

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

STATE OF MAINE
 One Hundred and Eleventh Legislature
 First Regular Session
 JOURNAL OF THE SENATE
 Augusta, Maine
 April 13, 1983
 Senate called to order by the President.

Prayer by the Honorable Charles P. Pray of Millinocket.

HONORABLE CHARLES P. PRAY: Lord, we humbly ask Your devine wisdom and guidance in our deliberation here today: for the people and for the State of Maine. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Senate Papers

BILL, "An Act to Restructure Maine's Insurance Management Program." (Submitted by the Department of Finance and Administration pursuant to Joint Rule 24) (S. P. 482) (Presented by Senator DOW of Kennebec) (Cosponsor: Representative CASHMAN of Old Town)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

BILL, "An Act to Standardize the Disciplinary Proceedings of Health Profession Licensing Boards." (Submitted pursuant to Title 3, chapter 23) (S. P. 483) (Presented by Senator DIAMOND of Cumberland) (Cosponsor: Representative ROLDE of York)

Reference to the Committee on Business Legislation suggested.

On motion by Senator Pray of Penobscot referred to the Committee on Performance Audit and Ordered Printed.

Sent down for concurrence.

**Committee Reports
 House**

Leave to Withdraw

The following Leave to Withdraw reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Provide for Uniform Fuel Costs for all Customer Classes of an Electric Utility." (H. P. 834) (L. D. 1071)

BILL, "An Act to Require Public Power Companies to Amortize the Cost of Disconnected Municipal Street Light Fixtures." (H. P. 563) (L. D. 713)

Ought to Pass

The Committee on Business Legislation on BILL, "An Act to Amend the Maximum Fee for Applications and to Clarify the Basis for the Annual Assessment of Financial Institutions" (H. P. 818) (L. D. 1058) Reported that the same Ought to Pass.

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed.

Which Report was Read and Accepted in concurrence. The Bill Read Once and Tomorrow Assigned for Second Reading.

The Committee on Legal Affairs on BILL, "An Act to Amend the Motor Vehicle Racing Law." (H. P. 859) (L. D. 1109) Reported that the same Ought to Pass.

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed.

Which Report was Read and Accepted in concurrence. The Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass as Amended

The Committee on Health and Institutional Services on BILL, "An Act to Amend the Definition of Hospital in the Maine Health and Higher

Educational Facilities Authority Act." (H. P. 548) (L. D. 700) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-124).

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-124)

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-124) was Read and Adopted, in concurrence. The Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on BILL, "An Act to Amend the Probate Fees" (H. P. 714) (L. D. 905)

Reported that the same Ought to Pass.

Signed:

Senators:

VIOLETTE of Aroostook
 TRAFTON of Androscoggin

Representatives:

FOSTER of Ellsworth
 LIVESAY of Brunswick
 HAYDEN of Durham
 DRINKWATER of Belfast
 HOBBS of Saco
 SOULE of Westport

The Minority of the same Committee on the same subject matter

Reported that the same Ought Not to Pass.

Signed:

Senator:

COLLINS of Knox

Representatives:

CARRIER of Westbrook
 REEVES of Newport
 BENOIT of South Portland
 JOYCE of Portland

Come from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, the issue in this particular Bill is not a vast difference between the two Reports, but there is some philosophical difference in how far the participants in the Probate Court should go toward paying their own way.

I have voted for increases in the probate fees twice in the last five years. This jumps, particularly the filing fees by substantial percentages. Inflation has made probate fees go up because the principal fee in the Probate Court is the filing fee when there is an estate and you're about to probate a will or probate an intestate estate, therefore, as the values of property go up, the fees go up.

To illustrate what is being asked for here: a fairly typical estate, let's say the husband dies and leaves a widow, leaves a home, and a couple of bank accounts, a car, and not too much else, but the amount nowadays can very easily be greater than seventy-five thousand dollars. The filing fee in that case with this Bill would become one hundred dollars. That may be said to only equal the amount of work that has to be done to process the estate, perhaps it isn't quite that much.

My view is that the Probate Court, like other courts, to some degree represents a service to the public, as well as, to the individual who comes into that court to have business done there. If we continue to escalate Probate Court fees, we are inviting the legal profession and those that are served by that profession to bypass the Probate Court. There are many ways to bypass the Probate Court, largely through the use of trust devices. We are using those more and more, and if we raise our rates too greatly, we'll be reaching the point of driving away business.

I'm not going to make a further issue of this, or even ask for a Division, but since I signed a

dissenting report, I wanted to explain the reason.

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

Senator TRAFTON: Mr. President, by way of explanation I rise, the Majority of the Joint Standing Committee on Judiciary did recommend an increase in the probate fees.

I think it's important to understand that this Bill is two things: Number one, it is a Property Tax relief measure. The probate fees which are collected from those estates which are administered in the Probate Courts go into the general fund of the county budget. Obviously, the county budget is supported by municipal property taxes. If the counties can generate more funds through their own administrative processes, they will in turn, have to collect less from the municipalities, meaning less of a burden on our local property taxes. So first, this is a Municipal Property Tax relief measure.

Second, I think it's important to understand that this Bill for probate fees is a user fee. This is not a new tax. This is an attempt to tax those people who actually use the probate process, and it is an appropriate user fee. I would suggest that the Legislature has moved more and more toward a user fee concept in trying to collect revenues to pay for services, not only at the State level but at county and municipal levels, as well.

As indicated by the good Senator from Knox, Senator Collins, the level of probate fees is very low, as he indicated for seventy-five thousand dollar estate, the total probate fees would be a mere one hundred dollars. I think the issue that the good Senator from Knox, Senator Collins raises about people bypassing the Probate Courts is a very minor problem. I suggest to those who wish to bypass probate can do so, and do, do so now. This relatively minor raise in the probate fees will contribute nothing to the decline of use in the Probate Courts.

Consequently, I urge you to Accept the Majority Report of the Joint Standing Committee on Judiciary.

On motion by Senator Trafton of Androscoggin, the Majority Ought to Pass Report of the Committee was Accepted, in concurrence.

The Bill Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Health and Institutional Services on BILL, "An Act to Remove the Sunset Provision for Home Health Care Providers in the Certificate of Need Law" (H. P. 611) (L. D. 759)

Reported that the same Ought to Pass.

Signed:

Senators:

BUSTIN of Kennebec
 GILL of Cumberland
 CARPENTER of Aroostook

Representatives:

MANNING of Portland
 CARROLL of Gray
 BRODEUR of Auburn
 NELSON of Portland
 RICHARD of Madison
 MAYBURY of Brewer
 MELENDY of Rockland
 PINES of Limestone

The Minority of the same Committee on the same subject matter

Reported that the same Ought Not to Pass.

Signed:

Representatives:

WEBSTER of Farmington
 SEAVEY of Kennebunkport

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed.

Which Reports were Read and the Majority Ought to Pass Report of the Committee was Accepted, in concurrence.

The Bill Read Once and Tomorrow Assigned for Second Reading.

Senate**Leave to Withdraw**

The following Leave to Withdraw reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Provide Representatives for Owners of Certified Barber Hair Styling Schools on the State Board of Barbers" (S. P. 138) (L. D. 430)

BILL, "An Act to Decrease Exemptions in Child Support and Alimony Cases" (S. P. 317) (L. D. 953)

BILL, "An Act Relating to the Changes in Method that Unemployment Benefits are Charged to Experience Rating Records." (S. P. 228) (L. D. 672)

BILL, "An Act to Notify Unemployed Workers of the Availability of Other Forms of Assistance." (S. P. 320) (L. D. 963)

Second Readers**House**

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

BILL, "An Act to Exempt Clustered Single Family Subdivisions from the Maine Condominium Act" (H. P. 603) (L. D. 751)

BILL, "An Act to Amend the Procedure for Assessing Surveying Costs in Court Cases" (H. P. 700) (L. D. 889)

BILL, "An Act Eliminating the Responsibility of the State Planning Office to Prepare an Annual Housing Report" (H. P. 847) (L. D. 1097)

BILL, "An Act to Amend the Competitive Bidding Procedure to Allow Negotiation for Petroleum Product Procurement" (Emergency) (H. P. 862) (L. D. 1111)

BILL, "An Act Concerning Visitation Rights for Parents and 3rd Persons with Children Involved in Divorce or Custody Proceedings" (H. P. 1091) (L. D. 1433)

RESOLVE, Providing for a Study of a Maine Product Marketing Strategy and a Maine Business Product Logo (Emergency) (H. P. 1095) (L. D. 1437)

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

House — As Amended

BILL, "An Act Relating to the Maine Municipal and Rural Electrification Cooperative Agency" (H. P. 804) (L. D. 1044)

Which was Read a Second Time and Passed to be Engrossed as Amended in concurrence.

Senate

BILL, "An Act to Improve and Clarify the Ratesetting Procedures for Municipal and Quasi-Municipal Water Companies" (S. P. 480) (L. D. 1446)

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

Sent down for concurrence.

BILL, "An Act to Give the Maine Association of Retirees Proper Representation on the Board of Trustees for the Maine State Retirement System" (S. P. 481) (L. D. 1447)

Which was Read a Second Time and Passed to be Engrossed. (See Action Later Today)

Senate — As Amended

BILL, "An Act to Permit the Public Utilities Commission to Authorize a Management Audit of a Public Utility" (S. P. 345) (L. D. 1019)

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 End Discrimination Against Chiropractic Services under the Workers' Compensation Law (H. P. 268) (L. D. 328)

An Act Relating to the Nonliability of Physicians or Other Persons who Voluntarily Report

Physical or Mental Impairments of Licensees to the Secretary of State (H. P. 367) (L. D. 598)

An Act to Prohibit Hazing at Post-secondary Institutions (H. P. 1023) (L. D. 1324)

An Act to Require Campaign Contributions to be Reported in the Lobbyist Disclosure Law (S. P. 456) (L. D. 1352)

An Act Regarding Premium Discounts for Workers' Compensation Insurance of Small Businesses (H. P. 110) (L. D. 117)

An Act to Remove the Requirement that Certain Municipal Quasi-municipal Utilities Secure Approval of the Public Utilities Commission to Issue Short-term Debt (H. P. 747) (L. D. 959)

An Act to Increase the Level of Compensation for Part-time Deputy Sheriffs (H. P. 247) (L. D. 294)

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

Orders of the Day

The President laid before the Senate the Tabled and specially assigned matter.

BILL, "An Act to Prohibit Shooting within 100 Yards of any Dwelling During Hunting Season" (H. P. 167) (L. D. 198)

Tabled—April 12, 1983 by Senator KANY of Kennebec

Pending—Motion of Senator BALDACCII of Penobscot to Indefinitely Postpone Bill and accompanying papers.

(In House April 11, 1983 Passed to be Enacted)

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Baldacci.

Senator BALDACCII: Mr. President, I would request Leave of the Senate to have my motion to Indefinitely Postpone this Bill and Accompanying Papers withdrawn.

The PRESIDENT: Senator Baldacci of Penobscot, now requests Leave of the Senate to Withdraw his motion to Indefinitely Postpone this Bill and Accompanying Papers.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

On motion by Senator Trafton of Androscoggin the Senate voted to Suspend its Rules.

On further motion by the same Senator, the Senate voted to Reconsider its action whereby LD 198 was Passed to be Engrossed.

The PRESIDENT: The Senator has the floor. Senator TRAFTON: I offer Senate Amendment "A" (S-59) and move its Adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Trafton offers Senate Amendment "A" (S-59) and moves its Adoption.

Senate Amendment "A" (S-59) was Read.

The PRESIDENT: The Senator has the floor.

Senator TRAFTON: Mr. President, this Amendment addresses the concern that was raised yesterday by the good Senator from Penobscot, Senator Pray. His question yesterday was, does this Bill (L. D. 198) impose a statewide standard that may be less restrictive or more restrictive than home ordinance or municipal ordinance?

I answered the question in the affirmative that this L.D. did impose a statewide standard. I, upon his suggestion, prepared an amendment which would change my answer to his question of yesterday. If you look at Senate Amendment "A" I simply add several words to the first sentence of LD 198 saying, "unless a relevant municipal ordinance provides otherwise." This language clarifies that each municipality has within its power to Enact a municipal ordinance, either more restrictive, or less restrictive, than the requirement of L.D. 198, which would be to limit the discharge of firearms within 100 yards of a residence. This language clarifies the home rule provision in our statutes, and I suggest that with this Amendment, L.D. 198 is right for Passage, and I

urge you to support Passage of Senate Amendment "A" and L.D. 198, as amended.

Senate Amendment "A" was Adopted.

The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, is the Senate in possession of S. P. 476?

The PRESIDENT: The Chair would answer in the affirmative, S. P. 476, having been held at the request of the Senator.

On motion by Senator Pray of Penobscot, the Senate voted to Reconsider its action whereby:

BILL, "An Act to Amend the Authorization for Community Development Block Grant Program to Include the Development Opportunity Fund," (S. P. 476) was referred to the Joint Standing Committee on State Government.

On motion by Senator Pray of Penobscot referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

On motion by Senator Carpenter of Aroostook, the Senate voted to reconsider its action of earlier in today's session whereby:

BILL, "An Act to Give the Maine Association of Retirees Proper Representation on the Board of Trustees for the Maine State Retirement System" (S. P. 481) (L. D. 1447) was Passed to be Engrossed.

On motion by Senator Carpenter of Aroostook, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

(Off Record Remarks)

Senator Baldacci of Penobscot was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Carpenter of Aroostook, Adjourned until 9 o'clock tomorrow morning.