

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
123<sup>RD</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123<sup>rd</sup> Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON JUDICIARY**

July 2007

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\*Representative Bonnie S. Gould replaced former Representative Abigail Holman on the Judiciary Committee.

# STATE OF MAINE

123<sup>RD</sup> LEGISLATURE

FIRST REGULAR SESSION

## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS



This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 123<sup>rd</sup> Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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 (or Accepted ONTP report).....	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 non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

## Joint Standing Committee on Judiciary

Court held that a charter or ordinance must specifically authorize a board to act in the event of a vacancy. LD 1906 requires a charter or ordinance to specifically prohibit a municipal board or committee from acting in the event of a vacancy in order to have that effect.

LD 1906 is an emergency and applies retroactively to the date of the decision.

### Committee Amendment "A" (H-495)

This amendment clarifies Maine law generally, and county and municipal laws specifically, to require a statute, charter or ordinance to specifically prohibit a body from acting in the event of a vacancy in order to have that effect. Because the Law Court decision declared the actions of bodies having vacancies null and void, the amendment also clarifies that no action previously taken is invalid solely because of the existence of a vacancy or vacancies on the body.

The amendment is an emergency and validates all past actions taken by boards during periods of vacancies.

### Enacted Law Summary

Public Law 2007, chapter 396 overturns the portion of the Law Court decision in *Stevenson v. Town of Kennebunk*, 2007 ME 55, that held that a municipal board was not authorized to take any action because there was a vacancy on the board. The Law Court held that a charter or ordinance must specifically authorize a board to act in the event of a vacancy. Chapter 396 clarifies Maine law generally, and county and municipal laws specifically, to require a statute, charter or ordinance to specifically prohibit a body from acting in the event of a vacancy in order to have that effect. Because the Law Court decision declared the actions of bodies having vacancies null and void, the chapter 396 also clarifies that no action previously taken is invalid solely because of the existence of a vacancy or vacancies on the body. Chapter 396 validates all past actions taken by boards during periods of vacancies.

Public Law 2007, chapter 396 was enacted as an emergency measure effective June 21, 2007.

### LD 1923

#### An Act To Implement the Recommendations of the Right To Know Advisory Committee Creating the Public Access Ombudsman

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
		H-607      SIMPSON

LD 1923 is introduced by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G and is based on the Right To Know Advisory Committee's recommendation to establish a Public Access Ombudsman.

LD 1923 establishes the Public Access Ombudsman within the Department of the Attorney General. The ombudsman will provide information and educational materials and programs to the public, as well as public agencies and officials, in cooperation with the Right To Know Advisory Committee. The ombudsman will respond to informal inquiries, resolve freedom of access complaints when possible and issue advisory opinions concerning the State's freedom of access laws. The ombudsman is not permitted to issue an advisory opinion on an issue that is the subject of a lawsuit filed under the freedom of access laws. The ombudsman must make the advisory opinions available to the public once they are distributed to the persons requesting the advisory opinion and the parties involved. The ombudsman will make recommendations concerning ways to improve public access to public records and public proceedings. The ombudsman may request the assistance of any public agency or official in carrying out these responsibilities. The ombudsman may access records that a public agency or official believes are confidential in order to determine whether the records may be released to the public. Records that would be confidential if they were in the possession or custody of a public agency or official are confidential if those records are in the possession of the ombudsman. The ombudsman shall maintain the confidentiality of confidential records and information provided to the ombudsman. Beginning in March 2008, the ombudsman will report annually to the Legislature and

## *Joint Standing Committee on Judiciary*

the Right To Know Advisory Committee regarding the ombudsman's activities and the inquiries and complaints received. The report must also include recommendations concerning ways to improve public access to public records and proceedings.

LD 1923 is carried over pursuant to Joint Order, HP 1369.

### **House Amendment "A" (H-607)**

This amendment clarifies that the Public Access Ombudsman makes nonbinding recommendations concerning the release of records to the public and clarifies the manner in which those records must be handled.