

# MAINE STATE LEGISLATURE

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

**Daily Edition**

**Second Regular Session**

beginning January 5, 2022

beginning at page H-1003

On **OBJECTION** of Representative DOUDERA of Camden, was **REMOVED** from the Special Sentiment Calendar.

**READ.**

On motion of the same Representative, **TABLED** pending **PASSAGE** and later today assigned

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Under suspension of the rules, members were allowed to remove their jackets.

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#### REPORTS OF COMMITTEE

##### Divided Reports

Majority Report of the Committee on **ENERGY, UTILITIES AND TECHNOLOGY** reporting **Ought Not to Pass** on Bill "An Act To Finance Distribution Investments at the Lowest Cost to Customers and To Encourage Utility Performance"

(H.P. 1119) (L.D. 1511)

Signed:

Senators:

LAWRENCE of York  
STEWART of Aroostook  
VITELLI of Sagadahoc

Representatives:

CARLOW of Buxton  
FOSTER of Dexter  
GRIGNON of Athens  
WADSWORTH of Hiram

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-976)** on same Bill.

Signed:

Representatives:

BERRY of Bowdoinham  
CUDDY of Winterport  
GROHOSKI of Ellsworth  
KESSLER of South Portland  
SACHS of Freeport  
ZEIGLER of Montville

**READ.**

On motion of Representative BERRY of Bowdoinham, **TABLED** pending **ACCEPTANCE** of either Report and later today assigned.

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Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-986)** on Resolve, Directing the Department of Health and Human Services to Contract for Assessments for Involuntary Hospitalizations

(H.P. 629) (L.D. 861)

Signed:

Senators:

CARNEY of Cumberland  
KEIM of Oxford  
SANBORN of Cumberland

Representatives:

HARNETT of Gardiner  
BABBIDGE of Kennebunk  
EVANGELOS of Friendship  
LIBBY of Auburn  
MORIARTY of Cumberland  
POIRIER of Skowhegan  
RECKITT of South Portland  
SHEEHAN of Biddeford

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

Signed:

Representatives:

HAGGAN of Hampden  
THORNE of Carmel

Representative NEWELL of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-986)** Report.

**READ.**

On motion of Representative HARNETT of Gardiner, the Majority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Resolve was **READ ONCE.** **Committee Amendment "A" (H-986)** was **READ** by the Clerk and **ADOPTED.**

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

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-986)** and sent for concurrence.

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Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-987)** on Bill "An Act To Amend the Remote Meeting Law in Maine's Freedom of Access Act"

(H.P. 1323) (L.D. 1772)

Signed:

Senators:

CARNEY of Cumberland  
SANBORN of Cumberland

Representatives:

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "B" (H-988)** on same Bill.

Signed:  
Senator:

KEIM of Oxford

Representatives:

BABBIDGE of Kennebunk  
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 as Amended by Committee Amendment "A" (H-987)** Report.

**READ.**

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

Representative BABBIDGE of Kennebunk **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 Kennebunk, Representative Babbidge.

Representative **BABBIDGE**: Thank you, Mr. Speaker. Mr. Speaker, Esteemed Colleagues in the House, I rise in opposition to the Majority Report, which in its attempt to do good has properly made changes. The report before us, like both reports from the committee, do excuse subordinate committees of supervised by a larger board from having to adopt their own remote policy. That's not at issue, in my opinion. This is about remote policy. And to give you a very brief background, in my previous three terms in this tour of duty, my mission was to expand remote participation in public meetings. It just made sense with some of the geographic challenges along our Maine coastline and with the technological possibilities that became available to us. However, I feel the pendulum may swing too far and now that the pandemic has shown us the value of remote participation, I feel there is an obligation for us to protect that in-person meeting where citizens can confront their elected officials. So, the report before us does excuse subordinate committees, subcommittees, from having to create their own new remote policy in addition to perhaps the select board or whomever is their supervising committee. It also eliminates the current law's requirement that they provide an in-person meeting place at all times if other members of the board, certain members, one or more members of the board, choose to participate remotely and allow the public to participate remotely together. In other words, a hybrid. We got rid of that requirement that an in-person meeting place be made available so that sometimes a fully-remote meeting is indeed in order, as long as the Maine public also has access to that fully remote meeting.

So, where do I disagree with this report? This report repeals Section 403, I believe it is, part 2B of current law, which states that after, excuse me, the policy adopted must provide that members of the Body are expected to be physically present for public proceedings except when being physically present is not practicable. And we do not, in the law

restrict what not practicable is. We do suggest that that does include existence of an emergency or an urgent issue, we do suggest that illness or other physical condition or even temporary absence from the area is certainly a justifiable reason. We do suggest that if the body has statewide membership then that's a good reason to have an exception so that you can have remote participation. And we also mentioned geographic characteristics that impede or slow travel. So, those are suggestions. The wording in State law is reasons for justifying remote participation may include. So, the Majority Report which is before us strikes that language from current law. The AG has said that that I just wrote to you is permissive, not restrictive. May include and after each of those there's an and are all reasons why the possibilities are therefore infinite, the law does not say must include with or after each paragraph. So, it is not finite. The four examples in the law are expressed and give them some clout but, folks, the law also says where the entire body or a single person may not be able to participate. You know, if a person has a child care emergency, certainly, they may want to participate remotely and there's no reason why that can't be accommodated. The reason that I take this time with you this morning and I apologize for time but this is a multi-year concern that we've had to try to get this right for Maine citizens. Should Maine citizens have the right and expectation to at some point in the future be able to attend a meeting where they can listen to public servants and be heard by public servants at an in-person meeting? To allow the possibility, as this report does, for the Maine citizen public official relationship to be ongoing permanently, as far as the law is concerned, as long as the board decides that that's the way to go, to be permanently reduced to an electronic screen does not in my mind satisfy all citizens' right, whether they have a computer or not, to petition their government.

So, folks, I will be voting against the motion before us, not because it's not well intended, but because it strikes the part of current law that gives the citizen the right to go to their local board and say you know, if things are perfect, we should be scheduling an in-person meeting at some point so that I have an opportunity to meet you, to express my concerns to you and to have a responsive government. And what the report before us does is to repeal the expectation that members of the body are to be physically present unless a policy has been adopted to accommodate certain circumstances. As an advocate of remote participation, I urge you to vote against the motion before us. Thank you, Mr. Speaker.

The **SPEAKER**: The Chair would remind Members to address their comments through the Chair. The Chair recognizes the Representative from Gardiner, Representative Harnett.

Representative **HARNETT**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I rise in support of the pending motion. In the 129th Legislature, we responded to a pandemic the likes of which we had never seen in the last century. Wisely, as the Representative from Kennebunk pointed out, the Legislature amended Maine's Freedom of Access Act to allow municipalities and other governmental entities to conduct remote meetings remotely using modern technology. They were only able to do so if they adopted a

policy. And I heard from many municipalities, including those in my district, that this has positive effects on public participation. More people were able to attend meetings because they could do so from the comfort of their home, without risking their health or having to leave their family in the evening. We also heard from municipalities that it increased the number of community members who volunteered to serve on boards, commissions and other municipal entities because they had some flexibility in how they could attend those meetings. But we also heard that the current law still presents challenges. The current Statute, as pointed out by the Representative, limits remote participation by a board or council member who is unable to physically attend to instances where that physical presence is not practicable due to illness, geography, statewide membership, etcetera. But the current Statute does it in a very prescriptive fashion, listing four times that that can happen. The Good Representative from Kennebunk pointed out that the Attorney General's office has advised that that list is not exclusive and it may include others, but we heard great confusion from municipalities around the State because they saw that as a list.

What I tried to do in LD 1772 is to strike a finer balance by allowing boards and councils to make decisions based on current conditions, including public health and safety, on what constitutes an emergency that requires a fully remote meeting. Maine's municipalities and municipal leaders have used the Statute before us today in a very responsible manner and I believe that they will continue to do so. This bill helps municipalities by doing the following. It amends the law governing remote participation in public meetings, removing the requirement that a meeting policy adopted by the public body must include the expectation that the members of the public be physically present during emergency. Rather, it allows the public body to limit public attendance at a proceeding solely to remote methods when there is an emergency or urgent situation that requires the public meeting to be held remotely. There is still great protection in that amendment. It still requires an emergency or an urgent matter before remote participation can be allowed. And, as the Good Representative pointed out, the bill also allows that a policy adopted by a municipality can apply to all entities within that municipality unless that entity on their own chooses to adopt its own remote participation policies. So, for that reason, I ask the House to support the pending motion. Thank you.

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

#### ROLL CALL NO. 550

YEA - Bell, Berry, Blume, Boyle, Brennan, Bryant, Caiazzo, Cardone, Carlow, Cebra, Cloutier, Collings, Copeland, Crafts, Craven, Crockett, Cuddy, Dodge, Doudera, Dunphy, Evangelos, Evans, Fay, Geiger, Gere, Gramlich, Grohoski, Harnett, Hasenfus, Hepler, Hymanson, Kessler, Landry, LaRochelle, Lookner, Madigan, Martin J, Martin R, Mathieson, Matlack, McCrea, McCreight, McDonald, Melaragno, Meyer, Millett, Moriarty, O'Connell, O'Neil, Osher, Paulhus, Peabworth, Perry A, Perry J, Pierce, Pluecker, Reckitt, Rielly, Riseman, Roberts, Roche, Roeder, Sachs, Salisbury, Sheehan, Stover, Supica, Sylvester, Madam Speaker, Tepler,

Terry, Tucker, Warren C, Warren S, White, Williams, Wood, Zager, Zeigler, Mr. Speaker.

NAY - Alley, Andrews, Arata, Arford, Austin, Babbidge, Bickford, Blier, Bradstreet, Carmichael, Collamore, Connor, Corey, Dillingham, Dolloff, Downes, Drinkwater, Ducharme, Faulkingham, Foster, Greenwood, Griffin, Hall, Hanley, Harrington, Hutchins, Javner, Kinney, Lemelin, Libby, Lyman, Martin, Mason, Millett, Morris, Nadeau, Newman, O'Connor, Ordway, Parry, Perkins, Pickett, Poirier, Prescott, Quint, Rudnicki, Sampson, Stanley, Stetkis, Theriault, Thorne, Tuell, Underwood, Wadsworth, White.

ABSENT - Bernard, Brooks, Costain, Gifford, Grignon, Haggan, Head, Lyford, Morales, Sharpe, Skolfield, Stearns.

Yes, 80; No, 55; Absent, 12; Vacant, 4; Excused, 0.

80 having voted in the affirmative and 55 voted in the negative, 4 vacancies with 12 being absent, and accordingly the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-987)** was **READ** by the Clerk and **ADOPTED**.

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 as Amended by Committee Amendment "A" (H-987)** and sent for concurrence.

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Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-989)** on Bill "An Act To Facilitate Communication between Prosecutors and Unrepresented Defendants While Protecting the Rights of Those Defendants" (H.P. 1412) (L.D. 1905)

Signed:

Senators:

CARNEY of Cumberland  
KEIM of Oxford  
SANBORN of Cumberland

Representatives:

HARNETT of Gardiner  
HAGGAN of Hampden  
LIBBY of Auburn  
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:

Representatives:

BABBIDGE of Kennebunk  
EVANGELOS of Friendship  
POIRIER of Skowhegan  
THORNE of Carmel

Representative NEWELL of the Passamaquoddy Tribe - of the House - supports the Majority **Ought to Pass as Amended by Committee Amendment "A" (H-989)** Report.