

# 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  
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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](http://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 1721**                    **An Act To Amend the Fees Paid to Attorneys for Lump-sum Settlements in Workers' Compensation Cases**                    **ONTP**

<u>Sponsor(s)</u> BRYANT PATRICK		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1721 proposed to amend the limit on attorney's fees for lump-sum settlements in workers' compensation. Under current law, the limit is a graduated percentage of the settlement ranging from 5 to 10 percent of the amount. LD 1721 proposed to limit the amount to 25% of the settlement.

**LD 1722**                    **An Act To Clarify the Prevailing Wage Law**                    **ONTP**

<u>Sponsor(s)</u> EDMONDS SMITH W		<u>Committee Report</u> OTP-AM    MAJ ONTP        MIN		<u>Amendments Adopted</u>
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LD 1722 proposed that the prevailing wage rate that must be paid on publicly funded construction projects under the jurisdiction of the Davis-Bacon or other federal act is the higher of the federal and state prevailing wage rates.

**Committee Amendment "A" (S-413)** proposed to delay the effective date of the bill until July 1, 2005.

**LD 1733**                    **An Act To Clarify the Severance Pay Law**                    **PUBLIC 624**

<u>Sponsor(s)</u> CLARK DAVIS P		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-815
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LD 1733 was a concept draft that proposed to ensure that severance pay is paid to the former employees of Great Northern Paper Company, which filed for Chapter 11 bankruptcy protection on January 9, 2003.

**Committee Amendment "A" (H-815)** proposed to amend the severance pay law to clarify that severance pay liability imposed by state law is mitigated as a result of a contract providing for severance pay only if the contractual severance pay has actually been paid pursuant to the terms of the contract. The amendment proposed to apply to all claims for severance pay that have not been paid, adjudicated or finally resolved and to those claims that are pending on the date of enactment, including, but not limited to, claims by the former employees of Great Northern Paper Company.

***Enacted Law Summary***

## *Joint Standing Committee on Labor*

Public Law 2003, chapter 624 clarifies that severance pay liability imposed by state law is mitigated when a person is entitled to severance pay under a collective bargaining agreement or other contract only if the contractual severance pay has actually been paid.

**LD 1760**

**An Act To Amend the Random Drug Testing Laws**

**PUBLIC 547**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVIELLO MARTIN	OTP-AM	H-711

LD 1760 proposed to amend the laws regarding random or arbitrary substance abuse testing of employees. It proposed that, in workplaces with 50 or more employees, if the employer chooses to require random or arbitrary substance abuse testing, then all employees of the employer who are not covered under a collective bargaining agreement would be subject to the random or arbitrary testing. Such employers would be required to form an employee committee to establish testing policies, and the Department of Labor would select employees to be tested.

**Committee Amendment "A" (H-711)** proposed to replace the bill. It proposed to allow employers of 50 or more employees to impose random or arbitrary testing programs that apply to all employees, except those covered by a collective bargaining agreement, as an alternative to other random or arbitrary testing programs. If an employer chooses to exercise the option, the employer would be required to form an employee committee to establish policies for the testing program, which must include a medical professional trained in substance abuse testing. A person or entity independent from employer influence, such as a medical review officer, would make the determination of which employees would be tested at any one time. Unionized employees would be included in such a testing program only if inclusion is part of their collective bargaining agreement.

### ***Enacted Law Summary***

Public Law 2003, chapter 547 amends the State's workplace substance abuse testing laws to provide employers of 50 or more nonunionized employees a 3rd option for establishing a random or arbitrary substance abuse testing program. Under current law, random or arbitrary testing programs may be imposed only on persons in safety-sensitive positions or pursuant to a collective bargaining agreement. This law allows certain employers a 3rd option: a random or arbitrary substance abuse testing program that applies to all employees, regardless of position. Unionized employees are included in such a testing program only if inclusion is part of their collective bargaining agreement. Employers are required to form an employee committee to write the policies regarding this type of testing program. Selection of individuals to be tested must be made by an entity independent from employer influence.