

MAINE STATE LEGISLATURE

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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 UTILITIES AND
ENERGY**

May 2008

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STAFF:

LUCIA A. NIXON, LEGISLATIVE 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.

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the commission determines that it is in the interests of Maine consumers for Maine's transmission and distribution utilities to provide timely notice of nonrenewal of membership in Independent System Operator New England. The amendment adds some clarifying language regarding the elements of the plan. The amendment prohibits the Public Utilities Commission from issuing the order prior to March 31, 2009 that directs the development of the plan. The amendment requires the commission to report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15, 2009 on its findings and determinations on the subject of nonrenewal of membership in Independent System Operator New England and authorizes the committee, after holding a public hearing on that report, to submit legislation on the subject.

Enacted Law Summary

Resolve 2007, chapter 193 directs the Public Utilities Commission to order Maine's 3 investor-owned transmission and distribution utilities to file with the commission a plan to form an alternative structure to hold, manage, dispatch and expand the transmission assets of the investor-owned transmission and distribution utilities if the commission determines that it is in the interests of Maine consumers for Maine's transmission and distribution utilities to provide timely notice of nonrenewal of any membership in Independent System Operator New England. The resolve prohibits the Public Utilities Commission from issuing the order directing the development of a plan for an alternative transmission organization structure prior to March 31, 2009. The resolve also requires the commission to report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters by January 15, 2009 on its findings and determinations on the subject of nonrenewal of membership in Independent System Operator New England and authorizes the committee, after holding a public hearing on that report, to submit legislation on the subject.

Resolve 2007, chapter 193 was enacted as an emergency measure effective April 10, 2008.

LD 2255

An Act To Protect Maine's Energy Sovereignty through the Designation of Energy Infrastructure Corridors and Energy Plan Development

PUBLIC 656

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARTLETT	OTP-AM MAJ OTP-AM MIN	H-970 BLISS H-999 ADAMS S-561

Part A of this bill authorizes the Public Utilities Commission to designate energy infrastructure corridors within the state for the purpose of siting energy infrastructure and establishes procedures for the commission to designate such corridors. It requires a person to obtain a certificate of public convenience and necessity from the commission prior to developing or constructing energy infrastructure within a designated corridor and establishes environmental review requirements for energy infrastructure projects within a corridor. It allows the commission to grant exemptions from municipal zoning and land use ordinances for projects within a designated corridor. It also grants eminent domain authority to the commission and to a person that receives a certificate from the commission for development within a corridor.

Part B authorizes the Public Utilities Commission to direct all investor-owned transmission and distribution utilities, not just those that serve more than 50,000 retail customers, to enter into long-term contracts and expands the situations in which the commission may direct these utilities to enter into long-term contracts. Part B expands the definition of long-term contracts under this section to include contracts for differences or other financial instruments. It also authorizes the commission itself to enter into contracts for differences or other financial instruments.

Part C of this bill establishes in statute the Governor's Office of Energy Independence and Security and sets forth the policy and purpose of that office. Part C also specifies the duties and responsibilities of the director of the office, and it amends the membership of the Energy Resources Council to add the director of Governor's Office of Energy

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Independence and Security and make the director the chair of the council.

Committee Amendment "A" (S-561)

This amendment is the majority report of the committee. The amendment makes the following changes to Part A of the bill regarding the designation of energy infrastructure corridors and development of energy infrastructure within such corridors:

1. It limits the Public Utilities Commission's authority to designate energy infrastructure corridors in several ways. It eliminates the provision of the bill that allows the commission to commence a proceeding to designate a corridor on its own action and instead allows the commission to commence such a proceeding only upon the petition of the Executive Department, Governor's Office of Energy Independence and Security, the Office of the Public Advocate or a developer who can demonstrate to the commission the technical and financial capability to develop energy infrastructure. It also specifies that the commission may designate a corridor only through major substantive rulemaking. It requires that the commission limit the geographic area of the corridor and prohibits the commission from designating a corridor that is located on certain lands, including tribal lands, state park lands and federally owned lands. It expands the list of entities with whom the commission must consult prior to designating a corridor.
2. It clarifies and adds greater specification to the provisions of the bill regarding the requirements for development and construction of energy infrastructure within a corridor in several ways. It requires potential developers to obtain either a certificate of public convenience and necessity or a corridor use certificate from the Public Utilities Commission and obtain a consolidated environmental permit from the Department of Environmental Protection. The corridor use certificate is required for projects that are not covered by existing law related to certificates of public convenience and necessity for transmission lines, and an application for a corridor use certificate must be processed in an adjudicatory proceeding. The amendment clarifies the environmental review process that is required for proposed energy infrastructure projects and provides for the issuance of a consolidated environmental permit by the Department of Environmental Protection to take the place of any other permits or licenses the department would otherwise require for the proposed project.
3. It largely replaces the language in the bill regarding eminent domain authority to clarify and limit the eminent domain authority of transmission and distribution utilities, of holders of corridor use certificates who are not transmission and distribution utilities and of the Public Utilities Commission within an energy infrastructure corridor. The commission's eminent domain authority is specifically limited as follows: the authority may only be exercised in an adjudicatory proceeding upon petition of the Office of the Public Advocate or the Governor's Office of Energy Independence and Security demonstrating that such action is urgently needed to avoid substantial harm to electricity consumers regarding anticipated activity associated with an energy infrastructure corridor; the amount of land or easement taken is limited to that required to prevent the identified harm to consumers; and the authority does not apply to personal property, fixtures and improvements that constitute transmission and distribution plant. The amendment authorizes the commission, in an adjudicatory proceeding and upon petition of the Office of the Public Advocate or the Governor's Office of Energy Independence and Security, to transfer lands or easements acquired by eminent domain provided that a transmission and distribution utility is given the right of first refusal. The amendment also requires the commission to report to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the circumstances of any taking by eminent domain.
4. It adds language to clarify that the provisions regarding energy infrastructure corridor designation and development do not modify existing restrictions on providing service within a utility's service territory.
5. It requires the Public Utilities Commission to adopt by rule standards and procedures to implement the energy infrastructure corridor laws. The bill permits but does not require such rulemaking.

The amendment makes the following changes to Part B of the bill regarding long-term contracting authority:

1. It replaces the provision of the bill that authorizes the commission to direct investor-owned transmission and

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distribution utilities to enter into contracts for differences and other financial instruments with a provision that authorizes the commission to permit, but not require, such utilities to enter into contracts for differences, but not other financial instruments.

2. It eliminates the provision of the bill that authorizes the commission to enter into contracts for differences and other financial instruments.
3. It adds provisions to direct the commission to allow transmission and distribution utilities to submit bids for interruptible, demand response or energy efficiency resources and to ensure that long-term contracts are consistent with the State's goals for greenhouse gas reduction.
4. It adds language to allow an investor owned-transmission and distribution utility to recover in rates any gains or losses derived from contracts for differences.

The amendment makes the following changes to Part C of the bill regarding the Governor's Office of Energy Independence and Security:

1. It adds several duties of the Director of the Governor's Office of Energy Independence and Security beyond the duties specified in the bill. The additional duties include working in collaboration with utilities and state agencies to negotiate agreements with developers of renewable generation in order to create value for Maine consumers and monitoring policy, planning and regulatory approval processes relating to energy transmission capacity and energy infrastructure development.
2. It adds a provision to repeal language in existing law that requires the Executive Department, State Planning Office to formulate a biennial state energy resources plan. Instead the Governor's Office of Energy Independence and Security is required to prepare and submit a comprehensive state energy plan every 2 years.
3. It amends the provision in the bill relating to the membership of the Energy Resources Council to provide that, for each state agency represented on the council, the member is the executive head of that agency or that person's designee.
4. It clarifies the contents of the Energy Resources Council's work plan and its inclusion in the council's annual report to the Legislature.

House Amendment "A" (H-970)

This amendment requires that rules adopted to designate an energy infrastructure corridor must include a public hearing to allow members of the public to submit oral or written testimony or comments. It also requires the Public Utilities Commission to address all written comments and state its rationale for adopting or rejecting any proposal contained in the comments. The amendment also requires the commission to dismiss a petition if the petition was filed by a person other than the Office of the Public Advocate, Executive Department, Governor's Office of Energy Independence and Security or an interested person as defined in the Maine Revised Statutes, Title 35-A, section 122. The amendment also requires the commission to consult, notify and accept comments from certain people prior to designating an energy infrastructure corridor.

House Amendment "B" (H-999)

This amendment repeals the provisions of the bill relating to the designation and use of energy infrastructure corridors on July 30, 2011.

Enacted Law Summary

Public Law 2007, chapter 656 has three parts. Part A of this law provides for the designation of energy infrastructure corridors and development of energy infrastructure within such corridors. The Public Utilities Commission is authorized to commence a proceeding to designate an energy infrastructure corridor only upon the

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petition of the Executive Department, Governor's Office of Energy Independence and Security, the Office of the Public Advocate or a developer who can demonstrate to the commission the technical and financial capability to develop energy infrastructure, and the commission may designate a corridor only through major substantive rulemaking. The law requires that designation of an energy infrastructure corridor by done through major substantive rule and must include a public hearing to allow members of the public to submit oral or written testimony or comments. Part A requires potential developers of energy infrastructure within a corridor to obtain either a certificate of public convenience and necessity or a corridor use certificate from the Public Utilities Commission and obtain a consolidated environmental permit from the Department of Environmental Protection. It provides eminent domain authority within an energy infrastructure corridor under certain limited conditions. It requires the Public Utilities Commission to adopt by rule standards and procedures to implement the energy infrastructure corridor laws. The provisions of this law regarding energy infrastructure corridors are repealed on July 30, 2011.

Part B of this law authorizes the Public Utilities Commission to direct all investor-owned transmission and distribution utilities, not just those that serve more than 50,000 retail customers, to enter into long-term contracts. It also allows the commission to direct these utilities to enter into long-term contracts for purposes of lowering the cost of electricity for electric ratepayers. It authorizes the commission to permit, but not require, these utilities to enter into contracts for differences that are designed to buffer ratepayers from negative impacts from transmission development. It directs the commission to allow transmission and distribution utilities to submit bids for interruptible, demand response or energy efficiency resources and to ensure that long-term contracts are consistent with the State's goals for greenhouse gas reduction. It also allows an investor owned-transmission and distribution utility to recover in rates any gains or losses derived from contracts for differences.

Part C of this law establishes in statute the Governor's Office of Energy Independence and Security and sets forth the policy and purpose of that office. Part C also specifies the duties and responsibilities of the director of the office, and it amends the membership of the Energy Resources Council to add the director of Governor's Office of Energy Independence and Security and make the director the chair of the council. It repeals language in existing law that requires the Executive Department, State Planning Office to formulate a biennial state energy resources plan and instead requires the Governor's Office of Energy Independence and Security to prepare and submit a comprehensive state energy plan every 2 years.

The Joint Standing Committee on Utilities and Energy, by letter dated April 23, 2008, requested that the Department of Environmental Protection and the Public Utilities Commission examine the adoption of specific standards in support of the State's goals for greenhouse gas reduction and participation in the regional greenhouse gas initiative.

LD 2265 An Act To Reduce the Amount Collected for the Purpose of the E-9-1-1 System

**PUBLIC 637
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RINES	OTP-AM	H-929

This bill reduces the statewide E-9-1-1 surcharge from 50¢ per month to 45¢ per month.

Committee Amendment "A" (H-929)

This amendment reduces the statewide E-9-1-1 surcharge to 30¢ per line per month, rather than to 45¢ per line per month as proposed in the bill. The amendment adds a provision to the bill to require the Public Utilities Commission, Emergency Services Communication Bureau to conduct a thorough review of the E-9-1-1 fund, including but not limited to surcharge revenue history and projections, expenditure history and projections and unexpended amounts in the fund, and to make a recommendation regarding the E-9-1-1 surcharge amount going forward. The Emergency Services Communication Bureau is required to report the results of its review and recommendation regarding the surcharge to the joint standing committee of the Legislature having jurisdiction over