

MAINE STATE LEGISLATURE

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

Daily Edition

First Regular Session
beginning December 5, 2012

beginning at Page 1

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-391)**.

Signed:

Representatives:

BOLAND of Sanford
BOLDUC of Auburn
CHENETTE of Saco
MacDONALD of Old Orchard Beach
NADEAU of Winslow

Comes from the House with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

On motion by Senator **LACHOWICZ** of Kennebec, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency Measure

An Act To Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment
H.P. 1128 L.D. 1559
(H "A" H-350)

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Thibodeau.

Senator **THIBODEAU:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise this afternoon just to speak about this very important piece of legislation. I know that there has been a great deal of lobbying going on surrounding this discussion and I know that the committee of jurisdiction, the Energy, Utilities and Technology Committee, has worked incredibly hard on this issue. I served there myself for six years and served as Senate Chair last term. The issues that come before that committee are incredibly complex and I want to commend Senator Youngblood and Senator Cleveland for working very hard to come up with a compromise bill. It's not always easy to do that. I know that Senator Cleveland has worked incredibly hard to bring this bill forward. Senator Cleveland is to be commended for thinking big. I know that when he served here in his previous stint here in Augusta he brought forward a bill that ultimately brought us deregulation, which was obviously thinking big. This is probably the biggest thing since the deregulation bill. I guess I rise because I want everybody in the Chamber to fully recognize the implications of what we're voting on here today and to express a little bit of caution for this group. I know yesterday when we had the bill nobody spoke

against it, yet there were some of us that voted against it. I think it's important that everybody recognize that this bill doesn't happen without some degree of risk. I think it's admirable that we want to see natural gas come to the state of Maine. It's incredibly important to our businesses here in our state to have cheap energy, cost effective energy, and a supply that is dependable. That's incredibly important to Maine's economy. I also believe that that is going to happen whether or not we pass this bill today. I think that there are proposals that are already out there, companies that are talking about building pipelines have already met with individuals here in the state. I'm excited to hear that that's moving forward.

This bill, one of the aspects of this bill, would have Maine PUC, with the authority of the Governor, making the ultimate signoff on long term contracts for capacity, up to \$75 million a year worth of capacity. That could be an incredible catalyst. It also could end up being something that, if the market was to change, was a drag on Maine's economy. It does not come without some degree of risk. I think it's important that everybody in this Chamber fully recognizes that that does, indeed, have risks associated with it.

The bill also changes the authority for when the triennial plan is submitted from the Efficiency Maine Trust to the PUC. Currently the plan is approved and then the budget is brought here to the State House and has to go through an approval process. This would change that so that rather than having to take affirmative action to pass a budget it changes the threshold and now we would have to take affirmative action to change the budget. The budget would actually effectively be set by the resources identified in the triennial plan that is approved by the PUC. I find that a bit problematic. I don't know why this Legislature would want to change that threshold, that authority, that currently exists. It's worked well. Certainly there has been proposals to increase the system benefit charge over the years and sometimes that has been rejected, admittedly. It certainly is important to the people of the state of Maine and it's important to this Body and it ought to be important enough to vote for. It's very similar to what we refer to as indexing on the gas tax. We saw that happen a few years ago, where that was repealed. I think that any time we change that threshold it's a bit of concern to me. Also it eliminates Legislative approval. I spoke of that. It also adds a new tax on compressed natural gas and LNG, which seems to be a significant investment recently in our state with compression stations from Baileyville to places in Southern Maine. This will levy a new tax on these businesses. Again, a bit of a concern. It requires the PUC to do a formal assessment of non-transmission alternatives to every transmission line application. That's boring to you guys. I'm sure it is. Ladies and gentlemen, let me assure you that we've heard these bills in the committee year after year. Stand-alone bills that have been rejected year after year. When we add more red tape and more regulations to an already burdened process it creates delays and added costs. It also requires the Maine PUC, rather than just simply identifying the need because the PUC is the regulator in this, to not only just find the need but also requires that the PUC give preference to non-transmission alternatives.

What's that mean, ladies and gentlemen? Cost effective? Is it cost? Is it price? All of these things should concern you. Ratepayers in the state of Maine are facing very high rates. I know that folks will tell you that Maine is fortunate. We have some of the lowest rates in New England. Ladies and gentlemen, that's not good enough. That's like being the tallest dwarf. We've

got to do better. When we add regulations and uncertainty and major changes, some of which I think all of us would hard pressed to explain, I think it should give us pause. There is one thing I learned serving six years on the Energy, Utilities and Technology Committee is that the whole energy market is like holding a water balloon. When you put your finger in one place it pops out someplace else. I'm not sure that we necessarily understand every implication of what we're doing here today and I would ask you to really consider carefully and ask yourself if you understand the effect that this bill has on the folks that you represent back home or are you simply pushing a button because you've been told it's the right thing to do. I know it's a tough issue. I really would encourage you to be very very careful and make absolutely sure that you fully and completely understand what you're voting on today because the effect will be large. I know that there is potential, but also recognize that there are significant new taxes involved in this bill. I hope that everybody is fully competent and understands this completely. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President. Men and women of the Senate, I'd like to begin by thanking my good friend and colleague, Senator Thibodeau from Waldo County, for his very kind remarks. I appreciate his recognition that these are complex ideas and to try to deal with those. I'd like to remind you though that when we have huge and big problems before us, small ideas will not solve the problem. You need to be bold and strong and seek the large response to the degree of which the problem presents us. Because this is an energy bill, it is a comprehensive and complex piece of legislation. I wanted to provide these remarks to clarify the intent of the bill and to provide guidance to future readers of our intent in this legislation here today. Many of these have guided our reasoning and thinking as we looked for solutions to the problems before us.

The public health, safety, and welfare have long been impaired by the limited energy choices and the high cost of energy available in Maine. Maine's electricity rates are currently among the highest in the nation. Maine's natural gas prices are among the highest in the nation. In 2012, the cost of heating and lighting the average Maine home was more than \$3,300 per year compared to the average of \$2,000 per year for the rest of the nation. In 2012, 70% of the Maine homes were heated with oil. Nationally 7% of the homes heat with oil. In combination with Maine's climate, these factors have weakened Maine's economy and imposed a painful choice on residents and businesses in Maine. Despite public and private efforts to reduce energy costs, with some recent success due to the decline in natural gas prices and expanded energy efficiency, Maine faces substantial increases in energy costs in 2013 which will continue to rise for several years thereafter. The increased possibility of loss of the regional electric grid reliability beginning in 2013 is due to three factors: the projected continued high cost of heating oil and gasoline; the placing and the rates of New England transmission and distribution utilities. Over several years, \$10 million in transmission upgrades; and thirdly, substantial increases in the price of natural gas due to inadequate natural gas capacity supply into the southern New England area during heating season. This will raise electricity and natural gas costs to Maine customers by more than \$200 million per year beginning in 2013 and will threaten regional electric reliability. In fact, we face rolling

blackouts this year. The huge size, timing, and unique characteristics of these cost increases and the threat to the grid reliability require prompt and strategic response action by public officials and agencies charged with protecting the public health, safety, and welfare.

The Maine Public Utilities Commission has responded in part by authorizing consumer rebates and on-bill financing programs on gas and transmission distribution utilities. On September 19, 2012 in Docket 2012-343, the Maine Public Utilities Commission authorized Bangor Hydroelectric Company to implement on-bill financing in a pilot program to provide financial assistance to customers in connection with the installation of electric heat pump heating systems. The Efficiency Maine Trust was a party to and agreed to this stipulation. On January 29, 2013 in Docket 2012-258, the Maine Public Utilities Commission authorized Summit Natural Gas of Maine to offer qualifying cost rebates to residential customers for equipment purchases, conversions, and installations necessary for households to burn natural gas fuel. The Commission observed that, "State energy officials have recently endorsed natural gas as a desirable fuel that can reduce Maine's dependency on the volatile and higher priced world old markets, benefiting consumers and businesses. Equipment and conversion rebates are a tool that may assist Maine's customers in making a transition by making the up-front capital expenditures more affordable. This is especially important for low income residential customers who are eligible for a more generous rebate under the plan." The Efficiency Maine Trust was a party to and agreed to this stipulation.

It is the goal of this legislation to accomplish the following actions to address these cost increases and grid reliability threats. First, in every reasonable manner, we should reduce the cost of energy to the residents of the state to the extent practical, focus expenditures and actions to lower costs to avoid cost increases in the years from 2013 through 2018. Two, design rates and programs of transmission and distribution utilities and gas utilities and the programs of the Efficiency Maine Trust, and reduce the share of regional capacity energy and transmission costs paid by the residents of Maine. Third, with the newly created natural gas pipeline capacity purchase capability of the Public Utilities Commission and through the participation in regional energy organizations by public and utility officials, cause the development by 2017 of at least a 2 billion cubic foot per day additional natural gas pipeline capacity into southern New England. This will substantially eliminate the so-called basis differential which has dramatically increased the cost of natural gas and the cost of electricity in New England and will help to ensure the reliability of the New England grid. Fourth, increase energy choices and lower energy costs in heating by facilitating the rapid build out of natural gas distribution systems in the state, permitting as many as may be appropriate in the light of the programs of the Efficiency Maine Trust and utility loans and on-bill financing at the option of the utility for customer installation of energy efficiency measures and efficient energy technologies including furnaces such as pellet boilers, heaters of any fuel, and all useful energy technologies such as heat pumps.

Men and women of the Senate, I want to tell you today that it is critical that we pass this bill and that it become not only passed but that it become law and take effect immediately. We know that if we don't pass this bill there will continue to be a \$200 million energy tax on Maine residents and businesses year after year after year, as far as we can see. The state of Maine and the citizens of Maine cannot afford this tax. It's a burden on our

economy. It reduces business growth and makes our businesses uncompetitive. Further, because of the natural gas constriction into the pipelines that come into New England, serving the electric generators that provide 52% of the electricity in this state, we face the potential of further rolling blackouts in New England. That is an unacceptable outcome for Maine and for the New England region. Further, if we do not pass this bill and it does not become law under the Emergency clause, the University of Maine will not have an opportunity to submit to the Public Utilities Commission a proposal to build an off-shore wind deep water pilot program because it will not re-open the opportunity for the Public Utilities Commission to consider their proposal. That would be a dramatic loss for an innovative and well thought out program by the University of Maine. Further, if we don't pass this bill, the Efficiency Maine Trust will not receive the funding necessary to reduce energy consumption, to reduce electricity costs in the state of Maine, to reduce the pollution as a result of that excess energy, and it will tend to increase costs for all electric energy users in the state of Maine. Further, without this program thousands of Maine residents will not have an opportunity to choose a less expensive fuel to heat their homes because it will not have the capital and the assistance to choose a different technology to be installed that is less expensive to heat their homes and they will be stuck with the problem of choosing between the essentials of life; between food, caring for their families, medications, gasoline for transportation, and many other essential costs. Maine citizens and homeowners simply cannot continue to afford to pay the astronomical costs of heating their homes. Finally, without this bill many of the major industries in this state like the paper mills, Bath Iron Works, and many other large institutions will be facing high energy costs. We know that some of these industries are struggling to stay competitive and to stay in business. They employ thousands and thousands of Maine residents who make good wages to support their families. We cannot afford to lose those businesses and we cannot afford not to lower our energy costs so that we're more attractive to businesses moving into the state of Maine to create more jobs that are critically needed. I urge you to support this bill. I urge you to take whatever support may be needed in the future to make sure that it becomes law in the state of Maine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Youngblood.

Senator **YOUNGBLOOD:** Thank you Mr. President. Ladies and gentlemen of the Senate, there are risks in everything we do. I got in my vehicle this morning, many of you got in yours, and I drove to Augusta. That was a risk. The risk probably wasn't the driving. The risk was getting here and the things that we're facing these days. I spent my entire life, or a good part of it, in a business where I had to measure risk on a daily basis. I'm probably the most conservative person on our Energy and Public Utilities Committee. I think I took a very conservative approach and being ultimately convinced that this piece of legislation was necessary for the state of Maine. Is there is risk in voting for this? Absolutely. There is risk for not voting for this. There is risk if we don't do this in losing some of our most substantial employers in the state of Maine that are hanging by their fingernails, waiting for some energy relief. There is risk if we don't do this of not getting some of those new industries coming to Maine that we need so badly to help us with our budget issues in this state that we've been fighting over and will continue to discuss in the upcoming

days. There is risk in not doing this to the projected 50,000 installations that Summit Gas is talking about putting in here in the Kennebec Valley over the next five years. There is substantial risk if Mother Nature decides to give us a very very cold winter here not very far down the road and we don't have the supplies to take care of those homes, those businesses, that are going to be converting to natural gas. This bill, as I said the other day, is about capacity. There is going to be a pipeline coming to New England. We're going to benefit from that in lower electrical costs because most of that power that is generated on the ISO grid is done in Massachusetts with natural gas. We'll get some benefit. What we won't get, or what we may not get, we'll probably get a little bit of gas coming from that, but if we don't control some portion of that new line, and this really is about how they size the line, if we're not in they do not size the line nearly to the point they would with us in the ballgame. I believe the risk is there. The risk to our payers is not as great as what we're paying for long term contracts on all the wind farms that we're putting up, that we're forced to have. There is a balance, obviously, to everything. I'm willing to take the risk. I would urge you to take the risk and vote to enact this piece of legislation. Thank you very much, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Thibodeau.

Senator **THIBODEAU:** Thank you Mr. President. Certainly there is no villain in this. Folks come to different conclusions based on what they've looked at, their experience, and I guess I come to a different conclusion. I recognize that there is a congestion problem when it comes to natural gas, but I don't believe that that \$200 million tax, due to the congestion, that was referenced to is going to go unfixed if we take no action on this bill. I'd also like to suggest to you that we've taken risks before and entered, because we thought it was good public policy, a decade or two ago into long term contracts that were, in many cases, for 15¢ and 20¢ per kilowatt because we thought it was in the best public interest. Ladies and gentlemen, I can't tell you how wrong we were about those contracts. All of that serve on the Energy and Utilities Committee are very familiar with the term "stranded costs". Our ratepayers are paying for those costs, and continue to pay for those costs over time, driving up our electric rates, which is very unfortunate. One thing we can be sure of is that, based on this legislation, we'll watch our system benefit charge, which is a tax on our electric bills, go from \$14 million per cap to, just in a few short years, \$30 million. We can be sure that the money that ratepayers have paid in to house the nuclear waste in Wiscasset won't go to rate reduction, but instead will flow through an efficiency program. One of the really unfortunate things, that I can't discuss here today because it was an amendment that was offered previously, is not in the bill. That's unfortunate. What is in the bill is some very soft language, in my estimation, trying to make some sort of reference to the University of Maine's off-shore wind contract. I think that's unfortunate. We had an opportunity to offer much stronger language, which would have made this bill substantially better because our university system does deserve to deploy their off-shore wind technology. That's an incredible opportunity for our state to be an economic catalyst. I think we fell far far short in protecting the university system in this. That's very unfortunate. It'll be a long time trying to figure out and understand the politics behind that decision. Ladies and gentlemen, we have spent a decade encouraging that technology

at the university. A decade. Now it's in question as to whether or not that will ever be deployed. The fact of the matter is one of the contracts that the university is competing for is at the federal level. One of the key components is a long term contract. That long term contract exists because we created many years ago as a pilot project for deep water off-shore wind. What a shame. We had an opportunity to put some strong language and choose not to. Let me suggest to you that we know there is risk involved and that we know that there is potential for reward, but we can be sure that there are tens of millions, and over time hundreds of millions, of dollars' worth of new taxes in this bill. Thank you.

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with 6 Senators having voted in the negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Facilitate Children's Testimony"

H.P. 1039 L.D. 1445

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-385)**.

Signed:

Senators:

VALENTINO of York
BURNS of Washington
TUTTLE of York

Representatives:

PRIEST of Brunswick
BEAULIEU of Auburn
DeCHANT of Bath
GUERIN of Glenburn
MONAGHAN-DERRIG of Cape Elizabeth
MOONEN of Portland
MORIARTY of Cumberland
PEAVEY HASKELL of Milford
VILLA of Harrison

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass**.

Signed:

Representative:

CROCKETT of Bethel

Comes from the House with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-385)**.

Reports **READ**.

On motion by Senator **VALENTINO** of York, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-385) **READ** and **ADOPTED**, in concurrence.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

House

Divided Report

The Majority of the Committee on **JUDICIARY** on Bill "An Act To Amend Public Access Laws To Improve Accountability for Public Funds by Making Public the Board Meetings of Hospitals Receiving Significant State Funding"

H.P. 790 L.D. 1118

Reported that the same **Ought Not to Pass**.

Signed:

Senators:

VALENTINO of York
BURNS of Washington
TUTTLE of York

Representatives:

BEAULIEU of Auburn
CROCKETT of Bethel
GUERIN of Glenburn
MOONEN of Portland
MORIARTY of Cumberland
PEAVEY HASKELL of Milford

The Minority of the same Committee on the same subject reported that the same **Ought To Pass as Amended by Committee Amendment "A" (H-383)**.

Signed: