



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-THIRD GENERAL ASSEMBLY

114TH LEGISLATIVE DAY

MONDAY, MAY 24, 2004

3:10 O'CLOCK P.M.

SENATE
Daily Journal Index
114th Legislative Day

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The Senate met pursuant to adjournment.
Senator Louis S. Viverito, Burbank, Illinois, presiding.
Prayer by Pastor Rick Wenneborg, Chatham Christian Church, Chatham, Illinois.
Senator Link led the Senate in the Pledge of Allegiance.

The Journal of Thursday, May 20, 2004, was being read when on motion of Senator Halvorson, further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 2112
Motion to Concur in House Amendments 1 and 2 to Senate Bill 2175
Motion to Concur in House Amendment 1 to Senate Bill 2395

LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Amendment No. 1 to House Bill 812
Senate Amendment No. 3 to House Bill 855
Senate Amendment No. 1 to House Bill 868
Senate Amendment No. 3 to House Bill 3835

MESSAGE FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 21, 2004

The Honorable Linda Hawker
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Senate Rule 2-10, please be advised that I am canceling today, May 21, 2004, as a session day.

Sincerely,
s/Emil Jones Jr.
Senate President

cc: Senate Republican Leader Frank Watson

[May 24, 2004]

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 567

Offered by Senator Haine and all Senators:
Mourns the death of Edward B. "Duke" Blair, Sr., of Alton.

SENATE RESOLUTION 568

Offered by Senator Haine and all Senators:
Mourns the death of Dr. Peter J. McFarlane of Godfrey.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senators Hunter and Collins offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 569

WHEREAS, Nielsen Media Research has a national monopoly on measuring viewership of television shows; and

WHEREAS, The Nielsen ratings are used to determine the amount that television stations will charge for advertising and to determine what programming content will be offered; and

WHEREAS, Nielsen Media Research intends to deploy Local People Meters (LPMs), a new technology, in Chicago this summer to rate television shows according to the number of viewers; and

WHEREAS, The use of LPMs, by Nielsen Media Research's own admission, has resulted in dramatic decline in the number of minority viewers that are counted, as demonstrated by the fact that, in tests of the LPM system in New York, the ratings declined by as much as 62% for virtually every top-rated program among African-Americans, and similar declines were seen for top-rated Spanish language networks, while programming targeted primarily to white audiences saw no such decline; and

WHEREAS, Nielsen Media Research initially delayed the deployment of LPMs in New York based on complaints about the undercounting of minorities, but now has refused to delay the deployment of LPMs in Chicago as well as in New York; and

WHEREAS, Because the LPM system undercounts minority viewers and because the Nielsen ratings are the sole measure of audience for television shows, minority viewers are deprived of an equal say in determining programming content that appeals to them and advertisers are deprived of accurate information; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we urge Nielsen Media Research to delay its deployment of LPMs until it has thoroughly investigated and explained the reason for the undercount of minorities and developed and tested new approaches that correct this deficiency; and be it further

RESOLVED, That a suitable copy of this resolution be delivered to Nielsen Media Research.

Senators Althoff and Peterson offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 570

WHEREAS, The Health Facilities Planning Board (the Board) was created by the passage of the Illinois Health Facilities Planning Act (the Act), which was originally approved and became effective on August 27, 1974; and

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WHEREAS, The Act has as its stated purposes: (1) "to establish a procedure to reverse the trends of increasing costs of health care resulting from unnecessary construction or modification of health care facilities"; and (2) to establish a procedure for the "orderly and economic development of health care facilities"; and

WHEREAS, The Governor appointed 9 new members and a new Executive Secretary of the Board; and

WHEREAS, Mercy Crystal Lake Hospital and Medical Center filed an application on or about July 8, 2003 seeking a Certificate of Need to construct a 70-bed hospital in Crystal Lake, Illinois; and

WHEREAS, Questions have been raised as to whether that application complied with the Board's rules; and

WHEREAS, A public hearing was held to allow the public to comment on the application, and the comments were overwhelmingly negative; and

WHEREAS, Six hospitals objected at the public hearing and provided extensive testimony and documentation to the effect that:

- (a) The project is not cost effective and is counter to the cost containment purpose of the Act;
- (b) The project does not improve access to necessary health care;
- (c) The project does not improve the quality of available health care;
- (d) The project represents unnecessary duplication of health care services; and
- (e) The application does not comply with the rules of the Board; and

WHEREAS, Two of the objecting hospitals, located in McHenry County, provide substantial community services, including behavioral health services and rehabilitation services, as well as support for local clinics that provide care to the uninsured; and

WHEREAS, According to studies prepared by financial experts, the construction of the hospital as proposed by Mercy, will, to the detriment of overall community health, substantially undermine the financial ability of these hospitals to continue providing these services; and

WHEREAS, The Board's staff prepared a report analyzing the application's compliance with the Board's rules and found that it did not comply with 9 of 13 major rules; and

WHEREAS, The application was first considered by the Board at its meeting held on December 17, 2003, and the comments of the Board members were openly negative prompting a vote of 8 to zero to deny the application; and

WHEREAS, The applicant subsequently submitted additional material to the Board that argued that the Board's rules were outdated; and

WHEREAS, The Board again considered the application on April 21, 2004, and, despite a negative staff report, the Board voted to approve the Certificate of Need for Mercy Crystal Lake Hospital and Medical Center; and

WHEREAS, The record is devoid of any testimony to refute the Board's own staff report or the extensive oral and written testimony submitted by objectors; and

WHEREAS, The Board has failed to reasonably explain the reason for its reversal on this matter; and

WHEREAS, According to physician manpower studies prepared by experts in the field, the hospitals located within 30 minutes of the site all recruit physicians to try to keep pace with a rapidly expanding population; and

WHEREAS, Our society is one of laws, and the General Assembly created the Board and approved its rules to fulfill the intended objectives of the Act and provide predictability to the health care community;

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and

WHEREAS, The actions by the Board contravene its own rules and appear contrary to the intent of the General Assembly; and

WHEREAS, Section 3-4 of the Illinois State Auditing Act, which implements subsection(b) of Section 3 of Article VIII of the Illinois Constitution, provides that the Auditor General shall make such investigations as are directed by either house of the General Assembly in a resolution specifying the acts, transactions, or practices to be the subject of the investigation; therefore be it

RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that the Auditor General is directed to conduct an investigation to examine the Illinois Health Facility Planning Board's approval of a Certificate of Need for Mercy Crystal Lake Hospital and Medical Center and to investigate the way the Board makes determinations concerning Certificates of Need in general; and be it further

RESOLVED, That on or before January 1, 2005, the Auditor General shall submit a report of his or her findings and recommendations to the Governor, the General Assembly, and the Legislative Audit Commission and shall make copies of the report available to the public upon request; and be it further

RESOLVED, That we urge the Attorney General to conduct an investigation to examine the propriety of the Illinois Health Facility Planning Board's approval of a Certificate of Need for Mercy Crystal Lake Hospital and Medical Center and to investigate the way that the Board makes determinations concerning Certificates of Need in general; and be it further

RESOLVED, That a copy of this resolution be delivered to the Auditor General, the Attorney General, the Governor, the Legislative Audit Commission, and the Illinois Health Facilities Planning Board.

REPORTS FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, to which was referred **House Bill No. 812** on July 1, 2003, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **House Bill No. 812** was returned to the order of third reading.

Senator Viverito, Chairperson of the Committee on Rules, during its May 24, 2004 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Agriculture & Conservation: **Senate Amendment No. 1 to Senate Resolution 500.**

Executive: **Senate Amendment No. 1 to House Bill 779; Senate Amendment No. 1 to House Bill 966; Senate Amendment No. 1 to House Bill 1111.**

Labor & Commerce: **Senate Amendment No. 1 to House Bill 812.**

Revenue: **Senate Amendment No. 3 to House Bill 855; Senate Amendment No. 1 to House Bill 868.**

Transportation: **Senate Amendment No. 3 to House Bill 3835.**

Senator Viverito, Chairperson of the Committee on Rules, during its May 24, 2004 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Environment & Energy: **Motion to Concur in House Amendment 1 to Senate Bill 2145; Motion to Concur in House Amendment 1 to Senate Bill 2320; Motion to Concur in House Amendment 1 to Senate Bill 2731**

Health & Human Services: **Motion to Concur in House Amendment 2 to Senate Bill 2768; Motion to Concur in House Amendments 1 and 2 to Senate Bill 2845**

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Judiciary: **Motion to Concur in House Amendment 1 to Senate Bill 2548; Motion to Concur in House Amendments 1 and 2 to Senate Bill 2607; Motion to Concur in House Amendment 1 to Senate Bill 2757**

Licensed Activities: **Motion to Concur in House Amendment 1 to Senate Bill 2252; Motion to Concur in House Amendment 1 to Senate Bill 2377; Motion to Concur in House Amendment 1 to Senate Bill 2395**

Revenue: **Motion to Concur in House Amendment 1 to Senate Bill 2112**

Transportation: **Motion to Concur in House Amendment 1 to Senate Bill 2327**

MESSAGE FROM THE TREASURER

JUDY BAAR TOPINKA
TREASURER OF THE STATE OF ILLINOIS

May 24, 2004

Honorable Members
Illinois State Senate
93rd General Assembly
Springfield, IL 62706

Dear Members:

I am nominating Tamara L. Howard to the State Treasurer's Personnel Review Board.

I respectfully ask concurrence in and confirmation of this appointment by your Honorable Body:

TREASURER'S PERSONNEL REVIEW BOARD MEMBER

To be a member of the Executive Ethics Commission for a term ending May 24, 2010.

Tamara L. Howard
Non-Salaried

If you have any questions, please contact Matt Overaker, Director of Legislative Affairs. Thank you for your consideration.

Sincerely,
s/Judy Baar Topinka
Illinois State Treasurer

Under the rules, the foregoing Message was referred to the Committee on Executive Appointments.

EXCUSED FROM ATTENDANCE

On motion of Senator Burzynski, Senator Syverson was excused from attendance due to medical reasons.

On motion of Senator Burzynski, Senator Sieben was excused from attendance due to personal business.

At the hour of 3:25 o'clock p.m., the Chair announced that the Senate stand adjourned until Tuesday, May 25, 2004, at 10:00 o'clock a.m.

[May 24, 2004]