

# MAINE STATE LEGISLATURE

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

**Volume I**

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72 having voted in the affirmative and 64 voted in the negative, with 15 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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

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**HOUSE DIVIDED REPORT - Majority (7) Ought Not to Pass - Minority (6) Ought to Pass as Amended by Committee Amendment "A" (H-223) - Committee on STATE AND LOCAL GOVERNMENT on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature Beginning in 2005**

(H.P. 253) (L.D. 310)

**TABLED - May 5, 2003 (Till Later Today)** by Representative McLAUGHLIN of Cape Elizabeth.

**PENDING - Motion of same Representative to ACCEPT the Majority OUGHT NOT TO PASS Report.**

The **SPEAKER**: The Chair recognizes the Representative from Skowhegan, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Ladies and Gentlemen of the House. LD 310 is a Resolve designed to send to referendum a motion to reduce the size of this body to 99 and the other body to 33. This Legislature is the tenth largest Legislature in the United States. By contrast, California has 34 million people and they have 87 legislators in their combined bodies. The State of Maine shows about 75 percent of the people would favor reducing the size of the Legislature. I say that this is an opportunity for us, as legislators, to tell the State of Maine that we are making a serious effort to save them some money. It might hurt us a little bit, but not much. After expenses for redistricting, the direct savings will be about \$1 million a year. With all the scrambling we have been doing in the last four months trying to find money. You are not going to find a much easier way of doing it. When this gets all through, if it should pass, we would be adding about 4,200 people to your district. We don't add any more people to the State of Maine so it is just a matter of servicing the State of Maine with fewer people. This should save a considerable amount of money, not only in direct costs, such as salaries and expenses, but all of the estuary costs that we have of paper and people running around trying to help us out.

I would like to see that we would defeat the pending motion and pass the motion, the Minority Report Ought to Pass. I can't imagine 132 people can't do as well as we have been doing the last four weeks as 186 people could for the last four months. At least a quarter of the people who are now here are term limited. That is not going to have any affect on you. I hope those of you who are contemplating running in 2004 will be willing to save your constituents a million dollars a year.

As I was gathering sponsors for this bill, I approached the good Representative from Cape Elizabeth asking for her signature, as this was happening I was making the remark that this bill was not really mine, but it had been presented at least four times in the last 10 years. The Representative remarked that maybe it is an idea whose time has come. I think she was right. I think we should do this because it is something that needs to be done and the State of Maine population wants to see it. Thank you.

Could I have a roll call?

Representative **RICHARDSON** of Skowhegan **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 Lincoln, Representative Carr.

Representative **CARR**: Mr. Speaker, Men and Women of the House. For the three terms that I have been here, I have fought to try and preserve the rural areas of the State of Maine. We have done that through the rural caucus, bringing members on board to try to work for issues that we have in common. We have districts in the rural areas that now have over 40 towns in its district. I refer to the district that the Representative from Kossuth Township, Representative Bunker, represents. He represents an area from East Machias to Lowell, taking in three counties. There are other districts similar in the State of Maine. As I look at this, this seems like a real good idea and it looks like it would probably save some money, but if you build into that the fact that we would have to go through redistricting again, which we just finished up on the House map at least, some of that money goes away immediately.

The other thing we have to take into consideration is the mileage that people running in these rural areas have to travel. The district that I presently represent has three towns in it with redistricting it doubles. I now have six. If we took this on, probably the district that I represent would have 12 or 15 towns. That covers probably a couple of counties, because it would probably take in Piscataquis County as well as Penobscot County.

If you live in a metropolitan area or a built up area, this may seem like a real good idea, but if you live in a rural area, think about those of us who have to travel many, many miles. I believe that Representative Joy's area, the Representative from Crystal, now presently takes him to drive through his district is about 150 miles. You add another 4,000 people and he is going to have to drive 300 or 400 miles. There is more to this than just cutting the size of the Legislature. I ask that when you think about this, you vote in favor of the Ought Not to Pass. Thank you Mr. Speaker.

The **SPEAKER**: The Chair recognizes the Representative from Levant, Representative Greeley.

Representative **GREELEY**: Mr. Speaker, Ladies and Gentlemen of the House. I had not planned on speaking on this issue today. Frankly, since I was not here this morning, I did not even know we were going to address this. I apologize for not being here this morning, but many of you know that in neighboring New Hampshire there are over 400 state legislators. California would be a wonderful place to be a State Representative because they make \$125,000 a year. For \$125,000 a year, maybe they are more willing to work 18 hours a day. I am just not sure. Since I have lived here my whole life and am a native of the State of Maine, I am more than happy to save people of the State of Maine a million dollars. I think that is a wonderful idea. I wish that we could save the people of the State of Maine a billion dollars, but as a first-term freshman legislator, I know about the work involved while serving my constituency. I know that with the four towns that I currently have in my district that I have my hands full. I am learning a lot about serving my constituents and I want to do the best possible job that I can.

If you expand my district, God willing and the voters willing that I am here next time around, I don't know that I will be able to serve them to the quality that I am trying to serve them now. In fact, I pride myself on my constituent work. I pride myself on making appearances and returning phone calls and going to

events and being there for the people who voted me in there. While saving a million dollars is a wonderful thing, it frankly would be less than \$1 per resident of the State of Maine. I think for less than a dollar it is more important that we do the best job that we can for our constituents. That means being available to them. I am concerned that if we expand some of our districts even more than they are by way of less legislators, we will not be as effective. I think that is our number one obligation to the people and the residents of the State of Maine. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative Bowen.

Representative **BOWEN**: Mr. Speaker, Men and Women of the House. This bill was one of a series of bills that came before our committee looking for ways that we could do what we do here more cost effectively than we do now. Out of all the ones that we saw, this was the one that we liked the most. When you look at how we are really going to cut costs and on how we do this piece of our work, there is really only a handful of things that we can do. One of the other options in front of us was to cut our pay and our reimbursement rate. That may have merit, but I, for one, don't want to be part of a Legislature and the citizens don't want a Legislature that is made up of people who can afford to take six months off one year and five months off the next year to come and serve. I don't want the land of Aristocracy running the state. I wasn't happy about that bill.

Another option before us was to shorten the length of the session to two months every two years. Shortening the session may have merit. We probably could do more in the amount of time that we have here, but I, for one, as a freshman, think that we are going pretty fast as it is right now. I don't know that all the bills that we are having come before us are getting a good hearing and are being as fully thought about as they might be.

We could limit the number of bills that each of us could submit. I know that idea has been thrown around a little bit. Is cutting a couple hundred bills going to save us that much money, especially when it is going to potentially throw out some decent ideas. The average number of bills submitted in legislatures in this country is 1,600. We are not far from the national average with what we have. I don't know if that is necessarily how we are going to save money.

We could start cutting our staff, our support people and make up some saving there, but what is that going to do to our effectiveness, our ability to serve those constituents that we have and to make sure that we have the information that we need to make the right decisions for these people. To me, of all these options, this seemed the most sensible. The average size of a Legislature, a House, a lower body in this country is 108. One hundred and eight in the House and 38 in the Senate. A lot of states have 101 in one and 50 in the other. This bill would put us much closer to what the national average is in terms of the size of the Legislature. This would give us larger districts, somewhere in the neighborhood of 13,000 people. That is bigger. I know there are going to be big, huge districts as a consequence of that. Our Senators now serve many more people than that. The average size if you have 280 million people in America and they are somewhere in the neighborhood of 5,400 State Representatives total, that gives us an average House District sizes in the nation of 52,000 people each. You are talking about the bulk of the nation having much larger districts than we have.

I would submit to you that we can ably represent 13,000 people as well as we can represent the number of people that we have now, which is not that much fewer than that. We passed a budget a couple of months ago where we asked all of these state agencies to flat fund. We didn't do that for our own job here. The Legislature didn't flat fund. We came close, but we didn't quite

pull it off. I think the time has come that we become a model for the state. We need to show them that we can do more with less. We also have to remember that ultimately this is their choice. This bill asks the people to decide. Rather than sit here and try to convince each other, let's put this on the ballot and let's let the people of the state decide whether they want bigger districts, fewer representatives or whether they want to have to share us with a few thousand more people than they share us with now and let them decide. Thank you.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Barstow.

Representative **BARSTOW**: Mr. Speaker, Men and Women of the House. I would be remiss if I didn't get into this philosophical debate about our governmental structure here in the State of Maine. First of all, let's look at the stats. This is a disproportionate cut in regards to how we are going to shape the Legislature. This distinguished body would be shrunk down to 99 and the other body only by two. Therefore, shifting proportionately the level of power in regards to representation, because you will remember as we were discussing yesterday that representatives in both bodies have the same number of constituents per district. There are other ways to save money as the good Representative from Rockport did bring forward. It is something that we should look at. Instead of looking at just cutting back numbers and cutting back the number of people and the diversity of ideas that come forth and the size of this Legislature, but we need to look at ways to improve the process. I think everybody in here would have some idea to bring forward in regards to how to change the process so things work better, not only to be cost efficient, so that the government works better for the people of the State of Maine. I urge you all to support the Majority Ought Not to Pass Report on this bill. Thank you very much for your time.

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

#### ROLL CALL NO. 65

YEA - Adams, Barstow, Bennett, Blanchette, Bliss, Brannigan, Breault, Brown R, Bull, Bunker, Canavan, Carr, Clark, Courtney, Craven, Cummings, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Goodwin, Greeley, Hatch, Hutton, Jackson, Jennings, Kane, Ketterer, Landry, Laverriere-Boucher, Ledwin, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, Paradis, Patrick, Pellon, Perry A, Perry J, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Simpson, Smith N, Smith W, Sullivan, Suslovic, Tardy, Thomas, Thompson, Trahan, Twomey, Usher, Walcott, Watson, Wheeler, Wotton, Young, Mr. Speaker.

NAY - Annis, Austin, Berry, Bierman, Bowen, Bowles, Browne W, Bruno, Campbell, Churchill E, Churchill J, Clough, Collins, Cressey, Crosthwaite, Curley, Duprey B, Fletcher, Glynn, Heidrich, Honey, Hotham, Jacobsen, Jodrey, Joy, Kaelin, Lewin, McCormick, McGowan, McKenney, McNeil, Millett, Mills S, Muse, Nutting, O'Brien J, Peavey-Haskell, Richardson M, Shields, Snowe-Mello, Sukeforth, Sykes, Tobin D, Tobin J, Treadwell, Vaughan, Woodbury.

ABSENT - Andrews, Ash, Berube, Bryant-Deschenes, Cowger, Grose, Koffman, Maietta, Marraché, Moore, Murphy, O'Brien L, O'Neil, Percy, Stone.

Yes, 89; No, 47; Absent, 15; Excused, 0.

89 having voted in the affirmative and 47 voted in the negative, with 15 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

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HOUSE DIVIDED REPORT - Majority (10) **Ought to Pass as Amended by Committee Amendment "A" (H-230)** - Minority (3) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Resolve, Directing the Commission on Governmental Ethics and Election Practices To Adopt Rules Regarding Certain Election Practices

(H.P. 744) (L.D. 1027)

TABLED - May 5, 2003 (Till Later Today) by Representative CLARK of Millinocket.

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

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

Representative GLYNN: Mr. Speaker, Ladies and Gentlemen of the House. I rise in opposition to the pending motion. This is a very bad bill. What this bill purports to do, if the House goes with this motion to pass this bill, is it will create a new standard for all of us and our friends who run for public office. Any literature that they circulate two weeks before an election, prior to them circulating it, they will need to file it with the State Ethics Commission. Additionally, if a candidate for office makes an automated telephone call prior to making an automated telephone call, they will have to file a script with the Ethics Commission. It sounds like bad news to you, well it sounds like bad news to me.

The problem with this bill is I believe it is unconstitutional and it is an infringement on our First Amendment rights. I have raised this issue. Having a standard that political literature needs to be filed with a government agency prior to you being able to exercise your freedom of speech is an outright infringement on our First Amendment rights. What happens if I, as a candidate, decide to circulate a flyer, perhaps I draw it up Friday night and I would like to mail it on Saturday. Do you know that I will be prohibited by this state law from distributing it until Monday because I have wait until the Ethics Commission opens so I could file it?

Can you imagine the outrage if we were to tell the war protestors in the City of Portland that prior to standing out in Monument Square that they had to file a copy of what was on their signs against the war with President Bush before they stood out there? What is the difference between that and this? This is asking us to file our literature prior to making it with the Ethics Commission.

Since this committee of jurisdiction, Legal and Veterans Affairs Committee, that I serve on took up this issue, the court looked at the decision of McCain-Finegold and found that it doesn't provide strong support for these types of arguments. It really proved that LD 1027 is unconstitutional. One of the provisions of the McCain-Finegold law that was struck down was a provision that required disclosure of contracts to make disbursements for election communications. Under that provision, disclosure would have been made on how much money was spent when a contract was made, not when the money was actually spent. This was a significant change from the current law, which only required that the disclosure after money was spent. In Friday's decision all three judges agreed that this prior disclosure provision was unconstitutional because it lacks a substantive relation to a legitimate government interest.

Two things are significant about the decision. The first was it was one of the few provisions in the law where all three judges agreed, that included the Clinton appointee. They agreed that the provision was unconstitutional. Most of the other areas of the law that were struck down were struck down by two to one votes. The second issue is all of the other new disclosure requirements in the law were upheld. In striking down this provision, the court made it clear, a constitutional distinction between requiring disclosure of spending after the fact and requiring prior disclosure. Requiring disclosure after the fact is absolutely unconstitutional.

Any court that accepts the logic behind Friday's decision would have to agree that LD 1027 is unconstitutional. LD 1027 actually goes well beyond the requirements of the McCain-Finegold law by requiring prior disclosure of actual content of political communication. If prior disclosure of financial data is protected by the First Amendment as based on that court decision, prior disclosure of the actual contents of the communication clearly would be protected. There are several court cases I could cite all key on point that this law is absolutely unconstitutional. This is an infringement on folk's freedom of speech. It is something that should not be put into statute and it is not something that I believe the good people of Maine would like to see on the books.

Mr. Speaker, when the vote is taken, I respectfully request the yeas and nays.

Representative GLYNN of South Portland **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 Old Orchard Beach, Representative Lemoine.

Representative LEMOINE: Mr. Speaker, Ladies and Gentlemen of the House. In the old days of practicing law it used to be what we called the sporting theory of justice. That was the old Perry Mason days. At the last minute you could have somebody come running in the back door and tell the jury X, Y and Z and the case would be resolved. Nobody actually knew if X, Y and Z were true, but it had tremendous impact at the end of that trial. Over the years lawyers and courts learned that is not how you accomplish justice. Justice requires full interplay and competition of ideas. What this bill does, and it is only major substantive rules, it still comes back to this body next year. During the last two weeks of a campaign, before that it is free game, but the last two weeks of a campaign, if you are going to do targeted mailings, it does not cover radio ads, it doesn't cover newspaper ads or things that go broadcast broadly to the world, if you are targeting people with mail or you are targeting people with telephone calls, then you simply have to put a copy of that mailing or transcript in the hands of the Ethics Commission. There is nothing further than that that is required.

It then becomes incumbent on the other side, the opponent, to check those filing and see what is being said and if they disagree, then they have an opportunity to respond. This is an effort to get our elections focused on substance, not on the last minute gotcha politics that we have seen too often around this state. We understand that as you get to the final days of a campaign that there is probably nothing you can do that won't abridge the freedom of speech, but during those critical last two weeks, this is a limited effort to give the people of this state a chance to hear both sides of an issue. I think that is a compelling state interest that overrides the limited requirement that we have on disclosure prior to putting out these two limited types of arguments. They are the targeted mailings and the targeted