

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
118TH LEGISLATURE

FIRST REGULAR SESSION  
AND  
FIRST SPECIAL SESSION

BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
LABOR

JULY 1997

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**ONE HUNDRED EIGHTEENTH LEGISLATURE**  
**FIRST REGULAR AND FIRST SPECIAL SESSIONS**

**Summary Of Legislation Before The Joint Standing Committees**  
**August 1997**

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet ([www.state.me.us/legis/opla](http://www.state.me.us/legis/opla)).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER</i> .....	<i>Bill carried over to Second Regular Session</i>
<i>CON RES XXX</i> .....	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i> .....	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i> .....	<i>House &amp; Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i> .....	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i> .....	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i> .....	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i> .....	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i> .....	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>INDEF PP</i> .....	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i> .....	<i>Ought Not To Pass report accepted</i>
<i>OTP ND</i> .....	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i> .....	<i>Committee report Ought To Pass In New Draft/New Title</i>
<i>P&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; Special Law</i>
<i>PUBLIC XXX</i> .....	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i> .....	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i> .....	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i> .....	<i>Legislature failed to override Governor's Veto</i>

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

*David E. Boulter, Director*  
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**LD 1472**

**An Act to Modify the Work Search Requirements for Workers' Compensation Recipients**

**ONTP**

Sponsor(s)  
MILLS

Committee Report  
ONTP

Amendments Adopted

LD 1472 proposed to provide that only employees who have received workers' compensation disability benefits for 260 weeks or more are subject to the work search requirement. The bill proposed to overturn the Law Court's decision in Bureau v. Staffing Network, Inc., 678 A.2d 583 (Me. 1996), finding that a partially incapacitated employee bears the initial burden of establishing the unavailability of work within that employee's work restrictions.

**LD 1474**

**An Act to Provide for Limited Payment of Attorney's Fees for Injured Workers Who Prevail on Meritorious Claims**

**ONTP**

Sponsor(s)  
MILLS

Committee Report  
ONTP

Amendments Adopted

LD 1474 proposed to change the laws governing attorneys' fees in workers' compensation cases. In addition to reinstating a limited prevail rule, this bill proposed to impose a uniform set of standards for payment of counsel fees in cases with dates of injury on or after June 30, 1985, the date when the "prevail rule" was first initiated. The bill would require the employer to reimburse the employee for travel expenses, for costs of transcript copies, for medical records and reports and for legal assistance necessary to respond to discovery requests as long as the employee's claim is made in good faith and upon reasonable grounds. The bill also proposed maximum rates to be charged for hourly legal work tied to a percentage of the State's average weekly wage to adjust for inflation. The bill proposed to limit legal fees to 10% on smaller claims and to 5% of those portions of larger settlements that exceed 150 times the State's average weekly wage.

The bill also included express prohibitions against overcharging or charging for any services that do not contribute to the prompt, just and expedient resolution of claims and included standards to determine the reasonableness of a legal fee. A party would be entitled to obtain a review and adjustments from the board based on the standards. The bill proposed penalties for overcharging or for conduct that impedes the efficient, expedient or just resolution of a dispute.

The bill would have applied procedurally only to controversies and settlements resolved after the bill's effective date; but, once effective, the bill would apply retroactively to all pending cases in which the date of injury falls after June 30, 1985. The one exception would be for settlement fees in cases arising prior to October 17, 1991. Settlement of such cases under the bill would be governed by the law in effect at the time of injury.

**LD 1477**

**An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry**

**DIED BETWEEN BODIES**

Sponsor(s)  
NUTTING  
BERRY R

Committee Report  
OTP-AM

Amendments Adopted

LD 1477 proposed to provide that a subcontractor hired by a contractor to harvest wood would be considered an employee for purposes of workers' compensation laws.

**Committee Amendment "A" (S-299)**, which was initially adopted in both chambers but then indefinitely postponed with the bill and all accompanying papers in the House, proposed to require all persons engaged in harvesting wood products to carry workers' compensation insurance for themselves in addition to their employees. The only exception would be for an individual who contracts directly with the landowner to harvest the wood and performs all of the wood harvesting alone. The amendment also proposed to define harvesting forest products as to sever and remove standing trees from a forest.

**LD 1493                      An Act to Adopt an Orderly Procedure for Determining the End of                      ONTP**  
**Entitlement to Partial Workers' Compensation Benefits**

<u>Sponsor(s)</u> MILLS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1493 proposed that after an employee has received 260 weeks of benefits for partial incapacity, the Workers' Compensation Board would be required to terminate benefits unless the employee demonstrates certain facts about the injury, the employee's prospects for employment or the employee's rehabilitation. The bill's changes would only apply to injuries occurring on or after October 1, 1997.

**LD 1494                      An Act to Replace the Defined Benefit Retirement Plan for State                      ONTP**  
**and Other Public Employees with a Defined Contribution Plan**

<u>Sponsor(s)</u> AMERO		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1494 proposed, effective July 1, 2001, to eliminate the present defined benefit retirement plan for state and other public employees hired after that date and replaced it with one or more defined contribution plans. The details of the defined contribution plan or plans, including types of plan to be available, contribution rates, retirement eligibility requirements and responsibility for management and administrative functions, were to be determined by the Legislature in the year 2000 based on recommendations of a blue ribbon commission established in the bill. The commission consisted of four impartial, qualified members appointed by the Governor and legislative leadership. The commission was to issue an interim report to the Joint Standing Committee on Labor in January 1999, and its final report to the Governor and the Legislature by December 1, 1999. Employees who become members of the Maine State Retirement System before July 1, 2001 would remain members of the retirement system, which would continue for the purpose of administering the benefits of those members.

This and several other bills proposing major changes in the retirement plans for state employees, teachers or legislators were reported out ONTP, and related bill LD 1370 was carried over to the Second Regular Session. That bill could serve as a legislative vehicle to address retirement plan changes in 1998. See also LDs 1014 and 1259.