

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Tenth
Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION
January 6, 1982 to April 13, 1982
INDEX

FOURTH SPECIAL SESSION
April 28, 1982 and April 29, 1982
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FIFTH SPECIAL SESSION
May 13, 1982
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SECOND CONFIRMATION SESSION
July 16, 1982
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STATE OF MAINE
One Hundred and Tenth Legislature
Second Regular Session
JOURNAL OF THE SENATE

Augusta, Maine
March 9, 1982

Senate called to order by the President.

Prayer by Dr. Richard Cleaves, Chaplain, Augusta Mental Health Institute.

DR. CLEAVES: May we pray. Eternal God, in these days of stress, when we all feel overwhelmed by problems that affect each of us, grant Thy blessing upon this Body, that each one individually and the Body collectively may be able to perceive, with Thy help, the needs of the community as a whole, and so deliberate for the welfare of us all.

Bless them and strengthen them in their efforts and guide them throughout the day. Amen.

Reading of the Journal of yesterday.

Committee Reports
House

The following Ought Not to Pass report shall be placed in the legislative file without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act to Amend the Workers' Compensation Act to Permit Rate Deductibles" (H. P. 1863) (L. D. 1857)

Leave to Withdraw

The Committee on Fisheries and Wildlife on, Bill, "An Act Concerning the Chasing of Wild Animals by Dogs." (Emergency) (H. P. 2027) (L. D. 1995)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Report was Read and Accepted, in concurrence.

Ought to Pass — As Amended

The Committee on Energy and Natural Resources on, Bill, "An Act to Permit Municipalities to Adopt Contract Zoning Under the Maine Zoning Laws." (H. P. 1827) (L. D. 1809)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 627).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Report was Read and Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read and Adopted, in concurrence, and the Bill as amended. Tomorrow Assigned for Second Reading.

Second Readers

The Committee on Bills in the Second Reading reporting the following:

House

Bill, "An Act to Permit Persons Employed by Games of Chance Licensees as Bartenders to Operate and Conduct Certain Licensed Games of Chance." (H. P. 2030) (L. D. 1996)

Bill, "An Act to Increase the Working Capital of the State Liquor Commission." (H. P. 1807) (L. D. 1792)

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1982. (Emergency) (H. P. 2149) (L. D. 2052)

Bill, "An Act to Revise the Lubec Water and Electric District Charter to Modify the Requirements of Issuance of Bonds." (Emergency) (H. P. 1976) (L. D. 1951)

Which were Read a Second Time and Passed to be Engrossed, in concurrence.

House — As Amended

Bill, "An Act to Fund and Implement Collective Bargaining Agreements Relating to Voca-

tional-Technical Institute Employees" (Emergency) (H. P. 2084) (L. D. 2023)

Which was Read a Second Time.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Passage to be Engrossed.

Bill, "An Act to Revise the Fair Credit Reporting Act to Conform it to Recent Maine Judicial Decisions." (H. P. 1727) (L. D. 1712)

Which was Read a Second Time.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Passage to be Engrossed.

Bill, "An Act to Clarify the Statutes pertaining to Search and Rescue." (H. P. 1837) (L. D. 1834)

Which was Read a Second Time.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Passage to be Engrossed.

Bill, "An Act to Establish Procedures for Withdrawal of Participating Local Districts from the Maine State Retirement System." (H. P. 1953) (L. D. 1924)

Bill, "An Act to Repeal the Maine Bid Preference Law." (H. P. 1904) (L. D. 1889)

Bill, "An Act Relating to the Publication of a Consolidated Map of the State." (Emergency) (H. P. 1843) (L. D. 1838)

Bill, "An Act Relating to the Compensation of Public Utilities' Commissioners." (H. P. 1921) (L. D. 1903)

Which were Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Bill, "An Act to Establish Voluntary Certification for Building Energy Auditors." (H. P. 1916) (L. D. 1893)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, I set aside LD 1893 for one particular reason, and that is, we had worked out a compromise amendment which appears as H-628. In reviewing it again this morning, one particular aspect of it has not been fully addressed and that is, the amount of fee required for the certificate of renewal for the Certified Energy Auditors in the State of Maine.

Originally I had, and it's in your document book, S-395. This primarily has been encompassed in H-628. That was to grandfather in the existing energy auditors in the State of Maine. There are, I think, only about 28 or 30 at the present time.

In essence, it's very important that future people going into the home energy auditing field have a specific knowledge of what the fee is going to be. Originally, I thought that this could be better handled by Business Regulation. I'm sure that if this Bill had gone to Business Regulation in lieu of Energy and Natural Resources, there would be a definite fee established in this particular document.

I have searched around and discussed this with people who are potential energy auditors, who are taking courses along that line. They seemed a little bit bewildered as to exactly why we can not address the amount of a definite fee.

So, on that particular basis, Mr. President, there's no objection at all to the document, or to the Amendment, other than that particular factor there. I would hope that I could have somebody Table this until later on in today's session, so that we possibly might draw up an amendment to address the fee part of it.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Passage to be Engrossed.

Bill, "An Act to Revise the Education Laws." (S. P. 897) (L. D. 2042)

Bill, "An Act to Abolish the Mandatory Reporting of Alcoholism Section of the Board of Registration in Medicine Act." (S. P. 830) (L. D. 1938)

Bill, "An Act to Amend the Terms of the Directors of the Auburn Water and Sewerage District." (Emergency) (S. P. 868) (L. D. 2013)

Bill, "An Act Relating to the Installation of Utility Poles." (S. P. 839) (L. D. 1962)

Bill, "An Act Relating to Fuel Adjustment Clause of Natural Gas Utilities." (S. P. 817) (L. D. 1921)

Which were Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Senate — As Amended

Bill, "An Act to Raise the Annual Public Utilities Commission Regulatory Fund Assessment to \$1,300,000." (Emergency) (S. P. 785) (L. D. 1850)

Which was Read a Second Time and Passed to be Engrossed, as amended.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

AN ACT to Clarify Certain Provisions of the Public Advocate Statutes." (H. P. 1735) (L. D. 1720)

AN ACT Related to Handicapped Parking in Municipalities." (H. P. 1819) (L. D. 1804)

Which were Passed to be Enacted and having been signed by the President were by the Secretary presented to the Governor for his approval.

Emergency

AN ACT Relating to Maintenance and Snow Removal of Compact Areas. (H. P. 2075) (L. D. 2018)

This being an emergency measure and having received the affirmative vote of 26 members of the Senate, with No Senators having voted in the negative, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate the first Tabled, and specially assigned matter:

SENATE REPORTS—from the Committee on Health and Institutional Services—"Bill, An Act to Adjust the Eating, Lodging and Recreational Place Licensing Fee. (S. P. 811) (L. D. 1907)—MAJORITY REPORT ought to Pass; MINORITY REPORT Ought to Pass as amended by Committee Amendment "A" (S-401)

Tabled—March 8, 1982 by Senator CONLEY of Cumberland.

Pending—Acceptance of Either Report.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, I would urge Acceptance of the Minority Ought to Pass, as amended, Report.

The PRESIDENT: The Senator from Cumberland, Senator Gill, moves that the Senate Accept the Minority Ought to Pass, as amended, by Committee Amendment "A" Report of the Committee.

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, I would ask the Members of the Senate to vote against that motion and instead support the Majority Ought to Pass Report of the Committee.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: I would just like to point out the differences in the two reports. Last

year, as you'll remember, we were in here for a fee increase. We were asking for just \$5, and we were not given that. That was not passed.

This year the Committee has worked this Bill, and they have agreed on a \$20 increase, because everybody seems to recognize the fact that we do not have sanitarians inspecting those restaurants, even once a year. They recognize that, that is a very dangerous situation to be in.

Now the question is do they want to dedicate those monies, or do they want to undedicate it. The Majority Report calls for dedicating that fund, leaving that fund dedicated.

It seems to me that you ought to put the responsibility where it lies and that is with the eating and lodging establishments. They should be paying their own fees, to keep their own restaurants inspected.

I urge the Majority Report.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Mr. President, I really dislike even getting up and speaking on this Bill, because we went through this last session, this whole situation, but I feel that I must.

The amendment, on the Minority Report, does undedicate the revenue. The Performance Audit Committee did look at this particular Bill, or looked at the Department, and they came up with the recommendation that the monies be undedicated revenue. The Commissioner of Human Services concurred with the Performance Audit Committee that the monies be undedicated revenue.

I might just explain to you why I feel they should be undedicated revenue. We had a situation last year that the Department came in and asked for an increase in fees. Then just about the time that we were ready to vote on the measure someone from the Department indicated that they were using 314D funds, and I went, what was that? What did you say, 314D funds? Because 314D funds were maternal and child monies. It just seemed to me an improper place for it to be used in the licensing fee for inspectors.

Upon more questioning we found that they were using those people who were inspectors with the Department who were no longer able to function as inspectors because they were on sick leave. One of them had cancer and the other had a stroke, but they had evidently built up enough sick leave that they could draw out of that account. The third person was convicted of an OUI offense and could not drive his vehicle to inspect places, so is lodged in the Department doing desk work. So there were three people who were drawing out of that account, a dedicated account, so that limited the number of inspectors that were out there performing their duty.

In looking up where these dedicated fees came from, I found in Title 22, Section 9, that the Department is authorized to charge reasonable fees. I think that is a problem there. I think the fact of what's reasonable to the Department may not be reasonable to those people out there running restaurants and lodging places.

I just feel if the situation we had last year of three people drawing out of that account should exist again, if we undedicate the revenue, the Department will have the discretion, because of a bill we passed in the 108th Legislature, that would allow transfer ability of funds between accounts. That would insure that we had inspectors on the road at all times, because of that provision made in the 108th Legislature.

So, I ask you to undedicate this account. Let the Department go before the Appropriations Committee, plead their case, make their case, for how many inspectors they need and the amount of money they need to take care of them.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, I'm hesi-

tant to get up and argue against our Committee Chairman, especially when she's been around showing the pictures of her delightful little granddaughter this morning, but considering that she's opposing a brand new grandmother, I don't feel that bad about it, because I can't represent one grandmother over another.

The issue today, I think, was clearly defined by the good Senator from Cumberland, when she was alarmed because they were taking funds from one account, trying to substantiate the need for it in another account. I think, by having these dedicated funds, that's just what we're going to eliminate.

I feel that these people who are paying for these charges from our hotels, our restaurants, and so forth, feel that that money should go into one account and should be used strictly for that purpose.

I was asked by the Governor's aide to co-sponsor this Bill. I checked with my hotel and restaurant people in my area to make sure it was all right with them. There was no opposition to the Bill, so it's not really the Bill that we're fighting about, it's the Amendment today. I feel these people would feel more justified in having a dedicated account rather than having to go into the General Fund to have to have it allocated through the Appropriations Committee or through the Commissioner, whenever they need more money for that account.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: Not to delay this any further, because I think we don't need to argue the fact that there needs to be a fee increase. The City of Auburn is now considering having their own inspectors because they feel inspections are so bad there. Perhaps with this new thing they won't do that when we get this fee increase.

I haven't heard any good argument for why we should undedicate it. The only thing I hear our good Chairman saying is that she's upset because she was given wrong information last year. I think every member of the Committee was upset about that. I don't blame her, but I don't know if that's a good reason for changing the way we're funding the sanitarians.

As far as the people who are out on sick leave, that's unfortunate. It's an administrative matter. I don't think that you decide on dedication or undedication based on the administrative matter. As a matter of fact, the person who is on sick leave has worked for the Department for 35 years, has accumulated that full year of sick leave, and will shortly be retiring. The statute, at present, allows accumulated sick leave, so I don't know how we can fault that. There have been none on Workers' Compensation out of that Department, and the OUI case was with the federal monies and was immediately suspended.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator BUSTIN: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Gill, that the Senate Accept the Minority Ought to Pass, as amended, Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

11 Senators having voted in the affirmative and 18 Senators having voted in the negative, the motion to Accept the Minority Ought to Pass, as amended by Committee Amendment "A" Report of the Committee does not prevail.

The Majority Ought to Pass Report of the Committee was Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

The President laid before the Senate the second Tabled and specially assigned matter:

JOINT ORDER—Relative to Recall of RESOLVE, Authorizing the Exchange of Certain Public Reserved Lands (H. P. 1739) (L. D. 1728) from the Governor's Desk (S. P. 909)

Tabled—March 8, 1982 by Senator CONLEY of Cumberland

Pending—Passage

On motion by Senator Collins of Knox, the Joint Order was Indefinitely Postponed.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Paper from the House House Paper

Bill, "An Act Clarifying the Laws Governing Bail in Certain Capital Cases." (H. P. 2155) (L. D. 2056)

Comes from the House referred to the Committee on Judiciary and Ordered Printed.

Which was referred to the Committee on Judiciary and Ordered Printed, in concurrence.

There being no objections all items previously acted upon were sent forthwith.

On motion by Senator Pierce of Kennebec, Recessed until 4:30 o'clock this afternoon.

Recess

After Recess

The Senate called to order by the President.

Under Suspension of the Rules, the Senate voted to consider the following:

Papers from the House House Papers

Study Report — Taxation

The Committee on Taxation to which was referred the Study relative to the Laws Concerning Sales Tax Exemptions, pursuant to the Revised Statutes, Title 1, Section 2603, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Remove the Sales Tax Exemption on Motor Fuels", (H. P. 2153) (L. D. 2055) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

Comes from the House, the Report Read and Accepted, and the Bill referred to the Committee on Taxation.

Which Report was Read and Accepted, and the Bill referred to the Committee on Taxation, in concurrence.

Joint Orders

Expressions of Legislative Sentiment recognizing:

March 17th-March 13th, National Womens' History Week with special recognition to Maine women for their contribution to the history of the State and the Nation. (H. P. 2152)

Margie Arnold for reaching 1000 career points in basketball, the first girl to do so in the history of Waterville High School. (H. P. 2154)

Mr. and Mrs. Carl Hatch, of Bangor, on their 50th Wedding Anniversary, March 10, 1982. (H. P. 2156)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Committee Reports House Leave to Withdraw

The Committee on Business Legislation on, Bill, "An Act to Promote Competitive Pricing in Workers' Compensation Insurance." (H. P. 2017) (L. D. 1981)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Labor on, Bill, "An Act to Clarify the Provision of the Maine Human Rights Act Relating to Employment Discrimination Which is not Prohibited." (H. P. 1868) (L. D. 1861)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted, in concurrence.

Ought to Pass

The Committee on Energy and Natural Resources on, Resolve, Authorizing the State Planning Office to Study the Implications for Maine of Canadian Tidal Power Development in the Bay of Fundy. (H. P. 1975) (L. D. 1950)

Reported that the same Ought to Pass.

Comes from the House, the Resolve Passed to be Engrossed.

The Committee on Labor on, Bill, "An Act to Make the State Unemployment Tax Exemption for Individuals Engaged in Fishing Consistent with the Federal Unemployment Tax Exemption for such Individuals." (Emergency) (H. P. 2008) (L. D. 1979)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

The Committee on Public Utilities on, Bill, "An Act to Amend Charters of Various Water Districts Organized Under the Private and Special Laws Including Milbridge and Strong." (H. P. 2151) (L. D. 2054)

Reported pursuant to Public Law 1981, Chapter 447, that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Reports were Read and Accepted, in concurrence, and the Bills and Resolve Read Once and Tomorrow Assigned for Second Reading.

Senate

Ought to Pass — As Amended

Senator SUTTON for the Committee on Business Legislation on, Bill, "An Act to Permit the Superintendent of Insurance to Promulgate Rules Requiring Provisions in Group Health Contracts Providing for Conversion to Individual Coverage Upon Termination of Group Coverage." (S. P. 774) (L. D. 1845)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 405).

Which Report was Read and Accepted, and the Bill Read Once. Committee Amendment "A" was Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

Orders of the Day

The President laid before the Senate:

Bill, "An Act to Fund and Implement Collective Bargaining Agreements Relating to Vocational-Technical Institute Employees." (H. P. 2084) (L. D. 2023)

Tabled—Earlier in the Day by Senator COLLINS of Knox.

Pending—Passage to be Engrossed.

On motion by Senator Collins of Knox, Retabled for 1 Legislative Day.

The President laid before the Senate:

Bill, "An Act to Revise the Fair Credit Reporting Act and to Conform it to Recent Maine Judicial Decisions." (H. P. 1727) (L. D. 1712)

Tabled—Earlier in the Day by Senator COLLINS of Knox.

Pending—Passage to be Engrossed.

On motion by Senator Collins of Knox, Retabled for 1 Legislative Day.

The President laid before the Senate:

Bill, "An Act to Clarify the Statutes Pertaining to Search and Rescue." (H. P. 1837) (L. D. 1834)

Tabled—Earlier in the Day by Senator PRAY of Penobscot.

Pending—Passage to be Engrossed.

On motion by Senator Conley of Cumberland, Retabled for 1 Legislative Day.

The President laid before the Senate:

Bill, "An Act to Establish Voluntary Certification for Building Energy Auditors." (H. P. 1916) (L. D. 1893)

Tabled—Earlier in the Day by Senator COLLINS of Knox.

Pending—Passage to be Engrossed.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate: I had a great deal of discussion relevant to my concerns this morning, which was to set a fee for each new energy auditor coming in and passing the qualifications of the State of Maine. After serious deliberation and discussion relevant to the issue, we find that the field of energy auditors in the State of Maine is not one that is likely to grow to any extent. At the present time, we are faced with about 26 or 28 energy auditors. The end result was they don't anticipate much more than 50 or 60, and possibly this whole thing petering out at the end of 1985 or 1986, because most people are very, very conscious of energy efficiency. A lot of these audits are now being conducted at the present time, so there is no great hue and cry insofar as setting a set fee.

In the Bill itself, and I just want to point this out for the record, under Fees, the Director of the Office of Energy Resources may establish reasonable fees for the issuance and renewal of energy auditors' certificates, based on the cost of certification. Now that's just exactly what has happened on the present energy auditors, it was based on the cost of certification, which is in the area of \$20 to \$35.

I think, at the present time, the existing Bill as it stands now with the Amendment is very, very satisfactory.

On motion by Senator Minkowsky of Androscoggin, the Bill Passed to be Engrossed, as amended, in concurrence.

Senator Sewall of Lincoln was granted unanimous consent to address the Senate, On the Record.

Senator SEWALL: Thank you, Mr. President. Just an explanation on a Leave to Withdraw on LD 1861. The Committee on Labor withdrew the Bill because it was unnecessary. In December of 1981 the Penobscot Superior Court addressed this issue in the State of Maine versus Canadian Pacific Unlimited. We agreed with their decision and the Bill is not necessary. Thank you.

Senator Collins of Knox was granted unanimous consent to address the Senate, On the Record.

Senator COLLINS: Mr. President and Members of the Senate: This morning we Passed to be Engrossed the re-codification of the Education Laws. A few Members of the Senate spoke to me that there had been no discussion of this, that it was a rather thick and lengthy document and that we ought to give it some attention.

I agreed that that was so, and at my request the Chairman of the Committee on Education has caused to be placed on our desk a sheet entitled: "Education Law Re-codification" and I would commend that to your review.

The matter will be back before us, we presume, for Final Enactment in a few days.

This has been a massive study and the details are somewhat described in this brief review sheet, that I simply call to your attention.

Thank you, Mr. President.

On motion by Senator Collins of Knox, Adjourned until 8:30 o'clock tomorrow morning.