

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 20, 1991 to July 10, 1991

Emergency Measure

An Act to Allow a Referendum in Sagadahoc County Regarding a Bi-county Work Center with Kennebec County (S.P. 766) (L.D. 1962)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 12 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Pervse the Integrity of the Maine State Lotteries (S.P. 80) (L.D. 143) (C. "A" S-187)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The following item appearing on Supplement No. 13 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act Regarding the Crime of Prostitution" (EMERGENCY) (H.P. 1364) (L.D. 1952) which was read twice under suspension of the rules and without reference to any committee passed to be engrossed in the House on June 19, 1991.

Came from the Senate referred to the Committee on **Judiciary** in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 14 were taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

An Act Making Additional Allocations from the Highway Fund for the Expenditures of State Government for the Fiscal Year Ending June 30, 1991 (EMERGENCY) (H.P. 1349) (L.D. 1942) (C. "A" H-681) which was passed to be enacted in the House on June 26, 1991.

Came from the Senate with the Bill and accompanying papers recommitted to the Committee on **Transportation** in non-concurrence.

On motion of Representative Macomber of South Portland, tabled pending further consideration and

later today assigned.

Non-Concurrent Matter

Bill "An Act to Amend the Maine Administrative Procedure Act" (EMERGENCY) (H.P. 1371) (L.D. 1955) which was read twice under suspension of the rules without reference to a committee and passed to be engrossed in the House on June 26, 1991.

Came from the Senate referred to the Committee on **State and Local Government** in non-concurrence.

The House voted to Adhere.

Representative Dore of Auburn was granted unanimous consent to address the House:

Representative DORE: Mr. Speaker, Members of the House: On Roll Call #178, I was recorded as voting no. I voted yea as I had on Roll Calls #176 and #177 and I wouldn't want anyone to think that I had done this deliberately. My intention was to vote yea and I would like that duly noted. Thank you.

The Chair laid before the House the following matter: An Act to Amend the Child Labor Laws and to Allow Illegally Employed Minors to Bring Suit Against Their Employers for Work Related Injuries (H.P. 635) (L.D. 905) (S. "A" S-347 to C. "A" H-593) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings. Representative HASTINGS: Mr. Speaker, Men and Women of the House: This particular bill we have debated long before and I won't rehash all of the issues.

However, if you will look at the very last part of the title on L.D. 905, you will see that it is to allow illegally employed minors to bring suits against their employers for work related injuries. This is one of the very core issues of Workers' Compensation. What is being done is to change the whole structure of it dealing with this issue. I suggest that that is most imprudent, it is not one that is in asymmetry with the systemic process that the Workers' Compensation process or procedure of no-fault allows.

I would urge you to vote against enactment of this bill and I would ask for the yeas and nays.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Lipman. Representative LIPMAN: Mr. Speaker, Men and

Women of the House: I signed the Majority Report and I will vote in favor of the bill. I believe since this bill was last voted upon, a very fair compromise was offered and turned down.

To the members of the Minority Party who supported the majority position last time, I well understand if you don't support it this time in view of the compromise that was offered. However, where I signed on that report, I will continue to vote for this bill.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative MCHENRY.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Last time we voted on this issue, we had a 103 votes and every member of this House knew exactly what they were voting on.

We are voting on a bill that will allow the parents of a child who is illegally hired by an employer to sue because that employer is utilizing that child illegally. If he was using that child legally, employing that child, he would come under Workers' Comp and there would be no suit. That employer that we are allowing these parents to sue are the very employers who are illegally hiring these children. I don't think there is anybody in this House that would allow his or her child to be hired illegally. It can happen, ladies and gentlemen. It doesn't mean that you don't care where your child is, you are under the assumption that your child is working for an employer the way that he was supposed to utilize your child, not putting that child in a dangerous position or a workplace where there is danger for that child to die, be maimed, and that is all that we are saying. We are allowing the parents, whose child may even die on the job, to sue. It is no windfall, I assure you.

When I read in the paper where the Governor said that it should be the parents' responsibility, I was appalled to hear that he said that we shouldn't allow the parents to have a windfall because the child happens to die on the job. I just couldn't believe it.

I have heard from my constituents things that have been said to me that I will not repeat and he would not like to hear what they had to say about what he said.

I hope that we continue with the vote, we had a 103 votes — if we believed it then, why should we change now? It was a good bill and is still a good bill.

The SPEAKER: The Chair recognizes the Representative from Jay, Representative PINEAU.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief but this is probably the most important issue coming out of Labor other than the package that you voted on earlier today.

The provision that was spoken of by the Representative from Fryeburg and the Representative from Madawaska is only one small part of this bill. The important parts I think have to be said and this House voted exceedingly strong on engrossment. I hope you hold your vote.

This bill increases the student minimum wage from 75 to 85 percent of minimum wage. This bill requires employers to maintain a time or record book for employees under 18. This bill increases the penalties for employers who violate provisions of child labor laws. It sets up two different schedules for recording and reporting violations and also for

other violations. It also sets up a schedule on multiple violations for the same employer.

The most important thing this bill does is it gives the superintendents of schools the powers to pull a work permit if the student's grades aren't what they should be. What this is is this legislature telling the employers of this state and telling the minors of this state that "school comes first." If we do consider this being that our children are our most important resource, I think we ought to back that up with our votes.

Yes, those parts are all unanimous. As a matter of fact, some of the language is directly out of the Governor's bill on superintendents enabling them to pull a work permit. The part of the bill that comes under controversy is the part on illegally hired minors that are hurt or killed at work. Now these aren't minors that are illegally hired due to recording or reporting violations, these are illegally hired minors in dangerous jobs or hazardous situations. Employers should know better than that.

There is also a provision in the bill that any comp that comes off one of these, if there is a civil action, the comp gets paid back. The money is recovered in the comp system. It actually would cut our rate of costs. Why should good Maine employers be at risk to pick up tabs on employers who would illegally hire minors in those situations? We are not alone, there are many other states that do this, there are many other states that handle it in different ways.

I think this is a strong message but the right message to send if we believe that education comes first.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative RUHLIN.

Representative RUHLIN: Mr. Speaker, Men and Women of the House: I would point out to you that the gentleman from Fryeburg mentioned Workers' Comp and its holding on minors. However, Workers' Comp refers to those workers who are legally hired. This bill is referencing those minors who are illegally hired. It is somewhat punitive in one sense and it is meant to be, you should not be illegally hiring minors, so this very good bill that so many of you voted for in the past is still the same good bill that you voted for. I hope you will continue to support this bill tonight.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 180

YEA - Adams, Aliberti, Anthony, Bailey, H.; Bailey, R.; Bell, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Daggett, DiPietro, Donnelly, Dore, Duffy, Duplessis, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heeschen, Heino, Hichborn, Hogle, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, LaPointe, Larrivee, Lawrence, Lebowitz, Lemke, Libby, Lipman, Lord, Luther, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, MCHENRY, McKeen, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Murphy, Nadeau, Norton, Nutting, O'Dea, O'Gara, Oliver, Ott, Paradis, J.; Paradis, P.; Parent, Paul, Pfeiffer, Pineau,

Plourde, Poulin, Pouliot, Powers, Rand, Reed, G.; Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Sheltra, Simonds, Simpson, Skoglund, Small, Spear, Stevens, A.; Stevens, P.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Barth, Bennett, Bowers, Farren, Foss, Garland, Hanley, Hastings, Hepburn, Look, MacBride, Marsano, Nash, Pendexter, Pendleton, Pines, Reed, W.; Richards, Savage, Whitcomb.

ABSENT - Cashman, Constantine, Hichens, Kerr, Merrill, Morrison.

Yes, 122; No, 23; Absent, 6; Paired, 0; Excused, 0.

122 having voted in the affirmative and 23 in the negative with 6 being absent, the bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

An Act Concerning the Low-income Home Energy Assistance Program (EMERGENCY) (H.P. 1333) (L.D. 1924) (S. "B" S-362 to C. "A" H-652)

- In House, Passed to be Enacted on June 19, 1991.
- In Senate, Failed of Passage to be Enacted in non-concurrence.

TABLED - June 19, 1991 by Representative MELENDY of Rockland.

PENDING - Further Consideration.

On motion of Representative Melendy of Rockland, the House voted to Recede.

The same Representative offered House Amendment "A" (H-707) and moved its adoption.

House Amendment "A" (H-707) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-652) as amended by Senate Amendment "B" (S-362) thereto and House Amendment "A" (H-707) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Majority Report (8) of the Committee on **State and Local Government** reporting "**Ought Not to Pass**" on Bill "An Act to Reorganize the Management and Regulatory Functions of State Government Pertaining to Natural Resources" (EMERGENCY) (S.P. 730) (L.D. 1915) and Minority Report (4) of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-372) on same Bill, Came from the Senate with the Minority "**Ought to Pass**" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee

Amendment "A" (S-372), which was tabled earlier in the day and later today assigned pending the motion of Representative Joseph of Waterville that the House accept the Minority "Ought to Pass" Report.

The **SPEAKER**: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative **JOSEPH**: Mr. Speaker, Men and Women of the House: I have no delusions here as to what the state of this particular piece of legislation is. I do think this body needs to understand what this bill might do.

First of all, we have heard the Chief Executive of this state talk about a government that Maine people can afford. We have heard the Chief Executive talk about downsizing state government and we have heard the Chief Executive talk about reorganization and restructuring. We have also been told that we are going to have to raise \$350 million dollars worth of new revenues. This bill is an attempt to address the issues of restructuring. It is an attempt to incorporate the Department of Agriculture, the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Maine Waste Management Agency and the Division of Health and Engineering, one function in that DHS department.

This bill creates a select committee made up of 15 people from all the committees and jurisdictions of all the departments. This select committee would be charged to establish a single department working with the Director of State Planning, Mr. Silkman, and with the Technical Advisory Committee. This select committee would then report back to the Maine Legislature with a plan. Regardless of what anybody says, they can suggest that there be no plan or they can suggest that certain elements should be in this department and certain elements should not be in it.

The original cost estimates of savings were approximately \$500,000 the first year with \$1.5 million the second year or \$2 million, depending on how it is implemented.

With that, my personal philosophy and the reason I signed this "Ought to Pass" is, as department heads recommend to Appropriations cuts and direct service people, I am recommending in this bill the cuts to administrative personnel who would answer to one Commissioner and five bureau directors. Functions in these departments would not be changed. All of the policies, all of the goals of these departments would stay the same. With that, I would encourage you to consider the Minority Report. I certainly understand your reservations.

Representative Jacques of Waterville moved that L.D. 1915 and all accompanying papers be indefinitely postponed and requested a roll call.

The **SPEAKER**: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The **SPEAKER**: The pending question before the House is the motion of Representative Jacques of Waterville that L.D. 1915 and all accompanying papers be indefinitely postponed. Those in favor will vote