

MAINE STATE LEGISLATURE

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STATE OF MAINE
117TH LEGISLATURE

FIRST REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
LABOR

AUGUST 1995

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**Denotes Chair*



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**ONE HUNDRED AND SEVENTEENTH LEGISLATURE
FIRST REGULAR SESSION**

**SUMMARY OF LEGISLATION BEFORE
THE JOINT STANDING COMMITTEES**

AUGUST 1995

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries. The publication, History and Final Disposition of Legislative Documents, is helpful in determining to which committee any particular bill was referred.

In this document, the committee report or reports, the prime sponsor for each bill and the lead co-sponsor in each house if one has been designated are listed below each bill title. All adopted amendments are listed, by paper number, together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various categories of final action are abbreviated as follows:

| | |
|-----------------------------------|---|
| <i>CARRIED OVER</i> | <i>Bill carried over to Second 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 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</i> | <i>Emergency bill failed to get 2/3 vote</i> |
| <i>FAILED ENACTMENT</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>P&S XXX</i> | <i>Chapter # of enacted Private & Special Law</i> |
| <i>PUBLIC XXX</i> | <i>Chapter # of enacted Public Law</i> |
| <i>RESOLVE XXX</i> | <i>Chapter # of enacted Resolve</i> |
| <i>UNSIGNED</i> | <i>Not signed by Governor within 10 days</i> |
| <i>VETO SUSTAINED</i> | <i>Legislature failed to override Governor's Veto</i> |

These summaries were prepared by the analyst or analysts assigned to the committee. If more detailed information is needed on a bill, contact the committee analyst.

5581LHS

Joint Standing Committee on Labor

LD 6 **An Act to Amend the Workers' Compensation Laws to Provide
an Exemption from Coverage Requirements for Nonresident
Employees** PUBLIC 70

SPONSOR(S)
LEMONT

COMMITTEE REPORT
OTP-AM

AMENDMENTS ADOPTED
H-131

SUMMARY

This bill establishes an exemption from compliance with the State's workers' compensation laws for a nonresident employee whose employer is also out of state while the employee is temporarily working in Maine if that employer can show that workers' compensation coverage is in place in the other state and the other state's laws are reciprocal to Maine's laws. The benefits provided under the other state's laws are the exclusive remedy for any such employee injured in this State.

COMMITTEE AMENDMENT "A" (H-131) achieves the same objectives as the original bill but limits the applicability of the exemption by restricting it to employment activities that do not exceed 5 consecutive days, 10 days in a 30-day period or 30 days in a 360-day period. The amendment also clarifies that the out-of-state employer and employee must be covered by the workers' compensation laws of the other state while the employee is temporarily working in Maine. The amendment also permits the Workers' Compensation Board to enter into reciprocal agreements with agencies from other states adopting similar legislation and adds a fiscal note to the bill.

LD 28 **An Act to Apply Workers' Compensation Awards to Unemployment
Benefits** ONTP

SPONSOR(S)
CLUKEY

COMMITTEE REPORT
ONTP

AMENDMENTS ADOPTED

SUMMARY

This bill would have required the reduction of unemployment benefits to any individual who chooses to take a lump sum settlement of an award made under the Maine Workers' Compensation Act of 1992.

LD 69 **An Act to Require Binding Arbitration for Public Employees** ONTP

SPONSOR(S)
RAND

COMMITTEE REPORT
ONTP

AMENDMENTS ADOPTED

SUMMARY

The arbitration procedures under the collective bargaining laws for municipal employees provide that arbitration is not binding on wages, pensions and insurance. This bill would have included those economic issues within the scope of binding arbitration for municipal employees. The bill provided for arbitration through the so-called "issue-by-issue last best offer" method. Under this method, each party submits a list of proposed contract provisions in separate numbered paragraphs before arbitration begins. Arbitration proceeds on only those paragraphs that the parties are unable to agree upon. Each party files a final "last best offer" on each unresolved item along with any necessary cost data relating to that item. The arbitrators must then select one "last best offer" of the parties on each disputed issue; the arbitrators may not choose a resolution of a disputed issue other than as offered by one or the other party. The discretion of arbitrators in making their decisions is limited by 11 specific criteria that must be considered. The bill would have provided that once the arbitrators' decision is

issued, the parties get a final opportunity to negotiate a settlement. If the parties fail to settle within 10 days, the bill would have provided that the arbitrators' rulings are binding on both parties for all issues submitted. In a letter dated April 28, 1995, the Attorney General indicated that a similar bill, LD 537, would be a municipal mandate under Article IX, Section 21 of the Maine Constitution.

LD 95 An Act to Clarify Liability of Employers of Domestic Employees Regarding Workers' Compensation ONTP

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|-------------------|-------------------------|---------------------------|
| RUHLIN | ONTP | |

SUMMARY

This bill would have excluded a person engaged in domestic service from the definition of "employee" in the Maine Workers' Compensation Act. The committee was informed that such an exemption is already provided in 39-A MRSA §401(1)(A).

LD 121 An Act to Make the Workers' Compensation Laws for Temporary Employees Consistent with Those Laws for Permanent Employees PUBLIC 297

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|-------------------|-------------------------|---------------------------|
| CAMPBELL | OTP-AM | H-401 |

SUMMARY

Under current case law, if an employer uses an employee who is technically employed by someone else, such as a temporary help service, that employer is entitled to the immunity granted under the workers' compensation laws. This bill is intended to spell out this application of the employer's immunity in the workers' compensation statute.

COMMITTEE AMENDMENT "A" (H-401) clarifies that the immunity applies only if the temporary service agency has obtained workers' compensation coverage. The amendment also clarifies that the immunity only applies when the loaned employee is under the direction and control of the 3rd party. The amendment also adds a fiscal note to the bill.

LD 131 An Act to Permit Suit against an Employer Who Knowingly Places a Worker at Risk of Serious Bodily Injury or Death ONTP

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|-------------------|-------------------------|---------------------------|
| TREAT | ONTP MAJ | |
| | OTP-AM MIN | |

SUMMARY

This bill would have allowed the heirs or the estate of an employee to bring an action for wrongful death against an employer who intentionally requires an employee to work when the employer knows that there is a risk of serious bodily injury or death.

LD 143 An Act to Increase the Minimum Wage in Maine PUBLIC 305

| SPONSOR(S) | COMMITTEE REPORT | AMENDMENTS ADOPTED |
|-------------------|-------------------------|---------------------------|
| VOLENIK | OTP-AM MAJ | H-67 |
| RAND | OTP-AM MIN | |