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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Monday, April 5, 2010.

Met at two minutes past eleven o'clock A.M. (Mr. Hart in the Chair) (having been appointed by the President, under the provisions of Senate 4, to perform the duties of the Chair).

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

Reports of Committees.

By Mr. Michael O. Moore, for the committee on Community Development and Small Business, on petition, a Bill relative to a special commission to develop 401

(k) plans for small businesses (Senate, No. 93);

Read and, under Joint Rule 29, referred to the committees on Rules of the two branches, acting concurrently.

By Ms. Jehlen, for the committee on Elder Affairs, on petition, a Bill relative to prescription advantage start dates (Senate, No. 311);

By the same Senator, for the same committee, on petition, a Bill to protect against unfair prescription drug practices (Senate, No. 316);

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 310), a Bill requiring notification to the General Court of any changes in transportation for adult day care (Senate, No. 2353); and

By Mr. Buoniconti, for the committee on Financial Services, on petition (accompanied by bill, Senate, No. 446), a Bill relative to small group insurance (Senate, No. 2354);

Severally referred, under Joint Rule 1E, to the committee on Health Care Financing.

By Mr. Michael O. Moore, for the committee on Community Development and Small Business, on petition, a Bill relative to smart growth housing trust fund (Senate, No. 86);

By the same Senator, for the same committee, on petition, a Bill to provide a tax exemption for certain small businesses (Senate, No. 101);

By the same Senator, for the same committee, on petition, a Bill relative to renewal communities and smart growth zoning (Senate, No. 103);

By Ms. Spilka, for the committee on Economic Development and Emerging Technologies, on petition, a Bill information technology producer responsibility model state legislation (Senate, No. 203);

By Mr. O'Leary, for the committee on Education, on Senate, No. 265 and House, Nos. 423 and 480, a Bill relative to equitable school reimbursement funds (Senate, No. 265);

By Mr. Morrissey, for the committee on Telecommunications, Utilities and Energy, on petition (accompanied by bill, Senate, No. 1508), a Bill relative to the temporary location of utility wires (Senate, No. 2356); and

By the same Senator, for the same committee, on petition (accompanied by bill, Senate, No. 1542), a Bill to promote the safe operation of utility vaults (Senate, No. 2358);

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

By Mr. Morrissey, for the committee on Consumer Protection and Professional Licensure, on petition, a Bill relative to the Massachusetts Water Resources Authority (Senate, No. 1521);

Read and, under Senate Rule 26C, referred to the committee on Bonding, Capital Expenditures and State Assets.

By Ms. Michael O. Moore, for the committee on Community Development and Small Business, on petition, a Bill relative to district improvement financing (Senate, No. 88); and

By Mr. Morrissey, for the committee on Telecommunications, Utilities and Energy, on petition (accompanied by bill, Senate, No. 1515), a Bill providing for the annual inspection of schools, churches, hospitals, theatres, arenas and other public buildings by gas corporations in the Commonwealth (Senate, No. 2357);

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

Resolutions.

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

Resolutions (filed by Mr. O'Leary) "congratulating Richard F. Todd on the occasion of his retirement from the Yarmouth Fire Department"; and
Resolutions (filed by Ms. Spilka) "honoring Erica Gold on her receipt of the Metro West Jewish War Veterans' Scholarship."

Engrossed Bill Returned by Governor with Recommendation of Amendment.

The engrossed Bill relative to assault and battery by means of a bodily substance upon correctional facility employees and expanding the prohibition on the dissemination of obscenity (see Senate, No. 997, amended) (which on Thursday, March 25, 2010, had been laid before the Governor for his approbation), was returned to the Senate Clerk by the Governor on Friday, April 1, 2010, at two minutes past five o'clock P.M., with a message recommending an amendment. The message (Senate, No. 2361) was read and the Senate proceeded to reconsider the bill, in accordance with the provisions of Article LVI of the Amendments to the Constitution

Pending action thereon, the bill was referred to the committee on Bills in the Third Reading, on motion of Ms. Jehlen.

Subsequently, Mr. Hart, for the committee on Bills in the Third Reading, reported, that the amendment recommended by the Governor be considered in the following form:— In Section 1, by striking out subsection (d).

The report was considered forthwith and accepted.

The Chair (Mr. Hart) stated that under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

On motion of Ms. Jehlen, the Senate then adopted the Governor's amendment in the form recommended by the committee on Bills in the Third Reading.

Sent to the House for its action.

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 Senate Bill authorizing the town of Milton to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises of a certain restaurant (Senate, No. 141),-- **was read a third time.**

Pending the question on passing the bill to be engrossed, Mr. Joyce presented an amendment in section 1, by adding the following paragraph:-

“The license may be re-issued by the licensing authority at the same location if an applicant for the license files with the licensing authority a letter in writing from the department of revenue indicating that the license is in good standing with the department and that all applicable taxes have been paid. If the license granted under this act is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto to the licensing authority and the licensing authority may then grant the license to a new applicant at the same location and under the same conditions as specified in this act.”; and in section 2, by inserting after the word “passage”, in line 16, the following words:- “; provided, however, that if the license authorized in section 1 is not issued within 4 years after the effective date of this act, no license shall be granted under this act”.

The amendment was adopted.

The bill (Senate No. 141, amended) was then passed to be engrossed

The bill (Senate, No. 141, amended) was then passed to be engrossed.

Sent to the House for concurrence.

The House Bill authorizing the appointment of special police officers in the city known as the town of Greenfield (House, No. 636) (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.**

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 validating certain town meetings and town elections in the town of Wilbraham (printed in House, No. 4564).

There being no objection, the rules were suspended, on motion of Ms. Jehlen, 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 validating the actions taken at certain town meetings and town elections in the town of Wilbraham".

By Mr. Panagiotakos, for the committee on Ways and Means, reported, on House, No. 4579, in part, a "Bill making appropriations for the fiscal year 2010 to provide for supplementing certain existing appropriations and for certain other activities and projects and improve the fiscal stability of the Commonwealth" (Senate, No, 2360).

The bill was read. There being no objection, the rules were suspended, on motion of Ms. Jehlen, and the bill was read a second time and ordered to a third reading.

Orders Adopted.

Mr. Panagiotakos offered the following order, to wit:

Ordered, That, notwithstanding Senate Rule 7 or any other rule to the contrary, the Senate Bill making appropriations for the Fiscal Year 2010 to provide for supplementing certain existing appropriations and for certain other activities and projects (Senate, No. 2360), shall be placed in the Orders of the Day for a third reading on Thursday, April 8, 2010.

reading on Thursday, April 8, 2010.

All amendments shall be filed electronically in the office of the Clerk of the Senate by 12:00 noon on Wednesday, April 7, 2010. All such amendments shall be third-reading amendments, 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.

Under the rules, referred to the committee on Ethics and Rules.

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

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

Mr. Morrissey presented the following order:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the joint committee on Consumer Protection and Professional Licensure be granted until Thursday, April 30, 2010 in which to make its final report on Senate documents numbered 47, 127, 131, 132, 134, 156, 159, 167, 170, 149, 183, 2035, 2133, 2134 and 2166, relative to consumer protection and professional licensure in the Commonwealth.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

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

Mr. O'Leary presented the following order:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the joint committee on Education be granted until Friday, June 4, 2010 to make its final report on current Senate documents numbered 245, 266, 267, 270, and 2067 and current House documents numbered 352, 355, 363, 409, 412, 414, 420, 425, 431, 436, 481, 486, 3428, 3435, 3659, and 3874 relative to personnel, regionalization and other student issues.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

The rules were suspended, on motion of Ms. Jehlen, and the order was

considered forthwith and adopted.

Mr. Buoniconti presented the following order:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the joint committee on Financial Services be granted until June 30, 2010 to make its final report on current Senate documents numbered 458, 462, 478, 489 and 501.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

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

Ms. Creem presented the following order:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the Committee on the Judiciary asks that it be granted until May 7, 2010, within which time to make its final report on current Senate documents numbered 738, 1548, 1549, 1550, 1551, 1554, 1555, 1556, 1557, 1559, 1563, 1564, 1565, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1576, 1577, 1578, 1580, 1581, 1582, 1583, 1584, 1585, 1587, 1589, 1591, 1592, 1595, 1596, 1597, 1599, 1600, 1601, 1604, 1606, 1608, 1609, 1610, 1612, 1613, 1614, 1615, 1616, 1618, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1650, 1652, 1653, 1654, 1656, 1658, 1659, 1661, 1664, 1665, 1667, 1668, 1670, 1671, 1672, 1673, 1674, 1675, 1676, 1678, 1680, 1682, 1683, 1686, 1687, 1688, 1689, 1690, 1691, 1692, 1693, 1697, 1698, 1699, 1700, 1705, 1706, 1707, 1708, 1709, 1710, and 1711, relative to the Judiciary.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

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

Ms. Creem presented the following order:

Ordered, That, notwithstanding the provisions of Joint Rule 10, the Committee on the Judiciary asks that it be granted until May 7, 2010, within which time to make its final report on current Senate documents numbered 1712, 1713, 1714, 1716,

1717, 1718, 1722, 1723, 1725, 1726, 1727, 1728, 1729, 1730, 1731, 1732, 1733, 1734, 1737, 1738, 1739, 1741, 1742, 1743, 1745, 1746, 1747, 1750, 1751, 1752, 1755, 1758, 1761, 1762, 1764, 1766, 1767, 1769, 1770, 1771, 1773, 1775, 1776, 1778, 1779, 1780, 1781, 1782, 1785, 1786, 1787, 1788, 1789, 1790, 1792, 1793, 1794, 1795, 1797, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1822, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1834, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1846, 1847, 1848, 1849, 1852, 1853, 1854, 1855, 1857, 1858, 2183, 2250, and 2289, relative to the Judiciary.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

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

Mr. Eldridge presented the following order:

Ordered that, notwithstanding the provisions of Joint Rule 10 the Joint Committee on Municipalities and Regional Government be granted until May 3, 2010 within which to make its final report on current Senate documents numbered 765 and 783 and current House document numbered 3572 relative to municipal government

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

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

Mr. McGee presented the following order:

Ordered, that, notwithstanding the provisions of Joint Rule 10, the committee on Public Service be granted until April 30th, 2010, the time within which to report on current House document numbered 4440 relative to pension reform, and current House document numbered 2636 relative to creditable service.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported,

recommending that the order ought to be adopted.

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

Mr. Joyce presented the following order:

Ordered, that, notwithstanding the provisions of Joint Rule 10, the Committee on State Administration and Regulatory Oversight asks that it be granted until May 15, 2010 within which time to make its final report on current Senate documents numbered 6, 1391, 1392, 1398, 1406, 1407, 1408, 1416, 1418, 1419, 1420, 1421, 1422, 1423, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1439, 1442, 1447, 1448, 1449, 1454, 1457, relative to State Administration and Regulatory Oversight.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

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

Mr. Morrissey presented the following order:

Ordered, that, notwithstanding the provisions of Joint Rule 10, the joint committee on Telecommunications, Utilities and Energy be granted until Wednesday, July 14, 2010 in which to make its final report on Senate documents numbered 1480, 1481, 1482, 1484, 1485, 1497, 1516, 1518, 1524, 1527, and 1533 relative to bottle bill, municipal light plant, energy efficiency, net metering, double pole, natural gas, utility and energy issues in the Commonwealth.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

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

Mr. Baddour presented the following order:

Ordered, that, notwithstanding the provisions of Joint Rule 10, the committee on Transportation be granted until Wednesday June 16, 2010, within which time to make its final report on current Senate document numbers 1985, 1986 and 1935.

Under the rules, referred to the committees on Rules of the two branches,

acting concurrently.

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

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

Mr. Donnelly presented the following order:

Ordered, that notwithstanding the provisions of Joint Rule 10 the Joint Committee on Veterans and Federal Affairs be granted until April 30, 2010 within which to make its final report on current Senate documents numbered 695, 1992, 1993, 1994, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2005, 2006, 2007, 2008, 2010, and 2011 relative to veterans.

Under the rules, referred to the committees on Rules of the two branches, acting concurrently

Subsequently, Mr. Berry, for the said committees, reported, recommending that the order ought to be adopted.

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

PAPERS FROM THE HOUSE.

Order Amended.

The following House Order (approved by the committees on Rules of the two branches, acting concurrently) was considered forthwith, as follows:

Ordered, that notwithstanding the provisions of Joint Rule 10, the committee on Environment, Natural Resources and Agriculture shall be granted until Wednesday, March 31, 2010, within which to report on current Senate Nos. 386 and 387 and on House, No. 818.

Pending the question on adoption of the order, Mr. Petruccelli presented an amendment striking out the words and figures "Wednesday, March 31, 2010" and inserting in place there of the words and figures "Tuesday, June 15, 2010".

The amendment was adopted.

The order, as amended, was then adopted.

Sent to the House for concurrence in the amendment.

A petition (accompanied by bill, House, No. 4589) of Linda Dorcena Forry for legislation relative to the creation of low profit limited liability companies, -- was referred, in concurrence, under suspension of Joint Rule 12, to the committee on

Community Development and Small Business.

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 Acting President (Mr. Hart) and laid before the Governor for his approbation, to wit:

Establishing a sick leave bank for John Riordan, an employee of the Trial Court (see Senate, No. 2227, amended); and
Establishing a sick leave bank for Sean O'Brien, an employee of the Department of Transitional Assistance (see Senate, No. 2288).

Order Adopted.

On motion of Ms. Jehlen,--

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

Adjournment in Memory of Former Senator Charles E. Shannon, Jr.

The Senator from Middlesex, Ms. Jehlen, requested that when the Senate adjourns today, it adjourn in memory of former Senator Charles E. Shannon, Jr., who passed away five years ago today.

Accordingly, as a mark of respect to the memory of former Senator Charles E. Shannon, Jr., at twenty-five minutes past eleven o'clock A.M., on motion of Ms. Jehlen, the Senate adjourned to meet again on Thursday next at ten o'clock A.M.