

# MAINE STATE LEGISLATURE

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Out of order and under suspension of the Rules, the Senate considered the following:

## PAPERS FROM THE HOUSE

### Joint Order

The following Joint Order:

H.P. 1186

ORDERED, the Senate concurring, that, notwithstanding Joint Rule 353, the Commission to Reapportion Maine's Congressional Districts is established as follows.

**1. Commission to Reapportion Maine's Congressional Districts established.** The Commission to Reapportion Maine's Congressional Districts, referred to in this order as "the commission," is established.

**2. Membership.** The commission consists of 15 members appointed or invited as specified in this section.

A. The commission consists of the following appointed members:

- (1) Three members from the political party holding the largest number of seats in the House of Representatives, appointed by the Speaker of the House;
- (2) Three members from the political party holding the majority of the remainder of the seats in the House of Representatives, appointed by the floor leader of that party in the House;
- (3) Two members of the political party holding the largest number of seats in the Senate, appointed by the President of the Senate; and
- (4) Two members of the political party holding the majority of the remainder of the seats in the Senate, appointed by the floor leader of that party in the Senate.

B. The Speaker of the House shall invite the following to be members of the commission:

- (1) The chairs of each of the 2 major political parties in the State or their designated representatives; and
- (2) Three members from the public generally, one to be selected by each group of members of the commission representing the same political party and the 3rd to be selected by the other 2 public members.

**3. Commission chair; quorum.** The Speaker of the House shall organize the commission and is the chair pro tempore thereof until a permanent chair is selected by the commission members from among their own number. Action may not be taken by the commission without a quorum of 8 members present.

**4. Appointments; convening of commission.** All appointments must be made no later than 7 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When

**6. Staff; compensation.** The commission may hire staff determined necessary by the chair to complete the duties specified in section 5. Public members of the commission must receive the same rate of per diem that is paid to Legislators for every day's attendance at special sessions of the Legislature as specified in the Maine Revised Statutes, Title 3, section 2. All members of the commission must be reimbursed for actual travel expenses incurred in carrying out the business of the commission.

**7. Report; legislative intent.** The commission shall submit a report no later than August 31, 2011 that includes its recommendations, including a suggested reapportionment plan and emergency legislation to implement that plan, to the 125th Legislature. It is the intent of the Legislature that these recommendations be acted on by the 125th Legislature convened in special session prior to September 30, 2011.

Comes from the House, **READ** and **PASSED**.

**READ.**

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Cumberland, Senator Woodbury.

Senator **WOODBURY:** Thank you Madame President. Men and women of the Senate, I certainly agree with this Joint Order. We need to establish a Reapportionment Commission. The concern I have with this Joint Order is that out of a 15 member commission it appoints 7 members that are members of the political party holding the largest number of seats, 7 members from the party holding the next most number of seats, and only 1 member who probably is not affiliated with any party. Of course that could be a party person as well. I'm concerned that this does not appropriately weigh the 40% of the population that is in fact not enrolled in a political party. That's my objection to the Joint Order and for that purpose I intend to vote against it or request that it be reformed.

On motion by same Senator, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from York, Senator Hobbins.

Senator **HOBBS:** Thank you Madame President. Men and women of the Senate, I would like to take this opportunity, as the Minority leader, to briefly review the history of our congressional redistricting. As a Body we have a tradition of holding ourselves to a high standard. We have set a precedent by putting fairness and transparency before partisan politics. Democrats hope and expect that this Body will continue to uphold this precedent no matter who holds the majority. From 1961 until 1983 Maine's congressional district lines did not move as federal election officials focused their efforts and attention more on the states in the southern portion of the United States. In 1983, as it became clear that the line that could remain static no longer, the Maine Legislature, including myself as a member of the House of Representatives, voted to align the process of congressional redistricting through statute with legislative redistricting and mirrored the language of our Constitution defining how redistricting is done. This process requires a 2/3<sup>rd</sup> vote of the legislature to approve redistricting and if 2/3<sup>rd</sup> cannot be achieved then the process is sent to the State Supreme Judicial Court for resolution. It also ensures that each district formed a compact and contiguous territory and crosses political subdivisions the least number of times necessary to establish districts

only in statute. Let me repeat, only in statute, as it does now. We were not constitutionally bound to honor the commission vote of 2/3<sup>rd</sup> of support or the resolution with the State Supreme Judicial Court. We could have done congressional redistricting with a majority vote. We could have violated the spirit of Maine's Constitution, but we did not. We could have changed the statute by using the words "notwithstanding" to bypass the statute, but we did not. We honored the Constitution, the bi-partisan transparent process, with public input and the appeal of the State's highest court that has worked for all Maine all along because that was, and is, the right thing to do and it is in the spirit of our Constitution which we have all sworn an oath to uphold. Madame President, I rise to raise this point in order to point out, in case you haven't noticed, and I'm sure you have, that the Democrats no longer are in control of this Body or, in fact, the other Body. That should not matter when it comes to the process we use for something so important as congressional redistricting. While I know and believe it is our intention to honor the spirit of our Constitution and the history of redistricting in Maine, it is important that the legislative record that accompanies this Joint Order outline this history and, as much as possible, the intention of this legislature. Democrats will be active and willing participants in this short term congressional redistricting in months to come. We will work to achieve a unanimous vote of the Apportionment Commission and a 2/3<sup>rd</sup> legislative vote as we expect that if that is not achieved that the issue will be sent to the Supreme Judicial Court. We expect that the court will take into consideration the plans, the briefs file, the public input, and, if necessary, will make the apportionment. Although I have no reason to believe we will not be awarded the same ability to select staff as the Minority Party as in the past, since this is uncharted territory I wanted to make that expectation clear on the record as well. Madame President, we believe that it is not too much to ask. It's the way it has been done to respect all sides and, most of all, the people of Maine and the Constitution of Maine. Joint Orders are not designed to change the law and changing the rules should not be the intent of this Order. It should be strictly a method to move the provisions already in statute up to the timeline that is required of us this year. As with the rest of the best work that we have done this session, Madame President and men and women of the Senate, we look forward to working this work together and as it has been done so well in Maine for decades. Thank you very much.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from York, Senator Courtney.

Senator **COURTNEY:** Thank you Madame President. Men and women of the Senate, I want to thank my colleague from York for his comments. I think it's very important. Some of the points that he made with regards to the work that is going to be done by the commission this Summer about contiguous compact district, I think, is very, very important and we do have a lot of work to do together. We're here today because there was a lawsuit because District 1 was under-represented. We have tried, we tried last session in a bi-partisan way but we couldn't fund it, to get in sync with the other 49 states. That's one of the reasons for where we are today. I think you've seen the commitment that this side of the aisle will do everything we can to make sure that we follow the tradition that's been established and I think we've proven already that we can work together and we do some of our best work, as the good Senator said, when we do it together and achieve consensus.

With regards to the staffing, I think this Joint Order is the exact Joint Order that was put out 10 years ago. It has the same make up of the commission and the exact same document that was presented 10 years ago. For the most part that worked out pretty good, as I recall since I was the Reapportionment Commission as a freshman in the other Body and had the honor of serving on the Commission, similar to my good friend 20 years earlier. I will say that my recollection, which I'll just share with you today, was that I think we came to an agreement on the House Districts and we came to an agreement on the congressional districts. The only thing we could not come to an agreement on was the Senate Districts, which was kind of ironic because that is probably why Senator Collins' district goes from Wells all the way around to Parsonsfield and some pretty weird inlets in it. It's nothing but compact and contiguous. We try not to complain too much because the

also address the requirements in the Constitution of one man, one vote. Thank you, Madame President.

**THE PRESIDENT PRO TEM:** The Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you Madame President. The reference to 10 years ago reminds me that I had to go to the Supreme Judicial Court to get Aroostook County, where John Martin was also going to have Houlton as part of his district, straightened out. We sort of got that straightened out. That was the only time I was before that court and my only win at the court.

**THE PRESIDENT PRO TEM:** The pending question before the Senate is Passage, in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#288)**

YEAS:        Senators:    ALFOND, BARTLETT, BRANNIGAN, COLLINS, COURTNEY, CRAVEN, DIAMOND, DILL, FARNHAM, GERZOFSKY, GOODALL, HASTINGS, HILL, HOBBS, KATZ, LANGLEY, MARTIN, MASON, MCCORMICK, PATRICK, RAYE, RECTOR, ROSEN, SAVIELLO, SHERMAN, SNOWE-MELLO, SULLIVAN, THIBODEAU, THOMAS, TRAHAN, WHITTEMORE, THE PRESIDENT PRO TEM - DEBRA D. PLOWMAN

NAYS:        Senators:    SCHNEIDER, WOODBURY

ABSENT:     Senator:     JACKSON

32 Senators having voted in the affirmative and 2 Senators having voted in the negative, with 1 Senator being absent, the Joint Order was **PASSED**, in concurrence.