

MAINE STATE LEGISLATURE

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

Volume II

First Regular Session

May 28, 2009 – June 12, 2009

Second Regular Session

January 6, 2010 - March 23, 2010

Pages 609-1214

in early June and two weeks in late September. Demand for services far exceeded capacity, and a permanent facility, built on 23 acres donated by Anna and Larry was opened in June 2001.

Camp Sunshine offers sessions for learning about specific chronic illnesses, lectures by specialists, as well as support and bereavement groups. Larry and Anna Gould have been instrumental in providing this respite for children and families. They have each received awards for their generosity and commitment to children with serious illnesses and their families.

I would like to thank Larry and Anna Gould for being here today, and I offer my sincerest thanks to them for their hard work, dedication and compassion and for their enduring gift of love and caring.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

The following items were taken up out of order by unanimous consent:

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.

An Act To Allow a Court To Award Attorney's Fees in Successful Freedom of Access Appeals

(S.P. 254) (L.D. 679)
(C. "A" S-135)

TABLED - May 26, 2009 (Till Later Today) by Representative PIOTTI of Unity.

PENDING - **PASSAGE TO BE ENACTED.**

On motion of Representative SYKES of Harrison, the rules were **SUSPENDED** for the purpose of **RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby the Bill was **PASSED TO BE ENGROSSED.**

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION.**

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-135)** was **ADOPTED.**

The same Representative **PRESENTED House Amendment "A" (H-380) to Committee Amendment "A" (S-135)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Sykes.

Representative **SYKES**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. When an individual makes a request for freedom of information or freedom of access to a governmental agency, this bill would state that if the agency acts in bad faith, they are responsible for the attorney fees. The amendment, as I just presented, is a request from several of my towns and their town attorney that would extend that issue of paying for the cost if you lose the case, if you do it in bad faith, to the plaintiff, to the person that brings that request. It simply is what's good for the goose is good for the gander. Madam Speaker, I request a roll call.

Representative SYKES of Harrison **REQUESTED** a roll call on the motion to **ADOPT House Amendment "A" (H-380) to Committee Amendment "A" (S-135).**

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

Representative **PRIEST** of Brunswick moved that **House Amendment "A" (H-380) to Committee Amendment "A" (S-135)** be **INDEFINITELY POSTPONED.**

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative **PRIEST**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. The purpose of this bill is to encourage towns and school districts in the state to comply with the Freedom of Information Act. There are already sanctions against lawyers who bring frivolous or bad faith actions. The court has the ability to take sanctions against them, to fine them and to take other actions against their professional career, so that situation is already taken care of.

So why are we talking about this amendment? Well, this amendment has the affect of discouraging people from trying to bring actions against towns, the city or the state, when they refuse to give records that they should give. Remember, this requires a showing of bad faith. That means there's not a mistake. That means it's a deliberate attempt to withhold something, which this Legislature has again and again and again said you should not withhold. We require, as you well know, training for all public officials on the Freedom of Information Act. We think it's important; we believe it's important; we think it's important to the running of good government. This amendment, unfortunately, is an unfriendly amendment to that situation, it is not needed, and I urge you to uphold my light to Indefinitely Postpone it. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Crockett.

Representative **CROCKETT**: Thank you, Madam Speaker. It is rare that I will ever be in opposition to anything the good Representative from Harrison comes up with. But in this particular instance, I have to concur with the Representative from Brunswick. The simple fact is the committee took the original bill. We agreed that it was too much of a burden on municipalities. We raised the standard so bad faith would be included, we brought the stakeholders together, we built a consensus, we got a unanimous report on this, and we discussed Representative Sykes' proposal. It's a loser pays, it's very similar to what the British do. But we determined that it would undermine the transparency that we try to encourage as a state government. We achieve this by the unanimous consent of the entire committee. I will stand with the Representative from Brunswick on this issue. Thank you.

Representative **TARDY** of Newport **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-380) to Committee Amendment "A" (S-135).**

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

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-380) to Committee Amendment "A" (S-135). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 130

YEA - Adams, Beaudoin, Beck, Berry, Blanchard, Blodgett, Boland, Bolduc, Bryant, Cain, Campbell, Carey, Clark H, Cleary, Connor, Cornell du Houx, Crockett J, Crockett P, Dostie, Driscoll, Duchesne, Eaton, Eberle, Eves, Finch, Flaherty, Flemings, Flood, Gilbert, Goode, Hanley, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Hunt, Innes Walsh, Jones, Kaenrath, Kent, Kruger, Lajoie, Legg, Lovejoy, MacDonald, Magnan, Martin JR, Martin JL, Mazurek, McCabe, Miller, Morrison, Nelson, O'Brien, Pendleton, Peoples, Percy, Perry, Peterson, Pieh, Pilon, Piotti, Pratt, Priest, Rankin, Richardson D, Rotundo, Russell, Sanborn, Schatz,

Shaw, Sirois, Smith, Stevens, Stuckey, Sutherland, Tardy, Theriault, Thomas, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wheeler, Willette, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Bickford, Browne W, Burns, Casavant, Cebra, Chase, Clark T, Cohen, Cotta, Crafts, Cray, Curtis, Davis, Edgecomb, Fitts, Fletcher, Fossel, Gifford, Giles, Greeley, Hamper, Johnson, Joy, Knapp, Knight, Langley, Lewin, McFadden, McKane, McLeod, Millett, Nass, Nutting, Pinkham, Plummer, Prescott, Richardson W, Robinson, Rosen, Sarty, Saviello, Strang Burgess, Sykes, Thibodeau, Tilton, Weaver.

ABSENT - Beaudette, Briggs, Butterfield, Celli, Cushing, Dill, Harvell.

Yes, 95; No, 49; Absent, 7; Excused, 0.

95 having voted in the affirmative and 49 voted in the negative, with 7 being absent, and accordingly **House Amendment "A" (H-380) to Committee Amendment "A" (S-135) was INDEFINITELY POSTPONED.**

Subsequently, **Committee Amendment "A" (S-135) was ADOPTED.**

Subsequently, the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-135).**

The Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

SENATE REPORT - **Ought to Pass as Amended by Committee Amendment "A" (S-192)** - Committee on **TRANSPORTATION** on Bill "An Act To Make Permanent the Allowance of Certain Commercial Vehicles between the Calais Border Crossing and Baileyville"

(S.P. 490) (L.D. 1355)

- In Senate, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-192).**

TABLED - May 26, 2009 (Till Later Today) by Representative MARTIN of Eagle Lake.

PENDING - **ACCEPTANCE OF COMMITTEE REPORT.**

Subsequently, the Unanimous Committee Report was **ACCEPTED.**

The Bill was **READ ONCE.** **Committee Amendment "A" (S-192) was READ** by the Clerk and **ADOPTED.**

The Bill was assigned for **SECOND READING** Friday, May 29, 2009.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass as Amended by Committee Amendment "A" (H-370)** - Minority (6) **Ought to Pass as Amended by Committee Amendment "B" (H-371)** - Committee on **UTILITIES AND ENERGY** on Bill "An Act To Protect the Right To Use Solar Energy"

(H.P. 62) (L.D. 73)

TABLED - May 26, 2009 (Till Later Today) by Representative HINCK of Portland.

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

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

Representative **FLETCHER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I must begin by commenting that we've had quite a morning. First, we feed the grape and now we're on to freeing the clothesline, and I do think it's a serious matter, but I just felt that I had to say. I'm sorry. It was a poor joke.

The Majority Report, which is before us, prohibits private property owners and homeowners associations from exercising

their ownership rights to determine if they want solar collectors or clotheslines on their property. While it may be appropriate to prevent towns and cities from passing ordinances that unreasonably restrict the installations on people's residential property, I must say the infringement on individual property owner's rights to decide if they want these devices on their property has serious unintended consequences, which, unfortunately, I'm afraid that we will be hearing about in the years to come. I would ask you to consider rejecting the pending motion and looking at what might be a more viable option that is also included in the bill. It's an important distinction, because the Majority Report crosses that line infringing on private property owners' rights to decide what they want to have on their property. I hope you agree that private property owners should have that right to determine if they want solar collectors and clotheslines to be installed on their property or their property that they rent. The condo owners are going to have the same issue. If people decide to purchase a property and part of that is a desire not to have clotheslines on the front lawn, I think that's a right that they pay for when they choose. I would go on to say, as well, that if any homeowners association decided that they wanted to change a restriction, it's within their authority to do that. When the vote is taken, Madam Speaker, I request a roll call. Thank you.

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 Portland, Representative Hinck.

Representative **HINCK**: Thank you, Madam Speaker. Madam Speaker, Members of the House. I, too, would like to tie this to wine to keep your interest, but I can't make the connection. This bill is about solar energy. In a couple of weeks we are going to adjourn, come heck or high water, it happens every time, even though it looks unlikely, we will be within a couple of weeks of the days of peak energy use in the State of Maine. By in large they occur in the dead of summer, when the thermometer gets about as high as it ever gets in Maine, and the temperature creeps up and we maximize the use of our energy resources here, that's approximately 2,200 megawatts of power, and the whole system is straining, the whole system is straining up and down the east coast. Some other things happen then. The worst plants that we have get turned on. I think, for example, of Wyman Station. Don't worry; I'm not speaking out of school here. The owner of Wyman Station does not speak that highly of this unit. It delivers 610 megawatts of power at full use, but we seldom use it. It's old, it's inefficient, it's polluting. At the time of peak energy use, Wyman Station comes on in Yarmouth. Now, as you probably know, I live in Portland. You might think that the polluting power at Wyman Station particularly bothers me. It really doesn't because, typically speaking, we're upwind. Wyman Station sends the particulates and the soot going downwind, down the coast, down east, all the way to Washington County. Some of the worst things happen at that time in our power system. Not only do we run a risk of maxing it out, we also have health emergencies. As many as 1,600 people, during the worst times of ozone pollution, check into hospitals with emergency procedures because of obstructed air. It's a big problem to asthmatics.

You know, ironically one of the solutions to this is rather simple: solar power. Some of it is still seen by some us as exotic and that would be the solar panels. Increasingly they are cropping up in Maine, and there is a good reason why they crop up in Maine: we actually have a high solar index. It surprises