

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the First Regular Session of the 124th Maine Legislature coming from the

JOINT STANDING COMMITTEE ON JUDICIARY

July 2009

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STATE OF MAINE

124TH 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 124th 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:

| | |
|---|---|
| CARRIED OVER..... | Carried over to a subsequent session of the Legislature |
| 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; bill died |
| ONTP (or Accepted ONTP report)..... | Ought Not To Pass report accepted; bill died |
| P&S XXX..... | Chapter # of enacted Private & Special Law |
| 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 |

The effective date for non-emergency legislation enacted in the First Regular Session of the 124th Legislature is September 12, 2009. 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

LD 1207 An Act To Base the Value of Eminent Domain Takings on Going Concern Value

**ACCEPTED ONTP
REPORT**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|----------------------------|---------------------------|
| GILES | OTP-AM MAJ ONTP MIN | |

This bill establishes an impartial ombudsman and defines the ombudsman's duty, which is to ensure business owners who lose property by eminent domain are properly compensated. The role of the ombudsman does not preclude the role of the State Claims Commission. This bill establishes the criteria for determination of compensation for loss or impairment of the going concern value of a business when the property of a business is to be taken by the Department of Transportation or a municipality exercising its eminent domain power. The burden is on the business to prove the loss. The analysis takes place at the request of the owner of the displaced business. This process applies to compensation to be paid by municipalities when exercising eminent domain authority under general authorization provisions and for economic development purposes. This bill adds to the duties of the State Claims Commission the duty to include determination of just compensation in two categories of municipal condemnations: general eminent domain authority under the Maine Revised Statutes, Title 30-A, chapter 151 and community development under Title 30-A, chapter 205.

Committee Amendment "A" (H-361)

This amendment is the majority report. The amendment adds an appropriations and allocations section to the bill. (Not adopted)

LD 1208 An Act To Encourage Transparency in the Oversight of Interscholastic Activities

ONTP

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

This bill amends the definition of "public proceedings" under the freedom of access laws to require an association that oversees interscholastic activities in public or private schools and that receives funding from those schools to provide public access to the transaction of any functions of that association affecting a citizen of the State.

See LD 1306.

LD 1209 An Act Regarding the Consent of Minors To Receive Substance Abuse and Mental Health Treatment

ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| DAVIS P | ONTP | |

Joint Standing Committee on Judiciary

This bill requires a minor to have been living separately from parents and independent of parental support, be or have been legally married, be or have been a member of the Armed Forces of the United States or have been emancipated by a court in order to be able to consent to treatment for abuse of alcohol or drugs or for emotional or psychological problems.

LD 1216 An Act To Strengthen the Kinship Preference in Child Welfare Residential Placement

ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| PERRY J | ONTP | |

This bill strengthens the preference for placement with adult relatives over nonrelated caregivers in child welfare placement of a child.

LD 1256 An Act To Prohibit Predispute Mandatory Binding Arbitration Clauses in Consumer Contracts

Carried Over

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| FLAHERTY BLISS | | |

This bill prohibits predispute mandatory binding arbitration clauses in consumer contracts.

This bill was carried over pursuant to Joint Order, H.P. 1053.

LD 1265 Resolve, Regarding Low-profit Limited Liability Companies

RESOLVE 97

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|--------------------|-------------------------|---------------------------|
| FLEMINGS NASS R | OTP-AM | H-410 |

This bill creates a new form of limited liability company that is formed for a charitable or education purpose within the meaning of the United States Internal Revenue Code of 1986 and does not have as a significant purpose the production of income or the appreciation of property or the purpose of accomplishing a political or legislative purpose and must contain the abbreviation "L3C" or "l3c" in its name.

Committee Amendment "A" (H-410)

This amendment replaces the bill and changes the title. It converts the bill into a resolve that directs the Department of the Secretary of State, Bureau of Corporations, Elections and Commissions to review information about low-profit limited liability companies and consult with attorneys who practice in this area. The bureau shall submit a report to the Joint Standing Committee on Judiciary in January 2010. The Joint Standing Committee on Judiciary may report out legislation based on the report.