

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Utilities and Energy*

August 2005

Members:

*Sen. Philip L. Bartlett II, Chair
Sen. Scott W. Cowger
Sen. Carol Weston*

*Rep. Lawrence Bliss, Chair
Rep. Herbert Adams
Rep. Peter L. Rines*

*Rep. Christopher W. Babbidge
Rep. John R. Brautigam
Rep. Kenneth C. Fletcher
Rep. Maitland E. Richardson
Rep. Philip A. Curtis
Rep. Stacey Allen Fitts
Rep. Everett W. McLeod, Sr.*

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing 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 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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:

- CARRIED OVER Bill Carried Over to Second Regular Session
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
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
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 First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

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The committee requested that Office of the Governor form a stakeholder group to examine the issues raised by this bill and LD 812.

LD 327 **An Act To Implement Energy Conservation Standards for Affordable Housing** **ONTP**

<u>Sponsor(s)</u> EDER		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 327 proposed to require that the primary consideration by the Maine State Housing Authority in the determination of affordable housing be the sum of mortgage and energy costs. This bill proposed to require that affordable housing programs funded in whole or in part by the State give priority to buildings with the lowest sum of mortgage and energy expenses. This bill proposed to require affordable housing construction programs funded in whole or in part by the State to use the highest energy conservation construction standards for new housing.

The Maine State Housing Authority is currently developing rules related to this matter.

LD 330 **An Act To Protect Utility Customers from Imprudently Incurred Costs** **ONTP**

<u>Sponsor(s)</u> BLISS		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 330 proposed to address a specific circumstance: a Federal Energy Regulatory Commission (FERC) wholesale rate determination “for a utility’s ownership interest under a joint ownership agreement.” The bill proposed to require that if FERC in this context found costs to be imprudent and excluded them from wholesale rates, this would settle the matter with respect to recovery of those costs in retail rates: the Public Utilities Commission would be directed to exclude recovery of those costs in the utility’s retail rates.

LD 331 **An Act To Improve the Operation of Underground Damage Prevention Procedures** **PUBLIC 334**

<u>Sponsor(s)</u> BLISS BARTLETT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-558
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LD 331 proposed to revise the law governing underground damage prevention procedures (known as the “dig safe” law). It proposed:

1. To authorize the Public Utilities Commission to extend by routine technical rule excavation notification requirements that apply to drinking water well construction (which were established by major substantive

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rule) to other types of excavation. These rules currently allow well drillers to check the Public Utilities Commission's database 30 days before the excavation to determine if any facilities are located in the municipality; if none, the excavator is not required to contact the Dig Safe system;

2. To direct the commission to establish by routine technical rule procedures to reduce the incidence of damage to newly-installed underground facilities in active excavation areas;
3. To provide that the commission may fine operators for any failure to mark their facilities in accordance with the requirements in law. Under current law the commission can impose a fine for failure to mark within the required time limit; it can also fine for inaccurate marking, but only if the marking was done in a reckless or negligent manner; and
4. To clarify that the commission has general authority to adopt rules to implement the dig safe law (the commission has in fact adopted a variety of implementing rules).

Committee Amendment "A" (H-558), which was the unanimous report of the Joint Standing Committee on Utilities and Energy, proposed to make the following changes to the bill:

1. To make all Public Utilities Commission rules implementing the so-called dig safe law, including the new rules authorized by the bill, major substantive rules. It proposed to provide that existing rules of the commission remain in effect but that any amendments to those rules would be subject to legislative review as major substantive rules;
2. To provide that when an underground facility is discovered during an excavation and the location of that facility was, prior to the discovery, unknown or unclear to the underground facility operator, the commission may direct that operator to determine and map the location of the facility for a reasonable distance, as determined by the commission, from the point of discovery;
3. To remove the section of the bill that proposed to authorize the commission to fine operators for any failure to mark their facilities in accordance with the requirements in law; and
4. To require the commission to adopt rules establishing standards for when and at what level penalties must be assessed for violations of the dig safe law.

Enacted law summary

Public Law 2005, chapter 334 revises the law governing underground damage prevention procedures (known as the "dig-safe law"). It:

1. Authorizes the Public Utilities Commission to extend, through major substantive rule, excavation notification requirements that apply to drinking water well construction (established by major substantive rule) to other types of excavation. The rules currently allow well drillers to check the commission's database 30 days before the excavation to determine if any facilities are located in the municipality; if none, the excavator may go ahead with the excavation without contacting the dig safe system;
2. Directs the commission to establish through major substantive rule procedures to reduce the incidence of damage to newly-installed underground facilities in active excavation areas;

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3. Gives the commission general authority to adopt rules to implement the damage prevention laws;
4. Makes all Public Utilities Commission rules implementing the dig safe law major substantive rules. It provides that all existing rules of the commission remain in effect but that any amendments to those rules are subject to legislative review as major substantive rules;
5. Provides that when an underground facility is discovered during an excavation and the location of that facility was, prior to the discovery, unknown or unclear to the underground facility operator, the commission may direct that operator to determine and map the location of the facility for a reasonable distance, as determined by the commission, from the point of discovery; and
6. Requires the commission to adopt major substantive rules establishing standards for when and at what level penalties must be assessed for violations of the dig safe law. In developing the rules, the commission is directed to include consideration of evidence of the past record of successful excavations as well as the seriousness of the current violation.

LD 352

An Act To Assist Cellular Telephone Users

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLISS BARTLETT	ONTP MAJ OTP MIN	

LD 352 proposed to require cellular telephone providers to provide a service that allows a customer to learn, by calling a telephone number, the exact amount of calling minutes available to that customer in the current billing month. The provider would not be allowed to charge the customer for accessing or using this service.

LD 355

An Act To Amend the Mexico Water District Charter

P & S 7

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOTHAM BRYANT B	OTP-AM	H-140

LD 355 proposed to increase the compensation a trustee of the Mexico Water District receives from \$300 to \$600 per year and to increase the amount a trustee receives for each meeting attended from \$15 to \$25.

Committee Amendment "A" (H-140) proposed to replace the bill and make clear that trustees of the Mexico Water District receive compensation established in accordance with the general law (Title 35-A, section 6410, subsection 7) that governs water district trustee compensation.

Enacted law summary

Private and Special Law 2005, chapter 7 makes clear that trustees of the Mexico Water District receive compensation as established in accordance with the provision of the Maine Revised Statutes that governs water district trustee compensation.