

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Seventeenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

**House of Representatives**  
May 24, 1995 to June 30, 1995

Resolve, Authorizing Glen Greenhalgh to Sue the State of Maine and the Department of Human Services (H.P. 786) (L.D. 1103) (C. "A" H-355)

Was reported by the Committee on Bills in the Second Reading, read the second time, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

**ENACTORS**  
**Emergency Measure**

Resolve, Establishing the Task Force on Alcoholic Beverage Sales (H.P. 1075) (L.D. 1514) (Governor's Bill) (C. "A" H-477)

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

On motion of Representative HICHBORN of Lagrange, tabled pending final passage later today assigned.

An Act to Repeal the Laws Regarding Consumer Information Pamphlets (H.P. 307) (L.D. 411) (C. "A" H-88)

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

On motion of Representative HICHBORN of Lagrange, tabled pending passage to be enacted and later today assigned.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

The following items were taken up out of order by unanimous consent:

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

SENATE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (S-276) - Minority (3) "Ought to Pass" as amended by Committee Amendment "B" (S-277) - Committee on Labor on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Prohibit Future Unfunded Liabilities and to Maintain the Current Amortization Schedule (S.P. 70) (L.D. 158) - In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-276).

TABLED - June 20, 1995 (Till Later Today) by Representative HATCH of Skowhegan.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as by Committee Amendment "A" (S-276) Report.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative Joy: Thank you Mr. Speaker. For years the state has been robbing Peter to pay Paul. They have been withholding funds and not putting them in the retirement system. A few years ago we had a Constitutional Amendment to prohibit taking money out of the retirement system once they were put in there. Unfortunately someone figured out a way to beat that system, and that is, just don't put the money in there the first time. Once that money

wasn't put in there then it becomes on a deferred basis and payments are going to be made later on.

This proposed Constitutional Amendment would require that the state maintain its current pay back schedule that was established in the past session of the Legislature. I believe it will be now for a 31 year payoff period. We have a tremendous unfunded liability in the retirement system and we cannot allow it to grow any larger. This proposed Constitutional Amendment will make the system whole and will prevent future unfunded liabilities.

There is a second type of liability that we have to consider ourselves with and it is called the experience-based liability. That happens when returns on investment are not quite what they seem to be or more people retire earlier than anticipated by the system. The amendment folds those into a ten year pay back system, so that they do not get added to the current liability and keep adding up and growing and growing and growing.

I urge your support on this bill. I think this is certainly a worthwhile step and will protect the integrity of the retirement system. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Winsor.

Representative WINSOR: Mr. Speaker, Men and Women of the House: I am one of three members of the Labor Committee on the Minority "Ought to Pass." I would urge you to vote against the pending motion and then go on to accept the Minority "Ought to Pass" motion. This is a Constitutional Amendment and that is something I am very reluctant to do as I am sure many of you are.

I am also very aware of the massive amount of unfunded liability that past Legislatures have allowed to grow by failing to confront or understand the real cost of adding retirement benefits for employees without adequate funding for them. The problem I have with the Majority Report is that this Constitutional Amendment essentially would remove from any kind of consideration approximately 160 million dollars in the biennium if we are looking at the current figures. That is appropriate in 99.9 percent of the time. This is 2.4 billion dollar bill and that is a lot of money. It is money that your children and my children and perhaps even their children will be paying for.

As we were considering this amendment I set down and said there might be a time when the financial conditions of the State of Maine are so bad that it would be more responsible to forgo a payment or delay it for some reason. With a Constitutional Amendment that is being proposed, by the majority, precludes that from ever happening. That may be proper and right, but I sat down and said what would the effects of the revenues of the state of Maine be if a number of things happened, terrible things.

Let's say the Kittery Shipyard is set up for closing. Let's say Bath Iron Works is not successful in converting to civilian uses and is either closed or its operations are severely reduced. Let's say Maine Yankee does not reopen. If you put that scenario together, I suggest to you that the revenues of the State of Maine in the short term would be so severely impacted that it might not be in the best interest of the state to meet its obligations to the unfunded liability. Now remember that does not affect current benefits. It might be smart to borrow money out into the future.

I propose in the Minority Report a situation where the Governor could declare an emergency and if seven-eighths of each body of the Legislature agrees we could waive that requirement. This effectively gives five members in the Senate and 19 members in the House a veto over the Governor's determination that it is an emergency. I suggest that is a more responsible way to meet our obligation to the unfunded liability and to still allow some sort of pressure-release valve if they were ever needed in the future.

Men and women of the House, I urge your consideration of my thinking and I hope you will vote against the pending motion and then go on to accept the Minority "Ought to Pass." Thank you.

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: It gives me pleasure to stand here in agreement with the Representative from Crystal, Representative Joy.

The reason that I am on the Majority Report and think that it is not an imprudent thing to amend the Constitution, to continue our payment on the unfunded liability at the current schedule, is that other Legislatures in the recent past have acted in a way that might be similar to what the good Representative from Norway, Representative Winsor is suggesting. That is, that there be enough of a financial crisis that the response is we cannot pay on our unfunded liability.

In fact, men and women of the House, I think we did a great disservice by extending the number of years over which we pay the unfunded liability. We will never have agreement as to what is an appropriate financial setting to adjust or lengthen the payments to the unfunded liability and my response to that is simply that we do it and have a schedule setup. We behave responsibly. We take care of it. We don't increase the ultimate payment because we are increasing the number of years over which we pay. We make that decision. We do it now and we accept the Majority "Ought to Pass" as amended Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Mr. Speaker, Men and Women of the House: I would also encourage you to support the Representative from Crystal, Representative Joy. I guess in tough economic times there are temptations not to pay current costs back to the system. This bill corrects that. Paying these normal costs and prohibiting the new increases of the unfunded liability in future years are probably going to be, I think, the best thing we can do for the citizens of the state.

Very briefly I would encourage you on behalf of 12,000 members of the current system to vote in favor of this bill. The Legislature is constantly saying that they are no longer going to balance the budget with gimmicks. We say that here all the time. Once again I think we finally need to put a lock on the cookie jar and throw away the key. Therefore, I would ask that we would for once put this gimmick away and vote for this bill and I feel that by doing this we do the taxpayers of this state a great service and in the future hopefully we will be saving them millions of dollars. Thank you.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hatch.

Representative HATCH: Mr. Speaker, Men and Women of the House: Two years ago we went through a situation that never should have occurred. We needed some money, we just did not pay on an account that we needed to pay on. This happened to make a big unfunded liability on the retirement system. This is going to cost your children and my children and maybe even great grandchildren to pay it off. I would ask for your support on this. I think it is time to take it out of the hands of us bureaucrats once and for all. It should not be a political football. It shouldn't be something we use to balance our budgets with. I ask for your support on this bill. It is the right thing to do. We need to stop sending mixed messages to the public and private industry. They have to fund their bills in a timely fashion. This does not call for a provision to override them. We will look elsewhere if we have to balance the budget. I would ask for your undivided support on this and thank you all very much.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Mr. Speaker, Colleagues of the House: First of all I want to say that I have a great deal of respect for Representative Joy and the way that he has handled things. At least trying to get people to follow his light on the previous amendment. I disagreed with him each time. He acted certainly as he should as a Representative and with integrity and certainly felt that an individual should have his own ideas.

I do support this particular plan and I hope you all will see that we can't predict in the future. If we are going to delegate or try to get trust back to a very large group of people that we should support the Majority "Ought to Pass."

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Thank you Mr. Speaker. I want to remind you folks. I have heard a couple of comments about this amount of money is going to fall on the backs of our children and grandchildren. That is probably true, but I don't want you to forget that a failed retirement system could well be some of our children and grandchildren that will lose out. They could well be state employees in the future and it could very well be those same people that would lose out if this system failed. I would urge you to support this "Ought to Pass" motion.

The SPEAKER: The Chair recognizes the Representative from Hartland, Representative Stedman.

Representative STEDMAN: Mr. Speaker, Men and Women of the House: I was on the Majority Report and urge your support and ask for the yeas and nays on this when we take our vote. Thank you.

Representative STEDMAN of Hartland requested a roll call on the motion to accept the Majority "Ought to Pass" as amended Report.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

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

The pending question before the House is the motion to accept the Majority "Ought to Pass" as

amended Report.. All those in favor will vote yes; those opposed will vote no.

## ROLL CALL NO. 223

YEA - Adams, Ahearne, Aikman, Bailey, Barth, Benedikt, Berry, Birney, Bouffard, Brennan, Bunker, Cameron, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, Donnelly, Dore, Driscoll, Dunn, Etnier, Farnum, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hatch, Heeschen, Heino, Hichborn, Johnson, Jones, K.; Jones, S.; Joy, Joyner, Keane, Kilkelly, Kneeland, Kontos, Lane, Layton, Lemaire, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Luther, Madore, Marshall, Martin, Marvin, Mayo, McElroy, Meres, Mitchell JE; Morrison, Murphy, Nass, Nickerson, O'Gara, O'Neal, Ott, Paul, Peavey, Perkins, Pinkham, Plowman, Poirier, Povich, Reed, G.; Reed, W.; Rice, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Shiah, Simoneau, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tufts, Tuttle, Tyler, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, The Speaker.

NAY - Bigl, Buck, Joyce, Labrecque, Pendleton, Saxl, J.; Saxl, M.; Winsor.

ABSENT - Ault, DiPietro, Hartnett, Jacques, Joseph, Kerr, LaFountain, McAlevey, Mitchell EH; Nadeau, Poulin, Pouliot, Rotondi, Underwood, Winn, Yackobitz.

Yes, 127; No, 8; Absent, 16; Excused, 0.

127 having voted in the affirmative and 8 voted in the negative, with 16 being absent, the Majority **"Ought to Pass"** as amended Report was accepted.

The Resolution was read once. Committee Amendment "A" (S-276) was read by the Clerk and adopted.

Under suspension of the rules, the Resolution was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Resolution was passed to be engrossed as amended by Committee Amendment "A" (S-276) in concurrence.

SENATE DIVIDED REPORT - Report "A" (6) **"Ought to Pass"** as amended by Committee Amendment "A" (S-264) - Report "B" (6) **"Ought to Pass"** as amended by Committee Amendment "B" (S-265) - Committee on State and Local Government on Bill "An Act to Provide Equal Political Rights for Classified State Employees" (S.P. 407) (L.D. 1095)

- In Senate, Bill and all accompanying papers indefinitely postponed.

TABLED - June 21, 1995 (Till Later Today) by Representative DAGGETT of Augusta.

PENDING - Motion of same Representative to accept Report "B" **"Ought to Pass"** as amended by Committee Amendment "B" (S-265).

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative GERRY: Mr. Speaker, Men and Women of the House: I am all for political rights for everybody. When this bill came in front of our committee it was brought in front of us so that we could extend the same rights of regular state employees with the classified state employees. When we looked into it, we found a lot of dos ad don'ts of what a classified state employee can and cannot do.

In the bills that we have in front of us, those amendments tell you what you can and can't do. The only thing I disagree with in the committee amendment ahead of us, especially with the part that says, "For the purpose of this subsection a classified employee may participate in fund-raising activity, if the activity is solely within the membership of that employees labor union." I object to that part and that context because it does not fit in with what it says in the start of the subsection. It says, "An officer or an employee in the classified service of the state may not solicit, accept, receive political contributions or organize, sell tickets to, promote or actively participate in fund-raising activities of a candidate for partisan political office or of a political party or partisan political group." The next part that I brought up first is it says, "Yes, you can if it is in a union." I don't think that it agrees.

If we pass this bill, we either take out that whole paragraph or tell them that it is all right for them to participate in nonpolitical fund-raising activities. The other thing is, who are the classified employees and what do they raise money for? If they raise money for candidates, can we in good conscience vote for this, because if we vote for this, aren't we agreeing that whatever money they raise is going to come back to us. I think it would be a conflict of interest for those who take money from the state employees to vote on this. I ask you to vote against this bill in exchange for the next bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Mr. Speaker, Ladies and Gentlemen of the House: I hope the House would accept Part B, the "Ought to Pass" Report. I think it is fair. All the activities that they are going to be conducting is on their own time. In my opinion, I think we could have gone further with this amendment, but I was willing to compromise. This is on their own time. This is when they leave work and are with their family. It follows right along with the federal Hatch Reform Amendments.

The section that the good Representative from Auburn just mentioned in terms of paragraphs 7323, political activity authorized prohibitions. It says in paragraph A, "Subject to the provisions of subsection B, the employee may take an active part in political management or political campaigns (1) except an employee may not use his office, authority or influence for the purpose of interfering with or affecting the result of an election, (2) knowingly solicit, except or receive a political contribution for any person unless such a person is a member of the same federal labor organization as defined under section 71034." Of this title or federal employee organization which as of the date of enactment of the Hatch Act Reform Amendment of 1993, which was October 6, 1993.

I think this is fair and more than reasonable. I think it provides the political right sleeve classified employees, which by the other hand, it will approximately affect 9,000 to 10,000 employees, classified. On the other hand, there are unclassified employees that can solicit money for anything. They can contribute to campaigns. They can become treasurer for campaigns. This amendment is fair. I think it is right and I think we should adopt this bill. I ask you for your support. Mr.