

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
118TH LEGISLATURE

SECOND REGULAR SESSION  
AND  
SECOND SPECIAL SESSION

BILL SUMMARIES  
JOINT STANDING COMMITTEE  
ON  
STATE AND LOCAL GOVERNMENT

MAY 1998

**MEMBERS:**

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*Sen. Jill M. Goldthwait*

*Sen. James D. Libby*

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**Staff:**

*Deborah C. Friedman, Legislative Analyst*

*Danielle D. Tetreau, Legislative Analyst*

*David C. Elliott, Principal Analyst*

*Office of Policy and Legal Analysis*

*Room 101/107/135, 13 State House Station*

*Augusta, ME 04333*

*(207)287-1670*



**Maine State Legislature**  
**OFFICE OF POLICY AND LEGAL ANALYSIS**

13 State House Station, Augusta, Maine 04333-0013  
 Telephone: (207) 287-1670  
 Fax: (207) 287-1275

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

**Summary Of Legislation Before The Joint Standing Committees**  
**May 1998**

We are pleased to provide this summary of bills that were considered by the Joint Standing Committees of the Maine Legislature. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. 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 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:

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

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is June 30, 1998 and July 9, 1998 for the Second Special Session. Second Special Session laws include Public Laws beginning with Chapter 718, Private and Special Laws beginning with Chapter 82 and Resolves beginning with Chapter 117.

**LD 1358**

**An Act to Amend the Procedures for Finalizing the Kennebec County Budget**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JONES SA CAREY	ONTP	

LD 1358 proposed to eliminate the requirement under current law that the Kennebec County commissioners submit the annual county budget to the Legislature for approval. It also would have eliminated the advisory budget committee and placed responsibility for the final budget approval on a budget committee composed of elected and appointed municipal officials representing the county commissioner districts.

**LD 1359**

**An Act to Amend the Androscoggin County Budget Process**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOUFFARD JENKINS	ONTP	

LD 1359 proposed to amend the budget approval process for Androscoggin County by removing the requirement that the budget be submitted to the Legislature for final approval. Instead, the existing budget committee would have been empowered to adopt the budget and submit it to the county commissioners. The bill proposed that the county commissioners could alter the committee's budget only by a unanimous vote; and, if the commissioners did so, the budget committee could reject the county commissioners' change by a two-thirds vote.

**LD 1551**

**An Act to Amend the Amount of Retainage on Public Building Contracts**

**DIED BETWEEN BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLOWMAN	OTP-AM MAJ ONTP MIN	

LD 1551 proposed that in the case of a contract awarded for any public improvement, the State may not withhold money due the contractor under the contract pending acceptance of the project by the State.

**Committee Amendment "A" (H-1087)** replaced the bill but was not adopted because the Senate and House were unable to agree. As proposed, the amendment applied to state construction projects over \$1,000,000 in value and to school construction projects over \$1,000,000 in value and for which state aid is received. The amendment proposed to limit the retention of contract payments on those public improvement construction projects to line items in the project contract and to situations in which unsatisfactory progress has been made by a contractor or subcontractor. In those cases, up to five percent of the payment due under the project contract could have been withheld until all contract requirements for the line item were completed. Following completion of a line item, any retained payments would have been required to be paid promptly. At the end of a project, the value of punch list and incomplete items could be retained as well as withholding to cover good faith claims of the owner, including

claims for unsatisfactory progress on the project. The amendment proposed that over the course of the project, the owner makes the determination of how much of the payment due will be retained up to the five percent limit and as to whether satisfactory progress has been made on the project.

**Senate Amendment "A" to Committee Amendment "A" (S-704)** proposed the following changes in the committee amendment. It was not adopted.

1. It would have clarified that payments may be withheld against both a general contractor and a subcontractor under public improvement projects.
2. It would have removed an unnecessary reference to nonperformance of contract line items.
3. It would have clarified that the owner makes the determination of completion and acceptance of work on contract line items.
4. It would have clarified that retention of payments is a percentage of the payment due for approved work on line items under the contract.
5. It would have clarified that retention at the end of line item work under the contract may be up to five percent of the value of the line item.
6. It would have clarified that an owner is not obligated to make payments in case of nonperformance.

**Senate Amendment "B" to Committee Amendment "A" (S-707)** proposed the following changes in the committee amendment in an attempt to reach compromise on the bill. The amendment was adopted in the Senate but failed when the bill died between bodies.

1. It would have clarified the situations under which payments may be withheld against both a general contractor and a subcontractor under public improvement projects.
2. It would have defined "nonperformance" for the purpose of retention of payment on contract line items.
3. It would have clarified that the owner makes the determination of completion and acceptance of work on contract line items.
4. It would have clarified that retention of payments is a percentage of the payment due for approved work on line items under the contract.
5. It would have clarified that retention at the end of line item work under the contract may be up to five percent of the value of the line item.
6. It would have clarified that an owner is not obligated to make payments in case of nonperformance.