

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

I would suggest to you that there is nothing wrong, even if that commission is formed, which I certainly and truly hope that it is. There is absolutely nothing wrong with us, in the meantime, placing a very minimum qualification on this office that the person who hold that position be a certified public accountant or a certified internal auditor.

Finally, I would suggest to you that the State of Maine is perhaps the only entity, business or the corporation in this state that would even consider hiring somebody with complete disregard for their qualifications and then to allow them months upon months to obtain the qualifications that they should have had when they took that position. Madam Speaker, I would urge all of my members of this House to vote against the pending motion to Indefinitely Postpone. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Newport, Representative Kasprzak.

Representative KASPRZAK: Madam Speaker, Men and Women of the House. I would ask that you would support the Minority Report on this bill because, to me, it is a common sense bill. Anything has got to be better than the way that we select our Auditor now. I was appalled when I discovered how we go about it. If you have friends in the right place, then you are in, qualifications or no qualifications. Anything has got to be better than that. In regard to the commission coming up, maybe you will say yes to that and maybe you won't. Let's have something in place so that we can be sure that there are qualifications and that the process is at least more democratic. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Indefinitely Postpone. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 82

YEA - Ahearne, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Green, Hatch, Jabar, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Fisk, Foster, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Carleton, Dutremble, Jones KW.

Yes, 79; No, 69; Absent, 3; Excused, 0.

79 having voted in the affirmative and 69 voted in the negative, with 3 being absent, the Bill and all accompanying papers were indefinitely postponed in concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought Not to Pass**" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to

Change the Process for the Selection of the State Treasurer (S.P. 36) (L.D. 34)

Signed:

Senator: NUTTING of Androscoggin

Representatives: AHEARNE of Madawaska

BAGLEY of Machias

GERRY of Auburn

SANBORN of Alton

DUTREMBLE of Biddeford

LEMKE of Westbrook

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-81) on same RESOLUTION.

Signed:

Senators: GOLDTHWAIT of Hancock

LIBBY of York

Representatives: BUMPS of China

FISK of Falmouth

GIERINGER of Portland

KASPRZAK of Newport

Came from the Senate with the Majority "**Ought Not Pass**" Report read and accepted.

Was read.

On motion of Representative AHEARNE of Madawaska, the Majority "**Ought Not to Pass**" Report was accepted.

On motion of Representative FISK of Falmouth, the House reconsidered its action whereby the Majority "**Ought Not to Pass**" Report was accepted.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Fisk.

Representative FISK: Madam Speaker, Men and Women of the House. I will be brief. As mentioned before, State and Local Government had a myriad of bills that came pertaining to the method and qualifications of the Constitutional Officers. This is a simple bill and I would just like to make two brief points. The first being that the role and the duty of State Treasurer is intelligently linked with many of the functions of the Executive Branch and working concurrently and currently occurring in the state Administration and Financial Services. As a matter a fact, the 1991 Special Commission on Governmental Restructuring recommended that the State Treasurer's Office be merged into the Department of Administration and Financial Services and that the Treasurer be appointed by the Commissioner. The second brief point I would like to make is just a state-by-state comparison. Thirty-seven states have Treasurers that are elected by the public. Nine are appointed by the Governor and only four states, including Maine, have their Treasurer elected by the Legislature. With these two points in mind, I would ask and urge that you point against the pending motion. Madam Speaker, I would ask for the yeas and nays.

The same Representative requested a roll call on the motion to accept the Majority "**Ought Not to Pass**" Report.

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 Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. I believe that the reason why the Treasurer is selected by the Legislature is merely to provide a check against the power of the Executive. I believe the Executive already currently holds enough authority as it is and this will provide, if we leave it the way things are, vote for the pending motion, I believe keeping it as it is would remain independent of the executive and the Legislature and not provide

the Executive with additional duties and the Legislature does need this check and balance. Thank you.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. I think some people think the Treasurer does things that they don't do from hearing the debate. The Treasurer works with folks down in another state and on Wall Street to help invest our funds, to work for a financial policy, but the Treasurer is not a check on Executive Authority. The Treasurer is not a policy setting position. The Treasurer's position is not one that is called to debate if the Governor is acting in the best interest in the state or not. I would think the State Auditor's position that this House decided not to have as minimum qualification was one which was more of a check because it actually went into check to see if they were complying with laws and were generally accepted accounting principles. The Treasurer's Office is one that probably makes sense to work with the Governor's Office. The Treasurer's Office is investing the state's funds. The Governor is ultimately responsible for that. The Legislature works with a member of the Executive and is ultimately responsible for that. The Legislature sets the policy. We approve or disapprove of funding for things and then we give it the members of the Executive and all departments there within to oversee that is lobbying carried forward. The Treasurer is not, again, a check on that. It ought to be where the State Treasurer and member of the Executive elected by a majority or at least a large plurality of the people of the State of Maine work hand and glove and it shouldn't be a political position. It is another one in the utmost professionalism is required and experience is demanded.

To be honest with you, dealing with some of those investment bankers and the different possibilities for investing state funds, it is not as simple as deciding in your own paycheck if you are going to take \$20 and put it into a mutual fund and see if it is categorized by high, low or minimum risk. It is a lot more complicated. As we saw in Orange County, California, there was a Treasurer who started to play with a thing called derivatives. It was a great scare after that about counties, towns and cities being involved in a financial instrument of that complexity because it was beyond that Treasurer's ability to be involved in that. It is one that has had tremendous success for Orange County of California for a long time. As you know, if you do any investing, that usually things that have a very large upside also have a very large downside. If you know how to work with a derivative product, you can limit the risk, but you need to have the experience dealing in the financial market and the market to understand what those risks are and balance them off.

It seems to me, asking for the minimum qualifications, that it would at least have somebody be familiar with the terminology and have some experience and background in the profession with which they will be doing on behalf of the people of the State of Maine and then asking that they work in concert with a member of the Executive at the Legislature's leave is a good idea. It is such a good idea that it came directly from a bipartisan report from 1991 and this is one of their specific recommendations on the Governmental Reform Commission. It was a largely touted report, which is now gathering dust on shelves. The merits of the proposals in that report are no less important today than they were yesterday. I think we ought to move forward and enact some real reform. This is a reform we can go home and be proud we enacted. Thank you.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I wanted to mention briefly that I have

looked at the LD and the amendment and I see nothing in either which addresses the issue of qualifications for State Treasurer. Secondly, again, I think it is extremely important that the State Treasurer remain independent of the Executive. We had a long and maybe not scintillating, but informative, session yesterday on the issue of bonds in response to legislation which was put in to assure that there would be accountability over bonds and how they are spent. We learned that the State Treasurer, State Auditor and the Attorney General are all responsible for monitoring the expenditure of state bonds. I think it is important that they remain independent of the Executive. Furthermore, I want to remind you that in the early 1990s it was the State Treasurer who predicted a shortfall in state government financing. The administration, at the time, denied that such a thing was the case. We all now know who was correct. I think independence is vital. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is the accept the Majority "Ought Not to Pass" Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 83

YEA - Ahearn, Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Gerry, Goodwin, Green, Hatch, Jabar, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Lemke, Mailhot, McKee, Mitchell JE, Morgan, Muse, O'Neal, Paul, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Desmond, Dexter, Donnelly, Fisk, Foster, Gieringer, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, McAlevey, McElroy, Meres, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Brennan, Dutremble, Jones KW, Mayo, O'Neil.
Yes, 76; No, 70; Absent, 5; Excused, 0.

76 having voted in the affirmative and 70 voted in the negative, with 5 being absent, the Majority "**Ought Not to Pass**" Report was accepted in concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought Not to Pass**" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require That Constitutional Officers Be Appointed by the Governor (S.P. 121) (L.D. 400)

Signed:

Senator: NUTTING of Androscoggin
Representatives: AHEARNE of Madawaska
BUMPS of China
FISK of Falmouth
BAGLEY of Machias
GERRY of Auburn
SANBORN of Alton
GIERINGER of Portland