

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

MAY 4, 1981 to JUNE 19, 1981

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In the House, the Report was read and accepted in concurrence.

Non-Concurrent Matter

Bill "An Act to Abolish the Position of Elected County Treasurer in Aroostook County and Replace it with an Appointed Treasurer" (H.P. 881) (L.D. 1050) which was passed to be engrossed as amended by Committee Amendment "A" (H-392) in the House on May 15, 1981.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-392) as amended by Senate Amendment "A" (S-243) thereto in non-concurrence.

In the House: The House voted to recede and concur.

The following papers appearing on Supplement No. 9 were taken up out of order by unanimous consent:

Non-Concurrent Matter

Bill "An Act to Make Funding of the Local Government Fund Part of the Appropriations Process" (S.P. 90) (L.D. 206) on which the Bill and Accompanying Papers were Indefinitely Postponed in the House on May 18, 1981.

Came from the Senate with that body having adhered to its previous action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-208) in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, I move that we adhere.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I move that we recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brenerman.

Mr. BRENERMAN: Mr. Speaker and Members of the House: This is the bill that we indefinitely postponed yesterday by over 20 votes, and I would hope that the House would defeat the motion to recede and concur and then we would adhere.

This is the bill that targets the state-local revenue sharing program, puts it in the Part I appropriations process and, in effect, allows the legislature to erode the revenue sharing program and allow that money to be placed into other programs.

I would ask the members of the House to please vote against the recede and concur motion and, Mr. Speaker, I would ask for a roll call.

The SPEAKER: The Chair recognizes the gentlewoman from Bangor, Miss Aloupis.

Miss ALOUPIS: Mr. Speaker, Ladies and Gentlemen of the House: We sincerely are not trying to target the local government fund. All we are saying is, let us be honest about this and put it up front that we are sharing this money and it is going back to the municipalities. All we are trying to say is, let it show, because everyone back home says you are not sending us back any money. We are, in fact, as we said yesterday, it is \$33 million for this biennium; the projection for the next would be \$43 million.

We are not trying to attack that fund. I know Maine Municipal has been lobbying quite heavily on this saying that perhaps it will be reduced or perhaps in future legislatures that money would be targeted. I am from a large municipality. I certainly wouldn't do anything wrong that would hinder my municipality, but I do feel that we should be honest and straightforward and have this up front within the budget.

I sincerely hope that you will recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: We are being urged to be straightforward and I will repeat briefly what I

stated yesterday. If you will look at the Statement of Fact on L.D. 206, the last sentence states, and I quote: "This Bill will require that funding of this program become part of the appropriation process." It is not putting it up front. It means every year that we review the budget, we will be reviewing the 4 percent revenue sharing to the communities, and it will be open for cuts and reductions and matched against other programs.

I would urge you to stand fast and vote against the motion to recede and concur.

The SPEAKER: The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: I would raise a question through the Chair. Is it not possible under current rules for a member of either body to introduce legislation cutting or raising the local revenue sharing funds today?

The SPEAKER: The gentlewoman from Falmouth, Mrs. Huber, has posed a question through the Chair to the gentleman from Winslow, Mr. Carter, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. CARTER: Mr. Speaker, the gentlewoman from Falmouth is absolutely correct. This can be done, but it must be done through an L.D. introduced for that purpose and not through subterfuge.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: You can put an L.D. in now to reduce or up the amount of money that goes to local communities. You can also, like we do with everything else, include it in the budget and make it a normal appropriation. We, every year, appropriate money for state retirement; that is not subterfuge. We do that through the budget process. We appropriate money for wages through the budget process, and it is shown, and everything else is shown, at least I think everything else is shown, but this is one of those areas where it is not shown, how much money goes to the local community.

If you believe that we should appropriate money for state retirement, I would think that it would naturally follow that you would believe that we should appropriate under normal process for revenue sharing and show it. I can't believe that there is anybody in this House that would want revenue sharing to local communities go down, but I just don't understand why anybody would not want it to be shown, like everything else is, aboveboard and honestly.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brenerman.

Mr. BRENERMAN: Mr. Speaker and Members of the House: I just wanted to make two more points regarding this bill. This bill doesn't only show the revenue sharing account in the budget, it does two other things. It says that if we underestimate revenues, then the shortfall would be made in the next year for municipalities, that the legislature, if it underestimated funds, it would restore those funds in the next year.

Considering what has been done with tree growth reimbursements in this legislature and with inventory tax in previous legislatures, state aid for highways in previous legislatures, I can't believe that we would restore any revenues that came in above estimates.

The other point is, if the state overestimates revenues and the towns get more money than what came in, then they would be deducted from their next year's revenue sharing. I think that would also cause problems at the local level.

So, there are two other problems in this bill besides the fact that they be shown in the future budgets.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will

vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Armstrong, Bordeaux, Cahill, Callahan, Connors, Curtis, Damren, Davis, Day, Dexter, Diamond, G.W.; Dillenback, Drinkwater, Gavett, Gwadosky, Higgins, L.M.; Holloway, Huber, Ingraham, Jalbert, Kiesman, Lewis, Lund, MacBride, MacEachern, Masterman, Michaud, Mitchell, J.; Nelson, A.; O'Rourke, Paradis, P.; Pearson, Peterson, Randall, Reeves, J.; Salisbury, Smith, C.W.; Soulas, Treadwell, Walker, Weymouth.

NAY—Austin, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Carrier, Carroll, Carter, Chonko, Clark, Canary, Connolly, Cox, Crowley, Diamond, J.N.; Erwin, Fitzgerald, Foster, Gillis, Gowen, Hall, Hanson, Hickey, Higgins, H.C.; Hobbins, Hunter, Jackson, Jacques, Jordan, Joyce, Kane, Kany, Kelleher, Ketover, Killoynce, Lancaster, LaPlante, Lisnik, Livesay, Locke, Macomber, Mahany, Manning, Masterton, Matthews, McCollister, McGowan, McHenry, McKean, McPherson, McSweeney, Michael, Mitchell, E.H.; Moholland, Murphy, Nadeau, Nelson, M.; Norton, Paradis, E.; Paul, Perkins, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Sherburne, Small, Smith, C.B.; Soule, Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster, Wentworth.

ABSENT—Cunningham, Davies, Dudley, Fowlie, Hayden, Hutchings, Laverriere, Martin, A.; Martin, H.C.

Yes, 42; No, 98; absent, 10.

The SPEAKER: Forty-two having voted in the affirmative and ninety-eight in the negative, with ten being absent, the motion does not prevail.

Thereupon, on motion of Mr. Carter of Winslow, the House voted to adhere.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, having voted on the prevailing side, I move we reconsider and hope you all vote against me.

The SPEAKER: The gentleman from Winslow, Mr. Carter, having voted on the prevailing side, now moves that the House reconsider its action whereby it voted to adhere. All those in favor will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law" (Emergency) (H.P. 1411) (L.D. 1576) on which the House Insisted on its former action whereby the Bill was passed to be engrossed as amended by House Amendments "B" (H-319) "C" (H-324) and "D" (H-329) and Asked for a Committee of Conference in the House on May 18, 1981.

Came from the Senate with the Body having adhered to its previous action whereby the Bill was passed to be engrossed as amended by House Amendments "B" (H-319) and "D" (H-329) in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, I move that the House adhere.

The SPEAKER: The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, I move that we recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker, I feel I owe the House an explanation as to why I am going to vote against my chairwoman's motion to recede and concur. Basically, it is because I made the motion yesterday to have a Committee of Conference in hopes that a Committee of Conference could work out the problem which was debated thoroughly on the floor here, which I will not even get into.

I remain convinced that that can happen. Unfortunately, we no longer have the vehicle with the committee of conference to achieve that end. However, I feel that to leave the bill in a recede and concur position would not adequately reflect the feelings of many people in this House, with whom I happen to disagree, but I do respect their point of view, and I know there is a middle ground and, in fact, we have already discussed a possibility for such a compromise.

Therefore, I would hope that we would vote to adhere, after we defeat the pending motion, because although that will mean the demise of whatever number we are dealing with here, 1576. I guess it is now, there are at least two methods that I am aware of for introducing a new bill which would contain language that I am sure the majority of this body and the other one would find agreeable on the issue of inspection of inspection stations. So while I will be voting against the gentleman from Lewiston, Mrs. Berube's motion, it is not in disagreement but hopefully that we can regrettably start afresh, given the fact that we no longer have the committee of conference to come to a compromise with.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I have talked to quite a number of you about this bill, and while I urged you to go along to save this bill, I was not aware of some of the maneuverings that were going on that have just been spoken to you about by my fellow member of the committee, Representative Huber. So, I feel that I was put in a false position and therefore I will go along to adhere and kill this bill, too.

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mrs. Berube, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

21 having voted in the affirmative and 102 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Strout of Corinth, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

The following papers appearing on Supplement No. 10 were taken up out of order by unanimous consent:

(S. P. 573) (L. D. 1542) Bill "An Act to Enable the State of Maine to Fund Waste Water Treatment Systems in the Event Federal Funds are not Included or Limited in Future Federal Budgets"—Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-247)

(S. P. 412) (L. D. 1216) Bill "An Act to Amend the Law Relating to the Public Reserved Lands"—Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-248)

(S. P. 479) (L. D. 1362) Bill "An Act to Protect Public and Private Property from Ice Jams"—Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-249)

(S. P. 455) (L. D. 1301) Bill "An Act to Require Public Hearings Prior to Proposing Exchanges of Public Reserved Lands"—Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-250)

No objections having been noted, under suspension of the rules, the above items were given Consent Calendar Second Day notification, and passed to be engrossed as amended in concurrence.

(S. P. 265) (L. D. 747) Bill "An Act Relating to State Participation in Local Leeway under the School Finance Act" (Emergency)—Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-251)

On the objection of Mr. Pearson of Old Town, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (S-251) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

The following paper appearing on Supplement No. 11 was taken up out of order by unanimous consent:

Non-Concurrent Matter

Bill "An Act to Establish a Consolidated Map of the State" (H. P. 1158) (L. D. 1379) which was passed to be engrossed as amended by Committee Amendment "A" (H-373) in the House on May 14, 1981.

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, I move that we insist and ask for a Committee of Conference.

The SPEAKER: The gentleman from Waterville, Mrs. Kany, moves that the House Insist and ask for a Committee of Conference.

The gentleman may proceed.

Mrs. KANY: Mr. Speaker and Members of the House: I hope that you will speak to your friends in the other body and convince them of the importance of this particular measure. It is An Act to Establish a Consolidated Map of the State of Maine, in which we could provide maps, both road maps and as an economic development measure to have much information on the other side. And I would certainly hope that we, of all states, with our tourism, could provide this for people interested in visiting our state, so I do hope you go along with the Committee of Conference.

Thereupon, the House voted to insist and ask for a Committee of Conference.

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT—Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-422)—Minority (4) "Ought Not to Pass" Committee on Business Legislation on Bill "An Act Concerning Drug Abuse by Registered Pharmacists" (H. P. 1117) (L. D. 1334) which was tabled and later today assigned pending the motion of Mr. Brannigan of Portland to accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I voted "ought not to pass" on this measure for several reasons. It is a measure that requires certain sentencing requirements on the judge relating to the licenses of pharmacists.

First of all, although the sponsor has been working on this bill for a long time, the final draft that we were presented with was being prepared the night before the work session in order to get the approval of the Attorney Gen-

eral's Office and the judge of the administrative court. Those approvals, even with the changes made in those final drafts, were not sufficient.

This deals with mandatory sentencing regarding the taking of the license of a pharmacist. It is my opinion that this body should not take the recommendation of the Business Legislation Committee when it comes to mandatory sentencing of any kind. If we had had approval of lawyers and judges, maybe so, but really anything dealing with mandatory sentencing, I think, should come from the Judiciary Committee. I just don't think we have the expertise for that, even though we deal with licensing all the time.

The other reason that I voted against this bill was because I felt that it should cover more than just pharmacists if we are going to deal with taking away of licenses by mandatory sentencing.

Those are the reasons, very simply, why I am on the "ought not to pass" report, why I have moved that and why I am asking you to accept that this afternoon.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I am going to urge you to accept the "ought to pass" report of the committee, the majority report. The problem that we are addressing here is a very grave one, it deals with pharmacists who are selling their drugs out the back door, hallucinogenic drugs, drugs like that, and are carrying on various things which are unprofessional and very damaging to the general public. In many cases, they will be sentenced but they will be allowed to keep their licenses, which means very quickly they are back selling the drugs out the back door and doing things like that.

The mandatory sentencing part, I have no problem with. We do that for crimes committed with handguns and things like this. I think we are completely within—that is our job to do this type of thing, to set up this type of sentence if we feel that it is sufficiently necessary.

I have no problem with the Business Legislation Committee addressing this bill, and although I certainly bow to the Judiciary and feel that they are very well informed, this was a bill that we handled, we talked about, and we spent a lot of time on, and I think that we gave it due consideration and the majority report is the report that should be followed in here. I urge your acceptance of the majority report and I ask for a division.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: This is my bill. This is a pet project that I took on about four and a half years ago, and I came about this because of discovering that many licensing boards related to the medical profession specifically define violations of law, but when the professional breaks these violations, his license is revoked or suspended.

Currently in the pharmacy law, it says that suspension may occur when in the best interest of the public. The speciality of a pharmacist, the nature of their work is dealing with drugs, they have no one to answer to specifically, there is a great deal of public trust which we place in them and the first part of my bill more clearly defines the types of violations that they can have their license suspended for or revoked.

The first of my bill defines it exactly as a doctor would have it defined. This is the same types of violation, which says that according to state and federal laws they will lose their license.

The second part of the law more clearly addresses the problem which is growing in the State of Maine that we need to address, that specifically is Medicaid fraud and distribution of drugs. If a pharmacist is convicted of Medi-