

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Fifth
Legislature***

OF THE

STATE OF MAINE

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**KENNEBEC JOURNAL
AUGUSTA, MAINE**

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker, I move that we recede and concur.

The SPEAKER: The gentlewoman from Bath, Mrs. Goodwin moves that the House recede and concur. The Chair will order a vote. All in favor of the motion to recede and concur will vote yes; those opposed will vote no.

A vote of the House was taken.

65 having voted in the affirmative and 37 having voted in the negative, the motion did prevail.

Orders

On motion of Mr. Cooney of Webster, the House reconsidered its action of yesterday whereby Bill "An Act Implementing the Reorganization of the Department of Environmental Protection." Senate Paper 772, L. D. 2051, was passed to be engrossed as amended by Senate Amendment "A".

The same gentleman then offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-594) was read by the Clerk.

The SPEAKER: The Chair recognizes the same gentleman.

Mr. COONEY: Mr. Speaker and Ladies and Gentlemen of the House: I would like to explain something that we have done in one of these reorganization bills to give you the opportunity to make the decision which the committee made, and I think there were some misgivings on the part of many members of the committee when we made the decision. And that concerns on page three of L. D. 2051, in Section 361, that has to do with the membership of the Board of Environmental Protection or the Environmental Improvement Commission as you know it presently.

Now we were under pressure last week to get these bills out. Certain lobbying groups were asking that we change the membership on the Environmental Improvement Commission to specifically include their vested interest. Well the pressures of the lobbyists and the pressures on us to get these bills out forced us to make a change increasing the membership of the manufacturing interests by one

member, making the board rather than ten members eleven members, with three specifically representing manufacturing rather than two.

Now I know someone is going to get up and say that it is a little inconsistent for me who asked you two days ago to change the Board of Education, to now stand before you and ask you keep the Environmental Improvement Board, but I will sacrifice my inconsistency if you will just be consistent.

So this is what we have done. I think it is an important thing to consider and I did want to offer this amendment to the House today, so that you rather than just the committee would have the opportunity to decide what you want the makeup of the Environmental Improvement Commission to be.

My own personal opinion, although I did go along with the majority of the committee, is that we probably have a board here which is new, which has worked fairly well so far, and I don't see any reason why we want to tamper with the makeup of it. So I would move the adoption of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker and Ladies and Gentlemen of the House: I think that you deserve a little bit more explanation on this. It wasn't entirely the lobbyists as such, but it was brought out that as far as mining is concerned, and we do have such things as limestone, which is considered mining; as a matter of fact there are several things that are becoming big industries that are considered as mining.

We closed out as part of the reorganization the Mining Board, and it seemed only fair to some of us that this Mining Board should be represented, plus the fact that if you have ten men you could have a standoff and if you had eleven men it is easier to come to a decision. So these are a couple of other factors that were in here. It wasn't simply that we had

yielded to pressures of the lobbyists.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Curtis.

Mr. CURTIS: Mr. Speaker, I would like to speak in behalf of accepting the amendment. My reason is that I too felt that as we abolished the mining commission, we ought to have something else to replace it, but on examination of the makeup of the Mining Commission, it seemed to be a relatively similar makeup to that of the EIC. That is there were public members as well as members from the industry. And it seems to me that the logical solution was for whoever is Governor to appoint people under the category of manufacturing who included both people from what we ordinarily think of manufacturing industries and also perhaps those from the mining interests. So I would like to support the motion.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker, as I understand the issue, it is a question of whether we want to change the present makeup in the Environmental Improvement Commission from ten to eleven. It seems to me that the commission has done a pretty good job on the whole, thus far, and I would hope we could leave the number unchanged so I would, you would, support the pending amendment.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I recall when the Research Committee studied this and worked on the makeup of the recommendation for the makeup of the numbers of the Environmental Improvement Commission. I mean, an odd number seemed to be more preferred than an even number.

I am not taking issue with the amendment as presented by the individual, I just would like to have somebody answer the question for me. Let's assume that the Environmental Commission which is made up of ten people, let's assume that a major problem arises before them and they are deadlocked at

five and five, who breaks that deadlock? If there is no way to break the deadlock, what happens? I mean if it is five and five and it can certainly happen on more than one occasion, who breaks the tie?

I would like to have somebody answer me that question before I vote on this amendment.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker, Ladies and Gentlemen: I cannot answer it with any great authority except I assume that it is the same as if we have a tie in this body here, that the pending motion or the pending action fails passage.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, we can have a tie on a bill here, but we have a presiding officer that can break the tie, number one, if he hasn't voted. Number Two, I mean our makeup of the Legislature is not even numbered. The makeup of the Legislature is 151. So, if 151 are present, it is impossible to have a tie for permanency.

The makeup of the Environmental Improvement Commission is ten members. If there are ten members on the Board and they have an important issue that comes before them, and a tie persists in being made up of ten people, the Commissioner, in this particular instance, cannot vote. The commission is made up of ten people including the Chairman.

Now, on that basis, I still ask the question, who breaks the tie?

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. McTeague.

Mr. McTEAGUE: Mr. Speaker, in an attempt to answer the gentleman from Lewiston, Mr. Jalbert, I believe the law on the EIC is the same as on our Supreme Judicial Court which has six members, also an even number.

And the rule there and the rule that I believe prevails with the EIC, is when there is a three-three or in the case of EIC, a five-five vote, the question pending before the commission, let's say an appli-

cation for a license for a discharge, is not granted.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker, Members of the House: I think the answer to the question is under the bill.

The Chairman, who is an ex-officio member of the board, does have the tie breaking authority. I just want to point out to you that these are the typical problems the State Government Committee has been faced with many, many times. This is the end of the session and we are throwing one back to you.

The SPEAKER: The Chair recognizes the gentleman from Webster, Mr. Cooney.

Mr. COONEY: I did just check with the attorney for the committee. He verified the fact that in the case of a tie, the Chairman of the Environmental Improvement Commission would break the tie. He is now an ex-officio eleventh member and he would break the tie, if there is a tie. I hope that answers the question, I did get it from a good authority.

The SPEAKER: The Chair recognizes the gentleman from Albion, Mr. Lee.

Mr. LEE: Mr. Speaker, Ladies and Gentlemen of the House: I don't know all the answers to these things and I am not that familiar with the reorganization. But speaking for the construction industry, I expect I should make my views known. I think the construction industry probably would be in favor of having this extra member; therefore, I would have to be against the amendment.

The SPEAKER: The Chair recognizes the gentleman from Casco, Mr. Hancock.

Mr. HANCOCK: Mr. Speaker, may I pose a question through the Chair to the gentleman from Webster, Mr. Cooney. Mr. Cooney said that he had just checked with the attorney for the committee. Could I inquire who the attorney is?

The SPEAKER: The gentleman from Casco, Mr. Hancock, poses a question through the Chair to the gentleman from Webster, Mr. Cooney, who may answer if he chooses.

The Chair recognizes that gentleman.

Mr. COONEY: The gentleman's name is Michael Healy.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I would like to ask a further question, if I may. Does the law say the ex-officio member has a vote or does not have a vote. I mean, if the chairman of the Commission is an ex-officio member, or the commissioner is an ex-officio member, and the law doesn't say that he has a vote, then how can he break a tie? How can he even vote?

Even if he has a vote, we actually have an 11-member board. If he does not have a vote under the law, how can, where does it say in the bill that he does have one and that he does have the right to break a tie?

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, poses a further question through the Chair to anyone who may answer if they choose.

The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker, the law reads, speaking of the Commissioner of Environmental Protection, "He shall be ex-officio a member of the Board of Environmental Protection and its Chairman." And it continues, "He shall have the right to vote only in the case of a tie vote." I am not the attorney but I think this is official.

The SPEAKER: The pending question is the adoption of House Amendment "A". All in favor of the adoption of House Amendment "A" will vote yes; those opposed will vote no.

A vote of the House was taken.

79 having voted in the affirmative and 39 having voted in the negative, the motion did prevail.

Thereupon, the Bill was passed to be engrossed as amended by Senate Amendment "A" and House Amendment "A" in non-concurrence and sent up for concurrence.

On motion of Mr. Hodgdon of Kittery, the House reconsidered its action of yesterday whereby it vot-