

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

July 2009

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# STATE OF MAINE

124<sup>TH</sup> 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 124<sup>th</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:

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 124<sup>th</sup> 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

This bill provides that salary information as it relates to an individual state, county, municipal, school, University of Maine System, Maine Community College System or Maine Maritime Academy employee is confidential. Salary information as it relates to specified positions, identified by those positions, is public information.

**LD 1377**

### **An Act To Amend the 1980 Maine Implementing Act To Authorize the Establishment of a Tribal Court for the Houlton Band of Maliseet Indians and Related Matters**

**PUBLIC 384**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLEARY BLISS	OTP-AM	H-561

This bill provides the Houlton Band of Maliseet Indians with Tribal Court authority. This bill removes the sunset on the authority of law enforcement of the Houlton Band of Maliseet Indians. This bill provides for eligibility for state funding for the Houlton Band of Maliseet Indians. This bill amends the membership of the Maine Indian Tribal-State Commission to include two members appointed by the Houlton Band of Maliseet Indians and two more appointed by the Governor. The bill deletes language that pertained to the selection of the first chair of the Maine Indian Tribal-State Commission, as that is no longer necessary. It also includes provisions for the replacement of the chair of the commission.

#### **Committee Amendment "A" (H-561)**

This amendment replaces the bill and authorizes the establishment of the Houlton Band of Maliseet Indians tribal court, addresses the law enforcement authority of the Houlton Band of Maliseet Indians and provides options for making payments in lieu of taxes. This amendment is divided in Parts A, B, C, D, E, F and G. Part A addresses issues relating to the Houlton Band of Maliseet Indians; law enforcement authority and options for payments to municipalities in lieu of taxes. Part A requires approval as required by 25 United States Code, Section 1725(e)(2) by the Houlton Band of Maliseet Indians. Part B establishes the Houlton Band Tribal Court with jurisdiction only over members of the Houlton Band of Maliseet Indians. Parts D and E provide opportunities to expand the jurisdiction to members of the Penobscot Nation and the Passamaquoddy Tribe. Part B requires approval as required by 25 United States Code, Section 1725(e)(2) by the Houlton Band of Maliseet Indians. Part C covers full faith and credit of judicial proceedings. It requires approval by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation as required by 25 United States Code, Section 1725(e). Part D gives the Houlton Band of Maliseet Indians tribal court jurisdiction over members of the Penobscot Nation. It takes effect only if the Houlton Band of Maliseet Indians and the Penobscot Nation approve it as required by 25 United States Code, Section 1725(e). Part E gives the Houlton Band of Maliseet Indians tribal court jurisdiction over members of the Passamaquoddy Tribe. It also amends the jurisdiction of the Passamaquoddy tribal court to give that court jurisdiction over members of the Houlton Band of Maliseet Indians. Part E takes effect only if the Houlton Band of Maliseet Indians and the Passamaquoddy Tribe approve it as required by 25 United States Code, Section 1725(e). Part F amends the Maine Indian Tribal-State Commission statutes to add two members of the Houlton Band of Maliseet Indians and two additional state representatives. It deletes obsolete language and revises language concerning the replacement of the chair. Part F takes effect only if the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve it as required by 25 United States Code, Section 1725(e). Part G directs the Revisor of Statutes to rename the headnote of the Maine Revised Statutes, Title 30. It does not require approval of the tribes.

#### **Enacted Law Summary**

Public Law 2009, chapter 384 includes seven parts. Parts A through F require the approval of one or more of the Federally-Recognized Tribes in Maine to take effect; Part G takes effect September 12, 2009.

## *Joint Standing Committee on Judiciary*

PART A continues the law enforcement authority of the Houlton Band of Maliseet Indians contained in Title 30, section 6206-B by repealing subsection 6, which provides for the repeal of the entire section in 2010. This Part addresses payments in lieu of taxes to be made by the Houlton Band of Maliseet Indians and authorizes the acceptance of other forms of payment, including but not limited to federal funds or other assistance. Part A is effective October 1, 2009 only if the Houlton Band of Maliseet Indians approves it as required by 25 United States Code, Section 1725(e)(2).

PART B provides authority for the Houlton Band of Maliseet Indians to establish a tribal court with jurisdiction over specific subjects: Class D and E crimes committed on Houlton Band Jurisdiction Land, proceedings regarding juveniles, certain civil actions, Indian child custody issues and other domestic relations actions. The band may decide whether to exercise jurisdiction over each category of jurisdiction and shall notify the Attorney General when it is prepared to exercise jurisdiction. Until the band exercises its exclusive jurisdiction over a category of jurisdiction, the State has exclusive jurisdiction over that category of actions. The band may choose to terminate its jurisdiction and may later reassert the jurisdiction and must notify the Attorney General when that occurs. Under this Part, the tribal court has jurisdiction only over members of the Houlton Band of Maliseet Indians. The tribal court may exercise jurisdiction over two parcels of Houlton Band Trust Land defined in the amendment as "Houlton Band Jurisdiction Land." The tribal court is effective only if the State, the Passamaquoddy Tribe and the Penobscot Nation agree to give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet Indians, and the Houlton Band of Maliseet Indians gives full faith and credit to the judicial proceedings of the Passamaquoddy Tribe, the Penobscot Nation and the State. Part C provides the full faith and credit requirement. Part B takes effect October 1, 2009 if the Houlton Band of Maliseet Indians approves this Part as required by 25 United States Code, Section 1725(e)(2).

PART C provides that the State, the Passamaquoddy Tribe and the Penobscot Nation shall give full faith and credit to the judicial proceedings of the Houlton Band of Maliseet Indians, and that the Houlton Band of Maliseet Indians shall give full faith and credit to the judicial proceedings of the State, the Passamaquoddy Tribe and the Penobscot Nation. Part C takes effect upon the Houlton Band of Maliseet Indians approving Part B and the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approving this Part as required by 25 United States Code, Section 1725(e).

PART D gives the Houlton Band of Maliseet Indians tribal court jurisdiction over members of the Penobscot Nation within the same categories of subject matter jurisdiction that the tribal court has over the members of the Houlton Band of Maliseet Indians under Part B. Part D takes effect upon the Houlton Band of Maliseet Indians approving Part B, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approving Part C and the Houlton Band of Maliseet Indians and the Penobscot Nation approving this Part as required by 25 United States Code, Section 1725(e).

PART E gives the Houlton Band of Maliseet Indians tribal court jurisdiction over members of the Passamaquoddy Tribe within the same categories of subject matter jurisdiction that the tribal court has over the members of the Houlton Band of Maliseet Indians under Part B. It also amends the jurisdiction of the Passamaquoddy Tribal Court to provide that court with jurisdiction over members of the Houlton Band of Maliseet Indians. Part E takes effect upon the Houlton Band of Maliseet Indians approving Part B, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approving Part C and the Houlton Band of Maliseet Indians and the Passamaquoddy Tribe approving this Part as required by 25 United States Code, Section 1725(e).

PART F amends the Maine Indian Tribal-State Commission statutes to add two members of the Houlton Band of Maliseet Indians and two additional state representatives. It deletes obsolete language and revises language concerning the replacement of the chair. Part F takes effect only if the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation approve it as required by 25 United States Code, Section 1725(e). PART G directs the Revisor of Statutes to rename the headnote of Title 30 from "Municipalities and Counties" to "Federally Recognized Indian Tribes." It does not require approval of the tribes.