

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume III

Second Regular Session

March 19, 1998 - March 31, 1998

Second Special Session

April 1, 1998 - April 8, 1998

Appendix
House Legislative Sentiments
Index

(H.P. 1013) (L.D. 1405) Bill "An Act to License Timber Harvesters and Deter Timber Trespassing" Committee on **AGRICULTURE, CONSERVATION AND FORESTRY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-951)**

On motion of Representative DONNELLY of Presque Isle, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Madam Speaker, Men and Women of the House. I apologize for slowing this good bill down. There is a question that had not been answered in my caucus this morning as to where the licensure piece of this bill is that's reflected in the title. If someone from the Agriculture Committee could let me know if the licensure is still in the bill, or not, with the Committee Amendment would be helpful. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Madam Speaker, Ladies and Gentlemen of the House. No the licensure is not part of this, we stripped that, it was a joint hearing with the other committee and the review they came back with recommended not to do the licensing and the rest of the bill covers many areas that are proactive to try to correct some of the problems in the forestry area.

The Committee Report was **ACCEPTED**. The Bill was **READ ONCE**. **Committee Amendment "A" (H-951)** 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-951)** and sent up for concurrence.

(H.P. 1250) (L.D. 1769) Bill "An Act to Authorize Additional Adjustments to the State Share of School Funding" Committee on **EDUCATION AND CULTURAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-955)**

On motion of Representative GOODWIN of Pembroke, was **REMOVED** from the First Day Consent Calendar.

The Committee Report was **READ**.

On further motion of the same Representative, **TABLED** pending **ACCEPTANCE** of the Committee Report and later today assigned.

CONSENT CALENDAR Second Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the Second Day:

(S.P. 505) (L.D. 1567) Bill "An Act to Reinstate Limited Rehabilitation Benefits under the Maine Workers' Compensation Act of 1992 for Those with Long-term Disabilities" (C. "A" S-519)

(S.P. 696) (L.D. 1931) Bill "An Act to Create Incentives for Employers to Contribute toward the Costs of Comprehensive Health Insurance for Families" (C. "A" S-521)

(H.P. 277) (L.D. 341) Bill "An Act to Open a Discount State Liquor Store in Calais" (C. "B" H-934)

(H.P. 1384) (L.D. 1938) Resolve, Directing the Preparation of a Bill to Make Nonsubstantive Changes to the State's Criminal Statutes (EMERGENCY) (C. "A" H-943)

(H.P. 1385) (L.D. 1939) Bill "An Act to Amend Certain Motor Vehicle Laws" (C. "A" H-930)

(H.P. 1401) (L.D. 1953) Bill "An Act to Implement the Recommendations of the Maine Indian Tribal-State Commission Relating to the Names of Geographic Features in Passamaquoddy Territory" (C. "A" H-944)

(H.P. 1440) (L.D. 2004) Bill "An Act to Ensure Long-term Funding of the Maine Agricultural Experiment Station Research Farms Connected with Land Grant Colleges" (EMERGENCY) (C. "A" H-929)

(H.P. 1503) (L.D. 2125) Bill "An Act to Improve Public Sector Labor Relations" (C. "A" H-937)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were **PASSED TO BE ENGROSSED AS AMENDED** in concurrence and the House Papers were **PASSED TO BE ENGROSSED AS AMENDED** and sent up for concurrence.

(H.P. 1483) (L.D. 2082) Bill "An Act to Improve the Integrity of the Citizen Initiative Process" (C. "A" H-938)

On motion of Representative GERRY of Auburn, was **REMOVED** from the Second Day Consent Calendar.

The Committee Report was **READ**.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative GERRY: Madam Speaker, Ladies and Gentlemen of the House. It's very rare unless I really feel good reason to challenge a unanimous committee report. I feel that this is a very bad bill, what it tries to do or what it does is cuts down a citizens right to petition the State in their application process. Currently right now when you apply for a citizens initiative you get an okay to collect signatures for three years. When you get enough signatures you turn them in but they only count for one year but what this thing does is say that if after one year you don't get your signatures your paperwork, your signatures aren't good and you have to start the process over again. For legislators who have trouble with people complaining that there's so many people collecting signatures at the polls this will increase the number of people coming to the polls year after year for the same question.

Right now if a person puts in an initiative and it's good for three years the way it's written in law or at least understood is that nobody can put in the same exact language for three years. So by limiting it to one year if I have a good idea and I don't have the funding to fund my initiative and I get off to a late start and I end up not being able to turn in enough signatures for that date somebody else in the background can put in the paperwork and take this right out from under me.

I object to this type of law where it cuts down a citizens rights. When Legal and Veterans heard this bill the ones that spoke for the bill was the department from the Secretary of State's office and a couple of people from the League of Women Voters. There was a least 15 people there from other groups, Green Party, Reform Party and I was there so we all said we did not think this was a good idea.

When the vote is taken I request it be taken by a roll call vote.

Representative GERRY of Auburn **REQUESTED** a roll call on the motion to **ACCEPT** the Committee 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 Sanford, Representative Tuttle.

Representative TUTTLE: Madam Speaker, Men and Women of the House. I for one am very cautious and very concerned about the initiative process I've debated on many occasion to protect that right of the citizen process but I think that here the situation and the passage of the bill is a necessity. The bill changes the time period for submission of the direct initiative process and the validity of application for direct initiatives from three years to one to correspond with the petition signatures set forth in the present Maine Constitution. I guess essentially the reason why the unanimous committee supported this bill is that current statute is inconsistent with the present constitutional requirement that signatures are only valid for one year. Also legislation maybe come dated and inappropriate by the time that the signatures are collected. We had much testimony in the committee on this. There is presently an administrative problem arising, it is difficult to keep track of the rolling, so-called 12 month period, the three year period gives an opportunity to alter dates and to validate invalid signatures as many of us have read and have heard over the last year. Recent history of the process shows it doesn't take more than twelve months to collect the signatures and that's the reason why the unanimous committee report is before you. I would hope that you would support the present bill, it's a good bill, in all honesty I think it will make the process work a lot better. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. Could somebody on the committee tell me how long the three years to collect the signatures has been in effect and whether the three year limit has ever been challenged constitutionally?

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Madam Speaker, Ladies and Gentlemen of the House. Madam Speaker, just from my brief memory being in this institution I think it has been in effect since I've been here which is probably since 1979 and as far as the challenge I can't recall a specific challenge Representative Waterhouse.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. In light of that answer, I can see no compelling reason to limiting the access of our citizens to this process and I'll hope that you'll follow Representative Gerry's recommendations and vote against this pending motion. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Madam Speaker, Men and Women of the House. If you find your register that has the Constitution of Maine in it you'll see the reference, I'm looking in my book on page 24, knowing we can't use props I will at least advise you at your desk to take a look at the section in the Constitution that this bill is designed to address which does in fact limit the number of months of twelve, one calendar year, to the amount of time that signatures are valid on a petition question that's been approved by the Secretary of State's office.

There are several reasons why this is a good piece of legislation for this body to pass and why the committee unanimously approved it after hearing a variety of testimony about this particular issue. Of all the petitions that have been successful in the last 20 years, all but one achieved the required signatures to go on a ballot in less than 12 months so one of the criticisms that was heard at the hearing that this denies people the opportunity to collect signatures seems to me in light of the specific data that was presented in order to support this particular request. Secondly, if a question like a property tax cap for instance which was presented and had three years for signatures to be collected, had that been successful, had that drive been successful, it would have been a loss of some \$350 million to municipalities because the question was designed in such a way to look at figures that were already three years old. So there's a policy issue involved and is affected by this extraordinary time period that's allowed.

This particular proposal in no way precludes petitioners from bringing the question forward. It does not in any way preclude or interfere with the process of this citizen initiated referendum. What it does do is make the statutory guidelines consistent with the Maine Constitution. It also has a third reason why you should be supporting this unanimous committee report is that it will perhaps discourage some of the attempts at forgery of signatures because they have been collected outside of that one year calendar period that's required. That means stale signatures, those that are over a year old can not be used again even under current law but the petitioners have the right to keep the same question and bring it to the voters for three consecutive years in order to get enough signatures to send it to referendum. Limiting that period to one year consistent with the Constitution can in fact reduce the possibility of the kind of forgery that this State has had to take to court.

For all of those reasons I was happy to sponsor this bill on behalf of the Secretary of State's office, I believe it's an example of good government. I believe it ensures the integrity of the citizen petition process to be used in the way it was rightfully intended. So for that reason I hope you join me in enthusiastically supporting the ought to pass report.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative True.

Representative TRUE: Madam Speaker, Ladies and Gentlemen of the House. I would like to commend the previous two speakers on their accuracy in reporting what happened as far as our committee is concerned and if you remembered a few of things which have come down from our committee it's a rarity that we seem to get a common opinion and I think that's a strength of our committee. Certainly we must have some perimeters as far as our initiative process in concerned and within those perimeters we must have safeguards and I believe all of these things have been taken care of and I too hope that you would support the committee as far as this particular vote is concerned. I thank you.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative GERRY: Madam Speaker, Ladies and Gentlemen of the House. By limiting it to one year we will probably be taking the word citizen out of the initiative process. By that regards and I know some will take exception to that is that when somebody comes up with an idea the only way that they can get this thing passed if they don't have the volunteers is by money. By shortening the petitioning process to one year I feel that there is going to be more and more paid petitions from out of state coming in collecting our signatures. So it's not going to be a Maine generated initiative. Right now anyone that files an application for a citizen initiative gets contacted by an out of

state firm asking you how far along you are in your petition process, how's the signatures coming in? Do you have any money for funding? If you don't have money for funding do you mind if we come in and try to do some fundraising for you and help you collect your signatures? The art of collecting signatures on petitions and trying to enact laws or proposed laws that the legislature either can't or won't or haven't thought up yet is going to be more polluted than it is now with outside interest coming in. By leaving it at three years not everybody that filled out an application will take the three years granted but statistics are saying that it takes anywhere from three to nine months if you looked into it you'd see that these are almost all paid initiatives. I'll bet you there was only two out of whatever number with not paid but it was just volunteers. By leaving it to the way it is now it gives regular citizens the chance to get their idea out. It might take them three months, four months to get set up, get the money for their printing for their petitions, get them out to their volunteers and to get it going and on track. So it might take them 16 years, it might be 20, I mean excuse me 16 months or 20 months to get this thing going. It's granted. According to the Constitution that one year of signatures is valid but what date what date on the petition is that good is the one I collect today good for a year, the one I collected eight months ago good for a year. It does not specifically specify all it says is when we turn in an initiative we could only use one whole year cycle. So I ask you to vote down this bill. Vote it ought not to pass.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Madam Speaker, Men and Women of the House. I have sought to procure some information in response to the query posed by the Representative from Bridgton. The initiative process along with the peoples veto is an example of a progressive era of reform in the early twentieth century and although I could not ascertain exactly the year, I do know that the people's veto, because we've been discussing that in State and Local Government, came in 1909 so my guess is that this process came in within that rough period in the first decade or so of the twentieth century. So in fairness to good Representative Tuttle who says its been around since he's been around it's probably been around a lot longer than Representative Tuttle has been around.

The SPEAKER: The Chair recognizes the Representative from Bridgton, Representative Waterhouse.

Representative WATERHOUSE: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative WATERHOUSE: Madam Speaker, Ladies and Gentlemen of the House. Could somebody point to me where in the Maine State Constitution they put the limit to one year? I've been looking through it and I just can't seem to find where it says one year.

The SPEAKER: The Representative from Bridgton, Representative Waterhouse has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Madam Speaker, Men and Women of the House. May I have the Chairs permission to hold this prop for the answer to the question?

The SPEAKER: The Chair would answer in the affirmative. The Representative is reading from the Constitution.

Representative KONTOS: Madam Speaker, Men and Women of the House. Thank you very much. If the Representative from Bridgton would look on page 24 of the register item 2 on that page the sentence begins in this way and I quote, "For any measure thus proposed by electors, the number of signatures shall not be less than 10 percent of the

total vote for Governor cast in the last gubernatorial election preceding the filing of such petition." The next sentence, "The date each signature was made shall be written next to the signature on the petition", and here's the critical part, "and no signature older than one year from the written date on the petition shall be valid." Thank you Madam Speaker.

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

ROLL CALL NO. 466

YEA - Bagley, Baker, Barth, Belanger DJ, Belanger IG, Berry DP, Berry RL, Bigl, Bolduc, Bouffard, Brennan, Brooks, Bruno, Bunker, Carleton, Chick, Chizmar, Cianchette, Clark, Clukey, Colwell, Cowger, Davidson, Desmond, Dexter, Donnelly, Driscoll, Dunlap, Farnsworth, Fisher, Foster, Frechette, Fuller, Gagne, Gagnon, Gamache, Goodwin, Gooley, Hatch, Jabar, Jones SL, Jones SA, Joyner, Kane, Kerr, Kneeland, Kontos, Labrecque, LaVerdiere, Lemaire, Lemont, Lindahl, Lovett, Mack, Madore, Mailhot, Mayo, McAlevey, McElroy, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Pendleton, Perry, Pieh, Plowman, Poulin, Povich, Powers, Quint, Richard, Rowe, Samson, Sanborn, Savage, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Spear, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, True, Tuttle, Usher, Vigue, Wheeler EM, Wheeler GJ, Winn, Wright, Madam Speaker.

NAY - Ahearne, Bodwell, Bragdon, Bryant, Buck, Bull, Bumps, Campbell, Chartrand, Cross, Dutremble, Gerry, Gieringer, Jones KW, Joyce, Kasprzak, Lane, Layton, Lemke, MacDougall, Marvin, McKee, Meres, Murphy, Nass, Nickerson, Ott, Peavey, Perkins, Pinkham RG, Pinkham WD, Rines, Snowe-Mello, Stedman, Taylor, Tobin, Treadwell, Underwood, Vedral, Volenik, Waterhouse, Winglass, Winsor.

ABSENT - Cameron, Etnier, Fisk, Green, Honey, Joy, O'Brien, Watson.

Yes, 100; No, 43; Absent, 8; Excused, 0.

100 having voted in the affirmative and 43 voted in the negative, with 8 being absent, the Committee Report was **ACCEPTED**.

The Bill was **READ ONCE**. Committee Amendment "A" (H-938) 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-938)** and sent up for concurrence.

BILLS IN THE SECOND READING

Senate As Amended

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20 Million to Stimulate the Maine Economy through Research and Development"

(S.P. 819) (L.D. 2205)
(C. "A" S-523)

House

Bill "An Act to Create the Kennebec Regional Development Authority" (EMERGENCY)

(H.P. 1612) (L.D. 2238)

House As Amended

Bill "An Act to Increase the Bonding Limits of the Maine Turnpike Authority"

(H.P. 535) (L.D. 726)
(C. "A" H-922)