

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Seventeenth Legislature
OF THE
State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 24, 1995 to June 30, 1995

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is Engrossment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 127

YEA - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Bunker, Cameron, Campbell, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Gamache, Gates, Gerry, Gieringer, Goolley, Gould, Green, Greenlaw, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Luther, Madore, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Perkins, Poulin, Pouliot, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Shiah, M.; Sirois, Sirois, Thompson, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Volenik, Watson, Winglass, Winn, The Speaker.

NAY - Ault, Barth, Birney, Buck, Carleton, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Guerrette, Hartnett, Heino, Jones, S.; Joy, Joyce, Kneeland, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, McAlevy, McElroy, Murphy, Nass, Nickerson, Peavey, Pendleton, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Savage, Spear, Stedman, Stone, Strout, Taylor, True, Underwood, Waterhouse, Wheeler, Whitcomb, Winsor.

ABSENT - Aikman, Bailey, Brennan, Daggett, Fitzpatrick, Joyner, Labrecque, Ott, Povich, Richardson, Robichaud, Rotondi, Simoneau, Stevens, Truman, Vigue, Yackobitz.

Yes, 79; No, 55; Absent, 17; Excused, 0.

79 having voted in the affirmative and 55 voted in the negative, with 17 being absent, the Bill was passed to be engrossed as amended and sent up for concurrence.

Bill "An Act to Prohibit the Employment of Professional Strikebreakers" (H.P. 505) (L.D. 686) (C. "A" H-312)

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

On motion of Representative JOY of Crystal was set aside.

The same Representative requested a roll call on passage to be engrossed.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is Engrossment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 128

YEA - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Bunker, Cameron, Campbell, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gerry, Gieringer, Goolley, Gould, Green, Guerrette, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, LaFountain, Lemaire, Lemke, Lemont, Luther, Madore, Martin, Mayo, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Paul, Perkins, Poulin, Pouliot, Ricker, Rosebush, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Strout, Thompson, Townsend, Treat, Tripp, Tufts, Tuttle, Tyler, Volenik, Watson, Winn, The Speaker.

NAY - Ault, Barth, Birney, Buck, Carleton, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Greenlaw, Hartnett, Heino, Jones, S.; Joy, Joyce, Kneeland, Lane, Layton, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Marshall, Marvin, McAlevy, McElroy, Murphy, Nass, Nickerson, Peavey, Pendleton, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Savage, Simoneau, Spear, Stedman, Stone, Taylor, True, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor.

ABSENT - Aikman, Bailey, Brennan, Joyner, Labrecque, Ott, Povich, Richardson, Robichaud, Rotondi, Stevens, Truman, Vigue, Yackobitz.

Yes, 82; No, 55; Absent, 14; Excused, 0.

82 having voted in the affirmative and 55 voted in the negative, with 14 being absent, the Bill was passed to be engrossed as amended and sent up for concurrence.

ENACTORS

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Line-item Veto (H.P. 729) (L.D. 1003) (C. "A" H-175; H. "A" H-238)

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

The SPEAKER: The Chair recognizes the Representative from China, Representative Chase.

Representative CHASE: Mr. Speaker, Men and Women of the House: I listened very carefully to the debate on this bill when we had it a week or two ago. Particularly attentively to the questions, because I had concerns about this bill and I had hoped that some of my concerns would be answered. People did ask questions about the things I was concerned about and the answers did not reassure me.

One issue I have with this bill is on Line 11 of the bill. It refers to an enacted Legislative Document, that is, any bill that comes before this body that has money attached, not simply the budget bill.

My other concern has to do with the replacement of any item in such a document by the Governor, as long as it costs the same or less. We could be talking about a substantive difference. A replacement, you suggest it, one program over another, one school over another, it doesn't matter what the topic is. As long as it does not cost more, we can see a replacement in any Legislative Document. The Legislative Document may be as complex as our budget bills where the Appropriations Committee has worked hard and forged some sort of compromise. That bill

having been passed by both bodies is then changed by the Chief Executive or that replacement can occur in a simple document that happens to have a money item.

For these reasons, men and women of the House, I urge you to vote against Final Passage of L.D. 1003. Thank you.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Guerrette.

Representative GUERRETTE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today in strong support of this bill. This to me is just a common sense measure. It is, in my mind, a well crafted bill that balances the needs of protecting the rights of this body to make legislation and yet giving the Governor the ability to take bad pieces of spending out of the budget. The way I look at it is that I don't want anything passing this House that would not be supported by a majority of this House. To override a veto all we would need to do is have 50 percent plus one members of this body vote affirmatively to override the Governor's veto and it would be overridden. If we do not have 50 percent plus one members of this body willing to vote for a particular piece of legislation with a particular cost attached, it should not pass.

It is a very simple very balanced, very reasonable measure and I applaud Representative Kerr for bringing it forward. I urge you to support it.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I would urge you to vote against the pending motion to enact this Resolution to amend the Constitution and establish a Line-item Veto. I believe that we should do this for several different reasons.

Number one it gives inordinate power to any Chief Executive. We are amending the Constitution to say to this Governor or the next Governor and Governors of the future that, in fact, if there is an item in the budget that they do not like or do not agree with, then they have the power to amend that out of the budget.

Ladies and gentlemen of the House, I believe this is very strong power. Many of you have watched the machination of what is going on now in the Appropriations Committee and the compromise, the discussion and all the negotiations about items in the budget is going on by all parties, including the Executive Branch of Government. That is as it should be.

The tradition of leaving the control of the public purse strings in the House of Representatives with the Legislature stems from our very colonial roots and the people's distrust of the unbridled executive authority in a Chief Executive or a Governor. Our Constitution was designed to have balanced powers of Government and I believe the Line-item Veto would then cause an unbalanced for that. The colonial roots of our legislative control of the purse strings is reflected in the fact that of the seven states that do not give extraordinary authority of Line-item Veto to their Governors, four of those states are in New England. I call that Yankee independence or ingenuity.

Our Constitutional system of checks and balances, including the veto power given to the Governor has served Maine for the past 175 years. The sponsors or the cosponsors are the only proponent of the

Line-item Veto bill during our Public Hearing who offered any evidence of a single incidence in the 175 years history of our state where the exercise of a Line-item Veto would have or could have made a difference or improvement to the peace health and harmony and welfare for the people of the State of Maine.

As a body we recently adopted a measure, the Productivity Task Force. Some felt at that time it was an abrogation of our responsibilities and legislative authority. It gave great power to the Executive Branch and it took ten days of eight hour negotiations in order to find a middle ground so that this body and the other body would adopt the Task Force. I would ask you before we do further damage to the Legislative authority we should ask ourselves what is broken and what are we trying to fix? If the answer is I don't know or nothing is broken, then I would state that we should exercise our strong Yankee skepticism that we share with all our sister New England states and say no.

I urge you to vote against Enactment of the Line-item Veto.

Representative SIMONEAU of Thomaston requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Chartrand.

Representative CHARTRAND: Mr. Speaker, Men and Women of the House: I am rising to urge you to vote against the passage of this bill. As a new member of this chamber I can't see why we needlessly extend debate on controversial issues, which is what this veto power will be used on. The bills that I have seen go through here especially budget issues that we have debated hardily. We vote on these at least three times and I don't see any need why we would want to vote on those once more in order to decide whether or not to override a gubernatorial veto.

There is adequate room in the process right now both in Appropriations process and on this floor for the Executive Branch and all of us to adequately influence any budget bills. By the time they leave here after the necessary three readings, I think we are done with those. The voters have sent me here to make decisions and move forward, not to continue the debate on bills needlessly into the future which I think will be one of the effects of using this Line-item Veto. I think it would be an avocation of our responsibility as legislators to hand over the power to influence policies we have already voted on.

There is also no question in my mind that a budgetary Line-item Veto will effect policy on important bills and it will be used especially on controversial bills that have already had enough hearing in this chamber and in the other chamber. I would encourage you to vote against passage of this bill.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Kerr.

Representative KERR: Mr. Speaker, Men and Women of the House: This is strictly a public policy question. As far as the Line-item Veto, lets not make more of this bill than really exists. The Governor should he exercise this veto power is not going to change policy. It is only going to change

the amount of dollars that is going to be allocated or de-appropriated.

As far as the Governor being authorized to replace an item that has been vetoed with an amount that does not increase the appropriation or decrease the de-allocation. The Governor will not be authorized to disapprove, omit or modify any language dealing with the statutes. The Governor can not increase spending elsewhere in the appropriation. The Governor must also exercise his Line-item Veto within one day. If he does do that, it is this legislature that will determine the outcome of that veto by a simple majority.

Mr. Speaker, when the vote is taken I request a roll call.

Representative KERR of Old Orchard Beach requested a roll call on passage to be enacted.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: The Representative from China raised some objections to the bill that were very appropriately addressed by the amendment offered by the Representative from Old Orchard to the original bill. As he just so clearly stated, we are only talking about dollar amounts, not amounts that can be substituted or changed within the budget, only deleted.

The Representative from Waterville in her carefully prepared remarks reminded us that 43 states do provide this authority to the Chief Executive and with good reason. I appreciate that half the members of this House have not been present when a budget has been finally approved by this body. There are, in fact, items in there that you will not recognize. I will hasten to add that it is unlikely that many members will read a budget in its entirety. It is a long document and unfortunately there are some components in the end that are added that come very difficultly and may come when the rest of us are not present.

The Representative from Waterville asked if there had been one instance where it had not worked in nearly two centuries of our operation as a state. I think of one instance that I was exposed to where a school was added to the budget late at night in the last of the process and ahead of all the rest of ours for funding. It just seemed to me that that was one instance where we as a legislature should, should the Governor strike that out, be given an opportunity to decide should that one school funding proposal move ahead of all the rest of ours in the school funding construction process.

I think unfortunately budgets are prepared without the input of all us and this is a very appropriate mechanism for us and for the Chief Executive to have a little bit of discretion as to spending. I think it is appropriate that we pass this item to let the people decide if a Line-item Veto is something they choose to give the Chief Executive. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is Enactment. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 129

YEA - Aikman, Ault, Barth, Benedikt, Bigl, Birney, Buck, Bunker, Cameron, Campbell, Carleton, Chick, Clukey, Cross, Damren, Davidson, Dexter, DiPietro, Donnelly, Dunn, Farnum, Fisher, Gates, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Heino, Hichborn, Jones, S.; Joy, Joyce, Keane, Kerr, Kneeland, Lane, Layton, Lemke, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Meres, Morrison, Murphy, Nadeau, Nass, Nickerson, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Reed, G.; Reed, W.; Rice, Robichaud, Rosebush, Savage, Simoneau, Spear, Stedman, Stone, Strout, Taylor, Thompson, True, Tufts, Tuttle, Tyler, Underwood, Waterhouse, Wheeler, Whitcomb, Winglass, Winsor, The Speaker.

NAY - Adams, Ahearne, Berry, Bouffard, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Desmond, Dore, Driscoll, Etnier, Fitzpatrick, Gamache, Green, Hartnett, Hatch, Heeschen, Jacques, Johnson, Jones, K.; Joseph, Kilkelly, Kontos, LaFountain, Lemaire, Luther, Mitchell EH; Mitchell JE; O'Gara, O'Neal, Pouliot, Povich, Ricker, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Townsend, Treat, Tripp, Volenik, Watson, Winn.

ABSENT - Bailey, Brennan, Joyner, Labrecque, Martin, Ott, Richardson, Rotondi, Truman, Vigue, Yackobitz.

Yes, 91; No, 49; Absent, 11; Excused, 0.

91 having voted in the affirmative and 49 voted in the negative, with 11 being absent, this being a Constitutional Amendment a two-thirds vote of the House being necessary, this Resolution failed final passage and was sent up for concurrence.

Emergency Measure

An Act to Clarify Immunity from Civil Suit for Volunteer Activities (S.P. 128) (L.D. 320) (C. "A" S-178)

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. 113 voted in favor of the same and 6 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Clarify the Discretion of the Commission on Governmental Ethics and Election Practices in Assessing Penalties (H.P. 685) (L.D. 936) (C. "A" H-308)

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. 114 voted in favor of the same and 7 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure