

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
125TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON TAXATION

July 2011

STAFF:

ELIZABETH F. COOPER, LEGISLATIVE ANALYST
SCOTT MILLER, LEGISLATIVE ANALYST
OFFICE OF FISCAL AND PROGRAM REVIEW
5 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1635

MEMBERS:

SEN. A. DAVID TRAHAN, CHAIR
SEN. DAVID R. HASTINGS, III
SEN. RICHARD G. WOODBURY

REP. L. GARY KNIGHT, CHAIR
REP. G. PAUL WATERHOUSE
REP. BRUCE A. BICKFORD
REP. PAUL EDWARD BENNETT
REP. DAVID R. BURNS
REP. R. RYAN HARMON
REP. SETH A. BERRY
REP. DONALD E. PILON
REP. MARK E. BRYANT
REP. ELSPETH M. FLEMINGS

STATE OF MAINE
125TH LEGISLATURE
FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 125th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD 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 LD is noted to the right of the LD title. The following describes the various final actions.

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; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 125th Legislature is September 28, 2011. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Taxation

LD 1369 An Act To Simplify the Maine Income Tax Law

ONTP

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

This bill simplifies the Maine Income Tax Law and replaces the current system with a system of personal income taxation that calculates state income tax as a percentage of federal income tax liability. The bill also provides a mechanism for the State Tax Assessor to adjust the tax rate when changes in federal law are estimated to change total federal anticipated revenue by more than 4% to maintain forecasted state income tax revenue.

LD 1371 An Act To Promote Fair and Efficient Resolutions in Tax Disputes

PUBLIC 439

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KNIGHT TRAHAN	OTP-AM MAJ ONTP MIN	H-629 H-660 KNIGHT

This bill eliminates the current appellate division within the Department of Administrative and Financial Services, Bureau of Revenue Services and replaces it with the Independent Appeals Office. The bill changes provisions relating to the position of taxpayer advocate in the bureau. The funds used to support existing positions that are eliminated are transferred to support the newly created positions.

The bill amends the procedure for administrative appeals resulting from assessments and other determinations of the State Tax Assessor by providing a 90-day period within which the division that issued the determination and the taxpayer may attempt to settle disputed issues before a reconsideration conference is scheduled. It establishes a process for the Independent Appeals Office to hear and decide reconsideration requests, which are currently decided by the appellate division of the Bureau of Revenue Services but are subject to review and input by the State Tax Assessor, and by other members of the Bureau of Revenue Services, including the division of the Bureau of Revenue Services that issued the assessment. Pursuant to this bill, appeals officers are not permitted ex parte communications with other employees of the Bureau of Revenue Services or the petitioner. Any additional costs of the Independent Appeals Office may be funded by the \$100 fee paid by the petitioner for appeals conferences.

The taxpayer advocate established in the bill is modeled after the Taxpayer Advocate Service offered by the Federal Government to assist taxpayers in relation to the federal Internal Revenue Service. The taxpayer advocate assists taxpayers in relation to the Bureau of Revenue Services, identifies issues and suggests solutions to the Bureau of Revenue Services and reports on the taxpayer advocate's activities to the joint standing committee of the Legislature having jurisdiction over taxation matters in order to provide information to assist the Legislature in determining whether additional legislation is needed to improve the operations of the Bureau of Revenue Services.

This bill also provides that when the State Tax Assessor has failed to comply with the taxpayer's requests that a representative with a valid power of attorney authorized to receive communications addressed to the taxpayer be notified of a determination, then the taxpayer is considered to have not received notice of a determination until such time as the representative receives notice.

Joint Standing Committee on Taxation

This bill also preserves the confidentiality of taxpayer information by allowing taxpayers and others, upon specific request, to obtain copies of reconsideration decisions with identifying information eliminated. The costs of eliminating identifying information must be paid by the person making the request. The State Tax Assessor is also permitted to provide the Taxpayer Advocate access to information necessary to assist taxpayers. The bill provides transition provisions and an effective date of July 1, 2012.

Committee Amendment "A" (H-629)

This amendment changes the deadline in the bill for requesting reconsideration of a tax assessment from 30 days after the receipt of the notice of the assessment to 60 days after receipt of the notice. It removes the section of the bill related to notification requirements for taxpayers with a designated power of attorney.

The amendment gives the Commissioner of Administrative and Financial Services, instead of the State Tax Assessor, the authority to appoint for 5-year terms the Chief Appeals Officer in the Independent Appeals Office. The amendment requires nominations of the Chief Appeals Officer to be submitted to the Taxation Committee for review. The amendment authorizes the Commissioner or the Chief Appeals Officer to hire appeals officers and administrative staff, provides a process for removal of the Chief Appeals Officer and removes provisions that allow the assessor to file an appeal.

The amendment requires the Chief Appeals Officer to submit an annual report beginning January 1, 2013.

The amendment requires the Commissioner rather than the assessor to appoint the taxpayer advocate.

The amendment also removes the requirement that the Bureau of Revenue Services submit emergency legislation concerning the transition of cases from the old administrative appeals process to the new process.

The amendment adds an appropriations and allocations section.

House Amendment "A" To Committee Amendment "A" (H-660)

This amendment makes several changes to maintain costs within existing resources. It requires that the Chief Appeals Officer and the taxpayer advocate be hired by the Commissioner of Administrative and Financial Services rather than appointed. It specifies that the taxpayer advocate need not be an attorney. It specifies that the number of positions and salary ranges of the Independent Appeals Office and taxpayer advocate may not exceed the positions and salary ranges of the current appellate division and taxpayer advocate. It also specifies that the Department of the Attorney General is not authorized to add any positions as a result of this amendment, and it provides that the Commissioner, the State Tax Assessor and the Chief Appeals Officer shall manage the implementation of this Act to maintain costs within existing resources.

Enacted Law Summary

Public Law 2011, chapter 439 eliminates the current appellate division within the Department of Administrative and Financial Services, Bureau of Revenue Services and replaces it with the Independent Appeals Office. It requires that the personal services costs for the office do not exceed the costs of the division it replaces. It also changes provisions relating to the position of taxpayer advocate in the bureau. The funds used to support existing positions that are eliminated are transferred to support the newly created positions.

Public Law 2011, chapter 439 amends the procedure for administrative appeals by providing up to 60 days for a person who is subject to an assessment or determination to request, in writing, a reconsideration of that assessment or determination. It provides a 90-day period within which the taxpayer and the division that issued the determination may attempt to settle disputed issues before the matter is forwarded to the appeals office.

Public Law 2011, chapter 439 provides for a process for an appeal of a decision arising from a petition for reconsideration. An appeals officer presides over the appeals conference, exercises independent judgment and is prohibited from ex parte communications with other employees of the Bureau of Revenue Services or the petitioner. The appeals officer must render a written decision that includes findings of fact and conclusions of law. The

Joint Standing Committee on Taxation

decision is not subject to further review by the State Tax Assessor or any employee outside the appeals office. Additional costs of the Independent Appeals Office may be funded by a \$100 fee paid by the petitioner for appeals conferences. A taxpayer may file a petition in Superior Court if the appeal is deemed denied and the court shall conduct a de novo hearing and make a de novo determination of the case.

Public Law 2011, chapter 439 establishes the taxpayer advocate's duties and responsibilities in statute and directs the taxpayer advocate to assist taxpayers in resolving problems with the Bureau of Revenue Services, suggest solutions to the bureau and identify legislative changes that may be necessary. The taxpayer advocate may investigate complaints and make recommendations to the State Tax Assessor.

Public Law 2011, chapter 439 preserves the confidentiality of taxpayer information by allowing taxpayers and others, upon specific request, to obtain copies of reconsideration decisions with identifying information eliminated. The costs of eliminating identifying information must be paid by the person making the request. The State Tax Assessor is also permitted to provide the Taxpayer Advocate with access to information necessary to assist taxpayers. The taxpayer advocate and the Chief Appeals Officer shall report annually to Taxation Committee, the State Tax Assessor and the Governor. Public Law 2011, chapter 439 provides transition provisions and an effective date of July 1, 2012.

LD 1384 An Act To Provide a Sales Tax Holiday

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRANG BURGESS ROSEN R	OTP-AM MAJ ONTP MIN	H-288

This bill provides an exemption from the sales tax for items sold over the first weekend in October 2011 including Energy Star products. The bill also sets out exemptions to the sales tax holiday weekend. The bill requires the Executive Director of the Bureau of Revenue Services within the Department of Administrative and Financial Services to report to the State Controller the amount of sales tax unpaid, as well as revenue raised from personal and corporate income taxes and other sources, as a result of the sales tax holiday weekend. The Bureau of Revenue Services in consultation with the Maine Merchants Association is required to recommend one weekend beginning annually in 2012 to designate as a sales tax holiday weekend and report to the Joint Standing Committee on Taxation. The Joint Standing Committee on Taxation has authority to submit legislation to the Second Regular Session of the 125th Legislature pertaining to the dates that are selected for the sales tax holiday weekend.

Committee Amendment "A" (H-288)

This amendment changes the bill by limiting the sales tax holiday to one day and limiting the exemption from the sales tax to the sale of individual items of clothing up to \$200 and Energy Star products up to \$1,500. The amendment eliminates the provisions requiring certification of the amount of sales tax unpaid as well as revenue raised as a result of the sales tax holiday and submission of a report to the Joint Standing Committee on Taxation. It also adds an appropriations and allocations section.

This bill was placed on the Special Appropriations Table and died on adjournment.