

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Eighth Legislature

State of Maine

Daily Edition

First Regular Session
beginning December 7, 2016

beginning at Page 1

**STATE OF MAINE
ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE**

The 128th Legislature of the State of Maine
State House
Augusta, ME

In Senate Chamber
Saturday
July 1, 2017

Dear Honorable Members of the 128th Legislature,

Senate called to order by President Michael D. Thibodeau of
Waldo County.

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of Maine, I am hereby vetoing LD 1259, "An Act Regarding Pay Equality."

Prayer by Senator Garrett P. Mason of Androscoggin County.

This bill amends the Maine Human Rights Act to make it "evidence of discrimination" if an employer asks about an applicant's salary history before making an offer of employment that includes all compensation.

SENATOR MASON: Let us pray. Dear Heavenly Father, we thank You for who You are. We thank You for what you've done for us and we thank You for the opportunity to serve the people of our great state. Lord, as we stand before You today we know that we are in a near unprecedented situation. We know that there are people hurting. We know that we need to finish our job. Help us take solace in the fact that You are the alpha and the omega, that You know the beginning and You know the end. Lord, give us the wisdom of Solomon and the grace of Esther. Help us pass the budget that we know we need to pass. We ask for Your help in this day and we ask for Your grace. In Jesus' name. Amen.

My Administration fully supports the premise that all individuals should be paid what the job and the individual's own experience and skills are worth. Maine already has an Equal Pay Act enforced by the Department of Labor, as well as additional protections under the Maine Human Rights Act. Between the two agencies, only a handful of wage discrimination complaints are found to be valid each year.

Pledge of Allegiance led by Senator Scott W. Cyrway of
Kennebec County.

LD 1259, however, poses a particular challenge. It operates on the presumption that some or all previous wages reflect discrimination, which is not the case. Furthermore, wage history gives employers a better understanding of whether the business can afford a candidate and helps them determine the market value for a comparable position.

Reading of the Journal of Friday, June 30, 2017.

As a majority small business state, Maine's employers are often their own HR departments. Adding another law restricting a legitimate business practice places yet another burden on our employers. If an employer cannot ask, they may end up making even lower offers than they normally would, resulting in lower wages. This law could actually produce the effect it is intended to mitigate, while making Maine less attractive to businesses.

Off Record Remarks

Similar regulations, which prohibit what employers can ask and to whom they can ask it, are currently being challenged in other states' and federal courts. This spring, the 9th U.S. Circuit Court of Appeals reversed a district court ruling in *Rizo v. Yovino*, concluding that under the federal Equal Pay Act, "prior salary can be a factor other than sex if it supports a business policy and the employer uses the factor reasonably in light of its stated purposes and practices;" however, the 10th and 11th Circuits have reached the opposite conclusion, so this issue appears to be headed to the U.S. Supreme Court.

Senator **ROSEN** of Hancock requested and received leave of the Senate that members and staff be allowed to remove their jackets for the remainder of this Legislative Day.

Off Record Remarks

Although the federal decision does not affect such state laws as LD 1259, if the Supreme Court were to find that questions an employer may ask about salary or compensation history serve a valid business purpose, Maine would have to review this law. The prudent course is to await a clarifying decision by the Supreme Court. The legislature was advised of the pending federal litigation at the public hearing, but once again chose not to take the prudent path; instead, legislators chose to make Maine more hostile to job creators and to risk litigation at the expense of our taxpayers.

COMMUNICATIONS

The Following Communication: S.C. 561

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

30 June 2017

For these reasons I am returning LD 1259 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act Regarding Pay Equality
S.P. 422 L.D. 1259

On motion by Senator **MASON** of Androscoggin, **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 560

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

29 June 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 586, "An Act To Implement the Recommendations of the Commission To Study the Public Reserved Lands Management Fund."

This bill will place significant burdens on the Bureau of Public Lands (BPL) and will create uncertainty for logging contractors with the state. Maine's public lands are certified as well-managed by two independent, third-party forest certification standards. Our BPL managers are dedicated public servants who carry out their responsibilities in a professional manner every day they show up to work. This bill sends a message to these hard-working people that they are not doing a good job. I strongly disagree with this assumption, and that is why I am vetoing this bill.

There are many sections of this bill I would like to address. The requirement to complete a forest inventory every five years is unnecessary. BPL completed a forest inventory in 2016 that verified BPL's harvest targets.

My primary concern in this bill is the attempt by the Legislature to micromanage and curtail BPL's road-building efforts without any good reason. The bureau recently changed the way it contracts out logging services. The new system of contracting for logging services has been a net benefit to the state and is more transparent to the public compared to road-building costs that were hidden in lower stumpage price payments to the bureau. The new system brings in more revenue, which pays for everything else that Maine people like about our public lands, such as trails, accessibility and campsites. If no roads are built,

then there will be less revenue for the state to pay for these important things.

LD 586 also taps into the Public Reserved Lands Management Fund to create an educational grant program for forestry and logging training. While I support the logging industry, it is not appropriate to take funds from public lands to pay for it. The Legislature just recently allocated money to create a new logger-training program in the community college system. Since that program is just getting started, we should wait to see if it is working before we spend more money.

Studying areas of insufficient access is unnecessary; BPL already addresses these issues when a problem arises. The bureau is also working to consolidate its ownerships that are held in common with others. This creates more land that the public can enjoy.

The bill directs BPL to develop a list of recreational infrastructure and ADA projects and provide it to its oversight committee for review. This duplicates work already done by BPL to gather public input and address issues locally as resources permit. This bill substitutes the committee's judgement over that of the local public who use the public lands. BPL listens to the people in the field every day, and this bill will replace this policy with a centralized process that requires people to travel long distances to Augusta to make their case to the committee. In addition, the appropriation in this bill will not be enough to do the work properly.

Finally, the bill directs the BPL to review its bid process. This is duplicative and unnecessary; the bureau has already worked out the contracting process with the Bureau of Purchases. There is nothing to gain from another review.

The uncertainty and red tape that is in this bill will have negative impacts BPL's ability to properly manage public lands. We need to let the experts at the bureau continue their careful stewardship of our precious natural resources without the micromanagement of legislative committees.

For these reasons, I return LD 586 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act To Implement the Recommendations of the Commission To Study the Public Reserved Lands Management Fund (EMERGENCY)

S.P. 201 L.D. 586

On motion by Senator **MASON** of Androscoggin, **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: S.C. 559

**STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE**

30 June 2017

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1043, "An Act To Promote Impartiality in the Probate Court."

This bill simply states that beginning January 1, 2021, a judges of probate may not practice law in the State while serving as a judge of probate. I understand there is an effort to overhaul our probate court system, and that effort might be occurring over the next few years. I further understand the proposed overhaul might include provisions that make probate judges appointed rather than elected.

If we are to drastically amend the probate court system, that amendment should be passed as one whole. I do not believe the overhaul should be passed in a piecemeal fashion as this bill seems to propose.

For these reasons, I return LD 1043 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act To Promote Impartiality in the Probate Court
S.P. 345 L.D. 1043

On motion by Senator **MASON** of Androscoggin, **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: H.C. 300

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

June 30, 2017

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1311, "An Act To Amend the Law Regarding Lien Recordings on Statutory Road Associations."

I do not think that the government should be regulating private roads. Rather, private roads should be governed by private agreement. Because this bill does not advance that goal, I cannot support it.

For these reasons, I return LD 1311 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act To Amend the Law Regarding Lien Recordings on Statutory Road Associations

H.P. 908 L.D. 1311

Comes from the House with the **VETO OVERRIDDEN**, notwithstanding the objections of the Governor.

On motion by Senator **MASON** of Androscoggin, **TABLED** until Later in Today's Session, pending **CONSIDERATION.**

The Following Communication: H.C. 299

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

June 30, 2017

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 921, "An Act To Remove Time and Acreage Limits for Placing Land in Trust Status under the Maine Indian Claims Settlement."

Many years ago there was a settlement between various tribes, the State of Maine and the federal government. That settlement and the attendant implementing law were well thought out and should not be casually amended, lest we risk opening up the entire settlement agreement. Ultimately, I do not believe this bill is necessary.

For these reasons, I return LD 921 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

READ and ORDERED PLACED ON FILE.

The accompanying Bill:

An Act To Remove Time and Acreage Limits for Placing Land in Trust Status under the Maine Indian Claims Settlement
H.P. 649 L.D. 921

Comes from the House with the **VETO OVERRIDDEN**, notwithstanding the objections of the Governor.

On motion by Senator **MASON** of Androscoggin, **TABLED** until Later in Today's Session, pending **CONSIDERATION**.

REPORTS OF COMMITTEES

House

Ought to Pass As Amended

The Committee on **JUDICIARY** on Bill "An Act To Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY)
H.P. 1112 L.D. 1616

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-556)**.

Comes from the House with the Report **READ and ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-556)**.

Senate at Ease.

The Senate was called to order by the President.

Report **READ and ACCEPTED**, in concurrence.

Bill **READ ONCE**.

Committee Amendment "A" (H-556) **READ and ADOPTED**, in concurrence.

Under suspension of the Rules, Bill **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

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

COMMUNICATIONS

The Following Communication: S.C. 562

**STATE OF MAINE
128TH LEGISLATURE
OFFICE OF THE PRESIDENT**

July 1, 2017

Honorable Heather J.R. Priest
Secretary of the Senate
3 State House Station
Augusta, ME 04333

Dear Secretary Priest:

In reference to the action of the Senate on July 1, 2017 in which it Insisted and Joined in a Committee of Conference on L.D. 390, "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2018 and June 30, 2019" (H.P. 281) I am pleased to appoint the following as conferees on the part of the Senate:

Senator Michael D. Thibodeau of Waldo
Senator Roger J. Katz of Kennebec
Senator Cathy Breen of Cumberland

Please contact my office if you have any questions regarding these appointments.

Sincerely,

S/Michael D. Thibodeau
President of the Senate

READ and ORDERED PLACED ON FILE.

Ordered sent down forthwith.

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

ORDERS

Joint Order

On motion by Senator **MASON** of Androscoggin, the following Joint Order:

S.P. 598

Ordered, the House concurring, that when the Senate and House adjourn, they do so until the call of the President of the Senate and the Speaker of the House, respectively, when there is a need to conduct business, consider a biennial state budget or consider objections of the Governor.

READ and PASSED.

Ordered sent down forthwith for concurrence.

Off Record Remarks

All matters thus acted upon were ordered sent down forthwith for concurrence.

RECESSED until the sound of the bell.

After Recess the Senate was called to order by
President Pro Tempore Mason.

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

COMMUNICATIONS

The Following Communication: H.C. 301

**STATE OF MAINE
CLERK'S OFFICE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002**

July 1, 2017

The Honorable Heather J.R. Priest
Secretary of the Senate
128th Maine Legislature
Augusta, Maine 04333

Dear Secretary Priest:

The Speaker appointed the following conferees to the Third Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2018 and June 30, 2019" (EMERGENCY) (H.P. 281)(L.D. 390).

Speaker Sara Gideon of Freeport
Representative Aaron M. Frey of Bangor
Representative Tom J. Winsor of Norway

Please contact my office if you have any questions regarding these appointments.

Sincerely,

S/Robert B. Hunt
Clerk of the House

READ and ORDERED PLACED ON FILE.

Ordered sent down forthwith.

Off Record Remarks

ADJOURNED, pursuant to the Joint Order, until the call of the President of the Senate.