

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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FIFTH CONFIRMATION SESSION

(SECOND CONFIRMATION SESSION – SECOND REGULAR SESSION)

July 11, 1984

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THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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sions in this amendment do treat the defendant and the plaintiff a little bit differently, but I think there is justification for that distinction. The justification of that distinction lies in the weeks and months of testimony we heard on the land use violations commission concerning giving the towns some sort of incentive to bring these actions to correct land use violations. If the town feels it is going to bring an action and if there is some sort of technical deficiency in the complaint, for instance, or a technical deficiency in service, that it is going to get slapped with attorney's fees even though they are bringing this action in good faith, it may deter a lot of corrective actions being taken.

The amendment gives the courts some discretion. It provides that the towns shall get attorneys' fees unless the court finds that there are special circumstances which makes the award unjust. That gives the court the discretion in those instances where the defendant, although technically guilty of a violation, perhaps was not acting in bad faith himself. I think this is a very fair compromise and still gives the town some incentive to go forward and correct these violations of which we heard so much about.

Representative Hall of Sangerville requested a roll call vote.

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

The SPEAKER: The pending question is on the motion of Representative Brown of Livermore Falls that House Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 451

YEA—Anderson, Armstrong, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Conary, Conners, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Joyce, Kiesman, Lebowitz, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McPherson, McSweeney, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Tammara, Theriault, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Cooper, Cote, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadnosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kane, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Matthews, Z.E.; Mayo, McGowan, McHenry, Melendy, Michael, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Rotondi, Soucy, Soule, Stevens, Strout, Swazey, Thompson, Tuttle, Vose, The Speaker.

ABSENT—Carrier, Connolly, Cox, Kelleher, Livesay, Martin, H.C.; Telow.

63 having voted in the affirmative and 81 in the negative, with 7 being absent, the motion did not prevail.

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Bill "An Act to Ensure Statewide Uniformity in the Procedures for Strip Searches and Body Cavity Searches of Arrestees by Law Enforcement Officers while Respecting the Civil Rights and Liberties of Arrestees" (H. P. 1845) (L. D. 2440)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed

to be engrossed and sent up for concurrence.

Second Reader Tabled and Assigned

Bill "An Act to Amend the Laws Regarding Bail" (H. P. 1844) (L. D. 2439)

Was reported by the Committee on Bills in the Second Reading, and read the second time,

On motion of Representative Brannigan of Portland, tabled pending passage to be engrossed and tomorrow assigned.

Passed to Be Enacted Emergency Measure

An Act to Allow the Department of Transportation to Assume Responsibility for 100% of the Maintenance and Operation Costs of the Carleton Bridge Between Bath and Woolwich and to Allocate and Appropriate the Funds Necessary to Assume this Additional Responsibility (S. P. 884) (L. D. 2392)

Was 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. 127 voted in favor of the same and 8 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. (Representative Jalbert of Lewiston was excused from voting pursuant to House Rule 10)

Passed to Be Enacted

An Act to Encourage the Use of Wood and Solid Waste as a Source of Energy in State-owned Buildings (S. P. 879) (L. D. 2383) (S. "A" S-371)

An Act Requiring Proof of Financial Responsibility for 2nd and Subsequent Offenders Under the Drunk Driving Laws (S. P. 892) (L. D. 2408) (S. "A" S-367)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the second tabled and today assigned matter:

Bill "An Act to Amend Certain Motor Vehicle Laws" (H. P. 1444) (L. D. 1889)

—In House, Minority "Ought to Pass" in New Draft Report of the Committee on Transportation was read and accepted and the New Draft (Emergency) (H. P. 1820) (L. D. 2412) was passed to be engrossed on April 3, 1984.

—In Senate, Majority "Ought to Pass" in New Draft Report of the Committee on Transportation read and accepted and the New Draft (Emergency) (H. P. 1819) (L. D. 2411) was passed to be engrossed in non-concurrence.

Tabled—April 6, 1984 by Representative Diamond of Bangor.

Pending—Further Consideration.

On motion of Representative Carroll of Limerick, retabled pending further consideration and later today assigned.

The Chair laid before the House the third tabled and today assigned matter:

Bill "An Act to Revise the Laws Governing Certification of Educational Personnel" (H. P. 1839) (L. D. 2434)

Tabled—April 6, 1984 by Representative Locke of Sebec.

Pending—Passage to be Engrossed.

Representative Locke of Sebec offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-672) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker, Men and Women of the House: This amendment does two things. It inserts wording that would require at least one public hearing in 1987, after the State Board assesses the pilot programs in 1986, and comes to the legislature in 1987. This assures people that there will be at least one public hearing, probably more than that.

It also puts into statute that the statutes governing certification now will remain in effect until the whole bill goes into effect in 1988. We hope that this will be people assurance that a complicated new program won't be shoved upon them without careful consideration.

Thereupon, House Amendment "B" was adopted.

The Bill was passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the fourth tabled and today assigned matter:

Bill "An Act Concerning Higher Education" (H. P. 1684) (L. D. 2221)

Tabled—April 6, 1984 by Representative Locke of Sebec.

Pending—Adoption of Committee Amendment "A" (H-649).

Mrs. Mitchell of Vassalboro offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-668) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: A brief explanation of the purpose of this House Amendment to the Committee Amendment.

As a member and Vice-Chair of the Governor's Commission on the Status of Education, the Commission has spent a considerable amount of time thinking of ways to improve the lot of the University of Maine and one of the things we thought would be very important was to invite the Chancellor to give a State of the State of University Address to this Legislature at each session so that we would have first-hand knowledge of the needs and the accomplishments of the university. This amendment simply accomplishes at this time the invitation to the Chancellor to address the legislature each session telling us about the university's status.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the fifth tabled and today assigned matter:

An Act to Raise the Annual Public Utilities Commission Regulatory Fund Assessments to \$1,635,000 and to Allocate those Funds for Fiscal Year 1985" (Emergency) (H. P. 1809) (L. D. 2391)

Tabled—April 6, 1984 by Representative Vose of Eastport.

Pending—Passage to be Enacted. (Roll Call Ordered)

On motion of Representative Vose of Eastport, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the sixth tabled and today assigned matter:

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1984 (Emergency) (H. P. 1822) (L. D. 2414)

Tabled—April 6, 1984 by Representative Diamond of Bangor.

Pending—Final Passage.

On motion of Representative Diamond of Bangor, retabled pending final passage and later today assigned.

The Chair laid before the House the seventh tabled and today assigned matter:

An Act Relating to Local Voting on School Administrative District Budgets (H. P. 1814) (L. D. 2399)

Tabled—April 6, 1984 by Representative Soucy of Kittery.

Pending—Passage to be Enacted.

On motion of Representative Diamond of Bangor, tabled pending passage to be enacted and