

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
123<sup>RD</sup> 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 123<sup>rd</sup> Maine  
Legislature coming from the

**JOINT STANDING COMMITTEE ON LABOR**

May 2008

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**STATE OF MAINE**  
123<sup>RD</sup> 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 123<sup>rd</sup> 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 &amp; 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&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; 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.<sup>1</sup> 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 123<sup>rd</sup> Legislature.

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

## Joint Standing Committee on Labor

**LD 2055    An Act To Improve the Elections Process under the Maine Labor Relations Board Laws**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CUMMINGS	ONTP	

This bill amends the labor relations laws for municipal public employees, state employees, judicial employees, and employees of the University of Maine System, the Maine Maritime Academy and the Maine Community College System as follows:

1. It requires the Executive Director of the Maine Labor Relations Board to conduct a hearing in the event of a dispute over the appropriateness of the composition of the proposed bargaining unit. The hearing must be scheduled to occur within 15 days of the filing of the petition, with the goal of completing the election within 45 days;
2. It requires an employer to recognize an employee organization that demonstrates majority support by the bargaining unit employees. Current law allows an employer to voluntarily recognize an employee organization or to ask for an election. Under this bill, unless the employer shows good cause to the board to believe that the majority support was obtained by fraud or duress, the employer must recognize the employee organization; and
3. It makes final the review by the Maine Labor Relations Board of a decision of the executive director. Current law allows a party to appeal the board's decision to the Superior Court. This bill removes that right and also removes the procedural specifications for how the board is to issue its decision.

The bill also standardizes the language of these labor relations laws, amending the laws to bring them into conformity with current drafting standards.

**LD 2095    An Act To Ensure the Freedom of Family Child Care Providers To Jointly Negotiate with the State**

**PUBLIC 672**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CUMMINGS	OTP-AM MAJ ONTP MIN	H-901 S-612    DIAMOND S-692    ROTUNDO

This bill does the following:

1. It provides for collective bargaining between the State and "Family child care providers" as defined in the bill;
2. It provides that the State be considered a public employer with regard to collective bargaining;
3. It specifies the issues the public employer and the bargaining agent are obligated to confer and negotiate in good faith upon. They include: subsidy reimbursement rates and procedures; access to health care insurance and other benefits; training and education opportunities for providers; mechanisms for improving the quality of care and the enforcement of regulations affecting the licensing of family child care providers; and governing the participation of providers in the child care subsidy program;
4. The bill delineates the procedure of submitting negotiated cost items for inclusion in the Governor's operating budget and that if the Legislature rejects any of the cost items submitted to it, those cost items be returned to the parties for further bargaining;

## *Joint Standing Committee on Labor*

5. It states that only one bargaining unit may be recognized and that it consists of all family child care providers in the State;
6. It recognizes the initial bargaining agent selected by the family child care providers in October 2007;
7. It allows the bargaining agent and the State to agree to authorized deductions of service fees from subsidy payments by the State without signed authorization from the employee;
8. The bill states that family child care providers are deemed self-employed for any purpose except those designated in the bill; and
9. It states the intent to apply state action exemption to the application of federal and state antitrust laws to the family child care providers and their representatives.

### **Committee Amendment "A" (H-901)**

This amendment adds to the definition section of the bill. In addition to "Family child care provider," it defines "Collective bargaining," and "Issues of mutual concern."

The amendment further delineates the collective bargaining process, adding contract grievance arbitration, payment procedures, member dues, and representation or service fees for nonmembers, while stating specifically that retirement benefits or coverage by the state employee health insurance program are not issues of mutual concern and may not be bargained for.

The amendment provides a procedure to resolve collective bargaining disputes. It also ensures that the Department of Health and Human Services and the family child care providers' collective bargaining agent work collaboratively in the establishment of this relationship.

### **Senate Amendment "A" (S-612)**

This amendment grandfathers the membership, as of May 1, 2008, of an active regional or local family child care provider association incorporated as a nonprofit corporation with the Secretary of State. This grandfathered status allows, but does not require, the local association members to elect to become a member of the collective bargaining agent or to pay service fees pursuant to the collective bargaining agreement.

### **Senate Amendment "B" (S-692)**

This amendment requires the Commissioner of Administrative and Financial Services to review vacant positions throughout State Government and identify one additional position to be eliminated to achieve a minimum savings of \$106,952 in the General Fund.

### **Enacted Law Summary**

Public Law 2007, chapter 672 provides for collective bargaining between the State and family child care providers.

It does the following:

1. It defines "Collective bargaining," "Family child care provider," and "Issues of mutual concern." Issues of mutual concern include training and other requirements and opportunities that are appropriate for providers; reimbursement rates; payment procedures; contract grievance arbitration; member dues deduction; representation or service fees for nonmembers; and any other changes to current practice that would improve recruitment and retention of qualified providers, would improve the quality of the programs provided, would encourage providers to seek additional education and training, and would promote the health and safety of providers and the children in their care.

## *Joint Standing Committee on Labor*

2. It provides that the State be considered a public employer with regard to collective bargaining;
3. It delineates the procedure for collective bargaining of issues of mutual concern between the State and providers;
4. It supplies the process for submitting negotiated cost items for inclusion in the Governor's operating budget to the Legislature. It further explains that if the Legislature rejects any of the cost items submitted to it, those cost items be returned to the parties for further bargaining;
5. It states that only one bargaining unit may be recognized and that it consists of all family child care providers in the State;
6. It recognizes the initial bargaining agent selected by the family child care providers in October 2007;
7. It provides a procedure to resolve collective bargaining disputes;
8. It states that family child care providers are deemed self-employed for any purpose except those designated in the law;
9. It grandfathers the membership, as of May 1, 2008, of an active regional or local family child care provider association incorporated as a nonprofit corporation with the Secretary of State. This grandfathered status allows the local association members to elect whether to become a member of the collective bargaining agent or to pay service fees pursuant to the collective bargaining agreement;
10. It requires the Department of Health and Human Services and the family child care providers' collective bargaining agent work collaboratively in establishing a constructive relationship; and
12. It further requires the Commissioner of Administrative and Financial Services to review vacant positions throughout State Government and identify one additional position to be eliminated to achieve a minimum savings of \$106,952 in the General Fund.

**LD 2127    An Act To Increase the Per Diem for Members of the Workers' Compensation Board**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	ONTP	

This bill increases the compensation for Workers' Compensation Board members from \$100 to \$200 per day.

**LD 2132    An Act To Amend the Family Medical Leave Laws To Include Siblings**

**PUBLIC 519**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE STRIMLING	OTP-AM	H-725

This bill allows an employee to take family medical leave for a sibling with a serious health condition or who dies.

**Committee Amendment "A" (H-725)**

This amendment modifies the bill to allow an employee to take family medical leave for a sibling with a serious health condition or who dies while on active military duty if the sibling and the employee are jointly responsible for