

MAINE STATE LEGISLATURE

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On motion of Representative COLWELL of Gardiner, **TABLED** pending the motion of Representative BAGLEY of Machias to **ACCEPT** the Majority **Ought to Pass as Amended** Report and later today assigned.

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

Bill "An Act to Eliminate Unnecessary Paperwork for Wage-hour Compliance"

(H.P. 423) (L.D. 544)
(C. "A" H-114)

Which was **TABLED** by Representative SMITH of Van Buren pending **PASSAGE TO BE ENGROSSED as Amended**.

The **SPEAKER**: The Chair recognizes the Representative from Van Buren, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House. I rise to speak to you and oppose the motion to accept the Majority Report on this bill. The bill is titled "An Act to Eliminate Unnecessary Paperwork." In fact, that is not what it seeks to do. It is not about paperwork. It is about taking away from some additional employees the protections of our overtime laws. This started as a bill to remove overtime protection from auto body workers working for car dealers. It has since been amended and I will discuss the amendment in a minute. I guess the theory of this bill is that if you don't have to comply with overtime laws, you don't need to keep records. I guess that can explain the title of the bill. I suppose on this theory we can eliminate all overtime protections for all workers and save a lot more paperwork. I don't think that is the appropriate policy for this state. It questions whether it is good policy that more workers of our state receive the overtime protections and be paid overtime benefits like the other worker of the state. This bill will create more exemptions to the overtime laws. It does not benefit the workers of our state. The only result will be that there will be denial of overtime protections. They will work longer hours and they will be paid less for each hour worked.

It was significant to me, as I sat in the committee, that not a single worker that stood up and spoke in favor of this. This was not a worker's bill.

There are two reasons why this bill should be defeated. One, in some ways it is going to take away the overtime protections for some of our workers. The other reason is that reading the amendment, you can't really be sure which workers will be affected. As the summary states, federal law exempts employees with the same title as state law, but the federal interpretation covers more types of employees and may cover at least some of the employees who would have been exempted by this bill. I tried to figure it out for myself exactly who would be exempted. I can't. If anybody on this floor knows exactly who is going to be affected, I would welcome them to explain it. I do know from the source where this bill is coming from and the industry that has presented it, it is going to strip protections from workers. I ask you to defeat the present motion and keep the protections for the workers of our state.

The **SPEAKER**: The Chair recognizes the Representative from Carmel, Representative Treadwell.

Representative TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House. I would like to fill in some of the blanks that were not addressed by the previous speaker. First of all, in any automobile dealership in the state, automobile mechanics are exempted from the wage and hour law. Parts personnel are exempted from the wage and hour law. Automotive salespersons are exempted from the wage and hour law. The

original bill asks that the service writers, who are a key factor within the service department of an automobile dealership, be exempted from the wage and overtime law. Those people are paid much, much higher than a minimum wage. I have heard figures going as high as \$60,000. I am sure there are people in this chamber who have better knowledge than I do of that.

The amendment replaced the bill. All the amendment does is require that the federal interpretation of those exempted positions be used by the state. I think it is a good law. With the paperwork reduction, the unnecessary paperwork, that is being done right now is when one of these people we are asking for the exemption for, at the end of the week if they had 45 or 50 hours of work and they earned \$700 or \$800 that week, the staff in the office had to take their hours that they worked and based on the incentive pay that they were to receive, which sometimes is \$700 or \$800 a week or more, then they had to play mathematical gymnastics with that to come out with the wage and hour compliance, to satisfy the wage and compliance people. It is strictly an administrative function to keep the paperwork correct. With this bill, nobody is going to lose any overtime pay. I would urge that you support the pending motion and vote Ought to Pass. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Cumberland, Representative McKenney.

Representative MCKENNEY: Mr. Speaker, Ladies and Gentlemen of the House. I would just like to back up what the Representative from Carmel has stated. The people that this bill is trying to exempt from overtime are highly compensated individuals that either work at car dealerships or they work at automotive service shops. The service writer, for instance, really doesn't get paid by the hour. He gets paid based on a system of incentives. He gets paid by the amount of business that he writes. His paycheck changes from week to week. It is never the same. In order to back that into an archaic wage hour system requires a lot of paperwork. The people that are affected by this law don't want to be paid by the hour. They don't want to be paid overtime. They want to be paid based on their commission system because they make far more money doing that than they ever would working by the hour. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Winslow, Representative Matthews.

Representative MATTHEWS: Mr. Speaker, Men and Women of the House. My greatest concern with this bill is that none of those people, hundreds, dozens, millions, I don't know what they are, came to the committee. There was not one. I am sure all of us have frequented dealerships, God forbid, on occasion and I have not been accosted by technicians and service writers that said, change this law, it is driving me crazy. I don't want to be protected by overtime standards and wage and hour compliance laws. Please, change the law. I haven't had any. None were at the hearing. The industry was at the hearing. Their chief lobbyist was at the hearing. I am reminded in this House today by a change that we were asked to do last session on a particular bill and I won't go into detail about it. It was a bill that we were told in this committee came through unanimous, flew through this particular committee, it is a change. Yes, the industry was there. The affected population, they didn't make it. Let me tell you, it is good for everybody. It wasn't too good. Be careful of legislation like this, ladies and gentlemen. I hate to mention another bill. I don't want to put that elephant's nose under the tent, but wage and hour overtime provisions and protections are good things that protect Maine workers. I am not going to do anything that will change that. No one has come to me. No one came to the committee. Representative Smith said it well. I am not going to vote for it and I urge you not to vote for it.

The **SPEAKER**: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative **BUNKER**: Mr. Speaker, Men and Women of the House. As you can see in this report, you may not see it clearly today because more than likely the committee report hasn't been read today. I am on the side with Representative Treadwell and others in the Majority Report. I do that not lightly. If there is anyone in here who thinks I am against labor, you are in the wrong room. I look at this as not an anti-labor, anti-business bill. I looked at the issues involved here. I saw the good reason why the employees weren't beating our door down saying to change the law. It is quite simply because they are not affected by it in any way, shape or form. What these folks are doing is they are in good high paying jobs. They are in a very skilled labor type of work. They are in a position right now that they are standing, you have heard of the cliffs and the employees being side-by-side with somebody who has this deal and somebody that has that deal, these folks are side-by-side and they are sitting next to a salesman that has an incentive plan with commission and this is how his pay is done. This person went in there and made the same deal. This person is an auto body technician or a car mechanic, but the service writer was a little cloudy in the federal language and we tried to point at that language to bring the service writer in. They are in the same part of the building with the same kind of the people. They all have the incentive deal made with the dealership when they got employed. The only difference between what happens today and what happens tomorrow is when they get their paycheck, they go home and they get the same paycheck. You get the same amount of work out of them. They work the same way they did yesterday today and tomorrow. The only difference is the management folks don't have to do some juggling of their books so that when labor comes in to inspect them for that one employee and not those other three employees, they have to backtrack the payroll and recompute it to a weekly wage with overtime type of things to comply with our labor cops. That is all this is. It is a paperwork juggling act to comply with labor inspections. The labor inspection folks did come and say it is difficult when you go in there. You have different classes of people, one is this way and the other folks are exempt under state law. We learned during the hearing folks that the three out of the four of these folks, three of them are clearly indicted in federal statute. Even our labor folks were unclear that there was a different standard for these kind of class of people. The service writers are the only one we helped clarify and point toward federal statute. I ask you folks to vote your conscience here. Don't vote for me if you think this is a labor issue. Don't vote just for business if you think this is just a business issue. Just vote based on the facts that you heard this afternoon and I think that is the best way to go. Thank you.

The Chair ordered a division on **PASSAGE TO BE ENGROSSED as Amended**.

Representative **TUTTLE** of Sanford **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENGROSSED as Amended** and later today assigned. (Roll Call Ordered)

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had

preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

SENATE DIVIDED REPORT - Majority (11) Ought to Pass as Amended by Committee Amendment "A" (S-45) - Minority (2) Ought Not to Pass - Committee on UTILITIES AND ENERGY on Bill "An Act to Authorize the Town of Bar Harbor to Acquire the Bar Harbor Water Company" (EMERGENCY)

(S.P. 159) (L.D. 503)

- In Senate, Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-45)**.

TABLED - April 12, 2001 (Till Later Today) by Representative **SAVAGE** of Buxton.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

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

The Bill was **READ ONCE**. **Committee Amendment "A" (S-45)** was **READ** by the Clerk.

Representative **GOODWIN** of Pembroke **PRESENTED** **House Amendment "A" (H-175)** to **Committee Amendment "A" (S-45)**, which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Pembroke, Representative Goodwin.

Representative **GOODWIN**: Mr. Speaker, Men and Women of the House. Eminent domain proceedings we take very seriously. It is the taking of a person's land for a public purpose with payment to the landowner after proper appraisal. LD 503, this legislation, expands the eminent domain authority of the Town of Bar Harbor to include not only real property, but also personal property and assets of a Bar Harbor water company. This legislation is not a friendly takeover. In the hearing process no one said the water is bad, the service is bad or the cost too high. The profits of a water company are limited by PUC ratemaking. This company in existence in Bar Harbor has been there 145 years. It works everyday to provide services to the town. Questions asked at the hearing brought out facts that this company would not share the maps and engineering data of all of the underground services and accessories. This is not a friendly takeover. The precedent of allowing eminent domain to pressure this company to sell is unheard of. We don't need it in Maine. My amendment just strips the expanded eminent domain provision. The town may purchase, at any time, this water company. Al Goodwin could go to Bar Harbor and buy this water company. The Speaker of this body could go to Bar Harbor and buy this water company. Anyone can buy the water company, but not anyone can use eminent domain to pressure a sale.

I did not come to Augusta from Washington County to allow eminent domain proceedings to take a private company, a public company, a company that has stopped. We have too many water companies, small water companies, across this state. They are scattered from Madawaska to Kittery. We can't allow eminent domain to be used to purchase these companies. I ask the body to accept my amendment and I thank the Speaker.

Representative **HALL** of Bristol moved that **House Amendment "A" (H-175)** to **Committee Amendment "A" (S-45)** be **INDEFINITELY POSTPONED**.

The **SPEAKER**: The Chair recognizes the Representative from Bristol, Representative Hall.

Representative **HALL**: Mr. Speaker, Men and Women of the House. We heard a great deal of debate and discussion on the committee on this apparently straightforward bill. The facts, as I understand them, are as follows. The Town of Bar Harbor has agreed amicably to purchase the independent water company