MAINE STATE LEGISLATURE

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Legislative Record

House of Representatives

One Hundred and Thirty-First Legislature

State of Maine

Daily Edition

First Special Session

Beginning April 5, 2023

Beginning with Page H-277

Millett R, Milliken, Montell, Moonen, Moriarty, Murphy, O'Neil, Osher, Paulhus, Perry A, Perry J, Pluecker, Pringle, Rana, Reckitt, Rielly, Riseman, Roberts, Roeder, Runte, Russell, Sachs, Salisbury, Sargent, Sayre, Shagoury, Shaw, Sheehan, Skold, Stover, Supica, Terry, Warren, White B, Williams, Worth, Zager, Zeigler, Madam Speaker.

NAY - Albert, Andrews, Arata, Ardell, Babin, Bagshaw, Blier, Bradstreet, Campbell, Carlow, Carmichael, Collamore, Costain, Cray, Cyrway, Davis, Drinkwater, Ducharme, Dunphy, Faulkingham, Foster, Fredericks, Galletta, Gifford, Greenwood, Griffin, Guerrette, Haggan, Hall, Henderson, Hymes, Jackson, Javner, Lanigan, Lavigne, Lemelin, Libby, Lyman, Mason, Millett H, Morris, Ness, Newman, Nutting, O'Connell, Parry, Paul, Perkins, Poirier, Polewarczyk, Pomerleau, Quint, Rudnicki, Sampson, Schmersal-Burgess, Simmons, Smith, Soboleski, Strout, Swallow, Theriault, Thorne, Underwood, Walker, White J, Wood, Woodsome.

ABSENT - Adams, Hepler.

Yes, 81; No, 67; Absent, 2; Vacant, 0; Excused, 1.

81 having voted in the affirmative and 67 voted in the negative, with 2 being absent and 1 excused, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-514)** on Resolve, to Reestablish the Criminal Records Review Committee

(H.P. 1047) (L.D. 1622)

Signed:

Senators:

CARNEY of Cumberland
BAILEY of York
BRAKEY of Androscoggin

Representatives:

MOONEN of Portland
ANDREWS of Paris
KUHN of Falmouth
LEE of Auburn
MORIARTY of Cumberland
POIRIER of Skowhegan
RECKITT of South Portland
SHEEHAN of Biddeford

Minority Report of the same Committee reporting **Ought Not to Pass** on same Resolve.

Signed:

Representatives:

HAGGAN of Hampden
HENDERSON of Rumford

Representative DANA of the Passamaquoddy Tribe - of the House - supports the Minority **Ought Not to Pass** Report.

READ.

On motion of Representative MOONEN of Portland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED**.

The Resolve was **READ ONCE**. **Committee Amendment "A" (H-514)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules the Resolve was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules the Resolve was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-514)** and sent for concurrence.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-490)** on Bill "An Act to Require State Agencies to Complete the Rulemaking Process Within One Year of a Legislative Directive to Adopt Rules"

(H.P. 539) (L.D. 850)

Signed:

Senators:

BALDACCI of Penobscot
LYFORD of Penobscot

Representatives:

ADAMS of Lebanon
GREENWOOD of Wales
POMERLEAU of Standish
UNDERWOOD of Presque Isle

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

NANGLE of Cumberland

Representatives:

STOVER of Boothbay
COPELAND of Saco
DHALAC of South Portland
RISEMAN of Harrison

READ.

Representative STOVER of Boothbay moved that the House **ACCEPT** the Minority **Ought Not to Pass** Report.

Representative GREENWOOD of Wales **REQUESTED** a roll call on the motion to **ACCEPT** the Minority **Ought Not to Pass** Report.

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

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Carlow.

Representative **CARLOW**: Thank you, Madam Speaker. Madam Speaker, we enact hundreds of bills every Session that require for their implementation the various Departments and agencies of State government to adopt rules and except for those bills that we care most about, we may never think of or hear of them ever again. Nor will we always remember whether or not the legislation we approved on behalf of our constituents was finally enacted by the agency responsible for that rulemaking. The lack of institutional memory and the resulting insufficiencies of accountability exposes a fatal flaw to the mission of this institution. We can enact legislation today requiring rulemaking but if we, either in our dispassion or our forgetfulness, fail to set a deadline for those rules to be completed, then we relinquish our constitutional responsibilities to the Chief Executive.

It is essential to the proper functioning of State government that each of the branches observe the longstanding traditions required by the separation of powers doctrine. In fact, so essential is this doctrine to us that Members of this House can't even mention the Chief Executive by name while speaking on the floor of this Chamber. But the pending question would effectively allow them to stymie the Acts and Resolves we pass on behalf of the people. And the power of an unelected bureaucracy to shadow veto our actions is interference we must immediately remedy if we are to preserve the constitutional functions and character of the Legislative Branch; the branch, I'm proud to say, is closest to the people. I'm in opposition to this motion. I urge a no vote. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative Stover.

Representative **STOVER**: Thank you, Madam Speaker. LD 850 would require agencies that can adopt rules to do so within 12 months of the effective date of the authorizing legislation. The procedures of rulemaking is part of the Administrative Procedures Act and should be handled deliberately and carefully by all State agencies. The processes of imposing time limits could have unintended consequences and could restrict public input in the rulemaking process.

The SPEAKER: A roll call has been ordered. The pending question before the House is Acceptance of the Minority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 223

YEA - Abdi, Ankeles, Arford, Bell, Boyle, Brennan, Bridgeo, Cloutier, Cluchey, Collings, Copeland, Crafts, Craven, Crockett, Dhalac, Dill, Dodge, Doudera, Eaton, Fay, Gattine, Geiger, Gere, Golek, Graham, Gramlich, Hasenfus, Hobbs, Jauch, Kessler, Kuhn, Landry, LaRochelle, Lookner, Madigan, Malon, Mastraccio, Mathieson, Matlack, Meyer, Millett R, Milliken, Montell, Moonen, Moriarty, Murphy, O'Connell, O'Neil, Osher, Paulhus, Perry A, Perry J, Pringle, Rana, Reckitt, Rielly, Riseman, Roberts, Roeder, Runte, Russell, Sachs, Salisbury, Sargent, Sayre, Shagoury, Shaw, Sheehan, Skold, Stover, Supica, Terry, Warren, Williams, Worth, Zager, Zeigler, Madam Speaker.

NAY - Albert, Andrews, Arata, Ardell, Babin, Bagshaw, Blier, Boyer, Bradstreet, Campbell, Carlow, Carmichael, Collamore, Costain, Cray, Cyrway, Davis, Drinkwater, Ducharme, Dunphy, Faulkingham, Foster, Fredericks, Galletta, Gifford, Greenwood, Griffin, Guerrette, Haggan, Hall, Henderson, Hymes, Jackson, Javner, Lanigan, Lavigne, Lee, Lemelin, Libby, Lyman, Mason, Millett H, Morris, Ness, Newman, Nutting, Parry, Paul, Perkins, Pluecker, Poirier, Polewarczyk, Pomerleau, Quint, Rudnicki, Sampson, Schmersal-Burgess, Simmons, Smith, Soboleski, Strout, Swallow, Theriault, Thorne, Underwood, Walker, White B, White J, Wood, Woodsome.

ABSENT - Adams, Hepler.

Yes, 78; No, 70; Absent, 2; Vacant, 0; Excused, 1.

78 having voted in the affirmative and 70 voted in the negative, with 2 being absent and 1 excused, and accordingly the Minority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on Bill "An Act to Authorize a Recall Election for a School Board Member"

(H.P. 697) (L.D. 1102)

Signed:

Senators:

NANGLE of Cumberland
BALDACCI of Penobscot

Representatives:

STOVER of Boothbay
ABDI of Lewiston
COPELAND of Saco
DHALAC of South Portland
PAULHUS of Bath
RISEMAN of Harrison

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-442)** on same Bill.

Signed:

Representatives:

ADAMS of Lebanon
GREENWOOD of Wales
POMERLEAU of Standish
UNDERWOOD of Presque Isle

READ.

Representative STOVER of Boothbay moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

Representative GREENWOOD of Wales **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Bagshaw.

Representative **BAGSHAW**: Thank you, Madam Speaker, Men and Women of the House. I rise today in opposition to the pending motion on my bill, LD 1102, "An Act to Authorize a Recall Election for a School Board Member."

For several years now, I have watched many of my neighbors raise concerns to our local School Board, as is their constitutional right and one enshrined in Maine Law. During the same period, I have seen firsthand their questions and concerns often ignored, dismissed and due to arcane protocols and the proverbial can being kicked down the road. I also have seen parents dismissed, taxpayers dodged and worse, in my local district, one of the School Board members actually gave her constituents the middle finger while walking off the stage. This rightfully caused outrage in my community. After an executive session, that Board member was censured by the full board. That is where the accountability in Windham stopped. That kind of uncivil behavior, mockery of parents and taxpayers exercising their right to peacefully assemble, rightfully warranted a response and some even wanted to take the issue to our town's voters. Alas, current Maine Law did not give my neighbors a choice. There was nothing at all that we, the people, could do. Instead of being able to recall the School Board member, my neighbors will have to wait until the expiration of her term. While our case may be most egregious, the frustrations felt in Windham are also felt in many communities across our State. Waiting until the expiration of a term can sometimes be years after an offense. This is unacceptable. When I asked the chair of my local School Board about enforcing Code of Ethics, I was told that the Code of Ethics has no teeth. Maine Law provides that a municipal official can be recalled but outside of chartered municipalities only if the official is convicted of a crime, the conduct of which occurred during the official's term of office and the victim of which is in the municipality.

So, here we are. I presented my bill on behalf of my constituents who feel they have no voice in public education. My School Board Chair told me the only way to change this was to go to Augusta and make a law that allowed for a recall process. When I came to Augusta to address the problem, I was asked if I tried to address this locally. I explained that in fact I did try to address this locally. The Chair of the Committee is my Senator, his campaign treasurer was the very School Board member that violated ethics and felt so emboldened to give the Windham parents the finger. When I mentioned examples from my district, he jumped up and showed a picture of the finger incident. Ultimately, a Point of Order was called, the Committee analyst