

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

*Second Regular Session and
Second Special Session*

Bill Summaries

*Joint Standing Committee
on
Labor*

May 2004

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Sen. Stephen S. Stanley
Sen. Kenneth Blais*

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Maine State Legislature



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

*121st Maine Legislature
Second Regular Session and
Second Special 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/billsumm.htm).

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:

- 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*
- P&S XXX..... Chapter # of enacted Private & Special Law*
- PASSED..... Joint Order passed in both bodies*
- 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 that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is April 30, 2004; and non-emergency legislation enacted in the Second Special Session is July 30, 2004. Four bills (LD's 1572, 1629, 1636 and 1637) that were considered at the First Special Session in August 2003 are also included in these summaries.

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

Joint Standing Committee on Labor

LD 1150

An Act To Protect the Rights of State Workers

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT	OTP-AM MAJ	
SMITH W	ONTP MIN	

LD 1150 proposed to extend to workers hired by the State through long-term contracts or long-term grants the same benefits as state employees receive.

Committee Amendment "A" (S-460) proposed to change the rules for implementing the new requirement from "routine technical" to "major substantive." It also proposed to require the Department of Administrative and Financial Services, Bureau of Human Resources to provisionally adopt the rules by February 15, 2005 so that they may be submitted to the Legislature for review.

LD 1318

An Act To Promote the Public Interest by Providing for Reasonable Rates of Compensation for Forest Products Harvesting and Hauling Services

PUBLIC 670

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W	OTP-AM MAJ	H-848
MARTIN	ONTP MIN	H-864 SMITH W

LD 1318 proposed to allow harvesters and haulers of forest products to collectively bargain with forest landowners over compensation and the terms of contracts under which the harvesters and haulers perform services for the landowners. It proposed to require a forest landowner to bargain in good faith with associations representing 51% or more of the harvesters or haulers that have a prior course of dealing with the forest landowner. The bill proposed to create a Forest Products Bargaining Board to implement the Act, set forth a procedure for mediation and arbitration if the parties cannot agree on their own and list prohibited unfair practices. The bill was based on existing law allowing agricultural producers to form associations to bargain with handlers of agricultural products.

LD 1318 was reported out of committee during the 1st Regular Session with a divided report (OTP-AM; ONTP), but was recommitted to committee and carried over to the 2nd Regular Session. In the 2nd Session, LD 1318 was again reported out of committee on a divided report and recommitted to committee. The majority report was **Committee Amendment "B" (H-440)**. Finally, LD 1318 was reported out of committee with a divided report, with **Committee Amendment "C"** described below as the majority report. Committee Amendment "C" was adopted, and further amended by House Amendment "A".

Committee Amendment "C" (H-848) proposed to replace the bill. Rather than allowing harvesters and haulers to collectively bargain with forest landowners to establish rates of compensation, this amendment proposed to require a state forestry rate proceeding panel to establish rates of compensation, based on factors set forth in the statute. The amendment proposed to authorize forest products haulers and harvesters to organize associations and to negotiate collectively with certain landowners, provided their activities are preparatory to and for the purpose of an authorized rate-setting proceeding and provided that any tentative agreement was reviewed and approved by the rate-setting panel. A forest landowner or any group of 3 or more harvesters or haulers would be permitted to file a

Joint Standing Committee on Labor

petition for determination of rates. The proposal would apply to landowners that own at least 400,000 acres in a labor market area.

House Amendment "A" to Committee Amendment "C" (H-864) proposed to clarify that rates set by the forestry rate proceedings panel apply only to a forest landowner, as defined in Committee Amendment "C," not to other owners of forest land.

See also LD 1964, Public Law 2003, chapter 674, which limits application of the rate-setting process.

Enacted Law Summary

Public Law 2003, chapter 670 establishes a process by which a state panel, upon petition, sets rates of compensation for harvesting and hauling services provided under contract on certain forestlands in the State. The rate-setting procedure applies only to services performed on lands owned by entities that own or control more than 400,000 acres of forest land in a labor market area. (See also, LD 1964, PL chapter 674 which further limits application of the law)

Chapter 670 sets forth legislative findings to support the need for the State to displace existing market forces in such situations, where overwhelming market power of such landowners results in the absence of a sufficiently competitive market.

A forest landowner subject to the law, or a group of 3 or more harvesters or haulers may begin a rate-setting process by filing a petition with the forestry rate proceeding panel created in the law. The panel is established under the State Board of Arbitration and Conciliation, and consists of 3 members: one neutral member who is a representative of the public on the State Board of Arbitration and Conciliation, one member representing the interests of forest landowners and one member representing the interests of harvesters and haulers. Members are appointed by the Governor. The cost of panel proceedings will be borne equally by parties to the rate-setting process. Panel decisions are subject to judicial review in the same manner as for other final agency actions. The law sets forth a list of factors for the panel to consider in setting rates, e.g., the impact of the rates on the competitive position of the landowner, harvester and hauler expenses, fair rates of return on investment, species of tree and method of harvesting, and environmental laws.

The law authorizes harvesters and haulers to form associations to participate in the rate determination proceedings. Those associations may also negotiate with forest landowners prior to the rate determination proceeding, but any tentative agreement reached in those negotiations must be reviewed and approved by the rate-setting panel.

LD 1380

An Act To Promote Safety and Fair Labor Practices for Forestry Workers

PUBLIC 616

Sponsor(s)
FAIRCLOTH
EDMONDS

Committee Report
OTP-AM

Amendments Adopted
H-810

LD 1380 proposed to enact provisions relating to safety and working conditions for forestry workers engaged on a temporary or seasonal basis to perform reforestation activities in the Maine woods, such as clearing brush and thinning and planting trees.