

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

July 2003

Members:

Sen. Peggy A. Pendleton, Chair

Sen. Mary R. Cathcart

Sen. Chandler E. Woodcock

Rep. William S. Norbert, Chair

Rep. Thomas D. Bull

Rep. Deborah L. Simpson

Rep. Stan Gerzofsky

Rep. Philip R. Bennett, Jr.

Rep. Janet T. Mills

Rep. Roger L. Sherman

Rep. Roderick W. Carr

Rep. Brian M. Duprey

Rep. Joan Bryant-Deschenes

Rep. Donna M. Loring

Staff:

Margaret J. Reinsch, Senior Analyst

Office of Policy and Legal Analysis

13 State House Station

Augusta, ME 04333

(207) 287-1670

Maine State Legislature



Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

121st Maine Legislature First Regular Session

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. 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 considered by the committees. It is arranged alphabetically by committee name 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).

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 PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd 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 & 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>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</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>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</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 that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Judiciary

LD 768

An Act To Improve the Administration of the Baxter Compensation Program

**PUBLIC 352
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT BULL	OTP-AM	S-164

LD 768 contained recommendations of the Baxter Compensation Authority.

LD 768 proposed to repeal the 15% limitation on administrative expenditure and increase the annual reporting to allow continuing oversight of the administrative budget.

LD 768 proposed to address confidentiality concerns of claimants and their families.

LD 768 also proposed to address the appeal process.

Committee Amendment "A" (S-164) proposed to revise the cap on administrative expenses for the Baxter Compensation Authority by limiting the expenses to \$407,000 per fiscal year, which is the total of the first-year costs estimated by the authority in its report of January 15, 2003, except that the authority would be limited by an overall cap on administrative expenses. Over the course of the operation of the program, the maximum amount of the trust fund that could be used for administrative expenses would be \$1,500,000.

House Amendment "A" (H-362) proposed to require that interest earned on the Governor Baxter School for the Deaf Compensation Fund must be credited to that compensation fund beginning July 1, 2005. (Not adopted)

Enacted Law Summary

Public Law 2003, chapter 352 contains recommendations of the Baxter Compensation Authority.

Chapter 352 requires the Baxter Compensation Authority to include in its annual report to the Governor, the Attorney General and the joint standing committee of the Legislature having jurisdiction over judiciary matters information about the administrative budget and the previous year's expenses. This law repeals the 15% limitation; the annual reporting will allow continuing oversight of the administrative budget. It revises the cap on administrative expenses for the Baxter Compensation Authority by limiting the expenses to \$407,000 per fiscal year, which is the total of the first-year costs estimated by the authority in its report of January 15, 2003, except that the authority is limited by an overall cap on administrative expenses. Over the course of the operation of the program, the maximum amount of the trust fund that can be used for administrative expenses is \$1,500,000.

Chapter 352 addresses confidentiality concerns of claimants and their families. Current law states that once a claim is submitted, the claim becomes a public record. Chapter 352 provides that certain pieces of information become public and allows public oversight of the program.

Chapter 352 also addresses the appeal process. It allows the appeal board to affirm or increase a compensation award, but prohibits a reduction in the amount awarded by the compensation panel. The appeal board may consider records and testimony presented to the compensation panel. It may also accept oral and written arguments from the claimant in support of the claim. If the claimant wants to present new information on appeal, the appeal board will make a determination on whether the new information is appropriate to be considered in

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connection with the claim. If so, then the appeal board must return the claim to the compensation panel and order the compensation panel to reconsider the decision in light of the new information.

Public Law 2003, chapter 352 was enacted as an emergency measure effective May 30, 2003.

LD 770 **An Act To Require a Land Survey Prior to Sale, Processing or** **ONTP**
Transfer of Any Parcel of Land

<u>Sponsor(s)</u> GOODWIN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 770 proposed to require an owner of real property to have a survey of the property done by a licensed land surveyor prior to the sale or transfer of the property. A copy of the survey would be given to the abutters. If a survey of the property was done within 2 years before the sale or transfer, a new survey would not be required if the existing survey still accurately describes the property and the survey was not challenged by a purchaser or an abutter.

LD 779 **An Act To Repeal the Anthem Blue Cross Court Agreement of** **ONTP**
Disbursement of \$88,000,000

<u>Sponsor(s)</u> GOODWIN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 779 proposed to repeal the law that allowed the conversion of the former Blue Cross and Blue Shield of Maine from a nonprofit hospital and medical service organization and public charity to a for-profit stock company. It also proposed to require the approximately \$88,000,000 in assets resulting from the conversion to be turned over to the General Fund by October 1, 2003.

LD 782 **An Act To Require the Payment of Certain Costs Incurred by a** **ONTP**
Prevailing Party in Court Proceedings by or against Maine Revenue
Services

<u>Sponsor(s)</u> MUSE MAYO	<u>Committee Report</u> ONTP MAJ OTP-AM MIN	<u>Amendments Adopted</u>
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LD 782 proposed to allow a taxpayer who disputes a tax owed to the State and who prevails in either an administrative hearing before the Department of Administrative and Financial Services, Bureau of Revenue Services or in the Superior Court or Supreme Judicial Court to be awarded reasonable litigation and administrative costs, including attorney's fees, expert witness fees and court costs. The bill proposed to apply to both individuals and businesses and to all taxes due to the State. This bill was modeled on federal law.

Committee Amendment "A" (H-498) was the minority report of the Joint Standing Committee on Judiciary. It proposed to incorporate a fiscal note. (Not adopted)