

# MAINE STATE LEGISLATURE

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



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

**JOINT STANDING COMMITTEE ON ENERGY, UTILITIES  
AND TECHNOLOGY**

July 2011

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STATE OF MAINE  
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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 125<sup>th</sup> 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 125<sup>th</sup> 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.

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commission-prescribed rates that give high-performing generators a rate of return of no more than 3.5%. It requires that utilities enter into standard contracts with qualified project owners. It includes provisions for commission and legislative oversight of the program.

**LD 1455      An Act To Create Efficiencies in State Government by Transferring the Duties of the Public Advocate to the Office of the Attorney General      LEAVE TO WITHDRAW**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
THIBODEAU	LTW	

This bill transfers the major duties and responsibilities of the Public Advocate to the Attorney General effective January 1, 2013 and requires the Attorney General by January 1, 2012 to submit proposed legislation to make all statutory changes necessary to terminate the Office of the Public Advocate and to complete the transfer of the powers, duties and responsibilities of the Public Advocate to the Attorney General.

**LD 1466      Resolve, To Direct the Public Utilities Commission To Develop a Plan To Reform Telecommunications Regulation      RESOLVE 69 EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FITTS	OTP-AM	H-399

The bill establishes a finding that the public interest is best served by a State telecommunications regulatory structure that places equal regulatory obligations and burdens on all telecommunications providers, regardless of the mode of the communications. It establishes as an ultimate goal of the State to revise and reform the regulatory structure to provide equal regulatory requirements for all telecommunications providers by January 1, 2013. The bill provides that beginning January 1, 2012, the Public Utilities Commission is required to take all actions within its authority to regulate incumbent local exchange carriers essentially in the same manner as it regulates competitive local exchange carriers, unless the telephone utility consents otherwise. It does not require the Public Utilities Commission to change provisions regarding an obligation to serve as carrier of last resort, eligible telecommunications carrier or the wholesale obligations of any incumbent local exchange carrier, or, prior to January 1, 2013, change the obligations of a telephone utility imposed by a commission order that was in effect on January 1, 2011. The bill requires the Public Utilities Commission, by December 31, 2011, to submit a plan to the Legislature to ensure that, by January 1, 2013, all telecommunications providers, whether currently regulated or not, are regulated equally.

### **Committee Amendment "A" (H-399)**

This amendment replaces the bill with a resolve that directs the Public Utilities Commission to develop a plan to reform telecommunications regulation and to process any filings submitted by telephone utilities for exemptions under the Maine Revised Statutes, Title 35-A with as much deliberative speed as possible, within the constraints of existing resources. It also makes several discrete changes to the regulatory structure pending the opportunity to implement the plan for regulatory reform.

The Public Utilities Commission's plan must be consistent with certain legislative findings, including that regulatory burdens should be the minimum necessary to protect the public welfare, and, to the maximum extent practicable, the regulatory burdens on different modes of providing telecommunications services should be the same; regulatory

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reform may not result in any provider being required to submit to a net increase in regulatory burden. This does not preclude reforms that establish options under which a provider may choose for its own benefit to take on new regulatory obligations, such as provider of last resort obligations, or reforms that replace existing regulatory requirements with more appropriate requirements, provided that no provider is required to submit to a net increase in regulatory burden; and regulatory reform may not relieve any provider of complying with wholesale obligations under either State or federal law, including but not limited to those relating to access to network elements, interconnection, inter-carrier compensation, pole attachments, switched access and any other obligations established under the Communications Act of 1934, as amended, and must preserve any related rights of any provider under that Act.

In developing the plan, the commission shall consider, at a minimum, the following: the extent of existing and anticipated competition for residential and business services; the characteristics of provider of last resort service and the obligations and support mechanisms, if any, that should accompany provider of last resort service; the extent to which any telecommunications provider should be able to choose to be subject to particular regulatory provisions; the implications of federal support mechanisms, preemption of state regulation of certain services and other federal issues; the degree, if any, to which any services, including provider of last resort services, should be subject to cost of service regulation; the need for a robust telecommunications infrastructure in the State; and the status of eligible telecommunications carriers.

In developing the plan, the commission is required to seek input from interested parties but is not required to conduct an adjudicatory proceeding and to examine the current regulatory structure in accordance with the legislative findings and may not presume existing laws and rules are appropriately designed for the current competitive environment.

The commission is required to submit its plan to the Joint Standing Committee on Energy, Utilities and Technology by December 31, 2011. To the maximum extent practicable, the commission shall establish target dates for implementation of the elements of the plan that are no later than 90 days after the adjournment of the 2nd Regular Session of the 125th Legislature. The commission shall include with the plan a draft of any legislation necessary to implement the plan, and, consistent with the requirements of Title 5, chapter 375, changes to rules necessary to implement the plan. The Joint Standing Committee on Energy, Utilities and Technology is authorized to report out a bill to reform telecommunications regulation to the 2nd Regular Session of the 125th Legislature.

The following modifications to telecommunications regulation are made. Except as otherwise may be provided by superseding legislation implementing the plan developed under section 1, these modifications apply between the effective date of the resolve and 90 days after the adjournment of the Second Regular Session of the 125th Legislature.

1. The commission may not enforce provisions of any order establishing an alternative form of regulation that prohibit an incumbent local exchange carrier from charging rates for non-residential service that are below the long-run incremental cost of providing that service or that establish some other minimum price requirement for services to non-residential customers.
2. The commission may not enforce provisions of any order establishing an alternative form of regulation that impose on an incumbent local exchange carrier multiplier penalties for repeated failures to meet service quality index performance standards with respect to any actions, inactions or other performance of that carrier occurring after July 31, 2010. The commission shall include in its report the service quality performance data required to be submitted to the commission by incumbent local exchange carriers affected by this subsection, together with any summary or analysis the commission may develop to assist the Legislature in reviewing whether this provision has had any effect on service quality performance.
3. The Commission may not require any local exchange carrier to prepare or submit pursuant to section 3 of the commission's rule Chapter 140, Utility Service Area and Infrastructure Maps, or pursuant to any similar provision of

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any successor rule, infrastructure maps: in a format different from or that contain a level of detail that is greater than the maps most recently submitted by that utility pursuant to that rule prior to the effective date of this resolve; or depicting the infrastructure connecting interoffice facilities to remote terminals and digital loop carriers.

4. The commission may not require any telecommunication carrier, pursuant to the commission's rule, Chapter 200, Telecommunications Carrier Outage Reporting, to submit notices of unscheduled service outages or notices of restorations of service earlier than 7 calendar days following the restoration of service.

5. A reorganization of an incumbent local exchange carrier is not subject to commission approval unless the reorganization results in a merger, sale or transfer of a controlling interest of the incumbent local exchange carrier or any entity that owns more than 50% of the incumbent local exchange carrier, as defined in the commission's rules.

6. The commission may not enforce its rule, Chapter 230, Installation, Maintenance and Ownership of Customer Premise Wire.

Also the Public Utilities Commission is prohibited from regulating interconnected voice over Internet protocol service as a telephone service under Title 35-A, unless otherwise directed by subsequently enacted law, and any commission order that is inconsistent with this prohibition is void. The specified intent of this provision is to return interconnected voice over Internet protocol service to its status prior to the issuance by the commission of its October 27, 2010 order in docket number 2008-421. Notwithstanding any limitation that the legislative findings might impose on the commission as a result of the regulatory effects of this provision, the commission may, free of any such limitations, examine and develop recommendations regarding interconnected voice over Internet protocol service when developing its plan.

### **Enacted Law Summary**

Resolve 2001, chapter 69 directs the Public Utilities Commission to develop a plan to reform telecommunications regulation and to process any filings submitted by telephone utilities for exemptions under the Maine Revised Statutes, Title 35-A with as much deliberative speed as possible, within the constraints of existing resources. It also makes several discrete changes to the regulatory structure pending the opportunity to implement the plan for regulatory reform.

The Public Utilities Commission's plan must be consistent with certain legislative findings, including that regulatory burdens should be the minimum necessary to protect the public welfare, and, to the maximum extent practicable, the regulatory burdens on different modes of providing telecommunications services should be the same; regulatory reform may not result in any provider being required to submit to a net increase in regulatory burden (this does not preclude reforms that establish options under which a provider may choose for its own benefit to take on new regulatory obligations, such as provider of last resort obligations, or reforms that replace existing regulatory requirements with more appropriate requirements, provided that no provider is required to submit to a net increase in regulatory burden); and regulatory reform may not relieve any provider of complying with wholesale obligations under either State or federal law, including but not limited to those relating to access to network elements, interconnection, inter-carrier compensation, pole attachments, switched access and any other obligations established under the Communications Act of 1934, as amended, and must preserve any related rights of any provider under that Act.

In developing the plan, the commission shall consider, at a minimum, the following: the extent of existing and anticipated competition for residential and business services; the characteristics of provider of last resort service and the obligations and support mechanisms, if any, that should accompany provider of last resort service; the extent to which any telecommunications provider should be able to choose to be subject to particular regulatory provisions; the implications of federal support mechanisms, preemption of state regulation of certain services and other federal issues; the degree, if any, to which any services, including provider of last resort services, should be subject to cost of service regulation; the need for a robust telecommunications infrastructure in the State; and the status of eligible telecommunications carriers.

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In developing the plan, the commission is required to seek input from interested parties but is not required to conduct an adjudicatory proceeding and to examine the current regulatory structure in accordance with the legislative findings and may not presume existing laws and rules are appropriately designed for the current competitive environment.

The commission is required to submit its plan to the Joint Standing Committee on Energy, Utilities and Technology by December 31, 2011. To the maximum extent practicable, the commission shall establish target dates for implementation of the elements of the plan that are no later than 90 days after the adjournment of the Second Regular Session of the 125th Legislature. The commission shall include with the plan a draft of any legislation necessary to implement the plan, and, consistent with the requirements of Title 5, chapter 375, changes to rules necessary to implement the plan. The Joint Standing Committee on Energy, Utilities and Technology is authorized to report out a bill to reform telecommunications regulation to the 2nd Regular Session of the 125th Legislature.

The following modifications to telecommunications regulation are made. Except as otherwise may be provided by superseding legislation implementing the plan developed under section 1, these modifications apply between the effective date of this resolve and 90 days after the adjournment of the Second Regular Session of the 125th Legislature.

1. The commission may not enforce provisions of any order establishing an alternative form of regulation that prohibit an incumbent local exchange carrier from charging rates for non-residential service that are below the long-run incremental cost of providing that service or that establish some other minimum price requirement for services to non-residential customers.
2. The commission may not enforce provisions of any order establishing an alternative form of regulation that impose on an incumbent local exchange carrier multiplier penalties for repeated failures to meet service quality index performance standards with respect to any actions, inactions or other performance of that carrier occurring after July 31, 2010. The commission shall include in its report the service quality performance data required to be submitted to the commission by incumbent local exchange carriers affected by this subsection, together with any summary or analysis the commission may develop to assist the Legislature in reviewing whether this provision has had any effect on service quality performance.
3. The Commission may not require any local exchange carrier to prepare or submit pursuant to section 3 of the commission's rule Chapter 140, Utility Service Area and Infrastructure Maps, or pursuant to any similar provision of any successor rule, infrastructure maps: in a format different from or that contain a level of detail that is greater than the maps most recently submitted by that utility pursuant to that rule prior to the effective date of this resolve; or depicting the infrastructure connecting interoffice facilities to remote terminals and digital loop carriers.
4. The commission may not require any telecommunication carrier, pursuant to the commission's rule, Chapter 200, Telecommunications Carrier Outage Reporting, to submit notices of unscheduled service outages or notices of restorations of service earlier than 7 calendar days following the restoration of service.
5. A reorganization of an incumbent local exchange carrier is not subject to commission approval unless the reorganization results in a merger, sale or transfer of a controlling interest of the incumbent local exchange carrier or any entity that owns more than 50% of the incumbent local exchange carrier, as defined in the commission's rules.
6. The commission may not enforce its rule, Chapter 230, Installation, Maintenance and Ownership of Customer Premise Wire.

Also the Public Utilities Commission is prohibited from regulating interconnected voice over Internet protocol service as a telephone service under Title 35-A, unless otherwise directed by subsequently enacted law, and any commission order that is inconsistent with this prohibition is void. The specified intent of this provision is to return

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interconnected voice over Internet protocol service to its status prior to the issuance by the commission of its October 27, 2010 order in docket number 2008-421. Notwithstanding any limitation that the legislative findings in this resolve might impose on the commission as a result of the regulatory effects of this provision, the commission may, free of any such limitations, examine and develop recommendations regarding interconnected voice over Internet protocol service when developing its plan.

Resolve 2011, chapter 69 was finally passed as an emergency measure effective June 9, 2011.

**LD 1479      An Act To Minimize Conflicts between Property Owners and Grid-scale Wind Energy Developments      ONTP**

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

This bill removes statutory guidance for wind energy development standards and creates specific statewide standards for setback requirements, shadow flicker effects and decommissioning plans for grid-scale wind energy developments and offshore wind power projects. This bill limits the length of roads and utility lines associated with a grid-scale wind energy development and the type of lighting that may be placed on a wind turbine. This bill directs the Department of Environmental Protection to adopt rules concerning statewide standards for sound level limits.

The committee considered 14 bills related to wind energy development during the First Regular Session of the 125th legislature. The committee voted all of the wind energy bills, except LD 1366, An Act to Update the Maine Wind Energy Act to Include Low-emission Energy, ought-not-to-pass. The committee amendment to LD 1366 was used as a vehicle to address many of the wind energy issues brought forward in the other bills.

**LD 1483      An Act To Amend the Charter of the Sanford Sewerage District      P & S 11**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COURTNEY	OTP-AM	S-140

This bill amends the charter of the Sanford Sewerage District to incorporate certain provisions of the sanitary district laws, to increase the number of trustees from 3 to 5 and to make other technical changes.

**Committee Amendment "A" (S-140)**

This amendment makes certain technical changes to the bill to make the charter of the Sanford Sewerage District consistent with the sanitary and sewer district provisions of the Maine Revised Statutes, Title 38. The amendment provides that, prior to proposing any amendment to the charter to the Legislature, the trustees must present the amendment to the town council of the Town of Sanford for review and comment. It also replaces the provision in the bill that establishes the election to staggered terms of the trustees of the district to remove the number of votes the trustees receive as the factor that determines the terms of office.

**Enacted Law Summary**

Private and Special Law 2011, chapter 11 amends major portions of the charter of the Sanford Sewerage District to make it consistent with provisions of the sanitary and sewer district provisions of Maine Revised Statutes, Title 38.