

MAINE STATE LEGISLATURE

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

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On further motion of the same Representative, **TABLED** pending his motion to **ACCEPT** the Majority **Ought Not to Pass** Report and later today assigned.

Majority Report of the Committee on **UTILITIES AND ENERGY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-282)** on Bill "An Act To Enhance Availability of Emergency Telephone Services"

(H.P. 975) (L.D. 1383)

Signed:

Senators:

BARTLETT of Cumberland
HOBBINS of York

Representatives:

BLANCHARD of Old Town
RINES of Wiscasset
FLETCHER of Winslow
ADAMS of Portland
FITTS of Pittsfield
BERRY of Bowdoinham
HINCK of Portland

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

SMITH of Piscataquis

Representatives:

THIBODEAU of Winterport
BLISS of South Portland
CURTIS of Madison

READ.

On motion of Representative BLISS of South Portland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-282)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 23, 2007.

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-285)** on Bill "An Act To Enable the Dirigo Health Program To Be Self-administered"

(H.P. 347) (L.D. 431)

Signed:

Senators:

SULLIVAN of York
BOWMAN of York

Representatives:

BRAUTIGAM of Falmouth
CANAVAN of Waterville
CROCKETT of Augusta
TREAT of Farmingdale
CONOVER of Oakland
PRIEST of Brunswick

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

SNOWE-MELLO of Androscoggin

Representatives:

VAUGHAN of Durham
RICHARDSON of Warren
SAVAGE of Falmouth
McKANE of Newcastle

READ.

Representative BRAUTIGAM of Falmouth moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

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

Representative **BRAUTIGAM**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. The Dirigo Health Program that was passed by the Legislature in 2003 is working today for a lot of people, and this bill will help it to continue to provide a benefit for those people, and to help it to grow.

In the 2003 Dirigo legislation, the Legislature anticipated the possibility that Dirigo might wish to become a self-administered program. The legislation at the time, provided that it could only become self-administered if there were no bidders for the program in its initial round. We know that Anthem did provide a bid and that self-administered provision never was triggered. I would point out that that provision, as it has been in the law since 2003, did not really provide any conditions, restrictions, or special requirements. It simply gave full discretion to the Dirigo Health Agency to go out and seek bids and become a self-administered program.

This is the kind of prudent common sense, business-like step that I think we want to encourage in a program like this. Many large companies find it advantageous and it saves them money. In fact, I think nine out of ten companies over 10,000 employees, covered lives in health benefit programs, go self-insured. They handle some of the tasks themselves, but they hire a third-party administer, to administer the benefit. I would think that is the case with Unum, BIW, Hannaford, many of the other large employers in the State of Maine, and as well with the state employee health plan.

To go self-administered, you still need a partner, an insurance company usually, to provide most of the kinds of services that insurance companies do typically provide in a fully administered, retail, off-the-shelf benefit program. This is going to continue the tradition and the pattern of a private-public partnership with Dirigo, and it will just introduce a degree of competition by allowing more bids, perhaps, to come in. It is an option only for the agency. If the agency goes out to bid and does not receive the bids that are necessary for it to demonstrate some cost savings, it is not a requirement, and the same pattern of going with a fully administered plan can be continued.

In addition, I would point out that there are many, many protections and restrictions put on the plan, if it were to go to a self-administered model under this bill: consumer protections, guaranteed issue, guaranteed benefits, and so on, are all incorporated and guaranteed through the provisions of this bill. When the state employees' benefit plan, in 2002, decided to take a very similar step, they saw that their administrative fees went from 7.8 percent to 5.8 percent for a \$4.3 million annual savings. Even more significantly, self-administering really helped them to control their premiums. They saw in 2006, the state employees' program, as a self-administered entity, saw a 2 percent increase in premiums, whereas typical increases in the large group market were 8 to 20 percent. So, I think that there is a precedent for us

to take this step. I think there are many protections built into LD 431, to ensure the fiscal, the financial stability, the soundness of the program, if it were to find it self-administering as a cost saving measure. I would just simply say that it is sort of a belt and suspenders approach: There is a reserve requirement; there is a requirement of soft stop-loss insurance to make sure that this continues as a fiscally stable product.

I would just conclude by saying that what was prudent in 2003 is even more prudent now, considering the number of protections and the requirements that have been built into this proposal. Let's give Dirigo this added tool to its toolkit. Let's responsibly stretch the limited resources we have as far as we can, to provide a benefit to the people who are now getting insurance through Dirigo, where they might not otherwise be able to afford coverage.

Representative RICHARDSON of Warren **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought to Pass as Amended** 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 Warren, Representative Richardson.

Representative **RICHARDSON**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would like to object to a couple of the points that were made by the previous Representative. Basically, when we compare this to something that is in place, a self funded situation, I believe that you have to take a look, a one critical look, at the total picture. What Dirigo or what this bill would propose is that we go to Dirigo and Dirigo is not really a self—in other words members of a self-funded plan are controlled. In the Dirigo plan, it is a public situation and it becomes a very different situation.

The last point that I will leave you with is that I believe that we have looked at the successes of the Dirigo plan. It is a program that yes, I would like to keep, but I think that it needs to be run a lot better, and I really do not see this as a way to achieve that goal. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Conover.

Representative **CONOVER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just also wanted to respond to a couple of the comments here. I wanted to make sure that the body realizes all the compromises from last session are incorporated into this bill, in addition to another one. The Dirigo Health Program has a considerable amount more experience under its belt, which aids this moving forward. I did want everyone to know that this step, Dirigo self-administering, was a recommendation of the diverse, twenty-member Blue Ribbon Commission on Dirigo health. As we look for solutions to have the program run better, this bill helps that, in response to the good Representative, who I admire a lot on our committee as we have worked through this.

The bill would allow the Dirigo Health Agency Board more control over the benefit design, marketing, and administration of the plan. Additionally, it would allow the profits that now go to the insurance carrier to be reinvested back into the program, to cover more people, and make the product more affordable for Maine's hardworking, working families and small businesses. We know that many businesses have this tool under their belt, most with 5,000 or more enrollees do choose to self-administer because of the significant cost savings. Now, with Dirigo having 14,000 enrollees, this is the next logical step, it is a good business decision, and I hope to have your support. Thank you very much, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Newfield, Representative Campbell.

Representative **CAMPBELL**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Back in my first term, when the Chief Executive opposed Dirigo Health and it was accepted, the word Dirigo is "I lead." Since we passed this, we have had three Republican Governors follow: the Governor of California, the former Governor of Massachusetts who is now running as a Republican for President, and the Governor of Vermont. To do nothing, is just about that word: do nothing. We will probably be tweaking this for another five to ten years. But the bottom line is the poor people have insurance and the people that can afford it have insurance. It is the people that go out and work everyday, two jobs, two children, and they cannot afford this insurance.

Talk about the state running a program, I worked for a company when they were bought out by the San Francisco Chronicle. They were big enough that they did not need it; they supplied the insurance for us. When I wore a blue shirt, I was a member of the Union and used to sit down with the company and negotiate a contract. Years later, I find myself with a shirt and tie on, on the other side of the table negotiating the contract, and health insurance was never on the table, it was a given, but today that is a different story. To turn around and criticize and criticize is one thing, but without trying something, nothing will be done. It is time that we did something. This is not a Democratic issue; it is not a Republican issue, it is an issue that we all have to face. Thank you.

The SPEAKER: The Chair recognizes the Representative from Newcastle, Representative McKane.

Representative **McKANE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. LD 431 is surprisingly similar to a bill that came out last year to self-administer Dirigo that was defeated by this body and rejected by the Legislature. But if this particular bill was enacted, once again, Maine would boldly go where no state has ever gone before.

This idea of self-administering, self-insuring is something that companies, businesses, and some governments have had for a long time, but it is for a fixed pool of employees, it is not for an entire state. By including the entire state into our pool, we are in fact an insurer, but we are not an insurer according to this bill. Look at section 698, subsection 10: A self-insured plan is not an insurer under the laws of this state. The administration of the self-insured plan by the board does not constitute doing the business of insurance in this state, and yet that is exactly what they propose to do.

So, why do they have that section in there that says they are not going to do it? It is because this new Dirigo self-insured plan does not want to follow the same rules that the insurance companies in this state have been struggling under for years. It will in fact, give them an unfair competitive advantage. There will be very little, if any, regulatory oversight of this new plan, unlike all the other insurers in the state that are under the Bureau of Insurance, this new self-administered plan would be under the Dirigo Board of Directors, who would be able to change the rules as they seem fit. There is no way that we can compare this plan in 431 to any real self-administered plan that a business has.

Now we talked about the profit motive, we had to get rid of that awful profit motive. Well, those profits happen to pay for a lot of employees in this state, who also happen to pay a lot of taxes in this state, and that certainly needs to be considered in the fiscal note and I do not believe it was. The costs of this new entity, whatever you want to call it, were figured by the Dirigo Board themselves. They gave us in committee the fiscal note. The reserves are questionable, how much this company,

whatever it is, has to come up with in reserves as we never really got an accurate estimate, \$6 million by January 1 to start and then by the end of the year, I do not know exactly how much. But the big question is what if those reserves are not enough, who is liable? Citizens of the State of Maine are liable. We do not have enough money to back up this insurance company, which all of the other insurance companies that do business in this country have: a lot of money, a lot in reserves. If we do not have that money in this government, it is the taxpayers that are liable for any default. Where exactly will that money come from just to start this plan? I do not know, I think it has to come from the taxpayers.

There are plenty of great insurance plans out there that could turn the insurance industry in this state around. We are looking at a couple of them right now: Idaho has a plan, North Dakota has a plan, and Kentucky has a plan. They work, they provide cheap insurance. This idea of boldly going where no state has gone before has not worked so far and we all know it. This is going to be another expensive venture into the unknown. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Giles.

Representative **GILES**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today to speak against this bill and would like to give my reasons. First, let me say that I support providing health insurance in a responsible manner, to all Maine residents. This includes those who need insurance as a safety net because they cannot afford it, as well as I think that we need to have insurance products in this state that are competitive and affordable for our citizens. However, I cannot support this bill because as written, it is missing one major piece: There is not the regulatory oversight by Maine's Bureau of Insurance, which is required of our insurance companies in this state.

When I talk of oversight, I am talking about regulation and why do we regulate? We regulate to protect our consumers, our families, our children, our businesses, and there is a reason why we regulate all of our insurance companies to do so. However, under this legislation as a self-administered plan, Dirigo would not require the Bureau of Insurance to look at what they are doing in operating. That means the Bureau of Insurance would not look at the amount of premiums being charged by Dirigo, to families, individuals, and business owners. It would also mean that the Bureau of Insurance would not look at the claims experience, which is so critical to operating in a sound manner as an insuring body. As legislators, we cannot run the risk that if the claims are too high and that is not matched well against the premiums, that there may be financial shortfalls and if there are to the plan, we may have no choice but to look towards our General Fund, to the taxpayers of Maine, to support that difference.

So, again, I cannot overemphasize enough that Dirigo needs oversight and I encourage my colleagues in this House not to vote for this bill, because the necessary regulatory oversight is missing. Please give this some serious consideration before you vote. Thank you.

The SPEAKER: The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Having gone through a lot of the negotiations that we went through last year, I do want to say that third-party administrators in self-administered plans, no matter where they are located, are not overseen by the Bureau of Insurance. Only the small group, the individual market has to go through rate setting hearings, not the large group, nor

the third-party administrators. One thing that was negotiated in this bill, and this came from last session, is that the Dirigo TPA has agreed to all of the mandates this state requires. TPA's and self-administered plans are not required to do that.

The other thing is the safeguards are set up in terms of starting this, and there is some experience with this, with the Workman's' Comp Board, many, many years ago. Also, we have some experience in the state with the state employees who cover a large area of different jobs, not similar jobs, and different risks. If am correct and I hope somebody will correct me, but the experience now with Dirigo, now 2 to 2.5 years, is that our people who are costing this system a lot is no different than any other individual or small group. So, we are not seeing a large amount of sick people coming into this, anymore than any other. With this experience, we also have the ability to look at this and see whether this will work or not. The safeguards are there. If they cannot meet those safeguards then they cannot move forward with this. The oversight is not different from any other TPA or third-party administrator, and I am anxiously awaiting this ability for the Dirigo Program to have at least the tool to look at and try, and I ask you to vote for this.

The SPEAKER: The Chair recognizes the Representative from Lincolnville, Representative Walker.

Representative **WALKER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today in opposition to this motion and let me tell you why.

It was just a few years ago that many people in this body said, let's be the first in the nation and put together our own computer system to run our MaineCare billing apparatus. Now, I do not have to tell you what happened with that endeavor. Here we are a few years later and now we want the State of Maine to become an insurance company. I think it is an absolutely horrible idea. Insurance companies have been around for hundreds of years, they know how to access risks, they know about reserves, they know how to administer a program. There are different solutions to the insurance mess that we have in this state, then going down this path with the State of Maine becoming their own insurance company. I would ask you to vote against the motion. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative **PRIEST**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I have heard a lot about the perceived problems. I would remind the House that essentially this is a tool that has to be adopted by the Board of Dirigo, which may or may not be adopted by them, if in fact requirements are not met. If the requirements are not met for reinsurance, for example, this plan will not go forward. So, the fear that somehow the state is going to be liable for claims is not born out because there is going to be reinsurance. If the claims go above a certain amount, then there will be reinsurance which is required by this bill, which will cover those claims.

As far as are we properly regulated, I would refer you to subsection 9 on page 9 of this bill, which talks about what the self-administered plan must meet or succeed the following requirements: Requirements for rating practices, requirements for guaranteed issuer, requirements for guaranteed renewal, requirements for continuity of coverage, coverage related enrollees and preexisting condition exclusions, requirements for mandating coverage of specific health services and specific diseases over certain providers of healthcare services, requirements for the benefits, right, and protections for individuals enrolled in health plans, and so on and so forth. The Dirigo Plan is going to report to the IFS Committee through this process. We will be well aware of what they are going to do and there are

going to be plenty of safeguards here. I think that this is a good plan. Again, it is not a certainty. If the board does not find that the plan will be in the best interest and will be solvent and will get reinsurance, then the plan will not take place. We hope it will, we hope that it will cut down the cost of administering the program, we hope that that in turn will cut down the premiums and enable more people to be able to get into the Dirigo Program. I urge you to vote for this bill. Thank you.

The SPEAKER: The Chair recognizes the Representative from Somerville, Representative Miller.

Representative MILLER: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I would just like to lob in one more little factoid on this issue and that is that there is some discussion about competition in the market. In the individual market there is very little competition, Anthem has 97 to 98 percent of the market and has felt that this bill will add some competition to that situation. Thank you, Mr. Speaker.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass as Amended Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 76

YEA - Adams, Babbidge, Barstow, Beaudette, Beaudoin, Berry, Blanchard, Blanchette, Bliss, Boland, Brautigam, Bryant, Burns, Cain, Campbell, Canavan, Carter, Casavant, Clark, Cleary, Connor, Conover, Craven, Crockett, Dill, Driscoll, Duchesne, Dunn, Eaton, Eberle, Faircloth, Farrington, Finch, Fischer, Fisher, Grose, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jackson, Koffman, Lundeen, MacDonald, Makas, Marley, Mazurek, Miller, Mills, Miramant, Norton, Patrick, Peoples, Percy, Perry, Pieh, Pilon, Pingree, Piotti, Pratt, Priest, Rand, Samson, Schatz, Silsby, Simpson, Sirois, Smith N, Sutherland, Theriault, Treat, Trinward, Valentino, Wagner, Walcott, Watson, Webster, Weddell, Wheeler, Mr. Speaker.

NAY - Annis, Austin, Ayotte, Beaulieu, Berube, Browne W, Cebra, Chase, Cotta, Cray, Crosthwaite, Curtis, Edgecomb, Finley, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Hamper, Jacobsen, Joy, Knight, Lansley, Lewin, Marean, McDonough, McFadden, McKane, McLeod, Millett, Moore, Muse, Nass, Pinkham, Plummer, Prescott, Rector, Richardson D, Richardson W, Robinson, Rosen, Savage, Saviello, Strang Burgess, Sykes, Tardy, Thibodeau, Thomas, Tibbetts, Vaughan, Walker, Weaver, Woodbury.

ABSENT - Cressey, Duprey, Emery, Gerzofsky, Greeley, Hotham, Kaenrath, Pendleton, Pineau, Richardson E, Rines, Tuttle.

Yes, 83; No, 55; Absent, 12; Vacant, 1; Excused, 0.

83 having voted in the affirmative and 55 voted in the negative, 1 vacancy with 12 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-285)** was **READ** by the Clerk and **ADOPTED**. The Bill was assigned for **SECOND READING** Wednesday, May 23, 2007.

Majority Report of the Committee on **INSURANCE AND FINANCIAL SERVICES** reporting **Ought Not to Pass** on Bill "An Act To Protect Maine Citizens' Credit"

(H.P. 718) (L.D. 958)

Signed:

Senators:

SULLIVAN of York

SNOWE-MELLO of Androscoggin

BOWMAN of York

Representatives:

BRAUTIGAM of Falmouth

CROCKETT of Augusta

VAUGHAN of Durham

RICHARDSON of Warren

CONOVER of Oakland

McKANE of Newcastle

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-286)** on same Bill.

Signed:

Representatives:

CANAVAN of Waterville

TREAT of Farmingdale

SAVAGE of Falmouth

PRIEST of Brunswick

READ.

On motion of Representative BRAUTIGAM of Falmouth, the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

SENATE PAPERS

Non-Concurrent Matter

Bill "An Act To Allow the Secretary of State To Issue a Work-restricted License to First-time License Holders Not Yet 21 Years of Age with Less than 2 Years of Driving Time"

(S.P. 78) (L.D. 241)

Majority (10) **OUGHT NOT TO PASS** Report of the Committee on **TRANSPORTATION READ** and **ACCEPTED** in the House on May 17, 2007.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-47)** in **NON-CONCURRENCE**.

On motion of Representative MARLEY of Portland, the House voted to **INSIST**.

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

On motion of Representative PERCY of Phippsburg, the House adjourned at 1:07 p.m., until 9:00 a.m., Wednesday, May 23, 2007 in honor and lasting tribute to Irving F. Chipman, of Harpswell, Robert J. "Bob" Thibodeau, of East Millinocket and James Joseph Durant, of Scarborough.