

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

**STATE OF MAINE
117TH LEGISLATURE**

SECOND REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY**

JUNE 1996

MEMBERS:

Sen. S. Peter Mills III, Chair

Sen. Joan M. Pendexter

Sen. Sean F. Faircloth

Rep. Sharon Anglin Treat, Chair

Rep. William Lemke

Rep. Fred L. Richardson

Rep. Kyle W. Jones

Rep. Lloyd P. LaFountain III

Rep. Elizabeth Watson

Rep. Debra Plowman

Rep. Robert R. Hartnett

Rep. David R. Madore

Rep. Richard A. Nass

Rep. Frederick J. Moore III

Staff:

Margaret J. Reinsch, Principal Analyst

Lisa Copenhaver, Legislative 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 SEVENTEENTH LEGISLATURE
SECOND REGULAR SESSION**

***Summary Of Legislation Before The Joint Standing Committees
June 1996***

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. 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 alphabetically 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.

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</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 finally passed 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>

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 4, 1996.

Chapter 525 recognizes that personal representatives operate under different circumstances than trustees and conservators. To encourage cooperation by personal representatives with devisees, this chapter exculpates personal representatives who invest estate assets in accordance with the instructions of the devisees who are the beneficial owners of the assets.

Chapter 525 adopts the commissioners' proposed transitional rule, which is consistent with the transitional rules employed when the uniform Probate Code became effective in Maine.

Public Law 1995, chapter 525 is effective January 1, 1997.

LD 1624 **An Act to Update and Clarify the Corporate Laws** PUBLIC 514

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-417
----------------------------	-----------------------------------	------------------------------------

LD 1624 proposed to establish a procedure for a nonprofit corporation to follow when the corporation wishes to authorize the use of a name similar to that of the corporation and filing proof of a resolution of its board of directors making the grant is not appropriate. The bill would have made technical corrections and change a cross-reference.

Committee Amendment "A" (S-417) would have allowed limited liability companies to state the minimum and maximum number of managers permitted in their articles of organization.

Enacted law summary

Public Law 1995, chapter 514 establishes a procedure for a nonprofit corporation to follow when the corporation wishes to authorize the use of a name similar to that of the corporation and filing proof of a resolution of its board of directors making the grant is not appropriate. The chapter also makes technical corrections and changes a cross-reference.

Chapter 514 allows limited liability companies to state a minimum and maximum number of managers in their articles of organization.

LD 1625 **An Act to Restore the Safety Defense to the Maine Human Rights Act** PUBLIC 511
EMERGENCY

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
----------------------------	--------------------------------	---------------------------

LD 1625 proposed to add language to the Maine Human Rights Act referring to the "direct threat" defense of the federal Americans with Disabilities Act. It also would have restored a reference to the Maine Human Rights Act's long-standing "safety defense."

Enacted law summary

Public Law 1995, chapter 511 adds to the Maine Human Rights Act necessary references to the "direct threat" defense found in the federal Americans with Disabilities Act. The chapter also restores reference to the Maine Human Rights Act's long-standing "safety defense" which has been interpreted by the Maine Law Court in numerous cases in a way beneficial to both employers and employees.

Public Law 1995, chapter 511 is effective February 22, 1996.

LD 1626 **An Act to Allow Recovery by the State of Costs Incurred by the Department of the Attorney General for Making Intelligence and Investigative Information Available to the Public** ONTP

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

LD 1626 would have established the funding mechanism required by the Maine Revised Statutes, Title 16, section 623, which was enacted by Public Law 1993, chapter 719, section 9, to cover the costs associated with providing access to and copying intelligence and investigative information available to the public pursuant to the Maine Revised Statutes, Title 1, chapter 13 and Title 16, chapter 3, subchapter VIII. All funds collected would have to be deposited to the General Fund.

LD 1629 **An Act to Implement the Recommendations of the Study Commission on Property Rights and the Public Health, Safety and Welfare Establishing a Land Use Mediation Program and Providing for Further Review of Rules** PUBLIC 537

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-711
	ONTP MIN	

LD 1629 was the unanimous report of the Study Commission on Property Rights and the Public Health, Safety and Welfare, created by Resolve 1995, Chapter 45. The bill proposed to establish a mediation program for landowners aggrieved by government regulation.

The bill proposed to require that the Attorney General disapprove any proposed agency rule that is reasonably expected to result in an unconstitutional taking of private property unless the taking is expressly authorized by the Legislature or unless there are sufficient variance provisions to avoid a taking.

Under current law, before adoption of any "major substantive" rule, the issuing department must submit the rule for review by the appropriate legislative committee of jurisdiction that oversees that department. The committee ensures that the rule is consistent with statutory authority, that it conforms with legislative intent, that it does not conflict with other laws and that it is necessary, reasonable and not overly complex. LD 1629 would have added the following 2 review criteria for agency rules identified as possibly causing significant reductions in property values.

1. Are there variances available to avoid an unconstitutional taking of private property?
2. Regardless of whether a taking might result, is the expected reduction in property values necessary or appropriate for the public protection advanced by the rule?

Committee Amendment "A" (H-711) is the Majority Report. It proposed several minor changes to the mediation program proposed by the original bill governing immunity for mediators, fees, filing periods, stay of appeal periods, mediator authority and reports.

Enacted law summary