

No. 69
STATE OF MICHIGAN
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REGULAR SESSION OF 2010

Senate Chamber, Lansing, Wednesday, August 18, 2010.

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
Anderson—present
Barcia—present
Basham—present
Birkholz—present
Bishop—present
Brater—present
Brown—present
Cassis—present
Cherry—present
Clark-Coleman—excused
Clarke—present
Cropsey—present

Garcia—present
George—present
Gilbert—present
Gleason—present
Hardiman—present
Hunter—present
Jacobs—present
Jansen—present
Jelinek—present
Kahn—present
Kuipers—present
McManus—present
Nofs—present

Olshove—present
Pappageorge—present
Patterson—present
Prusi—present
Richardville—present
Sanborn—present
Scott—present
Stamas—present
Switalski—present
Thomas—present
Van Woerkom—present
Whitmer—present

Senator Ron Jelinek of the 21st District offered the following invocation:

Dear Lord, we humbly come before You today intending to do our work in a way that pleases You. Difficult decisions can be overbearing. We need the strength and wisdom that many times only You can provide. We pray for that direction from You to help make this day a success, and tomorrow we will be back to ask for the same help again, for we are not all-knowing and experts, but simply doing our best to help and maintain our fellow citizens in this state.

So today we ask for Your guidance as we will again and again in the future. Please stick with us, Lord, as we stick with You. In Jesus' name, we pray. Amen.

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

Motions and Communications

Senators Pappageorge, Switalski, Barcia, Kahn, Scott, Garcia, Whitmer, Brater, Clarke, Gleason, Prusi, Cherry and Richardville entered the Senate Chamber.

Senator Jelinek asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Jelinek's statement is as follows:

It is a somber day in my office as we bid farewell to a valued member of my staff. Jessica, who came to my office as Jessica Wortley and has since become Jessica Adler, has served my constituents very well for the past four years. We sometimes tease her about her size, but she is really a large dynamo. She has always given 110 percent to her duties and will be greatly missed in Room S-324 of the Capitol.

So, Jessica, I want to say thank you for a job well done and Godspeed in all of your future endeavors. I know that you will do well in the game of life.

By unanimous consent the Senate proceeded to the order of

Statements

Senators Scott, Birkholz, Van Woerkom and Jacobs asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Scott's statement is as follows:

The writer Susan Griffin said, "There is always time to make right what is wrong." We still have time left this year to right the wrongs in auto insurance. We still have time to stop the predatory practices that result in some citizens paying far too much for their policies for no good reason.

We should not end our service here in the Senate without fixing these problems in the insurance industry. Our constituents deserve better from us. They deserve to have their legislators act on this problem that they have been telling us about for years.

We have the bills introduced that would fix many of these problems. We can debate the bills in committee and debate them here in session. We should not just let them languish and let another legislative session come to an end with no action on auto insurance reform. Our constituents deserve better from us.

Senator Birkholz's statement is as follows:

Last Wednesday, I was absent from session. I was on the other side of our Great Lakes basin in Toronto, Canada, working with the Great Lakes provinces Quebec and Ontario, as well as the other states on Great Lakes issues. So on August 11, on Roll Call No. 376, Senate Bill No. 215, I would have voted "yes"; Roll Call No. 377, Senate Bill No. 749, "yes"; Roll Call No. 378, Senate Bill No. 1093, "yes"; Roll Call No. 379, Senate Bill No. 1014, "yes"; and Roll Call No. 380, Senate Concurrent Resolution No. 46, "yes."

Senator Van Woerkom's statement is as follows:

I have with me an intern who is leaving after today from my office. I wish to offer her our thanks. This is Keely Gruner, and she is from the Coldwater area. She has interned in my office through the spring and through the summer and is now moving back to MSU, where she is going to complete her degree. She has hopes the following year of moving on to Drake University in Iowa to their law school, where they have an agricultural law program, a specialty in our country.

We certainly wish her well in her future, and we are grateful for the work she has done in my office and with my constituents. We would like to offer our thanks.

Senator Jacobs' statement is as follows:

Soon, Royal Oak will be hosting the Arts, Beats and Eats Festival, which will be welcoming families and artists, as well as anyone who has a gun permit and wants to carry their holstered gun in plain sight. The festival, which was being moved this year from Pontiac to Royal Oak, has always had a no-guns clause in their contract. This year that policy was challenged by open-carry advocates and Michigan Open Carry, Inc. Mayor Jim Ellison, the City Commission, and the festival organizers did receive a legal opinion which interpreted the law to allow licensed gun carriers to carry the holstered firearms into the festival.

Colleagues, an arts festival is not the place for guns and certainly not the right venue to make a point about the ability to carry guns in public. It is important to note that Michigan's open-carry law expressly prohibits a person from carrying a gun into bars or establishments with liquor licenses. Because the arts festival allows beer to be sold, I believe we should amend our open-carry law to say that these festivals should be treated the same as regular bars under the law so as to prohibit, once and for all, anyone from carrying a gun into a festival. Beer and guns don't mix.

I know that licensed gun carriers are law-abiding people. People carrying guns into any festival will not turn that festival into the O.K. Corral. But there is a place and a time to make a point about our laws concerning the right to bear arms, and I believe that arts festivals, along with schools, hospitals, churches, bars, daycares, and other places that disallow guns, are not the place to make this point. There are many things we can do, but we don't for any number of good reasons. There truly is no need to carry guns at a community, family event like an arts festival. We need to amend state law to make sure that community events like arts festivals remain a day to simply enjoy your community and neighbors.

I am working on sponsoring a bill that will do just that—to make this very clear that arts festivals will be considered like any of the other exemptions, as well as making sure that wherever alcohol or beer is sold that guns are not allowed to be carried. Although we won't have time to do this in time for the Arts, Beats and Eats Festival this year, we do need to clarify this law. Hopefully, we can actually do this in lame duck this year because I think it's an important amendment that needs to be made to the law.

By unanimous consent the Senate returned to the order of
Third Reading of Bills

Senator Cropsey moved that the following bills be placed at the head of the Third Reading of Bills calendar:

House Bill No. 5830

House Bill No. 5831

House Bill No. 5832

House Bill No. 5833

House Bill No. 5834

House Bill No. 5835

The motion prevailed.

Senator Thomas moved that Senator Clark-Coleman be excused from today's session.

The motion prevailed.

The following bill was read a third time:

House Bill No. 5830, entitled

A bill to amend 1980 PA 497, entitled "Construction lien act," by amending the title and sections 104, 106, and 118 (MCL 570.1104, 570.1106, and 570.1118), the title and sections 104 and 106 as amended by 2006 PA 497 and section 118 as amended by 1982 PA 17, and by adding section 118a; and to repeal acts and parts of acts.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 392

Yeas—36

Allen	Clarke	Jansen	Prusi
Anderson	Cropsey	Jelinek	Richardville
Barcia	Garcia	Kahn	Sanborn
Basham	George	Kuipers	Scott
Birkholz	Gilbert	McManus	Stamas
Bishop	Gleason	Nofs	Switalski

Brown
Cassis
Cherry

Hardiman
Hunter
Jacobs

Olshove
Pappageorge
Patterson

Thomas
Van Woerkom
Whitmer

Nays—1

Brater

Excused—1

Clark-Coleman

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,
The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to establish, protect, and enforce by lien the rights of persons performing labor or providing material or equipment for the improvement of real property; to provide for certain defenses with respect thereto; to establish the homeowner construction lien recovery fund; to provide for the powers and duties of certain state officers and agencies; to provide for the assessment of certain occupations; to provide remedies and prescribe penalties; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5831, entitled

A bill to amend 1956 PA 217, entitled “Electrical administrative act,” by amending sections 3b, 8b, and 8e (MCL 338.883b, 338.888b, and 338.888e), sections 3b and 8e as added by 1990 PA 246 and section 8b as amended by 1992 PA 130.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 393

Yeas—36

Allen
Anderson
Barcia
Basham
Birkholz
Bishop
Brown
Cassis
Cherry

Clarke
Cropsey
Garcia
George
Gilbert
Gleason
Hardiman
Hunter
Jacobs

Jansen
Jelinek
Kahn
Kuipers
McManus
Nofs
Olshove
Pappageorge
Patterson

Prusi
Richardville
Sanborn
Scott
Stamas
Switalski
Thomas
Van Woerkom
Whitmer

Nays—1

Brater

Excused—1

Clark-Coleman

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to safeguard persons and property; to provide for licensing and regulation of electricians and electrical contractors concerning the construction, alteration, installation of electrical wiring and equipment and for the inspection of electrical wiring; to create an electrical administrative board; to create certain committees for certain purposes; to provide certain powers and duties for certain departments; to provide for the assessment of certain fees and for the promulgation of rules; and to prescribe penalties for violations of this act.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5832, entitled

A bill to amend 1984 PA 192, entitled “Forbes mechanical contractors act,” by amending sections 6, 11, and 16 (MCL 338.976, 338.981, and 338.986), section 6 as amended by 2004 PA 271 and section 11 as amended by 1990 PA 5.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 394**Yeas—36**

Allen	Clarke	Jansen	Prusi
Anderson	Cropsey	Jelinek	Richardville
Barcia	Garcia	Kahn	Sanborn
Basham	George	Kuipers	Scott
Birkholz	Gilbert	McManus	Stamas
Bishop	Gleason	Nofs	Switalski
Brown	Hardiman	Olshove	Thomas
Cassis	Hunter	Pappageorge	Van Woerkom
Cherry	Jacobs	Patterson	Whitmer

Nays—1

Brater

Excused—1

Clark-Coleman

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,
The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to regulate the use, installation, alteration, and servicing of specified heating, cooling, ventilating, and refrigerating equipment and systems; to create a board of mechanical rules; to provide for the licensing of installing contractors and of servicing contractors of heating, cooling, ventilating, and refrigerating equipment and systems; to prescribe fees; to provide for the promulgation of rules; and to prescribe penalties.”.

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5833, entitled

A bill to amend 2002 PA 733, entitled “State plumbing act,” by amending sections 21, 43, and 47 (MCL 338.3531, 338.3553, and 338.3557).

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 395

Yeas—36

Allen	Clarke	Jansen	Prusi
Anderson	Cropsey	Jelinek	Richardville
Barcia	Garcia	Kahn	Sanborn
Basham	George	Kuipers	Scott
Birkholz	Gilbert	McManus	Stamas
Bishop	Gleason	Nofs	Switalski
Brown	Hardiman	Olshove	Thomas
Cassis	Hunter	Pappageorge	Van Woerkom
Cherry	Jacobs	Patterson	Whitmer

Nays—1

Brater

Excused—1

Clark-Coleman

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,
The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to regulate the installation, alteration, maintenance, improvement, and inspection of plumbing; to provide certain powers and duties for certain state agencies and departments; to create a plumbing board; to define plumbing, plumbing contractors, and the classification of plumbers and to set standards for those classifications; to provide for the licensing and regulation of classes of plumbers and plumbing contractors; to prescribe fees and the disposition of money derived from those fees; to provide for the promulgation of rules; to prescribe remedies and penalties; and to repeal acts and parts of acts.”.

The Senate agreed to the full title.

Senator Sanborn asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Sanborn's statement is as follows:

It is indeed a sad day in my office as I announce the departure of one of our interns who spent the summer with us, Chelsea Alcock. She has been extremely helpful to us in our office assisting us with our constituents. I appreciate her dedication and hard work, and I know that she will be very successful.

Chelsea is currently attending Jackson Community College, is an aspiring young attorney, and hopes to one day be on the staff in Washington, D.C. I know, because of the characteristics that she has shown in our office, that she will be very successful.

So I ask my colleagues to join me in a fond sendoff.

The following bill was read a third time:

House Bill No. 5834, entitled

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 2404, 2409, and 2411 (MCL 339.2404, 339.2409, and 339.2411), sections 2404 and 2411 as amended by 2007 PA 157 and section 2409 as amended by 1988 PA 463.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 396

Yeas—36

Allen	Clarke	Jansen	Prusi
Anderson	Cropsey	Jelinek	Richardville
Barcia	Garcia	Kahn	Sanborn
Basham	George	Kuipers	Scott
Birkholz	Gilbert	McManus	Stamas
Bishop	Gleason	Nofs	Switalski
Brown	Hardiman	Olshove	Thomas
Cassis	Hunter	Pappageorge	Van Woerkom
Cherry	Jacobs	Patterson	Whitmer

Nays—1

Brater

Excused—1

Clark-Coleman

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

"An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations and to regulate certain persons and activities relative to those occupations; to create a board for each of those occupations; to

establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to provide immunity from certain civil liability for certain entities and certain related occupations under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts.”

The Senate agreed to the full title.

The following bill was read a third time:

House Bill No. 5835, entitled

A bill to amend 1927 PA 175, entitled “The code of criminal procedure,” by amending section 15b of chapter XVII (MCL 777.15b), as added by 2002 PA 206.

The question being on the passage of the bill,

The bill was passed, a majority of the members serving voting therefor, as follows:

Roll Call No. 397

Yeas—36

Allen	Clarke	Jansen	Prusi
Anderson	Cropsey	Jelinek	Richardville
Barcia	Garcia	Kahn	Sanborn
Basham	George	Kuipers	Scott
Birkholz	Gilbert	McManus	Stamas
Bishop	Gleason	Nofs	Switalski
Brown	Hardiman	Olshove	Thomas
Cassis	Hunter	Pappageorge	Van Woerkom
Cherry	Jacobs	Patterson	Whitmer

Nays—1

Brater

Excused—1

Clark-Coleman

Not Voting—0

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

“An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations;

to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act.”.

The Senate agreed to the full title.

Protest

Senator Brater, under her constitutional right of protest (Art. 4, Sec. 18), protested against the passage of House Bill Nos. 5830, 5831, 5832, 5833, 5834, and 5835 and moved that the statement she made during the discussion of House Bill No. 5830 be printed as her reasons for voting “no.”

The motion prevailed.

Senator Brater’s statement is as follows:

I rise to oppose this package of bills. This is a program that establishes a fund for—what we are talking about is an abolishment of a fund which establishes money for subcontractors to be reimbursed when they are not paid by a contractor when a new home is being constructed. I understand that there are some concerns about the misuse of the fund and the fact that it is pretty much diminished.

I feel that by abolishing the fund rather than addressing the concerns and remedying the concerns that we are throwing out the baby with the bath water. Over the years, I am sure I am not the only Senator who has heard many concerns from homebuyers of new homes who have had problems with work not being completed, and they are left holding the bag.

Since the home is the single largest investment that most people—most of our constituents—will make in their lives, it seems that abolishing a fund that offers some consumer protection in this area is a mistake. We should not just abolish the fund, but we should find some way to remedy the problems that have been identified.

The fees that are funding this program have not been changed for 30 years, so it is not really a surprise that the fund cannot sustain itself. We need to be addressing that issue as well.

Committee Reports

The Committee on Local, Urban and State Affairs reported

Senate Concurrent Resolution No. 52.

A concurrent resolution relative to secondary road patrol funds for counties, cities, and villages.

(For text of resolution, see Senate Journal No. 68, p. 1271.)

With the recommendation that the concurrent resolution be adopted.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Birkholz, Allen, Gleason and Basham

Nays: None

The concurrent resolution was placed on the order of Resolutions.

The Committee on Local, Urban and State Affairs reported

Senate Bill No. 1252, entitled

A bill to amend 1917 PA 253, entitled “An act to authorize the transfer of moneys from the general fund of counties, in certain instances, to the county road fund of said counties, to be used in the construction, maintenance and repair of highways,” by amending section 1 (MCL 247.121).

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Birkholz, Allen, Gleason and Basham

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Local, Urban and State Affairs reported

House Bill No. 5211, entitled

A bill to amend 2006 PA 110, entitled "Michigan zoning enabling act," by amending section 203 (MCL 125.3203).

With the recommendation that the bill pass.

The committee further recommends that the bill be given immediate effect.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Birkholz, Allen, Gleason and Basham

Nays: None

The bill was referred to the Committee of the Whole.

The Committee on Local, Urban and State Affairs reported

House Bill No. 5212, entitled

A bill to amend 2008 PA 33, entitled "Michigan planning enabling act," by amending sections 3, 31, 33, 39, and 41 (MCL 125.3803, 125.3831, 125.3833, 125.3839, and 125.3841).

With the recommendation that the substitute (S-1) be adopted and that the bill then pass.

The committee further recommends that the bill be given immediate effect.

Gerald Van Woerkom
Chairperson

To Report Out:

Yeas: Senators Van Woerkom, Birkholz, Allen, Gleason and Basham

Nays: None

The bill and the substitute recommended by the committee were referred to the Committee of the Whole.

COMMITTEE ATTENDANCE REPORT

The Committee on Local, Urban and State Affairs submitted the following:

Meeting held on Tuesday, August 17, 2010, at 1:00 p.m., Room 110, Farnum Building

Present: Senators Van Woerkom (C), Birkholz, Allen, Gleason and Basham

Scheduled Meetings**Appropriations -**

Community Health Department and Health Policy - Tuesday, August 24, 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768)

Finance - Thursdays, August 19 and August 26, 11:00 a.m., Room 110, Farnum Building (373-1758)

Health Policy and Community Health Department Appropriations Subcommittee - Tuesday, August 24, 1:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768)

Senator Cropsey moved that the Senate adjourn.

The motion prevailed, the time being 10:36 a.m.

The President, Lieutenant Governor Cherry, declared the Senate adjourned until Thursday, August 19, 2010, at 10:00 a.m.

CAROL MOREY VIVENTI
Secretary of the Senate

