

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

First Regular Session

Bill Summaries

*Joint Standing Committee
on
Labor*

July 2003

Members:

*Sen. Betheda G. Edmonds, Chair
Sen. Steven S. Stanley
Sen. Kenneth Blais*

*Rep. William J. Smith, Chair
Rep. Deborah J. Hutton
Rep. Paul R. Hatch
Rep. John L. Patrick
Rep. Thomas R. Watson
Rep. Russell P. Treadwell
Rep. Philip Cressey, Jr.
Rep. Robert W. Nutting
Rep. Theodore H. Heidrich
Rep. Troy D. Jackson*

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Maine State Legislature



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

121st Maine Legislature First Regular 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).

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 PURSUANT TO HP 1212</i>	<i>Bills carried over to the 2nd Regular 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 IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</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/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</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>NOT PROPERLY BEFORE THE BODY</i>	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PASSED</i>	<i>Joint Order passed in both bodies</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>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

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

Joint Standing Committee on Labor

Committee Amendment "A" (S-228) proposed to clarify that those who enroll in the group health plan authorized in the bill must meet the eligibility criteria set forth in the federal law that provides for tax credits for enrollment in the plan by certain unemployed persons.

Enacted Law Summary

Public Law 2003, chapter 348 makes group health insurance coverage available to certain displaced workers, retirees and their dependents who are eligible to receive federal health insurance subsidy payments under the federal Trade Adjustment Assistance Reform Act of 2002.

Public Law 2003, chapter 348 was enacted as an emergency measure, effective May 29, 2003.

LD 1618 **An Act To Clarify the Employment Status of Court Reporters, Stenographers and Videographers** **CARRIED OVER**

<u>Sponsor(s)</u> WATSON		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1618 proposes to specify that court reporters, stenographers and videographers are independent contractors, for purposes of unemployment insurance.

LD 1619 **An Act To Provide Equitable Treatment to State Employees** **PUBLIC 423**

<u>Sponsor(s)</u> RICHARDSON J TREAT		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-531
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LD 1619 proposed to amend state law relating to overtime pay to include state employees in the law requiring payment of time-and-a-half for hours worked in excess of 40 hours in a week. The bill also proposed to amend the remedy provision so that state employees who are not paid the appropriate overtime wage recover only the amount of unpaid wages, not liquidated damages or attorney's fees as provided for private sector employees. It proposed a 3-year statute of limitations for violations if violation of the law is willful.

It also proposed to amend the workers' compensation law to provide that state employees who are barred from suing the State under admiralty law or certain federal laws because of sovereign immunity would not be excluded from coverage under the state workers' compensation law.

Committee Amendment "A" (H-531) proposed to remove legislative employees from the provision requiring overtime pay for other state employees. It also proposed to add language to make clear that compensatory time agreements that may be used to comply with federal overtime laws applicable to public employees may also be used to comply with the overtime rate provisions being applied to executive and judicial employees.

Enacted Law Summary

Public Law 2003, chapter 423 amends certain state labor laws to equalize the treatment of state employees to the treatment of private sector employees. Recent United States Supreme Court cases have ruled that the State, as an

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employer, cannot be sued under certain federal employment laws unless the State consents to be sued. Instead of waiving immunity to allow state employees to sue the State under federal labor law, PL 2003, chapter 423 amends state labor laws to provide remedies to state employees under state law.

It includes state employees, except for legislative employees, in the law requiring employers to pay time-and-a-half for overtime hours worked. Currently all public employees are exempt from that requirement. It amends the remedy provision so that state employees who are not paid the appropriate overtime wage recover only the amount of unpaid wages, not liquidated damages or attorney's fees as provided for private sector employees. It provides for a 3-year statute of limitations for violations of the minimum wage law for state employees if the violation of the law is willful. Compensatory time may in some instances be substituted for overtime pay, when allowed by federal law.

PL 2003, chapter 423 amends the workers' compensation law to provide that state employees who are barred from suing the State under admiralty law or certain federal laws because of sovereign immunity are not excluded from coverage under the state workers' compensation law.

LD 1627

Resolve, Regarding Legislative Review of Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers Helpers, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards

**RESOLVE 74
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-556
	OTP-AM MIN	

LD 1627 proposed to authorize the Department of Labor to finally adopt a major substantive rule: Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers Helpers.

Committee Amendment "B" (H-556), the minority report of the Joint Standing Committee on Labor, proposed to authorize final adoption of the rule relating to alternative methods of payment for truck drivers and drivers helpers. It proposed to require the Department of Labor to seek an Attorney General's opinion on the same issue as provided in the majority committee report and to report the results of the opinion and the department's recommendations in response to the opinion to the Joint Standing Committee on Labor.

Committee Amendment "A" (H-555), the majority report of the Joint Standing Committee on Labor, proposed that the Department of Labor is not authorized to finally adopt its rule, Chapter 14. It proposed to require the department to seek a legal opinion from the Attorney General regarding the Department's ability to consider work performed outside the State in regulating pay for work performed within the State, e.g., in counting hours worked outside the State in considering whether a person is entitled to overtime pay for work performed within the State. It proposed to require the Department to meet with the Labor Committee to discuss the Attorney General's opinion and the department's recommendations relating to the opinion. Finally, it proposed to require the department to resubmit rules to the Second Regular Session of the 121st Legislature. This committee amendment was not adopted.

Enacted Law Summary

Resolve 2003, chapter 74 authorizes final adoption of Department of Labor Rule Chapter 14, which sets forth an alternative method of payment for overtime worked by certain trucker drivers and drivers' helpers, allowing