

**The Commonwealth of Massachusetts**

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**JOURNAL OF THE SENATE.**



**MONDAY, MAY 10, 2021**

**[40]**

JOURNAL OF THE SENATE

Monday, May 10, 2021.

Met at fourteen minutes past eleven o'clock A.M. (Mr. Rush in the Chair).

The Chair (Mr. Rush), members, guests and staff then recited the pledge of allegiance to the flag.

Pledge of allegiance.

*Communication.*

Communication from the Department of Public Health relative to its plan of correction for the Western MA Recovery and Wellness Center inspection on April 30, 2021 (received May 10, 2021),-- **was placed on file.**

DPH,-- plan of correction.  
SD2619

*Report.*

Report of the State Retiree Benefits Trust Board (pursuant to Section 24(f) of Chapter 32A of the General Laws) submitting its amended budget for fiscal year 2021 (received May 7, 2021),-- **was placed on file.**

SRBT,-- FY21 amended budget.  
SD2615

PAPERS FROM THE HOUSE.

Communication was received from the Clerk of the House of Representatives, informing the Senate that the following proposals for legislative amendments to the Constitution have been called for consideration in the Joint Session by the House of Representatives:

Proposal for a legislative amendment to the Constitution relative to select boards (Senate, No. 2440),-- **with reference to which the committee on Municipalities and Regional Government has reported that the amendment ought to pass.**

Select boards.

Proposal for a legislative amendment to the Constitution to provide for no excuse absentee voting (House, No. 76),-- **with reference to which the committee on Election Laws has reported that the amendment ought to pass [Representative Dooley of Norfolk dissenting].**

No excuse absentee voting.

Proposal for a legislative amendment to the Constitution relative to the oaths and affirmations of public office (House, No. 80),-- **with reference to which the committee on the Judiciary has reported that the amendment ought to pass.**

Public office,-- oaths and affirmations.

Proposal for a legislative amendment to the Constitution relative to prohibiting eminent domain takings (House, No. 82),-- **with reference to which the committee on the Judiciary has reported that the amendment ought NOT to pass.**

Eminent domain takings.

Proposal for a legislative amendment to the Constitution to provide resources for education and transportation through an additional tax on incomes in excess of one million dollars (House, No. 86),-- **with reference to which the committee on Revenue has reported that the amendment ought to pass.**

Millionaire's tax.

Proposal for a legislative amendment to the Constitution relative to agricultural and horticultural lands (House, No. 91),-- **with reference to which the committee on Revenue has reported that the amendment ought to pass.**

Agricultural and horticultural lands.

The communication was placed on file.

*Resolutions.*

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

Resolutions (filed by Mr. Brady) “congratulating Robert W. Hayes on the occasion of his retirement from the town of Hanson”; and

Robert W. Hayes.

Resolutions (filed by Mr. O'Connor) “congratulating David J. Madigan on the occasion of his retirement from the Board of Selectmen of the town of Duxbury.”

David J. Madigan.

*Orders Adopted.*

Mr. Brownsberger offered the following order:

*Ordered,* That, the Senate hereby calls for a joint session of the two Houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, to consider the following proposal:

Proposal for a legislative amendment to the Constitution relative to select boards (see Senate, No. 2440) with reference to which the committee on Municipalities and Regional Government has reported, in accordance with Joint Rule 23, that the amendment ought to pass.

Constitution,--  
select boards.

**There being no objection, the rules were suspended, on motion of Mr. Tarr, and the order was considered forthwith and adopted.**

Mr. Tarr offered the following order:

*Ordered,* That, the Senate hereby calls for a joint session of the two Houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, to consider the following proposal:

Proposal for a legislative amendment to the Constitution requiring a supermajority vote for the utilization of rainy day funds (see Senate, No. 22), with reference to which the committee on Revenue has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass.

Rainy day funds,--  
supermajority vote.

**There being no objection, the rules were suspended, on motion of Mr. Tarr, and the order was considered forthwith and adopted.**

Mr. Tarr offered the following order:

*Ordered,* That, the Senate hereby calls for a joint session of the two Houses, conformably to the provisions of Article XLVIII (as amended by Article LXXXI) of the Amendments to the Constitution, to consider the following proposal:

Proposal for a legislative amendment to the Constitution to cap the state income tax (see Senate, No. 23), with reference to which the committee on Revenue has reported, in accordance with Joint Rule 23, that the amendment ought NOT to pass.

Income tax,-- cap.

**There being no objection, the rules were suspended, on motion of Mr. Tarr, and the order was considered forthwith and adopted.**

*Reports of Committees.*

By Ms. Lovely, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Bruce E. Tarr, Ryan C. Fattman, Patrick M. O'Connor, Bradley H. Jones, Jr. and other members of the General Court for legislation to protect children.

Protect children.  
SD2581

**Senate Rule 36 was suspended, on motion of Mr. Tarr, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Children, Families and Persons with**

**Disabilities.**

By Ms. Lovely, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Diana DiZoglio for legislation relative to extending third-party delivery cost containment for restaurants.

Restaurants,--  
delivery costs.  
SD2556

**Senate Rule 36 was suspended, on motion of Mr. Tarr, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Economic Development and Emerging Technologies.**

By Ms. Lovely, for the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the Senate petition of Ryan C. Fattman for legislation relative to 100% disabled veteran motor vehicle tax exemptions.

Disabled veterans,--  
tax exemptions.  
SD2546

**Senate Rule 36 was suspended, on motion of Mr. Tarr, and the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Revenue.**

**Severally sent to the House for concurrence.**

Mr. Cronin, for the committee on Municipalities and Regional Government, on petition, a Bill relative to the city of Everett home rule charter (Senate, No. 41) [Local approval received].

Everett,-- charter.

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

Pending the question on ordering the bill to a third reading, Mr. DiDomenico presented an amendment in section 1, by striking out, in lines 2 and 3, the words:- “section 2-1 in its entirety and inserting in place thereof a new section 2-1 through 2-3, as follows” and inserting in place thereof the following words:- “sections 2-1 to 2-3, inclusive, and inserting in place thereof the following 3 sections”;

In section 2, by striking out, in line 62 to 67, inclusive, the words “eleven (10) members” and inserting in place thereof the following figure:- “10 members, 9 school committee members and the mayor in an ex officio capacity who shall have a voice and a vote”; and

In section 5, by inserting after the word “and”, in line 156, the following words:- “not less than”.

**The amendment was adopted.**

**The bill (Senate, No. 41, amended), was ordered to a third reading, read a third time and passed to be engrossed, its title having been changed by the committee on Bills in the Third Reading to read as follows: “An Act amending the charter of the city of Everett.”**

**Sent to the House for concurrence.**

*Moment of Silence.*

There being no objection, the Chair (Mr. Rush), members, guests and staff stood in a moment of silence and reflection to the memory of Francis W. O’Brien.

Moment of silence.

*Order Adopted.*

On motion of Mr. Tarr,--

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

Time of meeting.

*Adjournment in Memory of Francis W. O'Brien.*

The Chair, Mr. Rush, moved that when the Senate adjourns today it do so in memory of Francis W. O'Brien of Dedham.

Commissioner Fran O'Brien, a lifelong resident of Dedham, passed away on April 25, 2021 at the age of 91. A true public servant, Fran was a retired employee of the Mass Bay Transportation Authority, a former Norfolk County Commissioner, and served the town of Dedham for 65 years in many capacities in elected office. As former member of the Board of Selectmen, the Parks and Recreation Commission, the Board of Assessors, the Democratic Town Committee, and the Charter Commission, Commissioner O'Brien was known for putting others first, always. He was an unbelievable asset to county government and an extremely reliable resource to residents and local officials in the town of Dedham. Commissioner O'Brien was an extremely proud United States Navy Veteran.

Commissioner O'Brien was the beloved husband for 66 years of the late Nancy (Kennedy) O'Brien. Father to Francis M. O'Brien and his wife Mariann, Jacqueline A. Conley and her husband Kevin of Dedham, Cynthia A. Glennon and her husband Thomas and the late Marlene M. McLeish and her surviving husband Paul. Loving grandfather of David, William, Jeffrey, Gregory, Amanda, Patrick, and Sean.

Commissioner O'Brien had a saying that he would tell other elected officials whom he dealt with and First Assistant Treasurer of the Commonwealth, Jim MacDonald, in giving Commissioner O'Brien's eulogy related this saying that the Commissioner would share with other elected officials, and I quote Commissioner O'Brien, "When you're in you're in and when you're out, you're out. But if you did the right things when you were in, you are never out!"

Accordingly, as a mark of respect to the memory of Francis W. O'Brien, at twenty minutes before twelve o'clock noon, on motion of Mr. Tarr, the Senate adjourned to meet again on Thursday next at eleven o'clock A.M.