new sections:-

"SECTION __: Section 7 of said chapter 151 is hereby amended by striking out the words 'the cash wage required to be paid such an employee on July 1, 1999' and inserting in place thereof the following figure:- '\$4.95'.

SECTION __: Said Section 7 of said chapter 151 is hereby further amended by striking out the figure '\$4.95', inserted by Section 3, and inserting in place thereof the following figure:- '\$6.60'."; by striking out section 6 and inserting in place thereof the following new section:-

"SECTION 6. Sections 1, 5, and __ shall take effect on January 1, 2014."; and by striking out section 7 and inserting in place thereof the following new section:-

"SECTION 7. Sections 2 and __ shall take effect on January 1, 2015."

The amendment was rejected.

Mr. Ross moved that the bill be amended by inserting the following new section:-

"SECTION XX: Chapter 136 is hereby amended by striking out clauses 50 and 52, in section 6, as so appearing, and inserting in place thereof the following section:-

(50) The keeping open of a store or shop and the sale at retail of goods therein, but not including the retail sale of goods subject to chapter one hundred and thirty-eight, and the performance of labor, business, and work directly connected therewith on Sunday. This exemption shall not apply to any legal holiday as defined in clause eighteenth of section seven of chapter four, but this exemption shall apply to the day following Christmas Day when Christmas occurs on a Sunday. In any year in which Christmas occurs on a Sunday, this exemption shall not apply to that Sunday.

No employee engaged in work subject to the provisions of this clause shall be required to perform such work, and refusal to work for any retail establishment on Sunday shall not be grounds for discrimination, dismissal, discharge, reduction in hours, or any other penalty. The provisions of this paragraph shall be enforced by the office of the attorney general. The provisions of section one hundred and eighty A of chapter one hundred and forty-nine shall apply to any violation of this paragraph.

(52) The retail sale of alcoholic beverages not to be drunk on the premises on Sundays by retail establishments licensed under section 15 of chapter 138; provided, however, that notwithstanding this chapter, a municipality may prohibit the retail sale of alcoholic beverages on Sundays by licensees under section 15 by vote of the city council or board of selectmen; provided further, that there shall be no such sales prior to the hour of 12:00 noon or on Christmas Day if Christmas occurs on a Sunday. No employee shall be required to work on a Sunday and refusal to work on a Sunday shall not be grounds for discrimination, dismissal, discharge, deduction of hours or any other penalty.

SECTION XX: Chapter 136 is hereby further amended in section 16 by striking out the second paragraph, therein, and inserting

in place thereof the following new paragraph:-

Any store or shop authorized to operate pursuant to this section and which employs more than a total of seven persons, including the proprietor, on any day throughout the week, shall compensate all employees engaged in the work performed on the holiday, excepting those bona fide executive or administrative or professional persons earning more than two hundred dollars a week, at a rate not less than one and one-half times the employee's regular rate. No employee engaged in work subject to the provisions of this clause shall be required to perform such work, and refusal to work for any retail establishment on a holiday shall not be grounds for discrimination, dismissal, discharge, reduction in hours, or any other penalty. The provisions of this paragraph shall be enforced by the office of the attorney general. The provisions of section one hundred and eighty A of chapter one hundred and forty-nine shall apply to any violation of this paragraph. The terms 'Memorial Day,' 'July Fourth' and 'Labor Day' shall mean the legal holidays on which said days are celebrated in accordance with clause eighteen of section seven of chapter four of the General Laws."

After remarks, the amendment was rejected.

Messrs. Joyce and Eldridge moved that the bill be amended by adding the follow sections:

"SECTION XX. The Division of Labor Standards shall calculate a minimum living wage for each county in the Commonwealth of Massachusetts by July 1, 2014. The living wage shall be the hourly wage at which a family of four could reasonably sustain itself in the county based on forty hours of work per week for fifty weeks per year. The living wage shall not be lower than the state minimum wage.

SECTION XX. Chapter 151 of the General Laws is hereby amended by inserting after section 1B the following section:-
Section 1C. Living Wage.

(1) The following words and phrases as used in this section shall have the following meanings, unless the context clearly requires otherwise:

'Assistance,' any grant, loan, tax incentive, bond financing, subsidy, appropriation or other form of assistance valued at least \$100,000 that an employer receives by or through the authority or approval of the Commonwealth of Massachusetts; or any service contract, as defined herein, of at least \$100,000 with the Commonwealth that is made with an employer to provide; or any service subcontract, as defined herein, of at least \$100,000.

'Beneficiary,' any person who is a recipient of Assistance; or any company or person that is a tenant or sub-tenant, leaseholder or sub-leaseholder of a recipient of Assistance, provided that said company or person employs at least 25 persons and occupies property or uses equipment or property that is improved or developed as a result of Assistance, after the effective date of this Chapter.

'Covered Employer,' any Beneficiary of Assistance.

'Covered Employee,' a person employed by a Covered Employer, or a person employed by an independent contractor doing business with a Covered Employer, who would directly expend any of his or her time on the activities funded by the contract or the activities for which the Beneficiary received the Assistance.

'Person,' one or more of the following or their agents, employees, servants, representatives, and legal representatives: individuals, corporations, partnerships, joint ventures, associations, labor organizations, educational institutions, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and all other entities recognized at law by the Commonwealth of Massachusetts.

'Service Contract,' a contract let to a contractor by Commonwealth of Massachusetts for the furnishing of service, except contracts where services are incidental to the delivery of products, equipment or commodities. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not a "service contract" for the purposes of this definition.

'Service Subcontract,' a subcontract primarily for the furnishing of services, to or for a recipient of Assistance, except where services are incidental to the delivery of products, equipment or commodities. A contract for the purchase or lease of goods, products, equipment, supplies or other property is not a "service subcontract" for the purposes of this definition.

(2) Applicability. Covered Employers shall pay no less than the Living Wage to their employees, as defined for the county in which the employee performs work.

(a) No reduction in collective bargaining wage rates. Nothing in this section shall be read to require or authorize any beneficiary to reduce wages set by a collective bargaining agreement.

(b) Cuts in non-wage benefits prohibited. No Beneficiary shall fund wage increases required by this section, or otherwise respond to the provisions of this section, by reducing the health, insurance, pension, vacation, or other non-wage benefits of any of its employees.

(3) The Department of Labor Standards shall promulgate regulations which shall include, but not be limited to waivers, exemptions, notification, duties of covered employees, and enforcement.

(4) This section shall go into effect on July 1, 2015."

The amendment was rejected.

Ms. O'Connor Ives and Ms. Donoghue moved that the bill be amended in section 4, by striking out, in line 16, the word "April" and inserting in place thereof the following word:- "October"; by striking out, in line 17, the word "July" and inserting in place thereof the following word:- "January"; in section 6, by striking out, in line 21, the word "January" and inserting in place thereof the following word:- "July"; in section 7, by striking out, in line 22, the word "January" and inserting in place thereof the following word:- "July"; and in section 8, by striking out, in line 23, the word "January" and inserting in place thereof the following word:- "July".

The amendment was adopted.

Ms. O'Connor Ives and Ms. Donoghue moved that the bill be amended by inserting the following new section:

“SECTION XX: Section 1 of chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting, after the first paragraph, the following sentence:- In the case of any employer employing less than fifty persons, a wage less than \$8.00 per hour, in any occupation, as defined in this chapter, shall conclusively be presumed to be oppressive and unreasonable, wherever the term ‘minimum wage’ is used in this chapter, unless the commission has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine. Notwithstanding the provisions of this section, in no case shall the minimum wage rate be less than \$.10 higher than the effective federal minimum rate.”

After remarks, the amendment was rejected.

Ms. O'Connor Ives moved that the bill be amended by striking sections 2, 3, 4, 7, and 8.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-seven minutes before four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 8 — nays 30) [Yeas and Nays No. 214]:

YEAS.

Donoghue, Eileen M. O'Connor Ives, Kathleen

Hedlund, Robert L. Ross, Richard J.

Lovely, Joan B. Tarr, Bruce E.

Moore, Richard T. Timilty, James E. — 8.

NAYS.

Barrett, Michael J. Jehlen, Patricia D.

Brewer, Stephen M. Joyce, Brian A.

Brownsberger, William N. Keenan, John F.

Candaras, Gale D. Kennedy, Thomas P.

Chandler, Harriette L. McGee, Thomas M.

Chang-Diaz, Sonia Montigny, Mark C.

Clark, Katherine M. Moore, Michael O.

Creem, Cynthia Stone Pacheco, Marc R.

DiDomenico, Sal N. Petruccelli, Anthony

Donnelly, Kenneth J. Rodrigues, Michael J.

Downing, Benjamin B. Rosenberg, Stanley C.

Eldridge, James B. Rush, Michael F.

Finegold, Barry R. Spilka, Karen E.

Flanagan, Jennifer L. Welch, James T.

Forry, Linda Dorcena Wolf, Daniel A. — 30.

Mr. Rosenberg in the Chair, the yeas and nays having been completed at twenty-four minutes before four o'clock P.M., the amendment was rejected.

Mr. Hedlund moved that the bill be amended by striking the text, in its entirety, and inserting, in place thereof the following:-

“SECTION 1. Section 1 of Chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 5, the figure ‘8.00’ and inserting in place thereof the following figure:- 9.00

SECTION 2. Section 1 shall take effect July 1, 2014”.

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays at one minute past four o'clock P.M., on motion of Mr. Hedlund, as follows, to wit (yeas 6 — nays 32) [Yeas and Nays No. 215]:

YEAS.

Donoghue, Eileen M. Ross, Richard J.

Hedlund, Robert L. Tarr, Bruce E.

O'Connor Ives, Kathleen Timilty, James E. — 6.

NAYS.

Barrett, Michael J. Joyce, Brian A.

Brewer, Stephen M. Keenan, John F.

Brownsberger, William N. Kennedy, Thomas P.

Candaras, Gale D. Lovely, Joan B.

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. Pacheco, Marc R.

Donnelly, Kenneth J. Petruccelli, Anthony

Downing, Benjamin B. Rodrigues, Michael J.

Eldridge, James B. Rosenberg, Stanley C.

Finegold, Barry R. Rush, Michael F.

Flanagan, Jennifer L. Spilka, Karen E.

Forry, Linda Dorcena Welch, James T.

Jehlen, Patricia D. Wolf, Daniel A. — 32.

The President in the Chair, the yeas and nays having been completed at five minutes past four o'clock P.M., the amendment was rejected.

Messrs. Tarr and Ross moved that the bill be amended by striking all after the enacting clause and inserting in place thereof the following:-

“SECTION 1. Section 1 of chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 5, the figure ‘8.00’ and inserting in place thereof the following figure :- 8.75.

SECTION 2. Said section 1 of said chapter 151 is hereby further amended by striking out the figure ‘8.75’, inserted by section 1, and inserting in place thereof the following figure :- 9.50

SECTION 3. Said section 1 of said chapter 151, as so appearing, is hereby further amended by striking out, in line 12, the figure ‘.10’ and inserting in place thereof the following figure:-.50

SECTION 4. The minimum wage shall be reviewed every two years beginning July 1, 2016, by the secretary of administration and finance, in consultation with the secretary of housing and economic development, and the secretary of labor and workforce development, to recommend to the governor and the General Court any changes to the minimum wage, effective January 1st. Such recommendations shall consider but not be limited to the following factors: the rate of inflation, the minimum wage in other states, the commonwealth’s competitiveness, the status of the commonwealth’s labor market, commonwealth’s teen unemployment, success of increasing minimum wage in helping the target population and there shall be at least 3 public hearings held in various geographic regions in the commonwealth.

SECTION 5. Following any increase in the minimum wage the secretary of labor and workforce development shall report on the impact of said increase on employment in the commonwealth, impacts on businesses, particularly small businesses in the commonwealth, and success of increasing the minimum wage in helping the target population. Said report shall be submitted to the clerks of the house and senate, and the joint committee on labor and workforce development within one year of an increase in the minimum wage.

SECTION 6. The commissioner of the department of revenue in consultation with the secretary of administration and finance, the secretary of housing and economic development, and the secretary of labor and workforce development shall examine the feasibility of expanding the earned income tax credit as established in section 6 (h) of Chapter 62 in lieu of future increases to the minimum wage. The report along with any recommendations shall be filed with the clerks of the house and senate, the joint committee on revenue, the joint committee on labor and workforce development, and the joint committee on ways and means by December 31, 2015.

SECTION 7. Sections 1 and 3 shall take effect on April 1, 2014.

SECTION 8. Section 2 shall take effect on April 1, 2015.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at eleven minutes past four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 8 — nays 30) [Yeas and Nays No. 216]:

YEAS.

Hedlund, Robert L. Rodrigues, Michael J.

Lovely, Joan B. Ross, Richard J.

Moore, Michael O. Tarr, Bruce E.

Moore, Richard T. Timilty, James E. — 8.

NAYS.

Barrett, Michael J. Forry, Linda Dorcena

Brewer, Stephen M. Jehlen, Patricia D.

Brownsberger, William N. Joyce, Brian A.

Candaras, Gale D. Keenan, John F.

Chandler, Harriette L. Kennedy, Thomas P.

Chang-Diaz, Sonia McGee, Thomas M.

Clark, Katherine M. Montigny, Mark C.

Creem, Cynthia Stone O'Connor Ives, Kathleen

DiDomenico, Sal N. Pacheco, Marc R.

Donnelly, Kenneth J. Petrucci, Anthony

Donoghue, Eileen M. Rosenberg, Stanley C.

Downing, Benjamin B. Rush, Michael F.

Eldridge, James B. Spilka, Karen E.

Finegold, Barry R. Welch, James T.

Flanagan, Jennifer L. Wolf, Daniel A. — 30.

The yeas and nays having been completed at fourteen minutes past four o'clock P.M., the amendment was rejected.

Ms. Donoghue and Ms. O'Connor-Ives moved that the bill be amended by adding the following section:-

“SECTION XX. Chapter 151 of the General Laws is hereby amended by inserting after section 22 the following new section:-

Section 23. In the case of any business or organization employing fewer than fifty persons, said business or organization shall receive an annual tax credit of \$1,000.00 for each full time employee earning not less than the minimum wage, as defined by this chapter, and who has been an employee for at least 6 months with said business or organization.”

Pending the question on adoption of the amendment, the President made a ruling on the amendments 15 and 21, as follows:

The Massachusetts Constitution says: “All money bills shall originate in the house of representatives....”

The parliamentary precedents of the Senate require the President to observe with meticulous care the constitutional prerogatives of the House of Representatives.

Without waiting for a point of order to be raised, she must see that the Senate does not originate a “money bill” in violation of the Constitution.

Any Senate amendment that would convert into a “money bill” a bill that was not a “money bill” is out of order.

The pending amendments before the Senate, if adopted, would thus convert the bill into a “money bill”. Therefore, the amendments are not in order, and were laid aside.

Ms. Donoghue moved that the bill be amended by adding the following section:-

“SECTION XX. Section 1 of chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting, after the first paragraph, the following paragraph:-

In the case of any business or organization employing fewer than fifty persons, a wage not less than the minimum wage, as defined by this chapter, shall be paid to employees who are at least 20 years of age or who are younger than 20 years of age and have worked not fewer than 90 calendar days with said employer. Those employees who do not meet these requirements shall receive a wage not less than the greater amount of either \$8.00 per hour or the effective federal minimum wage rate plus \$0.10.”

The amendment was rejected.

Messrs. Tarr and Ross moved that the bill be amended by striking all after the enacting clause and inserting in place thereof the following:-

“SECTION 1. Chapter 29 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by adding the following section:-

Section 2JJJJ. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Living Wage Empowerment Fund, hereinafter called the fund. The fund shall be administered by the commissioner of revenue. Amounts credited to the fund shall be expended, without further appropriation, to taxpayers who receive a tax credit under section 6(h) of chapter 62 and have 1 or more qualifying dependent children.

The commissioner shall provide taxpayers with 1 or more qualifying dependent children 20 per cent of the amount said person qualified for, claimed, and received under section 6(h) of chapter 62.

The department of revenue shall be the administrator of the fund and shall maintain the fund as a separate fund and shall cause it to be audited by an independent accountant on an annual basis in accordance with generally-accepted accounting principles.

There shall be credited to the fund any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and any gifts, grants, private contributions, investment income earned on the fund's assets and all other sources, including federal funds for the temporary assistance to needy families program. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

The fund shall supplement and not replace existing credits received under section 6(h) of chapter 62.

SECTION 2. Section 1 of chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 5, the figure ‘8.00’ and inserting in place thereof the following figure :- 8.75.

SECTION 3. Said section 1 of said chapter 151 is hereby further amended by striking out the figure ‘8.75’, inserted by section 2, and inserting in place thereof the following figure :- 9.50

SECTION 4. Said section 1 of said chapter 151, as so appearing, is hereby further amended by striking out, in line 12, the figure ‘.10’ and inserting in place thereof the following figure:-.50

SECTION 5. Said Section 1 of said chapter 151, as so appearing, is hereby further amended by adding the following sentence:- Notwithstanding the provisions of this section, no wage rate greater than \$1.00 per hour more than the effective federal minimum rate shall be presumed to be oppressive or unreasonable if the employer provides the wage collector ‘minimum credible coverage’ under section 1 of chapter 111M.

SECTION 6. The minimum wage shall be reviewed every two years beginning July 1, 2016, by the secretary of administration and finance, in consultation with the secretary of housing and economic development, and the secretary of labor and workforce development, to recommend to the governor and the General Court any changes to the minimum wage, effective January 1st. Such recommendations shall consider but not be limited to the following factors: the rate of inflation, the minimum wage in other states, the commonwealth’s competitiveness, the status of the commonwealth’s labor market, the commonwealth’s teen unemployment, the effectiveness of increasing the minimum wage in helping the target population and there shall be at least 3 public hearings held in various geographic regions in the commonwealth.

SECTION 7. The secretary of labor and workforce development, in consultation with the secretary of administration and finance and the secretary of housing and economic development, shall study the impact of the minimum wage rate and minimum wage rate increases as they relate to New England City and Town Area’s (NECTAs) and Labor Market Areas (LMAs) in Massachusetts. The study shall analyze the cost of living in said NECTAs and LMAs and the effective minimum wage rate adjusted for the cost of living in said NECTAs and LMAs, detailing the impact of minimum wage rates on employment, the ability of employers to hire additional employees, and the effectiveness of the minimum wage rate at reducing poverty and helping financial independence. The report, together with any legislative recommendations, shall be filed electronically with the clerks of the house of representatives and the senate and the joint committee on labor and workforce development not later than May 15, 2014.

SECTION 8. There is hereby established a living wage commission to address poverty reduction and ensuring all workers are provided with a wage allowing them to live a healthy and financially independent lifestyle. The commission shall consist of the following members or their appointees: the secretary of labor and workforce development, the secretary of administration and finance, the secretary of housing and economic development, the senate president, the speaker of the house of representatives, the

senate minority leader and the minority leader of the house of representatives. The commission shall issue a report on an appropriate wage rate to ensure that employees can afford the cost of living in their geographic area and a healthy and financially independent lifestyle. Said report shall be submitted to the clerks of the house of representatives and the senate and filed not later than June 15, 2014.

SECTION 9. Notwithstanding any general or special law to the contrary, following any increase in the minimum wage the secretary of labor and workforce development shall report on the impact of said increase on employment in the commonwealth, impacts on businesses, particularly small businesses in the commonwealth, and success of increasing the minimum wage in helping the target population. Said report shall be submitted to the clerks of the house and senate, and the joint committee on labor and workforce development within one year of an increase in the minimum wage.

SECTION 10. SECTION 1 shall take effect September 1, 2014

SECTION 11. Section 2 and 4 shall take effect April 1, 2014.

SECTION 12. Section 3 shall take effect April 1, 2015.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-five minutes past four o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 4 — nays 34) [Yeas and Nays No. 217]:

YEAS.

Hedlund, Robert L. Tarr, Bruce E.

Ross, Richard J. Timilty, James E. — 4.

NAYS.

Barrett, Michael J. Joyce, Brian A.

Brewer, Stephen M. Keenan, John F.

Brownsberger, William N. Kennedy, Thomas P.

Candaras, Gale D. Lovely, Joan B.

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. O'Connor Ives, Kathleen

Donnelly, Kenneth J. Pacheco, Marc R.

Donoghue, Eileen M. Petrucci, Anthony

Downing, Benjamin B. Rodrigues, Michael J.

Eldridge, James B. Rosenberg, Stanley C.

Finegold, Barry R. Rush, Michael F.

Flanagan, Jennifer L. Spilka, Karen E.

Forry, Linda Dorcena Welch, James T.

Jehlen, Patricia D. Wolf, Daniel A. — 34.

The yeas and nays having been completed at twenty-eight minutes past four o'clock P.M., the amendment was rejected.

Messrs. Tarr and Ross moved that the bill be amended in section 6 in line 21 by striking the figure “2014” and inserting in place thereof the following: - “2015”; in section 7 in line 22 the figure “2015” and inserting in place thereof the following: - “2016”; and in section 8 in line 23 the figure “2016” and inserting in place thereof the following: - “2017”.

After remarks, the amendment was rejected.

Mr. Ross moved that the bill be amended by inserting the following new section:-

“SECTION XX. Section 1 of chapter 151 of the General Laws, as so appearing, is hereby further amended by adding at the end of the first paragraph the following:—

Notwithstanding the provisions of this section, wages paid to workers under the age of 18 who are seasonally employed for no more than 5 months in any consecutive twelve month period shall not be considered oppressive or unreasonable if said wage per hour is lower than the minimum wage by not more than 20 percent, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine. Provided further, however, that any wage lower than \$8.00 per hour shall conclusively be presumed to be oppressive and unreasonable, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine.”

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays at twenty-eight minutes before five o'clock P.M., on motion of Mr. Ross, as follows, to wit (yeas 5 — nays 33) [Yeas and Nays No. 218]:

YEAS.

Finegold, Barry R. Tarr, Bruce E.

Hedlund, Robert L. Timilty, James E. — 5.

Ross, Richard J.

NAYS.

Barrett, Michael J. Keenan, John F.

Brewer, Stephen M. Kennedy, Thomas P.

Brownsberger, William N. Lovely, Joan B.

Candaras, Gale D. McGee, Thomas M.

Chandler, Harriette L. Montigny, Mark C.
Chang-Diaz, Sonia Moore, Michael O.
Clark, Katherine M. Moore, Richard T.
Creem, Cynthia Stone O'Connor Ives, Kathleen
DiDomenico, Sal N. Pacheco, Marc R.
Donnelly, Kenneth J. Petrucci, Anthony
Donoghue, Eileen M. Rodrigues, Michael J.
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Rush, Michael F.
Flanagan, Jennifer L. Spilka, Karen E.
Forry, Linda Dorcena Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. – 33.
Joyce, Brian A.

The yeas and nays having been completed at twenty-three minutes before five o'clock P.M., the amendment was rejected.

Messrs. Tarr and Ross moved that the bill be amended by inserting, after section __, the following section:-

“SECTION __. Following any increase in the minimum wage, the secretary of labor and workforce development shall report on the impact of said increase on employment in the commonwealth, its impacts on businesses, particularly small businesses in the commonwealth, and the success of increasing the minimum wage in helping the target population. Said report shall be submitted to the clerks of the house and the senate and the joint committee on labor and workforce development within one year of an increase in the minimum wage.”

The amendment was rejected.

Messrs. Tarr and Ross moved that the bill be amended by striking section 4 in its entirety and inserting in place thereof the following Section:-

“SECTION 4. Said section 1 of said chapter 151, as appearing in the 2012 Official Edition, is hereby further amended by inserting after the second sentence the following 2 sentences:- The minimum wage rate shall be increased annually by the percentage increase, if any, of the consumer price index as calculated for the northeast region for all urban consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the previous 12 month period and rounded up to the nearest 5 cents, subject to the review and approval of the general court. The adjusted minimum wage shall be calculated and announced by the commissioner by April 1 of each year, through a written communication to the Clerks of the Senate and the House and the chairs of the Joint Committee on Labor and Workforce Development. If the general court fails to take action within 90 days of the commissioner's announcement, the adjusted minimum wage shall become effective as the new minimum wage on July 1 of each year.”

The amendment was rejected.

Messrs. Tarr, Finegold and Ross moved that the bill be amended by inserting after section _ the following sections:-

“SECTION 1. Subsection (i) of section 14 of chapter 151A, as appearing in the 2008 Official Edition, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:

With respect to calendar years beginning on or after January 1, 2008, the experience rate of an employer qualifying therefore under subsection (b) shall be the rate which appears in the column headed by the unemployment compensation reserve percentage as of the applicable computation date and on the line with the applicable employer account reserve percentage as set forth in the experience rate table:

SECTION 2. Paragraph (2) of subsection (i) of section 14 of said chapter 151A is hereby repealed.

SECTION 3. Paragraph (a) of Section 24 of said chapter 151A is hereby amended by striking out in its entirety said paragraph and inserting in place thereof a new paragraph:

(a) Have been paid wages in the base period amounting to at least forty times the weekly benefit rate; provided, however, that for the period beginning on January first, nineteen hundred and ninety-five the individual has been paid wages in at least two quarters of the base period amounting to at least thirty times the weekly benefit rate; provided, further, that said amount shall be increased annually proportionately, rounding to the nearest one hundred dollars, to any increases which have occurred during the prior calendar year in the minimum wage as set forth in section one of chapter one hundred and fifty-one; and, provided further, that any such increase shall be effective beginning on the first Sunday in January.

SECTION 4. Paragraph 1 of subsection (e) of section 25 of chapter 151A, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word 'misdemeanor', in lines 122 and 123, the following words:-

(3) , or a continuation without a finding or an admission of sufficient facts to such a felony or misdemeanor..

SECTION 5. Section 30 of said chapter 151A is hereby amended by striking out subsection (a) in its entirety and inserting in place thereof the following subsection:

(a) Except as provided in subsection (b), the total benefits which an unemployed individual may receive during his benefit year shall be an amount equal to thirty-six percent of his wages in the base period, or an amount equal to thirty times his benefit rate, whichever is less, plus dependency benefits payable under section 29; provided, that if in any month the average state-wide unemployment rate for the prior 6 months, as determined by the United States Department of Labor, is equal to or below 5.1 percent, the total benefits which an unemployed individual who then files a claim may receive during his benefit year shall be an amount equal to 36 per cent of his wages in the base period or an amount equal to 26 times his benefit rate, whichever is less,

plus dependency benefits payable under said section 29. If such amount includes a fractional part of a dollar, it shall be rounded to the next lower full dollar amount

SECTION 6. Said section 30 of chapter 151A is hereby amended by adding the following:-

(d) Notwithstanding the provisions of subsection (a), in any period that is not an extended benefit period as defined by section 30A, an individual's rights to receive regular benefits under this chapter for any week in excess of 26 times the individual's weekly benefit amount, plus dependency benefits payable under section 29, shall be dependent on the individual's participation in an unpaid internship program approved by the commissioner. For each week in excess of said time, up to 30 weeks, in order to receive the corresponding benefits for that week the individual shall complete a week in such program. Approved participation in such program shall not result in a decrease in an individual's regular benefits.

SECTION 7. Section 38 of said chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after the word 'information.', in line 20, the following sentence:-

If the employer responds within 10 days after such notice was mailed, the commissioner shall have a final determination of the matter within 30 days, unless good cause exists, in which case the commissioner shall send written notice to both the claimant and the employer that good cause exists for the matter not to be decided within 30 days; provided, however, that said written notice explains such good cause.

SECTION 8. Said section 38 of said chapter 151A of the General Laws, as so appearing, is hereby further amended by inserting after the word 'cause', in line 26, the following words:- ; and provided further, however, that the commissioner or an authorized representative shall not determine the matter on the available information and shall further investigate the claim if the claimant has previously received benefits under this chapter while employed by said employer the previous calendar year or in any 2 of the previous 5 calendar years, as provided for in the second paragraph of subsection (a) of section 39.

SECTION 9. Subsection (a) of section 39 of said chapter 151A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The commissioner or an authorized representative shall, in consultation with the state advisory council provided for in section 9N of chapter 23, investigate any claim in which the claimant has previously received benefits under this chapter in the previous calendar year or in any 2 of the previous 5 calendar years; provided, however, that said investigation shall occur only if the claimant was employed by the employer against which said claimant is currently making the claim. Said investigation shall ensure the claimant is fully entitled to benefits under this chapter, and shall include, but not be limited to, an analysis of whether the unemployment is a result of a factual disruption of employment or rather a regular or seasonal method by the claimant to unlawfully generate income. The commissioner or an authorized representative shall represent the interests of the agency at a hearing if cause exists to suspect the claimant is not lawfully entitled to benefits.

SECTION 10. Subsection (a) of section 62A of said chapter 151A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The department shall yearly conduct not less than 1 public hearing to seek the input of Massachusetts employers. Not less than 20 days prior to a public hearing the commissioner shall conspicuously post notice of the time and location of the hearing on its website and send notice, electronically or otherwise, to every employer with an account with the department; the Massachusetts and Greater Boston Chambers of Commerce; the Massachusetts Tax Payers Association, Associated Industries of Massachusetts, and the National Federal of Independent Businesses.

SECTION 11. Notwithstanding any general or special law to the contrary, the commissioner, as defined in section 1 of chapter 151A, shall establish a program through which in-state employers may offer unpaid internships or job training to individuals receiving state unemployment benefits and an approval process for the inclusion of any business in such program; provided, however, that said program shall allow for employers to begin formal employment with an individual for not more than 1 week while the individual receives unemployment benefits. The purpose of this program shall be to maximize opportunities for worker training and establish connections between businesses and the state workforce.

SECTION 12. There shall be a special commission to conduct an investigation and study of the activities and efficacy of the adjudication of unemployment insurance claims by the department of unemployment assistance under the executive office of labor and workforce development. The commission shall consist of 11 members: 2 members who shall be appointed by the state auditor, both of whom shall have experience with the adjudication of unemployment disputes, and 1 of whom shall serve as chair; 2 members of the senate, 1 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader of the senate; 2 members of the house of representatives, 1 of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the minority leader of the house; the director of the department of unemployment assistance, or a designee; the president of the Massachusetts taxpayer's foundation, or a designee; the executive vice-president of the AFL-CIO, or a designee; the executive vice-president of associated industries of Massachusetts, or a designee; and the executive director of the Massachusetts municipal association, or a designee.

The study shall include, but not be limited to, an analysis of: (1) the number of claims received by the department quarterly since January 1, 2010 and the resulting status of all claims, including any information pertinent to the description of the status of said claims, including, but not limited to (i) the results of all initial determinations of claims, (ii) the results of any appeals resulting from said initial determination, (iii) the number of rulings reversed through the appeals and review process, (iv) the number of claims arising from the provisions of subdivisions (1) and (2) of subsection (e) of section 25 of chapter 151A, and (v) the number of claims settled in favor of the claimant and in favor of the employer; (2) the average length of time of the appeals and review process of a claim from initial determination to final disposition; (3) the procedures through which the department hires and trains new employees to implement the provisions of sections 39 through 41, inclusive, of chapter 151A, including a determination as to whether or not employment procedures have been followed pursuant to section 9K of chapter 23.

The study shall also include the recommendations of the commission relative to: (1) procedures through which the department may produce a quarterly report, to be posted on the department's website, of the number of active claims and the status of said claims; (2) procedures through which any current backlog of cases may be fairly and efficiently resolved and avoided in future department proceedings; (3) procedures through which oversight and quality control principles may be implemented to ensure the continuing prompt, equitable, and transparent application of current law by the commissioner and the board of review; (4) a complete review of current statute and regulations relative to the implementation of chapter 151A and any recommendations as to possible legislative reform and streamlined procedures, including, but not limited to, recommendations and procedures for the uniform and effective implementation of section 25 of chapter 151A.

The commission may request from all state agencies such information and assistance as the commission may require. The commission shall report the results of its investigation and study, together with drafts of legislation, if any, necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and house of representatives, who shall forward the same to the joint committee on public health and the house and senate committees on ways and means on or before December 31, 2013.

SECTION 13. Notwithstanding any general or special law to the contrary, the secretary of labor and workforce development shall convene a task force to examine the payment structure of unemployment benefits. The task force shall consist of the secretary of labor and workforce development or a designee, who shall serve as the chair; a designee of the state advisory council; a representative from the National Bureau of Economic Research; a representative of the Political Economy Research Institute at the University of Massachusetts, Amherst; and a representative of the Rappaport Institute of Greater Boston. The task force shall evaluate the payment structure of unemployment benefits in the commonwealth and the desirability of altering the payment structure to provide for lesser payments the longer a claimant remains unemployed, until termination of benefits or reemployment. Said evaluation shall include an analysis of providing an optional one-time lump sum payment within the beginning stages of unemployment; provided, however, that said payment is less than the average total payment received by a claimant. The task force shall consider the impact of such a payment system on claimants, employers, the division of unemployment assistance, and on the unemployment rate and economy. The task force shall file a report of its conclusions, along with an electronic copy, including its recommendations and drafts of any legislation, if necessary, by filing the same with the clerks of the senate and house of representatives who shall forward a copy of the report to the chairs and ranking members of the joint committee on labor and workforce development within 1 year of the effective date of this act."

The President ruled that the pending amendment was beyond the scope of the bill insofar as the pending amendment would establish comprehensive unemployment insurance reform, a subject not currently contemplated by the bill being considered that deals exclusively with the minimum wage that an employee must earn under certain circumstances.

Therefore, the amendment was laid aside.

Mr. Tarr doubted the ruling of the Chair; and this motion was seconded by Mr. Ross.

After debate, the question "Shall the ruling of the Chair stand?" was determined by a call of the yeas and nays, at twenty minutes before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 35 — nays 3) [Yeas and Nays No. 219]:

YEAS.

Barrett, Michael J. Keenan, John F.

Brewer, Stephen M. Kennedy, Thomas P.

Brownsberger, William N. Lovely, Joan B.

Candaras, Gale D. McGee, Thomas M.

Chandler, Harriette L. Montigny, Mark C.

Chang-Diaz, Sonia Moore, Michael O.

Clark, Katherine M. Moore, Richard T.

Creem, Cynthia Stone O'Connor Ives, Kathleen

DiDomenico, Sal N. Pacheco, Marc R.

Donnelly, Kenneth J. Petrucci, Anthony

Donoghue, Eileen M. Rodrigues, Michael J.

Downing, Benjamin B. Rosenberg, Stanley C.

Eldridge, James B. Rush, Michael F.

Finegold, Barry R. Spilka, Karen E.

Flanagan, Jennifer L. Timilty, James E.

Forry, Linda Dorcena Welch, James T.

Jehlen, Patricia D. Wolf, Daniel A. — 35.

Joyce, Brian A.

NAYS.

Hedlund, Robert L. Tarr, Bruce E. — 3.

Ross, Richard J.

The yeas and nays having been completed at seventeen minutes before five o'clock P.M., the ruling of the Chair stood and the amendment was laid aside.

Mr. Timilty moved that the bill be amended by striking section 4.

The question on adoption of the amendment was determined by a call of the yeas and nays at a quarter before five o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 10 — nays 28) [Yeas and Nays No. 220]:

YEAS.

Donoghue, Eileen M. O'Connor Ives, Kathleen
Hedlund, Robert L. Rodrigues, Michael J.
Lovely, Joan B. Ross, Richard J.
Moore, Michael O. Tarr, Bruce E.
Moore, Richard T. Timilty, James E. – 10.

NAYS.

Barrett, Michael J. Forry, Linda Dorcena
Brewer, Stephen M. Jehlen, Patricia D.
Brownsberger, William N. Joyce, Brian A.
Candaras, Gale D. Keenan, John F.
Chandler, Harriette L. Kennedy, Thomas P.
Chang-Diaz, Sonia McGee, Thomas M.
Clark, Katherine M. Montigny, Mark C.
Creem, Cynthia Stone Pacheco, Marc R.
DiDomenico, Sal N. Petrucci, Anthony
Donnelly, Kenneth J. Rosenberg, Stanley C.
Downing, Benjamin B. Rush, Michael F.
Eldridge, James B. Spilka, Karen E.
Finegold, Barry R. Welch, James T.
Flanagan, Jennifer L. Wolf, Daniel A. – 28.

The yeas and nays having been completed at twelve minutes before five o'clock P.M., the amendment was rejected.

Messrs. Tarr and Ross moved that the bill be amended by inserting after section __, the following section:-

“SECTION __. The secretary of labor and workforce development, in consultation with the secretary of administration and finance and the secretary of housing and economic development, shall study the impact of the minimum wage rate and minimum wage rate increases as they relate to New England City and Town Area's (NECTAs) and Labor Market Areas (LMAs) in Massachusetts. The study shall analyze the cost of living in said NECTAs and LMAs and the effective minimum wage rate adjusted for the cost of living in said NECTAs and LMAs, detailing the impact of minimum wage rates on employment, the ability of employers to hire additional employees, and the effectiveness of the minimum wage rate at reducing poverty. The report, together with any legislative recommendations, shall be filed electronically with the clerks of the house of representatives and the senate and the joint committee on labor and workforce development not later than May 15, 2014.”

The amendment was rejected.

Mr. Timilty moved that the bill be amended by adding the following section:-

“SECTION X. Sections 1 through 5, inclusive, shall not apply to wages paid to a worker under the age of twenty one who is employed for no more than five months in a calendar year. A wage of less than \$8.00 an hour for such a worker, in any occupation, as defined chapter 151 of the general laws, shall conclusively be presumed to be oppressive and unreasonable, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine of said chapter 151.”

The amendment was rejected.

Messrs. Tarr and Ross moved that the bill be amended by inserting after section __ the following section:-

“SECTION __. Subsection (c) of section 11F of chapter 25A of the General Laws, as appearing in the 2012 Official Edition, is hereby amended in clause (6) by striking out sub-clauses (ii) and (iii) in their entirety.”

The President ruled that the pending amendment was beyond the scope of the bill insofar as the pending amendment deals with Massachusetts renewable portfolio standard, a subject not currently contemplated by the bill being considered that deals exclusively with the minimum wage that an employee must earn under certain circumstances.

Therefore, the amendment was laid aside.

Messrs. Tarr and Ross moved that the bill be amended by inserting, after Section __, the following sections:-

“SECTION __. Chapter 3 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting at the end thereof the following sections: -

Section 70. The following words and phrases, as used in this section and section 71, shall have the following meanings unless a different meaning is required by the context:

‘Agency’, any department, board, commission, division or authority of the state government or subdivision of any of the foregoing, or official of the state government, authorized by law to make regulations or to conduct adjudicatory proceedings, but shall not include the following: the legislative and judicial departments; the governor and council; military or naval boards, commissions or officials; the department of correction; the department of youth services; the parole board; the division of dispute resolution of the division of industrial accidents; the personnel administrator; the civil service commission; and the appellate tax board.

‘Committee’, the joint committee on state administration and regulatory oversight of the general court.

(a) An agency shall file a copy of an adopted rule with the committee at the same time it is filed with the secretary of state.

(b) The committee may examine rules in effect and newly adopted rules to determine whether:

(1) the rule is a valid exercise of delegated legislative authority;

- (2) the statutory authority for the rule has expired or been repealed;
- (3) the rule is necessary to accomplish the apparent or expressed intent of the specific statute that the rule implements;
- (4) the rule is a reasonable implementation of the law as it applies to any affected class of persons; and
- (5) the agency complied with the regulatory analysis requirements of section 5A of chapter 30 and the analysis properly reflects the of the rule.

(c) The committee may request information from an agency necessary to exercise its powers under subsection (b). The committee shall consult with joint committees of the general court with jurisdiction over the subjects of the rule or regulation under review.

Section 71. (a) Not later than 30 days after receiving a copy of an adopted rule from an agency under section 70, the committee may: (1) approve the adopted rule or regulation; (2) disapprove the rule or regulation and propose an amendment to the adopted rule or regulation; or (3) disapprove the adopted rule or regulation.

(b) If the committee approves an adopted rule or regulation or does not disapprove and propose an amendment under subsection (a)(2) or disapprove under subsection (a)(3), the adopted rule shall become effective on the date specified.

(c) If the committee proposes an amendment to the adopted rule or regulation under subsection (a)(2), the agency may make the amendment and resubmit the rule or regulation, as amended, to the committee. The amended rule or regulation must be one that the agency could have adopted on the basis of the record in the rule or regulation making proceeding and the legal authority granted to the agency. The agency shall provide an explanation for the amended rule or regulation as provided in section 5A. An agency is not required to hold a hearing on an amendment made under this subsection. If the agency makes the amendment, it shall also give notice to the secretary of state for publication of the rule or regulation, as amended, in the Massachusetts Register. The notice must include the text of the rule or regulation as amended. If the committee does not disapprove the rule or regulation, as amended, or propose a further amendment, the rule or regulation shall become effective on the date specified.

(d) If the committee disapproves the adoption of a rule under subsection (a)(3), the adopted rule becomes effective on adjournment of the next regular session of the General Court unless before the adjournment the General Court enacts legislation sustaining the action of the committee.

(e) An agency may withdraw the adoption of a rule by giving notice of the withdrawal to the committee and to the secretary of state. A withdrawal under this subsection terminates the rulemaking proceeding with respect to the adoption, but does not prevent the agency from initiating a new rulemaking proceeding for the same or substantially similar adoption.

SECTION __. Section 2 of chapter 30A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting, in line 5, after the word 'right' the following:- ; or, (d) the regulation has an economic impact on small businesses and an estimate of its fiscal effect will be filed with state secretary pursuant to section 5

SECTION __. Said section 2 of said chapter 30A is hereby amended by inserting, in line 29, after the word 'consideration' the following:-and the full text of said small business impact statement

SECTION __. Section 3 of said chapter 30A is hereby amended by inserting, in line 27, after the words 'include the' the following:- statement of small business consideration and the full text of said

SECTION __. Said chapter 30A is hereby amended by striking section 5A, in its entirety, and inserting in place thereof the following sections:-

Section 5A. (a) In addition to a small business impact statement, an agency shall prepare a subsequent regulatory analysis for a proposed rule or regulation if, within 60 days after the published notice of the proposed rule or regulation adoption, a written request for the analysis is filed in the office of the secretary of state by the governor, the executive office of administration and finance, the joint committee on state administration and regulatory oversight, or 300 interested persons signing the request. The secretary of state shall immediately forward to the agency a certified copy of the filed request.

(b) Except to the extent that the written request expressly waives one or more of the following, the regulatory analysis must contain:

(1) an analysis of the benefits and costs of a reasonable range of regulatory alternatives reflecting the scope of discretion provided by statute authorizing the rule or regulation; and

(2) a determination whether the benefits of the proposed rule or regulation justify the costs of the proposed rule or regulation and the proposed rule or regulation will achieve the objectives of the authorizing statute in a more cost effective manner, or with greater net benefits, than other regulatory alternatives.

(c) An agency preparing a regulatory analysis under this section shall prepare a concise summary of the analysis.

(d) An agency preparing a regulatory analysis under this section shall submit the analysis to the governor, the executive office of administration and finance, the joint committee on state administration and regulatory oversight, or, if applicable, to the interested persons signing the request under subsection (a).

Section 5B. (a) Each agency shall review its rules and regulations at least once every 2 years after their publication as the final rules or regulations to ensure that those rules and regulations minimize economic impact on small businesses in a manner consistent with the stated objectives of applicable statutes.

(b) In reviewing a rule or regulation to minimize economic impact of the rule or regulation on small businesses, the agency shall file a regulatory review report which considers the following factors:

(1) the continuing need for the rule or regulation and the effectiveness of the rule or regulation in achieving its objectives, including a summary of any available data supporting the conclusions reached;

(2) the nature of complaints or comments received concerning the rule or regulation from the public during the previous 6 years, including any petitions for waiver of the rule tendered to the agency or granted by it;

(3) alternative solutions to the complaints or comments and the reasons they were rejected or the changes made in the rule or regulation in response to those complaints or comments and the reasons for the changes

- (4) the complexity of the rule or regulation;
- (5) the extent to which the rule or regulation overlaps, duplicates or conflicts with other federal, state and local governmental rules and regulations;
- (6) the length of time since the rule or regulation has been enacted, changed, amended or modified; and
- (7) the degree to which technology, economic conditions or other factors have changed in the subject areas affected by the rule or regulation.

(c) A copy of the report shall be filed with the joint committee on state administration and regulatory oversight and shall be available for public inspection.”

The amendment was rejected.

Mr. Ross moved that the bill be amended by inserting the following new section:-

“SECTION XX. Chapter 136 is hereby amended by striking out clauses 50 and 52, in section 6, as so appearing, and inserting in place thereof the following:-

(50) The keeping open of a store or shop and the sale at retail of goods therein, but not including the retail sale of goods subject to chapter one hundred and thirty-eight, and the performance of labor, business, and work directly connected therewith on Sunday. This exemption shall not apply to any legal holiday as defined in clause eighteenth of section seven of chapter four, but this exemption shall apply to the day following Christmas Day when Christmas occurs on a Sunday. In any year in which Christmas occurs on a Sunday, this exemption shall not apply to that Sunday.

Any store or shop which qualifies for exemption under this clause or under clause (25) or clause (27) and which employs more than a total of fifty persons, including the proprietor, on Sunday or any day throughout the week, shall compensate all employees engaged in the work performed on Sunday pursuant to the provisions of this clause, or clause (25) or clause (27), excepting those bona fide executive or administrative or professional persons earning more than two hundred dollars a week, at a rate not less than one half the minimum wage established under section 1 of chapter 151 in addition to the employee’s regular rate. No employee engaged in work subject to the provisions of this clause shall be required to perform such work, and refusal to work for any retail establishment on Sunday shall not be grounds for discrimination, dismissal, discharge, reduction in hours, or any other penalty. The provisions of this paragraph shall be enforced by the office of the attorney general. The provisions of section one hundred and eighty A of chapter one hundred and forty-nine shall apply to any violation of this paragraph.

(52) The retail sale of alcoholic beverages not to be drunk on the premises on Sundays by retail establishments licensed under section 15 of chapter 138; provided, however, that notwithstanding this chapter, a municipality may prohibit the retail sale of alcoholic beverages on Sundays by licensees under section 15 by vote of the city council or board of selectmen; provided further, that there shall be no such sales prior to the hour of 12:00 noon or on Christmas Day if Christmas occurs on a Sunday; and provided further, that establishments operating under this clause which employ more than fifty persons shall compensate all employees for work performed on a Sunday at a rate of not less than one half the minimum wage established under section 1 of chapter 151 in addition to the employee’s regular rate. No employee shall be required to work on a Sunday and refusal to work on a Sunday shall not be grounds for discrimination, dismissal, discharge, deduction of hours or any other penalty.”

Mr. Ross moved that the question on adoption of the amendment be determined by a call of the yeas and the nays.

An insufficient number of members joining with him, the yeas and nays were not ordered.

The amendment was rejected.

Messrs. Tarr and Ross moved that the bill be amended by inserting after section _ the following section:-

“SECTION A. Chapter 29 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by adding the following section:-

Section 2JJJJ. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Living Wage Empowerment Fund, hereinafter called the fund. The fund shall be administered by the commissioner of revenue. Amounts credited to the fund shall be expended, without further appropriation, to taxpayers who receive a tax credit under section 6(h) of chapter 62 and have 1 or more qualifying dependent children.

The commissioner shall provide taxpayers with 1 or more qualifying dependent children 20 per cent of the amount said person qualified for, claimed, and received under section 6(h) of chapter 62.

The department of revenue shall be the administrator of the fund and shall maintain the fund as a separate fund and shall cause it to be audited by an independent accountant on an annual basis in accordance with generally-accepted accounting principles.

There shall be credited to the fund any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and any gifts, grants, private contributions, investment income earned on the fund's assets and all other sources, including federal funds for the temporary assistance to needy families program. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

The fund shall supplement and not replace existing credits received under section 6(h) of chapter 62.

Section B. Section A shall take effect on September 1, 2014.”

The amendment was rejected.

Messrs. Tarr and Ross moved that the bill be amended by inserting after section _ the following section:-

“SECTION _ . Said Section 1 of said chapter 151, as so appearing, is hereby further amended by adding the following sentence:- Notwithstanding the provisions of this section, no wage more than \$1.00 per hour more than the effective federal minimum rate shall be presumed to be oppressive or unreasonable if the employer provides the wage collector “minimum credible coverage” under section 1 of chapter 111M.”

The amendment was rejected.

Messrs. Rodrigues, Joyce, Pacheco, Finegold, Rush, Michael O. Moore and Tarr moved that the bill be amended after section 5

by inserting the following three sections:-

“SECTION __. Section 152A of chapter 149 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word ‘ responsibility ’ , in line 8, the following words:- ; provided, however, that a supervisor in a quick service restaurant who serves patrons or customers and whose job duties do not qualify him or her as an employee employed in a bona fide executive capacity as defined in 29 C.F.R. §§541.100 (a)(2)-(4)et seq., shall qualify as a wait staff employee for purposes of this section.

SECTION __. Said section 152A of said chapter 149, as so appearing, is hereby further amended by inserting after the definition ‘Patron’ the following definition:-

‘Quick service restaurant’, an establishment selling food or beverages where products are served to patrons primarily over a sales counter or a drive up window sales point, where there is minimal or no direct service to patrons seated at tables, and where employees are paid at least the minimum required hourly wage for non-service employees pursuant to Chapter 151.

SECTION __. Nothing in this chapter shall prohibit an employer from establishing a policy prohibiting the acceptance of gratuities.

SECTION __. Nothing in this chapter shall interfere with the right of employees to collectively bargain nor shall it affect any existing collective bargaining agreement.”

The President ruled that the pending amendment was beyond the scope of the bill insofar as the pending amendment would establish comprehensive unemployment insurance reform, a subject not currently contemplated by the bill being considered that deals exclusively with the minimum wage that an employee must earn under certain circumstances.

Therefore, the amendment was laid aside.

Mr. Tarr doubted the ruling of the Chair; and this motion was seconded by Mr. Rodrigues.

After debate, the question “Shall the ruling of the Chair stand?” was determined by a call of the yeas and nays, at three minutes before five o’clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 32 — nays 6) [Yeas and Nays No. 221]:

YEAS.

Barrett, Michael J. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Brownsberger, William N. Kennedy, Thomas P.
Candaras, Gale D. Lovely, Joan B.
Chandler, Harriette L. McGee, Thomas M.
Chang-Diaz, Sonia Moore, Michael O.
Clark, Katherine M. Moore, Richard T.
Creem, Cynthia Stone O’Connor Ives, Kathleen
DiDomenico, Sal N. Pacheco, Marc R.
Donnelly, Kenneth J. Petruccelli, Anthony
Donoghue, Eileen M. Rosenberg, Stanley C.
Downing, Benjamin B. Rush, Michael F.
Eldridge, James B. Spilka, Karen E.
Flanagan, Jennifer L. Timilty, James E.
Forry, Linda Dorcena Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. — 32.
NAYS.
Finegold, Barry R. Montigny, Mark C.
Hedlund, Robert L. Rodrigues, Michael J
Ross, Richard J. Tarr, Bruce E. — 6.

The yeas and nays having been completed at five o’clock P.M., the ruling of the Chair stood and the amendment was laid aside.

Messrs. Tarr, Ross and Hedlund moved that the bill be amended by inserting after section 5 by inserting the following section:-

“SECTION __. Section 1 of chapter 151 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by adding the following sentence:-

No wage, or tip, shall be classified as oppressive or unreasonable if that wage or tip is being collected by a supervisor in a quick service restaurant who serves patrons or customers and whose job duties do not qualify him or her as an employee employed in a bona fide executive capacity as defined in 29 C.F.R. §§541.100 (a)(2)-(4)et seq., Nothing in this section shall interfere with the right of employees to collectively bargain nor shall it affect any existing collective bargaining agreement.”

The President ruled that the pending amendment was beyond the scope of the bill insofar as the pending amendment deals with a subject not currently contemplated by the bill being considered that deals exclusively with the minimum wage that an employee must earn under certain circumstances.

Therefore, the amendment was laid aside.

Mr. Tarr doubted the ruling of the Chair; and this motion was seconded by Mr. Rodrigues.

After debate, the question “Shall the ruling of the Chair stand?” was determined by a call of the yeas and nays, at twenty-nine minutes before six o’clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 33 — nays 5) [Yeas and Nays No. 222]:

YEAS.

Barrett, Michael J. Keenan, John F.
Brewer, Stephen M. Kennedy, Thomas P.

Brownsberger, William N. Lovely, Joan B.
Candaras, Gale D. McGee, Thomas M.
Chandler, Harriette L. Montigny, Mark C.
Chang-Diaz, Sonia Moore, Michael O.
Clark, Katherine M. Moore, Richard T.
Creem, Cynthia Stone O'Connor Ives, Kathleen
DiDomenico, Sal N. Pacheco, Marc R.
Donnelly, Kenneth J. Petruccelli, Anthony
Donoghue, Eileen M. Rosenberg, Stanley C.
Downing, Benjamin B. Rush, Michael F.
Eldridge, James B. Spilka, Karen E.
Flanagan, Jennifer L. Timilty, James E.
Forry, Linda Dorcena Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. – 33.
Joyce, Brian A.
NAYS.
Finegold, Barry R.
Hedlund, Robert L. Rodrigues, Michael J
Ross, Richard J. Tarr, Bruce E. – 5.

The yeas and nays having been completed at twenty-six minutes before six o'clock P.M., the ruling of the Chair stood and the amendment was laid aside.

Mr. Brewer moved that the bill be amended in section 4, by striking out, in line 16, the words "and announced" and inserting in place thereof the following words:–", announced and posted on the department's website"; and 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 strengthen forthwith the commonwealth's minimum wage, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

The amendment was adopted.

The bill (Senate, No. 1925, amended) was then ordered to a third reading and read a third time.

After remarks, the question on passing the bill to be engrossed was determined by a call of the yeas and nays at sixteen minutes before six o'clock P.M., on motion of Mr. Wolf, as follows, to wit (yeas 32 — nays 7) [Yeas and Nays No. 223]:

YEAS.

Barrett, Michael J. Joyce, Brian A.
Brewer, Stephen M. Keenan, John F.
Brownsberger, William N. Kennedy, Thomas P.
Candaras, Gale D. Lovely, Joan B.
Chandler, Harriette L. McGee, Thomas M.
Chang-Diaz, Sonia Montigny, Mark C.
Clark, Katherine M. Moore, Michael O.
Creem, Cynthia Stone Murray, Therese
DiDomenico, Sal N. Pacheco, Marc R.
Donnelly, Kenneth J. Petruccelli, Anthony
Downing, Benjamin B. Rosenberg, Stanley C.
Eldridge, James B. Rush, Michael F.
Finegold, Barry R. Spilka, Karen E.
Flanagan, Jennifer L. Timilty, James E.
Forry, Linda Dorcena Welch, James T.
Jehlen, Patricia D. Wolf, Daniel A. – 32.
NAYS.
Donoghue, Eileen M. Rodrigues, Michael J.
Hedlund, Robert L. Ross, Richard J.
Moore, Richard T. Tarr, Bruce E. – 7.
O'Connor Ives, Kathleen

The yeas and nays having been completed at twelve minutes before six o'clock P.M., the bill was passed to be engrossed.

Sent to the House for concurrence.

Matters Taken Out of the Notice Section of the Calendar.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered, as follows:
The House Bill relative to certain parcels of land in the city of Northampton and the town of Williamsburg (House, No. 3619) (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 Senate Bill relative to voluntary towing reform (Senate, No. 1917),-- was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Michael O. Moore moved that the bill be amended by substituting a new draft with the same title (Senate, No. 1924).

The amendment was adopted.

The bill (Senate, No. 1924) was then passed to be engrossed.

Sent to the House for concurrence.

PAPERS FROM THE HOUSE.

A Bill authorizing the commissioner of capital asset management and maintenance to convey certain land to the city of Newton (House, No. 3669, amended,-- on petition),-- was read.

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

Engrossed Bills.

The following engrossed bills (both of which originated in the House), 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:

Establishing a sick leave bank for Janet Soboleski, an employee of the Department of Mental Health (see House, No. 3682); and Relative to the date of the 2014 biennial state primaries (see House, No. 3764).

A petition (accompanied by bill, House, No. 3775) of George N. Peterson, Jr. and Michael O. Moore authorizing the Department of Fish and Game to exchange a parcel of land in the town of Grafton in return for the conveyance of other property in the same town,-- was referred, in concurrence, under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

The Senate Bill authorizing the town of Belchertown to convey certain land (Senate, No. 1887),-- came from the House, passed to be engrossed, in concurrence, with an amendment striking out section 4 and inserting in place thereof the following section:-
“SECTION 4. Notwithstanding chapter 30B of the General Laws, or any other general or special law to the contrary, and subject to the provisions of Article XCVII of the Amendments to the Constitution, the town of Belchertown may transfer the care, custody, management and control of a certain parcel of land acquired for conservation and passive recreation purposes from the board of selectman and the conservation commission, to the board of selectman for the purpose of the conveyance to Roland A. Leclerc. The parcel is shown as ‘Parcel A’ on a plan of land entitled ‘Plan of Land in Belchertown, MA Prepared for Roland Leclerc,’ dated October 15, 2010 recorded with the Hampshire registry of deeds in plan book 225, page 82, containing 0.584 acres, more or less, according to the plan, the parcel being inadvertently included in the deed from Roland A. Leclerc to the town recorded in book 10587, page 250. The board of selectman may convey the parcel to Roland A. Leclerc for such consideration, including nominal consideration, as the board of selectmen may deem appropriate.”.

The rules were suspended, on motion of Ms. Candaras, and the House amendment was considered forthwith and adopted, in concurrence.

Report of a Committee.

Mr. Rosenberg, 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 regulating the use of buprenorphine in opioid dependence treatment (Senate, No. 907).

There being no objection, the rules were suspended, on motion of Mr. Downing, and the bill was read a second time and was amended, on motion of the same Senator by substituting a new draft with the same title (Senate, No. 1926).

After remarks, the bill (Senate, No. 1926) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Order Adopted.

On motion of Mr. Ross,--

Ordered, That when the Senate adjourns today, it adjourn to meet again tomorrow next at one o'clock P.M., in a full formal session without a calendar.

On motion of Mr. Rodrigues, at three minutes past six o'clock P.M., the Senate adjourned to meet again tomorrow at one o'clock P.M.