

No. 30
STATE OF MICHIGAN
Journal of the Senate
92nd Legislature
REGULAR SESSION OF 2003

Senate Chamber, Lansing, Wednesday, March 26, 2003.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor John D. Cherry, Jr.

The roll was called by the Secretary of the Senate, who announced that a quorum was present.

Allen—present
Barcia—present
Basham—present
Bernero—present
Birkholz—present
Bishop—present
Brater—present
Brown—present
Cassis—present
Cherry—present
Clark-Coleman—present
Clarke—present
Cropsey—present

Emerson—present
Garcia—present
George—present
Gilbert—present
Goschka—present
Hammerstrom—present
Hardiman—present
Jacobs—present
Jelinek—present
Johnson—excused
Kuipers—present
Leland—present
McManus—present

Olshove—present
Patterson—present
Prusi—present
Sanborn—present
Schauer—present
Scott—present
Sikkema—present
Stamas—present
Switalski—present
Thomas—present
Toy—present
Van Woerkom—present

Pastor Glynn McMorris of Mio Baptist Church of Mio offered the following invocation:

Our most gracious Heavenly Father, I want to thank You for this great land in which we live and for this state which we all call home. We are among all people most blessed. Whether in our busy cities or the small towns up North, we have much to be thankful for.

We are also thankful for those who serve our state as our elected officials. We thank You for their love for the state and their desire to serve the people. We thank You for the sacrifices they make and the work that they do. We are grateful for their families who must oftentimes make sacrifices themselves so they might serve. We are grateful for their willingness to work hard, make difficult decisions, and open themselves to public scrutiny.

We pray, dear Lord, that You grant them wisdom, knowledge, and understanding. We pray that they would seek Your will in all they do, that they would recognize their own inadequacies and would lean completely on Thee.

I pray that You would enable them to be men and women of the highest moral character and integrity and such that we would want our children to appreciate and emulate them. Help them to do all things honestly and uprightly in the eyes of God and men.

I pray, dear Lord, that You would grant them the ability to govern according to the principles of Your Word with the evidence of Your blessings upon them and this state. May this great state of Michigan abound under the leadership of these public servants. May it be as a light set upon a hill for all to see.

Dear God, we need Your guidance as never before. May Your Spirit guide this assembly by Your grace. Amen.

The President, Lieutenant Governor Cherry, led the members of the Senate in recital of the *Pledge of Allegiance*.

Motions and Communications

Senators George, Schauer, Garcia and Barcia entered the Senate Chamber.

Senator Hammerstrom moved that Senator Johnson be excused from today's session.
The motion prevailed.

The following communication was received:

Department of State

Administrative Rules
Notice of Filing

February 24, 2003

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Office of Regulatory Reform, Legal Division filed at 1:06 p.m. this date, administrative rule (03-02-03) for the Department of Agriculture, Laboratory Division, entitled "*Regulation No. 551. Weights, Measures, Packaging, and Labeling*," effective 7 days hereafter.

Sincerely,
Terri Lynn Land
Secretary of State
Elena L. Beasley, Manager
Office of the Great Seal

The communication was referred to the Secretary for record.

The following communication was received and read:

Office of the Senate Majority Leader

March 25, 2003

Pursuant to Senate Rule 3.203c, I am hereby re-referring House Bill 4290 from the Senate Local, Urban and State Affairs Committee to Senate Government Operations Committee.

Respectfully yours,
Ken Sikkema
Senate Majority Leader

The communication was referred to the Secretary for record.

The following communication was received:
Department of Management and Budget

March 24, 2003

Pursuant to section 38(1) of Act No. 240 of the Public Acts of 1943, I am hereby submitting to the legislature the actuarial valuation for the State Employees' Retirement System for the fiscal year ended September 30, 2002. This transmittal conforms to the requirement of section 38(1).

Sincerely,
Mitch Irwin
Director

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Tuesday, March 25:
House Bill Nos. 4125 4126 4259

Messages from the Governor

The following messages from the Governor were received and read:

March 18, 2003

I respectfully submit for your approval the following appointment to office:

Tax Commission

Mr. Alfred Thomas Frank, 2190 Marlou Court, Saginaw, MI 48603, county of Saginaw, appointed to fill the vacancy created by the resignation of Lesley Holt, and appointed Chair, to a term expiring September 13, 2003.

March 20, 2003

I respectfully submit for your approval the following appointment to office:

Board of Directors, Blue Cross Blue Shield

Mr. James G. Agee, 9416 Lookout Pointe, Laingsburg, MI 48848, county of Shiawassee, member, to a term expiring February 18, 2004.

Sincerely,
Jennifer M. Granholm
Governor

The appointments were referred to the Committee on Government Operations.

The following message from the Governor was received and read:

LOCAL GOVERNMENT; CITY MANAGED WATER AND SEWER SYSTEMS

March 21, 2003

Today I am vetoing Enrolled Senate Bill 195. From a legal perspective, the bill is incurable—and from a policy perspective, the larger problem is insolvable—without regional cooperation.

First, the bill contains a multitude of legal deficiencies, some of which are constitutionally fatal. For example, it contravenes Article VII, Section 24 of the Michigan Constitution by abrogating the ability of cities and villages to acquire, own, and operate water supply and sewerage systems. Further, Senate Bill 195 could expose the state to liability by impairing the contracts and threatening the commitments to bondholders of local governments operating a water or sewerage system in violation of Article I, Section 10. The bill also requires governmental entities to engage in new activities or increased levels of service without funding as required by the Headlee Amendment. And, because certain provisions of Senate Bill 195 are inapplicable to all water and sewerage systems potentially subject to the bill's requirements in the future, the bill is a local or special act, but did receive the two-thirds majority vote of the Legislature required by Article IV, Section 29.

Second, and perhaps more importantly, the bill fails to solve this regional problem. Instead, the legislation pits city against suburb and continues a tired battle that serves neither the residents of Detroit nor those who live in its suburbs. It leaves us divided at a time when our need for unity has never been greater.

Fortunately, a mechanism has been established to address the problems that have been identified with the water system. The system is now under a federal court consent decree. The United States District Court for the Eastern

District of Michigan has issued orders giving specific direction regarding management of the Detroit Water and Sewerage Department and guidelines for the review of many of its contracting arrangements. The court has also recently formed a consortium of 40 city and suburban leaders to build regional consensus on efficient operation and management of the system, future improvements, policies to guide infrastructure needs, and rates needed to ensure adequate and equitable funding. Problems with the system should be addressed through this court mechanism. If the problems remain, the court will order a resolution.

Because the people of Michigan expect us to work as partners in crafting laws that benefit our state, I look forward to signing, with pride, bills born out of cooperation and bipartisanship that ultimately uplift, rather than divide our citizens.

Though I have every confidence this Legislature intends to work in that same fashion, this bill fails to meet those standards.

I therefore return it to you without my signature.

Sincerely,
Jennifer M. Granholm
Governor

This bill was returned from the Governor on March 21, 2003, at 1:03 p.m.

The question being on the passage of the bill, the objections of the Governor to the contrary notwithstanding, Senator Hammerstrom moved that further consideration of the bill be postponed for today.

The motion prevailed.

General Orders

Senator Hammerstrom moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President, Lieutenant Governor Cherry, designated Senator Leland as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Cherry, having resumed the Chair, the Committee reported back to the Senate, favorably and without amendment, the following bill:

Senate Bill No. 163, entitled

A bill to amend 1996 PA 376, entitled "Michigan renaissance zone act," by amending sections 6, 8, and 8c (MCL 125.2686, 125.2688, and 125.2688c), section 6 as amended by 2002 PA 478, section 8 as amended by 1999 PA 139, and section 8c as added by 2000 PA 259.

The bill was placed on the order of Third Reading of Bills.

The Committee of the Whole reported back to the Senate, favorably and with a substitute therefor, the following bill:

Senate Bill No. 294, entitled

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1303 (MCL 380.1303), as amended by 1995 PA 289.

Substitute (S-3).

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

Introduction and Referral of Bills

House Bill No. 4125, entitled

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 10102 and 10104 (MCL 333.10102 and 333.10104).

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Health Policy.

House Bill No. 4126, entitled

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 1106, 5506, 5507, and 5510 (MCL 700.1106, 700.5506, 700.5507, and 700.5510), section 1106 as amended by 2000 PA 463.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Health Policy.

House Bill No. 4259, entitled

A bill to amend 1929 PA 152, entitled "An act to provide for the state-owned and operated Michigan public safety communications system for police and public safety purposes; to provide for acquisition, construction, implementation, operation, and maintenance of the property and equipment necessary to operate the system; and to prescribe the powers and duties of certain state agencies and officials," by amending section 3 (MCL 28.283), as amended by 1996 PA 538.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Judiciary.

Scheduled Meetings

Agriculture, Forestry and Tourism - Thursday, March 27, 9:00 a.m., Room 110, Farnum Building (373-1635)

Appropriations -**Subcommittees -**

Agriculture - Thursdays, March 27, April 3, and April 24, 1:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-5932)

Capital Outlay - Thursday, April 3, 8:45 a.m., House Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Family Independence Agency - Thursday, March 27, 2:00 p.m., Room 810, Farnum Building; Tuesday, April 1, 2:00 p.m., Room 810, Farnum Building (CANCELED); Wednesday, April 2, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (CANCELED); and Thursday, April 3, 2:00 p.m., Room 810, Farnum Building (373-1801)

General Government - Tuesdays, April 1 and April 22, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-2420)

Judiciary and Corrections - Tuesdays, April 1 and April 22, 3:00 p.m., Room 210, Farnum Building (373-3760)

State Police and Military Affairs - Tuesdays, April 1 and April 22, 1:00 p.m., Room 405, Capitol Building (373-5932)

Transportation Department - Tuesdays, April 1, April 8, April 15, and April 22, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2523)

Banking and Financial Institutions - Thursday, March 27, 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (formerly Michigan National Tower) (373-2417)

Business Competitiveness Joint Select Committee (SCR 3) - Monday, March 31, 6:00 p.m., Grand Valley State University, Eberhard Center, 301 W. Fulton Street, Grand Rapids (373-7670)

Education - Thursday, March 27, 2:00 p.m., Room 210, Farnum Building (373-6920)

Legislative Retirement Board of Trustees - Wednesday, April 2, 3:00 p.m., Room H-252, Capitol Building (373-0575)

Senator Hammerstrom moved that the Senate adjourn.

The motion prevailed, the time being 10:38 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, March 27, 2003, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

