

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, December 20, 2012.

Met at nine minutes past eleven o'clock A.M. (Ms. Donoghue in the Chair) (having been appointed by the President, under authority conferred by Senate Rule 4, to perform the duties of the Chair).

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

Communications.

The following communications were severally received and placed on file:

Several communications from the Honorable Therese Murray, President of the Senate, announcing the following appointments: Senators John A. Hart, Jr. (co-chair) and Anthony Petrucci to the Special Commission established (pursuant to Section 215 of Chapter 139 of the Acts of 2012) to make an investigation and study of the future of the Metropolitan beaches under the jurisdiction of the Department of Conservation and Recreation;

Senator Brian A. Joyce to the Special Commission established (pursuant to Section 264 of Chapter 224 of the Acts of 2012) to make an investigation and study with the Department of Revenue on the implementation of a pilot program to increase the adoption of health reimbursement arrangements, health savings accounts, flexible spending accounts and similar Plans in the marketplace, including state employees and persons receiving subsidized health care; and
Senators Eileen Donoghue and James E. Welch (pursuant to Section 124 of Chapter 165 of the Acts of 2012) to the Registry of Deeds Modernization and Efficiency Commission.

Report.

A report of the District Attorney for the Cape and Islands District (under Section 99 of Chapter 272 of the General Laws) relative to warrants sought for wire and oral communications (received Thursday, December 20, 2012),-- **was placed on file.**

Petition.

Ms. Clark presented a petition (accompanied by bill, Senate, No. 2476) of Katherine M. Clark and Paul J. Donato (with the approval of the mayor and city council) for legislation to exempt the position of police chief in the city of Malden from the civil service law [Local approval received];
Under Senate Rule 20, referred to the committee on Public Service.
Sent to the House for concurrence.

Committee Discharged.

Ms. Spilka, for the committee on Ethics and Rules, reported, asking to be discharged from further consideration of the House Bill to adopt a definition of intellectual disability consistent with the American Association of Intellectual and Developmental Disabilities (House, No. 4252),--
and recommending that the same be referred to the Senate committee on Ways and Means.
Under Senate Rule 36, the report was considered forthwith and accepted.

PAPERS FROM THE HOUSE.

Petitions were severally referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 4547) of John W. Scibak and Stanley C. Rosenberg (by vote of the town) for legislation relative to the positions of collector and clerk-treasurer in the town of South Hadley; and
Petition (accompanied by bill, House, No. 4548) of John W. Scibak and Stanley C. Rosenberg (by vote of the town) for legislation to establish a selectboard-town administrator form of government in the town of South Hadley;
Severally, to the committee on Municipalities and Regional Government.

A Bill establishing a sick leave bank for Laura Flowers, an employee of the Department of Children and Families (House, No. 4538,-- on petition),-- **was read and, under Senate Rule 27, referred to the committee on Ways and Means.**

A Bill designating a certain bridge in the city of Fitchburg as the George J. Bourque Memorial Bridge (House, No. 4458,-- on petition),-- **was read and, under Senate Rule 26, referred to the committee on Ethics and Rules.**

Bills

Relative to vacancies in the office of selectmen in the town of North Andover (House, No. 3832,-- on petition) [Local approval received];
Relative to the position of appointed highway surveyor in the town of Hanson (House, No. 4455,-- on petition) [Local approval received]; and
Exempting the position of building maintenance craftsman in the police department of the town of Billerica from the civil service law (House, No. 4507,-- on petition) [Local approval received];

Were severally read and, under Senate Rule 26, placed in the Orders of the Day for the next session.

Resolutions.

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

Resolutions (filed by Mr. Hedlund) “congratulating Andrew Leighton on his elevation to the rank of Eagle Scout”;
Resolutions (filed by Mr. Hedlund) “congratulating Kevin Mack on his elevation to the rank of Eagle Scout”;
Resolutions (filed by Mr. Ross) “congratulating Patrick Murphy on his elevation to the rank of Eagle Scout”;
Resolutions (filed by Mr. Ross) “congratulating Brian Walsh on his elevation to the rank of Eagle Scout”; and
Resolutions (filed by Ms. Spilka) “congratulating Cameron Rogers Duvall on his elevation to the rank of Eagle Scout.”

Matter Taken Out of the Orders of the Day.

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

The House Bill relative to financial services contracts for dental benefits corporations (House, No. 4265),-- **was passed to be engrossed.**

Report of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill relative to life settlements and stranger originated life insurance (House, No. 4296),-- **ought to pass, with an amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2470.**

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 adoption of amendment recommended by the committee on Ways and Means and pending the main question on ordering the bill to a third reading, Mr. Brewer moved that the pending amendment be amended in section 1, by inserting after the definition of “Financing transaction” the following definition:-

“‘Fraudulent life settlement act’, an act referenced in subsections (b) and (c) of section 223A.”; by striking out, in line 55, the words “, which life insurance contract” and inserting in place thereof the following words:- “or multiple life insurance contracts, which life insurance contract or contracts”; by striking out, in line 587, the words “clauses (i) and (ii)” and inserting in place thereof the following words:- “clauses (1) and (2)”; by striking out, in line 698, the words “For the purpose of this section and sections 223B and 223D, ‘fraudulent’” and inserting in place thereof the

following word:- “‘Fraudulent’; and by striking out, in line 759, the words “be unlawful” and inserting in place thereof the following words:- “also be a fraudulent life settlement act”.

The amendment was adopted.

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

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

Matters Taken Out of the Orders of the Day.

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

The House Bill exempting certain positions in the town of Milton from the civil service law (printed as Senate, No. 2368),-- **was read a second time.**

Pending the question on ordering the bill to a third reading, Mr. Joyce presented an amendment striking out all after the enacting clause and inserting in place thereof the following text:

“SECTION 1. The positions of school department custodian, school department maintenance man, school department cafeteria worker, department of public works employee, park and recreation department employee, cemetery department employee, and consolidated facilities department employee in the town of Milton shall be exempt from chapter 31 of the General Laws.

SECTION 2. Section 1 of this act shall not impair the civil service status of the persons holding the positions of school department custodian, school department maintenance man, school department cafeteria worker, department of public works employee, park and recreation department employee, cemetery department employee, and consolidated facilities department employee in the town of Milton on the effective date of this act.

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

The amendment was adopted.

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence, with the amendment.

Sent to the House for concurrence in the amendment.

The House Bill relative to electing water commissioners in the town of Harvard (House, No. 3997),-- **was read second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill amending the town charter of Oxford (House, No. 4313),-- **was read second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

The House Bill authorizing the town of Milton to borrow money for payments of certain medical expenses (House, No. 4445),-- **was read 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 authorizing the town of Milton to borrow money for the payment of certain medical expenses.”**

Reports of Committees.

Mr. Berry, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session: The House Bill relative to the Regional Wastewater District Enabling Act for the towns of Mansfield, Foxborough and Norton (House, No. 4487). **There being no objection, the rules were suspended, on motion of Mr. Tarr, and the bill was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill further regulating the continuing education requirements for certain real estate appraisers and trainees (Senate, No. 2016),-- **ought to pass, with an amendment, substituting a new draft with the same title (Senate, No. 2477).**

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

The bill (Senate, No. 2477) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

By Mr. Brewer, for the committee on Ways and Means, that the Senate Bill establishing the Fire Prevention Regulations Appeals Board (Senate, No. 2168),-- **ought to pass, with an amendment, striking out section 6, and inserting in place thereof the following section:-** “SECTION 6. This act shall take effect on July 1, 2013.”

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

The bill (Senate, No. 2168, amended) was then ordered to a third reading, read a third time and passed to be engrossed. Sent to the House for concurrence.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill relative to the accounting of public employee retirement systems (House, No. 4270),-- **ought to pass, with an amendment, striking out section 2 inserting in place thereof the following section:-**

“SECTION 2. Said subdivision (5) of said section 20 of said chapter 32, as so appearing, is hereby further amended by adding the following paragraph:-

(m) For the purposes of paragraphs (h) and (i) of this subdivision and paragraph (a) of subdivision (1) of section 23, the state board of retirement and the teachers’ retirement board may write off outstanding pension payments that remain payable or receivable to the respective systems and which the systems have been unable to recover or properly pay for more than 3 calendar years. All write-offs of receivable and payable amounts shall be approved by the state board of retirement or the teachers’ retirement board, whichever is appropriate. The state employees’ retirement system and the teachers’ retirement system shall maintain a record of all amounts written off.” ; and by adding the following section:-

“SECTION 5. Notwithstanding any general or special law to the contrary and except as expressly provided otherwise, the calendar year 2012 financial statement of the state employees’ retirement system and the calendar year 2012 financial statement of the teachers’ retirement system shall be filed on or before May 1, 2013 and the fiscal year 2013 financial statement of the state employees’ retirement system and the fiscal year 2013 financial statement of the teachers’ retirement systems shall be filed on or before December 31, 2013.”

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

The bill, as amended, was then 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 relative to the filing of statements of financial condition by public employee retirement systems.”

Sent to the House for concurrence in the amendment.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill relative to certain retirement rights (House, No. 4271),-- **ought to pass, with an amendment, inserting after section 1 the following section:-**

“SECTION 1A. Said section 16 of said chapter 32 is hereby further amended by striking out, in lines 65 and 66, the words “, removed or discharged from his office or position he” and inserting in place thereof the following words:- under subdivision (1) from the member’s office or position, the member.”; and by striking out, in section 3, the words “December 20, 2012” and inserting in place thereof the following words:- “January 15, 2013”.

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

The bill, as amended, was then ordered to a third reading, read a third time and passed to be engrossed, in concurrence.

Sent to the House for concurrence in the amendment.

By Mr. Brewer, for the committee on Ways and Means, on House No. 3158, in part, a “Bill relative to process piping” (Senate, No, 2478).

The bill was read. There being no objection, the rules were suspended, on motion of Ms. Chang-Díaz, and the bill (Senate, No. 2478) was read a second time and ordered to a third reading.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill making faculty sabbatical provisions at state universities consistent with other higher education institutions (House, No. 4295),-- **ought to pass.**

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

By Mr. Brewer, for the committee on Ways and Means, that the House Bill establishing a sick leave bank for Kathleen Rezendes, an employee of the Department of Transitional Assistance (House, No. 4410),-- **ought to pass.**

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

PAPERS FROM THE HOUSE

The House Bill relative to the charter of the city of Somerville (House, No. 4440),-- came from the House with the endorsement that the House had concurred in the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2456) with a further amendment striking out section 2.

The rules were suspended, on motion of Mr. Tarr, and the further House amendment was adopted, in concurrence.

The engrossed Bill relative to license plates in the Commonwealth (see Senate, No. 2387, amended),-- came from the House with the endorsement that the House had amended the bill in section 2 by inserting in after the word “force” the words: “shall work in consultation with officials from the United State Department of Justice, United States Immigration and Customs Enforcement, and United State Department of Homeland Security and”; by inserting after the word “designee” the words “; the secretary of transportation or a designee”; and by inserting after the word “accessibility” the following sentence: “The study required by this section is to be peer reviewed by research institutions qualified in the subject area to verify research methodology and conclusions.”.

The rules were suspended, on motion of Mr. Tarr, and the House amendment was considered forthwith.

Messrs. Brewer and Tarr presented a motion that the Senate concur with the House amendment with a further amendment, in section 2, by striking out the words “shall work in consultation with officials from the United States Department of Justice, United States Immigration and Customs Enforcement, and United States Department of Homeland Security and” (as inserted by amendment by the House); in said section 2, in the second paragraph, by striking out the last sentence (as inserted by amendment by the House); in said section 2, in the second paragraph, by inserting after the word “symbols”, the second time that it appears, the following words:- “; provided, however, that the task force shall rely upon scientific studies that have been peer reviewed and consult with relevant research or clinical scientists or medical professionals to verify the accuracy of the information the task force reviews”; and in said section 2, in the third paragraph, by inserting after the first sentence, the following sentence:- “The task force shall seek input from the United States Department of Justice, the United States Immigration and Customs Enforcement and the United States Department of Homeland Security.”.

The motion was accepted; and the further amendment was adopted.

Sent to the House for concurrence in the further amendment.

Report of a Committee.

By Mr. Brewer, for the committee on Ways and Means, that the House Bill prohibiting the sale, installation and disposal of mercury thermostats (House, No. 4305, amended),-- **ought to pass, with an amendment, striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2479; and by striking out the title and inserting in place thereof the following title: “An Act further regulating mercury management” (Senator Jehlen dissenting).**

Mr. Tarr moved to suspend the rules to considered the matter forthwith; but objection was made thereto by Ms. Chang-Díaz.

Under Senate Rule 26, the matter was referred to the committee on Ethics and Rules.

PAPERS FROM THE HOUSE

Engrossed Bills.

An engrossed Bill validating the actions taken at a certain annual town election in the town of Blackstone (see House Bill, printed in House, No. 4134) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage was passed to be enacted, two-thirds of the members present having voted in the affirmative, and signed by the Acting President (Ms. Donoghue) and laid before the

Governor for his approbation.

The following engrossed bills (the first two 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 Acting President (Ms. Donoghue) and laid before the Governor for his approbation, to wit:

Regulating surgical technology (see Senate, No. 2058, amended);

Dissolving the redevelopment authority in the town of Wilmington (see Senate, No. 2289);

Relative to psychology training (see House, No.1003);

Designating a certain bridge in the town of Framingham as the Gregory B. Vilidnitsky Memorial Bridge (see House, No. 3572);

Relative to civil service position in the city known as the town of Agawam (see House, No. 4189, amended);

Relative to the finance committee of the town of Provincetown (see House, No. 4477);

Authorizing the city of Easthampton to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 4494); and

Authorizing the city of Easthampton to grant an additional license for the sale of all alcoholic beverages to be drunk on the premises (see House, No. 4495).

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 thirteen minutes before twelve o'clock noon, the Senate adjourned to meet again on Monday next at eleven o'clock A.M.