

# 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  
Business, Research and Economic Development*

*May 2004*

**Members:**

*Sen. Lynn Bromley, Chair*

*Sen. Christopher G. L. Hall*

*Sen. Kevin L. Shorey*

*Rep. Nancy B. Sullivan, Chair*

*Rep. Lillian LaFontaine O'Brien*

*Rep. Guy J. Duprey, Jr.*

*Rep. Edward Pellon*

*Rep. Nancy E. Smith*

*Rep. Susan M. Austin*

*Rep. Robert A. Berube*

*Rep. Lawrence E. Jacobsen*

*Rep. Stephen R. Beaudette*

*Rep. William T. Rogers, Jr.*

**Staff:**

*James Adolf, Legislative Analyst*

*Office of Policy and Legal Analysis*

*13 State House Station*

*Augusta, ME 04333*

*(207) 287-1670*



## *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
ONT P.....	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**

**LD 1843**

**An Act To Require Surety Bonding by Payroll Processing Companies**

**PUBLIC 668**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNLAP	OTP-AM MAJ	H-838
HALL	ONTP MIN	H-902 SULLIVAN

LD 1843 proposed to strengthen the laws regarding payroll processors by:

1. Requiring a payroll processor to maintain a surety bond equal to the 4-year aggregate of all employer and employee taxes handled by the payroll processor. A new payroll processor or a processor without a 4-year history would be required to obtain a bond of at least \$100,000;
2. Restricting the use of the funds held by the payroll processor to deposits in insured financial institutions or investments in government bonds or the stocks, bonds or commercial paper of other specific institutions as long as those institutions are highly rated by a nationally recognized statistical rating organization;
3. Requiring a bonding company to immediately notify the Department of Professional and Financial Regulation of the cancellation, termination or lapse of a surety bond;
4. Imposing a civil penalty of up to \$1,000 per day for each day that the payroll processor fails to maintain the required surety bond and a civil penalty up to or equal to the amount illegally invested by the payroll processor;
5. Requiring the payroll processor to submit to annual audits to be conducted by the Department of Professional and Financial Regulation; and
6. Shifting from the State Tax Assessor to the Department of Professional and Financial Regulation oversight and responsibility for payroll processors.

**Committee Amendment "A" (H-838)** proposed to replace the bill. The amendment proposed to:

1. Designate the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation as the administrator for the licensing program for payroll processors other than those payroll processors that are wholly owned subsidiaries of financial institutions; for payroll processors that are wholly owned subsidiaries of financial institutions, the amendment proposed to designate the Superintendent of Financial Institutions within the Department of Professional and Financial Regulation as the administrator for the licensing program;
2. Require that payroll processors be licensed and establish a 3-tiered fee for licensure, based on the number of client employers a payroll processor serves, as follows: \$250 for processors serving fewer than 25 client employers; \$500 for processors serving 25 to 500 client employers; and \$750 for processors serving more than 500 client employers;
3. Restore the current statutory requirement that payroll processors provide proof of fidelity insurance;

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4. Set the amount for required surety bonds at between \$100,000 and \$500,000, depending on the amount of employers' taxes and unemployment insurance premiums handled, and authorize the administrator to modify the surety bonding requirement if the bonds are not available;
5. Triple existing statutory fines for failure to register per violation, from a range of \$500 to \$2,500 to a range of \$1,500 to \$7,500 for failure to obtain a license per violation;
6. Require disclosures by payroll processors to client employers, including quarterly accountings of funds disbursed, notice of methods by which the employers may verify that taxes have been paid and limitations of surety bonds;
7. Prohibit payroll processors from being designated as sole recipients of delinquency notices for tax payments;
8. Require notification when bond coverage lapses, as in the bill, and establish each day of lapsed coverage as a civil violation subject to a penalty of \$1,500 to \$7,500;
9. Establish regulatory powers of the administrator of the licensing program, including regular and special examinations, subpoena power, inspection and maintenance of records, assessment of expenses and rule-making authority. The amendment also proposed to allow the administrator to use an internal or external audit of a payroll processor to supplement or substitute for the administrator's own regular examination;
10. Enable the administrator to contract with other agencies, including for the purpose of sharing confidential information in furtherance of the licensing program and enforcement;
11. Establish enforcement actions available to the administrator, including cease and desist actions, bond forfeiture, civil actions, increased regulatory oversight and license suspensions and revocations, as well as a private right of action; and
12. Establish procedures for the administrator to appoint a receiver in cases of insolvency or potential liquidation of a payroll processor.

**House Amendment "C" to Committee Amendment "A" (H-902)** proposed to specify that a payroll processor that does not have the authority to access, control, direct, transfer or disburse a client's funds would not be subject to the provisions requiring disclosure or surety bonding.

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

Public Law 2003, chapter 668 strengthens the laws regarding payroll processors in the following ways:

1. It designates the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation as the administrator for the licensing program for payroll processors other than those payroll processors that are wholly owned subsidiaries of financial institutions; for payroll processors that are wholly owned subsidiaries of financial institutions, the law designates the Superintendent of Financial Institutions within the Department of Professional and Financial Regulation as the administrator for the licensing program;
2. It requires that payroll processors be licensed and establishes a 3-tiered fee for licensure, based on the number of client employers a payroll processor serves, as follows: \$250 for processors serving fewer than 25 client employers; \$500 for processors serving 25 to 500 client employers; and \$750 for processors serving more than 500 client employers;

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3. It sets the amount for required surety bonds at between \$100,000 and \$500,000, depending on the amount of employers' taxes and unemployment insurance premiums handled, and authorizes the administrator to modify the surety bonding requirement if the bonds are not available. It also exempts payroll processors that do not have the authority to access, control, direct, transfer or disburse client funds from the surety bonding requirements;
4. It triples existing statutory fines for failure to register per violation, from a range of \$500 to \$2,500 to a range of \$1,500 to \$7,500 for failure to obtain a license per violation;
5. It requires disclosures by payroll processors to client employers, including quarterly accountings of funds disbursed, notice of methods by which the employers may verify that taxes have been paid and limitations of surety bonds. It also exempts payroll processors that do not have the authority to access, control, direct, transfer or disburse client funds from the disclosure requirements;
6. It prohibits payroll processors from being designated as sole recipients of delinquency notices for tax payments;
7. It requires notification when bond coverage lapses and establishes each day of lapsed coverage as a civil violation subject to a penalty of \$1,500 to \$7,500;
8. It establishes regulatory powers of the administrator of the licensing program, including regular and special examinations, subpoena power, inspection and maintenance of records, assessment of expenses and rule-making authority. The law also allows the administrator to use an internal or external audit of a payroll processor to supplement or substitute for the administrator's own regular examination;
9. It enables the administrator to contract with other agencies, including for the purpose of sharing confidential information in furtherance of the licensing program and enforcement;
10. It establishes enforcement actions available to the administrator, including cease and desist actions, bond forfeiture, civil actions, increased regulatory oversight and license suspensions and revocations, as well as a private right of action; and
11. It establishes procedures for the administrator to appoint a receiver in cases of insolvency or potential liquidation of a payroll processor.

**LD 1879**

**An Act To Amend the Boiler and Pressure Vessel Law**

**PUBLIC 597**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN SULLIVAN	OTP-AM	S-431

LD 1879 proposed to eliminate the statutory requirement that steam boilers not exceeding 15 pounds per square inch or hot water and hot water supply boilers not exceeding 160 pounds per square inch or 250 degrees Fahrenheit owned by schools and municipalities be operated by licensed boiler operators. It also proposed to eliminate the distinction between the 2 types of boiler operator's licenses, combining them into one boiler operator's license.