

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Fifteenth Legislature**

OF THE

**State Of Maine**

**VOLUME III**

**FIRST REGULAR SESSION**

Senate

December 5, 1990 to May 20, 1991

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act to Require Administrative Agencies to Create Municipal Fiscal Impact Statements When They Create Rules"  
S.P. 403 L.D. 1079

Majority - **Ought to Pass.**

Minority - **Ought Not to Pass.**

Tabled - May 6, 1991, by Senator **CLARK** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, May 6, 1991, Reports **READ.**)

Senator **BERUBE** of Kennebec moved to **ACCEPT** the Majority **OUGHT TO PASS** Report.

**THE PRESIDENT:** The Chair recognizes the Senator from Kennebec, Senator Bustin.

Senator **BUSTIN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask for a Division on this matter and ask to speak to my motion. This is a Bill that I do not want to oppose, and I repeat, I do not want to oppose this Bill, because it is a good Bill. It is a municipal impact Bill, and certainly, we have put a fiscal impact on our Bills, we put a corrections impact on our Bills, and I certainly think we should be a municipal impact on our Bills. There is one thing wrong with this particular Bill, it is untimely. Because it will cost money, even though the fiscal note will tell you that it won't, it will cost money, because we don't have a mechanism yet to measure the fiscal impact of municipalities on any mandation or rules. That is because the Maine Municipal Association and others are working with the public policy at the University of Southern Maine, and it will take five to ten years before the computer model is up and running to do this kind of measurement. I don't know what we do in the meantime. You can put a fiscal note on it, but it will not make a whole lot of difference.

I would like to read into the Record part of letter from the Director of Income Maintenance from the Department of Human Services in which is said, "Several of the Department's Programs, including General Assistance itself, promulgate regulations which may have a direct/indirect impact on the amount that municipalities expend on welfare programs. At times it would be impossible to develop a fiscal note which would accurately reflect the anticipated increase or decrease in local fundings. For instance, a rule might be proposed in the General Assistance Program, which would impact on fuel payments. During the past two years, the price of oil has fluctuated so much, that a fiscal note developed in the spring would be totally inaccurate by the winter."

So, we do not have the computer model, we do not have a good way to give you a municipal fiscal note, even though I would like to see a piece of legislation like this pass, I know that is it going to cost money, and I know that we are not ready for it. So with trepidation, I ask that you vote against

this motion to accept this. One other thing, one of the things that some of us had suggested in Committee was, that we put the least restrictive or fiscally impacted approach language in this Bill. That was not something that the Committee felt that they wanted to do, so it did not get into the Bill, and now you just have a straight Bill asking for a fiscal impact statement from the municipalities. I think it would become a nightmare at this particular point in time. I think it is timely at a future date when we have the computer model and when the bugs are worked out of it. I would urge you to vote Ought Not To Pass on the motion. Thank you.

Senator **BUSTIN** of Kennebec requested a Division.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I am delighted to hear the Senator from Kennebec say it is a wonderful Bill, and I hope she will have a change of heart and vote for it. She gave some good reasons why. The main good reason is that it is not a mandate Bill as we have heard. Number one, this is a Bill that tells the departments when you promulgate rules and regulations, that you do it in such a way that it can be implemented fiscally at the local level. Number two, that you give them a general estimate of the overall costs. This Bill does not call for a minute description of what the costs would be, it just says if we are going to mandate, that you do such and such a thing, like with the Landfill Bill, you can expect to spend ten million dollars. That's all. At least we know that it would be ten million and not twenty-three million as one landfill has cost. Many times the departments exceed legislative intent, and they have no accountability, but we do. We certainly have accountability with our people, the people who send us here, but, departments, agencies, and bureaus have none of that. They go out and they promulgate rules and regulations that many times are well meaning, but cannot be implemented. So, all that this says is, that a general estimate of the overall cost of what it will cost to heat those multitude of regulations upon the municipalities.

Many agencies have the necessary information presently to comply with L.D. 1079. The Bill simply requires that they share that information with the local municipal officials, at least to alert them. Another thing that the Bill does, it would call for a public notice, so that once the people were aware that a particular rule would cost and "X" number of dollars, they would be prepared to question the reasoning of the rationale behind this rule, and secondly, possibly working together, they could arrive at a less expensive way of implementing that particular rule. If you were listening tonight, you heard a Bill earlier that would be a property tax savings measure. Well this, I think, will be, because it tells the public first what it will cost to implement a rule and regulation, and if it is too expensive, they will know how to deal with it. I ask you to please support the Ought To Pass Report, which is the Majority Report. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise as a former municipal official, as I know many of you are as well. As former Mayor of the City of Auburn, one of the things that we were always concerned about is the cost of government that is transmitted back to local government from the actions of the state.

I think that this is a responsible Bill. What it does is, as we do here, tries to determine what the cost of an action or a requirement is on a particular level of government. I think it is responsible, it is good government, we ought to have some estimation on what an item costs. Certainly, individually as we each go to the store and purchase, we look at the price of the item to determine whether we can afford it or not. I think municipal government deserves no less. Clearly, it will not be a perfect tool, but I think we cannot afford to wait five to ten years to have a perfect instrument. I think this tool now, beginning to be implemented, will provide a meaningful service, and hopefully, will expedite the improvement of the tools used so that they will be more meaningful, more quickly, and I would urge the Senate to support it. Thank you.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report.

A Division has been requested.

Will all of those in favor of the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

28 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT TO PASS** Report, **PREVAILED**.

Under suspension of the Rules, The Bill **READ TWICE**.

On motion by Senator **BERUBE** of Androscoggin, Senate Amendment "A" (S-130) **READ**.

**THE PRESIDENT:** The Chair recognizes that same Senator.

Senator **BERUBE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Very briefly, this simply adds the fiscal note to the Bill that we just accepted.

On further motion by same Senator, Senate Amendment "A" (S-130) **ADOPTED**.

Which was, **PASSED TO BE ENGROSSED, as Amended**.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Specially Assigned matter:

**NOMINATION** - of Gary Cobb of North New Portland for appointment to the Inland Fisheries and Wildlife Advisory Council

Tabled - May 6, 1991, by Senator **CLARK** of Cumberland.

Pending - **CONSIDERATION**

(In Senate, May 6, 1991, Communication from the Committee on **FISHERIES AND WILDLIFE READ** and **ORDERED PLACED ON FILE**.)

**THE PRESIDENT:** The Joint Standing Committee on Fisheries and Wildlife has recommended the nomination of Gary Cobb of North New Portland, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on Fisheries and Wildlife be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 115th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A Vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

**YEAS:** Senators None

**NAYS:** Senators **BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, FOSTER, GAUVREAU, GILL, GOULD, HOLLOWAY, KANY, LUDWIG, MATTHEWS, MCCORMICK, MILLS, PEARSON, RICH, SUMMERS, THERIAULT, TITCOMB, TWITCHELL, VOSE, WEBSTER, THE PRESIDENT - CHARLES P. PRAY**

**ABSENT:** Senators **BALDACCI, COLLINS, EMERSON**

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be **ACCEPTED** and the nomination of Gary Cobb, was **CONFIRMED**.