

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-Second Legislature

State of Maine

Daily Edition

Second Regular Session
January 4, 2006 to May 24, 2006

Pages 1382 - 2139

Mandate

An Act To Amend the Election Laws

H.P. 1329 L.D. 1889
(C "A" H-866; H "A" H-888)

Tabled - April 3, 2006, by Senator **MARTIN** of Aroostook

Pending - **ENACTMENT**, in concurrence

(In Senate, March 29, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-866) AND HOUSE AMENDMENT "A" (H-888).**)

(In House, March 31, 2006, **PASSED TO BE ENACTED.**)

This being a Mandate, in accordance with the provisions of Section 21 of Article IX of the Constitution, having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the following Tabled and Later (4/03/06) Assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Clarify Deadlines for Submitting Direct Initiatives to Municipal Officials for Signature Verification

S.P. 782 L.D. 2033
(C "A" S-513)

Tabled - April 3, 2006, by Senator **GAGNON** of Kennebec

Pending - **FURTHER CONSIDERATION**

(In Senate, March 27, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513).**)

(In House, March 31, 2006, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513) AS AMENDED BY HOUSE AMENDMENT "A" (H-895)** thereto, in **NON-CONCURRENCE.**)

On motion by Senator **PLOWMAN** of Penobscot, the Senate **RECEDED** from whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513).**

On further motion by same Senator, the Senate **RECEDED** from whereby it **ADOPTED COMMITTEE AMENDMENT "A" (S-513).**

On further motion by same Senator, Senate Amendment "A" (S-544) to Committee Amendment "A" (S-513) **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Plowman.

Senator **PLOWMAN:** Thank you, Madame President, men and women of the Senate. This was a divided report out of our committee, needing a 2/3 vote to send this out for a Constitutional amendment. We proceeded to work on some language that would be acceptable to the committee. This language has been agreed upon and I'm offering it as the person who took out the minority report. I believe this clears up some of the contention part of the issue. What this bill actually does is guarantees our clerks a suitable amount of time to certify citizens' petitions. The amendment continues to keep the burden upon the clerks to return the petitions to the petitioners. As we have talked in the last two years, that was some comments by clerks that people never return to pick up their petitions. The reading of the Constitution during our committee debate showed that it has always been the duty of the clerk to return the petitions if they were not picked up. There was a move to make this no longer the duty of the clerks and we have come to the conclusion that it should remain the duty of the clerks in order to make sure the petitions do get back in a timely fashion. It was contentious. I think we've agreed and have got some language that will help that. I hope that you will support this amendment and the bill as it flows through. Thank you.

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

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I would concur with my colleague. The major thrust of this bill was not the issue that the good Senator is trying to deal with. I appreciate her getting on board the report and I heartily endorse this amendment. Thank you.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **PLOWMAN** of Penobscot, Senate Amendment "A" (S-544) to Committee Amendment "A" (S-513) **ADOPTED.**

House Amendment "A" (H-895) to Committee Amendment "A" (S-513) **READ** and **ADOPTED**, in concurrence.

Committee Amendment "A" (S-513) as Amended by House Amendment "A" (H-895) and Senate Amendment "A" (S-544) thereto, **ADOPTED**, in **NON-CONCURRENCE.**

PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-513) AS AMENDED BY HOUSE AMENDMENT "A" (H-895) AND SENATE AMENDMENT "A" (S-544) thereto, in **NON-CONCURRENCE.**

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later (1/31/06) Assigned matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Amend the Laws Governing the Enactment Procedures for Ordinances"
S.P. 507 L.D. 1481

Majority - **Ought to Pass as Amended by Committee Amendment "C" (S-437)** (11 members)

Minority - **Ought Not to Pass** (2 members)

Tabled - January 31, 2006, by Senator **SCHNEIDER** of Penobscot

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report

(In Senate, January 31, 2006, Reports **READ**.)

On motion by Senator **ROTUNDO** of Androscoggin, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Dow.

Senator **DOW:** Thank you, Madame President, ladies and gentlemen of the Senate. I'll try to make this as short as I can because I don't know how long my voice will hold out.

I come from a district where this matter has become as well known as getting up in the morning and washing your face. I've had several towns that have gone through procedures to make changes and I will say that they are scared to death by changes that could be made that would affect the processes they have gone through. I think the changes have to do with a concern about time limits they feel are too short because of one main problem. I think it will resort to a lot of secrecy and drive things underground and make companies that wish to make big changes in communities hold their cards pretty close to the chest. If you can get closer to the 75-day limit, you stand a better chance of getting things through in towns. I believe this process is wrong to impose upon the people.

Damariscotta is held out as a community that went through the proper channels and did things the right way, but those people that did all the things the right way sent me hundreds of e-mails and blue slips. I had so many that if this was a court of law I'd bring the aide in to testify how many I had and the fact that she got tired of writing them on blue slips and said she was just going to record all the phone calls on a slip of paper and give them to me.

In my district, these people are afraid. It's a political fireball in my district because in the town of Damariscotta more people turned out for a referendum than turned out for the Presidential election. In the neighboring town, where they did a town meeting type, they had hundreds turn out and the vote was hundreds against five or six. They fear a massive change of life for traditions that Maine people have had for many years.

I'm not saying that we don't need to correct this system. We do have a faulty system and it's based on an open system where there is never any end to it, or a possibility that there is no end. I'm asking if the 75-days in here is long enough for these people because they realize that the process they went through took

eight to nine months, and longer in some instances. In one case the decision on whether to go out and seek signatures to have a people's referendum had to do with some information they got from one of the public officials. I guess that's me. The reason I gave them the information was because I don't like secrecy. I always feel that every group that's making decisions deserves to have all of the information that's coming forth and it all needs to be on the table so that proper decisions can be made by each community that is judging these decisions. It's amazing to me the response that I've gotten. It's amazing all the papers we've had out.

I just want to point out to you that the people in my district don't understand all of the proper ways that things are done, but they are scared to death because they are Maine people and as Maine people I guess they elected me the head Mainer for their district or maybe I'm the head Maniac. I don't know. Many of you probably consider me a raving maniac at times, I'm sure. I will oppose this legislation and go with the people in my district that are afraid of changing a Maine tradition. Not that some changes don't need to be made to it. Some do. I guess, not in the words of my father but maybe some of the principles he taught me, tread lightly when making major decisions on major policy changes. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Bartlett.

Senator **BARTLETT:** Thank you, Madame President. I rise in opposition to this bill. In preparing to speak today, I went and looked through the Constitution of the United States. In the very first amendment in the Bill of Rights is protection of our freedom of speech, our freedom of religion, and our right to petition our government for redress of our grievances. It is a constitutional right, just like freedom of speech. I then looked at the Maine Constitution, looked at our declaration of rights, and in Section 15 it, too, grants citizens the right to petition the government to redress their grievances. This is a well established, long standing, constitutional right and fundamental in our republican form of government. We're not purely democratic. People don't go and make every single decision. They have representatives that go to various bodies, including this one, to make decisions on their behalf. When we make those decisions, it is important that there be some kind of popular check on what we're doing. At this level we have the citizen's veto. At the local level there is a citizen's referendum process. It is important, and a fundamental one, in order to maintain the vibrancy of our republican government. That is not to say that you cannot place reasonable restrictions upon it. Of course you can, just like with freedom of speech. If you have reasonable limitations, that are narrowly tailored, you can impose those limitations.

The problem with what is being proposed here today is that it is not reasonable and not very narrowly tailored. What the bill would have you do would be to give you 45 days, or we may hear about a later version that gives you 75 days, in which to do everything. That is X number of days to get your petition language approved, to file your petition, and get it to go through whatever it needs to at the local level with the city council or whatever process it needs to go through to actually get on the ballot. Typically, it will take at least another 30 days, minimum, to get it onto a ballot for people to vote.

The problem with this bill is that we're imposing a time limit upon municipalities that have their own ordinances, their own