

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 LABOR

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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 Labor

investment in the previous calendar year; the total amount of employee and employer contributions to the retirement system in the previous calendar year and the total amount of payout to retirees, categorized by plan status; and the number of persons who applied for disability retirement during the previous calendar year;

9. Addresses a decision of the Superior Court that discriminates against all employees who take more than 30 days of unpaid leave during any period of their last 5 years of retirement system service, regardless of their total service in the retirement system;

10. Provides that a member whose employer wrongly or incorrectly enrolls a member in the Maine Public Employees Retirement System does not lose any retirement benefits. The State does not bear responsibility for the employer's mistake; and

11. Requires the Maine Public Employees Retirement System to report back to the Joint Standing Committee on Labor with the results of the implementation of the changes required by this legislation by January 10, 2010. The joint standing committee may report out legislation in the Second Regular Session of the 124th Legislature.

LD 1361

Resolve, Directing the Department of Labor and the Department of Health and Human Services To Establish a Work Group To Clarify the Working Status of Respite Care and Shared Living Residential Service Providers for Individuals with Developmental Disabilities

RESOLVE 96

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-229

This bill exempts services performed by certain direct support providers, including respite care providers, from the definition of "employment" in the laws governing unemployment compensation and exempts certain direct support providers from the definition of "employee" in the laws governing minimum wages and workers' compensation.

Committee Amendment "A" (S-229)

This amendment creates a resolve that directs the Commissioner of Labor and the Commissioner of Health and Human Services to create a work group that includes the representatives from each department and members of the Workers' Compensation Board, the Maine State Employees Association and the Maine Association of Community Service Providers to examine the services and tasks performed by respite care and shared living residential service providers for adults and children with developmental disabilities to determine if there are ways to clearly identify the working status of those providers. The work group is directed also to examine whether statutory or regulatory actions are needed to provide clarification of the providers' status. The Commissioner of Labor and the Commissioner of Health and Human Services are directed to report the work group's findings and any recommendations to the Joint Standing Committee on Labor by December 15, 2009. The Joint Standing Committee on Labor is authorized to introduce legislation during the Second Regular Session of the 124th Legislature.

Enacted Law Summary

Resolve 2009, chapter 96 directs the Commissioner of Labor and the Commissioner of Health and Human Services to create a work group that includes the representatives from each department and members of the Workers' Compensation Board, the Maine State Employees Association and the Maine Association of Community Service Providers to examine the services and tasks performed by respite care and shared living residential service providers for adults and children with developmental disabilities to determine if there are ways to clearly identify the working status of those providers. The work group is directed also to examine whether statutory or regulatory actions are needed to provide clarification of the providers' status. The Commissioner of Labor and the Commissioner of Health and Human Services are directed to report the work group's findings and any recommendations to the Joint Standing

Joint Standing Committee on Labor

Committee on Labor by December 15, 2009. The Joint Standing Committee on Labor is authorized to introduce legislation during the Second Regular Session of the 124th Legislature.

LD 1384 An Act To Clarify Apportionment of Benefits for Multiple Work Injuries

PUBLIC 301

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	OTP-AM	S-203

This bill is in response to the Maine Supreme Judicial Court's decision in *Legassie v. Securitas, Inc.*, 2008 ME 43, 944 A.2d 495. The decision in that case authorized a reduction to an injured worker's wage replacement and medical benefits because of a previously settled workers' compensation claim. This bill specifies that reducing an injured worker's benefits because of a prior settled injury is direct apportionment against the employee and is prohibited.

This bill clarifies the applicability of the Maine Supreme Judicial Court's decision in *Cust v. University of Maine*, 2001 ME 29, 766 A.2d 566. This bill specifies that when an injured worker's permanent impairment rating under the Maine Revised Statutes, Title 39-A, section 213, subsection 1-A is above the applicable threshold on account of a single injury or the sum of multiple injuries, all of the worker's weekly benefits under the Maine Workers' Compensation Act of 1992 are exempt from the durational limit of Title 39-A, section 213, subsection 1.

This bill also makes clear that Title 39-A, section 354 applies to all injuries no matter when the injury occurred.

Committee Amendment "A" (S-203)

The amendment clarifies that there will be no reduction of an employee's entitlement to any workers' compensation benefits based on the lump sum settlement of a prior work-related injury.

Enacted Law Summary

Public Law 2009, chapter 301 clarifies there will be no reduction of an employee's entitlement to any workers' compensation benefits based on the lump sum settlement of a prior work-related injury.

LD 1431 Resolve, To Reform Public Retirement Benefits and Eliminate Social Security Offsets

RESOLVE 111

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	OTP-AM	S-230

This resolve directs the Maine Public Employees Retirement System, the Commissioner of Administrative and Financial Services and the State Employee Health Commission, within their existing resources, to design a unified pension and benefit plan to apply to all state employees and teachers that are first hired after December 31, 2010. It authorizes submission of the proposed unified pension and benefit plan, together with proposed implementing legislation, to the Joint Standing Committee on Labor no later than December 10, 2009 and authorizes the committee to report out a bill to the Second Regular Session of the 124th Legislature. Under this unified pension and benefit plan:

1. In order to enhance portability of benefits and eliminate the issues associated with the government pension offset and the windfall elimination provision of the federal Social Security Act, every state employee and teacher subject to