

State of Rhode Island and Providence Plantations

Journal of the Senate

JANUARY SESSION of the General Assembly begun and held at the State House in the City of Providence on Tuesday, the seventh day of January in the year of Our Lord two thousand and three.

Volume 130, No.53 Wednesday, May 28, 2003 Fifty-third Day

The Senate meets pursuant to adjournment and is called to order by the Honorable William V. Irons, President of the Senate, at 4:00 o'clock P.M.

The roll is called and a quorum is declared present with 38 Senators present and 0 Senators absent as follows:

PRESENT - 38: The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, Lenihan, McBurney, McCaffrey, Montalbano, Paiva Weed, Parella, Perry, Pichardo, Polisena, Raptakis, Revens, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

ABSENT - 0.

INVOCATION

The Honorable President, by unanimous consent, presents Senator Tassoni, to deliver the invocation.

(See Appendix for Invocation)

PLEDGE OF ALLEGIANCE TO THE FLAG

The Honorable President, by unanimous consent, presents Senator Tassoni, to lead the Senate in the pledge of allegiance to the flag.

APPROVAL OF RECORD

The Senate Journal of Tuesday, May 27, 2003 proceedings is read in part.

Upon suggestion of Senator Tassoni, and by unanimous consent, further reading of the Journal is dispensed with and the Journal approved as recorded.

GUESTS

Upon suggestion of Senators Gallo, Roberts, Sosnowski, Celona, Paiva Weed, Alves, Bates, Parella, Blais and Senate Majority Leader Montalbano, and by unanimous consent, the Honorable President welcomes to the Chamber as part of Civic Education Day at the State House, Essay Contest Winners: First Place, Lucas Henry, Norwood Avenue

Elementary School; Second Place, Hayley Marshall, Msgr. Matthew F. Clarke School; Third Place, Rebecca Goldman, Lincoln Central Elementary; First Place, Katie Battistoni, Lincoln Middle School; Second Place, Brett Uttley, Jamestown Lawn Avenue School; Third Place, Corrine B. Condon, John F. Deering Middle School; First Place, Allison St. Vincent, Mt. Hope High School; Second Place, Daniel Cochran, Portsmouth High School; Third Place, Emily Sibly, Grade 12, Scituate High School.

Upon suggestion of Senator Bates, and by unanimous consent, the Honorable President welcomes to the Chamber members of the Rhode Island State Capitol Dome Fabrication Team, Hank Cahill, Bernard Feinerman, Richard Friberg, Ernie Grimes, Angelo Iafrate, Frank Iafrate, Emilio Iannuccillo, Bob Iuliano, Jeffrey Keller, Wally Kemp, Leonard Langevin, Jesse Meyer, John Murphy, and Mal Partridge, along with their guests Louise Painter, Karen Dowell, Gloria Partridge, Joan Murphy, Regina Getchell, Jane Selig, and Vicky Iannuccillo.

Upon suggestion of Senator Parella, and by unanimous consent, the Honorable President welcomes to the Chamber Tom Brilant, Executive Director, Washington County Adult Learning Center, and Mary Lou Gesner, Director, LVA-Westerly.

APPOINTMENT BY THE GOVERNOR

The Honorable President presents the following communication from His Excellency, the Governor, transmitting the following appointment and requesting the advice and consent of the Senate thereto:

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
EXECUTIVE CHAMBER, PROVIDENCE**

Donald L. Carcieri
Governor

May 14, 2003

To the Honorable, the Senate:

I have the honor to inform you that in accordance with the provisions of Section 42-130-5 of the Rhode Island General Laws, I have made the following appointment to the Rhode Island Rural Development Council:

Thomas P. Sandham of Tiverton
(Representing Eastern Rhode Island
Conservation District)

for a term expiring July 1, 2003.

To this appointment, I respectfully request your advice and consent.

Sincerely,

DONALD L. CARCIERI
Governor

Read and referred to the Committee on Environment and Agriculture.

NEW BUSINESS

The following item s are received and referred to committee pending any objection of the body on the next legislative day.

Senator Gibbs presents (03-S 1103) An Act relating to relating to taxation - property subject to taxation.

Read and referred to the Committee on Commerce, Housing and Municipal Government.

Senators Fogarty, Tassoni, Gallo and Sheehan present (03-S 1104) An Act relating to property subject to taxation.

Read and referred to the Committee on Commerce, Housing and Municipal Government.

Senators Perry, Paiva Weed, Roberts, Goodwin and Sosnowski present (03-S 1105) Senate Resolution supporting health care access for all Rhode Island residents.

Read and referred to the Committee on Health and Human Services.

Senators McCaffrey, Raptakis and Caprio present (03-S 1106) An Act relating to domestic relations - divorce and separation.

Read and referred to the Committee on Judiciary.

Senators Blais, Breene, Raptakis and Alves present (03-S 1107) Senate Resolution supporting the creation of a heritage corridor along the Pawtuxet River.

Senator Blais requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Upon motion of Senator Blais, seconded by the entire Senate, and by unanimous consent, read and passed, under suspension of the rules, upon a voice vote.

Senators Irons, Bates, Montalbano and Algiere present (03-S 1108) Senate Resolution commending members of the Massachusetts South Shore Woodturners on their award winning reproduction of the Rhode Island State House.

Senator Bates requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Upon motion of Senator Bates, seconded by the entire Senate, and by unanimous consent, read and passed, under suspension of the rules, upon a voice vote.

Senators Irons, Montalbano and McBurney present (03-S 1109) Senate Resolution congratulating Dawn McCormick on her retirement after 30 years of service to the city of Pawtucket.

Senate Majority Leader Montalbano requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Upon motion of Senate Majority Leader Montalbano, seconded by Senator McBurney and the entire Senate, and by unanimous consent, read and passed, under suspension of the rules, upon a voice vote.

FROM THE

HOUSE OF REPRESENTATIVES

A message from the House of Representatives transmits with announcement of passage:

(03-H 5081 as amended) Joint Resolution to approve and publish and submit to the electors a proposition of amendment to the Constitution of the State (separation of powers).

Read and referred to the Committee on Government Oversight.

Also:

(03-H 5409 as amended) An Act relating to banking law - dishonored checks.

Read and referred to the Committee on Financial Services, Technology and Regulatory Issues.

FROM THE DESK

Upon suggestion of Senator Ruggerio, and without objection, the following acts are removed from the Desk and acted on as follows:

(03-S 1092) An Act authorizing the town of North Smithfield to acquire the property, assets and personnel of the North Smithfield Fire and Rescue Service, Inc. in order to establish a new municipal fire department.

Upon suggestion of Senator Ruggerio, and without objection, ordered to be recommitted to the Committee on Commerce, Housing and Municipal Government.

(03-S 198) (Substitute "A") An Act relating to administrative procedures.

Upon suggestion of Senator Ruggerio, and without objection, ordered to be recommitted to the Committee on Financial Services, Technology and Regulatory Issues.

(03-H 6335) An Act to vacate the forfeiture or revocation of the charter of Westerly National Little League, Inc.

Senator Ruggerio requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Upon motion of Senator Ruggerio, seconded by Senator DaPonte, and by unanimous consent, read and passed, in concurrence, upon a voice vote.

(03-H 6367) An Act to vacate the forfeiture or revocation of the charter of Double L Lounge, Inc.

Senator Ruggerio requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Upon motion of Senator Ruggerio, seconded by Senator DaPonte, and by unanimous consent, read and passed, in concurrence, upon a voice vote.

(03-H 6376) An Act to vacate the forfeiture or revocation of the charter of Coastal Associates, Inc.

Senator Ruggerio requests unanimous consent for immediate consideration.

Unanimous consent for immediate consideration is granted.

Upon motion of Senator Ruggerio, seconded by Senator DaPonte, and by unanimous consent, read and passed, in concurrence, upon a voice vote.

CALENDAR

In order for the day is taken up as follows:

1. (03-S1025) An Act relating to levy and assessment of local taxes.

Committee on Finance recommends passage.

Upon suggestion of Senator Ruggerio, and without objection, ordered to be placed on the Calendar for Tuesday, June 3, 2003.

2. (03-S670) (Substitute "A") An Act exempting from taxation the property of the Pawtucket, RI Young Men's Christian Association.

Committee on Commerce, Housing and Municipal Government recommends indefinite postponement of the original bill and passage of Substitute "A".

Senator McBurney moves passage, seconded by Senate Majority Leader Montalbano.

The bill marked Substitute "A" is read and passed, and the original bill indefinitely postponed, by unanimous consent, upon a roll call vote with 35 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS - 35:

The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, Lenihan, McBurney, McCaffrey, Montalbano, Paiva Weed, Perry, Pichardo, Polisena, Raptakis, Roberts, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS - 0.

3. (03-S155) (Substitute "A") An Act relating to water lines and works for the town of Middletown.

Committee on Commerce, Housing and Municipal Government recommends indefinite postponement of the original bill and passage of Substitute "A".

Senator Gibbs moves passage, seconded by Senators Blais and Paiva Weed.

The bill marked Substitute "A" is read and passed, and the original bill indefinitely postponed, by unanimous consent, upon a roll call vote with 36 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS - 36:

The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, Lenihan, McCaffrey,

Montalbano, Paiva Weed, Parella, Perry, Pichardo, Polisena, Raptakis, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS - 0.

4. (03-S283) An Act relating to state affairs and government - Economic Development Corporation.

Committee on Commerce, Housing and Municipal Government recommends passage.

Senator Paiva Weed moves passage, seconded by Senator Celona.

The act is read and passed, by unanimous consent, upon a roll call vote with 35 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS - 35:

The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, Lenihan, McCaffrey, Montalbano, Paiva Weed, Perry, Pichardo, Polisena, Raptakis, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS - 0.

5. (03-S1066) An Act relating to taxation - town of Westerly.

Committee on Commerce, Housing and Municipal Government recommends passage.

Senator Algieri moves passage, seconded by Senators Breene and Blais.

The act is read and passed, by unanimous consent, upon a roll call vote with 34 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS - 34:

The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Goodwin, Issa, Lanzi, Lenihan, McCaffrey, Montalbano, Paiva Weed, Perry, Pichardo, Polisena, Raptakis, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS - 0.

6. (03-S80) (Substitute "A") An Act relating to criminal offenses.

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute "A".

Upon suggestion of Senator Ruggerio, and without objection, ordered to be placed on the Calendar for Wednesday, June 4, 2003.

7. (03-S459) (Substitute "A" as amended) An Act relating to property - mechanics' liens.

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute "A" as amended.

Senator McCaffrey moves passage, seconded by Senators Damiani, Polisena and others.

The bill marked Substitute "A" is read and passed, as amended, and the original bill indefinitely postponed, by unanimous consent, upon a roll call vote with 35 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS - 35:

The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, McBurney, McCaffrey, Montalbano, Paiva Weed, Parella, Perry, Pichardo, Polisena, Raptakis, Roberts, Ruggerio, Sosnowski, Tassoni, Walaska.

NAYS - 0.

COMMUNICATION

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
SENATE CHAMBER**

May 28, 2003

The Honorable William V. Irons
President of the Senate
Room 318, State House
Providence, Rhode Island 02903

RE: NOTICE OF RECUSAL
SENATE BILL S-0479 SUBA, AS AMENDED

Dear President Irons:

This communication serves as a formal notice to all members of the Honorable Senate, that I hereby recuse myself in the consideration by the Senate of S-0479 Sub A, as amended, "An Act Relating to Property - Residential Landlord and Tenant Act".

This communication confirms that I will not vote on the above mentioned piece of legislation and furthermore I will not take part in any debate within the Senate related thereto.

I would respectfully request that this communication be made a part of the official record of the proceedings here today.

Sincerely,

JOSEPH A. MONTALBANO
Senate Majority Leader

Ordered to be placed on file.

CALENDAR

8. (03-S479) (Substitute "A" as amended) An Act relating to property - residential landlord and tenant act.

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute "A" as amended.

Senator McCaffrey moves passage, seconded by Senators Damiani, Polisena, Walaska, Ruggerio and Raptakis.

Senator Perry, seconded by Senators Roberts, Sosnowski, Connors, Pichardo, Gibbs and Parella, offers the following written motion to amend:

FLOOR AMENDMENT
TO
(03-S 479) (Substitute "A" as amended)

Mr. President:

I hereby move to amend (03-S 479) (Substitute "A" as amended) entitled "AN ACT RELATING TO PROPERTY - RESIDENTIAL LANDORD AND TENANT ACT", as follows:

On page 2, line 5, by deleting the words "whether or not".

Respectfully submitted,

RHODA E. PERRY
Senator, District 1

Senators McCaffrey, Damiani, Blais, Raptakis, Gibbs, Polisena, Roberts, Sheehan and Pichardo discuss the amendment.

The motion to amend fails of passage upon a roll call vote with 17 Senators voting in the affirmative and 20 Senators voting in the negative as follows:

YEAS - 17: Senators Caprio, Connors, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Lenihan, Paiva Weed, Parella, Perry, Pichardo, Revens, Roberts, Sheehan, Sosnowski.

NAYS - 20:

The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Celona, Ciccone, Cote, Damiani, Issa, Lanzi, McBurney, McCaffrey, Polisena, Raptakis, Ruggerio, Tassoni, Walaska.

The bill marked Substitute "A" is read and passed, as amended, and the original bill indefinitely postponed, upon a roll call vote with 23 Senators voting in the affirmative and 14 Senators voting in the negative as follows:

YEAS - 23:

The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Breene, Celona, Ciccone, Cote, Damiani, DaPonte, Gallo, Goodwin, Issa, Lanzi, McBurney, McCaffrey, Polisena, Raptakis, Ruggerio, Tassoni, Walaska.

NAYS - 14: Senators Caprio, Connors, Felag, Fogarty, Gibbs, Lenihan, Paiva Weed, Parella, Perry, Pichardo, Revens, Roberts, Sheehan, Sosnowski.

9. (03-S695 as amended) An Act relating to miscellaneous rules - seat belt use.

Committee on Judiciary recommends passage as amended.

Senator DaPonte moves passage, seconded by Senators Polisena, Raptakis, Blais, Breene, Roberts, Goodwin, Walaska, Gallo and many others.

Senators Polisena, Issa, DaPonte and Perry discuss the act.

Senator Perry, seconded by Senators Roberts and Pichardo, offers the following written motion to amend:

FLOOR AMENDMENT

TO

(03-S 695 as amended)

Mr. President:

I hereby move to amend (03-S 695 as amended) entitled "AN ACT RELATING TO MISCELLANEOUS RULES - SEAT BELT USE", as follows:

On page 3, between lines 31 and 32, by adding the following language:

"(m) No law enforcement officer shall use subsection (f) or (g) as the basis for stopping a motor vehicle for other reasons, and no operator of a motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle which is stopped solely for a violation of subsection (f) or (g). Any evidence obtained as a result of a search prohibited by this subsection shall be inadmissible in any judicial proceeding. A person may not be placed under arrest solely for a violation of subsection (f) or (g). Nothing contained herein shall be construed to preclude any search based upon any legally sufficient cause other than consent."

Respectfully submitted,

RHODA E. PERRY
Senator, District 1

Senators McCaffrey, DaPonte, Montalbano, Connors and Damiani discuss the amendment.

The motion to amend fails of passage upon a roll call vote with 10 Senators voting in the affirmative and 23 Senators voting in the negative as follows:

YEAS - 10: Senators Connors, Fogarty, Goodwin, Lenihan, Paiva Weed, Parella, Perry, Pichardo, Roberts, Sosnowski.

NAYS - 23:

The Honorable President Irons and Senators Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Ciccone, Cote, Damiani, DaPonte, Felag, Gallo, Gibbs, Lanzi, McCaffrey, Montalbano, Polisena, Raptakis, Revens, Tassoni, Walaska.

The act is read and passed, as amended, upon a roll call vote with 29 Senators voting in the affirmative and 7 Senators voting in the negative as follows:

YEAS - 29:

The Honorable President Irons and Senators Algiere, Alves, Badeau, Bates, Blais, Breene, Caprio, Celona, Damiani,

DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Lanzi, McCaffrey, Montalbano, Paiva Weed, Parella, Perry, Polisena, Raptakis, Revens, Roberts, Sosnowski, Tassoni, Walaska.

NAYS - 7: Senators Ciccone, Connors, Cote, Issa, Pichardo, Ruggerio, Sheehan.

10. (03-S1023) An Act relating to Family Court.

Committee on Judiciary recommends passage.

Upon suggestion of Senator McCaffrey, and without objection, ordered to be placed on the Calendar for Wednesday, June 4, 2003.

11. (03-H5895) (Substitute "A") An Act relating to businesses and professions - confidentiality of health care communications and information act.

Committee on Judiciary recommends passage in concurrence.

Upon suggestion of Senator Ruggerio, and without objection, ordered to be placed on the Calendar for Thursday, May 29, 2003.

12. (03-H6216) An Act relating to solemnization of marriages.

Committee on Judiciary recommends passage in concurrence.

Upon suggestion of Senator McCaffrey, and without objection, ordered to be recommitted to the Committee on Judiciary.

TRANSMITTAL

By unanimous consent, all matters on the Clerk's desk are ordered to be transmitted to His Excellency, the Governor or to the Honorable House of Representatives forthwith.

ANNOUNCEMENTS

Senator Fogarty announces that the Committee on Commerce, Housing and Municipal Government will meet on Thursday, May 29, 2003, at 1:00 o'clock P.M. in Room 212 of the State House.

Also:

Senator Gallo announces that the Committee on Education will meet on Thursday, May 29, 2003, at 3:00 o'clock P.M. in the Senate Lounge of the State House.

Also:

Senator Felag announces that the Committee on Finance will meet on Thursday, May 29, 2003, at 3:00 o'clock P.M. in Room 211 of the State House.

Also:

Senator Bates announces that the Committee on Financial Services, Technology and Regulatory Issues will meet today at the rise of the Senate in the Senate Lounge of the State House.

Also:

Senator Sheehan announces that the Committee on Health and Human Services will meet today at the rise of the Senate in Room 212 of the State House.

ADJOURNMENT

Upon motion of Senator DaPonte, seconded by Senator Algieri, the Senate adjourns at 5:21 o'clock P.M.

RAYMOND T. HOYAS, JR.
Secretary of the Senate

Appendix

INVOCATION

SENATOR JOHN J. TASSONI, JR.

Open our minds, Lord, to the wisdom in others. Help us to work in a unified effort towards harmony and peace for all the people of our State. Amen.

Appendix

CALENDAR

In order for Thursday, May 29, 2003:

1. (03-H5895) (Substitute "A") An Act relating to businesses and professions - confidentiality of health care communications and information act.

Committee on Judiciary recommends passage in concurrence.

2. (03-S462) (Substitute "A" as amended) An Act relating to property - mechanics' liens.

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute "A" as amended.

3. (03-S1033) An Act relating to domestic relations - solemnization of marriages.

Ordered on the Calendar.

4. (03-S959) An Act relating to the town of Scituate - Juvenile Hearing Board.

Committee on Judiciary recommends passage.

Appendix

CALENDAR

In order for Tuesday, June 3, 2003:

1. (03-S1025) An Act relating to levy and assessment of local taxes.

Committee on Finance recommends passage.

Appendix

CALENDAR

In order for Wednesday, June 4, 2003:

1. (03-S80) (Substitute "A") An Act relating to criminal offenses.

Committee on Judiciary recommends indefinite postponement of the original bill and passage of Substitute "A".

2. (03-S1023) An Act relating to Family Court.

Committee on Judiciary recommends passage.

RAYMOND T. HOYAS, JR.
Secretary of the Senate
Wednesday, May 28, 2003

As always, your [comments](#) concerning this page are welcomed and appreciated.

Thank you for stopping by!

