

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

INDEX

Senate Confirmation Session

June 14, 1978

INDEX

First Special Session

September 6, 1978 — September 15, 1978

INDEX

Second Special Session

October 18, 1978

INDEX

Third Special Session

December 6, 1978

INDEX

APPENDIX

H-1203; H. "R" H-1206; H. "S" H-1207; H. "T" H-1208; S. "C" S-567; S. "G" S-571; S. "H" S-572; S. "I" S-573; S. "J" S-574; S. "K" S-575 as amended by H. "A" H-1204; S. "L" S-576; S. "M" S-577; S. "N" S-578; S. "O" S-579; S. "P" S-580)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all members elected to the House necessary, a total was taken. 114 voted in favor of same and 4 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(Off Record Remarks)

On motion of Mr. Tierney of Lisbon Falls, the House voted to take from the table the first tabled and unassigned matter:

House Divided Report — Majority (8) "Ought to Pass" — Minority (5) "Ought Not to Pass" — Committee on Local and County Government on Bill, "An Act to Revise the Municipal Boundary between the Town of Old Orchard Beach and the Town of Saco" (H. P. 1980) (L. D. 2072)

Tabled — March 6, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Acceptance of either Report.

Thereupon, on motion of Mr. Kerry of Old Orchard Beach, the Majority "Ought to Pass" Report was accepted and the Bill read once. Under suspension of the rules, the Bill was read the second time.

On motion of Mr. Burns of Anson, tabled pending passage to be engrossed and later today assigned.

(Off Record Remarks)

On motion of Mrs. Kany of Waterville,
Recessed until three o'clock in the afternoon.
After Recess
3:00 P.M.

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Mr. Palmer of Nobleboro,
Recessed until the sound of the gong.
After Recess
6:00 P.M.

The House was called to order by the Speaker.

Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

Bill, "An Act Making Certain Substantive Revisions to the Marine Resources Statutes" (H. P. 1939) (L. D. 2019)

Tabled — March 17 (Till Later Today) by Mr. Greenlaw of Stonington.

Pending — Passage to be Engrossed.

Mrs. Post of Owls Head offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1214) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the second item of Unfinished Business:

Bill, "An Act Adjusting Appropriations and Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary for the Proper Operations of State Government for the Fiscal Years Ending June 30, 1978 and June 30, 1979" (Emergency) (S. P. 740) (L. D. 2195)

Tabled — March 17 (Till Later Today) by Ms. Goodwin of Bath.

Pending — Passage to be Engrossed.

On motion of Mr. Tierney of Lisbon Falls, retabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the third item of Unfinished Business:

Bill, "An Act to Establish the Health Facilities Information Disclosure Act" (S. P. 695) (L. D. 2136)

Tabled — March 17 (Till Later Today) by Mr. Goodwin of South Berwick.

Pending — Passage to be Engrossed.

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

The Chair laid before the House the first tabled and today assigned matter:

Joint Order — Relative to Amending Joint Rule 33 — Expressions of legislative sentiment (H. P. 2275)

Tabled — March 17, 1978 (Pursuant to the rules)

Pending — Passage

Thereupon, the Order received passage and was sent up for concurrence.

The Chair laid before the House the following matter:

Resolution, Proposing an Amendment to the Constitution to Provide that Taxes Which a School District is Authorized to Levy May be Assessed in Any Cost-sharing Formula Mutually Agreeable to the Communities Involved (S. P. 749) (L. D. 2198) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: It is perhaps unfortunate that this resolution should come before the House in the closing days of this regular session, but I have some questions that I would like to ask and I hope that if it does nothing else but generate an understanding of what the resolution is all about, then my questions, hopefully, will be well asked.

What I would like to do is pose a question to some member of the Education Committee to explain why they have recommended to the Legislature that a constitutional amendment be recommended to the people of the State of Maine as opposed to attempting to remedy the situation of the so-called pay-ins in the SAD's and CSD's through a change in statutory language?

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, I would like to pose an additional question to any member of the Education Committee on this very subject. I would add to the previous speaker's question the following: If the constitutional amendment is adopted by this body and the other body and subsequently approved by the voters of the state, will it not have the effect of literally setting in cement the existing formulas, some of which are the cause of a lot of existing problems within the SAD's, setting them in cement so they can't be changed? That is a very important question as it impacts on my SAD, since we are one of the formula "D" districts that are having a lot of problems.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker and Members of the House: The legislation says that cost-sharing must be mutually agreed upon. It doesn't see anything in cement.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Wood.

Mr. WOOD: Mr. Speaker, I would just like to ask a question following up on Representative McMahon's. Would they then have to come before the legislature for validation of their formula, each individual district?

The SPEAKER: The gentleman from Sanford, Mr. Wood, has posed a question to anyone who may care to answer.

The Chair recognizes the gentleman from

Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, the answer is yes. All of those SAD's, CSD's will have to be validated.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, I would like to pose a further question, and in case any of you here are wondering, we are inserting this in the record for what we think are very important reasons.

Based on the previous speaker's questions and Mr. Lynch's answer, can I assume that if the constitutional amendment is approved, that an SAD such as mine, for example, that has a formula that causes a great deal of difficulty in the apportioning of the costs locally, that that SAD can change its formula and come to this body with a changed formula and receive the approval of this body? If so, how would that be done mechanically? Would it be done by a bill applying only to that SAD?

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch, who may respond if he so desires.

Mr. LYNCH: Mr. Speaker, I am not sure, but I would assume that all the SAD's and CSD's, would be validated at one time.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, not to belabor the point, but the good gentleman expressed just what our fear is. If the constitutional amendment is approved, we will very likely have one vehicle before us in the 109th Legislature approving or legitimizing everything that exists. What about those districts that are locked into situations that they don't want to continue to exist? Are we going to be able up here to change the agreement for one particular district?

The SPEAKER: The gentleman from Kennebunk, Mr. McMahon, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch, who may answer if he so desires.

Mr. LYNCH: Mr. Speaker, if the districts and CSD's are all validated at one time, my opinion, for what it is worth, the validation will be on the cost-sharing basis agreed to by all the communities within the SAD or CSD. You can't validate a CSD or SAD unless they have agreed to a cost-sharing basis. You are really going back to ground zero in asking them to come up with a cost-sharing formula.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: We are asking the gentleman from Livermore Falls, Mr. Lynch, this evening to do some yeoman's work and I still haven't had an answer to my question. Perhaps he was in the hall when I asked it. I would like to repeat the question and if he could render an answer, I would appreciate it very much. The question is, what is the need for a constitutional amendment and are we, in fact, not tying ourselves into something that we might have otherwise accomplished by amending the statutes rather than proposing a constitutional amendment?

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, I think the answer to that is, if you want a cost-sharing formula that is based on pupils and state valuation, you have to go the constitutional route.

There is provision now based only on state valuation. If an SAD wants to go straight state valuation cost-sharing, they can do so now, but if they want to share on pupils and state valuation, the only solution is the constitutional route.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Wood.

Mr. WOOD: Mr. Speaker, I would like to pose

a further question through the Chair. If there are formulas or agreement in place right now, if the school districts cannot, through problems of negotiations in terms of debt, if they have incurred debt, it is my understanding it is very difficult to renegotiate and if they cannot renegotiate, it is assumed that we will validate what is already in place or will they have options to further renegotiate and how will they do that?

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, I am not a lawyer and I am not sure that I can give you the answer. The only thing I can see is, they have to come to a mutual agreement on a cost-sharing basis. If they have outstanding debt on a district, they are going to have to satisfy the bond holders, and if they are not able to come to a cost-sharing basis, I am sure the bond holders will make it difficult for them to do almost anything.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: Another question to the Chairman of the Education Committee. You said this would be done by agreement, coming to the legislature to change the formula. Let's go back one step. How do we get to that agreement? Is that agreement done by each individual town in the SAD or must the agreement be taken by a full vote of the entire SAD?

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, I am not sure I should have come back into the chamber. You are going to have to go through the same procedure that you did in forming the SAD. You arranged a cost-sharing basis on a voluntary agreement. If you want to change the cost-sharing basis, it has to be voluntary. Does that answer your question?

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, we will have in place, when this constitutional amendment goes in, agreements already on the books. What is the mechanism to change those agreements? Again, will it be a vote of each one of the towns within the SAD or must it be a total vote of the SAD?

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch, who may respond to the question.

Mr. LYNCH: Mr. Speaker, the vote would be done exactly as it was done when the SAD was formed in the first place.

Thereupon, the Resolution was passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

The Chair laid before the House the following matter:

Bill "An Act to Revise the Municipal Boundary Between the Town of Old Orchard Beach and the Town of Saco" (H. P. 1980) (L. D. 2072) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I stopped this bill at this point this morning because I did want to point one thing out, and it goes against my grain very much that there is no referendum on this. We are changing the lines of the towns without asking the people to vote on it, and I cannot in all good conscience go along with a bill like that, thinking that down the road somebody may put a bill in and before I know it, I will go to sleep in North Anson and wake up in Embden.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr.

Kerry.

Mr. KERRY: Mr. Speaker, as I stated this morning about House Amendment "A", has that been offered correctly, first of all? Should it be offered at this point?

The SPEAKER: The Chair would advise the gentleman he may offer House Amendment "A" at this time.

Thereupon, Mr. Kerry of Old Orchard Beach offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1213) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the following matter:

"An Act to Conform State Statutes to the Maine Administrative Procedure Act" (H. P. 2107) (L. D. 2145) (H. "A" H-1150 to C. "A" H-1146— which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

The following papers appearing on Supplement No. 12 were taken up out of order by unanimous consent:

The following Joint Order: (S. P. 758)
ORDERED, the House concurring, that the following be recalled from the Governor's office to the Senate: Bill, An Act to Abolish the Mental Health and Mental Retardation Improvement Fund and Make Appropriation from the General Fund to Continue Existing Programs" (H. P. 2010) (L. D. 2085)

Came from the Senate read and passed.

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

By unanimous consent, ordered sent forthwith.

Ought to Pass

Pursuant to Joint Order S. P. 753

Committee on Education reporting "Ought to Pass" — Pursuant to Joint Order (S. P. 753) on Bill "An Act Creating an Interim Education Finance Commission" (Emergency) (S. P. 755) (L. D. 2204)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-594)

In the House, the Report was read and accepted in concurrence and the Bill read once.

Senate Amendment "A" (S-594) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

Non-Concurrent Matter

Bill "An Act to Clarify the Education Laws" (H. P. 2018) (L. D. 2093) which was Passed to be Engrossed as amended by Senate Amendment "B" (S-564) and House Amendment "A" (H-1148) as amended by House Amendment "A" (H-1211) thereto in the House on March 17.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-1148) as amended by Senate Amendment "A" (S-592) and House Amendment "A" (H-1211) thereto in non-concurrence.

In the House: The House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

Reports of Committees

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An

Act to Improve Property Tax Statutes" (H. P. 2057) (L. D. 2115)

Report was signed by the following members:

Messrs. WYMAN of Washington
MARTIN of Aroostook
JACKSON of Cumberland

— of the Senate.

Messrs. TWITCHELL of Norway

MAXWELL of Jay
MACKEL of Wells
CARTER of Bangor

IMMONEN of West Paris

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1215) on same Bill.

Report was signed by the following members:

Messrs. CAREY of Waterville
COX of Brewer
TEAGUE of Fairfield

Mrs. CHONKO of Topsham
POST of Owls Head

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker, I would move that we accept the Minority "Ought to Pass" Report and would speak very briefly.

The SPEAKER: The gentleman from Waterville, Mr. Carey, moves that the Minority "Ought to Pass" Report be accepted.

The gentleman may proceed.

Mr. CAREY: Mr. Speaker and Members of the House: This is another one of those bills that has ended up in the Senate Chairman's pocket and he held the bill until the hen scratching was completed, so what started out as a majority report ended up as a minority report, and I would like to place on record, Mr. Speaker, that it is not business as usual, as it has been with that particular gentleman, that we do have now a Democratic House and a Republican Senate. He can still kill the bill if he wants to, in the other body, that is obviously his prerogative.

Thereupon, the Minority "Ought to pass" Report was accepted and the Bill read once, Committee Amendment "A" (H-1215) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following paper appearing on Supplement No. 6 was taken up out of order by unanimous consent:

Consent Calendar

First Day

(H. P. 2273) (L. D. 2202) Bill "An Act to Provide Compensation and Benefits Agreed to by the State and Council 74, American Federation of State, County and Municipal Employees, (AFSCME) for Employees in the Institutional Services Bargaining Unit" — Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

No objections having been noted, under suspension of the rules, the Bill was given its Consent Calendar Second Day notification, the Bill passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following paper appearing on Supplement No. 7 was taken up out of order by unanimous consent:

On motion of Ms. Goodwin of Bath, the following Joint Order: (H. P. 2301)

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs be directed to report out a bill making additional appropriations for the