

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Thirteenth Legislature

OF THE

State Of Maine

VOLUME IV

SECOND REGULAR SESSION

March 25, 1988 to May 5, 1988

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May 13, 1988

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HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

nothing to deal with special education, the shortages of teachers in special education, because the shortages would continue to increase under Chapter 501 by preventing the existing categorical certifications to be collapsed into two general certificate categories under Chapter 502. The Bill as far as the local support system is concerned, as the good Senator from York, Senator Estes stated, the support system is estimated to cost 1.6 million dollars, or one hundred dollars per teacher, that money has been provided for. Money above and beyond that would be reimbursed by the state through the funding formula. This Bill would not continue what I believe is the primary focus of the Education Reform package passed back in 1984 which was a better education for my children. For these reasons I am asking you to vote no and sustain Governor McKernan's veto.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. As perhaps we have all heard too often during the course of this Legislative Session, I had not planned to speak on this measure this afternoon. However, having heard the very articulate and well reasoned presentations by my colleagues I do want to share a few thoughts and concerns with this Body. I have decided over the past few days that I am not going to vote to sustain the Governor's veto. In fact, I am going to vote to override this afternoon. I would point out to some of you who may not have been here, I served on the Joint Standing Committee on Education and I was certainly a very vocal and ardent supporter and I believe I still am of the cause of educational reform in our state and in our society. I believe that we all appreciate the imperative of a firm and insistent policy to upgrade continually quality in our public and private school systems in order that we can produce new generations of Americans and Mainers who can compete successfully in this country and abroad. I have not heard this afternoon from those who have argued in support of sustaining the Governor's veto commentary addressing the structural flaws we now have in our recertification process and I believe that there are genuine and legitimate concerns which have been brought forth that we simply do not have the resources in place at the present time to fully accommodate the certification process were it to go into effect as originally proposed some four years ago. I think these concerns are legitimate and meritorious. I was concerned as I believed many of you were when an effort was made initially to append to a routine Errors Bill a far reaching and major change in teacher certification. I did not support then nor do I support now an outright elimination of the certification process. I have really not heard from those who urge us to sustain the veto today an explanation of what will be done in the intervening six months or twelve months to address the very real problems which exist as far as the lack of appropriate resources. I have some very serious concerns that we will be putting some districts at a very real disadvantage if we were to insist at this time for implementation of the certification process. I must confess I have some concerns that what we are hearing today is simply a precursor of discussion and dialogue which might occur next fall on the campaign trail. But, I think all of us would agree that the needs of our children far transcend the interests of any particular election. I have two young daughters in the public schools, obviously, I will work hard and insist that they have the highest quality education possible to them. So, I certainly

would do nothing to eviscerate the high standard of education we all seek. I don't see anything in the compromise legislation which was approved that would in fact water down or weaken the movement for educational reform in our state and unless I can hear a strong argument that the structural flaws existing today in our recertification process will be addressed, if I don't hear that, I certainly will go forward and vote today to override. I would urge you to do as well. Thank you.

THE PRESIDENT: The pending question before the Senate is: "Shall this Bill become Law notwithstanding the objections of the Governor?"

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, GAUVREAU, KANY, KERRY, MATTHEWS, PEARSON, THERIAULT, TUTTLE, USHER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BLACK, CAHILL, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, LUDWIG, MAYBURY, PERKINS, RANDALL, SEWALL, TWITCHELL, WEBSTER

ABSENT: Senators BRAWN, DOW, WHITMORE
18 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 3 Senators being absent, and 18 being less than two-thirds of the Membership present and voting, the Veto was SUSTAINED.

The Secretary has so informed the Speaker of the House.

Off Record Remarks

The Following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

May 3, 1988

TO: The Honorable Members of the 113th Maine Legislature:

I am returning, without my signature or approval, S.P. 956, L.D. 2531, "AN ACT to Promote the Prompt and Peaceful Settlement of Labor Disputes." This legislation, in my opinion, continues to leave unaddressed the very real concerns which forced me to reject its two predecessors, L.D. 1690 and L.D. 1919.

This bill, as was the case with its predecessors, regulates hiring practices of companies without regard to their corporate purpose. It would prohibit the hiring of employees of any firm which, in the ordinary course of business during a previous five year period, has offered 100 or more employees on three or more occasions to a company involved in a labor dispute. This restriction would apply without consideration given to the intent or primary business purpose of the corporation. Thus, this bill is unacceptably over-inclusive.

As I stated last June, and again last January, I would accept so-called "anti-strikebreaker" legislation if such legislation were narrowly defined to address a company's business purpose or intent,

and if, in addition, the Maine Supreme Judicial Court ruled or advised that such legislation did not violate federal law. I stated on those occasions, and I repeat once again, the key consideration for such a prohibition ought to relate to the business purpose of the firm. While I respect this bill's attempt to address my original concern, the hiring proscriptioin, in my opinion, remains unacceptably overbroad.

I and my staff have offered legislative language which adequately addresses my concerns as well as those raised regarding hiring practices by Maine employers of out-of-state employees. I pledge to continue to work with you to adopt legislation which will satisfy the intent to prohibit corporate strikebreaking activity without running afoul of our Constitution or of federal law. I cannot, however, endorse legislation which mandates improper state intervention in the private collective bargaining process at the expense not only of the principals but also of potentially innocent third parties, which this bill does.

Because of the reservations and objections outlined above, I am in opposition to L.D. 2531 and respectfully urge you to sustain my veto.

Sincerely,
S/John R. McKernan, Jr.
Governor

Which was READ and ORDERED PLACED ON FILE.

The President laid before the Senate the Accompanying Bill:

Bill "An Act To Promote the Prompt and Peaceful Settlement of Labor Disputes"

S.P. 956 L.D. 2531
(H "A" H-777)

THE PRESIDENT: The pending question before the Senate is: "Shall this Bill become Law not withstanding the objections of the Governor?"

The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Thank you Mr. President. Mr. President, men and women of the Senate. I would just like to say a few words about this Bill before we vote to override or not to override the Governor's veto. Unfortunately on the Strikebreaker issue we couldn't come to an agreement on language that would deal with activities that have gone on and at least in one place in the state of Maine. There were two different versions if you remember, one was offered by the Republicans and the other was offered by the Democrats, and apparently some people felt that one went to far and the other didn't go far enough and there was questions of constitutionality in one and questions as to how effective the other one would be. The were questions that one was too vague and the other was too specific, but I think we have all come to the realization that everyone agrees that there is a problem with hiring out-of-state strikebreakers in the state of Maine and that something has to be done. So, whereas I think this Bill is going to get defeated, I think the Governor's veto will be sustained, I do want to make it very clear that I think the Governor and the Legislature and the people of the state of Maine are generally all in harmony as to opposing the sort of activity that went on at International Paper Company, so I would ask you today as one last final resort to try to support legislation of this manner by voting to override the Governor's veto, but even if the veto is not overridden, I would just like to make it very clear that I think that if not this year, everybody is in harmony and if this sort of practice continues in the state of Maine that it won't be too long before the Legislators in this Body and the Governor

will agree on language to make sure that something like this never happens again in the state of Maine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator COLLINS: Thank you Mr. President. Mr. President, men and women of the Senate. The good Senator from York, Senator Dutremble, has very accurately described our dilemma in trying to write legislation concerning strikebreaking. Unfortunately we have a difference of opinion as to how specific or how general the language should be and I guess that the Bill that I might have preferred, and did vote for a couple of weeks ago, was L.D. 2124. As you may recall this was an attempt to define the purpose of the entity that was involved in the business of supplying workers during a labor dispute. It seemed to me that this methodology was far superior to the one that is in the legislation we are looking at today. It may be in the future that we can arrive at an accommodation that we can all agree on, but today I hope that you will join me in sustaining the Governor's veto by voting no. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is: Shall this Bill become Law not withstanding the objections of the Governor?

In accordance with Article 4, Part 3, Section 2, of the Constitution, the vote will be taken by the Yeas and Nays.

A vote of yes will be in favor of the Bill.

A vote of no will be in favor of sustaining the veto of the Governor

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BERUBE, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, GAUVREAU, KANY, KERRY, MATTHEWS, PEARSON, THERIAULT, TUTTLE, TWITCHELL, USHER, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BLACK, CAHILL, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, LUDWIG, MAYBURY, PERKINS, RANDALL, SEWALL, WEBSTER

ABSENT: Senators BRAWN, DOW, WHITMORE

19 Senators having voted in the affirmative and 13 Senators having voted in the negative, with 3 Senators being absent, and 19 being less than two-thirds of the Membership present and voting, the Veto was SUSTAINED.

The Secretary has so informed the Speaker of the House.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

The Following Communication:
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

May 3, 1988

To the Honorable Members of the 113th Maine Legislature:

I am returning, without my signature or approval,