

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Thirtieth Legislature
State of Maine

Daily Edition

First Special Session

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beginning at page H-200

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass** on Bill "An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Fees Charged for Responding to Public Records Requests"

(H.P. 997) (L.D. 1346)

Signed:

Senators:

CARNEY of Cumberland
SANBORN of Cumberland

Representatives:

HARNETT of Gardiner
BABBIDGE of Kennebunk
EVANGELOS of Friendship
MORIARTY of Cumberland
RECKITT of South Portland
SHEEHAN of Biddeford

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

KEIM of Oxford

Representatives:

HAGGAN of Hampden
LIBBY of Auburn
POIRIER of Skowhegan
THORNE of Carmel

Representative NEWELL of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass** Report.

READ.

Representative HARNETT of Gardiner moved that the House **ACCEPT** the Majority **Ought to Pass** Report.

Representative DILLINGHAM of Oxford **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought 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 Auburn, Representative Libby.

Representative **LIBBY**: Thank you, Mr. Speaker. I read the testimony of Judith Meyer, who said in her testimony, much more coherently than I ever could, the opposition I have to this bill. This bill is the culmination of several years of debate about how Maine could better manage large FOA requests, specifically requests that come from commercial data miners, for-profit companies that seek access to, for instance, public records to create databases to reach new customers. These requests are enormous, they take a lot of staff time and there is a general irritation about companies that use public records for their own profit. But this bill does not erase that problem, it probably doesn't even ease it because these companies have proven time and again that they're willing to pay and willing to pay any price. So, while this bill would certainly bring in more revenue on data mining requests, what it really does is punish Maine people whose interest in public records is personal and it punishes Maine advocates and educators who access public records for research purposes. Most of all, it punishes the poor. Let's do the math. A person of extremely limited means is bothered by a neighbor's rapidly-growing pile of junk in the dooryard and wants to know what the town has done over the

years to enact a junkyard ordinance. And that person, who may never have filed a FOA request in their lifetime, files an over-broad FOA for copies of any selectman's minutes in which the topic may have come up. The town's estimate to research and produce the documents is set at 10 hours. Currently, the total cost to this taxpayer to receive what he has asked for would be \$135, the first hour free and nine hours following at \$15 per hour. Under this proposal, the total cost would \$200, two hours free and eight hours at \$25 per hour, an increase of \$65. That might just be enough for this person to give up and just endure the junk.

There is no question that the cost of public access is a barrier to public access for all except those willing to pay any costs, like commercial requesters. Public records are created for and maintained in service to the public and the public, through its tax dollars, pays for that creation and maintenance. The public should not then bear a high cost for access to those documents. Thank you, and I ask that you follow my light and vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Harnett.

Representative **HARNETT**: Thank you, Mr. Speaker. I had the honor of chairing the Right to Know Advisory Committee during the 129th Legislature. The committee is made up of 16 stakeholders, representing various interests, some supporting transparency in government, all members of the media, members of state agencies, municipalities and educational institutions. The vote on this bill was; 15 to 1. There was one dissent, and that was Judith Meyer. Let me tell you what this bill does. Currently, when somebody files a Freedom of Access request, they get the first hour of work by the municipality or the state agency for free and then all the hours after that are billed at \$15 an hour. What this bill does is it increases the amount of free time to two hours but then raises the rate to \$25 for all hours after that. Over 90% of all Freedom of Access requests are satisfied with less than two hours of work by a state agency or a municipality. All of those will be free to anybody who requests it. It does not increase the fees paid until the amount of time exceeds four hours. That covers over 95% of all FOA requests.

This bill, which was worked out with all of the stakeholders, particularly municipalities and the MMA, found that it is costing municipalities upwards of \$35 an hour to comply with this work because of the salary of the persons paid to do it. This is a reasonable compromise. The committee looked at who should pay for large requests that take up well over four hours that are often commercial in interest and the decision was made that it should not be placed on the property taxpayer but instead should be placed on the entity requiring the information. This is a reasonable compromise, overwhelmingly supported by the advisory committee, and I ask you to support the motion before you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 237

YEA - Alley, Arford, Bailey, Bell, Berry, Blume, Brennan, Brooks, Bryant, Caiazzo, Cardone, Carlow, Cloutier, Collings, Copeland, Corey, Crafts, Craven, Crockett, Cuddy, Dodge, Doore, Doudera, Dunphy, Evangelos, Evans, Fay, Geiger, Gere, Gramlich, Grohoski, Harnett, Hasenfus, Hepler, Hutchins, Hymanson, Kessler, Landry, Lookner, Madigan, Martin J, Martin R, Mathieson, Matlack, McCrea, McCreight, McDonald, Melaragno, Meyer, Millett, Morales, Moriarty, Newman, O'Neil, Osher, Pebworth, Perkins, Perry A, Perry J, Pierce, Pluecker,

Reckitt, Rielly, Riseman, Roberts, Roeder, Sachs, Salisbury, Sharpe, Sheehan, Stearns, Stover, Supica, Sylvester, Talbot Ross, Tepler, Terry, Tucker, Tuttle, Warren C, Warren S, White, Williams, Wood, Zager, Zeigler, Mr. Speaker.

NAY - Andrews, Austin, Bernard, Bickford, Blier, Collamore, Connor, Costain, Dillingham, Dolloff, Downes, Drinkwater, Ducharme, Faulkingham, Fecteau, Foster, Gifford, Greenwood, Hall, Hanley, Harrington, Head, Johansen, Kryzak, Lemelin, Libby, Lyford, Lyman, Martin, Mason, Millett, Morris, Nadeau, O'Connor, Ordway, Parry, Quint, Rudnicki, Sampson, Skolfield, Stanley, Stetkis, Theriault, Thorne, Tuell, Underwood, Wadsworth, White.

ABSENT - Arata, Babbidge, Bradstreet, Carmichael, Cebra, Griffin, Grignon, Haggan, Javner, Kinney, O'Connell, Paulhus, Pickett, Poirier, Prescott, Roche.

Yes, 87; No, 48; Absent, 16; Excused, 0.

87 having voted in the affirmative and 48 voted in the negative, with 16 being absent, and accordingly the Majority **Ought to Pass** Report was **ACCEPTED**.

The Bill was **READ ONCE**.

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED** and sent for concurrence.

Six Members of the Committee on **JUDICIARY** report in Report "A" **Ought to Pass** on Bill "An Act To Prohibit Evictions until 90 Days after the End of the Governor's Declaration of Emergency" (EMERGENCY)

(H.P. 921) (L.D. 1255)

Signed:

Representatives:

HARNETT of Gardiner
BABBIDGE of Kennebunk
EVANGELOS of Friendship
MORIARTY of Cumberland
RECKITT of South Portland
SHEEHAN of Biddeford

Seven Members of the same Committee report in Report "B" **Ought Not to Pass** on same Bill.

Signed:

Senators:

CARNEY of Cumberland
KEIM of Oxford
SANBORN of Cumberland

Representatives:

HAGGAN of Hampden
LIBBY of Auburn
POIRIER of Skowhegan
THORNE of Carmel

Representative NEWELL of the Passamaquoddy Tribe - of the House - supports Report "A" **Ought to Pass**.

READ.

Representative HARNETT of Gardiner moved that the House **ACCEPT** Report "A" **Ought to Pass**.

Representative DILLINGHAM of Oxford **REQUESTED** a roll call on the motion to **ACCEPT** Report "A" **Ought to Pass**.

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 Auburn, Representative Libby.

Representative **LIBBY**: Thank you, Mr. Speaker. I rise in opposition to the pending motion for several reasons, all of which point to the fact that this bill is simply not necessary. On April 16, 2020, the Chief Executive issued Executive Order 40. This order extended 30 day notice to 60 days and 7 day notice to 30 days. And this policy will remain in place until 30 days after the termination of the State of Emergency. In addition, the Judicial Branch has a significant backlog such that eviction proceedings are delayed, often by months at this point. Given the availability of the rental relief program, this bill is redundant. The program covers unpaid rent with no monthly upper limit. There is no monthly cap on eligible rent relief. The monthly amount is determined by the rent payment agreed to in your lease. You may apply for back rent owed back to March 13, 2020 as well as up to three months of upcoming rent at one time.

The important piece of this program that I must emphasize, Mr. Speaker, is that tenants must apply and that landlords cannot apply themselves, even if they have a tenant that both refuses to pay rent and refuses to apply for rent relief. This bill would allow tenants to not pay their rent without providing verification of their ability to pay with either their own financial resources or through their ability to receive rental assistance. While this bill focuses on the tenant's right to housing, we must simultaneously consider a landlord's necessity to pay their mortgage, taxes, insurance, heating bills, electrical bills and water and sewer bills. This bill is like writing a bill that states that all critical items to support human health, such as food and medicine from your local grocery store or pharmacy, are free for the population for the duration of an emergency and for 90 days afterward. Please follow my light and vote against the pending motion. I ask that the Clerk read the Committee Report.

Representative **LIBBY** of Auburn **REQUESTED** that the Clerk **READ** the Committee Report.

The Clerk **READ** the Committee Report in its entirety.

The **SPEAKER**: The Chair recognizes the Representative from Buxton, Representative Blier.

Representative **BLIER**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House. This is what I do for a living. You'd think I'd be passionate about it, but I'm not really because I've had such a whipping this year that this is really no different. The truth of the matter is this; Maine State Housing has done a wonderful job taking care of the poor in our State. This doesn't do that. What this does is it protects the people who make the income to pay rent but choose not to. Most of you have received a check from being a legislator, for serving here. I have not. Mine has kept families in their homes who make enough money to pay rent but don't. Now, think about this now, put yourself in my shoes. You drive by your tenant's house, they're barbecuing a filet mignon, drinking beer and smoking cigarettes on your dime. How does that make you feel? This does not protect the poor. This protects the people who you educate by telling them there's a moratorium on evictions, that they don't have to pay rent, and force me to pay their rent in place. Now, if you make \$15,000 working for the Legislature, you can buy a house. You can buy the house, you can house a tenant, and you can pay all the utilities and the mortgage and let them live there for free if you want to help the poor. That's what you're forcing people like myself to do. So, instead of putting in legislation and going out and telling people you're doing a great job to protect the poor, buy housing and let them live there for free. It's the same thing. Get credit for what you're really doing. Thank you, Mr. Speaker.