

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Fourth Legislature
State of Maine

Volume III

Second Regular Session

March 24, 2010 - April 12, 2010

Appendix
House Legislative Sentiments
Index

Pages 1215-1836

Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Webster, Welsh, Wright, Madam Speaker.

NAY - Austin, Ayotte, Beaulieu, Bickford, Browne W, Burns, Cebra, Chase, Clark T, Crafts, Crockett J, Curtis, Cushing, Davis, Edgcomb, Fletcher, Flood, Fossel, Gifford, Giles, Hamper, Johnson, Joy, Knapp, Knight, Lewin, McFadden, McKane, McLeod, Millett, Nass, Pinkham, Plummer, Prescott, Robinson, Strang Burgess, Sykes, Tardy, Tilton, Weaver.

ABSENT - Butterfield, Carey, Cohen, Cornell du Houx, Dostie, Haskell, Peoples, Rosen, Wheeler, Willette.

Yes, 101; No, 40; Absent, 10; Excused, 0.

101 having voted in the affirmative and 40 voted in the negative, with 10 being absent, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 881: Fees; Chemical Use in Children's Products, a Major Substantive Rule of the Department of Environmental Protection

(H.P. 1284) (L.D. 1796)

(C. "A" H-740)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of the same and 4 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

Emergency Measure

Resolve, Regarding Legislative Review of Chapter 37: Voluntary Municipal Farm Support Program, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources

(H.P. 1296) (L.D. 1812)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 0 against, and accordingly the Resolve was **FINALLY PASSED**, signed by the Speaker Pro Tem and sent to the Senate.

Mandate

An Act To Update the Laws Affecting the Maine Center for Disease Control and Prevention

(H.P. 1130) (L.D. 1592)

(C. "A" H-721)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

Representative BERRY of Bowdoinham **REQUESTED** a roll call on **PASSAGE TO BE ENACTED**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Winterport, Representative Thibodeau.

Representative **THIBODEAU**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER PRO TEM: The Representative may pose his question.

Representative **THIBODEAU**: I guess I'm a little confused. I'd like somebody to explain what the bill is doing here. Can we have a little bit of explanation? I'd like to know or have an explanation as to what this mandate means.

The SPEAKER PRO TEM: The Representative from Winterport, Representative Thibodeau has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Calais, Representative Perry.

Representative **PERRY**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This was a bill that took a lot of work in the committee and there were a number of things that were taken out of it and changed. The amendment itself changes the bill, it reduces. There were a number of things within the bill. One was permits and fees for burial that it was part of that. That was originally \$40, reduced to \$20. Another one related to rabies control. I think you probably heard that in the news. That's not in the bill. And it is also about the charge for municipalities' services, for papers related to vital records, and those rules or fees will be established by major substantive rulemaking and they will be reviewed every three years. For fees charged by the municipalities for vital records, those fees will go right to the community. The Health and Human Services Department will charge any use of papers and stuff that they have to give to the community for the ability to get the records. This was a lot more comprehensive than it is right now. So it's about fees for vital records that communities can charge, it's also about fees for burial and mainly that's about it, and the relationship in terms of charges with DHS to the community for their paper and equipment that's used in order to print off the official record.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Bickford.

Representative **BICKFORD**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. This bill is just another increase of fees. The bill increases fees with certain documents regarding the birth, marriage, death certificates. It increases fees for plumbing permits. It increases the license fee, the eating establishment, eating and lodging places, recreational camps, youth camps and camping areas. It allows the department to collect a transaction fee from a licenser who renews a license electronically. This is fees, in other words taxes. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Windham, Representative Plummer.

Representative **PLUMMER**: Thank you, Madam Speaker. I request permission to ask a question of anyone in the body through the Chair.

The SPEAKER PRO TEM: The Representative may pose his question.

Representative **PLUMMER**: Thank you, Madam Speaker. My question and the good Representative from Auburn answered part of it, but my question would be is there a fiscal note and are there anticipated increases in costs in future budgets? Thank you, Madam Speaker.

On motion of Representative PIOTTI of Unity, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned. (Roll Call Ordered)

Mandate

An Act To Avoid Unnecessary Removal of Land from the Maine Tree Growth Tax Law Program

(H.P. 1163) (L.D. 1635)

(C. "A" H-751)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you, Madam Speaker. Madam Speaker, I did not mean to interrupt your introduction to the measure, however, I would like to take the opportunity to offer a few remarks on 1635 so that the body understands what we're voting for today. This is a mandate and it's important that we understand why. Today's legislation really dates back to 2007, when the Taxation Committee attempted and was informed of a very serious inequity in the Tree Growth Tax Law. Before returning to that amendment, however, just a very brief background.

You recall the Tree Growth Tax Law was first passed in 1971. A few years later it was amended to require property owners to file a forest management plan that is devised and supervised by a licensed, certified forester. This plan is to be updated every 10 years. That's the basis of the Tree Growth management scheme. The problems we faced in 2007 were brought by property owners, and I'll give you a very simple anecdote that covers many of their same cases. The farmer puts his land in Tree Growth, hires a forester, has the management plan certified. Nine years later, he dies, his surviving spouse knows they're in Tree Growth, doesn't really know much more about it than that. A year passes by; the 10 year plan is not recertified. There is a simple statement that must be filed with a municipality or the Maine Revenue Services in the case of the unorganized territory stating that the property continues to be managed in accordance with the plan. The widow didn't even know we were in Tree Growth, much less know that she was required every 10 years to file this certification and she missed it. So the only penalty under the Tree Growth plan, the only penalty available is to drop that plan for that property completely out of the program for a mere administrative violation. No evidence that the property itself was not being properly managed, that it was with a management plan but that the certification was not filed on time, often because the certification may come due in late spring when there's still five or six feet of snow in the woods and very difficult to find a forester to go out and cruise that land in order to make the certification. So for that minor administrative problem, landowners found they were booted out of the system and faced with the extraordinary penalties that we've discussed before.

So in 2007, we heard this testimony and these same property owners were assessed these enormous financial penalties, we decided that they were way out of proportion to the offense and we sought to correct it. We approved legislation that was enacted in the law effective September 20, 2007, and by this act we intended to provide property owners with a 60 day grace period in which for those people who had failed to obtain and file their 10 year recertification would have a 60 day grace period to do so before they were being booted out of the system. This is 60 days notice, 60 days to find a forester, 60 days to get the statement signed. Unfortunately, we since learned that the 2000 amendment was subject to other interpretations and for some property owners deprived them of that grace period. Now I'd like to make it clear that we're not being critical. Those who interpreted the 2007 amendment improperly or more narrowly than we originally intended, I recognize that we could have been clearer in the wording and I also recognize that this law is a very complex law, even for a committee that understands the law.

I brought 1635 to clarify the 2007 amendment and address the harshness of the penalty assessed for a mere administrative error. We held a hearing in February, we held four work sessions on this bill and the bill was expanded something more than I had intended. However, if enacted into law, the bill before you today would require tax assessors, both at the municipal level and in Maine Revenue for the unorganized territories, to provide notice to property owners before the 10 year deadline expires. In fact,

the amendment calls for no earlier than 185 days before, a full six months before the 10 year period expires the property owner will be notified by the municipality and by the Maine Revenue Services, in the case of the UT, that their plan is out for renewal, and they will be advised of the nature and extent of the penalty that is to be applied if they miss that deadline. Very clear recognition. The only mandate is what municipalities and the Maine Revenue frankly are doing now anyway, for the most part, and that is looking at their Tree Growth property owners, looking where the 10 years expires, trying to give those people notice in time to get a forester out there in the woods and do the work.

The 2007 amendment, as I said, was misinterpreted or interpreted more narrowly than it was intended by Maine Revenue Services in the case of a couple of property owners in the unorganized territory. So this bill applies this relief retroactively to September of 2007. The example I gave you the other day during a debate on a different measure involved a property owner with a small camp on an inaccessible lake up in the UT, as property owner, the property behind his camp was in Tree Growth. He could not even get out to his property because of the snow depth, must less get a forester out there. He assumed he had a 60 grace period in accordance of our amendment, made those arrangements, found that Maine Revenue had addressed our amendment more narrowly than we had intended and was in fact pulled out of the Tree Growth program and faced a fine of over \$60,000. We have had the Maine Revenue Services set that money aside. If this bill is passed and enacted, as it should be, that money will be refunded to that property owner. He'll be reinstated. Two property owners actually in the UT, they'll be reinstated into the program. Again, there was no claim or even suspicion that the property itself was not being managed appropriately within the Tree Growth program. The only problem was the certification wasn't filed on the day it was due. We thought we'd solved the problem and apparently we had not. This bill, was hoped, will.

I would like to thank the Maine Revenue Services, the Maine Municipal Association, the Small Woodland Owners Association, and interested parties who participated in our consideration of LD 1635. I'd also like to thank my fellow committee members for their careful attention and their trust in this measure at the result of their unanimous vote. Thank you, Madam Speaker. I would just encourage you please to support this mandate. The municipalities know its coming, it's not anything stressful but it will result in a great deal of relief to a program that needs it. Thank you very much, Madam Speaker.

In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 139 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

The Speaker resumed the Chair.
The House was called to order by the Speaker.

Acts

- An Act To Improve Oversight of Pharmaceutical Purchasing
(H.P. 940) (L.D. 1339)
(C. "A" H-693)
- An Act To Increase Maine's High School Graduation Rates
(S.P. 623) (L.D. 1658)
(C. "A" S-429)