

MAINE STATE LEGISLATURE

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House of Representatives
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State of Maine

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May 26, 2005 – June 17, 2005

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SENATE PAPERS
Non-Concurrent Matter

Bill "An Act Authorizing Municipalities To Establish Walking Trails"

(S.P. 165) (L.D. 539)

Majority (10) **OUGHT NOT TO PASS** Report of the Committee on **JUDICIARY READ** and **ACCEPTED** in the House on June 7, 2005.

Came from the Senate with that Body having **INSISTED** on its former action whereby the Minority (3) **OUGHT TO PASS AS AMENDED** Report of the Committee on **JUDICIARY** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-338)** and **ASKED** for a Committee of Conference in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Amend the Revaluation Process by Municipalities"

(S.P. 550) (L.D. 1563)

Majority (12) **OUGHT NOT TO PASS** Report of the Committee on **TAXATION READ** and **ACCEPTED** in the House on June 7, 2005.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Minority (1) **OUGHT TO PASS AS AMENDED** Report of the Committee on **TAXATION** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-303)** in **NON-CONCURRENCE**.

The House voted to **ADHERE**.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (7) Ought to Pass as Amended by Committee Amendment "A" (S-283) - Minority (6) Ought to Pass as Amended by Committee Amendment "B" (S-284) - Committee on UTILITIES AND ENERGY on Bill "An Act To Amend the Maine Wind Energy Act"

(S.P. 477) (L.D. 1379)

Which was **TABLED** by Representative **BLISS** of South Portland pending **ACCEPTANCE** of either Report.

Representative **BLISS** of South Portland moved that the House **ACCEPT** the Majority **Ought to Pass as Amended** Report.

Representative Fletcher.

Representative **FLETCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I would like to speak just a few moments on this. The good news is that we all agree that wind power for the future has a great deal of potential for the State of Maine. I think that is the most important thing. There has been a lot of good work done and the PUC did a feasibility study and identified what needed to happen and I would just like to take a few minutes and share with you the thoughts that I have.

What we know is that the technology is there. Small-scale wind power can be cost effective and will work within our transmission system so we know that it is a doable process. As many of you know, in Europe smaller scale community wind projects are very common and are providing an important source

of local renewable energy and what we are talking about is decreasing our dependence on foreign fossil fuel and decreasing our dependence on electricity generated with coal fired plants and getting ourselves to be independent and that is a real advantage of local indigenous renewable energy and Maine has great potential, that we already know.

I want to talk a little bit about the Majority Report. It supports the same concept, but does not actively result in anything happening except going to the Energy Resources Council and doing another study. The Majority Report I would respectfully suggest could get us into the paralysis by analysis stage. We know that it works. The PUC did an exhaustive analysis and said that these are the steps that need to happen and we are ready to implement. Spending another year doing another study to verify what we already know seems not to be a very productive use of time. With oil recently hitting about \$52 a barrel and the price of natural gas twice as high to three times as high as it was I am not sure that I want to wait another year before we take the next logical step to start to realize the true potential of wind power in the State of Maine. I can't talk about the Minority Report, but what I would suggest is that we are ready to implement. The PUC identified what needs to be done and I would ask that you support defeating the pending motion so that we can move on to the Minority Report and so that we can start this process.

There is an old country and western song that calls for a little less talk and a lot more action. I would respectfully suggest small-scale wind power in Maine is ready for action and not just more talk. Mr. Speaker when the vote is taken I request the yeas and nays.

Representative **FLETCHER** of Winslow **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 South Portland, Representative **Bliss**.

Representative **BLISS**: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. Last week this body heard a divided report from the Utilities and Energy Committee and I know that this is one of your favorite things to listen to. That one was about solar power, but the irony was that both the Majority and Minority Reports were in favor of the development of solar power. The issue was simply the mechanism necessary to move forward. This week you see before you another divided report from the Utilities and Energy Committee, this one dealing with wind power. Again, both reports are in favor of the development of wind power. In this case the discerning issue is the speed with which the state should move forward with something called community wind power. The Majority Report includes a determination that it is the policy of the State of Maine that we ought to encourage the attraction of appropriately sited wind energy consistent with high environmental standards. The report goes on to ask the Energy Resources Council to examine the concept of community wind and report back by January 13th. We believe that this represents a careful and thoughtful approach to the development of wind power.

The other report offers the same policy statement, but it leaps over the examination of what community wind actually means and offers Pine Tree Zone status to any community wind project anywhere in the state. It offers credit trading for wind electricity providers; it offers PUC assistance in financing wind energy projects. It supports construction and operation of wind energy generating facilities up to a total installed capacity of 300 megawatts by the year 2010. By comparison, for those of you less familiar with PUC terminology, 300 megawatts is roughly 1/3

the maximum capacity of Maine Yankee and just about at the operating level of Maine Yankee on an average day. Finally, almost as an afterthought, the Minority Report suggests that the PUC should undertake a study determining just what community wind power actually means.

Mr. Speaker, the entire Utilities and Energy Committee supports the development of wind power as one of the variety of sources of power for the state, but the Majority Report advocates making sure that we know what we are talking about before we offer incentives, not after. Mr. Speaker, the fine report presented by the Public Utilities Commission already this January makes no mention of community wind power. The term didn't even exist as a generally recognized term as recently as last January.

The Majority Report asks the Energy Resources Council to explore the term before we offer incentives and Pine Tree Zone status, not after. Mr. Speaker, the best way to lower the cost of power to Maine consumers is to diversify our power supply. We have already made a strong statement this year in favor of solar power. Everyone on the Utilities and Energy Committee believes that a similarly strong statement ought to be made in favor of wind power, but the Majority Report advocates knowing what we are really talking about before we offer incentives, before we offer Pine Tree Zone status and before we offer PUC assistance in financing, not after. Mr. Speaker I urge acceptance of the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative SAVIELLO: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I rise today in opposition to the Majority Report. I have a very strong wind power proponent in my district named Dane Trafton. Dane is from Phillips and has studied this issue very much and I listen to him very carefully as I talk about these issues. As I have talked with Dane about this amendment he has made a point to me that it is perhaps time to stop studying and let the communities just do it. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative FLETCHER: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wasn't going to talk about the Minority Report, but if I could have the indulgence I would like to make just a few points if I could. What I would like to mention is that we do know and it is defined what community wind is and maybe we can think of a lot more creative name, but community wind is less than 10 megawatts. That is defined. It is not an ambiguous term. It is small scale, locally produced electric energy that will be integrated into the existing power grid. Why do we talk about a number of 300 peak megawatts installed?

The things that we already know from other people's experience is that if wind power becomes more than 10% of your total energy generation you start to run into potential transmission and distribution issues. That is why community wind is structured to be less than 10 megawatts and is to be integrated into the existing power grid of the particular region if that community or area decides to go ahead with it. We already have a project in the works and will hopefully be very productive. That is the project at Fox Island. It has yet to be built, but that is the concept.

The other thing that I want to point out is that we are not trying to create Pine Tree Zones for the windmills. We are trying to follow the PUC recommendation that said to help overcome the initial capital costs, the Pine Tree Zone type of incentive should be applied. It is not that we are going to have a whole mess of Pine Tree Zones scattered throughout with windmills on

them, it is to apply the benefits, not necessarily the classification to that portion which is to be used to generate the renewable energy. This is still at the discretion of the DECD director because it goes to the test of whether the project would have been built if the Pine Tree Zone incentives were not available. So, it still is in the discretion. There is nothing automatic and, more importantly, this isn't to just automatically make it happen. In the other report, which I cannot talk about we would know by March 1, 2006 what the PUC is going to suggest after working with DECD, DEP, LURC and FAME to really put this package together. So, I am just trying to make sure that we understand that.

I think that my good colleague has correctly stated in the Majority Report that we need more renewable energy in the state of Maine. This is the way to make it happen in a very direct and straightforward manner. There are no hidden tricks. This is the time to make it happen, versus another study, which I believe we are at the point where we are paying \$52 a barrel that I am not sure we can wait another year before we get a little more renewable energy and a little bit less greenhouse gasses into the atmosphere. Thank you very much ladies and gentlemen.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Bliss.

Representative BLISS: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am not going to give another long speech nor am I going to wave around a prop, but since the good Representative mentioned Dane Trafton I do want to point out that all of the members of the Utilities and Energy Committee did receive an email from Mr. Trafton dated today at 11:28am, which speaks specifically about his problems with the report that we can't talk about yet.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Saviello.

Representative SAVIELLO: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Just a quick correction. I talked to Mr. Trafton about 15 minutes ago and he has got a different opinion. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Babbidge.

Representative BABBIDGE: Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. The good Representative from Winslow is correct in that everyone on this committee is very interested in renewable energy, including wind power. But, as usual the devil is in the details. It is not where we want to go, it is how we want to get there. We had a great deal of testimony in committee when this bill came before us. For instance, environmental advocates who are special to me were on both sides of this issue. Those that advocated for wind power did have exceptions. The problem is not economics. It is siting it. Don't raid the Maine Energy Efficiency fund. Some said that this state mandate was needed to support wind because the problem was local communities. So, in other words, what we are saying is that going too fast on wind would provide a way of streamlining and overriding local control. Some said that subsidies would allow companies to not pay taxes on their fossil fuel plants. We do offer energy credit transfers as part of the consideration here. In other words, some of the discussion is how fast to go to get to where we want to be. But, even those that support going as quickly as possible really claim that financing wasn't the major issue, it was siting and the good place to put wind generators in this state are probably high altitude areas such as the ridgelines of mountains or off the coast where winds get an opportunity to develop some momentum. Of course, we know how populated the coastal region is. The Director of Energy Policy, the Maine Appalachian Mountain Club,

the Public Advocate, the Maine Audubon Society all expressed opposition to this legislation and the reason that they did was because of the speed and the fact that we were using Pine Tree Zones no matter where they were geographically located and the fact that we were using energy transfers and the fact that siting problems were not solved in the legislation so it is the majorities feeling that if we ask the PUC to look at community wind, specifically as an option, our understanding would be clusters of mills that would generate 10 megawatts or less than we can take a look at this in mid January and hopefully have a better idea of how to carefully craft this legislation. I urge you to vote for the very sensible Majority Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bar Harbor, Representative Koffman.

Representative **KOFFMAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. This issue is far too important for the State of Maine to have such a divided report over the means to get to what is such an important end for us, which is energy independence and reductions in fossil fuel dependence and all of the other merits that come with it. I am disappointed with some of my environmental organization colleagues who have been slow on the draw in leading the way on this issue as opposed to reacting to it. Nevertheless, I am going to support the Majority Report because I think that the Majority Report lays a foundation for us to build on and that we are going to have discussions in future generations where legislators are going to be discussing this and other energy related issues that are so key to our economy and our quality of life for generations to come. To the extent to which the Majority Report is building a cautious yet strong foundation for future development, which I hope will stimulate the development of wind power in Maine, including Bar Harbor I would be delighted to see.

The SPEAKER: The Chair recognizes the Representative from Phippsburg, Representative Percy.

Representative **PERCY**: Mr. Speaker, may I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **PERCY**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. Is there a fiscal note with the Minority Report? It talks about the Pine Tree Zones and the benefits and I did not get a fiscal note across my desk so is there one attached with the Minority Report?

The SPEAKER: The Representative from Phippsburg, Representative Percy has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Winslow, Representative Fletcher.

Representative **FLETCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I just received the Minority Amendment, which we can't talk about and if I may there is one attached when you do see it that says that it could potentially produce revenue loss to the general fund. This amendment reduces the potential situations in which an entity would be eligible for Pine Tree Zone development benefits which may decrease the general fund revenue loss associated with community wind power generators. If I may add to that, I think that we always have to remember that the criteria for granting Pine Tree Zone tax reductions is the test that if these benefits were not provided then the project would not move forward. So, if you apply that logic you wouldn't be losing anything because it wouldn't be there to lose. Thank you very much Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Durham, Representative Vaughan.

Representative **VAUGHAN**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. As far as I can tell the main thing that you need to determine in a study is

whether or not the wind blows enough operate a wind turbine in a given location. If you are concerned about the viability of the wind turbine as a machine you can look at some other locations.

It is no secret that I am from away. I come from Nebraska. If you happen to have a laptop and want to www.nppd.com, that is the Nebraska Public Power District, you can see a couple of studies. Out north of town as they say, over in the next town 30 miles away from where I was raised they erected two wind turbines. The town was called Spring View. Those two have been running for a long enough period of time for them to make determinations that they are erecting 36 south of town. Facts and figures are available on that site and you just go to www.nppd.com and click on wind turbines and as far as determining whether or not the wind blows enough here is, I am sure, already determined. Thank you very much.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Flood.

Representative **FLOOD**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I wanted to support the Representative from Winslow, Representative Fletcher. For 25 years I managed large blocks of land in Maine and other parts of New England, millions of acres and there were lots of sites for wind generation and every year we received five or ten different requests for that type of activity. But, very few of those requests actually came to fruition because every time that someone got into exploration there was no state policy or direction. Things at that level were missing so these things tended to fail after several months of discovery. Little happened and most things bogged down waiting for better direction. This Ought Not to Pass Majority Report perpetuates that problem and I think that we need to strengthen that up. Thank you.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I think this debate makes it obvious to me that there is, in fact, a lot of wind blowing around here in Maine and its quite warm and I appreciate everybody's remarks and hope that we can get going.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Fletcher. Having spoken twice now requests unanimous consent to address the House a third time. Is there objection? Chair hears no objection, the Representative may proceed.

Representative **FLETCHER**: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be very brief. I think that we have certainly exhausted enough wind, but in the PUC report of January 27, 2005 on page 38 I will read you one line. "For the promotion of smaller on site or community wind projects, however the commission recommends consideration of tax incentives as an appropriate support mechanism." On a previous page, page 27, their thought was that it would be appropriate to designate all wind facilities as qualified Pine Tree Zone businesses regardless of their location and the status as a manufacturing operation. The only point that I want to make is that the PUC did recognize that there is such a thing as community wind and it is not an abstract concept. It is small scale and that was one of their conclusions that would provide the incentives to begin the process. Thank you very much.

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. 287

YEA - Adams, Ash, Babbidge, Barstow, Beaudette, Blanchard, Blanchette, Bliss, Brannigan, Brautigam, Bryant, Burns, Cain, Canavan, Clark, Craven, Cummings, Davis G, Driscoll, Duchesne, Dudley, Dunn, Duplessie, Eberle, Faircloth, Farrington, Finch, Gerzofsky, Goldman, Grose, Hanley S, Hutton, Jackson, Jennings, Koffman, Lerman, Marley, Mazurek, Miller, Mills, Moody, Norton, O'Brien, Paradis, Patrick, Pelletier-Simpson, Percy, Perry, Pineau, Pingree, Piotti, Rines, Sampson, Schatz, Smith N, Smith W, Thompson, Tuttle, Walcott, Watson, Webster, Wheeler, Woodbury, Mr. Speaker.

NAY - Austin, Berube, Bierman, Bishop, Bowen, Bowles, Browne W, Bryant-Deschenes, Campbell, Carr, Cebra, Churchill, Clough, Collins, Cressey, Crosby, Crosthwaite, Curley, Curtis, Daigle, Davis K, Dugay, Duprey, Eder, Edgecomb, Fischer, Fisher, Fitts, Fletcher, Flood, Glynn, Greeley, Hall, Hamper, Hanley B, Harlow, Jacobsen, Jodrey, Joy, Kaelin, Lansley, Lewin, Lindell, Lundeen, Marean, McCormick, McFadden, McKane, McKenney, McLeod, Merrill, Millett, Moulton, Muse, Nass, Nutting, Ott, Pinkham, Plummer, Rector, Richardson D, Richardson E, Richardson W, Robinson, Rosen, Saviello, Seavey, Sherman, Shields, Stedman, Sykes, Tardy, Thomas, Trahan, Twomey, Valentino, Vaughan.

ABSENT - Annis, Brown R, Emery, Hogan, Hotham, Makas, Marraché, Moore G, Pilon, Richardson M.

Yes, 64; No, 77; Absent, 10; Excused, 0.

64 having voted in the affirmative and 77 voted in the negative, with 10 being absent, and accordingly the Majority **Ought to Pass as Amended Report was NOT ACCEPTED.**

Subsequently, the **Minority Ought to Pass as Amended Report was ACCEPTED.**

The Bill was **READ ONCE. Committee Amendment "B" (S-284) was READ** by the Clerk.

On motion of Representative BLISS of South Portland, **TABLED** pending **ADOPTION of Committee Amendment "B" (S-284)** and later today assigned.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

HOUSE DIVIDED REPORT - Majority (9) Ought to Pass as Amended by Committee Amendment "A" (H-661) - Minority (4) Ought Not to Pass - Committee on HEALTH AND HUMAN SERVICES on Bill "An Act Regarding Advertising by Drug Manufacturers"

(H.P. 1141) (L.D. 1618)

Which was **TABLED** by Representative PINGREE of North Haven pending her motion to **ACCEPT** the Majority **Ought to Pass as Amended Report.**

The **SPEAKER:** The Chair recognizes the Representative from Augusta, Representative Lerman.

Representative **LERMAN:** Thank you Mr. Speaker. Mr. Speaker, Men and Women of the House. I am sure that many of you have noticed on television these days and for the past few years that there is advertising by pharmaceutical companies and drug manufacturers. They advertise little yellow pills, little purple pills, pills that have butterflies around them and needless to say, at this point it is part of our staple diet of advertising on TV

Just so you are aware, in case you weren't, it is only since 1997 that the federal Food and Drug Administration allowed drug companies to advertise on television. I will be honest with you, I am a little offended by some of the adds because in some cases, at least in the past, they didn't tell you what the drugs were for, they just said here is a purple pill go to your doctor and ask them whether it is right for you.

The impact of this advertising has been significant. Last year, for example, the pharmaceutical companies spent \$4 billion on direct advertising to individuals so that they would purchase the product. Also, another impact of drug advertising in the past few years has been nearly a 400% increase in the cost of the Medicaid program for pharmaceuticals. The drug companies have made a very good investment from their point of view in the advertising that they have undertaken. Just to put it into a broad context, the major driver of increased costs to health insurance in this country and in this state has been the increased use of pharmaceutical drugs. In the case of the company that I had we were told by Anthem that, while a few years ago in the mid to late 90's the cost of drugs was roughly 6% of the total cost of payments paid through health insurance, since 1997 it has gone from 6% to 25%. At least in the opinion of the person who we work with at Anthem, it was influenced by the aggressive campaign on the part of the pharmaceutical companies to directly market their products.

This bill does a few things but the major thing for you to know in terms of this bill is that it simply says this: if you are going to advertise drugs you need to fully disclose the results of clinical trials so that the public is informed as to what the potential benefits and side effects of those medications are. In essence that is what this bill does. This is a public right to know bill. It is to inform the public so that while they are being marketed too heavily they also have somewhere where they can go to get the full picture on the benefits and potential side effects of those medications that are being marketed to them. The core thing that this bill does is that it says if you want to advertise your drugs in Maine that is certainly your prerogative, but if you are going to do it, you need to disclose to the public the results of all clinical trials, not just those clinical trials that you may choose to advertise.

There are a couple of other pieces of this bill that I want to bring to your attention. There is also a piece in this legislation that says we are going to give the state the authority to hold the manufacturers who do choose to advertise accountable to the federal standards that have been established regarding drug advertising. It doesn't create a higher standard, it doesn't create a different standard, it simply says that the state can hold the drug manufacturers or the drug advertisers accountable to the same set of standards that the federal government has. The third piece in this bill is simply there to direct the Department of Human Services to make sure that the public is aware, if they are interested, on where to go to get information regarding the results of clinical trials. That is what this bill does.

There is a fee in here just so that you are aware. It charges the manufacturers and has nothing to do with a fee on advertising. It simply says that if you are a manufacturer of pharmaceuticals that distributes medication through the Medicaid program then you have to pay \$1,000 a year to support informing the public on where they need to go to find out more information regarding side effects and the effectiveness of particular medications. I want you to know that what this bill doesn't do is that it doesn't require manufacturers to pay a fee to advertise. It doesn't regulate advertising, it doesn't create another level of bureaucracy then what currently exists and it is certainly not a tax on advertising. This is not an anti-business bill, this is really a buyer beware bill. I hope that you will seriously consider this bill.

One last point, this bill also avoids duplicating anything that currently exists. There is no state or federal law or regulation that requires the pharmaceutical companies to do what this bill asks them to do, which is to disclose the results of all clinical trials. The pharmaceutical company agreed to do this on a voluntary basis last year, but they have yet to produce. They volunteered.