

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

JOINT STANDING COMMITTEE ON JUDICIARY

May 2008

MEMBERS:

SEN. BARRY J. HOBBS, CHAIR
SEN. JOHN M. NUTTING
SEN. DAVID R. HASTINGS III

REP. DEBORAH L. SIMPSON, CHAIR
REP. JANET T. MILLS
REP. MARK E. BRYANT
REP. MICHAEL EDWARD DUNN
REP. ALAN M. CASAVANT
REP. CYNTHIA A. DILL
REP. ROBERT A. BERUBE
REP. JOAN M. NASS
REP. LAWRENCE E. JACOBSEN
REP. BONNIE S. GOULD
REP. DONNA M. LORING

STAFF:

MARGARET J. REINSCH, SENIOR ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR & FIRST SPECIAL SESSIONS



**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 Second Regular or First Special Sessions of the 123rd Maine Legislature.

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:

<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; bill died</i>
<i>ONTP (or Accepted ONTP report)</i>	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</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>

The effective date for non-emergency legislation enacted in the Second Regular Session (R2) is June 30, 2008. The effective date for non-emergency legislation enacted in the First Special Session (S1) is July 18, 2008.¹ The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills. Any bill summarized in this document having an LD number less than 1932 was a bill carried over from the First Regular Session of the 123rd Legislature.

¹ The session in which each law was enacted or finally passed (R2 or S1) is included in Appendix C.

Joint Standing Committee on Judiciary

LD 1881 An Act To Improve Transparency and Accountability in Government

PUBLIC 501

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WESTON	OTP-AM	S-439

LD 1881 amends the freedom of access laws in the following ways.

1. It creates a timeline that must be followed to comply with requests for public records.
2. It permits a person to request by telephone that a copy of a public record be mailed to that person.
3. It allows a copy of a requested public record to be mailed if the requester pays for the mailing service.
4. It establishes procedures for requests for inspection or copies of public records.

Committee Amendment "A" (S-439)

This amendment replaces the bill. Currently a person may make a Freedom of Access request of such breadth that, as a practical and legal matter, an agency's duty to respond to the request is made difficult. This amendment permits an agency or official to request clarification concerning which public record or public records are being requested. The amendment also requires an agency or official to acknowledge receipt of the request within a reasonable period of time.

Enacted Law Summary

Public Law 2007, chapter 501 permits an agency or official to request clarification from a person requesting a public record concerning which public record or public records are being sought. It also requires an agency or official to acknowledge receipt of the request within a reasonable period of time.

LD 1923 An Act To Implement the Recommendations of the Right To Know Advisory Committee Creating the Public Access Ombudsman

PUBLIC 603

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-904

LD 1923 is based on the Right To Know Advisory Committee's recommendation to establish a Public Access Ombudsman. The Judiciary Committee may report out legislation based on the Advisory Committee's recommendations pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G. LD 1923 establishes the Public Access Ombudsman within the Department of the Attorney General.

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.

This amendment was not adopted, but was incorporated into Committee Amendment "B".

Committee Amendment "A" (H-904)

This amendment:

Joint Standing Committee on Judiciary

1. Revises the establishment of the Public Access Division within the Department of the Attorney General and the appointment of the Public Access Ombudsman. It authorizes the Attorney General to establish the Public Access Division and appoint the Public Access Ombudsman as a pilot project if funding is available;
2. 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;
3. Deletes the requirement that the Public Access Ombudsman make an annual report in 2008; and
4. Repeals the provisions establishing the Public Access Division and the Public Access Ombudsman June 30, 2009.

Enacted Law Summary

Public Law 2007, chapter 607 authorizes the Attorney General to establish the Public Access Division and appoint the Public Access Ombudsman as a pilot project if funding is available. It 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. It provides for a sunset of the provisions establishing the Public Access Division and the Public Access Ombudsman on June 30, 2009.

LD 1940 An Act To Assist Distressed Businesses Organized as Limited Liability Companies

**PUBLIC 496
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLEARY	OTP-AM	H-685

This bill allows a foreign limited liability company or a domestic limited liability company, upon filing with the Secretary of State, to be excused from further filings with the Secretary of State as long as the company does not transact any business.

Committee Amendment "A" (H-685)

This amendment limits the ability of limited liability companies to temporarily withdraw from transacting business and avoid filing with the State during the dormant period to those limited liability companies organized in Maine; the benefit is not available to foreign limited liability companies. This amendment requires a domestic limited liability company to go through appropriate procedures and file a certificate of resumption with the Secretary of State before it may resume business activities. This amendment requires a domestic limited liability company to pay the same fees for filing certificates of excuse and resumption of business certificates as are imposed on business corporations.

Enacted Law Summary

Public Law 2007, chapter 496 limits the ability of limited liability companies to temporarily withdraw from transacting business and avoid filing with the State during the dormant period to those limited liability companies organized in Maine; the benefit is not available to foreign limited liability companies. Chapter 496 requires a domestic limited liability company to go through appropriate procedures and file a certificate of resumption with the Secretary of State before it may resume business activities. Chapter 496 requires a domestic limited liability company to pay the same fees for filing certificates of excuse and resumption of business certificates as are imposed on business corporations.

Public Law 2007, chapter 496 was enacted as an emergency measure effective March 14, 2008.