

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

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

July 2009

STAFF:

CAROLYN RUSSO, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

MEMBERS:

TROY DALE JACKSON, CHAIR
SEN. STAN GERZOFKY
SEN. PETER MILLS

REP. JOHN L. TUTTLE, JR., CHAIR
REP. HERBERT E. CLARK
REP. TIMOTHY E. DRISCOLL
REP. ANNA D. BLODGETT
REP. STEVEN J. BUTTERFIELD
REP. PAUL E. GILBERT
REP. ANDRE E. CUSHING III
REP. JAMES MICHAEL HAMPER
REP. MICHAEL D. THIBODEAU
REP. BRUCE A. BICKFORD

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

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

Joint Standing Committee on Labor

the plan will be covered under Social Security;

2. All new employees will be members of a common health plan with benefits that are identical to those paid for in accordance with current law and collective bargaining contracts;
3. In addition to Medicare and Social Security, each member will be entitled to a supplemental defined pension and retiree health benefit;
4. The present actuarial cost of retiree benefits under the plan will be limited to 6% of payroll to be divided equally between the employee and the employer;
5. Continuing health coverage will be offered to retirees and their dependents;
6. A retired member may receive a subsidy of up to 90% of the cost for the retiree's own health insurance and up to 45% of the cost of a spouse or dependent. The level of subsidy will be graduated to reflect length of service;
7. The future cost of retiree health benefits will be paid into an existing dedicated revenue account by assessing the current payroll of active members a percentage that is divided equally between the member and the member's employer;
8. Each member's supplemental defined pension will be calculated as a percentage of base year compensation times years of service. The percentage, rounded to the nearest tenth, will be calculated based on funding available after deducting the cost of the retiree health benefit from the 6% total benefit cost; and
9. A vested member may retire after 30 years of service or at 62 years of age, whichever occurs first. A member who retires early may recover 1.5 times the member's own contribution plus 6% interest if benefits are withdrawn as cash, or 1.8 times the member's own contribution plus 6% interest if the benefits are withdrawn in the form of an annuity.

Committee Amendment "A" (S-230)

This amendment replaces the resolve and establishes a task force to design a unified pension and benefit plan to apply to all state employees and teachers who are first hired after December 31, 2010. 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 the plan will be covered under Social Security;
2. All new employees will be members of a common health plan with benefits that are identical to those paid for in accordance with current law and collective bargaining contracts;
3. In addition to Medicare and Social Security, each member will be entitled to a supplemental defined pension and retiree health benefit;
4. The present actuarial cost of retiree benefits under the plan will be divided equally between the employee and the employer;
5. Continuing health coverage will be offered to retirees and their dependents;
6. A retired member may receive a subsidy of up to 100% of the cost for the retiree's own health insurance and up to 50% of the cost of a spouse or dependent. The level of subsidy will be graduated to reflect length of service;

Joint Standing Committee on Labor

7. The future cost of retiree health benefits will be paid into an existing dedicated revenue account by assessing the current payroll of active members a percentage that is divided equally between the member and the member's employer;

8. Each member's supplemental defined pension will be calculated as a percentage of base year compensation multiplied by years of service. The percentage, rounded to the nearest tenth, will be calculated based on funding available after deducting the cost of the retiree health benefit from the 6% total benefit cost; and

9. A vested member may retire after 30 years of service or at 62 years of age, whichever occurs first. A member who retires early may recover 1.5 times the member's own contribution plus 6% interest if benefits are withdrawn as cash, or 1.8 times the member's own contribution plus 6% interest if the benefits are withdrawn in the form of an annuity.

The resolve directs the task force to submit a report on the design of the unified pension and benefit plan, together with proposed implementing legislation, to the Joint Standing Committee on Labor no later than March 1, 2010 and authorizes the committee to report out a bill to the Second Regular Session of the 124th Legislature.

Enacted Law Summary

Resolve 2009, chapter 111 establishes a task force to design a unified pension and benefit plan to apply to all state employees and teachers who are first hired after December 31, 2010. 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 the plan will be covered under Social Security;

2. All new employees will be members of a common health plan with benefits that are identical to those paid for in accordance with current law and collective bargaining contracts;

3. In addition to Medicare and Social Security, each member will be entitled to a supplemental defined pension and retiree health benefit;

4. The present actuarial cost of retiree benefits under the plan will be divided equally between the employee and the employer;

5. Continuing health coverage will be offered to retirees and their dependents;

6. A retired member may receive a subsidy of up to 100% of the cost for the retiree's own health insurance and up to 50% of the cost of a spouse or dependent. The level of subsidy will be graduated to reflect length of service;

7. The future cost of retiree health benefits will be paid into an existing dedicated revenue account by assessing the current payroll of active members a percentage that is divided equally between the member and the member's employer;

8. Each member's supplemental defined pension will be calculated as a percentage of base year compensation multiplied by years of service. The percentage, rounded to the nearest tenth, will be calculated based on funding available after deducting the cost of the retiree health benefit from the 6% total benefit cost; and

9. A vested member may retire after 30 years of service or at 62 years of age, whichever occurs first. A member who retires early may recover 1.5 times the member's own contribution plus 6% interest if benefits are withdrawn as cash, or 1.8 times the member's own contribution plus 6% interest if the benefits are withdrawn in the form of an annuity.

Joint Standing Committee on Labor

The resolve directs the task force to submit a report on the design of the unified pension and benefit plan, together with proposed implementing legislation, to the Joint Standing Committee on Labor no later than March 1, 2010 and authorizes the committee to report out a bill to the Second Regular Session of the 124th Legislature.

**LD 1441 An Act To Amend and Clarify the Application of the Laws Regarding
Severance Pay**

ONTP

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

This bill makes the following changes to the laws governing severance pay.

1. It increases the time from a 12-month to a 36-month period in which a "covered establishment" employs or has employed 100 or more persons preceding termination or relocation.
2. It adds a definition of "employee."
3. It changes the definition of "physical calamity" by stating it applies only to involuntary bankruptcy petitions filed under Chapter 11.
4. It changes the definition of "week's pay" to include the greater of the average weekly pay in the last 12 months or the employee's wage rate at the time of termination or relocation multiplied by the number of hours in that employee's most recently scheduled work week.
5. It provides that certain provisions of the labor laws that apply to the payment of wages and penalties for the nonpayment of wages also apply to severance pay.
6. It creates a presumption that whenever an employer lays off 100 or more employees at a covered establishment that the affected employees are eligible for severance pay. The employer has the burden of proof that the lay-off is not permanent.
7. It provides that an employee due severance pay is eligible for payment from the Maine Wage Assurance Fund.

The Committee carried forward this concept, in an amended form, in LD 1469.

**LD 1454 An Act To Provide Additional Unemployment Benefits and Make
Statutory Revisions in Accordance with the American Recovery and
Reinvestment Act of 2009**

**PUBLIC 33
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL E		S-63 DIAMOND

This bill amends the Maine Revised Statutes, Title 26, section 1193, subsection 1, paragraph A, which governs unemployment benefit disqualification exceptions for voluntarily leaving one's job, in order to meet the unemployment insurance modernization provision requirements under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, Section 2003, and ensures that the State qualifies for receiving the maximum