

MAINE STATE LEGISLATURE

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House of Representatives
One Hundred and Twenty-Third Legislature
State of Maine

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Second Regular Session

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Pages 682-1357

ABSENT - Adams, Bryant, Craven, Gerzofsky, Greeley, Moore, Percy, Pineau, Piotti, Richardson E, Rines, Rosen.

Yes, 76; No, 63; Absent, 12; Excused, 0.

76 having voted in the affirmative and 63 voted in the negative, with 12 being absent, and accordingly the Resolve and all accompanying papers were **INDEFINITELY POSTPONED** in concurrence

SENATE PAPERS
Non-Concurrent Matter

Bill "An Act To Govern Publicly Funded Advertising during Campaigns"

(S.P. 630) (L.D. 1779)

Minority (5) **OUGHT NOT TO PASS** Report of the Committee on **LEGAL AND VETERANS AFFAIRS READ** and **ACCEPTED** in the House on June 18, 2007.

Came from the Senate with that Body having **ADHERED** to its former action whereby the Majority (8) **OUGHT TO PASS AS AMENDED** Report of the Committee on **LEGAL AND VETERANS AFFAIRS** was **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-246) AS AMENDED BY SENATE AMENDMENT "A" (S-302)** thereto in **NON-CONCURRENCE**.

Representative PATRICK of Rumford moved that the House **ADHERE**.

Representative TARDY of Newport moved that the House **RECEDE AND CONCUR**.

Representative PINGREE of North Haven **REQUESTED** a roll call on the motion to **RECEDE AND CONCUR**.

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 Rumford, Representative Patrick.

Representative PATRICK: Thank you Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House. I will be speaking in opposition to the Recede and Concur, and will be asking you to follow my light and move on the Adhere motion.

The reason why I am against the Recede and Concur is there are two major issues with this bill. LD 1779, as amended by the Committee Amendment and the Senate Amendment, still poses constitutional issues. The constitutional issue is actually a free speech violation. This bill places a monetary penalty when a candidate appears in an advertisement that is paid for in any percentage of state funds, except Maine Clean Election funds. The ads are not campaign ads urging a person to vote for or against the candidate, or even a measure on the ballot. These ads could be public service announcements or issue ads, or commercial ads produced prior to the candidacy. What would be the compelling state interest to prohibit a candidate from appearing in these ads? Again, the Amendment does not trigger a reporting requirement, but applies a civil penalty. Such a law would be subject to challenge as a violation of a person's First Amendment, right of free speech.

It also has enforcement issues. There is no standard that the candidate is aware that the ads are being broadcast. The ad could have been produced when a candidate was a private citizen, and rebroadcasted with or without the candidate's knowledge. Is it reasonable to penalize a candidate for this action that was not in his or her control? How will this be enforced? There is no reporting requirement, thus the Ethics Commission would need to be aware of the broadcast or printing

of an ad themselves, or be made aware of it by another. Who would that be, the opposing candidate?

The Senate Amendment provides that the penalty could only be applied after a warning is issued, after the first offense. It does not remove the speech enforcement issues that are raised in this bill. Ladies and Gentlemen of the House, I would ask you to vote against the Recede and Concur, and move on to the Adhere. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 176

YEA - Annis, Austin, Ayotte, Beaulieu, Berube, Browne W, Campbell, Cebra, Chase, Conover, Cotta, Cray, Cressey, Crosthwaite, Curtis, Duprey, Edgecomb, Emery, Finley, Fitts, Fletcher, Flood, Gifford, Giles, Gould, Hamper, Hotham, Jacobsen, Joy, Knight, Lansley, Lewin, Marean, McDonough, McFadden, McKane, McLeod, Miller, Millett, Muse, Nass, Pinkham, Plummer, Prescott, Rector, Richardson D, Richardson W, Robinson, Savage, Saviello, Schatz, Sykes, Tardy, Thibodeau, Thomas, Tibbetts, Trinward, Vaughan, Walker, Weaver, Woodbury.

NAY - Adams, Babbidge, Barstow, Beaudette, Beaudoin, Berry, Blanchard, Blanchette, Bliss, Boland, Brautigam, Bryant, Burns, Cain, Canavan, Carter, Casavant, Clark, Cleary, Connor, Crockett, Dill, Driscoll, Duchesne, Dunn, Eaton, Eberle, Faircloth, Farrington, Finch, Fischer, Fisher, Gerzofsky, Grose, Hanley S, Harlow, Haskell, Hayes, Hill, Hinck, Hogan, Jackson, Jones, Kaenrath, Koffman, Lundeen, MacDonald, Makas, Marley, Mazurek, Mills, Miramant, Norton, Patrick, Pendleton, Peoples, Percy, Perry, Pieh, Pilon, Pingree, Piotti, Pratt, Priest, Rand, Samson, Simpson, Sirois, Smith N, Strang Burgess, Sutherland, Theriault, Treat, Tuttle, Valentino, Wagner, Walcott, Watson, Webster, Weddell, Wheeler, Mr. Speaker.

ABSENT - Craven, Greeley, Moore, Pineau, Richardson E, Rines, Rosen, Silsby.

Yes, 61; No, 82; Absent, 8; Excused, 0.

61 having voted in the affirmative and 82 voted in the negative, with 8 being absent, and accordingly the motion to **RECEDE AND CONCUR FAILED**.

Subsequently, the House voted to **ADHERE**.

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.

An Act To Incorporate the Greater Augusta Utility District
(S.P. 621) (L.D. 1754)
(C. "A" S-314)

TABLED - June 18, 2007 (Till Later Today) by Representative BLISS of South Portland.

PENDING - **PASSAGE TO BE ENACTED**.

Subsequently, Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate. **ORDERED SENT FORTHWITH**.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH** with the exception of matters being held.
