

MAINE STATE LEGISLATURE

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

Daily Edition

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Non-Concurrent Matter

Resolve, Establishing the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts (EMERGENCY)

(S.P. 297) (L.D. 951)

FINALLY PASSED in the House on June 3, 2011. (Having previously been **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-213)**)

Came from the Senate **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-213) AS AMENDED BY SENATE AMENDMENT "A" (S-334)** thereto in **NON-CONCURRENCE**.

The House voted to **RECEDE AND CONCUR**.

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

ORDERS

On motion of Speaker NUTTING of Oakland, the following Joint Order: (H.P. 1186)

(Cosponsored by Senator: COURTNEY of York)

ORDERED, the Senate concurring, that, notwithstanding Joint Rule 353, the Commission to Reapportion Maine's Congressional Districts is established as follows.

1. Commission to Reapportion Maine's Congressional Districts established. The Commission to Reapportion Maine's Congressional Districts, referred to in this order as "the commission," is established.

2. Membership. The commission consists of 15 members appointed or invited as specified in this section.

A. The commission consists of the following appointed members:

- (1) Three members from the political party holding the largest number of seats in the House of Representatives, appointed by the Speaker of the House;
- (2) Three members from the political party holding the majority of the remainder of the seats in the House of Representatives, appointed by the floor leader of that party in the House;
- (3) Two members of the political party holding the largest number of seats in the Senate, appointed by the President of the Senate; and
- (4) Two members of the political party holding the majority of the remainder of the seats in the Senate, appointed by the floor leader of that party in the Senate.

B. The Speaker of the House shall invite the following to be members of the commission:

- (1) The chairs of each of the 2 major political parties in the State or their designated representatives; and
- (2) Three members from the public generally, one to be selected by each group of members of the commission representing the same political party and the 3rd to be selected by the other 2 public members.

3. Commission chair; quorum. The Speaker of the House shall organize the commission and is the chair pro tempore thereof until a permanent chair is selected by the commission members from among their own number. Action may not be taken by the commission without a quorum of 8 members present.

4. Appointments; convening of commission. All appointments must be made no later than 7 days following passage of this order. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been made. When the appointment of all

members has been completed, the chair of the commission shall call and convene the first meeting of the commission. If 7 days or more after the passage of this order a majority of but not all appointments have been made, the chair may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

5. Duties. The commission shall review the State's existing congressional districts. If the districts do not conform to Supreme Judicial Court guidelines, the commission shall reapportion the State into 2 congressional districts for the election of representatives to the United States Congress in accordance with the requirements contained in the Maine Revised Statutes, Title 21-A, section 1206, subsection 1. The commission shall hold public hearings on any plan for apportionment prior to submitting the plan to the Legislature.

6. Staff; compensation. The commission may hire staff determined necessary by the chair to complete the duties specified in section 5. Public members of the commission must receive the same rate of per diem that is paid to Legislators for every day's attendance at special sessions of the Legislature as specified in the Maine Revised Statutes, Title 3, section 2. All members of the commission must be reimbursed for actual travel expenses incurred in carrying out the business of the commission.

7. Report; legislative intent. The commission shall submit a report no later than August 31, 2011 that includes its recommendations, including a suggested reapportionment plan and emergency legislation to implement that plan, to the 125th Legislature. It is the intent of the Legislature that these recommendations be acted on by the 125th Legislature convened in special session prior to September 30, 2011.

READ.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cain.

Representative CAIN: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House. As we take up this Order on redistricting, I rise today as the Minority Leader to briefly review the history of our congressional redistricting. As a body, we have a tradition of holding ourselves to a high standard. We have set a precedent of putting fairness and transparency before partisan politics. Democrats hope and expect that this body will continue to uphold this precedent no matter who holds the reins.

From 1961–1983 Maine's congressional district lines did not move, as federal elections officials focused their efforts and attention more on the states in the southern United States.

In 1983, as it became clear that the congressional line could remain static no longer, the Maine Legislature aligned the process of congressional redistricting through statute with legislative redistricting, and mirrored the language of our Constitution defining how redistricting is done.

This process requires a 2/3 vote of the Legislature to approve redistricting, and if 2/3 support cannot be achieved, then the process is sent to the State Supreme Judicial Court for resolution. It also ensures that each district is formed of compact and contiguous territory and crosses political subdivisions the least number of times necessary to establish districts as equally populated as possible.

This process has worked for legislative redistricting, and has worked for Maine for congressional redistricting since 1983.

And, in fact, prior to this Order before us today, this very Legislature has already in 2011 affirmed our commitment to that constitutional process. With our prior support of LD 494, sponsored by the Representative from Belgrade, Representative Keschl, we supported changing the timeline of our redistricting to the year in which the census data is received, and putting the

congressional redistricting in the Constitution as well – again with the provisions for compact, contiguous districts, and 2/3 support required in both chambers and sending it to the State Supreme Judicial Court if agreement is not possible.

So why is all of that relevant to the Order before us today?

Since 1983, Mr. Speaker, Democrats have been in the political majority in this chamber, and for most of that time in the majority in the entire Legislature. Since 1983 congressional redistricting lived only in statute, as it does now, and we were not constitutionally bound to honor the constitutional provision for a 2/3 vote of support, nor the resolution with the State Supreme Judicial Court. We could have done congressional redistricting with a majority vote. We could have violated the spirit of Maine's Constitution, but we did not. We could have changed the statute or used the word "notwithstanding" to bypass the statute, but we did not.

We honored the Constitution, the bipartisan, transparent process with public input, and the appeal to the state's highest court that has worked for Maine all along. Because that was, and is, the right thing to do. And it is in the spirit of our Maine Constitution, which we have all sworn an oath to uphold.

So, Mr. Speaker, I rise to raise this point because – in case you hadn't noticed – Democrats are not in the majority anymore in this body nor in the other body.

But that should not matter when it comes to the process we use for something as important as congressional redistricting.

And while I know and believe it is your intention, Mr. Speaker, and the intention of this body to honor the spirit of our Constitution and the history of redistricting in Maine, it is important that the Legislative Record that accompanies this Joint Order outline this history and, as much as possible, the intention of this Legislature.

Democrats will be active and willing participants in this short-term congressional redistricting in coming months. We will work together to achieve a unanimous vote of the apportionment commission, and a 2/3 legislative vote, and we expect that if that cannot be achieved, that this issue will be sent to the State Supreme Judicial Court. We expect that the Court will take into consideration the plans and briefs filed, the public input and if necessary, will make the apportionment.

And although I have no reason to believe we will not be awarded the same ability to select staff as the minority party has in the past, since this is uncharted territory I wanted to make that expectation clear as well.

And, Mr. Speaker, we believe this is not too much to ask. It's the way it has been done to respect all sides for decades, and most of all the people of Maine and the Constitution of Maine. Joint Orders are not designed to change the law, and changing the rules should not be the intent of this Order – it should be strictly a method to move the provisions already in statute up to the timeline that is required of us this year.

As with the rest of the work we have done this session, Mr. Speaker, the best work we've done, we've done together. Democrats look forward to doing this work together as it has been done in Maine for decades. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Cushing.

Representative **CUSHING**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to speak in support of this Joint Order on reapportionment and to provide some background and context as well.

Recently, a three-judge panel ruled that Maine must move up its scheduled reapportionment of our two congressional districts. Census data showed that the disparity of population between our

two districts was more than constitutionally allowable and that the voters of District 1 were underrepresented.

Maine was scheduled to address this through our traditional redistricting process in 2013, but this ruling means we must fall in synch with the other 49 states in the Union and redraw our districts this year.

Republican leadership started this session with a firm commitment to the people of Maine that we would do our best to set aside partisanship and politics, as usual, and adopt a consensus approach to governing. It is in this spirit that we offer this Joint Order.

The Order sets up a bipartisan commission to address the inequities in our congressional districts. The makeup of the commission is truly bipartisan. The Speaker will select three members from his party; the House Minority Leader will select three members from her party. The Senate President will select two members from his party; the Senate Minority Leader will select two members from his party. The chair of the Republican Party and the chair of the Democratic Party will each select one member. Three public members will be selected – one Republican, one Democrat, and the third to be selected by the other two public members. This is clearly as bipartisan a commission as could be imagined.

Today's Joint Order will put into place a sound structure that gives this Legislature the best possible chance at achieving consensus on reapportionment. This Republican majority has taken seriously the call to end the partisanship that has kept us from making the changes necessary to get our state back on track, and we are accumulating a strong bipartisan record throughout this session.

We joined with our colleagues on the other side of the aisle to address Maine's burdensome regulatory environment and passed LD 1, truly landmark legislation, with almost unanimous support in this chamber. When faced with unexpected budgetary challenges, we came together to pass not one but two bipartisan supplemental budgets. Despite facing one of the most difficult set of financial challenges in recent memory, we kept our promise and passed the bipartisan biennial budget. Republicans and Democrats worked together this session as responsible stewards of this economy and the result is a body of accomplishment that will make Maine a better place.

Redistricting can be a tricky business and efforts in the past have often fallen prey to partisanship. With this bipartisan approach, we can avoid that fate. By setting up a fair, bipartisan structure, this Joint Order sets us on the path to a consensus agreement. I ask that you vote in support of this measure and help us address this challenge in the most responsible way possible. Thank you, Mr. Speaker.

Subsequently, the Joint Order was **PASSED**.
Sent for concurrence.

On motion of Representative HAMPER of Oxford, the following House Order: (H.O. 27)

ORDERED, that Representative Ralph Chapman of Brooksville be excused June 3 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Douglas K. Damon of Bangor be excused June 9 and 10 for personal reasons.

READ and PASSED.
