

NOTICE: While reasonable efforts have been made to assure the accuracy of the data herein, this is **NOT** the official version of Senate Journal. It is published to provide information in a timely manner, but has **NOT** been proofread against the events of the session for this day. All information obtained from this source should be checked against a proofed copy of the Senate Journal.

UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Thursday, February 4, 2016

Met at six minutes past eleven o'clock A.M.

The Senator from Essex and Middlesex, Mr. Tarr, then led the President, members, guests and staff in the recitation the pledge of allegiance to the flag.

Communications.

The following communications were severally received and placed on file, to wit:

Communication from the Plymouth County District Attorney (pursuant to Section 32 of Chapter 12 of the General Laws) submitting its calendar year 2015 Community Based Juvenile Justice Program report (received February 1, 2016);
Communication from the Department of Public Health (pursuant to item 4512-0204 of Chapter 46 of the Acts of 2015) submitting its report entitled "Overdose Education and Naloxone Distribution (OEND) and First Responder Naloxone Grants" (received January 26, 2016);
Communication from the Massachusetts Department of Transportation (pursuant to Section 28 of Chapter 6C of the General Laws) submitting its Revenue and Expense Report for budget fiscal year ended June 30, 2015 (received February 1, 2016); and
Communication from the Department of Public Health (pursuant to Section 2G of Chapter 111 of the General Laws) submitting its report entitled "The Massachusetts Prevention and Wellness Trust Fund 2015 Annual Report" (received February 3, 2016).

Reports.

The following reports were severally received and placed on file, to wit:

Report of the Massachusetts District Attorneys Association (pursuant to item 0340-2100 of Chapter 46 of the Acts of 2015) submitting its report on District Attorney use of private attorneys in volunteer prosecutor programs for fiscal year 2015 (received February 1, 2016); and
Report of the Auditor of the Commonwealth (pursuant to Section 75(c) of Chapter 144 of the Acts of 2014) submitting its report of the 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 (received February 1, 2016).

Reports of Committees.

By Ms. Flanagan, for the committee on Mental Health and Substance Abuse, on petition, a Bill to improve access to child and adolescent mental health services (Senate, No. 1029);
By the same Senator, for the same committee, on petition, a Bill relative to improved medication adherence (Senate, No. 1031);
By the same Senator, for the same committee, on petition, a Bill relative to creating a pilot program to transfer high acuity behavioral health and dual diagnosis patients away from overcrowded emergency departments (Senate, No. 1051);
By Mr. Lewis, for the committee on Public Health, on petition, a Bill relative to enhancing sexual assault evidence kit collection (Senate, No. 1134); and

By the same Senator, for the same committee, on petition, a Bill relative to chronic care coordination (Senate, No. 1162);
Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Ms. L'Italien, for the committee on Consumer Protection and Professional Licensure, on petition, a Bill establishing a student tuition recovery fund (Senate, No. 136);

By the same Senator, for the same committee, on Senate No. 149 and House No. 164 , a Bill relative to updating reciprocity for licensing optometrists (Senate, No. 149);

By the same Senator, for the same committee, on Senate No. 173 and House No. 243, a Bill regulating powdered alcohol (Senate, No. 173);

By the same Senator, for the same committee, on petition, a Bill relative to mobile spas (Senate, No. 183); and

By the same Senator, for the same committee, on Senate No. 150 and House No. 218, a Bill to maintain public water systems (Senate, No. 2124);

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

By Ms. Lovely, for the committee on State Administration and Regulatory Oversight, on petition, a Bill regarding Huntington's Disease (Senate, No. 1654);

Read and, under Senate Rule 26, referred to the committee on Rules.

PAPER FROM THE HOUSE

Messages were referred, in concurrence, as follows:

Message from His Excellency the Governor recommending legislation relative to providing opportunities for all (House, No. 3983);

To the committee on Economic Development and Emerging Technologies.

Message from His Excellency the Governor (under Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating the actions taken at an annual meeting held in the town of Hudson (House, No. 3984);

To the committee on Election Laws.

A petition (accompanied by bill, House, No. 3986) of Paul J. Donato, Patricia D. Jehlen and others (with the approval of the mayor and city council) that the city of Medford be authorized to use a certain parcel of land in said city for municipal purposes,-
- was referred, in concurrence, to the committee on Municipalities and Regional Government.

Bills

Authorizing the commissioner of capital asset management and maintenance to convey certain land to the town of Acton (House, No. 3792, changed and amended,-- on petition); and

Establishing a sick leave bank for Angela Cappellucci, an employee of the Department of Transitional Assistance (House, No. 3915,-- on petition);

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

A Bill designating the Massachusetts Hospital School as the Pappas Rehabilitation Hospital for Children (House, No. 2739, amended,-- on petition),-- was read and, under Senate Rule 26, referred to the committee on Rules.

Communication.

A communication from the Honorable Stanley C. Rosenberg, President of the Senate, announcing the following seating changes: Senator Kenneth J. Donnelly has been assigned to sea number 8 on my left
Senator Michael J. Rodrigues has been assigned to seat number 9 on my left.

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

Resolutions.

The following resolutions (having been filed with the Clerk) were considered forthwith and adopted, as follows:- Resolutions (filed by Ms. Chandler) "urging the Congress of the United States to enact and put forth for ratification an amendment to the United States Constitution relating to campaign contributions and public campaign financing."

PAPER FROM THE HOUSE

Emergency Preamble Adopted.

An engrossed Bill further regulating the designation of certain state entities (see Senate, No. 2083), 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 6 to 0.
The bill was signed by the President and sent to the House for enactment.**

Report of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill relative to the Gardner District Court (Senate, No. 2028),-- **ought to pass.**

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

By Ms. Spilka, for the committee on Ways and Means, that the House Bill relative to the regional public safety communications and dispatch center for the city of Revere and the town of Winthrop (House, No. 3365),-- **ought to pass.**

There being no objection, the rules were suspended, on motion of Mr. Wolf, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence, its title having been changed by the committee on Bills in the Third Reading to read as follows: "An Act further regulating the regional public safety communications and dispatch center for the city of Revere and the town of Winthrop."

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill to modernize firm leadership structures (Senate, No. 1168),-- ought to pass, with an amendment substituting a new draft with the same title (Senate, No. 2126).

Order Adopted.

Ms. Spilka offered the following order, to wit:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill to modernize firm leadership structures (Senate, No. 1168) (the committee on Ways and Means having recommended that the bill be amended by substituting a new draft, Senate, No. 2126) shall be placed in the Orders of the Day for a second reading on Thursday, February 11, 2016. All amendments shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, February 8, 2016. All such amendments shall be second-reading amendments to the Senate Ways and Means new draft (Senate, No. 2126), but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

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

The bill will be placed in the Orders of the Day for Thursday, February 11, for a second reading with the amendment pending.

PAPER FROM THE HOUSE

Emergency Preamble Adopted.

An engrossed Bill establishing a sick leave bank for Jared Forgues, an employee of the Department of Correction (see Senate, No. 2084), having been certified by the Senate Clerk to be rightly and truly prepared for final passage and containing an emergency preamble,-- **was laid before the Senate; and, a separate vote being taken in accordance with the requirements of Article LXVII of the Amendments to the Constitution, the preamble was adopted in concurrence, by a vote of 7 to 0.
The bill was signed by the President and sent to the House for enactment.**

Report of a Committee.

By Ms. Spilka, for the committee on Ways and Means, that the Senate Bill enhancing the enforcement of illegal hunting practices (Senate, No. 2069),-- ought to pass, with an amendment by striking out, in lines 263 and 264, the following words "The governor shall enter into a compact on behalf of the commonwealth with any other jurisdiction legally joining therein in the form substantially as follows:-";

In section 10, in subsection (a) of Article VII of proposed chapter 131B of the General Laws by inserting after the third sentence the following sentence:- "The compact administrator for the commonwealth shall be the director of fisheries and wildlife or a designee.";

By inserting, in line 471, after the word "presented", the following words:- "by the compact administrator"; and

By adding the following section:-

"SECTION 11. The division of fisheries and wildlife shall promulgate rules and regulations for the implementation of the Wildlife Violator Compact, established in section 10, within 6 months after of the effective date of this act."

Order Adopted.

Ms. Spilka offered the following order, to wit:

Ordered, That notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill enhancing the enforcement of illegal hunting practices (Senate, No. 2069) (the committee on Ways and Means having recommended that the bill ought to pass, with an amendment), shall be placed in the Orders of the Day for a second reading on Thursday, February 11, 2016. All amendments shall be filed electronically in the office of the Clerk of the Senate by 5:00 P.M., on Monday, February 8, 2016. All such amendments shall be second-reading amendments to Senate, No. 2069 but further amendments in the third degree to such amendments shall be in order. The Clerk shall further specify the procedure and format for filing all amendments, consistent with this order.

After the bill as amended is ordered to a third reading, it shall immediately be read a third time and the question shall then immediately be on passing it to be engrossed, and no amendments shall be in order at the third reading of the bill unless recommended by the committee on Bills in the Third Reading.

Under the rules, referred to the committee on Rules.

Subsequently, Mr. Montigny, for the said committee, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of the same Senator, and the order was considered forthwith and adopted.

The bill will be placed in the Orders of the Day for Thursday, February 11, for a second reading with the amendment pending.

PAPERS FROM THE HOUSE.

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

Petition (accompanied by bill, House, No. 3990) of Colleen M. Garry, Barbara A. L'Italien and others relative to air quality monitoring for new gas pipeline facilities in the Commonwealth;

Under suspension of Joint Rule 12, to the committee on the Environment, Natural Resources and Agriculture.

Petition (accompanied by bill, House, No. 3991) of Timothy R. Madden and Daniel A. Wolf for legislation to authorize the issuance of bonds or notes by the District Committee of the Martha's Vineyard Refuse Disposal and Resource Recovery District;

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

Engrossed Bills.

The following engrossed bills (all 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:

Authorizing the town of Stoughton to grant 6 licenses for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 3695, amended);

Authorizing the town of Southborough to grant an additional license for the sale of alcoholic beverages not to be drunk on the premises (see House, No. 3719);

Authorizing the town of Sheffield to appoint certain members to the Conservation Commission (see House, No. 3749); and

Designating a certain bridge in the town of Barnstable as the Louis Karras Memorial Bridge (see House, No. 3795, amended).

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 Senate Bill relative to constables in the town of Middleborough (Senate, No. 1995),-- **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 to improve public records (House, No. 3858, amended),-- **was read a second time.**

After remarks and pending the question on adoption of the amendment, previously recommended by the committee on Ways and Means, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2120; and by striking out the title and inserting in place thereof the following title:- "An Act improving the administration and enforcement of the public records law", and pending the main question on ordering the bill to a third reading, Mr. Eldridge moved that the proposed new text be amended by inserting after section 13, the following section:-

"SECTION 13A. There shall be a working group to review and evaluate the application of subsection (f) of clause Twenty-sixth

of section 7 of chapter 4 of the General Laws as it relates to law enforcement. The working group shall review determinations of the supervisor of records and judicial decisions regarding the application of said subsection (f), and issue findings regarding (i) the public interest in releasing records made and kept by police departments, including arrest records; (ii) privacy and confidentiality concerns related to releasing records made and kept by police departments; and (iii) the interaction of said subsection (f) and the criminal offender record information system.

The working group shall consist of: the secretary of the commonwealth, who shall serve as chair; the secretary of public safety and security, or a designee; the court administrator or a designee; 2 members of the senate, 1 of whom shall be the minority leader or a designee; 2 members of the house of representatives, 1 of whom shall be the minority leader or a designee; a representative of the American Civil Liberties Union Massachusetts; a representative of the Massachusetts Newspaper Publishers Association; a representative of the Massachusetts Police Chiefs Association; a representative of the State Police Association of Massachusetts; a representative of the Massachusetts Coalition of Police; and a representative of the Massachusetts Municipal Association.

The working group shall file a report of its findings and recommendations, along with any draft legislation, with the clerks of the senate and house of representatives not later than December 31, 2016."

After remarks, the amendment was **adopted**.

Mr. Eldridge moved that the proposed new text be amended by inserting after section XX, the following new section:-

"SECTION XX. Clause Twenty-Sixth of Section 7 of Chapter 4 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended in lines 231 and 242 by inserting after the word "address" the following words ', personal email address'."

The amendment was *rejected*.

Messrs. Tarr, Montigny and Joyce moved that the proposed new text be amended by inserting after section 8 the following section:-

"SECTION 8A. Said chapter 66 is hereby further amended by inserting, after section 17D, the following section:-

Section 17E. A document made or received by the Massachusetts Bay Transportation Authority Retirement Board or any other legal entity, public or private, which receives funds from the Massachusetts Bay Transportation Authority for the payment or administration of pensions for any employee of the Massachusetts Bay Transportation Authority shall be considered a public record under clause Twenty-sixth of section 7 of chapter 4 and this chapter."; and

By adding the following section:-

"SECTION 16. Section 17E of chapter 66 of the General Laws shall apply to any document made or received by the Massachusetts Bay Transportation Authority Retirement Board or any other legal entity, public or private, which receives funds from the Massachusetts Bay Transportation Authority for the payment or administration of pensions for any employee of the Massachusetts Bay Transportation Authority on or after the effective date of this act."

Pending the question on adoption of the amendment, at seventeen minutes before one o'clock P.M., at the request of Mr. Tarr, for the purpose of a minority caucus the President declared a recess, subject to the call of the Chair; and, at twelve minutes before two o'clock P.M., the Senate reassembled, the President in the Chair

There being no objection, during consideration of the Orders of the Day, the following matters were considered as follows:

Communication.

The Clerk read the following communication:

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE

February 4, 2016

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

Dear Mr. Clerk,

I regret that I missed 2 roll call votes on February 3, 2016 at the Constitutional Convention. If I were present, I would have voted in the following manner:

- On the question of ordering Senate Bill 61 to a Third Reading, I would have voted in the negative.
- On the question of ordering House Bill 567 to a Third Reading, I would have voted in the affirmative.

I wish that these votes be recorded and a copy of this letter be entered in the journal of the Senate and the journal of the House.

Very truly yours,
ERIC P. LESSER
First Hampden & Hampshire District

On motion of Ms. Spilka, the above communication was ordered printed in the Journal of the Senate.

PAPERS FROM THE HOUSE

Engrossed Bills.

The following engrossed bills (both 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:

Further regulating the designation of certain state entities (see Senate, No. 2083); and
Establishing a sick leave bank for Jared Forgues, an employee of the Department of Correction (see Senate, No. 2084).

Orders of the Day.

The Orders of the Day were further considered as follows:

Then Senate Bill to improve public records (House, No. 3858, amended),-- was further considered, the main question being on ordering the bill to a third reading.

The pending amendment, previously recommended by Messrs. Tarr, Montigny and Joyce, inserting after section 8 the following section:-

“SECTION 8A. Said chapter 66 is hereby further amended by inserting, after section 17D, the following section:-

Section 17E. A document made or received by the Massachusetts Bay Transportation Authority Retirement Board or any other legal entity, public or private, which receives funds from the Massachusetts Bay Transportation Authority for the payment or administration of pensions for any employee of the Massachusetts Bay Transportation Authority shall be considered a public record under clause Twenty-sixth of section 7 of chapter 4 and this chapter.”; and

By adding the following section:-

“SECTION 16. Section 17E of chapter 66 of the General Laws shall apply to any document made or received by the Massachusetts Bay Transportation Authority Retirement Board or any other legal entity, public or private, which receives funds from the Massachusetts Bay Transportation Authority for the payment or administration of pensions for any employee of the Massachusetts Bay Transportation Authority on or after the effective date of this act.”-- was further considered.

The amendment was **adopted**.

Messrs. Rush and deMacedo moved to amend the proposed new text by inserting at the end thereof the following new section:-

“SECTION . Notwithstanding any general or special law to the contrary, for the purpose of motor vehicle accident reports prepared by or submitted to law enforcement, municipalities or other governmental agencies may contract with an online data service provider for the collection, storage and public dissemination of such records. Municipalities or other governmental agencies may charge a reasonable convenience fee for such service not to exceed \$10; provided, however, that a municipality or government agency charging such a convenience fee shall make available public records from motor vehicle accident reports consistent with chapter 66 of the General Laws to a person required to submit such a report under section 26 of chapter 90 of the General Laws or individuals directly involved in the accident. Municipalities or other governmental agencies may provide reports from data service providers in an alternative format.”

The amendment was **adopted**.

Messrs. Brownsberger and Joyce and Ms. Gobi moved to amend the proposed new text by striking out lines 271-277.

The amendment was *rejected*.

Messrs. Brownsberger and Joyce and Ms. Gobi moved to amend the proposed new text in section 9, by striking out, in lines 260 through 263, inclusive, the words “(iii) If a requestor has obtained relief under either (i) or (ii) of this clause, and the superior court determines that the assessment of reasonable attorney fees and other litigation costs reasonably incurred is not warranted, the judge shall issue written findings specifying the basis for not awarding reasonable attorney fees and other litigation costs reasonably incurred.” and inserting in place thereof the following words:- “(iii) If a requestor has obtained relief under (i) of this clause and the superior court determines that 1 or more of the conditions exists under subclauses (A) through (D), or (ii) of this clause, whether the superior court determines that the assessment of reasonable attorney fees and other litigation costs reasonably incurred are warranted or not warranted, the judge shall issue findings specifying the basis for allowing or denying those fees and costs.”; and

In section 8, in paragraph (3) of subsection (d) of proposed section 10A of chapter 66 of the General Laws, by striking out the last sentence and inserting in place thereof the following sentence:- “Whether the superior court determines to waive any fee assessed under said subsection (d) of said section 10, it shall issue findings specifying the basis for such decision.”

After remarks, the amendment was **adopted**.

Messrs. Brownsberger and Joyce and Ms. Gobi moved to amend the proposed new text by striking out the word “to”, in line 126, and inserting in place thereof the following words:- “the right to seek judicial review of an unfavorable decision by commencing a civil action in the”; and by striking out, in lines 153 and 154, and in lines 190 and 191, the words “right to appeal an

unfavorable decision to the superior court" and inserting in place thereof, in each instance, the following words:-"right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court".

After remarks, the amendment was **adopted**.

Messrs. Eldridge and Tarr moved to amend the proposed new text in section 8, in subsection (a) of proposed section 10 of chapter 66 of the General Laws, by adding the following sentence:- "If the agency or municipality does not intend to permit inspection or furnish a copy of the requested record because the record does not exist or is not within the possession, custody or control of the agency or municipality or because the record is not a public record, the agency or municipality shall inform the requestor in writing within a reasonable time, not to exceed 10 calendar days; provided that the written response shall include the identity, if known, of the agency or municipality who may be in possession, custody or control of the public record sought or the specific reason for any withholding, including the specific exemption or exemptions upon which the withholding is based."

After remarks, the amendment was **adopted**.

Mr. Eldridge moved to amend the proposed new text by inserting after the word "decree", in line 242, the following:- ", or through a voluntary or unilateral change in position by the agency or municipality if the requestor's claim is not insubstantial,"; and by striking out lines 256-263, and inserting in place thereof the following:- "If a requestor has obtained relief under subclauses (A) through (D), and the superior court determines that the assessment of reasonable attorney fees and other litigation costs reasonably incurred is not warranted, the judge shall issue written findings specifying the basis for not awarding reasonable attorney fees and other litigation costs reasonably incurred."

The amendment was *rejected*.

Mr. Eldridge moved to amend the proposed new text by striking lines 179-191 and striking the words "or approved by the supervisor of records under clause (iv)" from lines 169 and 178.

The amendment was *rejected*.

Mr. Tarr moved to amend the proposed new text by inserting in line 200 after the word "calendars" the following:- "and furnished the public record in 30 calendar days.; and further to amend after the letter (b) the following: or timely petitioned the supervisor of records and furnished the public record within any extension of time granted under subsection (c)".

The amendment was *rejected*.

Messrs. Lewis and Joyce moved to amend the proposed new text in section 7, by inserting, in line 44, after the word "agency", the following words:- "and municipality";

By striking out section 10 and inserting in place thereof the following section:-

"SECTION 10. Municipal records access officers shall, to the extent feasible, post the commonly available public record documents identified in subsection (b) of section 19 of chapter 66 of the General Laws on a website maintained by the municipality."; and

By inserting after section 13 the following section:-

"SECTION 13A. Notwithstanding section 14, a municipality that maintains a website shall not be required to post guidelines or reference materials on its website, as required by subsection (b) of section 6A of chapter 66 of the General Laws, until January 1, 2017."

After remarks, the amendment was **adopted**.

Mr. Tarr moved to amend the proposed new text by inserting after section 9 following section:-

"SECTION 9A. Section 3 of chapter 268B of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word 'reports', in line 22, the following words:- ; provided, however, that the commission may make statements and reports filed with the commission available by electronic mail in a read-only format upon the written request of any individual that delivers the request by electronic mail and provides identification acceptable to the commission, including the individual's affiliation, if any."

After remarks, the amendment was **adopted**.

Ms. O'Connor Ives moved to amend the proposed new text in section 8, line 109, by adding at the end the following:- "provided, however an agency or municipality that redacts public information is in violation of this section".

The amendment was *rejected*.

Mr. Ross moved to amend the proposed new text in section 7, in line 31, after the word "officers." by inserting the following line:- "The duties of the records access officer shall be subject to appropriation by the legislature in an amount not less than fifteen cents per registered voter in municipalities possessing 25,000 registered voters or fewer."

After remarks, the amendment was *rejected*.

Ms. Lovely moved to amend the proposed new text by inserting after the words "public website", in line 61, the following words:- "Any document submitted to an agency or municipality for consideration before a public body shall be provided in electronic format at the time of submission."

After remarks, the amendment was **adopted**.

Mr. Keenan moved to amend the proposed new text by inserting the following section:-

“SECTION __. Said section 3 of said chapter 66, as so appearing, is hereby further amended by inserting after the word ‘records.’, in line 10, the following: "Any records created by electronic means or maintained in electronic form shall be kept as files in a format or formats in common usage by the general public, as further defined in regulation by the supervisor of records."

The amendment was *rejected*.

Mr. Tarr moved to amend the proposed new text by inserting after section 4 the following new section:-

"SECTION __. Section 14C of Chapter 7 as appearing in the 2014 official edition is hereby amended by inserting in line 30 after the word ‘assistance’ the following:-any invoices to over five hundred thousand dollars and all contracts.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at sixteen minutes past two o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 10 — nays 26*) [**Yeas and Nays No. 237**]:

YEAS.

deMacedo, Viriato M.	Moore, Michael O.
Fattman, Ryan C.	O'Connor Ives, Kathleen
Flanagan, Jennifer L.	Ross, Richard J.
Humason, Donald F., Jr.	Tarr, Bruce E.
L'Italien, Barbara A.	Timilty, James E. — 10.

NAYS.

Barrett, Michael J.	Joyce, Brian A.
Brady, Michael D.	Keenan, John F.
Brownsberger, William N.	Lesser, Eric P.
Chandler, Harriette L.	Lewis, Jason M.
Chang-Diaz, Sonia	Lovely, Joan B.
Creem, Cynthia Stone	McGee, Thomas M.
DiDomenico, Sal N.	Montigny, Mark C.
Donnelly, Kenneth J.	Pacheco, Marc R.
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Rush, Michael F.
Eldridge, James B.	Spilka, Karen E.

Forry, Linda Dorcena

Welch, James T.

Gobi, Anne M.

Wolf, Daniel A. – **26.**

ABSENT OR NOT VOTING.

Jehlen, Patricia D. – **1.**

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

Mr. Ross moved to amend the proposed new text in section 8 by inserting in proposed section 10 the following new subsection:-
"(e) The records access officer shall reserve the right to deny public records requests to a requester for failures to compensate the agency, or city or town, for previous public records requests. The records access officer shall provide a written notification to the requester detailing the reasons behind the denial, and itemizing any and all balances attributed to the previous records request." After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at twenty-four minutes past two o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 6 — nays 30*) [**Yeas and Nays No. 238**]:

YEAS.

deMacedo, Viriato M.

Ross, Richard J.

Fattman, Ryan C.

Tarr, Bruce E.

Humason, Donald F., Jr.

Timilty, James E. – **6.**

NAYS.

Barrett, Michael J.

Keenan, John F.

Brady, Michael D.

Lesser, Eric P.

Brownsberger, William N.

Lewis, Jason M.

Chandler, Harriette L.

L'Italien, Barbara A.

Chang-Diaz, Sonia

Lovely, Joan B.

Creem, Cynthia Stone

McGee, Thomas M.

DiDomenico, Sal N.

Montigny, Mark C.

Donnelly, Kenneth J.

Moore, Michael O.

Donoghue, Eileen M.

O'Connor Ives, Kathleen

Downing, Benjamin B.

Pacheco, Marc R.

Eldridge, James B.

Rodrigues, Michael J.

Flanagan, Jennifer L.

Rush, Michael F.

Forry, Linda Dorcena

Spilka, Karen E.

Gobi, Anne M.

Welch, James T.

Joyce, Brian A.

Wolf, Daniel A. – 30.

ABSENT OR NOT VOTING.

Jehlen, Patricia D. – 1.

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

Messrs. Keenan and Joyce moved to amend the proposed new text in section 7, in subsection (d) of proposed section 6A of chapter 66 of the General Laws, by striking out the first sentence and inserting in place thereof the following sentence:- “The records access officer shall provide the public records to a requestor by electronic means unless the record is not available in electronic form or the requestor does not have the ability to receive or access the records in a usable electronic form.” After remarks, the amendment was **adopted**.

Messrs. Keenan and Joyce moved to amend the proposed new text in section 5, by striking out lines 15-21, inclusive, and inserting in place thereof the following words:-“Section 1A. The supervisor of records shall (i) create educational materials or guides and may make available training to an agency or municipality in order to foster awareness and compliance with this chapter; and, (ii) prepare forms, guidelines and reference materials for agencies and municipalities to use and disseminate to individuals seeking access to public records to assist an individual in making an informed public records request. The supervisor of records shall make the forms, guidelines and reference materials available at no cost on a website operated by the secretary of the commonwealth. Upon request and to the extent feasible, the supervisor of public records shall assist each agency and municipality in developing best practices to facilitate compliance with this chapter and to promote access to public records.” The amendment was **adopted**.

Messrs. Keenan and Joyce moved to amend the proposed new text by inserting, in line 92, after the figure “(ii)” the following words:- “the request includes the name, address, telephone number, and electronic mail address of the person making the request, and an attestation under the pains and penalties of perjury of the veracity of the information provided; (iii)” and in line 94, by striking out the figure “(iii)” and inserting in place thereof the following figure:- “(iv)”. The amendment was *rejected*.

Mr. Keenan moved to amend the proposed new text by inserting in line 117, after the word “itemized” the following words:- “good faith”. After remarks, the amendment was **adopted**.

Messrs. Keenan and Joyce moved to amend the proposed new text by inserting in line 150, after the word “days” the following words:- “or relieve the agency or municipality of its obligations to provide copies of public records”. The amendment was **adopted**.

Mr. Keenan moved to amend the proposed new text by striking the words “the fee shall not be more than \$25 per hour and an agency shall not charge for the first 4 hours of work performed. An agency shall not charge for time spent segregating or redacting unless such segregation or redaction is required by law or approved by the supervisor of records under clause (iv);” in lines 166 through 169, and inserting in place thereof the following:- “the agency shall not charge more than \$25 per hour unless such rate is approved by the supervisor of records under clause (iv); provided, however, that an agency shall not charge for the first 4 hours of work performed or time spent segregating or redacting unless such segregation or redaction is required by law or approved by the supervisor of records under clause (iv);”. The amendment was *rejected*.

Messrs. Keenan and Joyce moved to amend the proposed new text by striking out, in lines 209 to 213, the following sentence:- “A requestor, aggrieved by an order issued by the supervisor of records or upon the failure of the supervisor of records to issue a

timely determination, may obtain judicial review only through an action in superior court seeking relief in the nature of certiorari under section 4 of chapter 249 and as prescribed in subsection (d)."; and by striking out lines 226 to 231, and inserting in place thereof the following:- "(c) A requestor, aggrieved by an order issued by the supervisor of records or upon the failure of the supervisor of records to issue a timely determination, may (i) obtain judicial review only through an action in superior court seeking relief in the nature of certiorari under section 4 of chapter 249 and as prescribed in subsection (d); or (ii) initiate a civil action to enforce the requirements of this chapter, provided such action under this subsection shall be filed in Suffolk superior court with respect to agencies and, with respect to municipalities, in the superior court in the county in which the municipality is located. In any civil action, the superior court shall have available all remedies at law or in equity, provided that any damages awarded shall be consistent with subsection (d)."

The amendment was *rejected*.

Mr. Tarr moved to amend the proposed new text by inserting before section 1 the following new section:-

"SECTION . Section 7 of Chapter 4 as appearing in 2014 official edition is hereby amended by striking subsection (d) of clause twenty-sixth lines 169-173 in its entirety."

The amendment was *rejected*.

Ms. Lovely, Messrs. Lewis and Eldridge moved to amend the proposed new text by inserting after section 8, the following 4 sections:

"SECTION 8A. Said chapter 66, is hereby further amended by striking out section 11 and inserting in place thereof the following section:-

Section 11. Public records, other than the records in the custody of teachers of the public schools, shall be stored in fireproof rooms, safes or vaults, furnished with fittings of non-combustible materials only or in buildings, vaults or file rooms that comply with National Fire Protection Association Standards, or standards promulgated by the supervisor of records, for the safe keeping of the public records.."

SECTION 8B. Section 12 of said chapter 66, as appearing in the 2014 Official Edition, is hereby amended by striking out, in line 4, the words 'provided for them' and inserting in place thereof the following words:-

or buildings, vaults or file rooms that comply with the National Fire Protection Association Standards or standards promulgated by the supervisor of records.

SECTION 8C. Section 13 of said chapter 66, as so appearing, is hereby amended by inserting after the word 'person', in line 2, the following word:- unlawfully.

SECTION 8D. Said chapter 66 is hereby further amended by striking out section 17 and inserting in place thereof the following section:-

Section 17. Except as otherwise provided by law, all public records shall be kept in the custody of the person having the custody of similar records in the county, city or town to which the records originally belonged; provided, however, that the custodian of public records may enter into a contract for the storage of records containing public record information, but no contract for the storage of public records shall be entered into if the contract prevents or unduly restricts a records access officer or custodian of records from providing or storing the records in accordance with this chapter. Records not directly in the custodian's possession shall be considered in the custody of the custodian if subject to a contract for the storage of public records that is permitted by this section. If the custodian does not have custody of public records, the custodian shall demand delivery from any person unlawfully having possession of them, and they shall immediately be delivered by such person to the custodian. A person who refuses or neglects to perform any duty required by this section shall be punished by fine of not more than \$20."

The amendment was **adopted**.

Mr. Tarr moved to amend the proposed new text by inserting at the end thereof the following section:-

"SECTION 1. Section 295C of Chapter 94 of the General Laws shall be amended by inserting the following new text at the end thereof:-

Each pump shall include a sign that displays the itemization of all taxes included in the price of motor fuel shown on the sign."

Pending the question on adoption of the amendment, Mr. Rodrigues rose to a point of order, which, being stated, was that the amendment was beyond the scope of the bill.

The President ruled that the point of order was WELL taken.

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

After debate, the question "Shall the Ruling of the Chair Stand?" was determined by a call of the yeas and nays at six minutes before three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 31 – nays 5*) [**Yeas and Nays No. 239**]:

YEAS.

Barrett, Michael J.

Lesser, Eric P.

Brady, Michael D.

Lewis, Jason M.

Brownsberger, William N.	L'Italien, Barbara A.
Chandler, Harriette L.	Lovely, Joan B.
Chang-Diaz, Sonia	McGee, Thomas M.
Creem, Cynthia Stone	Montigny, Mark C.
DiDomenico, Sal N.	Moore, Michael O.
Donnelly, Kenneth J.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Pacheco, Marc R.
Downing, Benjamin B.	Rodrigues, Michael J.
Eldridge, James B.	Rush, Michael F.
Flanagan, Jennifer L.	Spilka, Karen E.
Forry, Linda Dorcena	Timilty, James E.
Gobi, Anne M.	Welch, James T.
Joyce, Brian A.	Wolf, Daniel A. – 31.
Keenan, John F.	

NAYS.

deMacedo, Viriato M.	Ross, Richard J.
Fattman, Ryan C.	Tarr, Bruce E. – 5.
Humason, Donald F., Jr.	

ABSENT OR NOT VOTING.

Jehlen, Patricia D. – **1.**

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

Mr. Tarr moved to amend the proposed new text by inserting in line 214, after the words "comply with" the following:- "or respond to".

After remarks, the amendment was *rejected*.

Mr. Tarr moved to amend the proposed new text by inserting in section (i) of subsection (d) of section 8, at the end thereof the following new text:-

“The municipality may charge a reasonable fee for standard black and white paper copies or printouts of records if it can demonstrate, in good faith and in writing, that the cost of the copies or printouts of records exceeds 5 cents per page, provided that the cost of such charge may be appealed to the supervisor of records.”

After remarks, the amendment was *rejected*.

Mr. Tarr moved to amend the proposed new text by inserting after section 4 the following section:-

“SECTION 4A. Chapter 10 of the General Laws is hereby amended by inserting after section 35CCC the following section:-

Section 35DDD. There shall be established and set up on the books of the commonwealth a Public Records Assistance Fund, which shall be administered by the Massachusetts office of information technology. The fund shall be credited with: (i) all punitive damages assessed pursuant to clause (4) of subsection (d) of section 10A of chapter 66; (ii) any appropriations, bond proceeds or other monies authorized or transferred by the general court and specifically designated to be credited to the fund; (iii) gifts, grants and other private contributions designated to be credited to the fund; (iv) all other amounts credited or transferred to the fund from any other fund or source; and (v) interest or investment earnings on any such monies. Amounts credited to the fund may be expended by the chief information officer, without further appropriation, to provide grants to cities and towns to support the information technology capabilities of municipalities to foster best practices for increasing access to public records and facilitating compliance with chapter 66.

The unexpended balance in the fund at the end of a fiscal year shall not revert to the General Fund, but shall remain available for expenditure in subsequent fiscal years. No expenditure made from the fund shall cause the fund to become deficient at any point.”;

By striking out, in lines 275 to 277, inclusive, the words “expended to support the information technology capabilities of a municipality to foster best practices and facilitate compliance with this chapter” and inserting in place thereof the following words:- “deposited into the Public Records Assistance Fund established by section 35DDD of chapter 10”;

By striking out section 11; and

By striking out, in line 357, the figure “11” and inserting in place thereof the following figure:- “10”.

After remarks, the question on adoption of the amendment was determined by a call of the yeas and nays, at one minute past three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (*yeas 35 — nays 0*) [**Yeas and Nays No. 240**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Brady, Michael D.	Lesser, Eric P.
Brownsberger, William N.	Lewis, Jason M.
Chandler, Harriette L.	L'Italien, Barbara A.
Chang-Diaz, Sonia	Lovely, Joan B.
Creem, Cynthia Stone	McGee, Thomas M.
deMacedo, Viriato M.	Montigny, Mark C.
DiDomenico, Sal N.	Moore, Michael O.
Donnelly, Kenneth J.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Ross, Richard J.

Eldridge, James B.

Rush, Michael F.

Fattman, Ryan C.

Spilka, Karen E.

Flanagan, Jennifer L.

Tarr, Bruce E.

Forry, Linda Dorcena

Timilty, James E.

Gobi, Anne M.

Welch, James T.

Humason, Donald F., Jr.

Wolf, Daniel A. – 35.

Joyce, Brian A.

NAYS – 0.

ABSENT OR NOT VOTING.

Jehlen, Patricia D.

Pacheco, Marc R. – 2.

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

Mr. Tarr moved to amend the proposed new text by inserting the following new section at the end thereof:-

“SECTION XX. Notwithstanding any general or special law, rule, or regulation to the contrary, the Massachusetts Bay Transit Authority (MBTA) shall post conspicuously in each structure it maintains and to which the public has a right of access, including but not limited to stations and terminals, signage delineating the sources of its capital and operational funding in the following categories: (1) federal funding, (2) revenue from MBTA fare collections, (3) revenue from advertising and other MBTA programs, (4) state government subsidies; provided, that the amounts contained in such categories shall be expressed as a percentage of the total annual budget of the MBTA.

The provisions in this section shall take effect not later than 180 days following the passage of this act.”

After debate, the amendment was *rejected*.

Ms. Gobi and Mr. Humason move to amend the bill in section 8, by inserting in line 142, after the word “capacity” the following words:- ; “or the normal business hours of operation”.

After remarks, the amendment was **adopted**.

Ms. O'Connor Ives moved to amend the proposed new text in section 8, line 225, by adding the following:- “If an agency or municipality has not complied within 30 days of receipt of the supervisors order, a fifty dollar penalty shall accrue daily until compliance by custodian.”

The amendment was *rejected*.

Mr. Tarr moved to amend the proposed new text by striking section (iv) of subsection (d) of section 10A and inserting in place thereof the following new section:-

“(iv) the supervisor of records may approve a petition from an agency or municipality to charge for the time spent segregating or redacting, or a petition from a municipality to charge in excess of \$25 per hour, if the supervisor of records determines that: (1) the charge represents an actual and good faith representation by the agency or municipality of the costs to comply with the request; (2) the charge is necessary such that the request could not have been fulfilled by charging \$25 per hour without substantially disrupting the operations of the agency or municipality; (3) the charge does not have the effect of limiting, deterring or preventing access to requested public records; and (4) the work could only be performed by legal counsel or another person with technical expertise.

In making a determination regarding such a petition, the supervisor of records shall consider the public interest served by limiting the cost of public access to the records, the financial ability of the requester to pay additional or increased charges, and any special circumstances that would render a higher fee either just or unjust. The supervisor shall not approve and charges in excess of the hourly rate of the lowest paid employee who has the necessary skill required to search for, compile, segregate, redact, or

reproduce the record or records requested. An agency or municipality, upon submitting a petition under this clause, shall issue a written determination with findings regarding such a petition within 7 calendar days following receipt of the petition by the supervisor of public records. The supervisor of records shall provide the determination to the agency or municipality and the requestor and shall inform the requestor of the right to appeal an unfavorable decision to the superior court; and". After remarks, the amendment was *rejected*.

Messrs. Barrett, Wolf and Montigny moved to amend the proposed new text by inserting the following new section:-
"SECTION XX. Chapter 66 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by adding, after Section 17E, the following section:-
Section 17F. Records of the division of insurance related to homeowner's insurance rate filings received or created pursuant to section 6 of chapter 174A or section 6 of chapter 175A shall be public records at the time of initial filing and thereafter, notwithstanding any general or special law to the contrary. Such records shall be available to the public online within 3 business days after they are filed."
The amendment was **adopted**.

Messrs. Eldridge and Tarr moved to amend the proposed new text in section 8, by striking out, in line 185, the word "records." and inserting in place thereof the following words:- "records. In making a determination regarding such a petition, the supervisor of records shall consider the public interest served by limiting the cost of public access to the records, the financial ability of the requester to pay the additional or increased charges and any other relevant extenuating circumstances."; and by inserting after the word "determination", in line 187, the following words:- "with findings". After remarks, the amendment was **adopted**.

Mr. Tarr moved to amend the proposed new text by inserting after section 4 the following section:-
"SECTION __. Chapter 11 of the General Laws as appearing in the 2014 official edition by inserting at the end thereof the following:-
Section 18. The state auditor shall every five years conduct an audit of the final accounts of the general court."
After remarks, the amendment was *rejected*.

Messrs. Brownsberger and Joyce moved to amend the proposed new text by striking the word "shall" in line 240, and inserting in place thereof the word "may"; and by striking lines 253-255 in their entirety.
The amendment was *rejected*.

Messrs. Keenan and Joyce moved to amend the proposed new text by inserting after the words "federal law", in line 239, the following:- ", or that the agency or municipality is relieved of its obligation to provide such record because the request was designed to harass or intimidate"; and by striking paragraph (2) of the subsection (d) of the proposed section 10A, in lines 240 through 255 inclusive, and inserting in place thereof the following:-
"(2) (i) The superior court shall award reasonable attorney fees and other litigation costs reasonably incurred to the requestor in any case in which the requestor has obtained relief through a judicial order or consent decree, except as described in the following subclauses:
(A) The superior court may, but shall not be required to, award reasonable attorney fees and other litigation costs reasonably incurred to the requestor if said court finds that the agency or municipality reasonably relied on a published opinion by the supervisor of records, the attorney general, or of an appellate court based on similar facts.
(B) The superior court shall not award attorney fees and other litigation costs incurred to the requestor if said court finds that the agency or municipal action did not violate this chapter.
(C) The superior court shall not award attorney fees and other litigation costs incurred to the requestor if said court finds that the request was made primarily for a private or commercial purpose, not primarily intended for the dissemination of information to the public about actual or alleged government activity."
The amendment was *rejected*.

Ms. Spilka moved to amend the proposed new text by inserting after section 3 the following section:-
"SECTION 3A. Subsection (o) of said section 7 of said chapter 4, as so appearing, is hereby further amended by striking out, in lines 231 and 242, the word 'home', the second time it appears."; In section 7, by striking out, in line 55, the word "and" and inserting in place thereof the following words:- "or in the absence of a preferred format,"; and In said section 8, by striking out, in lines 199 and 200, the word "in", and inserting in place thereof the following word:- "within".
The amendment was **adopted**.

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

The bill, as amended was then ordered to 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 twenty-one minutes before four o'clock P.M., on motion of Ms. Lovely, as follows, to wit (*yeas 35 — nays 0*) [**Yeas and Nays No. 241**]:

YEAS.

Barrett, Michael J.	Keenan, John F.
Brady, Michael D.	Lesser, Eric P.
Brownsberger, William N.	Lewis, Jason M.
Chandler, Harriette L.	L'Italien, Barbara A.
Chang-Diaz, Sonia	Lovely, Joan B.
Creem, Cynthia Stone	McGee, Thomas M.
deMacedo, Viriato M.	Montigny, Mark C.
DiDomenico, Sal N.	Moore, Michael O.
Donnelly, Kenneth J.	O'Connor Ives, Kathleen
Donoghue, Eileen M.	Rodrigues, Michael J.
Downing, Benjamin B.	Ross, Richard J.
Eldridge, James B.	Rush, Michael F.
Fattman, Ryan C.	Spilka, Karen E.
Flanagan, Jennifer L.	Tarr, Bruce E.
Forry, Linda Dorcena	Timilty, James E.
Gobi, Anne M.	Welch, James T.
Humason, Donald F., Jr.	Wolf, Daniel A. – 35.
Joyce, Brian A.	

NAYS – 0.

ABSENT OR NOT VOTING.

Jehlen, Patricia D.	Pacheco, Marc R. – 2.
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**The yeas and nays having been completed at eighteen minutes before four o'clock P.M., the bill was passed to be engrossed, in concurrence, with the amendment [For text of Senate amendments, see Senate, No. 2127, printed as amended].
Sent to the House for concurrence in the amendment.**

Order Adopted.

On motion of Mr. Tarr,--

Ordered, That when the Senate adjourns today, it adjourn to meet again on Monday next at eleven o'clock A.M., and that the Clerk be directed to dispense with the printing of a calendar.

On motion of the same Senator, at twenty-six minutes before four o'clock P.M., the Senate adjourned to meet again on Monday next at eleven o'clock A.M.