

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. 70 *Tuesday, July 15, 2003* *Seventieth Day*

The Senate meets pursuant to adjournment and is called to order by the Honorable William V. Irons, President of the Senate, at 5:15 o'clock P.M.

The roll is called and a quorum is declared present with 37 Senators present and 1 Senator absent as follows:

PRESENT — 37: 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, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

ABSENT — 1: Senator Revens.

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.

NEW BUSINESS

The Honorable Senate President Irons, Senate Majority Leader Montalbano and Senators Celona, Ruggerio and McCaffrey present (03-S 1207) Senate Resolution congratulating Senate Rhoda A. Perry on the joyous occasion of her 60th Birthday on July 16, 2003.

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 the entire Senate, and by unanimous consent, read and passed, under suspension of the rules, upon a voice vote.

REPORT OF COMMITTEE

COMMITTEE ON LABOR

Senator Badeau, from the Committee on Labor, reports back, with recommendation of passage of the following measures:

(03-S 204) (Substitute "A") An Act relating to labor and labor relations.

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

Senators DaPonte, Raptakis, Roberts, Badeau, Ruggerio and Senate Majority Leader Montalbano discuss the act.

The bill marked Substitute "A" is read and passed, and the original bill indefinitely postponed, upon a roll call vote with 32 Senators voting in the affirmative and 5 Senators voting in the negative as follows:

YEAS — 32: The Honorable President Irons and Senators Algiere, Alves, Badeau, Caprio, Celona, Ciccone, Connors, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, McBurney, McCaffrey, Montalbano, Paiva Weed, Parella, Perry, Pichardo, Polisena, Raptakis, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 5: Senators Bates, Blais, Breene, Cote, Lenihan.

(03-H 5115) (Substitute "B") An Act relating to labor and labor relations — minimum wages.

Senator Badeau moves passage, seconded by Senator Ruggerio.

The bill marked Substitute "B" is read and passed, and the original bill and the bill marked Substitute "A" indefinitely postponed, upon a roll call vote with 32 Senators voting in the affirmative and 5 Senators voting in the negative as follows:

YEAS — 32: The Honorable President Irons and Senators Algiere, Alves, Badeau, Caprio, Celona, Ciccone, Connors, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, McBurney, McCaffrey, Montalbano, Paiva Weed, Parella, Perry, Pichardo, Polisena, Raptakis, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 5: Senators Bates, Blais, Breene, Cote, Lenihan.

FROM THE
HOUSE OF REPRESENTATIVES

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

(03-S 355 as amended) An Act relating to taxation — levy and assessment of local taxes.

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

The act is read and passed, as amended, in concurrence, by unanimous consent, upon a roll call vote with 37 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS — 37: The Honorable President Irons and Senators Algiere, 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, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 0.

Also:

(03-S 1114 as amended) An Act relating to taxation — town of Lincoln.

Senator Connors moves passage, seconded by Senators Badeau, Celona and Senate Majority Leader Montalbano.

The act is read and passed, as amended, in concurrence, by unanimous consent, upon a roll call vote with 37 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS — 37: The Honorable President Irons and Senators Algiere, 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, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 0.

FROM THE DESK

The following act is removed from the desk and acted on as follows:

(03-S 1013 as amended) An Act relating to homestead exemptions in the town of Lincoln.

Senate Majority Leader Montalbano moves passage, seconded by Senators Celona and Connors.

Senate Majority Leader Montalbano, seconded by Senators Connors and Celona, offers the following written motion to amend:

FLOOR AMENDMENT

TO

(03-S 1013 as amended)

Mr. President:

I hereby move to amend (03-S 1013 as amended) entitled "AN ACT RELATING TO HOMESTEAD EXEMPTIONS IN THE TOWN OF LINCOLN", as follows:

(1) On page 1, line 10, by reinstating the stricken word and numeral "four (4)".

(2) On page 1, line 10, by deleting the word and numeral "seven (7)".

Respectfully submitted,

JOSEPH A. MONTALBANO

Senator, District 17

The motion to amend prevails upon a roll call vote with 37 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS — 37: 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, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 0.

Upon motion of Senate Majority Leader Montalbano, seconded by Senators Connors and Celona, read and passed, as amended, by unanimous consent, upon a roll call vote with 37 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS — 37: 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, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 0.

RECESS

Upon suggestion of Senate Majority Leader Montalbano, and by unanimous consent, the Senate stands at recess at 5:50 o'clock P.M. until the call of the Chair.

CALLED TO ORDER

The Senate is called to order at 7:35 o'clock P.M.

FROM THE
HOUSE OF REPRESENTATIVES

(03-H 6174) (Substitute "A" as amended) An Act relating to making appropriations for the support of the state for the fiscal year ending June 30, 2004.

Upon suggestion of Senate Majority Leader Montalbano, and without objection, the reading of the veto message is dispensed with as copies have already been provided to each member.

Senator Alves moves passage, notwithstanding the veto of the Governor, seconded by Senators Sosnowski, Felag, Paiva Weed, Goodwin, Ruggerio DaPonte, Pichardo, Connors, Ciccone and many others.

Senators Gibbs, Lenihan, Sheehan, Sosnowski, Pichardo, Polisena, Blais, Algieri, Paiva Weed and Senate Majority Leader Montalbano discuss the act.

The bill marked Substitute "A" is read and passed, as amended, in concurrence, and the original bill indefinitely postponed, notwithstanding the veto of the Governor, upon a roll call vote with 28 Senators voting in the affirmative and 8 Senators voting in the negative as follows:

YEAS — 28: The Honorable President Irons and Senators Alves, Badeau, Celona, Ciccone, Connors, Damiani, DaPonte, Felag, Fogarty, Gallo, Goodwin, Issa, Lanzi, Lenihan, McBurney, McCaffrey, Montalbano, Paiva Weed, Perry, Pichardo, Polisena, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 8: Senators Algieri, Bates, Blais, Caprio, Cote, Gibbs, Parella, Raptakis.

Also:

(03-S 987) (Substitute "A") An Act relating to motor and other vehicles — lighting equipment and reflectors.

Senator DaPonte moves passage, seconded by Senator Damiani.

The bill marked Substitute "A" is read and passed, in concurrence, and the original bill indefinitely postponed, 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, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Lanzi, Lenihan, McBurney, McCaffrey, Montalbano, Paiva Weed, Parella, Perry, Pichardo, Polisena, Raptakis, Roberts, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 0.

REPORT OF COMMITTEE
COMMITTEE ON CORPORATIONS

Senator Celona, from the Committee on Commerce, Housing and Municipal Government, reports back, with recommendation of passage of the following measure:

(03-H 6540) (Substitute "A" as amended) An Act relating to Family Court.

Senator Gallo moves passage, seconded by Senator Fogarty.

The bill marked Substitute "A" is read and passed, as amended, in concurrence, and the original bill indefinitely postponed, upon a roll call vote with 29 Senators voting in the affirmative and 5 Senators voting in the negative as follows:

YEAS — 29: The Honorable President Irons and Senators Alves, Badeau, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Goodwin, Lanzi, Lenihan, McBurney, McCaffrey, Montalbano, Paiva Weed, Perry, Pichardo, Polisena, Raptakis, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 5: Senators Algieri, Bates, Blais, Gibbs, Parella.

RECONSIDERATION

(03-H 6596) An Act relating to public finance.

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

The act is read and passed, in concurrence, 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, 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, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 0.

FROM THE
HOUSE OF REPRESENTATIVES

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

(03-S 81) (Substitute "A" as amended) An Act relating to alcoholic beverages — retail licenses.

Senator Walaska moves passage, seconded by Senator Gallo.

Senators Raptakis, Walaska, Parella and Goodwin discuss the act.

The bill marked Substitute "A" is read and passed, as amended, in concurrence, and the original bill indefinitely postponed, upon a roll call vote with 32 Senators voting in the affirmative and 3 Senators voting in the negative as follows:

YEAS — 32: The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Caprio, Celona, Ciccone, Connors, Cote, Damiani, DaPonte, Felag, Fogarty, Gallo, Goodwin, Issa, Lanzi, Lenihan, McBurney, McCaffrey, Montalbano, Paiva Weed, Perry, Pichardo, Polisena, Raptakis, Ruggerio, Sosnowski, Tassoni, Walaska.

NAYS — 3: Senators Gibbs, Parella, Sheehan.

FROM THE DESK

The following act is removed from the desk and acted on as follows:

(03-S 300) (Substitute "B" as amended) An Act relating to towns and cities — low and moderate income housing.

Senator Celona moves passage, seconded by Senator Connors and others.

Senator Celona, seconded by Senator Connors, offers the following written motion to amend:

FLOOR AMENDMENT
TO
(03-S 300) (Substitute "B" as amended)

Mr. President:

I hereby move to amend (03-S 300) (Substitute "B" as amended) entitled "AN ACT RELATING TO TOWNS AND CITIES — LOW AND MODERATE INCOME HOUSING", as follows:

By deleting all of the language following the enactment clause and inserting in place thereof the following:

45-53-4. Procedure for approval of construction of low or moderate income housing. – (a) Any public agency, nonprofit organization, or limited

equity housing cooperative proposing to build low or moderate income housing may submit to the zoning board of review, established under section 45-24-56, a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards. In the case of a private developer, this procedure is only available for low or moderate income housing proposals which remain as low or moderate income housing for a period of not less than thirty (30) years from initial occupancy. The zoning board of review shall immediately notify each local board, as applicable, of the filing of the application, by sending a copy to the local boards and to other parties entitled to notice of hearings on applications under the zoning ordinance and shall, within thirty (30) days of the receipt of the application, hold a public hearing on the application. The chair of the state housing appeals board shall, by regulation, provide for review by planning boards in cases of applications involving land development projects or subdivisions. The zoning board of review has the same power to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including, but not limited to, the power to attach to the permit or approval, conditions, and requirements with respect to height, site plan, size, or shape, or building materials, as are consistent with the terms of this section. In reviewing the comprehensive permit request, the zoning board may deny the request for any of the following reasons: if the proposal is inconsistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and local zoning ordinances and procedures promulgated in conformance with the comprehensive plan; if the proposal is not in conformance with the comprehensive plan; if the community has met or has plans to meet the standard of ten percent (10%) of the units or, in the case of an urban town or city, fifteen percent (15%) of the occupied rental housing units as defined in section 45-53-3(2)(i) being low and moderate income housing; or if concerns for the environment and the health and safety of current residents have not been adequately addressed. The zoning board shall render a decision, based upon a majority vote of the board, within forty (40) days after the termination of the public hearing and, if favorable to the applicant, shall immediately issue a decision approving the application. If the hearing is not convened or a decision is not rendered within the time allowed, unless the time has been extended by mutual agreement between the zoning board and the applicant, the application is deemed to have been allowed and the approval shall issue immediately. Any person aggrieved by the issuance of an approval may appeal to the supreme court.

(b) Notwithstanding the provisions of subsection (a) of this section, private for-profit developers may not utilize the procedure of this section until April 1, 2004, however, this subsection shall not apply to any applications for comprehensive permits that have already been filed before the effective date of this subsection.

SECTION 2. This act shall take effect upon passage.

Respectfully submitted,

JOHN A. CELONA

Senator, District 7

Senators Paiva Weed, Polisena, Sosnowski, Gibbs and Celona discuss the amendment.

The motion to amend prevails upon a roll call vote with 31 Senators voting in the affirmative and 0 Senators voting in the negative as follows:

YEAS — 31: The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Caprio, Celona, Ciccone, Connors, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, Lenihan, McBurney, McCaffrey, Montalbano, Perry, Polisena, Raptakis, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 0.

Senators Connors and Blais discuss the act.

Upon motion of Senator Celona, seconded by Senator Connors, the bill marked Substitute "B" is read and passed, as amended, and the original bill and the bill marked Substitute "A" indefinitely postponed, upon a roll call vote with 31 Senators voting in the affirmative and 2 Senators voting in the negative as follows:

YEAS — 31: The Honorable President Irons and Senators Algieri, Alves, Badeau, Bates, Blais, Caprio, Celona, Ciccone, Connors, Damiani, DaPonte, Felag, Fogarty, Gallo, Gibbs, Goodwin, Issa, Lanzi, Lenihan, McBurney, McCaffrey, Montalbano, Perry, Polisena, Raptakis, Ruggerio, Sheehan, Sosnowski, Tassoni, Walaska.

NAYS — 2: Senators Paiva Weed, Parella.

ADJOURNMENT

Upon motion of Senator Ruggerio, seconded by Senator Breene, and upon suggestion of Senator Algieri, the Senate adjourns at 9:12 o'clock P.M., in memory of Kenneth K. McKay, Jr. of North Kingstown.

RAYMOND T. HOYAS, JR.

Secretary of the Senate

JOHN S. BAXTER, JR.

Reading Clerk

GABRIEL ANDRADE REI

Deputy Clerk

MATTHEW D. WELDON

Voting Machine Clerk

NICHOLAS GESUALDI

Assistant to the Secretary

of the Senate

NICHOLAS DI IORIO

Deputy Assistant to the Secretary

of the Senate

Appendix

INVOCATION

SENATOR JOHN J. TASSONI, JR.

Eternal Father, we thank you for the privilege of having served the people of our state. We thank you for the good times we have shared with our colleagues and the many accomplishments this body was able to achieve. As we conclude our business, may we always have with us Your grace and peace. Amen.