

# MAINE STATE LEGISLATURE

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**Legislative Record**

**OF THE**

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**(First Special Session)**

**OF THE**

**STATE OF MAINE**

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think most communities try to treat their employees fair, but I think if we were to indefinitely postpone House Amendment "B" it is going to take away an area of confidence that public officials must have in able to negotiate fairly. That is why I believe it is important that this amendment be placed on the bill.

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

Mr. ROBERTS: Mr. President, I agree with the good Senator from Cumberland, Senator Conley. We discussed it at some time in the Labor Committee because we had a bill which covered this very subject with respect to labor disputes only in the public sector. There was also this bill before the Legal Affairs Committee which covered negotiating and meetings in general, as well as those in the labor field. We felt that in the labor field these negotiations should remain closed and secret unless the parties agreed to open them themselves, and this is what this amendment would do. If we don't have this, then it is the other way around and they are open unless they agree to be closed, and usually at that stage of a labor negotiation they won't even agree on what day of the week it is, so certainly they are not going to agree to have them open. So I support Senator Conley's motion that we adopt House Amendment "B".

The PRESIDENT: Is it now the pleasure of the Senate to reconsider its action whereby it indefinitely postponed House Amendment "B"? The motion prevailed.

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

Mr. KATZ: Mr. President, can I clarify my thinking? By our previous action, I understood in killing this amendment that we said it would take one party to go into an executive session. Would somebody clarify that for me please.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the Senator from Somerset, Senator Corson.

Mr. CORSON: Mr. President and Members of the Senate: I would answer the question. As the bill is drafted, it would require the consent of both parties for the negotiations to be conducted in a closed session. House Amendment "B" would require the consent of both parties for the negotiations to be conducted in an open session. If both parties did not consent, under House Amendment "B", then the sessions would by law automatically be closed to the public. The reverse is true as it is drafted in the bill, that unless both parties agreed that the sessions be closed, they would by law be open. I hope that clarifies the situation.

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

Mr. CONLEY: Mr. President, if I can just read the statement of fact on House Amendment "B", which I think clarifies it, it says that "This amendment provides that negotiations between the representatives of a public employer and public employee may be open to the public provided both parties agree to conduct negotiations in open sessions." In other words, both parties must be agreeable to that. It certainly gives them leverage to do that. If one party says no, we are not ready to go public with it, and they are still in the process of negotiations, then they have the right to remain within the confines of private negotiations.

The PRESIDENT: Is it now the pleasure of the Senate to adopt House Amendment "B"?

The Chair recognizes the Senator from Somerset, Senator Corson.

On motion by Mr. Corson of Somerset, a division was had, 18 having voted in the affirmative, and 11 having voted in the negative. House Amendment "B" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

#### Ought to Pass in New Draft

Mr. Collins for the Committee on Judiciary on. Bill, "An Act Repealing the Expungement Law and Providing for the Control of Access of and Disclosure of Criminal History Record Information." (S. P. 730) (L. D. 2273)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Repealing the Expungement Law and Providing for the Control of Access to and Disclosure of Criminal History Record Information" (S. P. 773) (L. D. 2326).

Mr. Hichens for the Committee on Agriculture on. Bill, "An Act to Establish an Agriculture Lien Law." (S. P. 726) (L. D. 2261)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Establish a Potato Lien Law" (S. P. 775) (L. D. 2328).

Which reports were Read and Accepted and the Bills in New Draft Read Once.

Thereupon, under suspension of the rules, the Bills in New Draft were Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

#### Second Readers

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

##### House

Bill, "An Act to Establish a Division of Travel Information." (H. P. 2022) (L. D. 2201)

Which was Read a Second Time.

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

Mr. DANTON: Mr. President and Members of the Senate: I think we all agreed that the state needs to have a vacation travel office to promote tourism for Maine. The methods that have been put forth up to now are an increase in the sales tax or a room tax.

Over the weekend I have been working on this and I think I have an amendment that I can offer to this bill that will take care of the problem without a need to raise any taxes whatsoever, and I hope that someone would table this for me until tomorrow.

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

Thereupon, on motion by Mr. Marcotte of York, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

#### House — As Amended In Non-concurrence

Bill, "An Act to Improve Solid Waste Management." (H. P. 2090) (L. D. 2249)

Which was a Read a Second Time.

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

Mr. COLLINS: Mr. President, an amendment to this bill has been prepared and is now being printed but is not yet ready for distribution, and I therefore hope that someone might table it until later in today's session.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.

#### Orders of the Day

The President laid before the Senate the first tabled and Specially Assigned matter:

Bill, "An Act to Change County Budgets to an Annual Basis." (H. P. 2094) (L. D. 2253)

Tabled — March 25, 1976 by Senator Jackson of Cumberland

Pending — Passage to be Engrossed

(In the House — Passed to be Engrossed)

On motion by Mr. Speers of Kennebec, retabled and Tomorrow Assigned, pending Passage to be Engrossed.

The President laid before the Senate the second tabled and Specially Assigned matter:

Resolution, Proposing an Amendment to the Constitution to Assure Revenues for Bond Service and Prohibit State Bonding of Current Expenditures. (S. P. 689) (L. D. 2206)

Tabled — March 25, 1976 by Senator Speers of Kennebec

Pending — Motion of Senator Corson of Somerset to Reconsider Final Passage

(In the House — Finally Passed)

On motion by Mr. Speers of Kennebec, tabled pending the motion by Mr. Corson of Somerset to Reconsider Final Passage.

The President laid before the Senate the third tabled and Specially Assigned matter:

Bill, "An Act Relating to Costs in Contested Cases and Depositions in Probate Court." (S. P. 709) (L. D. 2236)

Tabled — March 26, 1976 by Senator Speers of Kennebec.

Pending — Consideration.

(Comes from the House — Bill and Accompanying Papers Indefinitely Postponed)

(In the Senate — Passed to be Engrossed as Amended by Committee Amendment "A" (S-454).

On motion by Mr. Clifford of Androscoggin, the Senate voted to Insist and Request a Committee of Conference.

The President laid before the Senate the fourth tabled and Specially Assigned matter:

House Reports — from the Committee on Business Legislation — Bill, "An Act Concerning the Geologist and Soil Scientist Certification Act." (H. P. 1993) (L. D. 2182) Ought to Pass in New Draft Under New Title of "An Act Relating to the Geologists and Soil Scientists Certification Act." (H. P. 2240) (L. D. 2322).

Tabled — March 26, 1976 by Senator Thomas of Kennebec.

Pending — Motion of Senator Cyr of Aroostook to Indefinitely Postpone bill and papers.

(In the House — Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-1100).

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I did move the indefinite postponement on this bill because I thought that we were restricting this. The original bill restricted the site investigation only to soil geologists and soil scientists, and my only objection to it is that I thought they were over-qualified for the job. Correspondingly, the cost was becoming prohibitive. In my own county, for instance, there is only one of these people that would meet the requirements, and he charges \$75 to look over the site, 60 cents a mile for his traveling expenses, and then \$16 an hour to sketch out the septic tank field.

Now, I have discussed this with Eugene Moreau from the plumbing control section, and the thing that I couldn't understand was the logic of trying to restrict site investigations to only these people but at the same time having the control and the enforcement under the plumbing section of Health and Welfare. It just didn't make sense to me at all.

Now, last year 188 people took the exam to become licensed for this site investigation, and 86 passed. Out of these 86, 35 were others, mostly master plumbers, 35 were professional engineers, and 26 were soil scientists and geologists, which this bill is talking about. Now, I asked Mr. Moreau what happened to the other 102 that didn't pass, were there any soil scientists and soil geologists in that group, and he said yes, there were quite a few. Well, come to find out, probably these people know the texture of the soils but they don't know the plumbing

code. Accordingly, they do not meet the requirements to be a site investigator.

Now, it is all right to have these qualifications for soil tests, for solid waste programs, for instance, or for large buildings where you are looking for the bearing capacity of the soil, but these site investigators only deal with septic tank systems and, therefore, I felt it was over-qualification on their part.

Now, what disturbed me very much was the requirements in this bill here, the second bill that we have, but come to find out, these requirements have been piggy-backed onto this bill by the Board of Certification of Geologists and Soil Scientists, and has nothing to do with the site investigation. So this is what really alarmed me, and after I was told that in this new bill we still have others. I mentioned in last Friday's debate that last year I introduced a bill to enlarge this field to agronomists, soil conservationists, master plumbers that have passed the exams, and so forth and so on, and I withdrew my bill upon the information I received at the hearing that in the original bill there is a provision for others. It is a very poor terminology to use because "others", you think it may mean anybody, but it doesn't. You have to take some courses. They have four courses available, and they have to pass an exam before they are licensed for site investigation. And in many cases they might be old master plumbers that know what they are talking about. They know the percolation, what soil will percolate and the soil that won't percolate. As a result of that, many of them have passed these exams.

So we have right now, for instance, 150 site investigators over the State of Maine, and this new bill does include others. So I am satisfied with that and, with this explanation, I now ask leave to withdraw my motion for indefinite postponement.

The PRESIDENT: The Senator from Aroostook, Senator Cyr, now requests leave of the Senate to withdraw his motion to indefinitely postpone this legislation. Is it the pleasure of the Senate to grant this leave?

It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: The good Senator from Aroostook, Senator Cyr, has perhaps cleared his own objections to the bill. I have some that he has not, and I think that my objections would find a favorable echo with Senator Cyr because, in my opinion, the bill as proposed unduly restricts people entering into the professions of geologist and soil scientist, and in addition have impractical or perhaps illegal methods of determining rules and regulations.

On page 3 of the new bill, L. D. 2322, it is proposed that the Board of Certification for Geologists and Soil Scientists which is created, and its office shall be within the Department of Conservation, shall cause to be prepared and adopt a code of professional conduct, which shall be made known in writing to each applicant and registrant. And listen to this: Each applicant shall subscribe to this code of ethics by signature. Now, this I am sure arouses in some of us the question of how are these rules and regulations being determined, has adequate public notice been given, and has a public hearing been held and provision made for input as a result of such a hearing. And the answer to all those questions in the bill is no.

It says that the publication of this code of ethics — and you will note that the publication is merely the mechanism of giving to each applicant a copy of these rules, not publishing it in a paper — the bill continues: This publication shall constitute due notice to all registrants. And then it goes on, to compound the power of the board — and I think it is a chance to compound its own illegal acts — that the board may amend this code of ethics from time to time,

and all it has to do is so notify each registrant that it has so made the change. Now, this is a tremendous amount of power to be in a board. And then, as I pointed out the other day about that immunity jewel that went through us, they have the clincher here that this notification shall be acknowledged by the registrants by signature to the revised code. I think this is totally an impractical method and I don't like the mechanical procedure provided.

On the next page, under the restrictions — and that is the word — for examinations, as I read the provisions for a geologist, only a college graduate can even hope to apply for examination and certification, and the same criticism applies to soil scientists. Now, these are certainly acts which I think Senator Cyr would agree would restrict people getting into this field. I am not talking now about plumbers, I am talking about people who are going to be registered by this Board of Registration for Geologists and Soil Scientists. I see nothing in here which grandfathers anybody who at present is a registered geologist or soil scientist.

I think these are real defects to the bill. We are in a posture of passing it to be engrossed, and I have no objections to having an opportunity for amendment, but I certainly am not going to commit myself to doing this in the short time available to us. I think this is a basic problem with the bill which should have been corrected before it reached this stage. As a matter of fact, the more I listen to myself talk, the more I think I will make the motion that the bill be indefinitely postponed.

The PRESIDENT: The Chair would advise the good Senator from Cumberland, Senator Berry, that the present posture of the bill is acceptance of the ought to pass in new draft report of the committee.

The Senator from Cumberland, Senator Berry, now moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I certainly am not going to shed blood on this one here with my good friend, Senator Berry, because I had the same objections. However, at the time of my objections, I thought that they needed to have all of these qualifications to become a site investigator, but I found out that all of this that he is talking about, first of all, the State Board of Certification for Geologists and Soil Scientists, apparently they don't have that, so it is the association or the professional organization of soil geologists and soil scientists that wants this bill and these requirements and this exam and all of that. They piggy-backed this information onto this bill which has nothing to do with the site investigation per se. You don't have to have these requirements to become a site investigator. And as far as site investigation, as far as the geologists and scientists are concerned, this is just a sideline, that's all it is.

And as I mentioned a while ago, I couldn't understand the logic of why you required soil scientists and geologists and site investigators to be so qualified, and then after that to have the plumbing code inspector here in charge of the enforcement of this thing. So whatever you want to do is all right with me. We will just live under what we have now.

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

Mr. THOMAS: Mr. President and Members of the Senate: As I said last week, I am no expert in this particular field, but Senator Berry of Cumberland did mention the grandfathering factor, and I understand that there will be an amendment on this bill, if we pass it in the Senate, that will grandfather it. It is being put on by someone in the other body.

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

Mr. BERRY: Mr. President, responding to Senator Cyr's comment, we have boards of registration of soil scientists and geologists now. Whether they are one or separate, I don't know, but such people are licensed in this state.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Berry, that this bill and all its accompanying papers be indefinitely postponed.

The Chair will order a division. Will all those Senators in favor of indefinite postponement please rise in their places until counted. Those opposed will rise in their places until counted.

A division was had. 19 having voted in the affirmative, and five having voted in the negative, the Bill was Indefinitely Postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the fifth tabled and Specially Assigned matter:

House Reports — from the Committee on Public Utilities — Bill, "An Act to Prohibit Public Utilities from Including Certain Political Advertising Material along with Customer Bills." (H. P. 1809) (L. D. 1968) Report A — Ought to Pass in New Draft Under Same Title (H. P. 2249) (L. D. 2323); Report B — Ought Not to Pass; Report C — Ought to Pass as Amended by Committee Amendment "A" (H-1089)

Tabled — March 26, 1976 by Senator Cummings of Penobscot.

Pending — Acceptance of any Report.

(In the House — Report "A" accepted and the Bill, in New Draft, Passed to be Engrossed.)

Mr. Trotzky of Penobscot moved that the Bill be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. TROTZKY: Mr. President and Members of the Senate: What this bill does is that it is an attempt by the public power advocates in the state to deprive the public utilities in the state of the right to defend themselves and to inform the customers of their side of the story.

Now, I think that the public can make an adequate decision at a referendum, but I feel that both sides of an argument should be put forth.

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

Mr. KATZ: Mr. President and Members of the Senate: I think the Senator from Penobscot, Senator Trotzky, would agree that there are only two really objectionable sentences or phrases within this bill, and both are found in section 106 of paragraph 1. I wonder before the Senator attempted to kill the entire bill if we might address ourselves to the positive aspects of the bill and see whether or not we can amend this to the liking of himself and others who feel like he does.

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

Mrs. CUMMINGS: Mr. President and Members of the Senate: I think if you will read the statement of fact that you will see it really covers pretty well what this bill was designed to do. I will have an amendment which will remove that the cost of any expenditure to influence a referendum issue from expenses may be charged to the ratepayers, which to me makes it a little more palatable. Actually the rest of this I think is a good bill. It spells out clearly which items can be inserted into the bills that public utilities hand out.

I think this was originally designed for electrical utility operations, but actually we have had a great deal of interest in this from truckers and railroads and water companies who feel that they need this method of communicating with their customers who feel that they need this method of communicating with their customers in order to give their point of view without the added expense of new envelopes and addressing these things.