

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Judiciary*

July 2006

Members:

Sen. Barry J. Hobbins, Chair

Sen. Lynn Bromley

Sen. David R. Hastings III

Rep. Deborah L. Simpson, Chair

Rep. Sean Faircloth

Rep. Stan Gerzofsky

Rep. Marilyn E. Canavan

Rep. Mark E. Bryant

Rep. Michael Edward Dunn

Rep. Roger L. Sherman

Rep. Roderick W. Carr

Rep. Joan Bryant-Deschenes

Rep. Joan M. Nass

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Maine State Legislature



Office of Policy and Legal Analysis Office of Fiscal and Program Review

122nd Maine Legislature Second 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 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 (Pocket Veto).....	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 August 23, 2006.

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Enacted law summary

Public Law 2005, chapter 587 amends the Uniform Anatomical Gift Act to include in the prioritized list of persons who can make decisions about organ donation both agents appointed under a durable health-care power of attorney or an advance health-care directive and registered domestic partners.

LD 1870

An Act To Clarify Laws Governing Eminent Domain

PUBLIC 579

<u>Sponsor(s)</u> SIMPSON		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-945
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LD 1870 was proposed in response to the United States Supreme Court decision in Kelo v. City of New London, 73 USLW 4552 (2005). The bill proposed to prohibit the use of eminent domain authority for purposes of private retail, office, commercial, industrial or residential development; primarily for the enhancement of tax revenue; or for transfer to a person, nongovernmental entity, public-private partnership, corporation or other business entity. The proposed restriction would not apply to an area upon a finding of blight under current law governing urban development and community development, or to utilities.

Committee Amendment “A” (H-945) proposed the following changes to the bill.

1. The amendment proposed to limit the new restrictions on the use of eminent domain authority to land used for agriculture, fishing or forestry or land improved with residential homes, commercial buildings or other structures. The restrictions, therefore, would not apply to vacant or open land that is not in use.
2. The amendment proposed to revise the restriction on transferring property taken through eminent domain authority to prohibit transfers to individuals and to for-profit business entities.
3. The amendment proposed to revise the blight exception to the restrictions to include property taken under housing authority programs.
4. The amendment proposed to revise the bill's provisions relating to governmental purposes that are not affected by the eminent domain restrictions. Instead of listing permitted purposes as proposed by the bill, this amendment proposed to provide that the new provisions do not prohibit municipalities and counties from exercising eminent domain authority for any purposes other than private retail, office, commercial, industrial and residential development; tax revenue enhancement; and transfers to impermissible transferees.

The amendment proposed to make the changes take effect retroactively to June 23, 2005.

See also LD 1203, LD 1297 and LD 1904.

Enacted law summary

Public Law 2005, chapter 579 prohibits the use of eminent domain authority for purposes of private retail, office, commercial, industrial or residential development; primarily for the enhancement of tax revenue; or for transfer to individuals and to for-profit business entities. The restriction does not apply to an area upon a finding of blight under current law governing urban development, community development and housing authority programs. The

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restriction does not apply to utilities. The restriction applies to land currently used for agriculture, fishing or forestry or land improved with residential homes, commercial buildings or other structures.

Public Law 2005, chapter 579 applies retroactively to the date the United States Supreme Court issued the Kelo v. City of New London opinion, which is June 23, 2005.

LD 1873

An Act Regarding Sexual Assault Forensic Examinations

PUBLIC 538

Sponsor(s)
SIMPSON

Committee Report
OTP-AM

Amendments Adopted
H-846

LD 1873 proposed to provide hospitals and health care practitioners immunity from criminal or civil liability for an act or omission in performing a forensic examination on an alleged victim of gross sexual assault under certain circumstances.

Committee Amendment “A” (H-846) proposed to replace the bill. The amendment proposed to authorize a forensic examination on an unconscious alleged gross sexual assault victim if a reasonable person would conclude that exigent circumstances justify the exam, and proposed to establish procedures for storage and testing of the kit. The amendment proposed that if the alleged victim does not regain consciousness within 60 days and therefore cannot decide whether to report the alleged offense, the State may file a motion in District Court relating to storing or processing the examination kit.

Enacted law summary

Public Law 2005, chapter 538 authorizes a forensic examination on an unconscious alleged gross sexual assault victim if a reasonable person would conclude that exigent circumstances justify the exam. The forensic examination kit must be identified without specifying the alleged victim's name and stored as required under current law. The law enforcement agency involved must notify the appropriate district attorney that the examination has been conducted and a kit has been completed.

If the alleged victim does not regain consciousness within 60 days and therefore cannot decide whether to report the alleged offense, the State may file a motion in District Court relating to storing or processing the examination kit. The District Court may order continued storage of the kit, may order it to be sent to the Maine State Police Crime Laboratory for processing or may order such other disposition that the court determines is just. The court may conduct hearings confidentially and in camera and impound pleadings and other records related to them.

LD 1874

An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships

PUBLIC 529

Sponsor(s)
SIMPSON

Committee Report
OTP-AM

Amendments Adopted
H-831

LD 1874 proposed to make changes to business and other entity filing fees to be consistent with changes that were made as part of Public Law 2003, chapter 631 and Public Law 2005, chapter 12. Additionally, this bill proposed