

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
Labor*

August 2005

Members:

*Sen. Ethan Strimling, Chair
Sen. Philip L. Bartlett, II
Sen. Lois A. Snowe-Mello*

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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.

Joint Standing Committee on Labor

LD 1269 proposed to allow investigators in the Office of the Attorney General or Department of the Secretary of State to elect to participate in the 1998 Special Plan of the Maine State Retirement System. Under that plan, a person may retire at 55 years of age with 10 years of creditable service, or may retire before 55 years of age with 25 years of creditable service and a reduced benefit.

See also LD 748, which was carried over.

LD 1276 **An Act To Prohibit the Use of Foreign Labor Unless a Federal Prevailing Wage Is Set** **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON MARTIN		

LD 1276 proposed to prohibit the Department of Labor from certifying to the United States Department of Labor that no U.S. citizens are qualified for or willing to fill a job opening in a forestry occupation, for the purpose of allowing an employer to hire a foreign worker to fill that job opening under what is commonly known as an "H-2B visa," if the job would require the worker to use the worker's own equipment and if the U.S. Department of Labor's Division of Foreign Labor Certification has not established a prevailing wage for workers performing that job using the workers' own equipment.

Committee Amendment "B" (H-445) proposed to add a provision to prohibit an employer from making a false representation to a government entity in an application to hire a foreign worker through a procedure commonly known as an "H-2B visa," or in any supporting documentation or statements. The amendment proposed to set fines for violations as follows: \$1,000 but not more than \$5,000 for a first violation; \$5,000 but not more than \$20,000 for a 2nd offense within 3 years; and \$10,000 but not more than \$50,000 for a 3rd or subsequent violation within 3 years of 2 or more prior violations. The amendment also proposed to grant enforcement authority to the Department of Labor, Bureau of Labor Standards and authority to adopt routine technical rules to carry out its purposes.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

LD 1329 **Resolve, Directing the Workers' Compensation Board To Consider Adoption of the "Guides to the Evaluation of Permanent Impairment," 5th Edition, in Assessing Workers' Compensation Injuries** **RESOLVE 53 EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J SMITH W	OTP-AM	S-189

LD 1329 proposed to require the Workers' Compensation Board to use the 5th edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" to assess impairment relating to injuries involving the spinal column.

Joint Standing Committee on Labor

Committee Amendment "A" (S-189) proposed to replace the bill with a resolve directing the Workers' Compensation Board to consider adoption of the 5th edition of "Guides to the Evaluation of Permanent Impairment" as impairment guidelines and to report to the Joint Standing Committee on Labor by January 15, 2006 its determination of whether the 5th edition should be adopted and, if so, whether it has been adopted by board rule. The resolve also proposed to grant the committee authority to report out legislation to the Second Regular Session of the 122nd Legislature related to the board's report.

Enacted law summary

Resolve 2005, chapter 53 directs the Workers' Compensation Board to consider adoption of the 5th edition of "Guides to the Evaluation of Permanent Impairment" as impairment guidelines and to report to the Joint Standing Committee on Labor by January 15, 2006 its determination of whether the 5th edition should be adopted and, if so, whether it has been adopted by board rule. The resolve also grants the committee authority to report out legislation to the Second Regular Session of the 122nd Legislature related to the board's report.

Resolve 2005, chapter 53 was finally passed as an emergency measure effective May 26, 2005.

LD 1346 An Act to Require Employers and Employees to Provide a 2-Week CARRIED OVER Notice before Terminating Employment

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TWOMEY BRYAND B	OTP-AM ONTP	

LD 1346 proposed to require all employees to give 2 weeks' notice prior to quitting and employers, including the State and the Legislature, to give 2 weeks' notice prior to terminating an employee. The bill proposed that an employee who quits in violation of this requirement without reasonable cause would be subject to a forfeiture of one week's pay and that an employer who fails to provide 2 weeks' notice without reasonable cause would be required to provide the employee with 2 weeks' pay. Current law allows an employer and employee in a manufacturing or mechanical business to contract to give each other one week's notice of intention to quit or terminate employment.

Committee Amendment "A" (H-376), the majority report of the Joint Standing Committee on Labor, proposed to replace the bill. The amendment proposed to specify that a partisan legislative employee must be provided with at least a 2-week notice prior to being discharged, unless the termination is for reasonable cause. This amendment was not adopted.

LD 1346 was subsequently committed to the Joint Select Committee on Joint Rules and was carried over by H.P. 1203 to any special or regular session of the 122nd Legislature.