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UNCORRECTED PROOF OF THE JOURNAL OF THE SENATE.



JOURNAL OF THE SENATE.

Tuesday, July 29, 2008.

Met at four minutes past ten o'clock A.M. (Mr. Rosenberg in the Chair).

The Senator from Middlesex and Essex, Mr. Tisei, then led the Chair (Mr. Rosenberg), members, guests and employees in the recitation of the pledge of allegiance to the flag.

Reports of Committees.

By Mr. Morrissey, for the committee on Consumer Protection and Professional Licensure, on petition, a Bill to authorize the issuing of a certain special license in the town of Easton for the sale of all alcoholic beverages (Senate, No. 2803) [Local approval received]; and

By Mr. Augustus, for the committee on Election Laws, on petition, a Bill authorizing the town of Concord to send certain information to registered voters in the town of Concord (Senate, No. 2789) [Local approval received];

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

Committees Discharged.

Mr. Downing, for the committees on Rules of the two branches, acting concurrently, reported, asking to be discharged from further consideration of the Senate Order relative to authorizing the joint committee on Elder Affairs to make an investigation and study of a certain current Senate document relative to senior lifestyle communities (Senate, No. 2843),— **and recommending that the same be referred to the Senate committee on Ethics and Rules.**

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

Mr. Downing, for the committee on Ethics and Rules, to whom was referred the Senate Order relative to authorizing the joint committee on Public Service to make an investigation and study of certain Senate documents (Senate, No. 2633), reported, in part, asking to be discharged from further consideration of the Senate petition (accompanied by bill, Senate, No. 1545) of Thomas M. McGee for legislation relative to the MWRA retirement system,— **and recommending that the same be recommitted to the committee on Public Service.**

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

PAPERS FROM THE HOUSE.

Bills

Relative to group marketing plans (House, No. 4948,— on House, Nos. 1024 and 1103); and Making appropriations for the fiscal year 2008 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 5022,— on House, No. 4971, in part);

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

Matters Taken Out of the Notice Section of the Calendar.

There being no objection, the following matters were taken out of the Notice Section of the Calendar and considered as follows:

The House Bill relative to conservation restrictions on certain parcels of land held by the Martha's Vineyard Land Bank and the town of Edgartown (House, No. 4294) (its title having been changed by the committee on Bills in the Third Reading),— **was read a third time and passed to be engrossed, in concurrence.**

The House Bill relative to clarifying certain banking laws (House, No. 4901),— **was read a third time and passed to be engrossed, in concurrence.**

Reports of a Committee.

Mr. Downing, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The Senate Bill making technical corrections to Chapter 232 of the Acts of 1998 (Senate, No. 1129).

There being no objection, the rules were suspended, on motion of Mr. Brewer, and the bill was read a second time, 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 further regulating ketamine as a Class A controlled substance."

Sent to the House for concurrence.

Mr. Downing, 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 designating rolling rock as the official glacial rock of the Commonwealth (House, No. 4823).

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

Mr. Downing, 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 regulating liquefied natural gas tanker import terminals (House, No. 2383).

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

Mr. Augustus, for the committee on Bills in the Third Reading, reported, asking to be discharged from further consideration thereof.

This report was accepted.

The bill was then passed to be engrossed, in concurrence.

Mr. Downing, 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 authorizing the consolidation of certain public hearings (House, No, 3234).

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

Recess.

There being no objection, at twenty-five minutes before eleven o'clock A.M, the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at twenty-five minutes before twelve o'clock noon, the Senate reassembled, Mr. Rosenberg in the Chair.

Orders of the Day.

The Orders of the Day were considered as follows:—

The House Bill relative to interest rates to be charged upon apportionment betterment assessments in the town of Wareham (House, No. 3986),— **was read a second time and ordered to a third reading.**

At twenty-three minutes before twelve o'clock noon, Mr. Tisei doubted the presence of a quorum; and, a count of the Senate determined that a quorum was not present.

Subsequently, at eighteen minutes before twelve o'clock noon, the Chair (Mr. Rosenberg) declared a recess subject to the call of the Chair; and, at three minutes before one o'clock P.M., the Senate reassembled, the President in the Chair.

PAPER FROM THE HOUSE.

Engrossed Bill.

There being no objection, during consideration of the Orders of the Day, the engrossed Bill relative to equality in the MassHealth program (see House, No, 4107, amended) (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 and was signed by the President and laid before the Governor for his approbation.**

Orders of the Day.

The Orders of the Day were further considered, as follows:

The Senate Bill relative to election day registration (Senate, No, 2807, amended),— was considered, the main question being on passing the bill to be engrossed.

The pending motion, previously moved by Mr. Tarr, that the bill be laid on the table was considered; and it was negatived.

Pending the question on passing the bill to be engrossed, Mr. Tisei moved that the bill be amended in section 9, by striking out, in line 123, the word “is” and inserting in place thereof the following words:— “and 6 are”. After debate, the amendment was *rejected*.

Mr. Tisei moved that the bill be amended in section 6, by inserting after the word “election”, in line 2, the following words:— “, subject to appropriation.”

After debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at one minute past two o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 304**]:

YEAS.

Antonioni, Robert A. McGee, Thomas M.
Augustus, Edward M., Jr. Menard, Joan M.

Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Marzilli, Jim — 1.

The yeas and nays having been completed at seven minutes past two o'clock P.M. the amendment was adopted.

Mr. Tisei moved that the bill be amended by adding the following section:—

“SECTION 11. Sections 6 and 8 shall take effect on January 1, 2010”; and by striking, in section 10, the date “December 1, 2008” and inserting in place thereof the date:— “December 1, 2010”.

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. Tisei, as follows, to wit (yeas 9 — nays 29)

[Yeas and Nays No. 305]:

YEAS.

Baddour, Steven A.	Tarr, Bruce E.
Brown, Scott P.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tucker, Susan C. — 9.
Knapik, Michael R.	

NAYS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Buoniconti, Stephen J.	O'Leary, Robert A.
Candaras, Gale D.	Pacheco, Marc R.
Chandler, Harriette L.	Panagiotakos, Steven C.
Creedon, Robert S., Jr.	Petrucelli, Anthony
Creem, Cynthia Stone	Resor, Pamela

Downing, Benjamin B.	Rosenberg, Stanley C.
Fargo, Susan C.	Spilka, Karen E.
Galluccio, Anthony D.	Tolman, Steven A.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 29.
McGee, Thomas M.	

ABSENT OR NOT VOTING.

Marzilli, Jim — 1.

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

Mr. Tisei moved that the bill be amended by adding the following section:—

“SECTION 11. Pursuant to the limitations provided in section 27C of chapter 29 of the General Laws, implementation of this act shall be considered a mandate and therefore invalid unless a city or town is directly appropriated the anticipated cost of satisfying the requirements of this act by the commonwealth sufficiently in advance of an election.”

After remarks, The amendment was *rejected*.

Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the bill be amended in section 6 by inserting after the figure “(a)”, in line 56, the following words:— “and of section 76 of chapter 54”; and by inserting after section 6 the following section:—

“SECTION 6A. Section 76 of chapter 54, as so appearing is hereby amended by striking out, in line 2, the words ‘, if requested, his residence’, and inserting in place thereof the following words:— “an identification document, as issued by any federal or state government agency or political subdivision, which shall in all cases include his full name and current address except in the case of a Social Security card, which shall be considered sufficient identification.”

During debate, at twenty-one minutes before three o'clock P.M., Mr. Tisei doubted the presence of a quorum; but a quorum was deemed present.

After further debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at ten minutes before three o'clock P.M., on motion of Mr. Tarr, as follows, to wit (yeas 9 — nays 29) **[Yeas and Nays No. 306]:**

YEAS.

Baddour, Steven A.	Pacheco, Marc R.
Brown, Scott P.	Tarr, Bruce E.
Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R. — 9.
Knapik, Michael R.	

NAYS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Buoniconiti, Stephen J.	O’Leary, Robert A.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Credon, Robert S., Jr.	Resor, Pamela

Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tolman, Steven A.
Galluccio, Anthony D.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne —
	29.
McGee, Thomas M.	

ABSENT OR NOT VOTING.

Marzilli, Jim — 1.

The yeas and nays having been completed at six minutes before three o'clock P.M. The amendment was *rejected*.

Mr. Morrissey moved that the bill be amended by striking out section 8, and inserting in place thereof the following 2 sections:—

“SECTION 8. Notwithstanding any other general or special law to the contrary, an individual who is eligible to vote on November 4, 2008, may register to vote, in accordance with section 34A of chapter 51 of the General Laws, provided, however, that such registration shall take place at the office of the registrars of voters, as defined by section 1 of chapter 50 of the General Laws, in the city or town in which the individual resides during the hours polling places are open for voting. A city or town with 75,000 or more residents, according to the most recent federal census, shall add additional regional registration locations at which applicants qualified under subsection (a) of said section 34A of said chapter 51 may register and vote. A city or town with less than 75,000 residents may add additional regional registration locations at which applicants qualified under subsection (a) of said section 34A of said chapter 51 may register and vote, or may designate an alternative registration location if that city or town has only 1 polling location. These additional or alternative regional registration locations shall be selected by the registrars at least 30 days prior to an election and subject to the approval of the state secretary, who shall render his approval or disapproval within 5 calendar days of the selection by the registrars. The registrars of voters shall allow any individual who has completed registration in accordance with said section 34A of said chapter 51 on the day of the election to cast the appropriate ballot at the office of registrars or regional registration location. The registrars of voters or official in charge of the regional registration location shall distribute all completed ballots to the appropriate polling places to be included in that location's vote count.

The state secretary shall adopt or modify policies and regulations necessary to implement this section.

SECTION 8A. Notwithstanding any general or special law to the contrary, the state secretary shall have the authority to add or change any dates relating to the general election held on November 4, 2008, as he deems necessary for the orderly administration of the election by providing notice of such change to any affected person, by filing notice with the rules and regulations division, by posting on his website and by whatever other means he deems appropriate.”

The amendment was adopted.

After further debate, the question on passing the bill to be engrossed was determined by a call of the yeas and nays, at six minutes past three o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 33 — nays 5)

[Yeas and Nays No. 307]:

YEAS.

Antonioni, Robert A.	Menard, Joan M.
Augustus, Edward M., Jr.	Montigny, Mark C.
Baddour, Steven A.	Moore, Richard T.
Berry, Frederick E.	Morrissey, Michael W.
Brewer, Stephen M.	O'Leary, Robert A.

Brown, Scott P.	Pacheco, Marc R.
Buoniconti, Stephen J.	Panagiotakos, Steven C.
Candaras, Gale D.	Petrucelli, Anthony
Chandler, Harriette L.	Resor, Pamela
Creedon, Robert S., Jr.	Rosenberg, Stanley C.
Creem, Cynthia Stone	Spilka, Karen E.
Downing, Benjamin B.	Tarr, Bruce E.
Fargo, Susan C.	Tolman, Steven A.
Galluccio, Anthony D.	Tucker, Susan C.
Jehlen, Patricia D.	Walsh, Marian
Joyce, Brian A.	Wilkerson, Dianne — 33.
McGee, Thomas M.	

NAYS.

Hart, John A., Jr.	Timilty, James E.
Hedlund, Robert L.	Tisei, Richard R. — 5.
Knapik, Michael R.	

ABSENT OR NOT VOTING.

Marzilli, Jim — 1.

The yeas and nays having been completed at ten minutes past three o'clock P.M. the bill (Senate, No. 2807, amended) was passed to be engrossed. Sent to the House for concurrence.

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

Reports of Committees.

Mr. Downing, 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 providing for the merger of the Turners Falls Fire District and the Lake Pleasant Water Supply District (House, No. 5020).

There being no objection, the rules were suspended, on motion of Mr. Rosenberg, 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. Panagiotakos, for the committee on Ways and Means, that the House Bill relative to county highways in the town of Granville (House, No. 4796),— ought to pass.

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

Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill relative to the leasing of certain land in the city of Waltham (House, No. 5015),— ought to pass.

There being no objection, the rules were suspended, on motion of Ms. Fargo, 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. Panagiotakos, for the committee on Ways and Means, that the House Bill authorizing the Commissioner of Capital Asset Management and Maintenance to lease certain property to the town of Natick (House, No. 4806),— ought to pass.

There being no objection, the rules were suspended, on motion of Mr. Brewer, 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 authorizing the Commissioner of Capital Asset Management and maintenance to lease certain property to the city known as the town of Natick”.

PAPERS FROM THE HOUSE.

Engrossed Bills.

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 President and laid before the Governor for his approbation, to wit:

Establishing a sick leave bank for Lois Tobin, an employee of the Department of Mental Retardation (see Senate, No. 2678);

Establishing a sick leave bank for David S. Vitale, an employee of the Trial Court (see Senate, No. 2710, amended);

Regulating liquefied natural gas tanker import terminals (see House, No. 2383);

Authorizing the consolidation of certain public hearings (see House, No. 3234);

Designating Mitochondrial Disease Awareness Week (see House, No. 3246);

Establishing a sick leave bank for Sharon Easter, an employee of the Department of Correction (see House, No. 4209, amended);

Designating rolling rock as the official glacial rock of the Commonwealth (see House, No. 4823);

Relative to clarifying certain banking laws (see House, No. 4901);

Relative to the long term care career ladder grant program (see House, No. 4953); and

Prohibiting the rental of pets (see House, No. 5006).

Recess.

There being no objection, at twenty minutes past three o'clock P.M., at the request of Mr. Tisei, for the purpose of a minority caucus, the President declared a recess; and, at a half past four 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, to wit:

Resolutions.

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

Resolutions (filed by Mr. Pacheco) “congratulating the Middleborough Housing Authority on its 60th anniversary.”

Engrossed Bill Returned by Governor with Recommendation of Amendment.

The engrossed Bill relative to rates for human and social service programs (see Senate, No. 2764, amended) (which on Monday, July 21, 2008, had been laid before the Governor for his approbation), was returned to the Senate Clerk by the Governor on Tuesday, July 29, 2008 at fourteen minutes past nine o'clock A.M., with a message recommending an amendment.

The message (Senate, No. 2850) was read and the Senate proceeded to reconsider the bill, in accordance with the pro-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 Mr.

Berry.

Subsequently, Mr. Augustus, 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, in proposed section 22N, by striking out paragraphs 4, 5 and 6 and inserting in place thereof the following paragraph:—

“The bureau shall be comprised of such offices as may be necessary to carry out the mission of the bureau, which may include an audit office and a unit for special education pricing”;

In said section 1, in proposed section 22N, by striking out paragraphs 12, 13 and 14 and inserting in place thereof the following 3 paragraphs:—

“The assistant commissioner may, in accordance with said chapter 30A, promulgate rules and regulations required to develop, implement, administer and monitor the programs and functions of the bureau. These regulations shall provide for right of appeal to the bureau or other appropriate bodies for a procuring governmental unit or provider aggrieved by an action or failure to act under this section or the regulations. All proposed regulations of the department of early education and care and the department of elementary and secondary education, and any other licensing or certification standards proposed by a department having an impact on chapter 71B Special Education programs, shall be forwarded to the bureau of purchased services with a statement describing the anticipated financial impact of the regulations 14 days prior to publication of the notice of rulemaking required under chapter 30A.

The bureau shall adopt regulations limiting the reimbursement to providers for the salaries of their officers or managers to the maximum salary of Job Group M-XII in the management salary schedule in section 46C of chapter 30”.

By striking out section 2 and inserting in place thereof the following section:—

“SECTION 2. Section 1 of chapter 118G of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the definition of ‘General health supplies, care or rehabilitative services and accommodations’ the following definition:—

‘Governmental mandate’, a state or federal statutory requirement, administrative rule, regulation, assessment, executive order, judicial order or other governmental requirement that directly or indirectly imposes an obligation and associated compliance cost upon a provider to take an action or to refrain from taking an action in order to fulfill the provider’s contractual duty to a procuring governmental unit.”

In section 4, by striking out clauses (a) and (b) and inserting in place thereof the following 2 clauses:—

“(a) the reasonable cost to social service program providers of any existing or new governmental mandate that has been enacted, promulgated or imposed by any governmental unit or federal governmental authority; (b) a cost adjustment factor to reflect changes in reasonable costs of goods and services of social service programs including those attributed to inflation;”.

In section 13, by striking out the words “not later than September” and inserting in place thereof the following words:— “on or before December”;

In section 14, by striking out the words “December 1, 2008” and inserting in place thereof the following words:— “March 1, 2009”;

In section 16, by striking out the figure “50” and inserting in place thereof the following figure:— “40”; and

By striking out sections 17 and 18 and inserting in place thereof the following 4 sections:—

“SECTION 17. On or before October 1, 2011, a prospective rate setting process as required by section 7 of chapter 118G of the General Laws shall have been implemented and rates shall have been set under this prospective rate-setting process for not less than 70 per cent of the contracts with social service providers by any governmental unit or political subdivision of the executive office of health and human services.

SECTION 18. On or before October 1, 2012, a prospective rate setting process as required by section 7 of chapter 118G shall have been implemented and rates shall have been set under this prospective rate setting process for all contracts with social service providers by any governmental unit or political subdivision of the executive office of health and human services;

SECTION 19. Section 29 of chapter 60 of the acts of 1994 is hereby repealed.

SECTION 20. The first report under section 24A of chapter 118G of the General Laws shall be filed on or before July 1, 2009.”

After debate, the report was accepted.

The President 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.

Mr. Berry moved that the Senate adopted the amendment in the form recommended by the committee on Bills in the Third Reading, and after debate, the question on adoption of the amendment was determined by a call of the yeas and nays, at eight minutes past five o'clock P.M., on motion of Mr. Tisei, as follows, to wit (yeas 34 — nays 4) [**Yeas and Nays No. 308**]:

YEAS.

Antonioni, Robert A.	Chandler, Harriette L.
Augustus, Edward M., Jr.	Creedon, Robert S., Jr.
Baddour, Steven A.	Creem, Cynthia Stone
Berry, Frederick E.	Downing, Benjamin B.
Brewer, Stephen M.	Fargo, Susan C.
Buoniconti, Stephen J.	Galluccio, Anthony D.
Candaras, Gale D.	Hart, John A., Jr.
Hedlund, Robert L.	Panagiotakos, Steven C.
Jehlen, Patricia D.	Petrucelli, Anthony
Joyce, Brian A.	Resor, Pamela
McGee, Thomas M.	Rosenberg, Stanley C.
Menard, Joan M.	Spilka, Karen E.
Montigny, Mark C.	Timilty, James E.
Moore, Richard T.	Tolman, Steven A.
Morrissey, Michael W.	Tucker, Susan C.
O'Leary, Robert A.	Walsh, Marian
Pacheco, Marc R.	Wilkerson, Dianne — 34.

NAYS.

Brown, Scott P.	Tarr, Bruce E.
Knapik, Michael R.	Tisei, Richard R. — 4.

ABSENT OR NOT VOTING.

Marzilli, Jim — 1.

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

Sent to the House for its action.

Report of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill providing for capital facility repairs and improvements for the Commonwealth (House, No. 5016),— ought to pass, with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2852.

Order Adopted.

Mr. Panagiotakos offered the following order, to wit:

Ordered, That notwithstanding Senate Rule 7, or any other rule to the contrary, full consideration shall be

allowed by the Senate on Wednesday, July 30, 2008 on the House Bill providing for capital facility repairs and improvements for the Commonwealth (House, No. 5016), with the new text proposed by the committee on Ways and Means (Senate, No. 2852).

All amendments to the bill shall be drafted to the proposed Ways and Means new text (Senate, No. 2852) and shall be filed electronically in the office of the Clerk of the Senate by 10:00 A.M. on Wednesday, July 30, 2008. All such amendments shall be second-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. Downing for the said committee, reported, recommending that the order ought to be adopted.

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

Subsequently, House, No. 5016 was placed in the Orders of the Day for the next session, with amendment pending.

PAPERS FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill relative to interior designers bidding on state contracts (see House, No. 4731) (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 and was signed by the President and laid before the Governor for his approbation.**

A petition (accompanied by bill, Senate, No. 2853) of Robert A. Antonioni for legislation relative to non-public school deferred compensation,— came from the House with endorsement that the House concurred in the suspension of Joint Rule 12; and had NON-concurred in the reference to the committee on Education. The petition bore the further endorsement that the matter had been referred to the committee on Labor and Workforce Development.

On motion of Mr. Antonioni, the Senate receded from its reference to the committee on Education and concurred in the reference to the committee on Labor and Workforce Development.

Report of a Committee.

The following report was laid before the Senate, the time within which the said committee was required to report having expired:

Of the committee on Environment, Natural Resources and Agriculture, ought NOT to pass (under Joint Rule 10) on the petition (accompanied by bill, Senate, No. 2762) of Bruce E. Tarr, Steven A. Baddour, David M. Torrisi and Barbara L'Italien (by vote of the town) for legislation to modify a conservation restriction in the town of North Andover.

On motion of Mr. Tarr the petition was recommitted to the Joint Committee on Environment, Natural Resources and Agriculture.

Orders of the Day.

The Orders of the Day were further considered, as follows:

The House Bill providing for the preservation and improvement of land, parks, and clean energy in the Commonwealth (House, No. 5005),— was read a second time.

Pending the question on ordering the bill to a third reading, 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 2458, — was considered.

Mr. Creedon moved that the bill be amended by inserting at the end thereof, the following new sections: "SECTION ____ . The first paragraph of section 21 of chapter 40 of the General Laws, as appearing in the

2004 Official Edition, is hereby amended by striking out the words ‘three hundred dollars’ in line 5-6, and inserting in place thereof the words ‘one thousand dollars’.

SECTION _____. The fifth paragraph of section 21D of chapter 40 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the words ‘three hundred dollars’ in lines 44-45, and inserting in place thereof the words ‘one thousand dollars’.

SECTION _____. Section 21D of chapter 40 of the General Laws is hereby amended by inserting after the end of said section the following new tenth paragraph:—

Notwithstanding the foregoing provisions and any general or special law to the contrary, in any suit in equity brought in the superior court or the land court by any city or town, or any municipal agency, officer, board or commission having enforcement powers on behalf of such city or town, to enforce the provisions of any lawfully enacted ordinance or bylaw, or any rule, regulation or order described in this section, the court, upon a finding that such violation occurred, may assess a civil penalty not to exceed one thousand dollars for each violation thereof. Civil penalties assessed under this paragraph shall be in addition to any equitable relief ordered by the Court, and shall be paid to such city or town for such use as the city or town may direct. In considering any penalty to be assessed under this paragraph, the court shall consider (a) whether the violation was willful or negligent, (b) any harm to the public health, safety or environment resulting the violation, (c) any economic benefit gained by the defendant as a result of the violation, (d) the cost to the city or town resulting from the violation, including its enforcement costs and reasonable attorneys fees, (e) any history of noncompliance by the defendant, and (f) whether the defendant made good faith efforts to cure or cease the violation of such ordinance or bylaw after the first notice thereof by such city or town.

SECTION _____. The second paragraph of section 7 of chapter 40A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the words ‘three hundred dollars’ in lines 16-17, and inserting in place thereof the words ‘one thousand dollars’.

SECTION _____. The third paragraph of section 7 of chapter 40A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word ‘thereof’ in line 49 the phrase ‘and, upon a determination that such violations have occurred, may assess civil penalties therefore in accordance with the provisions of the tenth paragraph of section 21D of chapter 40 of the General Laws.’ ”

The amendment was *rejected*.

Messrs. Creedon, Timilty, Joyce and Brown moved that the bill be amended by inserting at the end thereof, the following new section:—

“SECTION _____. Notwithstanding any general or special law, rule or regulation to the contrary, in the city of Brockton, or in the towns of West Bridgewater, East Bridgewater, Easton and Walpole, no fossil fuel electric power facilities or facility shall be located in an area which is less than 1 mile in linear distance from a playground, licensed day-care center, school, church, area of critical environmental concern, as determined by the secretary of environmental affairs pursuant to 301 CMR 12.00, or an area occupied by residential housing. Said linear distance shall be measured from the outermost perimeter of such facility to the outermost point of the aforementioned zones; provided, however that any such facility in operation on January 1, 2007, shall not be subject to this act. For the purpose of this section, ‘fossil fuel electric power facilities or facility’ shall be defined as any electric generating power plant that is fueled in whole or in part, by coal, oil or natural gas.”

The amendment was *rejected*.

Mr. Creedon moved that the bill be amended by adding the following language:

“The City of Brockton which owns or operates a water or sewage treatment facility and releases the treated waste water into a public body of water including, but not limited to a river or stream, shall not be required to make available or sell the treated water from any such facility for reuse to any owner or operator of a combined cycle electric power generation facility with a generation capacity of 300 megawatts or more for the purpose of allowing the electric power generation facility to recycle and reuse the treated water for cooling and other industrial purposes.”

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended in section 2, in item 2000-7014, by inserting the following words:— “provided further, that not less than \$735,000 shall be expended for the Hull Land Conservation

Trust for the purposes of protecting wildlife and providing public access to conservation and passive recreation areas in the town of Hull;”.

The amendment was adopted.

Mr. Downing moved that the bill be amended in section 2, in item 2300-7014, in line 756, by inserting after the words “forest stewardship council” the following words:— “or the sustainable forestry initiative”.

The amendment was adopted.

Mr. Hedlund moved that the bill be amended in section 2, in item 2840-7014, by inserting the following words:— “provided further, that not less than \$2,893,000 shall be expended for a closure and redevelopment plan of the Hull Landfill in the town of Hull;”.

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended in section 2, in item 2800-7016, by inserting the following words:— “provided further, that not less than \$500,000 shall be expended for the repair of the Jacobs Pond Dam in the town of Norwell;”.

The amendment was adopted.

Mr. Hedlund moved that the bill be amended by inserting the following new sections:—

“Section XX. SECTION 1. Notwithstanding any general law or special law to the contrary, the department of conservation and recreation shall, within 30 days from the effective date of this act and for the consideration of \$1 per year, enter into an agreement with Kids Replica Ballpark, Inc. (Mini Fenway Park) that provides the right of entry and license provisions for a term consistent with the term of a ground lease dated September 1, 2004 executed between Kids Replica Ballpark, Inc. and the division of capital asset management and maintenance, for the use of a portion of a parcel of land owned by the Commonwealth and under the control of said department as shown on a plan of land entitled ‘Exhibit A, Ricciuti Drive, Quincy, Mass.,’ prepared by Harry R. Feldman, dated July 13, 2005. Said portion of that parcel shall be utilized by Kids Replica Ballpark, Inc., for the installation and operation of appropriate signage that shall be used for, but not limited to, the promotion of events, programs and sponsors affiliated with Kids Replica Ballpark, Inc., together with other educational and recreational opportunities offered by private and public entities; provided that such signage shall not exceed 500 square feet in dimension viewable from both sides by, but not limited to, light emitting diode electronic devices; provided further, that the frequency in the change of what is viewable on such signage shall be restricted to no more than once every 3 minutes. Said signage, upon approval by the City of Quincy, shall be subject to the provisions of the state building code and to state inspection; provided that solely for purposes of this section and any requirements of the federal highway administration, said parcel and any abutting parcel shall not be designated as a state park or reservation.

SECTION 2. Notwithstanding any general law or special law to the contrary, the department of conservation and recreation shall, within 30 days from the effective date of this act and for the consideration of \$1 per year, enter into an agreement with Kids Replica Ballpark, Inc. (Mini Fenway Park) that provides the right of entry and license provisions for a term consistent with the term of a ground lease dated September 1, 2004 executed between Kids Replica Ballpark, Inc. and the division of capital asset management and maintenance, for the use of a parcel of land owned by the Commonwealth and under the control of said department, as shown as Lot B on a plan of land entitled ‘Subdivision Plan of Land, Ricciuti Drive, Quincy, Mass.,’ prepared by Harry R. Feldman, Inc. dated February 7, 2000. Said parcel shall be utilized by Kids Replica Ballpark, Inc. for any or all of the uses permitted in the management and use agreement dated July 23, 2004 between said department and Kids Replica Ballpark, Inc.

SECTION 3. Section 120 of chapter 123 of the acts of 2006 is hereby amended by striking the words ‘and subject to the approval of the department of conservation and recreation’.

SECTION 4. Section 1 of chapter 275 of the acts of 1998 is hereby amended by inserting after the first paragraph the following:— ‘The commission shall exercise oversight rights and approval rights within fifteen (15) days of the submission of any item by Kids Replica Ballpark, Inc. or the item will be considered approved as submitted.’

SECTION 5. Section 2F (b) of chapter 90 of the General Laws is hereby amended by striking the word ‘issued’ and inserting in place thereof the following:— ‘sold, said number does not including renewals.’

SECTION 6. Notwithstanding any general law or special law to the contrary, Kids Replica Ballpark, Inc. on land authorized and designated under chapter 183 of the acts of 2002, shall be granted a variance from water quality certification standards established in 314 CMR, in accordance with 314 CMR 9.08, provided that the U.S. Army Corp of Engineers determines that a section 404 permit is not required.

Notwithstanding any General Laws or special law to the contrary, any entity engaged in activity on Lot A and Lot B on a plan of land entitled ‘Subdivision Plan of Land, Ricciuti Drive, Quincy, Mass.,’ prepared by Harry R. Feldman, Inc. dated February 7, 2000, shall be considered exempt from the provisions of chapter 131A of the General Laws, section 26 to 53 of chapter 21 of the General Laws, section 40 of chapter 131 of the General Laws and section 61-62H of chapter 30 of the General Laws, provided that regulatory compliance consistent with said exemptions is administered by DEP ACO Boston 97 ASPQHA and chapter 21H of the General Laws.”

The amendment was *rejected*.

Mr. Petrucci moved that the bill be amended in item 2840-7014 by inserting after the words “rehabilitation to Palmer’s Island Lighthouse” the following:— “provided further, that not less than \$3,700,000 be spent for the Community Boating Facility Pier Construction Project”.

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended by inserting the following new section:—

“Section ____ . SECTION 1. Section 2E of Chapter 85 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:—

In addition to the prohibitions contained in Section 1F of Chapter 90, the department may, by regulation, prohibit the operation of low-speed motor vehicles on ways within its jurisdiction if it determines that a way or a particular portion of the way is so heavily traveled by trucks or other large vehicles as to represent an unreasonable risk of death or serious injury to occupants of low-speed motor vehicles. The department shall post signs where necessary to provide notice to the public of such prohibited access.

SECTION 2. Section 1 of Chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the definition of ‘Low-boy boat transporter’ the following definition:—

‘Low-speed motor vehicle’, any 4 wheeled motor vehicle whose top speed on a paved level surface is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles. All low-speed motor vehicles must comply with the Federal Motor Vehicle Safety Standards in 49 C.F.R.

571.500. Low-speed motor vehicles manufactured on or after December 31, 2007, in addition to meeting said federal standards, must meet any additional equipment or performance standards adopted by the Commonwealth which are not inconsistent with or preempted by such federal standards. Where applicable, low-speed motor vehicles will be recognized as alternative fuel vehicles, electric vehicles or zero emission vehicles.

SECTION 3. Chapter 90 of the General Laws, as so appearing, is hereby further amended by inserting, after section 1E, the following section:—

Section 1F. Every person lawfully operating a low-speed motor vehicle shall have the right to use all public ways in the Commonwealth except limited access or express state highways or any other public way with a posted speed limit of more than 35 miles per hour, and shall be subject to the traffic laws and regulations of the Commonwealth and the regulations contained in this section. This shall not prohibit a low-speed motor vehicle from crossing a road or street at an intersection where the road or street to be crossed has a posted speed limit of more than 35 miles per hour, but not more than 45 miles per hour, provided said intersection begins and ends on a road or street with a speed limit no higher than 35 miles per hour and is controlled by traffic signals or stop signs. The local department of public works, in consultation with the local chief of police, or any local authority may, subject to the approval of the town council, city council or board of selectmen, by regulation, prohibit the operation of low-speed motor vehicles on any ways within its jurisdiction if it determines for any reason that a way or a particular portion of the way represents an unreasonable risk of death or serious injury or is otherwise inappropriate for use by low-speed motor vehicles. A low-speed motor vehicle shall not be operated by any person under 16 years of age nor by any person not possessing a valid driver’s license, except that a person who is at least 16 years of age who possesses a valid learner’s permit issued to him by the registrar may operate a low-speed motor vehicle on those ways, or

portions of ways, where such operation is lawful when accompanied by an operator duly licensed by his state of residence who is 21 years of age or over, who has had at least 1 year of driving experience and who is occupying a seat beside the driver. The holder of a junior operator's license shall be subject to the same license restrictions applicable to that license holder in the operation of a low-speed motor vehicle as if said license holder were operating any other motor vehicle. A low-speed motor vehicle shall not be operated upon any public way unless such vehicle is registered in accordance with the provisions of this chapter and displays the registration number as provided in Section 6, is equipped as provided by Federal Motor Vehicle Safety Standards for low speed motor vehicles and as may be provided in equipment or performance standards adopted by the commonwealth which are not inconsistent with or preempted by the federal standards, and meets the insurance certificate requirements of Section 34A. Low-speed motor vehicles shall be subject to annual inspection as required by Section 7A, for compliance with the Federal Motor Vehicle Safety Standards in 49 C.F.R. 571.500 and such other standards adopted by the Commonwealth which are not inconsistent with or preempted by such federal standards. The registrar may issue registration plates displaying the International Symbol of Access for a low-speed motor vehicle upon the same terms and conditions applicable to registrants of other motor vehicles and may issue a special parking identification placard bearing the same designation upon the same terms and conditions applicable to persons seeking a placard for a motor vehicle.” The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended by inserting the following new sections:—

“Section ____ . SECTION 1. Section 1 of chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is hereby amending by striking out the definition of ‘Motorcycle’ and inserting in place thereof the following definition:—

‘Motorcycle’, any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels

in contact with the ground, including any bicycle with a motor or driving wheel attached, except a tractor or a motor vehicle designed for the carrying of golf clubs and not more than 4 persons, an industrial 3-wheel truck, a motor vehicle on which the operator and passenger ride within an enclosed cab, or a motorized bicycle.

Motorcycle includes a medium speed electric vehicle.

SECTION 2. Said section 1 of said chapter 90, as so appearing, is hereby amending by inserting after the definition of ‘Manufacturer’ the following definition:—

‘Medium speed electric vehicle’, a self-propelled, electrically powered motor vehicle with 3 wheels or more, equipped with a roll cage or crush-proof body design, whose speed attainable in 1 mile is more than 30 miles per hour but not more than 40 miles per hour.

SECTION 3. Said chapter 90 is hereby further amended by inserting after section 1E the following section:—

Section 1F. No person shall operate a medium speed electric vehicle upon any street or highway having a speed limit greater than 40 miles per hour. This section does not prohibit a person operating a medium speed electric vehicle from proceeding across an intersection or a street or highway having a speed limit greater than 40 miles per hour. Whoever violates this section is guilty of a misdemeanor.

SECTION 4. Section 7 of said chapter 90 is hereby amended by inserting after the word ‘older’ in line 149 the following:— provided that, for purposes of this section, a motorcycle shall not include a medium-speed vehicle.”

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended in section 2, in item 2000-7014, by inserting the following words:— “provided further, that not less than \$250,000 shall be expended for the creation of open space on a parcel of land owned by the town of Marshfield located at the intersection of Ocean and Webster streets;”.

The amendment was *rejected*.

Mr. Moore moved that the bill be amended in section 2A, in item 2840-7014, by inserting the following:— “; provided further that \$250,000 shall be expended for the planning and construction of a pavilion and amphitheatre at River Bend Farm Visitors Center at the Blackstone River and Canal Heritage State Park;”.

The amendment was adopted.

Mr. Moore moved that the bill be amended in section 2A, in item 2300-7016, by inserting the following:— “; provided further that \$2,000,000 shall be expended for sediment control in Lake Webster;”.

The amendment was *rejected*.

Mr. Moore moved that the bill be amended in section 2A, in item 2840-7014, by inserting the following:— “; provided further that \$250,000 shall be expended for planning and construction of the French River Greenway which traverses the communities of Dudley, Webster and Oxford;”.

The amendment was adopted.

Mr. Moore moved that the bill be amended in section 2A, in item 2840-7014, by inserting the following:— “; provided further that \$100,000 shall be expended for improvements at Huguenot Park in Oxford;”.

The amendment was *rejected*.

Mr. Moore moved that the bill be amended in section 2A, in item 2840-7014, by inserting the following:— “; provided further that \$150,000 shall be expended for improvements at the Millville Lock Recreation Area in Millville;”.

The amendment was *rejected*.

Ms. Chandler moved that the bill be amended in section 2, in item 2000-7014, by adding the following:— “provided further than not less than \$400,000 be provided for the clean up and remediation of 119 Colburn Street in the Town of Northborough”.

The amendment was *rejected*.

Ms. Chandler moved to amend the bill (Senate, No. 2848) in section 2, in item 2000-7014, by adding the following:— “provided further than not less than \$500,000 be provided for a matching grant for a the preservation of open space at Crow Hill in the City of Worcester”.

The amendment was *rejected*.

Ms. Chandler moved to amend the bill (Senate, No.2848) in section 2, in item 2800-7015, by adding the following:— “provided further than not less than \$1,200,000 be provided for the restoration of the John B. Gough Estate in Boylston, MA”.

The amendment was adopted.

Ms. Chandler moved that the bill be amended in section 2, in item 2000-7014, by adding the following:— “provided further than not less than \$500,000 be provided for the restoration of the Holmes Field Park Pool and Recreation area in the City of Worcester”.

The amendment was *rejected*.

Mr. Baddour moved that the bill be amended in item 2000-7014, by inserting after the words “city of Boston”, the following:—”provided further, that not less than \$1,000,000 shall be expended for improvements to Greycourt Park in the City of Methuen;”.

The amendment was *rejected*.

Mr. Baddour moved that the bill be amended in item 2200-7012, by inserting after the words “federal requirements”, the following:—”provided further, that not less than \$1,000,000 shall be expended for air quality monitoring and odor mitigation of the Crow Lane Landfill in the City of Newburyport”.

The amendment was *rejected*.

Mr. Hart moved that the bill be amended in item 2000-7023 by inserting after the words “officer of the commonwealth” the following words:— “; provided further that no less than \$250,000 shall be provided to the department of environmental protection, in conjunction with the executive office of transportation, for the purposes of conducting an investigation and making recommendations on the best practices to reduce the emission of pollutants and achieve reductions in particulate matter emissions from state- and municipally-owned and contracted diesel-powered vehicles and study the costs associated with implementing the use of the best available retrofit technology on diesel-powered vehicles owned or operated by or on behalf of, or leased by or operating under contract with a municipality or state agency or state or regional public authority; provided further that the department of environmental protection shall report on its findings and the information contained in this report shall include, but not be limited to, for each municipal or state agency and public authority: (1) the total number of diesel fuel-powered motor vehicles owned or operated by such agency and authority; (2) the number of such motor vehicles that were powered by ultra low sulfur diesel fuel; (3) the total number of diesel fuel-powered motor vehicles owned or operated by such agency and authority having a gross vehicle weight rating of more than 14,000 pounds; (4) the number of such vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine

year and the type of technology used for each vehicle; and (5) the number of such motor vehicles that are equipped with an engine certified to the applicable 2007 US EPA standard for particulate matter as set forth in Section 86.007-11 of Title 40 of the Code of Federal Regulations or to any subsequent US EPA standard for particulate matter; provided further that this report shall be filed with the clerks of the house of representatives and the Senate, the joint committee on environment, natural resources, and agriculture, the joint committee on transportation, and the joint committee on economic development and emerging technologies, on or before December 31, 2009, and an interim report shall be filed on or before April 1, 2009”.

The amendment was adopted.

Ms. Tucker moved that the bill be amended in section 2, in item 2800-7016, by inserting after the word “Medway” the following:— “; provided further, that not less than \$800,000 shall be expended for creating a neighborhood network of gardens and trails in the city of Lawrence;”.

The amendment was adopted.

Ms. Tucker moved that the bill be amended in section 2, in item 2000-7014, by inserting after the word “Boston” the following:— “; provided further, that not less than \$125,000 shall be expended for renovations and improvements to the South Lawrence East fields;”.

The amendment was *rejected*.

Ms. Tucker moved that the bill be amended in section 2, in item 2000-7014, by inserting after the word “Boston” the following:— “; provided further, that not less than \$2,000,000 shall be expended for the design and reconstruction of Oxford park in the city of Lawrence;”.

The amendment was adopted.

Ms. Tucker moved that the bill be amended in section 2, in item 2840-7014, by inserting after the word “Falmouth” the following:— “; provided further, that not less than \$75,000 shall be expended to increase the existing water supply capabilities of the Harold Parker Water Cistern in the town of Andover;”.

The amendment was *rejected*.

Ms. Tucker moved that the bill be amended in section 2, in item 2840-7014, by inserting after the word “Falmouth” the following:— “; provided further, that not less than \$500,000 shall be expended for Arsenic Remediation at the Ledge Road Landfill in Andover;”.

The amendment was adopted.

Ms. Tucker moved that the bill be amended in section 2, in item 2300-7016, by inserting after the word “Lee” the following:— “; provided further, that not less than \$250,000 shall be expended for the renovation of the Bashara Boathouse in Lawrence Riverfront State Park;”.

The amendment was adopted.

Ms. Tucker moved that the bill be amended in section 2, in item 2840-7014, by inserting after the word “Falmouth” the following:— “; provided further, that not less than \$1,300,000 shall be expended for the Union Crossing Storm Water Management Project in the city of Lawrence;”.

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended in section 2, in item 2000-7024, by inserting after the words “water quality projects in Woburn;” the following:— “provided further that \$800,000 be provided for improvements at the Grafton Wastewater Treatment Plant;”.

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended in section 2, in item 2000-7014, by inserting after the words “Mapleway Park in Wakefield;” the following:— “provided further that \$500,000 be provided for improvements at the Coes Pond Knife parcel;”.

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended in section 2, in item 2800-7011, by inserting after the words “Urban Neponset Reservation;” the following:— “provided further, that not less than \$500,000 shall be expended for the repair of Eddy Pond Dam in the town of Auburn;”.

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended in section 2, in item 2800-7016, by inserting after the words “Urban Neponset Reservation;” the following:— “provided further, that not less than \$150,000 shall be

expended for repairs to the Ramshorn dam in the town of Millbury;”.

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended in section 2, in item 2800-7016, by inserting after the words “Urban Neponset Reservation;” the following:— “provided further, that not less than \$250,000 shall be expended for the design and construction of recreational fields in the town of Auburn;”.

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended in section 2, in item 2800-7013, by inserting after the words “Myles Standish State Forest” the following:— “; provided further, that not less than \$2,100,000 shall be expended for the renovation of the Upton State Forest Civilian Conservation Facility;”.

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended in section 2, in item 2300-7016, by inserting after the words “fishing pier in Oak Bluffs;” the following:— “provided further, that not less than \$25,000 shall be expended for the pond restoration and pollution abatement study for Rawson Hill Brook and Pond in the town of Shrewsbury”.

The amendment was adopted.

Mr. Augustus moved that the bill be amended in section 2, in item 2840-7014, by inserting after the words “Connors pool in Waltham;” the following:— “provided further, that not less than \$2,000,000 shall be provided for the reconstruction of the Vernon Hill multi-depth swimming pool in the city of Worcester;”.

The amendment was adopted.

Mr. Augustus moved that the bill be amended in section 2, in item 2840-7014, by inserting after the words “Connors pool in Waltham;” the following:— “provided further, that not less than \$2,100,000 shall be provided for the reconstruction of the Bennett Field multi-depth swimming pool in the city of Worcester;”.

The amendment was adopted.

Mr. Augustus moved that the bill be amended in section 2, in item 2800-7011, by inserting after the words “Luther Hill Park in Spencer;” the following:— “provided further, that not less than \$75,000 shall be expended for oil spill cleanup at the Asa Waters Mansion in the town of Millbury;”.

The amendment was *rejected*.

Mr. Augustus moved that the bill be amended by inserting, at the end the following new section:

“SECTION XX. Section 44 of chapter 85 of the acts of 1994, as most recently amended by section 19 of chapter 236 of the acts of 2002, is hereby further amended by inserting after the word ‘reservation’, in line 45, the following words:— , CCC Camp in Upton state forest”.

The amendment was adopted.

Mr. Knapik moved that the bill be amended in item 2800-7015 by inserting the following section: “provided further, that not less than \$300,000 be expended for access improvements and sediment control activities at White Brook and Broad Brook in Easthampton”.

The amendment was *rejected*.

Mr. Knapik moved that the bill be amended in item 2000-7014 by inserting the following section:—”provided further, that \$250,000 shall be expended for the restoration of the Bonin Field in Holyoke”.

The amendment was *rejected*.

Mr. Knapik moved that the bill be amended in item 2890-7010 by inserting the following section:—

“provided further, that \$2,000,000 shall be expended for the restoration of the main access road in the Mount Tom State Reservation in Holyoke.”

The amendment was *rejected*.

Mr. Knapik moved that the bill be amended in item 2000-7014 by inserting the following section:—

“provided further, that \$650,000 shall be expended for the construction of a boardwalk and access improvements to Nashawannuck Pond in Easthampton”.

The amendment was *rejected*.

Ms. Menard moved that the bill be amended in section 2, in item 1100-2500, by inserting at the end thereof the following language:— “provided further, that not less than \$1,000,000 shall be expended for the environmental remediation of the city pier in the city of Fall River;”.

The amendment was adopted.

Mr. Knapik moved that the bill be amended in item 2840-7014 by inserting the following:— “provided further, that not less than \$200,000 shall be expended for parking and access improvements to the Mount Tom Reservation from newly acquired land on East Street in the City of Easthampton”.

The amendment was *rejected*.

Mr. Knapik moved that the bill be amended in item 2000-7014 by inserting the following section:— “provided further, that \$50,000 shall be expended for work on public playing fields in Southamptton”.

The amendment was adopted.

Mr. Knapik moved that the bill be amended in item 2000-7014 by inserting the following:— “provided further, that not less than \$100,000 shall be expended for improvements to Parker Memorial Park in the city of Westfield”.

The amendment was *rejected*.

Ms. Menard moved that the bill be amended in section 2, in item 2500-7013, by inserting at the end thereof the following language:— “provided further, that not less than \$100,000 shall be expended for the continued operation of the shellfish propagation program in Westport;”.

The amendment was *rejected*.

Mr. Knapik moved that the bill be amended in item 2300-7016 by inserting the following:— “provided further, that not less than \$559,000 shall be expended for the design and construction of a fishing pier and handicapped-accessible fishing platforms at Hampton Ponds State Park in Westfield.”.

The amendment was *rejected*.

Mr. Brown moved that the bill be amended in section 2, in item 2000-7014, by inserting the following:— “provided further, that not less than \$150,000 shall be expended for improvements to the town beach in Millis”.

The amendment was adopted.

Mr. Brown moved that the bill be amended in section 2, in item 2000-7014, by inserting the following:— “provided further, that not less than \$150,000 shall be expended for improvements to Farm Pond in Sherborn”.

The amendment was adopted.

Ms. Candaras moved that the bill be amended in item 2000-7014 by inserting in line 215, after the words “city of Boston” the following:— “provided further, that not less than \$1,500,000 shall be expended for the restoration, remediation and other necessary environmental improvements at the Project India site in Ludlow;”.

The amendment was *rejected*.

Ms. Candaras and Mr. Rosenberg moved that the bill be amended in item 2840-7014 by inserting in line 1504, after the words “Old Silver Beach Bath House in Falmouth;” the following:— “provided further, that not less than \$10,000,000 shall be delivered to Mass Development to pay for costs and expenses associated with site assessment, asbestos and hazardous waste remediation, removal and abatement, demolition, renovation, infrastructure improvement, surveying, planning, construction, permitting, marketing, and such other site preparation at the former Belchertown State School property;”.

The amendment was adopted.

Mr. Pacheco moved that the bill be amended in section 2, in item 2000-7014, by adding at the end thereof after the word “Wakefield” the following text:— “provided further that not less than \$500,000 shall be expended for the revitalization of Memorial Park in the City of Taunton, which shall include but not be limited to landscaping, pond dredging, park benches and playground equipment”.

The amendment was adopted.

Mr. O’Leary moved that the bill be amended by inserting at the end thereof the following new section: “Section XX. Chapter 83 of the General Laws is hereby amended by adding the following new sections: SECTION 1A. Notwithstanding the provisions of sections 1 and 3 of Chapter 83 of the General Laws to the contrary, any municipality or sewer district adopting this section is hereby authorized to lay out, construct, maintain and operate a system or systems of common sewers and main drains in public or private ways for that part of its territory as it adjudges necessary to reduce or eliminate the impacts of nutrient enrichment on

surface water bodies or sources of drinking water with such connections and other works as may be required for a system or systems of sewerage and drainage, and sewage treatment and disposal. Adoption of this section is subject

to majority vote of the municipality and subject further to said municipality having an approved Comprehensive Water Resources Management Plan (CWMP), as defined by the Department of Environmental Protection (DEP).

SECTION 1B. At the commencement of operation of the municipalities' sewer system authorized by section 1A of chapter 83 of the General Laws, the owner of land abutting upon a private or public way in which a common sewer has been laid shall be required by the board or officer having charge of the maintenance and repair of sewers to connect such land with a common sewer only if the land in question is within the area(s) identified in the DEP approved CWMP and has been specifically identified in the plan as requiring wastewater collection and treatment for flows in existence on said properties at the time of adoption of this act in order to protect surface waters or drinking water resources from the effects of nutrient enrichment; or the on-site subsurface sewage disposal system serving said land fails to comply with the provisions of 310 CMR 15.000, et seq., and an on-site subsurface sewage disposal system cannot be constructed on the property in compliance with said regulations and an enhanced treatment system under remedial use cannot be designed and constructed to adequately treat sewage from said property; or to service housing of which at least 15 per cent of the housing units are deed restricted to residents with incomes no greater than 80 per cent of the area median income paying no more than 30 per cent of their income towards housing. The town shall not allow an abutting property owner utilizing an enhanced treatment system under remedial use to opt out of connecting to the sewer system unless the town implements a monitoring and inspection plan approved by the department of environmental protection for such remedial system or systems. Such plan may include the assessment of a reasonable fee by the board of health to implement the monitoring and inspection plan. Notwithstanding any provision of sections 1 and 3 of Chapter 83 to the contrary, owners of land not identified in the CWMP as needing to be connected to the municipal treatment works shall not be permitted to connect to the sewer system. Said plan may be amended from time to time by the board or officer having charge of sewers, after a public hearing conducted to consider such amendment, and upon approval of the department of environmental protection. The board or officer having charge of sewers shall adopt regulations within 120 days after the adoption of this act establishing publication and notification procedures to carry out the purposes of this section.

SECTION 1C. After commencement of operations of the sewer system authorized pursuant to section 1A of chapter 83 of the General Laws, additional connections shall be permitted within the final area of concern by such board or officer having charge of the maintenance and repair of sewers, subject to available capacity, only upon certification by the board of health that the on-site subsurface sewage disposal system on land abutting upon a private or public way in which a common sewer has been laid cannot comply with the provisions of 310 CMR 15.000, et seq., or in the case of new construction, expansion of an existing structure, a change in use, or increases in flow from said land, such expansion, change in use, or increase in flow does not result in sewage flow in excess of the amount of said regulations flow capacity or actual flow resulting from a legal use of said land, whichever is greater, which existed on the date of adoption of this act as determined by the board of health. Notwithstanding anything to the contrary contained herein, the board or officer having charge of the maintenance and repair of sewers may at any time permit extensions, new connections or increases in flow to the sewer system, subject to capacity, to serve municipal buildings, public restrooms, or other public service uses, including but not limited to housing of which at least 15 per cent of the housing units are deed restricted to residents with incomes no greater than 80 per cent of the area median income paying no more than 30 per cent of their income towards housing.

SECTION 1D. Notwithstanding the provisions of chapters 80 and 83 of the General Laws to the contrary, a municipality acting under section 1A of Chapter 83 may make assessments upon owners of land abutting upon a private or public way in which a common sewer has been laid only at the time of actual connection to the common sewer. Nothing herein shall preclude the town from making estimated sewer assessments pursuant to section 15B of said chapter 83. The municipality may make equitable adjustments to the annual charges established pursuant to section 16 of said chapter 83 for the use of common sewers by owners of land

who connect under this act for the purpose of insuring an equitable distribution of the total sewer system costs, including assessments and sewer use charges.

SECTION 1E. Every decision by the board or officer having charge of sewers permitting or denying a connection to the sewer system pursuant to sections 1A-1D of chapter 83 of the General Laws shall be made in writing. Any person aggrieved by such a decision may appeal said decision within 30 days of issuance pursuant to the provisions of section 14 of chapter 30A.

SECTION 1F. In carrying out the provisions of sections 1A-1E of chapter 83 of the General Laws, a municipality shall not discriminate against any person on the grounds of race, color, marital status, physical disability, age, sex, sexual orientation, religion, ancestry or national origin in any manner prohibited by the laws of the United States, the commonwealth.

SECTION 1G. Notwithstanding the provisions of any general or special law to the contrary, a municipality with a Comprehensive Water Resources Management Plan under review or approved by the Department of Environmental Protection is hereby authorized to establish and maintain a separate account into which it may collect and deposit and expend funds from property owners for the difference in cost between a conventional subsurface wastewater disposal system as required in 310 CMR 15.00, et seq., and the cost of a subsurface wastewater disposal system designed to reduce the nitrogen discharge from said system as long as the property in question is identified in the CWMP as being a priority for the installation of a wastewater collection and treatment system for the purposes of reducing the impacts of excessive nitrogen on marine waters and drinking water supplies. Funds from this account may be used only for the purpose of the construction, maintenance and operation of said wastewater treatment and collection works and shall be applied to toward the costs of connection and or betterment assessed to the property(s) in question.

SECTION 1H. Notwithstanding the provisions of Chapter 44, section 7, a municipality or sewer district adopting the provisions of Section 1A is authorized to borrow and assess betterments for a term not to exceed 50 years or the useful life as approved by the Department of Environmental Protection, whichever is shorter, for the construction its wastewater treatment systems and conveyances determined; and provided further that short term borrowing may extend for a period not to exceed 5 years.

Section XX. Section 6 of chapter 29C of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting after the words '2 per cent', in line 34, the following words:— , but all permanent loans and other forms of financial assistance made by the trust to finance the costs of certain water pollution abatement projects on the department's intended use plan for calendar year 2009 and any subsequent calendar year up to and including 2019, that meet the criteria listed below shall provide for a subsidy or other assistance in the payment of debt service such that the loans and other forms of financial assistance shall be the financial equivalent of a loan made at a zero rate of interest, and the costs of water pollution abatement projects on an intended use plan that are eligible for a permanent loan or other financial assistance from the trust at the financial equivalent of a loan made at a zero rate of interest shall not exceed 35 per cent of the total costs of all water pollution abatement projects on the intended use plan. Projects that meet the following criteria, as verified by the Department of Environmental Protection, are eligible for the zero rate of interest loans:

1. The project is primarily intended to remediate or prevent nutrient enrichment of a surface water body or a source of water supply;
2. The applicant is not currently subject, due a violation of a nutrient-related Total Maximum Daily Load standard or other nutrient based standard, to a Department of Environmental Protection enforcement order, Administrative Consent Order or Unilateral Administrative Order, enforcement action by the United States Environmental Protection Agency or subject to a state or federal court order relative to the proposed project;
3. The applicant has a Comprehensive Wastewater Management Plan approved pursuant to regulations adopted by the Department of Environmental Protection.
4. The project has been deemed consistent with the regional water resources management plans if one exists.
5. The applicant has adopted land use controls, subject to the review and approval of the Department of Environmental Protection in consultation with the Department of Housing and Economic Development and, where applicable any regional land use regulatory entity, intended to limit wastewater flows to the amount authorized under zoning and wastewater regulations as of the date of the approval of the CWMP."

After remarks, the amendment was adopted.

Mr. Pacheco moved that the bill be amended in section 2, in item 2840-7014, in line 1391 after the words “recreating public;” the following words:— “provided further that not less than \$150,000 shall be expended for the construction and maintenance of walking trails, bike paths and sanitary facilities along the greenway surrounding Watson’s Pond in the City of Taunton;”.

The amendment was adopted.

Mr. Pacheco moved that the bill be amended in section 2, in item 2000-7025, in line 494 after the word “Templeton;” by inserting the following:— “ provided further that not less than \$400,000 shall be expended for the restoration of wells located at the former Dever State School in the city of Taunton, which shall include but not be limited to the construction of replacement wells and installation of necessary equipment to maintain the wells for use a regional water supply;”.

The amendment was adopted.

Mr. Brown moved that the bill be amended in section 2, in item 2800-7016, by inserting the following:— “provided further, that not less than \$250,000 shall be expended for repairs to Eagle Dam in the town of Wrentham”.

The amendment was adopted.

Mr. Buoniconti moved that the bill be amended in item 2000-7014 by inserting at the end thereof the following words:— “provided further that not less than \$300,000 be expended for improvements to the Bear Hole Watershed in the city of West Springfield”.

The amendment was adopted.

Mr. O’Leary moved that the bill be amended in section 2A, in item 2000-7018, by inserting at the end thereof the following language:— “; provided further, that not less than \$3,000,000 shall be expended to the Town of Barnstable for a matching grant to purchase a parcel of land referred to as Freezer Point in Barnstable Harbor”.

The amendment was adopted.

Mr. O’Leary moved that the bill be amended in section 2A, in item 2800-7015, by inserting at the end thereof the following language:— “; provided further, that not less than \$1,200,000 shall be expended for the planning, design and construction of a bike bridge over Willow Street in the town of Yarmouth”.

The amendment was *rejected*.

Mr. Tolman moved that the bill be amended by inserting after section 26 the following new section:— “SECTION XX. (a). In this section, the term ‘Silver Maple Forest’ shall refer to a property also known as the Belmont Uplands and comprised of Parcel 40-1 on the assessors’ map of the Town of Belmont and an adjoining triangular parcel in the City of Cambridge.

(b) Notwithstanding sections 40F to 40J of chapter 7 of the General Laws or any other general or special law to the contrary,

the department of conservation and recreation may acquire, by deed, easement, restriction, covenant or condition, but not through eminent domain, the Silver Maple Forest.

(c) Within 90 days of the effective date of this act, the Commissioner of the Department of Conservation and Recreation (‘the commissioner’) shall conduct an appraisal of the fair market value of the Silver Maple Forest.

(d) Within 120 days of the effective date of this act, the commissioner shall determine an amount that the Commonwealth may allocate from any lawfully available funds for the purpose of acquiring the Silver Maple Forest. This amount shall be referred to as ‘the state contribution’.

(e) Upon determining the state contribution, the commissioner shall inform the Board of Selectman in Belmont, the Board of Selectmen in Arlington and the City Council of Cambridge, in this section called the local authorities, the results of the appraisal and the amount of the state contribution, if any.

(f) Within 120 days of the transmittal by the commissioner, the local authorities shall each certify, in language to be determined by the commissioner, the amount of funds under their control which are available for contribution towards the cost of the acquisition of the Silver Maple Forest by the commissioner. Said funds may include funds lawfully appropriated by the appropriating bodies in Arlington, Belmont and Cambridge

and may also include private funds received by or on behalf of the local authorities and held in escrow for application towards the acquisition.

(g) If the amount of said funds so certified equals or exceeds the difference between the appraised fair market value of the property and the state contribution, and if the owner of the property enters into an agreement to convey the property for conservation purposes, the commissioner shall, upon receipt of said funds, forthwith consummate the acquisition; provided, however, that any deed conveying said parcel shall contain the restriction required pursuant to subsection (h). If the amount of funds received does not equal or exceed said difference, this section shall become null and void.

(h) Notwithstanding any general or special law to the contrary, the property described in subsection (a) shall be conveyed subject to a conservation restriction imposed pursuant to section 31 of chapter 184 of the General Laws, for the preservation and protection of wildlife and habitat and passive public recreation and consistent purposes. Said conservation restriction, if taken and not otherwise acquired, shall be subject to any easement or lesser interest in land held by any person or governmental agency, except for the owner, that lawfully exists and is recorded in the appropriate registry of deeds.”

The amendment was adopted.

Mr. Joyce moved that the bill be amended in section 2, in item 2840-7014, by inserting at the end thereof the following:— “; provided further, that not less than \$500,000 shall be expended for athletic fields in Milton”.

The amendment was *rejected*.

Messrs. Joyce and Creedon moved that the bill be amended in section 2, in item 2000-7014, by inserting at the end thereof

the following:— “; provided further, that not less than \$1,000,000 shall be expended for dredging of Forge Pond in the town of East Bridgewater”.

The amendment was *rejected*.

Mr. Buoniconti moved that the bill be amended in item 2000-7014 by inserting at the end thereof the following words:—“provided further that not less than \$500,000 be expended for maintenance of the Dike System in the city of West Springfield”.

The amendment was adopted.

Ms. Fargo moved that the bill be amended in section 2, in item 2800-7016, by inserting after the word “Methuen”, as appearing in line 1192, the following wording:—“provided further, that not less than \$700,000 shall be expended to the town of Bedford for

the design and reconstruction of the Vine Brook Culvert on Old Burlington Road adjacent to the Wilson Mill Dam”.

The amendment was adopted.

Mr. Joyce moved that the bill be amended in section 4, in item 2890-7010, by inserting at the end thereof the following:— “; provided further, that not less than \$5,000,000 shall be expended for improvements to Truman Parkway in the town of Milton”.

The amendment was *rejected*.

Ms. Menard and Mr. O’Leary moved that the bill be amended in section 2, in item 2840-7014, by inserting at the end thereof the following language:— “; provided further, that not less than \$5,000,000 shall be expended to establish and operate a Massachusetts Estuaries Project Municipal Service Center, operated by the University of Massachusetts Dartmouth in collaboration with the Massachusetts Department of Environmental Protection and regional land use entities, and located at the University of Massachusetts Dartmouth, to support the municipalities of southeastern Massachusetts with wastewater planning and nutrient mitigation efforts needed to meet the requirements of the federal Clean Water Act, incorporating technical expertise, numerical models and data developed by the university, as well as information developed as part of the Massachusetts Estuaries Project;”.

The amendment was *rejected*.

Ms. Fargo moved that the bill be amended in section 2, in item 2300-7014, by inserting the following wording:— “provided further, \$100,000 shall be expended for the maintenance and enhancement of Hardy pond in the city of Waltham”.

The amendment was *rejected*.

Ms. Fargo moved that the bill be amended in section 2, in item 2300-7014, by inserting, after the word “River” as appearing in line 812, the following wording:— “provided further, that not less than \$25,000 shall be expended for invasive aquatic weed control in the town of Lincoln”.

The amendment was adopted.

Ms. Fargo moved that the bill be amended in section 2, in item 2300-7014, by inserting, after the word “Park”, as appearing in line 807, the following wording:— “provided further, that not less than \$100,000 shall be expended for invasive weed control on the Charles River in Waltham”.

The amendment was adopted.

Mr. Joyce moved that the bill be amended in section 2, in item 2300-7016, by inserting at the end thereof the following:— “; provided further, that not less than \$30,000 shall be expended for Turner’s Pond in Milton to prevent run-off at Central Ave”.

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended in section 2, in item 2840-7014, by inserting at the end thereof the following:— “; provided further, that not less than \$500,000 shall be expended for repair and renovation for the Ulin Rink in the town of Milton”.

The amendment was *rejected*.

Ms. Fargo moved that the bill be amended in section 2, in item 2840-7014, by inserting the following wording:— “provided further, that \$800,000 be expended for improvements for municipal recreation fields in the town of Bedford”.

The amendment was *rejected*.

Mr. Tolman moved that the bill be amended in section 2A, in item 2800-7011, by inserting at the end thereof the following:— “; provided further, that not less than \$200,000 shall be expended for the acquisition and restoration of a parcel on the Concord River in the Town of Billerica”.

The amendment was adopted.

Mr. McGee moved that the bill be amended in item 2000-7014 by adding at the end thereof the following:—“that not less then \$2,000,000 shall be expended for the restoration and remediation, and other necessary environmental improvements necessary for the development of the Lynn waterfront”.

The amendment was *rejected*.

Mr. Joyce moved that the bill be amended in section 2, in item 2200-7011, by inserting at the end thereof the following:— “; provided further, that not less than \$250,000 shall be expended for identification and remediation of pollution sources for the Unquity Brook in Milton”.

The amendment was *rejected*.

Mr. Galluccio moved that the bill be amended by inserting at the end thereof the following new section:— “SECTION XX. Chapter 30B of the General Laws is hereby amended by adding after the first use of the word ‘services’ in section 1(b)(33), the following:— , including contracts for energy advisory services provided by a not-for-profit corporation organized by a municipality for such purpose”.

The amendment was *rejected*.

Mr. Tolman moved that the bill be amended in section 2A, in item 2300-701, by inserting at the end thereof the following:— “; provided further, that not less than \$500,000 shall be expended for the planning, design, construction permitting, and oversight of

a boat ramp and associated parking and access road ways on the Concord River in Billerica”.

The amendment was adopted.

Mr. Joyce moved that the bill be amended in section 2, in item 2840-7014, by inserting at the end thereof the following:— “; provided further, that not less than \$30,000 shall be expended for well-water installation at Gile Road facility in Milton”.

The amendment was *rejected*.

Mr. Brown moved that the bill be amended in section 2, in item 2000-7014, by inserting the following:— “provided further, that not less than \$150,000 shall be expended for wetland restoration and drainage repair on Mytle St. in the town of Millis”.

The amendment was adopted.

Mr. McGee moved that the bill be amended in item 2840-7014 by adding at the end thereof the following:

—“that not less than \$1,000,000 shall be expended for the capital improvements to Lynn Heritage Park Visitors Center”.

The amendment was adopted.

Ms. Creem and Mr. Brown moved that the bill be amended in section 2A, in item 2800-7097, by inserting the following:— “provided further, that not less than \$600,000 shall be expended for the dredging of Morse’s Pond and related items in the town of Wellesley”.

The amendment was adopted.

Mr. Buoniconti moved that the bill be amended in item 2000-7014 by inserting at the end thereof the following words:— “provided further that not less than \$300,000 be expended for improvements to Mittineague Park in the city of West Springfield”.

The amendment was *rejected*.

Mr. Tolman moved that the bill be amended by inserting after Section 26 the following new section:—

“SECTION XX. For the construction, reconstruction, installation, demolition, maintenance or repair of any building or roadway by the Commonwealth, or a political subdivision thereof, or by any county, city, town, district or housing authority.

The developer shall include in its application to the appointing authority whether the developer has contracts with labor organizations and or a provision assuring labor harmony during all phases of such construction, renovation, or reconstruction of the development.

The developer and all subcontractors must furnish, to the appointing authority, documentation showing all employees employed on this project have hospitalization and medical benefits that meet the minimum requirements of the Connector Board established by Chapter 58 of the Acts of 2006.

The developer and all subcontractors shall properly classify individuals employed on the project as employees rather than independent contractors and comply with all laws concerning workers compensation insurance coverage, unemployment insurance, social security taxes and income taxes as respects all such employees.”

Pending the question on adoption of the amendment, Messrs. Tarr, Tisei, Knapik, Hedlund and Brown moved that the amendment (Tolman) be amended by inserting at the end the following paragraph:—

“The developer and all subcontractors must furnish, to the appointing authority, documentation showing compliance with Chapter 30C of the General Laws.”; and by inserting after Section XX the following new section:—

“SECTION YY. The General Laws are hereby amended by inserting after chapter 30B the following:—

Chapter 30C. PUBLIC CONTRACT INTEGRITY.

Section 1. For the purposes of this chapter, the following terms shall be defined as follows:

‘Public employer’; any department, agency, or public instrumentality of the commonwealth and any person, corporation, partnership, sole proprietorship, joint venture, or other business entity providing goods or services to any department, agency or public instrumentality of the commonwealth, including but not limited to the Massachusetts Turnpike Authority, Massachusetts Water Resources Authority, Massachusetts Port Authority, and the Massachusetts Bay Transportation Authority.

‘Work authorization program’; any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent work authorization program operated by the United States Department of Homeland Security, the United States Department of Labor, the Social Security Administration, other federal agency, or any private verification system authorized by the director of the department of labor to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA) and its progeny.

Section 2. No public employer shall enter into a contract for the provision of goods or services within the commonwealth unless the contractor registers and participates in a work authorization program to verify information of all new employees and certifies to that effect in writing to the director of the department of labor.

Section 3. No contractor or subcontractor who enters a contract with a public employer shall enter into such a

contract or subcontract in connection with the provision of goods or services in the commonwealth unless the contractor or subcontractor registers and participates in a work authorization program to verify information of all employees and certifies to that effect in writing to the director of the department of labor.

Section 4. Sections 2 and 3 of this chapter shall apply as follows:

(A) On or after September 1, 2008, with respect to public employers, contractors, or subcontractors of 500 or more employees;

(B) On or after September 1, 2009, with respect to public employers, contractors, or subcontractors of 100 or more employees; and

(C) On or after September 1, 2010, with respect to all public employers, contractors, or subcontractors.

Section 5. The provisions of this chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Section 6. Except as provided in section 4 of this chapter, the director of the department of labor shall prescribe forms and promulgate rules and regulations deemed necessary in order to administer and effectuate the provisions of this chapter.

Section 7. The Inspector General shall develop and promulgate regulations for the purpose of ensuring that any person receiving funds pursuant to a contract awarded subject to the provisions of chapter 30B and section 44A of chapter 149 of the General Laws is in compliance with federal laws pertaining to immigration and citizenship, including but not limited to 42 U.S.C. 1436(a). Such regulations shall include but not be limited to the ascertaining and verification of immigration and/or citizenship status through a work authorization program maintained by the United States Department of Homeland Security or its substantial equivalent.

Section 8. No contract shall be awarded by or to a public employer, and no public funds shall be expended in accordance with such a contract, unless the public employer named in the contract complies with the regulations prescribed in this chapter.

Section 9. No funds shall be expended in accordance with a contract awarded by or to a public employer which will result in the payment of any kind to a person not in compliance with any and all federal laws pertaining to immigration and citizenship, including but not limited to 42 U.S.C. 1436(a).

Section 10. The auditor is hereby authorized to conduct random audits to ensure compliance with the provisions of this chapter.”

After debate, the further amendment was adopted.

The pending amendment (Tolman) was then adopted, as amended.

Messrs. Hart and Tolman moved that the bill be amended in item 1100-2500 by inserting after the word “Boston” the following words:— “provided further that \$2,500,000 shall be expended for a grant to the Boston Children’s Museum for renovation of the public open space and interactive park known as Children’s Wharf Landing in the City of Boston” and in said item by striking the figure “\$86,180,000” and inserting in place thereof the figure “\$88,680,000”.

The amendment was adopted.

Mr. Joyce and Ms. Walsh moved that the bill be amended in section 2, in item 2800-7011, by inserting at the end thereof the following:— “; provided further, that not less than \$11,500,000 shall be expended for the restoration, remediation, and other necessary environmental improvements to the Lower Neponset River Watershed including, but not limited to, associated costs of engineering, design, permitting as well as costs relating to public outreach; and that not less than \$500,000 shall be expended for aesthetic, pedestrian, and vehicular traffic improvements at the intersection of Neponset Valley Parkway and Brush Hill Road in the town of Milton”.

The amendment was adopted.

Mr. Antonioni moved that the bill be amended in section 2A, in item 2800-7016, by adding the following:— “provided further, that not less than \$1,000,000 shall be provided to the City of Leominster for the design and reconstruction of the bank stabilization project adjacent to Slack Brook.”

The amendment was adopted.

Mr. Antonioni moved that the bill be amended by inserting, in item 2840-7014, the following:— “provided further, that not less then \$250,000 shall be expended for the Steamline Trail wall repair project in the city of

Fitchburg”.

The amendment was adopted.

Mr. Antonioni moved that the bill be amended in item 2840-7014 by inserting the following:— “provided further, that not less than \$150,000 shall be expended for the Crocker Field Restoration project in the city of Fitchburg”.

The amendment was adopted.

Ms. Chandler moved that the bill be amended in section 2, in item 2840-7014, by adding the following:— “provided further than not less than \$900,000 be provided for the restoration of the Bicentennial Trail at Wachusett Mountain”.

The amendment was *rejected*.

Mr. Antonioni moved that the bill be amended in item 2800-7016 by inserting the following:— “provided further, that not less than \$80,000 shall be expended for a study of the Mirror Lake Dam at Coggs Hall Park in the city of Fitchburg”.

The amendment was adopted.

Ms. Chandler moved that the bill be amended in section 2, in item 2000-7014, by adding the following:— “provided further than not less than \$450,000 be provided for the purpose of installing sound barriers along Route 290 in the Maynard Street section of the Town of Northborough”.

The amendment was *rejected*.

Mr. Rosenberg moved that the bill be amended in section 2, in item 2800-7016, by striking the following:— “provided further, that not less than \$250,000 shall be expended for design, permits and inspections of Lake Wyola Dam in Shutesbury;” and adding the following:— “provided further, that not less than \$150,000 shall be expended to the town of Shutesbury for repairs to the dam at Lake Wyola;”.

The amendment was adopted.

Mr. Rosenberg moved that the bill be amended in section 2, in item 2840-7014, by adding at the end thereof the following:— “provided further, that \$4,000,000 shall be expended for Phase 1 of the improvement and redevelopment plan of the Three County Fairgrounds in the city of Northampton”.

The amendment was adopted.

Mr. Rosenberg moved that the bill be amended in section 2, in item 2500-7013, by adding at the end thereof the following:— “provided further, that financial support shall be expended for planning and construction of a slaughterhouse in western MA”.

The amendment was adopted.

Ms. Jehlen moved that the bill be amended in item 2800-7016 by inserting after the word “Springfield” the following:— “provided further that not less than \$2,000,000 shall be expended for repair and improvements to Saxton J. Foss Park in the City of Somerville”.

The amendment was adopted.

Mr. Galluccio moved that the bill be amended by inserting in section 2, in item 1100-2500, by inserting after the words “New Bedford”, in line 99, the following:— “provided further, that \$40,000 shall be expended for the dock at Mary O’Malley Park in Chelsea, including but not limited to the engineering, design, construction, and rebuilding of the dock”.

The amendment was adopted.

Messrs. Moore, Hedlund, Brown, Knapik, Tarr and Timilty moved that the bill be amended by inserting after item 0620-2000 the following item:—

“0620-2050 For the water pollution abatement trust grandfathered drinking water revolving fund established by Chapter 78 of the Acts of 1998, to fund financial assistance to municipalities and other eligible borrowers to meet debt service obligations incurred by the municipalities and other eligible borrowers after January 1, 1992, to finance the costs, including interest, of water treatment projects or portions thereof which have been approved by the department of environmental protection, or otherwise authorized by law, and which have been completed, as determined by the department, on or before the promulgation date of the department’s regulations related to the implementation of the federal Safe Drinking Water Act 42,342,660”.

The amendment was *rejected*.

Ms. Resor and Mr. Tarr moved that the bill be amended by striking section 21 and inserting in place thereof the following new section:—

“SECTION 21. The Commissioner of the Department of Environmental Protection shall submit a report to the Secretary of Energy and Environmental Affairs and the Joint Committee on Environment, Natural Resources, and Agriculture prior to April 1, 2009 with recommendations for new regulations as necessary to protect the ground and surface waters of the Commonwealth from proposed new withdrawals of water greater than 5,000 gallons per day from any water source for the purposes of bottling the water for retail sale.”

The amendment was adopted.

Ms. Creem moved that the bill be amended in section 2A, in item 2840-7014, by inserting the following:— “provided further, that \$75,000 shall be expended for a design study for bicycle/walking accommodations on a former railway right-of-way that connects the villages of Auburndale and Newton Lower Falls in the city of Newton, from the Auburndale Commuter Rail Station to the Riverside MBTA Station along a rail trail to Wellesley Lower Falls and including the feasibility of reusing existing railroad bridges crossing route 128 and the Charles River along that right-of-way”.

The amendment was *rejected*.

Mr. Brown and Ms. Spilka moved that the bill be amended in section 2, in item 2000-7014, by inserting the following:— “provided further, that not less than \$750,000 shall be expended for the expansion and improvements to JJ Land Park in Natick”.

The amendment was *rejected*.

Ms. Creem moved that the bill be amended in section 2A, in item 2840-7014, by inserting the following:— “provided further, that not less than \$50,000 shall be expended for a design study for bicycle accommodations on Hammond Pond Parkway in the city of Newton, and all areas appurtenant thereto;”.

The amendment was *rejected*.

Mr. Brown and Ms. Spilka moved that the bill be amended in section 2, in item 2890-7010, by inserting the following:— “provided further, that not less than \$100,000 shall be expended for improvements to the Coolidge Field in Natick”.

The amendment was *rejected*.

Mr. Timilty moved that the bill be amended in section 2, in item 2840-7014, by inserting at the end thereof the following:— “provided further, that \$500,000 be expended for drainage and grounds rehabilitation at Memorial Park in the town of Mansfield;”.

The amendment was *rejected*.

Mr. Brown and Ms. Spilka moved that the bill be amended in section 2, in item 2890-7010, by inserting the following:— “provided further, that not less than \$500,000 shall be expended for improvements to Sargent Field in Natick”.

The amendment was *rejected*.

Mr. Hedlund moved that the bill be amended in section 2, in item 2200-7018, by inserting the following words:— “provided further, that not less than \$5,500,000 shall be expended to upgrade the Lily Pond Water Treatment Plant in the town of Cohasset, by installing a MIEX pretreatment system, in order to meet new federal standards for reducing TTHMs that take effect in 2012;”.

The amendment was *rejected*.

Mr. Brown and Ms. Spilka moved that the bill be amended in section 2, in item 2890-7010, by inserting the following:— “provided further, that not less than \$400,000 shall be expended for improvements to Hunnewell Field in Natick”.

The amendment was *rejected*.

Mr. Brown and Ms. Spilka moved that the bill be amended in section 2, in item 2840-7014, by inserting the following:— “provided further, that not less than \$100,000 shall be expended for emergency repairs to the Grand Army of the Republic monument on the Natick Common”.

The amendment was *rejected*.

Ms. Fargo moved that the bill be amended in section 2, in item 2840-7014, by inserting the following wording:— “provided further, that \$1,000,000 be expended for improvements for municipal recreation fields in the town of Carlisle”.

The amendment was *rejected*.

Mr. Creedon moved that the bill be amended in item 2840-7014 by adding the following:— “provided further, that not less than \$350,000 shall be expended for renovations and construction at the Manning pool in the city of Brockton;”.

The amendment was adopted.

Mr. Brown and Ms. Spilka moved that the bill be amended in section 2, in item 2000-7014, by inserting the following:— “provided further, that not less than \$100,000 shall be expended for improvements to the Cole Recreation Center in the town of Natick”.

The amendment was *rejected*.

Mr. Brown and Ms. Spilka moved that the bill be amended in section 2, in item 2000-7014, by inserting the following:— “provided further, that not less than \$250,000 for improvements to Murphy Playground in Natick”.

The amendment was *rejected*.

Mr. Morrissey moved that the bill be amended in item 2000-7014, by inserting after the words “Pepperell and Dunstable;”, in line 189, the following:— “provided further that not less than \$1,000,000 shall be expended for repairs to the footbridge in historic Island Grove Park in Abington;”.

The amendment was adopted.

Mr. Morrissey moved that the bill be amended in item 2300-7016 by inserting after the words “throughout the commonwealth”, in line 847, the following:— “, including, but not limited to, public docking access in Boston Harbor.”

The amendment was adopted.

Mr. Antonioni moved that the bill be amended in item 2000-7025, in line 489, by striking the following:— “and provided that said grant may also be used as the town’s share of the Massachusetts School Building Authority program;”.

After remarks, the amendment was adopted.

Messrs. Morrissey and Tisei moved that the bill be amended by inserting at the end thereof the following section:—

“SECTION XX. Notwithstanding any general or special law to the contrary, MassHighway may expend up to \$5,000,000 for a pilot program to study the effectiveness of the structural health monitoring of bridges and tunnels through electronic means.”

After remarks, the amendment was adopted.

Mr. Morrissey moved that the bill be amended in item 2800-7097 by inserting after the words “Plymouth Harbor;” in line 1353, the following:— “provided further, that not less than \$750,000 shall be expended for the dredging of the Fore River in Braintree;”.

The amendment was adopted.

Mr. Morrissey moved that the bill be amended by adding at the end thereof the following section:—

“SECTION XX. Notwithstanding any general law or special law to the contrary, the uses permitted in the management and use agreement dated July 23, 2004 between the department of conservation and recreation and Kids Replica Ballpark, Inc. on land authorized and designated under chapter 183 of the acts of 2002, shall be deemed an overriding public interest within the meaning of 314 CMR 9.08, provided that the U.S. Army Corp of Engineers determines that a section 404 permit is not required.”

The amendment was adopted.

Mr. Morrissey moved that the bill be amended by inserting at the end thereof the following 5 sections:—

“SECTION XX. Notwithstanding any general law or special law to the contrary, the department of conservation and recreation shall, within 30 days from the effective date of this act and for the consideration of \$1 per year, enter into an agreement with Kids Replica Ballpark, Inc. (Mini Fenway Park) that provides the right of entry and license provisions for a term consistent with the term of a ground lease dated September 1, 2004 executed between Kids Replica Ballpark, Inc. and the division of capital asset management and maintenance, for the use of a portion of a parcel of land owned by the Commonwealth and under the control of said department as shown on a plan of land entitled ‘Exhibit A, Ricciuti Drive, Quincy, Mass.’ prepared by Harry R. Feldman, dated July 13, 2005. Said portion of that parcel shall be utilized by Kids Replica

Ballpark, Inc., for the installation and operation of appropriate signage that shall be used for, but not limited to, the promotion of events, programs and sponsors affiliated with Kids Replica Ballpark, Inc., together with other educational and recreational opportunities offered by private and public entities; provided that such signage shall not exceed 500 square feet in dimension viewable from both sides by, but not limited to, light emitting diode electronic devices; provided further, that the frequency in the change of what is viewable on such signage shall be restricted to no more than once every 3 minutes. Said signage, upon local approval, shall be subject to the provisions of the state building code and to state inspection; provided that solely for purposes of this section and any requirements of the federal highway administration, said parcel and any abutting parcel shall not be designated as a state park or reservation.

SECTION XX. Notwithstanding any general law or special law to the contrary, the department of conservation and recreation shall, within 30 days from the effective date of this act and for the consideration of \$1 per year, enter into an agreement with Kids Replica Ballpark, Inc. (Mini Fenway Park) that provides the right of entry and license provisions for a term consistent with the term of a ground lease dated September 1, 2004 executed between Kids Replica Ballpark, Inc. and the division of capital asset management and maintenance, for the use of a parcel of land owned by the Commonwealth and under the control of said department, as shown as Lot B on a plan of land entitled ‘Subdivision Plan of Land, Ricciuti Drive, Quincy, Mass.,’ prepared by Harry R. Feldman, Inc. dated February 7, 2000. Said parcel shall be utilized by Kids Replica Ballpark, Inc. for any or all of the uses permitted in the management and use agreement dated July 23, 2004 between said department and Kids Replica Ballpark, Inc.

SECTION XX. Section 120 of chapter 123 of the acts of 2006 is hereby amended by striking the words ‘and subject to the approval of the department of conservation and recreation’.

SECTION XX. Section 1 of chapter 275 of the acts of 1998 is hereby amended by inserting after the first paragraph the following:— ‘The commission shall exercise oversight rights and approval rights within fifteen (15) days of the submission of any item by Kids Replica Ballpark, Inc. or the item will be considered approved as submitted.’

SECTION XX. Section 2F (b) of chapter 90 of the General Laws is hereby amended by striking the word ‘issued’ and inserting in place thereof the following:— ‘sold, said number does not including renewals.’”
The amendment was *rejected*.

Mr. Morrissey moved that the bill be amended in item 2000-7014 by inserting after the words “Pepperell and Dunstable;”, in line 189, the following:— “provided further, that not less than \$100,000 shall be expended for a rail trail project in Rockland;”.

The amendment was *rejected*.

Mr. Morrissey moved that the bill be amended in item 2000-7014 by inserting after the word “management”, in line 1154, the following:— “; provided, that not less than \$200,000 shall be expended for restoration projects for the Wollaston Sailors Pond and the Montclair Bog in Quincy”.

The amendment was *rejected*.

Mr. Morrissey moved that the bill be amended in item 2840-7014 by inserting after the words “Beach boardwalk;”, in line 1478, the following:— “provided further that not less than \$150,000 shall be expended for improvements to Smith Beach in Braintree”.

The amendment was adopted.

Messrs. Morrissey and Joyce moved that the bill be amended in item 2000-7025 by inserting after the words “wastewater treatment facility;”, in line 478, the following:— “provided further, that \$100,000 shall be expended for a feasibility study, design or construction of a wind turbine or other renewable energy generating source in Braintree for the purpose of providing power to a new tri-town water treatment plant under the care, custody and control of the Tri-Town Board of Water Commissioners of Braintree, Holbrook and Randolph;”.

The amendment was adopted.

Ms. Creem moved that the bill be amended in section 2A, in item 2800-7012, by inserting after the words “enhanced environmental compliance with laws and regulations” the words:— “and to undertake stormwater improvements in support of the Muddy River Restoration Project,” and inserting after the words “and improvement” the words:— “including pilot projects to test the costs and benefits of Low Impact

Development stormwater management,”.

The amendment was *rejected*.

Mr. Antonioni moved that the bill be amended in section 2A, in item 2840-7014, by adding the following:— “; provided further, that not less than \$200,000 shall be expended for mechanical systems upgrades, including heating and air conditioning systems, to the Gardner Heritage State Park Visitors Center”.

The amendment was adopted.

Ms. Creem moved that the bill be amended in section 2A, in item 2300-7017, by inserting after the words “the preparation of restoration and habitat protection plans,” the words:— “developing criteria for stream flow and water levels that are protective of aquatic life for inland waters”.

The amendment was *rejected*.

Mr. Tarr moved that the bill be amended in section 18 by adding at the end of the third paragraph the following sentence:— “Said observers shall also file an annual report summarizing the catch data for the previous year”.

The amendment was adopted.

Mr. Hedlund moved that the bill be amended in section 2, in item 2840-7014, by inserting the following words:— “provided further, that not less than \$75,000 shall be expended for the North and South Rivers Watershed Association for the purposes of restoring the North and South rivers and their tributaries to meet clean water act standards;”

The amendment was *rejected*.

Ms. Creem moved that the bill be amended in section 2A, in item 2200-7011, by inserting after the words “for the Cole and Lee Rivers;” the following:— “provided further that no less than \$500,000 shall be expended for development of a safe yield methodology taking into account the natural variability of streamflow,” and in said item by striking out the figure “\$15,200,000” and inserting in place thereof the following figure:— “\$15,700,000”.

The amendment was *rejected*.

Mr. Antonioni moved that the bill be amended in item 2840-7014 by adding the following:— “; provided further, that not less than \$200,000 shall be expended for Phase V acquisition, engineering and design for the North Central Pathway Project in Gardner and Winchendon”.

The amendment was *rejected*.

Subsequently, Mr. Panagiotakos moved that the bill be amended in section 19 by striking out, in line 1946, the item number “2200-8969”;

In section 2, in item 1100-2500, by striking out in lines 83 to 86, inclusive, the words “provided further, that not less than \$600,000 shall be expended for the rehabilitation of the Jacobs Meadow outfall channel wall in the town of Cohasset;”;

In said section 2, in item 1100-2500, line 99, by striking out the figure “\$86,180,000” and inserting in place thereof the following figure:— “\$113,680,000”;

In said section 2, in item 2800-7016, line 1243, by striking out the figure “\$31,500,000” and inserting in place thereof the following figure:— “\$40,500,000”;

In said section 2, in item 2300-7016, line 875, by striking out the figure “\$7,300,000” and inserting in place thereof the following figure:— “\$8,075,000”;

In said section 2, in item 2800-7016, by striking out the words “provided further, that not more than \$1,500,000 shall be expended for the repair and removal of Whitney Pond Dam; provided further, that not less than \$1,000,000 shall be expended on the Williams Pond Dam in Winchendon;” and inserting in place thereof the following words:— “provided further, that not less than \$1,000,000 shall be expended on the Williams Pond Dam in Orange;”;

In said section 2, in item 2800-7014, by striking out the words “provided further that \$100,000 shall be expended for the Massachusetts Vietnam Veteran’s Memorial”;

In said section 2, in item 2800-7016, by striking the following:— “provided further, that not less than \$2,000,000 shall be expended for repairs and renovations to the East Windsor Dam in Dalton”;

In said section 2, in item 2840-7014, by inserting after the words “Environmental Concern”, in line 1437, the following words:— “provided further that not less than \$6,000,000 shall be expended

for acquisition of the East Boston Camp property in the town of Westford;”;

In section 2A, in item 1100-2500, by striking the words “; provided further, that an amount not to exceed \$580,000 shall be expended for repair, paving, and a storm-water filtration system for the bulkhead located in the town of Wellfleet”;

In item 2300-7016 by striking the words “; provided further, that not less than \$500,000 shall be expended for the construction for a stand-alone public fishing pier in Oak Bluffs”;

In item 2800-7097 by striking the words “; and provided further, that not less than \$1,500,000 shall be expended for the repair or replacement of the Seaview Avenue seawalls in the town of Oak Bluffs or the installation of a coastal dune system in lieu thereof”;

In item 2000-7018 by striking out the following words:— “provided further that not less than \$2,000,000 shall be expended for Connecticut River combined sewer overflow clean up on Hubbard Street in Ludlow” and inserting in place thereof the following:— “; provided further that not less than \$2,000,000 shall be expended for Connecticut River combined sewer overflow remediation in the cities of Springfield, Chicopee, Holyoke and Ludlow.”;

In section 4, in item 2890-7010, by striking out the word “Medford” in line 1592;

In section 9, in line 1834, by striking the figure “\$1,348,680,000” and inserting in place thereof the following figure:— “\$1,385,955,000”;

By striking section 24 of the bill in its entirety; and

By inserting at the end of the bill the following 7 new sections:—

“SECTION XX. Paragraph (1) of subsection (c) of section 21 of chapter 7 of the General Laws, as appearing in section 7 of chapter 169 of the acts of 2008, is hereby amended by striking out clause (i) and inserting in place thereof the following clause:—

(i) to reimburse a municipality in which the property tax receipts from a coal fired electric generating station, including, for the purposes of this clause, payments in lieu of taxes and other compensation specified in an agreement between a municipality and an affected property owner, are reduced; provided, however that the amount of the payment shall be the difference between the amount of the property tax receipts, as described above, in the fiscal year 2008 and the amount of the property tax receipts, as described above, in subsequent tax years; provided, further, that no reimbursement shall be made if, in a tax year, the aggregate amount paid to a municipality by the owner of an electric generating station including, but not limited to, payments in lieu of taxes and property taxes, exceeds the aggregate amount paid to that municipality by that owner in the fiscal year 2008; and provided, further, that payments from the fund shall be prioritized so that the first payments from the fund shall be made to municipalities under this clause.

SECTION XX. Section 103 of chapter 182 of the acts of 2008 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation may, using such competitive proposal process as the division considers necessary or appropriate, lease and enter into other agreements, for terms not to exceed 25 years with 1 or more operators, for the Ponkapoag golf course in the town of Canton so as to provide for the continued use, operation, maintenance, repair and improvement of the golf courses, practice greens, driving range, restaurant or any other structure and associated lands which constitute the facilities of the Ponkapoag golf course, in this section called the golf course; provided, however, that the division of capital asset management and maintenance, in consultation with the department of conservation and recreation shall prefer any proposal submitted by the town of Canton, or by a non-profit organization within the town of Canton, which complies with the requirements of this section; and provided further, that the division of capital asset management and maintenance shall provide the town of Canton not less than 45 days to determine whether the town shall submit a proposal before soliciting proposals under subsection (b); and provided further, that if the town of Canton executes a lease of the golf course under this section it shall not assign or otherwise transfer the lease to any third party.

SECTION XX. Subsection (b) of said section 103 of chapter 182 of the acts of 2008 is hereby further amended by striking out

the first paragraph and inserting in place thereof the following paragraph:—

If no lease agreement is reached with the town of Canton under subsection (a) and not before April 1, 2009, the division of capital asset management and maintenance, in consultation with and on behalf of the department of conservation and recreation, shall solicit proposals through a request for proposals which shall include key contractual terms and conditions to be incorporated into the contract, including but not limited to: (1) a comprehensive list of all recreational facilities operated by the responsive bidder or offeror in the last 4 years; (2) other facilities management or experience of the responsive bidder or offeror; (3) a senior citizen and children discount program; (4) reservation policies; (5) proposed reasonable rates that will ensure continued public access; (6) required financial audits; (7) policies to encourage use of the golf course by persons of all races and nationalities; (8) safety and security plans; (9) seasonal opening and closing dates; (10) hours of operation; (11) holiday recognition; (12) grievance processes; (13) clubhouse license; (14) a provision that the facility shall be maintained as a 36-hole public golf course; (15) a provision that lessee shall not construct any facilities on the grounds of the golf course or any property appurtenant thereto; provided, however, that the lessee may construct facilities with the written approval of the commissioner of the department of conservation and recreation and by a majority vote of the board of selectman in the town of Canton; (16) a host community agreement between the designated operator and the town of Canton. Any increase in fees including fees for season passes or club memberships, and any increase in charges for greens fees, golf cart or club rentals shall be approved in writing by the commissioner of the department of conservation and recreation; provided, however, that in considering any request for an increase in fees, the commissioner shall consider without limitation: (i) any capital investment made by the contractor or lessee; (ii) the fees and charges at other public golf courses within reasonable proximity; and (iii) the length of time since the last fee increase.

SECTION XX. Section 103 of chapter 182 of the acts of 2008 is hereby amended in the third paragraph of subsection (a) by striking the words ‘General Fund’ and inserting in place thereof the following:— Blue Hills Reservation Trust Fund in accordance with Section 34C of Chapter 92 of the General Laws.

SECTION XX. Section 104 of chapter 182 of the acts of 2008 is hereby amended in the third paragraph of subsection (a) by striking the words ‘General Fund’ and inserting in place thereof the following:— Blue Hills Reservation Trust Fund in accordance with Section 34C of Chapter 92 of the General Laws.

SECTION XX. Section 105 of chapter 182 of the acts of 2008 is hereby amended in the third paragraph of subsection (a) by striking the words ‘General Fund’ and inserting in place thereof the following:— Blue Hills Reservation Trust Fund in accordance with Section 34C of Chapter 92 of the General Laws.

SECTION XX. Notwithstanding any general or special law, rule or regulation to the contrary, a certain parcel of land located on the northerly side of Medford Street in the Charlestown section of the city of Boston is hereby eliminated as a Designated Port Area under 301 C.M.R. 25 and 310 C.M.R. 9 and any other applicable provision of the code of Massachusetts regulations. The property, located at 465 Medford Street in the Charlestown section of the city of Boston, is registered under certificate of title number 111502 in the Suffolk county registry of deeds, and is comprised of three parcels described in the certificate and shown on plans 3503-A, 6246-A, and 9147-A, filed with the Suffolk Registry District of the Land Court.”

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 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-three minutes before seven o’clock P.M., on motion of Mr. Panagiotakos, as follows, to wit (yeas 38 — nays 0) [**Yeas and Nays No. 309**]:

YEAS.

Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.

Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petrucelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Marzilli, Jim — 1.

The yeas and nays having been completed at eighteen minutes before seven o’clock P.M., the bill was passed to be engrossed, in concurrence, with the amendments [For text of Senate amendments, see Senate, No. 2855.]

Sent to the House for concurrence in the amendment.

Suspension of Senate Rule 38A.

Mr. Panagiotakos moved that Senate Rule 38A be suspended to allow the Senate to continue in session beyond the hour of eight o’clock P.M.; and, there being no objection, on further motion of the same Senator, the rule was suspended without a recorded yea and nay vote.

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

PAPERS FROM THE HOUSE.

Emergency Preamble Adopted.

An engrossed Bill authorizing the Commissioner of Capital Asset Management and Maintenance to lease certain property to the city known as the town of Natick (see House, No. 4806), 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.

Engrossed Bill.

An engrossed Bill relative to county highways in the town of Granville (see House, No. 4796) (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 and was signed by the President and laid before the Governor for his approbation.**

Petitions were referred, in concurrence, as follows:

Petition (accompanied by bill, House, No. 5031) of James R. Miceli relative to the demolition, removal and site clean-up of abandoned houses at the Tewksbury State Hospital;

Under suspension of Joint Rule 12, to the committee on Bonding, Capital Expenditures and State Assets.

Petition (accompanied by bill, House, No. 5032) of Karyn E. Polito and Edward M. Augustus, Jr., relative to the preservation of certain land in the town of Shrewsbury under the care, custody and control of the Department of Mental Retardation.

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

Communication.

The Clerk read the following communication:

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053

July 28, 2008.

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

Dear Mr. Clerk:

Per a recently approved Senate Order, I was out of the state at the Annual Meeting of the National Conference of State Legislatures and was subsequently unable to attend the formal session on July 24, 2008. Consequently, I was not recorded on several roll call votes.

Had I been present, I would have voted in the following fashion.

S 2821 Relative to Responsibility for Damages Resulting from the Transportation of Explosive or Inflammable Materials: Yes

S 488 Relative to Protecting Public Water Supply Lands: Yes

S 2839 Relative to Oversight of Sober Homes: Yes

S 2724 Conveying Certain Land in Quincy: Yes

H 4015 Relative to Granting a Certain Easement in Provincetown: Yes

H 4902 Allowing Walpole to Release a Certain Restriction: Yes

S 2841 Financing an Accelerated Structurally-Deficient Bridge Improvement Program: Yes

I would appreciate your assistance with the printing of this communication in the Senate journal. Thank you for your assistance with this request.

Sincerely,

RICHARD T. MOORE,
State Senator,
Worcester and Norfolk District.

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

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered as follows:

The House Bill relative to the post retirement liability fund in the town of Needham (House, No. 4826),— **was read a second time, ordered to a third reading, read a third time and passed to be engrossed, in concurrence.**

Reports of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill prohibiting the confiscation of lawfully owned firearms during a state of emergency (Senate, No. 1401),— ought to pass.

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

Sent to the House for concurrence.

By Mr. Panagiotakos, for the committee on Ways and Means, that the Senate Bill relative to operating a motor vehicle when approaching stationary emergency vehicles (Senate, No. 2103, amended),— ought to pass, with an amendment striking out, in section 2, in proposed section 7C of chapter 89, subsection (e).

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

The bill (Senate, No. 2103, amended) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Recess.

There being no objection, at seventeen minutes before seven o’clock P.M., the President declared a recess subject to the call of the Chair; and, at thirteen minutes past eight o’clock P.M., the Senate reassembled, the President in the Chair.

PAPERS FROM THE HOUSE.

Engrossed Bill.

An engrossed Bill relative to mental health parity (see House, No. 4423, amended) (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 and was signed by the President and laid before the Governor for his approbation.**

Engrossed Bills — Land Takings for Conservation, Etc.

An engrossed Bill relative to the South Grafton and Grafton water districts (see House, No. 4513) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at fourteen minutes past eight o’clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 310]:**

YEAS.

Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O’Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.

Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petruccelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian
Knapik, Michael R.	Wilkerson, Dianne — 38.

NAYS — 0.

ABSENT OR NOT VOTING.

Marzilli, Jim — 1.

The yeas and nays having been completed at twenty-three minutes past eight o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

An engrossed Bill relative to conservation restrictions on certain parcels of land held by the Martha's Vineyard Land Bank and the town of Edgartown (see House, No. 4294) (which originated in the House), having been certified by the Senate Clerk to be rightly and truly prepared for final passage,— was put upon its final passage; and, this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution, the question on passing it to be enacted was determined by a call of the yeas and nays, at twenty-four minutes past eight o'clock P.M., as follows, to wit (yeas 38 — nays 0) **[Yeas and Nays No. 311]:**

YEAS.

Antonioni, Robert A.	McGee, Thomas M.
Augustus, Edward M., Jr.	Menard, Joan M.
Baddour, Steven A.	Montigny, Mark C.
Berry, Frederick E.	Moore, Richard T.
Brewer, Stephen M.	Morrissey, Michael W.
Brown, Scott P.	O'Leary, Robert A.
Buoniconti, Stephen J.	Pacheco, Marc R.
Candaras, Gale D.	Panagiotakos, Steven C.
Chandler, Harriette L.	Petruccelli, Anthony
Creedon, Robert S., Jr.	Resor, Pamela
Creem, Cynthia Stone	Rosenberg, Stanley C.
Downing, Benjamin B.	Spilka, Karen E.
Fargo, Susan C.	Tarr, Bruce E.
Galluccio, Anthony D.	Timilty, James E.
Hart, John A., Jr.	Tisei, Richard R.
Hedlund, Robert L.	Tolman, Steven A.
Jehlen, Patricia D.	Tucker, Susan C.
Joyce, Brian A.	Walsh, Marian

Knapik, Michael R. Wilkerson, Dianne —
38.

NAYS — 0.

ABSENT OR NOT VOTING.

Marzilli, Jim — 1.

The yeas and nays having been completed at twenty-seven minutes past eight o'clock P.M., the bill was passed to be enacted, two-thirds of the members present having agreed to pass the same, and it was signed by the President and laid before the Governor for his approbation.

Report of a Committee.

By Mr. Panagiotakos, for the committee on Ways and Means, that the House Bill establishing the Massachusetts Creative Economy Council (House, No. 4965, amended),— ought to pass. There being no objection, the rules were suspended, on motion of Mr. Downing, and the bill was read a second time.

Pending the question on ordering the bill to a third reading, Mr. Augustus moved that the bill be amended in section 1(b), in line 10, by striking out the figure “23” and inserting in place thereof the following figure:— “24”; and, in line 37, by inserting after the words “Berkshire Creative Economy Initiative;” the following words:— “1 of whom shall be the executive director of the Worcester Cultural Coalition;”.

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.

Matter Taken Out of the Notice Section of the Calendar — Objected.

The Chair moved that the following matter be taken out of the Notice Section of the Calendar to be considered forthwith;

The Senate Bill updating the animal control laws (Senate, No. 2450),— **but objection was made thereto by Mr. Tisei.**

Reports of a Committee.

Mr. Downing, for the committee on Ethics and Rules, reported that the following matter be placed in the Orders of the Day for the next session:

The Senate Bill relative to credit union mortgages (Senate, No. 647).

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

Mr. Augustus for the committee on Bills in the Third Reading, reported, recommending that the bill be amended substituting a new draft with the same title (Senate, No. 2854).

This amendment was adopted.

The bill (Senate, No. 2854) was then passed to be engrossed.

Sent to the House for concurrence.

Mr. Downing, 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 protecting the public health (House, No. 4346).

Ms. Fargo moved that the rules be suspended to consider the matter forthwith; but objection was made thereto by Mr. Tisei.

PAPER FROM THE HOUSE.*Engrossed Bill Returned with Recommendation of Amendment.*

A message from His Excellency the Governor, returning with recommendation of amendment the engrossed Bill that the town of Harwich be authorized to acquire certain land for cemetery purposes (see House, No. 4257) [for message, see House, No. 4551],— came from the House with an amendment in the form approved by the committee on Bills in the Third Reading as follows:—

In section 1, by adding striking out the second sentence and inserting in place thereof the following sentence: “The parcel is shown on Assessor’s Map No. 48 as parcel 1-3.”

The message was read; and, under the provisions of Article LVI of the Amendments to the Constitution, the bill was before the Senate subject to amendment and re-enactment.

The rules were suspended, on motion of Mr. O’Leary, and the Governor’s amendment was considered forthwith and adopted, in concurrence (as corrected BTR).

Sent to the House for re-enactment.

Orders of the Day.

The Orders of the Day were further considered, as follows:

The House Bill relative to the agreement among the states to elect the President by national popular vote (House, No. 4952),— was considered; the main question being on ordering the bill to a third reading.

On motion of Mr. Tisei, the further consideration thereof was postponed until the next session.

Matter Taken Out of the Notice Section of the Calendar.

There being no objection, the following matter was taken out of the Notice Section of the Calendar and considered as follows:

The Senate Bill relative to the North Raynham Water District (Senate, No. 2736, amended),— was read a second time.

Mr. Pacheco moved that the bill be amended by inserting at the end of section 1 the following:—

“The fair market value of the 1.746 acre parcel shall be equal or greater than the fair market value of the 1.45 acre parcel described above, as determined by an independent appraisal. For the purposes of these appraisals, the fair market value of the 1.746 acre parcel shall be calculated in its highest and best use. If there is a disparity in these values in favor of the North Raynham Water District, Prospect Leasing Inc. will pay a sum equal to the difference to the North Raynham Water District for deposit in its water supply land conservation fund or otherwise dedicated to preservation of water supply land.”

The bill (Senate, No. 2736, amended) was then ordered to a third reading, read a third time and passed to be engrossed.

Sent to the House for concurrence.

Pursuant to an order previously adopted, on motion of Mr. Panagiotakos, at fourteen minutes before nine o’clock P.M., the Senate adjourned to meet on the following day at ten o’clock A.M.
