

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

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vices where those services are not required in the other counties. So I would hope that today you would go along with the recede and concur motion so that this could be amended and hopefully get it into some form, and regardless of whether it came up for final enactment, passed final enactment, it would allow this body to have input on this because this business of reform of county government is a never ending thing that always surfaces in every legislature, and if the feeling of this body could be had on this bill, as I say, whether it passes or not, at least it would give something to the next session to know what the feeling was as far as county government was concerned.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: This is pretty slick right here. You have really got something. You look at Senate Amendments 503 and 504 and then you look at the original bill. All they did was take it out of the white sheets and put it on the yellow. This says the same identical thing. I say that is smooth.

It says on this S-503, the county may raise and appropriate money for the purposes of operating county government, performing any duties required of it by law and providing for any operations expressly authorized by state statute which by their nature required the expenditures of money. That is just exactly as it is in the original bill.

Then you swing over to S-504. Here is the one. I want you to know that Mr. Dam has surely given us a good one today. He is an excellent speaker and I like him, he is on my Taxation Committee, but he doesn't act that way in Taxation. I don't know why. He says that we will have the board. The members of the board shall be elected at the biennial meetings of the voters for the election of Senators and Representatives, which is perfectly all right, and established by the Constitution of Maine, Article II, Section 4, for a two-year term, which is perfectly all right, in the same manner as are the town officials when such persons are nominated by nomination papers and elected by the secret ballot. The only thing they have done here is amend the bill where they had to amend it to get the time of election. This bill hasn't changed, don't let them fool you. This bill hasn't changed one bit and I can prove it to you. Every page is the same.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Skowhegan, Mr. Dam, that the House recede and concur. All in favor of that motion will vote yes; those opposed will vote no.

Thereupon, Mr. Dam of Skowhegan requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Skowhegan, Mr. Dam, that the House recede and concur. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Bachrach, Berry, G. W.; Berube, Burns, Call, Carpenter, Chonko, Conners, Cote, Curran, R.; Curtis, Dam, Doak, Durgin, Dyer, Farley, Faucher, Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Higgins, Immonen, Ingegneri, Jackson, Jalbert, Kelley, Laffin, Littlefield, Lovell, Lunt, Mackel, Martin, A.; Maxwell, McBreairty, McKernan,

Morton, Pearson, Perkins, T.; Peterson, P.; Rollins, Saunders, Snow, Snowe, Susi, Tarr, Theriault, Tozier, Truman, Walker, Webber.

NAY — Albert, Bagley, Bennett, Berry, P. P.; Birt, Blodgett, Boudreau, Bowie, Bustin, Byers, Carey, Carroll, Carter, Churchill, Clark, Connolly, Cooney, Cox, Davies, DeVane, Drigotas, Farnham, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Goodwin, H.; Hall, Hennessey, Hewes, Hobbins, Hughes, Hunter, Hutchings, Jensen, Joyce, Kany, Kauffman, Kelleher, Kennedy, LaPointe, Laverty, LeBlanc, Leonard, Lewin, Lewis, Lizotte, Lynch, MacEachern, MacLeod, Martin, R.; McMahon, Mills, Miskavage, Mitchell, Morin, Mulhern, Nadeau, Najarian, Peakes, Pelosi, Perkins, S.; Peterson, T.; Pierce, Post, Quinn, Raymond, Rideout, Rolde, Shute, Silverman, Spencer, Sprowl, Strout, Stubbs, Talbot, Tierney, Torrey, Twitchell, Tyndale, Usher, Wagner, Wilfong, Winship, The Speaker.

ABSENT — Curran, P.; Dow, Dudley, Gauthier, Hinds, Jacques, Mahany, Norris, Palmer, Powell, Smith, Teague.

Yes, 53; No, 86; Absent, 12.

The SPEAKER: Fifty-three having voted in the affirmative and eighty-six in the negative, with twelve being absent, the motion does not prevail.

Thereupon, on motion of Mr. Finemore of Bridgewater, the House voted to adhere.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, I move we reconsider our action whereby we voted to adhere and hope you all vote against me.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves that we reconsider our action whereby we voted to adhere. All in favor will say yea; those opposed will say nay.

A viva voce vote being taken, the motion did not prevail.

Messages and Documents

The following Communication: (H. P. 2273)
State of Maine

One Hundred and Seventh Legislature
Committee on Energy

March 26, 1976

Senator Jerrold B. Speers, Chairman

Legislative Council

State House

Augusta, Maine 04333

Dear Senator Speers,

In accordance with House Paper 1716, directing the Committee on Energy to determine the number of unused and abandoned hydroelectric dams in this State, to determine the potential in Maine for the production of electrical energy by hydroelectric means, and to determine methods for the restoration of Maine's unused and abandoned dams to full production of electric power, we enclose herein the final report of the Committee.

Respectfully submitted,

(Signed)

JOHN B. ROBERTS

Co-Chairman, Energy Committee

(Signed)

ROBERT M. FARLEY

Co-Chairman, Energy Committee

The Communication was read and ordered placed on file.

Enactor

Tabled and Assigned

An Act Clarifying the Use of the Mental Health Improvement Fund (H. P. 2068) (L. D. 2238) (C. "A" H-1024, H. "A" H-1142)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Mr. Goodwin of South Berwick, tabled pending passage to be enacted and tomorrow assigned.

Passed to Be Enacted

An Act to Make Health Care Projects Eligible for Bonding under the Maine Municipal Securities Approval Act (H. P. 1899) (L. D. 2079) (C. "A" H-1128)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Improve Solid Waste Management (H. P. 2090) (L. D. 2249) (S. "C" S-489, S. "B" S-486 as Amended by S. "A" S-490 and S. "B" S-491, thereto)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: On March 30, I posed an inquiry to the Chair as to whether Joint Rule 28 was applicable to this bill and whether the bill violated the provisions of that rule.

The Chair ruled, and I quote "At this point in time in the process, it is in the amending process of a bill which in fact ends up in the same posture perhaps, and the Chair is not in a position to rule on that motion. Besides that, the Chair would rule that Joint Rule 28 does not apply in this instance at this point in time."

Mr. Speaker, I have reviewed L. D. 1888, An Act to Require Returnable Beverage Containers, which was finally rejected by this legislature at the regular session. I have also reviewed L. D. 2249, An Act to Improve Solid Waste Management, as it has been engrossed for passage to be enacted.

I would call the Chair's attention to Section 16 of L. D. 2249 and L. D. 1888. The provisions of Section 16 of L. D. 2249 are essentially identical to L. D. 1888. Section 1862 of L. D. 2249, with the exception of minor modifications in the definition of dealer, manufacturer, premise and the addition of the definition of operator of vending machines is identical to L. D. 1888. Section 1863 of L. D. 2249 has the same substantive meaning as the refund value provision contained in L. D. 1888. The provisions of Section 1865 of L. D. 2249 are identical to L. D. 1888. The provisions relating to distributors acceptance in Section 1865 are identical and the other provisions of Section 1865 are essentially the same, with the exception of the dealer acceptance provision. The provisions relating to redemption centers are identical except for the addition of a sentence relating to posted lists. The provisions relating to penalties are identical. Therefore, Mr. Speaker, I now inquire as to whether L. D. 2249 as engrossed is before this body in violation of Joint Rule 28?

The SPEAKER: The Chair would rule that Joint Rule 28 specifically says, no measure which has been introduced and finally rejected shall be introduced at any special session of the same legislature, except by a vote of two-thirds of both Houses. At this point in time, the matter of introduction is not a question. Therefore, the Chair would rule that the matter in fact is before this body.

The Chair recognizes the gentleman from Mapleton, Mr. Rideout.

Mr. RIDEOUT: Mr. Speaker, I move that this bill and all accompanying papers be indefinitely postponed.

Thereupon, Mr. Dam of Skowhegan requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. McBreairty.

Mr. MCBREAIRTY: Mr. Speaker, Ladies and Gentlemen of the House: When this bill first came out, as I stated, it did nothing. Then it was changed so that it does allow that the dealer could charge, but he didn't have to give it back.

Presently there is a section in this bill that allows people with vending machines to charge you, but they don't have to give it back. So I still think there is a real question as to whether this bill is right or not.

The SPEAKER: The pending question is on the motion of the gentleman from Mapleton, Mr. Rideout, that this Bill and all accompanying papers be indefinitely postponed in non-concurrence. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Berube, Boudreau, Call, Carter, Cote, Curran, R.; Curtis, Drigotas, Durgin, Dyer, Farley, Faucher, Finemore, Fraser, Immonen, Jalbert, Kauffman, Kelleher, Laffin, Lewis, Lizotte, Lunt, Maxwell, McBreairty, Morin, Norris, Peterson, P.; Raymond, Rideout, Talbot, Tarr, Truman, Twitchell, Walker, Webber.

NAY — Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Blodgett, Bowie, Burns, Bustin, Byers, Carey, Carpenter, Carroll, Chonko, Churchill, Clark, Conners, Connolly, Cooney, Cox, Curran, P.; Dam, Davies, DeVane, Doak, Farnham, Fenlason, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hobbins, Hughes, Hunter, Hutchings, Ingegneri, Jackson, Jensen, Joyce, Kany, Kelley, Kennedy, LaPointe, Laverty, LeBlanc, Leonard, Lewin, Littlefield, Lovell, Lynch, MacEachern, Mackel, MacLeod, Martin, A.; Martin, R.; McKernan, McMahan, Miskavage, Mitchell, Morton, Mulhern, Nadeau, Najarian, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, T.; Pierce, Post, Quinn, Rolde, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Sprowl, Strout, Stubbs, Susi, Theriault, Tierney, Torrey, Tozier, Tyndale, Usher, Wagner, Winfong, Winship.

ABSENT — Dow, Dudley, Gauthier, Hinds, Jacques, Mahany, Mills, Palmer, Powell, Smith, Teague.

Yes, 36; No, 103; Absent, 11.

The SPEAKER: Thirty-six having voted in the affirmative and one hundred and three in the negative, with eleven being absent, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker, having voted on the prevailing side, I move that we reconsider our action and hope you vote against me.

The SPEAKER: The gentleman from Bangor, Mr. McKernan, moves that the House reconsider its action whereby this Bill was passed to be enacted. All in favor of reconsideration will say aye; those opposed will say nay.

A viva voce vote being taken, the motion did not prevail.

An Act to Set the Unemployment Insurance Contribution Rate for New Employers at the Average Contribution Rate for All Employers in the Previous Year (H. P. 2144) (L. D. 2284) (C. "A" H-1010)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The following paper appearing on Supplement No. 4 was taken up out of order by unanimous consent:

Bill "An Act to Establish Uniform Standards for the Measurement of Wood" (Emergency) (H. P. 2277) (Presented by Mr. Mahany of Easton) (Approved for Introduction by a Majority of the Committee on Reference of Bills pursuant to Joint Order, S. P. 635, as amended)

Was referred to the Committee on Agriculture, ordered printed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following papers appearing on Supplement No. 3 were taken up out of order by unanimous consent:

From the Senate:

The following Communication:
The Senate of Maine
Augusta, Maine

April 1, 1976

Honorable Edwin H. Pert
Clerk of the House
107th Legislature
First Special Session
Augusta, Maine 04333
Dear Mr. Pert:

The President appointed the following members of the Senate to the Committee of Conference on Bill, "An Act Relating to Costs in Contested Cases and Depositions in Probate Court" (S. P. 709) (L. D. 2236):

COLLINS of Knox
CLIFFORD of Androscoggin
MERRILL of Cumberland

The President appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Permit Local Plumbing Inspectors to Approve Repairs to Existing Septic Systems" (H. P. 2206) (L. D. 2306):

BERRY of Cumberland
TROTZKY of Penobscot
CARBONNEAU of Androscoggin

The President appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Establish the Dates of Legislative Sessions and to Clarify Laws Relating to Expenses of Legislators" (S. P. 663) (L. D. 2087):

CURTIS of Penobscot
KATZ of Kennebec
GRAHAM of Cumberland

The President appointed the following members of the Senate to the Committee of Conference on Bill, "An Act Relating to the Geologists and Soil Scientists Certification Act" (H. P. 2240) (L. D. 2322):

BERRY of Cumberland
CYR of Aroostook
O'LEARY of Oxford

The President appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Regulate Drinking Water" (S. P. 687) (L. D. 2198):

CUMMINGS of Penobscot
GREELEY of Waldo
CYR of Aroostook

The President appointed the following members of the Senate to the Committee of Conference on Bill, "An Act Enabling Municipalities to Conduct Soil Tests to Determine Feasibility of Solid Waste Disposal Sites" (H. P. 1948) (L. D. 2134):

WYMAN of Washington
GRAHAM of Cumberland
CORSON of Somerset

Respectfully,
(Signed)

HARRY N. STARBRANCH
Secretary of the Senate.

The Communication was read and ordered placed on file.

From the Senate: The following Communication:

The Senate of Maine
Augusta, Maine

April 1, 1976

Honorable Edwin H. Pert
Clerk of the House
107th Legislature
First Special Session
Augusta, Maine 04333

Dear Mr. Pert:

The Senate today voted to Adhere to its action whereby it indefinitely Postponed Bill, "An Act to Provide for More Effective Debt Management and for more Effective Administration of the State's Development Financing Capability" (H. P. 1816) (L. D. 1974).

Respectfully,

(Signed)

HARRY N. STARBRANCH
Secretary of the Senate

The Communication was read and ordered placed on file.

From the Senate: The following Joint Order: (S. P. 784)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Lytle Annie Wood of Morrill Recognized by the Maine Extension Association as the Outstanding Community Leader for 1976

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

From the Senate: The following Joint Order: (S. P. 785)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Elizabeth Bailey Keller of Knox Recognized by the Maine Extension Association as the Outstanding Homemaker for 1976

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

From the Senate: The following Joint Resolution: (S. P. 786)

IN MEMORIAM

Having Learned of the Death of Clarence A. Paul of Belfast Who Served Thirty-six Years as County Commissioner and was an Outstanding Citizen

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine.