

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Twenty-First Legislature
State of Maine

Volume II

First Regular Session (Continued)
May 21, 2003 to June 14, 2003

First Special Session
August 21, 2003 to August 22, 2003

First Confirmation Session
October 30, 2003

Second Regular Session
January 7, 2004 to January 30, 2004

Second Special Session
February 3, 2004 to March 18, 2004

Pages 715 - 1415

All matters thus acted upon, with exception of those matters being held, were ordered sent down forthwith for concurrence.

Senate at Ease.

Senate called to order by the President.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

Bill "An Act To Extend Term Limits"

H.P. 945 L.D. 1273

Tabled - June 13, 2003, by Senator **BENNETT** of Oxford

Pending - motion by Senator **GAGNON** of Kennebec to **ADOPT** Senate Amendment "B" (S-314)

(In House, June 2, 2003, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, June 4, 2003, Reports **READ**.)

(In Senate, June 13, 2003, motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** the Bill and accompanying papers, in **NON-CONCURRENCE, FAILED**. On motion by Senator **GAGNON** of Kennebec, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in **NON-CONCURRENCE. READ ONCE**. Committee Amendment "A" (H-442) **READ** and on motion by Senator **GAGNON** of Kennebec, **INDEFINITELY POSTPONED**. Under suspension of the Rules, **READ A SECOND TIME**. On further motion by same Senator, Senate Amendment "B" (S-314) **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Bennett.

Senator **BENNETT:** Thank you, Madame President and fellow members of the Senate. I rise to encourage you to vote against the adoption of Senate Amendment "B" (S-314). As I stated earlier when we were debating this matter, I think it is a good general rule to keep legislative fingers off laws that have been passed through the initiative and referendum process. I think this is particularly true when you have a law, like this one, that goes right to the heart of legislative power and the power of the people vis-à-vis their legislators. I think there is an inherent flaw in having the legislature tinker with such bills.

This amendment before us is a classic example of the dangers that one assumes when we start trying to change these sorts of laws. This amendment, I believe, has several flaws. First, I want to point out that the question that would go out to the voters would be 'Do you support revising Maine's term limits law to provide a balance of new and experienced members by extending the limits of legislative service, et cetera?' I don't think that is anywhere near a balanced question itself. If you look at the original bill, and you look at what the question is, whatever side of the issue you are on, you have to say that the question, as contemplated in the original bill, is 'Do you favor increasing term

limits to 12 years per elected officials and constitutional officers?' is a heck of a lot more of a straight forward approach than whether someone supports revising Maine's term limits laws to provide a balance of new and experienced members.

This is the first of several flaws with this amendment. I also have to point out that this amendment, as it is drafted, would selectively apply the non-retroactivity provision. In other words, some people who are currently serving in this legislature, some members of the Senate, will be under the current law of 8 years, and others will be under a new law of 12 years. Mind you I am one who would be term limited at 8 years, and I think that is good for all of us. I look forward to finding other things to do with my Friday evenings and Saturday mornings at 12:36 a.m. than debating various measures. The good presiding officer, Senator Daggett of Kennebec, would be affected by this bill in that she would not be able to run for reelection. The Senator from Kennebec, Senator Treat, would be unable to run for reelection. Others in leadership positions, and indeed the sponsor of this amendment, would still be available to serve in leadership, perhaps for four additional terms. I really think this is a flaw in this amendment. I think it is unfortunate to have all of us put in the position of having to put something forward which, at best, looks suspicious, particularly at this hour of the night on the last day of session. I think amendment is inherently flawed and I encourage you to vote against it.

Senator **BENNETT** of Oxford moved to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-314).

Same Senator requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. I hope that you will vote against the current motion to indefinitely postpone. I'm sitting here, once again, in agreement with the good Senator from Oxford, Senator Bennett. I, too, am looking forward to his retirement in future days. I meant that as a joke, Senator.

Somewhere along the way the line has to be drawn, and the original bill did draw the line where this amendment draws it. Whether it is this class, not this class, the next class, or whoever it happens to be, one of the things that was important to the committee was that the purpose of asking the voters, and the issue to lay out to the voters has to do with loss of experience, and the high turn-over rate in leadership. The high turn-over rate in the number of Speakers has been talked about. You remember the previous Chief Executive was quite concerned about that. I believe this one is too. If we made the amendment in such a way that it only affect new people coming in after this, what we are really talking about is deferring the benefit, whether you agree or not it's a benefit. You would be deferring the benefit for about 15 years or so, because the people who are going to be termed out will cycle through. You would have to start a whole new cycle over again. The feeling was that, because of the controversies, issues, debates, editorials, and everything else associated with term limits, this was the best approach. This was a somewhat negotiated approach. First out of the committee, and then it has been negotiated ever since then.

Concerning the fact that it is being done at this hour, I think this would show that this is not something at the forefront of most

legislators' minds. That is why we're here at this hour. If it had been, we would have been able to deal with this much more quickly. There were more important issues for us to deal with. We've been dealing with those issues. That is why this is one of the remaining issues that we have to deal with before we can go home tonight. I believe a roll call has been requested. I would agree with that, Madame President, I would encourage folks to vote against the current motion. Thank you.

On Senator **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Oxford, Senator Bennett to Indefinitely Postpone Senate Amendment "B" (S-314). A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#179)

YEAS: Senators: BENNETT, BLAIS, DAVIS, GILMAN, KNEELAND, LAFOUNTAIN, LEMONT, MITCHELL, NASS, PENDLETON, SAVAGE, SAWYER, SHOREY, STANLEY, TURNER, WESTON, WOODCOCK

NAYS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, MARTIN, MAYO, ROTUNDO, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

ABSENT: Senators: CARPENTER, YOUNGBLOOD

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators being absent, the motion by Senator **BENNETT** of Oxford to **INDEFINITELY POSTPONE** Senate Amendment "B" (S-314), **PREVAILED**.

On motion by Senator **BENNETT** of Oxford, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#180)

YEAS: Senators: BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, MAYO, ROTUNDO, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BENNETT, BLAIS, DAVIS, GILMAN, KNEELAND, LAFOUNTAIN, LEMONT, MARTIN, MITCHELL, NASS, PENDLETON, SAVAGE, SAWYER, SHOREY, STANLEY, TURNER, WESTON, WOODCOCK

ABSENT: Senators: CARPENTER, YOUNGBLOOD

15 Senators having voted in the affirmative and 18 Senators having voted in the negative, with 2 Senators being absent, **PASSAGE TO BE ENGROSSED**, in **NON-CONCURRENCE**, **FAILED**.

Senator **GILMAN** of Cumberland moved the Senate **RECONSIDER** whereby it **PASSED TO BE ENACTED** the following:

An Act to Encourage Responsible Employment Practices
H.P. 880 L.D. 1206
(C "A" H-353)

(In Senate, May 27, 2003, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-353)**, in concurrence.)

(In House, May 28, 2003, **PASSED TO BE ENACTED**.)

(In Senate, June 13, 2003, **PASSED TO BE ENACTED**, in concurrence.)

Senator **MARTIN** of Aroostook requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Gilman.

Senator **GILMAN:** Thank you, Madame President. I would like you to vote for reconsideration. This bill attempts to force employers that bid for state contracts to provide health insurance. It would punish Maine businesses for something not of their making.

THE PRESIDENT: The Chair would interrupt debate. The pending motion is reconsideration. The debate should be centered around whether it should be reconsidered or not.

Senator **GILMAN:** Thank you, Madame President. I would like to tell this body why we should vote for reconsideration. This bill attempts to force employers that bid for state contracts to provide health insurance. It would punish Maine businesses for something not of their making, unaffordable health care costs. Some employers, those that opt to provide year end bonuses or other such incentives rather than health care benefits, are unduly punished under this bill because they reward their employees differently than others. Maine businesses do not need another impediment like this at this time. First prove that the Chief Executive's health care proposal, passed today in this body, works. I urge you to give business time to adjust to affordable health care. Please vote to reconsider this action.