

PA 11-005

SB0859

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**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**PLANNING AND  
DEVELOPMENT  
PART 3  
628 – 964**

**2011**

thinking about combine animal control services, and it ended up that the townspeople voted against that.

I do note in here that there is a provision making sure that the public does have a form of input as to these proposals, and I just encourage you to move forward with this legislation so that municipalities that want to work cooperatively together have no impediments in moving forward, at least nothing to discourage them through our statutes, and I'm happy to answer any questions.

SENATOR CASSANO: Thank you, Senator Kissel. Questions? Okay. Thank you.

SENATOR KISSEL: Great. Have a nice day. Thank you.

SENATOR CASSANO: Okay. All right. Bill 487, Bill Ethier, Bob Wiedenmann from the Homeowners Association.

Make a suggestion to the Committee here. The Home Builders have eight bills before us, which will be at least 24 minutes. I suggest that maybe Mr. Ethier will have about ten or eleven minutes to deal with the eight bills at this time instead of coming back and forth.

BILL ETHIER: I wish every Chairman was this gracious.

SENATOR CASSANO: I'd rather say it once than eight times, Bill.

<u>SB 487</u>	<u>SB 491</u>
<u>SB 859</u>	<u>SB 860</u>
<u>SB 869</u>	<u>HB 5473</u>

BILL ETHIER: Well, thank you very much, Senator Cassano and Representative Gentile, members

appropriately so at the front end when the rules of the game are -- are being created.

The next bill is Senate Bill 859, An Act Extending the Time of Expiration of Certain Land Use Permits. As you -- I'm sure you know, subdivision site plan and wetlands permits have a five-year life. They expire after five years. In 2009, you extended that temporarily to six years to deal with the -- the economy that was just starting to go bad at that point.

While due to the severe and lengthy economic recession, particularly for our industry in development where we're experiencing 30 percent unemployment in construction, the number of building permits issued for housing in 2009 and 2010 are the lowest two years on record.

So in order to help deal with this very severe economy we're in, this bill asks for a further extension of three more years of that initial permit timeline.

That will allow markets to hopefully catch up as we crawl out of this -- this mess we're in. And that way, approvals will not expire.

This bill will save municipalities and the state money, because if permits expire, you have to go back through the whole process again. And not only us, but the governments are -- would be wasting resources to re-approve something they've approved in the past. So we urge your support of that.

The next bill is Senate Bill 860 that you heard already some words on, and that's concerning bonds for approved subdivisions.

municipalities. This just reinforces that, puts an additional language that says towns can't do this.

REP. REED: Thank you.

And then a quick question about 859. So you don't see any issues with the fact that sometimes things change, as we've seen, over time, and that perhaps extending --

I mean, I can see during this economic situation -- and I think our town -- and my district has been pretty sensitive to that, trying to bring people back in and extend those variances and all of the permits that they've had; but in some situations, can you anticipate that some things may have changed dramatically and things that were approved five years ago no longer make sense?

BILL ETHIER: Well, you know, that could happen. I think it would be a rare case, but we're dealing with developments that have been approved. And, you know, before that five-year timeline runs out, you know, because of the economy, they -- they just can't perceive it because the market has dried up. We're hoping that the market comes back.

Why let that approval expire and you have to start the whole process all over again? That, to us, is just a wasted resources on our parts, wasted resources on the municipalities' part, as well as the state government's part.

Because if you have to start all over, oftentimes you have to go back to DEP at some

point in the process or to the STC or all of the other state agencies.

And they're spending a lot of resources. So again, we're dealing with projects that have been approved that -- at least at one point, and we're just asking for a three-year extension for those -- for that initial approval to allow the economy to come back.

REP. REED: Thank you. Thank you, Madam Chair.

REP. GENTILE: Are there any other questions from Committee members? Thank you, Bill.

BILL ETHIER: Thank you very much for your indulgence.

REP. GENTILE: Eric Brown? John Filchak? Martin Mador? John?

JOHN FILCHAK: I'm sorry.

Good morning. I'm John Filchak. I'm the executive director of the Northeastern Connecticut Council of Governments, which is one of the 15 regional planning organizations in the state, and I represent 12 towns within that group.

I'm here today to talk briefly about House Bill 5780, An Act Concerning Interlocal Agreements, and House Bill 6294, An Act Concerning Shared Services.

HB 6303

And in support of both, both of these are intended to foster regionalism and intertown cooperation, and there are towns -- our 12 towns are strong supporters of -- of regionalism, and we have put that into practice over the years. And as you can see


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February 18, 2011

To: Senator Steve Cassano, Co-Chairman  
 Representative Linda M. Gentile, Co-Chairman  
 Members of the Planning and Development Committee

From: Bill Ethier, Chief Executive Officer

Re: Senate Bill 869, AAC Inland Wetlands Permits

The HBA of Connecticut is a professional trade association with 1,100 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.

As we noted in our testimony on SB 859, wetland permits generally expire after five years (see sec. 22a-42a(g) of the general statutes). SB 859 would extend that expiration date, along with the expiration date for subdivision and site plan approvals. However, SB 869 addresses another timeline issue unique to inland wetland permits.

Background to the permit timeline dilemma SB 869 addresses: Under sec. 22a-42a(d)(2) of the wetland statute, wetland permits are divided between those issued for a subdivision or site plan (e.g., requiring approval under 8-3, 8-25 or 8-26) and those wetland permits for other activities. Under this section, local wetland agencies are authorized to establish a specific time period within which the permitted activity shall be conducted, even though the permit itself does not expire for five years. For non subdivision or site plan activities, that time period cannot be less than two years. Oddly, there's no minimum period restriction for wetland permits connected to subdivisions and site plans.

Often, wetland agencies require the permitted activity for subdivisions and site plans to be conducted within one or two years of approval, essentially imposing an imposition that extinguishes the remaining years of the "five" year permit. This has been a recurring problem because under our statutes, a proposed development applicant must first apply for its inland wetlands permit prior to applying for its subdivision or site plan permit. The statutes state that planning and zoning commissions cannot give final approval on subdivisions and site plan until the wetland agency has issued its final report (decision). Thus, by statute, a wetland permit comes first. Then, once all local approvals are obtained, a lengthy trek through state agencies is usually required. That initial one or two year requirement to complete work authorized by a wetland permit can expire before the authorized work even begins because of the other permitting delays in planning, zoning and state agencies. This necessitates going back to the wetlands agency for re-approval,

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generating more opportunities for opponents, expense and delay. Moreover, the short timelines imposed by wetland agencies under 22a-42a(d)(2) are impossible to meet due to delays caused by obtaining necessary development financing. This is especially a problem in today's difficult lending environment.

Therefore, SB 869 amends 22a-42a(d)(2) by limiting the time period within which work must be conducted for subdivisions and site plan developments to no less than three years.

We also request the addition of a clarifying amendment and further relief that addresses the planning, zoning and state agency permitting processes that are out of the control of both applicants and wetland agencies. Beginning in line 43, we suggest the following additional language, "... Any permit issued under this section for any [other] activity for which an approval is not required under section 8-3, 8-25 or 8-26 shall be valid for not less than two years and not more than five years. The specific time period within which any regulated activity shall be conducted shall commence when the regulated activity is physically started on the site. Any such permit shall ...."

This last additional sentence allows for a possible lengthy period of seeking approvals from a multitude of other commissions and state agencies without losing your wetlands approval.

Please support SB 869 with our suggested amendment. Thank you for considering our comments on this important legislation.




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February 18, 2011

To: Senator Steve Cassano, Co-Chairman  
 Representative Linda M. Gentile, Co-Chairman  
 Members of the Planning and Development Committee

From: Bill Ethier, Chief Executive Officer

Re: Senate Bill 859, An Act Extending the Time of Expiration of Certain Land Use Permits

The HBA of Connecticut is a professional trade association with 1,100 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.

We strongly support SB 859 as necessary assistance to avoid the loss of already approved developments.

As background, under Connecticut law, most municipal approvals of site plans under our zoning statutes; subdivisions under our planning statutes and inland wetland permits have a five year expiration. That is, the authorized development work must be completed within five years from the date of approval.<sup>1</sup> Applicants may seek a discretionary extension from the applicable local commission for an additional five years. In 2009, the legislature extended the initial expiration period to six years for a limited set of approved developments. SB 859 amends that change by adding three more years to the initial permit expiration date and applying it to developments approved between July 1, 2006, and July 1, 2011. This is a critical change to allow severely depressed markets (buyers and lenders) to catch up with development approvals.

Due to the severe national recession, many segments of Connecticut's economy have been drastically affected, but none as severely as the state's real estate and construction sectors. Our sector is experiencing 25% to 30% unemployment. New housing permits across the state for 2009 and 2010 were the lowest on record. Much of the marketplace of buyers remains silent. Many are waiting until economic and job conditions improve. Lending standards have also greatly tightened for both buyers and builders who are holding approved site plan permits, subdivisions and inland wetland permits. The industry wide decline in demand and tighter lending practices have adversely affected home builders and commercial, office, retail and industrial developers, producing cancelled orders, declining

<sup>1</sup> Confusingly, work authorized by an inland wetland permit is often required to be done in a shorter window of time (see SB 869 addressing that issue).

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sales and rentals, price reductions and employee layoffs. We believe there are positive signs in the economy but our recovery is going to be very long and painfully slow.

The process of obtaining site plan, subdivision and inland wetland approvals is expensive and time consuming, for both private and government applicants. Due to the extraordinary economic environment that exists today, currently existing approvals will expire before market conditions justify fully developing these approvals. And that would severely exacerbate the losses the industry has already sustained.

The automatic three year extension proposed in SB 859 would provide a necessary dose of certainty that existing approvals will not lapse and new, expensive, time consuming re-approvals will not have to be sought.

SB 859 will prevent the undoing of government approvals that would not have occurred but for the extraordinary economic conditions we all face. The bill would prevent the wholesale abandonment of approved projects and activities due to the present unfavorable economic conditions by essentially tolling the term of existing approvals for a brief period of time that will allow the economy, markets and lending to recover, preventing a waste of public and private resources.

SB 859 will save municipalities and state government significant resources. If existing approvals do expire and re-approvals have to be sought, that means the entire permitting complex Connecticut imposes has to be started all over again. That includes countless applications to state agencies on top of local applications, all of which expend time and resources to handle applications. SB 859 would avoid that necessity.

The extension of permit expirations is temporary because it affects only those approvals obtained between July 1, 2006, and July 1, 2011. We assert that three additional years is not much to ask to help us weather this most difficult economy.

However, to further improve Connecticut's chances of recovery going forward, we request that SB 859 be amended to make the longer permit expiration dates permanent for all developments, or at least expand the applicability of these three-year extensions of expiration timelines to more developments, e.g., all those approved between July 1, 2004, and July 1, 2013.

Thank you for considering our comments on this important legislation.

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GENERAL ASSEMBLY  
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BURHAN KOYA:

Hi and good afternoon. My name is Burhan Koya.

DEPUTY SPEAKER RYAN:

Madam?

BURHAN KOYA:

I'm the outreach coordinator of the Turkish  
Cultural Center.

DEPUTY SPEAKER RYAN:

Madam?

BURHAN KOYA:

Thank you for having us. Have a nice day.

REP. KIRKLEY-BEY (5th):

Let's give them a nice hand of applause for their  
coming to see us today and spending time with us. Thank  
you.

DEPUTY SPEAKER RYAN:

Gentleman, we thank you. And we appreciate you  
having us here, and being your host downstairs.

Will the Clerk please call Number 327, Calendar  
Number 327.

THE CLERK:

On page 25, Calendar 327, Senate Bill Number 859,  
AN ACT EXTENDING THE TIME OF EXPIRATION OF CERTAIN LAND  
USE PERMITS, favorable report of the Committee on

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Planning and Development.

DEPUTY SPEAKER RYAN:

Representative Gentile of the 104th.

REP. GENTILE (104th):

Thank you, Mr. Speaker.

I move for acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER RYAN:

The question is acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the Senate.

Will you remark?

REP. GENTILE (104th):

Yes. Thank you.

This bill extends land-use permit expiration dates by three years to save existing approvals that would not expire but for our difficult economy. It gives permit holders a necessary dose of certainty to keep projects going and moving and gives time for our markets to recover.

Section 1 applies to most site plan approvals.  
Section 2 applies to most subdivision approvals.  
Section 3 applies to subdivisions of 400 or more lots.

And Section 4 applies to inland-wetland approvals. Under current law, all of these permits expire in five or six years depending on when approved.

I move for passage of the bill.

One moment, please.

Mr. Speaker, the Clerk is in possession of an amendment, LCO Number 5337. I ask that the amendment be called and I be granted leave to summarize.

DEPUTY SPEAKER RYAN:

Will the Clerk please call LCO 5337, which will be -- which is designated Senate Amendment Schedule "A."

THE CLERK:

LCO Number 5337, Senate "A," offered by Senators Williams, Duff, et al.

DEPUTY SPEAKER RYAN:

The Representative seeks leave of the Chamber to summarize the amendment. Is there objection to summarization? Is there objection? Hearing none, Representative Gentile, you may proceed with summarization.

REP. GENTILE (104th):

Thank you, Mr. Speaker.

Quite simply, Senate "A" makes the permit

expiration extensions in the bill applicable to land-use approvals that are still in effect upon the effective date of the Act, rather than apply it arbitrarily to some existing approvals and not to others.

I move for adoption.

DEPUTY SPEAKER RYAN:

The question before the chamber is on adoption of House Amendment -- I'm sorry, Senate Amendment Schedule "A." Will you remark on the amendment?

Representative Aman of the 14th.

REP. AMAN (14th):

Thank you. Thank you, Mr. Speaker.

Yes, I agree that the language of the amendment does improve the bill and clarifies the language, and should be approved by the Chamber.

DEPUTY SPEAKER RYAN:

Thank you, Representative Aman.

Will you remark further? Will you remark further upon the amendment before us? If not, I will try your minds. All those in favor of the amendment, please signify by saying, aye.

REPRESENTATIVES:

Aye.

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DEPUTY SPEAKER RYAN:

All those opposed, nay.

The ayes have it and the amendment is adopted.

Will you remark further on the bill as amended?

Will you remark further on the bill as amended?

Representative Aman of the 14th.

REP. AMAN (14th):

Again, thank you, Mr. Speaker.

It's unfortunate that this bill has to come forward, but it's a result of the economy and the fact that, because of the economy, sales are not coming through on a variety of projects and they're taking much longer than anyone really thought at the time the approvals were given.

This bill has been endorsed pretty much by everyone because the towns are concerned that, if the time periods run out, they would have to begin some sort of action to call the bonds or they would have to take some other action. Obviously, the banks are concerned because of what might happen to their loans. So I think this three-year extension of all the permits is a very satisfactory action to take to solve a very important problem.

Thank you, Mr. Speaker.



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DEPUTY SPEAKER RYAN:

Thank you, Representative Aman.

Will you remark further on the bill as amended?

Representative Miller of the 122nd.

REP. L. MILLER (122nd):

Thank you, Mr. Speaker.

A question to the proponent.

DEPUTY SPEAKER RYAN:

Representative Gentile, there's a question.

Representative Miller, pose your question.

REP. L. MILLER (122nd):

Thank you.

Given that there's going to be a three-year extension, could the developer come back after two and a half to three years and request another extension from the planning and zoning board?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Gentile.

REP. GENTILE (104th):

Thank you, Mr. Speaker. Through you.

Yes. That could happen.

DEPUTY SPEAKER RYAN:

Representative Miller.

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REP. L. MILLER (122nd):

I'm concerned about the -- I know developers, when they're short of cash or if the economy is kind of rough on them, that they don't play this game with the local planning and zonings and continue to get extensions until times get a little better and they're able to borrow money at a decent rate.

So I just wondered how we would control this so they don't abuse it.

DEPUTY SPEAKER RYAN:

Representative Gentile.

REP. GENTILE (104th):

Through you, Mr. Speaker.

I can appreciate that, but that is the exact purpose of this bill. It would allow buyers and lenders to catch up with development approvals during this difficult economy.

DEPUTY SPEAKER RYAN:

Representative Miller.

REP. L. MILLER (122nd):

Through you, Mr. Speaker.

With the e-mail that goes to the regional planning boards, could anybody in that office, a secretary, acknowledge that, and that would suffice that they did

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receive it?

DEPUTY SPEAKER RYAN:

Representative Gentile.

REP. L. MILLER (122nd):

Or would you really need to have the chairman of the regional planning agency sign off on it?

DEPUTY SPEAKER RYAN:

Representative Gentile.

REP. GENTILE (104th):

Thank you, Mr. Speaker.

I believe that was on a bill that we did previously.

DEPUTY SPEAKER RYAN:

Representative Miller.

REP. L. MILLER (122nd):

Thank you, Mr. Speaker. Thank you.

DEPUTY SPEAKER RYAN:

Thank you, Mr. Miller -- Representative Miller, excuse me.

Will you remark on the bill as amended? Will you remark further on the bill as amended? If not, will staff and guests please come to the well of the House. Will the members please take your seats. The machine will be open.

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THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. Members to the chamber. The House is voting by roll call.

They may not have heard that.

Members to the Chamber. The House is voting by roll call.

DEPUTY SPEAKER RYAN:

Have all members voted? Have all members voted? Will the members please check the board to determine if their vote is properly cast. If all members have voted, the machine will be locked and the Clerk will take a tally.

The Clerk will please announce the tally.

THE CLERK:

Senate Bill 859 as amended by Senate Amendment Schedule "A" in concurrence with the Senate.

Total Number voting	147
Necessary for adoption	74
Those voting Yea	142
Those voting Nay	5
Those absent and not voting	4

DEPUTY SPEAKER RYAN:

The bill as amended is passed.

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Seeing no objection, so moved.

SENATOR LOONEY:

Thank you, Madam President.

The final item, calendar page 34, Calendar 119, Senate Bill 837. Mr. President, move to place that -- Madam President, move to place that item on the consent calendar.

So we are adding at this point four items to the consent calendar: Calendars 151, 204, 237 and 119.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Madam President.

And if the Clerk would proceed to call the first item marked go from this list, which is Calendar 146 on page 12.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Favorable reports, calendar page 12, Calendar Number 146, File Number 160, Senate Bill 859, AN ACT EXTENDING THE TIME OF EXPIRATION OF CERTAIN LAND USE PERMITS, favorable report of the Committee on Planning and Development.

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THE CHAIR:

Senator Cassano.

SENATOR CASSANO:

Thank you, Madam Chairman.

I move acceptance of the joint committee's favorable report, move passage of the bill, waive its reading and to seek leave to summarize.

THE CHAIR:

Please proceed.

SENATOR CASSANO:

There are two bills that are somewhat similar. Both do basically this same idea. They're planning and zoning bills. They expire, right now, in approximately five to nine years. These bills will generally double the time by extending each of these for three years.

There are three reasons that these were supported unanimously in the P and D committee. They are construction bills. They're getting people back to work. That was the purpose. We have more than 20,000 construction jobs that have been lost since 2007. We have over 9 percent of our state employment -- unemployment and 20 percent of those that are unemployed are from the construction industry.

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To complicate the matter, the banks are not lending. If they are lending, they're lending less or requiring more stringent requirements. And as far as building permits, building permits are down 75 percent what they were four years ago.

With that in mind I would like to propose an amendment to the bill, LCO 5337.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5337, which will be designated Senate Amendment Schedule "A." It is offered by Senator Cassano of the 4th District.

THE CHAIR:

Senator Cassano.

SENATOR CASSANO:

I move the amendment. Very simply what it does, there was a site -- there was a time-specific time period in the original motion from July 1, 2006, to July 1, 2011. It would leave out potentially a couple of possible applications.

The substitute language provided, such approval is not expired prior to the effective date of this act -- very simply takes care of that situation.



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THE CHAIR:

Thank you, Senator.

Will you remark? Will you remark? If there's no more discussion, please let me try your minds. All those in favor, please say, aye.

SENATORS:

Aye.

THE CHAIR:

All opposed?

That was -- oops. Not in favor --

The amendment is adopted. Senator Cassano.

SENATOR CASSANO:

At this point I would, if there's no objection, move that this be put on the consent calendar.

THE CHAIR:

Seeing no objection, so moved.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, would ask the Clerk to proceed to call the next item marked go which is Calendar 148.

THE CHAIR:

Mr. Clerk.

THE CLERK:

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for a vote on that consent calendar.

THE CHAIR:

Please proceed, Mr. Clerk.

THE CLERK:

Immediate roll call has been ordered in the Senate on the second consent calendar. Will all Senators please return to the chamber. Roll call vote has been called on the second consent calendar. Will all Senators please return to the Chamber.

Madam President, those items placed on Consent Calendar Number 2 begin on Senate Agenda Number 5, House Joint Resolution Number 102; House Joint Resolution Number 103; House Joint Resolution 104; House Joint Resolution 105.

And Senate agenda -- page 2, House joint resolution Number 106. From Senate Agenda Number 7, substitute for House Bill 6292.

Going to the calendar, beginning of calendar page 12, Calendar Number 146, Senate Bill Number 859; Calendar 140, Senate Bill Number 869; Calendar 151, Senate Bill 828; calendar page 18, Calendar Number 204, Senate Bill 980; calendar page 24, Calendar Number 237, Senate Bill Number 714; and calendar page 32, Calendar Number -- correction, that's it.

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No. Sorry. Calendar page 34, Calendar  
Number 119, Senate Bill 837.

Madam President, that completes those items  
placed on the second consent Calendar.

THE CHAIR:

Thank you, sir.

Would you once again announce the roll call vote.  
And the machine will be open.

THE CLERK:

The Senate is now voting by roll call on the second  
consent calendar. Will all Senators please return to  
the Chamber. The Senate is now voting by roll call on  
the second consent calendar. Will all Senators please  
return to the Chamber.

THE CHAIR:

Have all members voted? Have all members -- no.  
They have not.

Okay. Now have all members voted? Have all  
members voted? If so, the machine will be locked. And  
will the Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar  
Number 2.

Total Number voting

35

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Necessary for adoption	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

The consent calendar is adopted.

Senator Looney, do you have any good news for us,  
sir.

SENATOR LOONEY:

Yes, Madam President.

First of all, would move for suspension for  
immediate transmittal to the Governor of Substitute  
House Bill 6292.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, that concludes our business for  
today. I want to thank all of the members for their  
cooperation in moving through the items on the agenda.

First of all, Madam President for a journal  
notation.

THE CHAIR:

Please proceed sir.