

MAINE STATE LEGISLATURE

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State Government Committee may not be able to come up with a careful analysis and good recommendation as soon as November 30th, but we will certainly give it a good try. At any rate, I think that it ought to be given a lot more careful study than is suggested in the conference committee report.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I apologize to the Senate for extending this debate, but I do feel it is a very important item and very important issue. I can assure the Senator from Knox, Senator Collins, that the constitutionality of this question is not my only concern with regard to it, but I do point that out as being a very legitimate concern on the part of many people who have been involved in this question in other areas of the country as to the constitutionality of the legislature retaining to itself this power. My own feeling with regard to it is that the legislature probably can do that, but I do point it out as a problem.

The more important concern that I have with the amendment as it is written is that it just drops the responsibility with no procedures provided whatever for the legislature to follow, no committee suggested, and no way in which the amendments or the proposed regulations are to be presented to the legislature and the legislature to act on these amendments.

Now, we have had several attempts made in this legislature to do precisely what this amendment does in other areas. There was an amendment proposed in the area of education. This amendment is proposed in the area, I presume, of the Public Utilities Commission perhaps, or perhaps it is the Department of Business Regulation. There are other areas of state government, of course, the DEP, Conservation, Human Services, whereby the same argument could be made and should be made that the legislature ought to have some power of review. The point that I am making, Mr. President, is that we should not do this piecemeal; that we should have the State Government Committee present to us a bill providing the procedures, providing the committees, answering the questions that have been raised on this issue, so that all of state government may be involved in this, and not just pick one department here or one agency there and end up five or ten years from now with an awfully complicated set of statutes that really do not accomplish what we hope they will accomplish.

Now, as to losing the entire bill, I sincerely hope and believe that the rejection of this particular report, sending it back to a second committee of conference — they could be the same individuals on that committee of conference — to take out the objectionable part of this amendment and present the bill with the rest of the conference, can be accomplished very simply and very quickly, and it certainly would not jeopardize the entire bill. I certainly hope the prevailing motion does prevail.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, of course the committee of conference will act as they are directed, but I think that the strongest point we had in prevailing upon the members appointed from the other body was that this would remain in. I do believe that it would jeopardize the bill, but actually we will try again if we have to.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Thereupon, on motion by Mr. Greeley of Waldo, tabled until later in today's session, pending the motion by Mr. Speers of Kennebec that the Senate Reject the Conference Committee Report and Ask for a Second Committee of Conference.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Speers of Kennebec:

Bill, "An Act to Review and Clarify the Freedom of Access Law." (H. P. 2226) (L. D. 2316)

Pending — Consideration

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, an amendment is being prepared, and if we are here for another fifteen or twenty minutes, it is conceivable that the amendment would be ready. I request that it still be retabled until later in today's session.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that Item 1-1 be retabled until later in today's session. Is this the pleasure of the Senate?

The motion prevailed.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Speers of Kennebec:

Bill, "An Act to Clarify the Retirement Statutes." (H. P. 1860) (L. D. 2027) (Emergency)

Pending — Adoption of House Amendment "B" (H-1133)

On motion by Mr. Collins of Knox, House Amendment "B" was Indefinitely Postponed.

Mr. Conley of Cumberland then moved that the Senate reconsider its action whereby House Amendment "B" was Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, my intention, if House Amendment "B" remains indefinitely postponed, is to offer Senate Amendment "A" to Committee Amendment "A". I would like to explain to the Senate the issue involved here.

The Senate will recall that in the regular session we passed an extensive reform bill to the state retirement system. Between the sessions a careful review was made of that legislation and, as is often the case, there were a few errors located and oversights discovered. A bill was presented therefore to this session to clarify the retirement statutes in these respects. Some features of that bill are entirely without controversy, but the one area that caused some concern was with respect to the rules that determine the obtaining of credit for retirement with respect to accumulated sick leave on the part of teachers.

We discovered in our investigation that teacher contracts as time goes on are increasing the amount of sick leave which may be accumulated. In some cases the contracts now provide that the accumulation may be unlimited. We obtained a tally and we found that approximately 80 percent allowed 120 days or less accumulation of sick leave, but we noted a continuing trend to increase in the bargaining process the amount of time which could be accumulated. So we took a look to see what that was costing the system, and we were surprised to learn that it is costing the system an increasingly significant amount because this is a retirement benefit, you see, which is not being paid for, and this is the sort of thing that drains the retirement fund and hurts its actuarial integrity.

We did not wish to deny the possibility of this credit to the teachers, so we introduced a ceiling of 120 — it was debated as to whether it would be 120 or 90 days as a ceiling — and provided that beyond that amount of time the credits would still be available but that they must be paid for. And the committee version took the position that how they were paid for in the case of teachers would be up to the collective bargaining process. In the teacher contracts, the teachers would have to work that out with their employers, the school districts,

towns or cities. So this is the controversial part of this clarification bill.

The amendment that I will offer will restore to the bill the committee's view, and will further correct certain errors insofar as the committee did not intend that this bill apply to the municipal districts.

There is also in the proposed amendment that I will offer one other correction in which the good Senator from Cumberland, Senator Conley, will be interested because it repairs an accidental omission with respect to municipal districts such as are found in his city.

So I submit to you that this is the issue. The action of the other body takes one view, and the committee view is what I have just been explaining. The issue is: shall the credits that are to be allowed from sick leave in excess of this ceiling amount to be paid for, or shall they be granted without pay and thus become a drain on the fund, which can only be repaired and restored by appropriation from this legislature. I therefore ask that you vote against the motion of the good Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, it would be disadvantageous for me to try to debate the good Senator from Knox, Senator Collins, on this particular amendment. Therefore, I would ask leave to withdraw my motion.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now requests leave of the Senate to withdraw his motion to reconsider its former action. Is it the pleasure of the Senate to grant this leave?

It is a vote.

Mr. Collins of Knox then presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-511, to Committee Amendment "A" was Read.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, there is one other feature in this bill I feel I should call to your attention. I do not believe it is controversial. It serves to move forward the effective date of certain portions of the retirement law as to law enforcement officers. This provision was inserted in the bill because of a request originating with the Department of Fisheries and Wildlife and concurred in by the enforcement leaders in the Department of Marine Resources and the State Police. The effect is to move up the new provisions of the retirement system to July 1, 1976 and it is, I think, the hope of some of the leaders of those enforcement groups that this may permit the retirement of some of their older veterans in the departments.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A" to Committee Amendment "A"?

The motion prevailed.

Thereupon, Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Merrill of Cumberland:

Bill, "An Act to Provide for a Line Budget Procedure for All School Systems." (H. P. 2208) (L. D. 2308)

Pending — First Reading

Whereupon, the Bill was given its First Reading. Committee Amendment "B" was Read. House Amendment "A" to Committee Amendment "B" was Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: My question was answered and it