

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
SECOND REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON UTILITIES AND
ENERGY**

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STATE OF MAINE

124TH LEGISLATURE
SECOND 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 Second 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:

<i>CARRIED OVER</i>	<i>Carried over to a subsequent session of the Legislature</i>
<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 HOUSES</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 of the 124th Legislature is Monday, July 12, 2010. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

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Utilities Commission and transmission and distribution utilities with respect to utility incentive issues and voltage regulation technologies in the context of smart grid implementation. It requires the trust to report on its examination and evaluation as part of the annual report of the trust that is due by December 1, 2010.

LD 1778 An Act To Enable the Installation of Broadband Infrastructure

PUBLIC 612
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DILL BARTLETT	OTP-AM	H-784 H-807 HINCK

This bill establishes a new entity known as a "dark fiber provider." A dark fiber provider is an entity providing fiber-optic cable without equipment for transmitting communications and that provides dark fiber to all carriers and end users on an open-access basis and without unreasonable discrimination and is subject to grant-related requirements, restrictions and conditions imposed by the Federal Government and secured by security interests granted to the Federal Government. Dark fiber providers must file informational rate schedules with the Public Utilities Commission and adhere to those rate schedules and must post their rates on publicly accessible websites. A dark fiber provider may use the public right-of-way for its facilities and may enter into joint use agreements with respect to the facilities of public utilities and cable television providers and may opt to carry out any required make-ready engineering and make-ready work at its own expense.

Committee Amendment "A" (H-784)

This amendment replaces the bill and also modifies the emergency preamble. This amendment:

1. Defines a dark fiber provider as an entity that owns, controls, operates or manages federally supported dark fiber and that meets other qualifications and establishes that a dark fiber provider is a telephone utility under the public utility laws of the Maine Revised Statutes, Title 35-A;
2. Authorizes a dark fiber provider to construct lines and to place facilities along public roads in the same manner as other telephone utilities for the purposes of constructing and maintaining its federally supported dark fiber and authorizes the Public Utilities Commission to resolve pole attachment disputes involving a dark fiber provider with respect to the construction and maintenance of federally supported dark fiber;
3. Requires that a dark fiber provider apply for approval from the Public Utilities Commission to offer federally supported dark fiber and requires that the commission approve or deny the application and make its decision on any waivers or exemptions requested by the dark fiber provider within 60 days of its receipt of the application. The commission may extend its review if it determines that it requires additional time, but must issue its order no later than 90 days after receipt of the application; and
4. Establishes a broadband sustainability fee that a dark fiber provider must collect from entities that obtain federally supported dark fiber from the dark fiber provider. For the first five years the fee is \$3 per month multiplied by the number of miles of strand purchased, leased or used; the fee then drops to \$2 per month. The fee ends on December 31, 2017. The funds are administered by the ConnectME Authority. Five percent of the funds is deposited in the ConnectME Fund and is available to support the authority's administrative expenses and for use in accordance with the authority's current statutory purposes. The remaining funds are deposited in a separate broadband sustainability fund administered by the authority. These funds may be disbursed to an incumbent local exchange carrier to fund deployment of broadband infrastructure in unserved areas within the carrier's service territory or, if there are no unserved areas, to increase available broadband speeds for customers within the carrier's service territory. The portion of the funds within the broadband sustainability fund available to each incumbent

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local exchange carrier is calculated based on that portion of the total miles of leased, sold or used federally supported dark fiber in the State that is leased, sold or used within the carrier's service territory. The funds remain available in the broadband sustainability fund for one year and, if not disbursed to carriers, are transferred to the ConnectME Fund, unless the authority for good cause shown extends this period. To receive funds the carrier must provide a request and a certification relating to the use of the funds for deployment of broadband infrastructure in unserved areas or to increase available broadband speeds. The carrier is required to use the funds in accordance with that certification. All funds remaining in the broadband sustainability fund at the end of the third year after the broadband sustainability fee ceases are transferred to the ConnectME Fund.

House Amendment "B" To Committee Amendment "A" (H-807)

This amendment modifies Committee Amendment "A" as follows.

1. It clarifies that incumbent local exchange carriers have a limited right of first refusal to access the broadband sustainability fund.
2. Committee Amendment "A" provides that funds not requested by incumbent local exchange carriers within one year are transferred to the ConnectME Fund but allows the ConnectME Authority to extend this time period. This amendment removes the ability of the ConnectME Authority to extend the one-year time frame. This amendment also provides that all funds remaining in the broadband sustainability fund one year after the broadband sustainability fee ceases are transferred to the ConnectME Fund.
3. It limits the use by an incumbent local exchange carrier of disbursements from the broadband sustainability fund to the deployment of broadband infrastructure in unserved areas within the carrier's service territory.

Enacted Law Summary

Public Law 2009, chapter 612:

1. Defines a dark fiber provider as an entity that owns, controls, operates or manages federally supported dark fiber and that meets other qualifications and establishes that a dark fiber provider is a telephone utility under the public utility laws of the Maine Revised Statutes, Title 35-A;
2. Authorizes a dark fiber provider to construct lines and to place facilities along public roads in the same manner as other telephone utilities for the purposes of constructing and maintaining its federally supported dark fiber and authorizes the Public Utilities Commission to resolve pole attachment disputes involving a dark fiber provider with respect to the construction and maintenance of federally supported dark fiber;
3. Requires that a dark fiber provider apply for approval from the Public Utilities Commission to offer federally supported dark fiber and requires that the commission approve or deny the application and make its decision on any waivers or exemptions requested by the dark fiber provider within 60 days of its receipt of the application. The commission may extend its review if it determines that it requires additional time, but must issue its order no later than 90 days after receipt of the application; and
4. Establishes a broadband sustainability fee that a dark fiber provider must collect from entities that obtain federally supported dark fiber from the dark fiber provider. For the first five years the fee is \$3 per month multiplied by the number of miles of strand purchased, leased or used; the fee then drops to \$2 per month. The fee ends on December 31, 2017. The funds are administered by the ConnectME Authority. Five percent of the funds is deposited in the ConnectME Fund and is available to support the authority's administrative expenses and for use in accordance with the authority's current statutory purposes. The remaining funds are deposited in a separate broadband sustainability fund administered by the authority; incumbent local exchange carriers have a limited right of first refusal to access these funds to fund deployment of broadband infrastructure in unserved areas within the carrier's service territory. The portion of the funds within the broadband sustainability fund available to each incumbent local exchange carrier is calculated based on that portion of the total miles of leased, sold or used

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federally supported dark fiber in the State that is leased, sold or used within the carrier's service territory. The funds remain available in the broadband sustainability fund for one year and, if not disbursed to carriers, are transferred to the ConnectME Fund. To receive funds the carrier must provide a request and a certification relating to the use of the funds for deployment of broadband infrastructure in unserved areas. The carrier is required to use the funds in accordance with that certification. All funds remaining in the broadband sustainability fund on December 31, 2018 are transferred to the ConnectME Fund.

Public Law 2009, chapter 612 was enacted as an emergency measure effective April 6, 2010.

LD 1783 An Act To Amend the Charter of the Kennebec Water District

P & S 38

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARRACHE	OTP-AM	S-413

This bill amends the charter of the Kennebec Water District as follows.

1. It removes the language indicating that the records of the water district are public and that the meetings are open.
2. It defines how the trustees are to establish the amount of compensation that they are entitled to receive.
3. It incorporates into the charter language enacted in Private and Special Law 1905, chapter 152 regarding the authority of the district to refund its indebtedness, exercise the right of eminent domain, mark boundaries and commence proceedings for condemnation.
4. It removes archaic language that authorizes the water district to acquire the Maine Water Company because the Maine Water Company was purchased by the Kennebec Water District pursuant to Private and Special Law 1899, chapter 200, section 6.
5. It removes archaic language that conditions the effect of the initial charter on the approval by the City of Waterville and the Fairfield Village Corporation because the City of Waterville and the Fairfield Village Corporation approved the charter at meetings held for that purpose pursuant to Private and Special Law 1899, chapter 200, section 14, first paragraph.

This bill also repeals language contained in Private and Special Law 1927, chapter 79 that conditioned a change to the Kennebec Water District charter regarding the appointment and terms of trustees on the repeal of the charters of the Kendalls Mills Village Corporation and the Fairfield Village Corporation because the charters of the Kendalls Mills Village Corporation and the Fairfield Village Corporation were repealed by Private and Special Law 1927, chapter 12.

Committee Amendment "A" (S-413)

This amendment makes various technical changes to the bill and removes certain obsolete language from the Kennebec Water District charter. It also removes from the bill the provision allowing the district trustees to establish their compensation, clarifies that the district's business must be conducted in accordance with the freedom of access laws and provides that an appeal from a decision of the district regarding a determination of damages for a taking of land must be made within 30 days of notice of the decision.

Enacted Law Summary

Private and Special Law 2009, chapter 38 amends the charter of the Kennebec Water District as follows.