

MAINE STATE LEGISLATURE

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

Volume II

First Regular Session

May 27, 2003 – June 14, 2003

First Special Session

August 21, 2003 – August 23, 2003

Second Regular Session

January 7, 2004 - January 30, 2004

Second Special Session

February 3, 2004 - April 7, 2004

Pages 777-1562

On further motion of the same Representative, the rules were **SUSPENDED** for the purpose of **FURTHER RECONSIDERATION**.

On further motion of the same Representative, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-398)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "C" (H-827) to Committee Amendment "A" (S-398)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from South Portland, Representative Bliss.

Representative **BLISS**: Mr. Speaker, Men and Women of the House. You will recall that we overwhelmingly passed this bill to help out Maine's small businesses, but we inadvertently left off an opportunity for those who were prosecuted to dispense with being outside of the law since telephone directories are only published once a year. This amendment simply says that you can make things right by disconnecting the telephone number and not having a forwarding number so that when people call the 800 number, it simply is disconnected. It is a simple error that rectifies something that we didn't think of when we passed the bill. I encourage you to pass the amendment. Thank you.

The **SPEAKER**: The Chair recognizes the Representative from Belmont, Representative Berry.

Representative **BERRY**: Mr. Speaker, Men and Women of the House. This all seems fine, but I have a real problem here with this. First of all, the problem being of not even having knowledge of what this amendment was until it landed here. Secondly, I would ask the good Representative from South Portland to explain how this is going to have an affect by doing this on anyone who is outside of the State of Maine when the FCC regs come into play.

I support this bill. I support what we did to this bill, as far as the amendment. I did not vote for the original bill. That is what I voted on originally when we held the first vote in this chamber, not on the amended version. That was my vote in committee. I would like to know how this is going to cure this by simply adding this? Who is going to bring about the enforcement of this? At what cost is that enforcement going to take place and at what level is the FCC going to be involved in this process? Therefore, on this amendment, Mr. Speaker, I would request a roll call on this amendment, please.

Representative **BERRY** of Belmont **REQUESTED** a roll call on the motion to **ADOPT House Amendment "C" (H-827) to Committee Amendment "A" (S-398)**.

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is adoption of House Amendment "C" (H-827) to Committee Amendment "A" (S-398). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 379

YEA - Adams, Annis, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Carr, Clark, Cowger, Craven, Cummings, Dugay, Dunlap, Duplessie, Duprey G, Earle, Eder, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Grose, Hutton, Jackson, Jodrey, Kane, Ketterer, Koffman, Landry, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGowan, McKee, McLaughlin, Mills J, Moody, Norbert, Norton, O'Brien L, O'Neil, Paradis, Patrick, Percy, Perry A, Perry J, Pineau, Pingree, Piotti, Richardson J, Rines, Sampson, Saviello, Simpson, Smith N, Smith W, Sukeforth, Suslovic, Thomas, Thompson, Twomey, Walcott, Watson, Wheeler, Woodbury, Mr. Speaker.

NAY - Andrews, Ash, Austin, Bennett, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Churchill E, Churchill J, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Glynn, Greeley, Hatch, Heidrich, Honey, Hotham, Jacobsen, Jennings, Ledwin, Lewin, McCormick, McKenney, Millett, Mills S, Moore, Murphy, Muse, Nutting, O'Brien J, Peavey-Haskell, Rector, Richardson E, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sykes, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Wotton, Young.

ABSENT - Dudley, Duprey B, Gerzofsky, Goodwin, Joy, Kaelin, Maietta, Marraché, McGlocklin, McNeil, Pellon, Sullivan, Usher.

Yes, 76; No, 62; Absent, 13; Excused, 0.

76 having voted in the affirmative and 62 voted in the negative, with 13 being absent, and accordingly **House Amendment "C" (H-827) to Committee Amendment "A" (S-398)** was **ADOPTED**.

Committee Amendment "A" (S-398) as Amended by House Amendment "B" (H-737) and House Amendment "C" (H-827) thereto was **ADOPTED**.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-398) as Amended by House Amendment "B" (H-737) and House Amendment "C" (H-827) thereto** in **NON-CONCURRENCE** and sent for concurrence.

The following items were taken up out of order by unanimous consent:

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following items appeared on the Consent Calendar for the First Day:

(H.P. 1326) (L.D. 1804) Bill "An Act To Clarify Property Eligible for Reimbursement of Property Taxes under the Business Equipment Tax Reimbursement Program" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-823)**

(H.P. 1335) (L.D. 1813) Bill "An Act To Make Minor Substantive Changes to the Tax Laws" Committee on **TAXATION** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-824)**

(H.P. 1399) (L.D. 1883) Bill "An Act To Coordinate Education, Job Training and Employers in Maine" Committee on **BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-825)**

There being no objections, the above items were ordered to appear on the Consent Calendar tomorrow under the listing of Second Day.

The Chair laid before the House the following item which was **TABLED** earlier in today's session:

Bill "An Act To Enhance Pine Tree Development Zones" (S.P. 624) (L.D. 1692) (C. "A" S-446)

Which was **TABLED** by Representative **DUPLESSIE** of Westbrook pending **PASSAGE TO BE ENGROSSED as Amended**.

On motion of Representative **RINES** of Wiscasset, the House **RECONSIDERED** its action whereby **Committee Amendment "A" (S-446)** was **ADOPTED**.

The same Representative **PRESENTED House Amendment "A" (H-831) to Committee Amendment "A" (S-446)** which was **READ** by the Clerk.

The **SPEAKER**: The Chair recognizes the Representative from Wiscasset, Representative Rines.

Representative **RINES**: Mr. Speaker, Men and Women of the House. This amendment is presented by the Bills in the Second Reading. All it does is correct the consecutive numbering in the bill. Thank you.

House Amendment "A" (H-831) to Committee Amendment "A" (S-446) was ADOPTED.

Committee Amendment "A" (S-446) as Amended by House Amendment "A" (H-831) thereto was ADOPTED.

Representative **GOODWIN** of Pembroke **REQUESTED** a roll call on **PASSAGE TO BE ENGROSSED as Amended.**

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

The **SPEAKER**: A roll call has been ordered. The pending question before the House is Passage to be Engrossed as Amended. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 380

YEA - Adams, Andrews, Annis, Ash, Austin, Barstow, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bliss, Bowen, Bowles, Brannigan, Breault, Browne W, Bruno, Bryant-Deschenes, Bull, Bunker, Campbell, Canavan, Carr, Clough, Collins, Courtney, Cowger, Craven, Cressey, Crosthwaite, Cummings, Curley, Daigle, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Fletcher, Gagne-Friel, Gerzofsky, Glynn, Greeley, Grose, Hatch, Heidrich, Honey, Hotham, Jackson, Jacobsen, Jennings, Jodrey, Joy, Kane, Ketterer, Koffman, Landry, Ledwin, Lemoine, Lerman, Lessard, Lewin, Lundeen, Makas, Marley, McCormick, McGlocklin, McKee, McKenney, McLaughlin, Mills J, Mills S, Moody, Moore, Murphy, Muse, Norbert, Norton, Nutting, O'Brien J, O'Brien L, O'Neil, Paradis, Patrick, Perry A, Pineau, Pingree, Piotti, Rector, Richardson E, Richardson J, Rines, Rogers, Rosen, Sampson, Saviello, Sherman, Shields, Simpson, Smith N, Smith W, Snowe-Mello, Suslovic, Sykes, Tardy, Thomas, Thompson, Tobin D, Tobin J, Trahan, Treadwell, Vaughan, Walcott, Watson, Wheeler, Woodbury, Wotton, Young, Mr. Speaker.

NAY - Churchill E, Clark, Eder, Goodwin, Hutton, Peavey-Haskell, Percy, Richardson M, Stone, Sukeforth, Twomey.

ABSENT - Brown R, Churchill J, Duprey B, Kaelin, Maietta, Mailhot, Marraché, McGowan, McNeil, Millett, Pellon, Perry J, Sullivan, Usher.

Yes, 126; No, 11; Absent, 14; Excused, 0.

126 having voted in the affirmative and 11 voted in the negative, with 14 being absent, and accordingly the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-446) as Amended by House Amendment "A" (H-831) thereto in NON-CONCURRENCE** and sent for concurrence. **ORDERED SENT FORTHWITH.**

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Bill "An Act to Make the Children's Ombudsman Program an Independent Office"

(H.P. 81) (L.D. 73)

TABLED - January 28, 2004 (Till Later Today) by Representative **RICHARDSON** of Brunswick.

PENDING - Motion of Representative **KANE** of Saco to **INDEFINITELY POSTPONE** the Bill and accompanying papers. (Roll Call Ordered)

The **SPEAKER**: The Chair recognizes the Representative from Auburn, Representative Shields.

Representative **SHIELDS**: Mr. Speaker, Ladies and Gentlemen of the House. I rise to support the bill and oppose the pending motion. This concept of ombudsmen for children has had bipartisan support for a long time. Former Representative Marie Laverriere-Boucher, former Representative Elaine Fuller, current Representative Eddie Dugay and myself have worked real hard on it to make something that is useful for the people in the State of Maine. The ombudsmen is a way of providing children who access the Department of Human Services and their families a way of dealing with them on a level playing field. We have had a long-term care ombudsmen for a number of years and that has proven to be extremely beneficial to the elderly citizens who use long-term care. This ombudsmen is just for children. It has been working over the past year. It was funded. It gave our committee an exemplary report of over 100 cases that were handled by the ombudsmen and his two volunteer assistants. Most of these problems were resolved favorably. The ombudsmen have access to all the department records and he maintains confidentiality. If anybody in the department tries to obstruct the ombudsmen, it is a Class E crime.

This office is sorely needed by the underage class of DHS and BDS so they can cope with the bullies that are in those departments. They need help in understanding the rules that pose problems for them. They also need assurance that the rules and regulations are being interpreted correctly. We have heard of the ombudsmen under the Executive Department up to now, but there has been a movement to fold it into a large advocacy group in a restructured health and human services, which is composed of DHS and BDS.

I maintain to you that this is like putting the fox in charge of the hen house. Please do not regard this as a partisan issue. It is about the children in DHS and their families and keeping them honest. Put the ombudsmen independently away so they cannot be subjected to any undue influences. I hope that when the roll is taken, you will vote against the pending motion of Indefinite Postponement.

The **SPEAKER**: The Chair recognizes the Representative from Saco, Representative Kane.

Representative **KANE**: Mr. Speaker, Men and Women of the House. I thank my colleague on the other side of the aisle for nicely and clearly explaining the current functions and role of the ombudsmen. That is true. The goal of this bill is to assure the independent's objectivity and autonomy of the Child Ombudsmen Program so that it could more effectively protect and advocate the children without bureaucratic interference. This is something we all agree with. It is bipartisan. The problem is that the bill before us now provides for the office of the ombudsmen to be housed in the Department of Financial and Administrative Services and preempts the consideration of alternative locations in state government or in a private non-profit location, which is currently taking place in the Committee on Health and Human Services as we work the merger bill for the merger of the two large departments.

The motion for Indefinite Postponement was made so that the committee could use the restructuring process to make decisions regarding all ombudsmen and advocacy services, which are currently being operated in both departments. All of this will be considered in a report, which will be coming to the Health and