

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Seventh Legislature
State of Maine

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beginning at page H-1188

thirds vote of all the members elected to the House being necessary, a total was taken. 145 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Thursday, January 14, 2016, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act To Establish Ranked-choice Voting"
(I.B. 2) (L.D. 1557)

TABLED - January 14, 2016 (Till Later Today) by Representative McCABE of Skowhegan.

PENDING - **REFERENCE**.

Subsequently, Representative McCABE of Skowhegan moved that the Bill and all accompanying papers be **INDEFINITELY POSTPONED**.

Representative FREDETTE of Newport **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE** the Bill and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The **SPEAKER**: The Chair recognizes the Representative from Scarborough, Representative Sirocki.

Representative **SIROCKI**: Thank you, Mr. Speaker, while I understand that this body customarily votes to indefinitely postpone ballot initiatives, I rise in strong opposition to this motion of Indefinite Postponement and I urge reference to a committee for vetting. It is my understanding that ranked-choice voting is not a new idea. Previous legislatures have not approved similar measures largely due to clear language in Maine law. The law library has researched this issue for me and this state's numerous attorney generals have never made a determination on the constitutionality of ranked-choice voting.

The bill has failed in committee many times for good reason and I believe because it is so blatantly in violation of our constitution. Julie Flynn, of the Secretary of State's Office, has previously testified on a similar bill in the 126th, LD 860, and I'd like to read just a portion of her testimony. So, in part, "The first consideration is that this bill appears to conflict with Maine Constitution, which currently is interpreted to provide that a candidate for these offices is elected if the candidate receives a plurality of the votes." This is Article V, Part 1st, Section 3 for Governor, and Article IV, Part 2nd, Section 4 for State Senators, and Article IV, Part 1st, Section 5 for State Representatives.

And she goes on. "Except in the rare instances when two candidates have received an equal amount of votes, one candidate has always received a plurality of the votes cast during the first round of counting by the municipalities once the municipality totals are reported to and are aggregated by the Secretary of State." And one more point: "Additionally, for each of these offices, the Maine Constitution requires that the votes be received, sorted, counted, and declared by dually authorized officials of the various towns and cities. A list of the person's voted for be formed and copies of the list be attested and delivered to the Secretary of State. Accordingly, this bill appears to conflict with these other sections of the Constitution by requiring that the Secretary of State conduct the second and

subsequent rounds of counting and that the candidate with the greatest number of votes in the final round of counting is elected."

Was the constitutionality of this proposal to radically change the way we vote explained to more than 60,000 Mainers that signed the petition, will it be explained to hundreds of thousands of Mainers who are expected to vote on this bill in November? Legislating by way of ballot initiative means that the voters, in essence, become legislators. It, ultimately, becomes a voter's responsibility to read the fine print and understand it, but many assume that measures before them are constitutional. Therefore, I strongly urge this body to refer this bill to a committee for vetting.

At the minimum, an evaluation should be made by a committee of jurisdiction so that voters have some sort of basis from which to make an informed decision. I believe it is our duty as legislators, the one to which we were all elected, to request a determination regarding constitutionality of this important bill before it is sent to the voters. We each took an oath to uphold and defend our Constitution. Shame on us if we ignore it. Thank you. Please follow my light in opposition to the pending motion.

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Indefinite Postponement of the Bill and all accompanying papers. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 469

YEA - Alley, Babbidge, Bates, Beavers, Beck, Blume, Brooks, Bryant, Burstein, Chapman, Chenette, Chipman, Cooper, Daughtry, Davitt, DeChant, Devin, Dion, Doore, Duchesne, Dunphy M, Evangelos, Farnsworth, Fecteau, Fowle, Frey, Gattine, Gideon, Gilbert, Golden, Goode, Grant, Grohman, Hamann, Harlow, Herbig, Hickman, Hobbins, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kumiega, Lajoie, Longstaff, Luchini, Martin J, Martin R, Mastraccio, McCabe, McCreight, McLean, Melaragno, Monaghan, Moonen, Morrison, Nadeau, Peterson, Picchiotti, Pierce T, Powers, Rotundo, Russell, Rykerson, Sanborn, Saucier, Schneck, Short, Stanley, Stuckey, Tepler, Tipping-Spitz, Tucker, Verow, Warren, Welsh, Mr. Speaker.

NAY - Austin, Battle, Bickford, Black, Buckland, Campbell R, Chace, Corey, Crafts, Dunphy L, Edgecomb, Espling, Farrin, Foley, Fredette, Gerrish, Gillway, Ginzler, Greenwood, Guerin, Hanington, Hanley, Harrington, Hawke, Head, Herrick, Higgins, Hilliard, Hobart, Kinney J, Kinney M, Lockman, Long, Lyford, Maker, Marean, McClellan, McElwee, Nutting, O'Connor, Ordway, Parry, Pickett, Pierce J, Pouliot, Prescott, Reed, Sanderson, Sawicki, Seavey, Sherman, Sirocki, Skolfield, Stearns, Stetkis, Theriault, Timberlake, Timmons, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Winsor, Wood.

ABSENT - Beebe-Center, Campbell J, Dillingham, Kruger, Malaby, Sukeforth.

Yes, 78; No, 67; Absent, 6; Excused, 0.

78 having voted in the affirmative and 67 voted in the negative, with 6 being absent, and accordingly the Bill and all accompanying papers were **INDEFINITELY POSTPONED**. Sent for concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.
