

# 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 ENVIRONMENT AND  
NATURAL RESOURCES**

July 2011

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STATE OF MAINE  
125<sup>TH</sup> LEGISLATURE  
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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.

**Joint Standing Committee on Environment and Natural Resources**

- 3. It modifies the provision in the resolve requiring the municipal officers of the towns to establish a joint citizen advisory committee by clarifying that a joint citizen advisory committee must be established if the type of waste permitted to be disposed of at the disposal facility changes.
- 4. It adds a provision that expressly preserves the sovereign immunity of the State with respect to any agreement authorized under the resolve.

**House Amendment "A" To Committee Amendment "A" (H-635)**

This amendment provides that the State Planning Office may only acquire real estate associated with the solid waste disposal facility by donation and further provides that the donation of real estate associated with the disposal facility is conditioned on the execution of an agreement by a buyer for the acquisition of the pulp and paper mills in the Town of Millinocket and the Town of East Millinocket; the office's endeavoring to identify and implement measures to mitigate the State's closure costs, including the consideration of cost caps on the closure costs; and the office's having received from the buyer an acceptable business plan, including employment projections. The amendment also adds an emergency preamble and emergency clause.

**Enacted Law Summary**

Resolve 2011, chapter 90 authorizes the Executive Department, State Planning Office to acquire and cause to be operated an existing licensed and generator-owned solid waste disposal facility in the Town of East Millinocket known as the Dolby Landfill. The State Planning Office may only acquire real estate associated with the solid waste disposal facility by donation. The donation of real estate associated with the disposal facility is conditioned on the execution of an agreement by a buyer for the acquisition of the pulp and paper mills; the office's endeavoring to identify and implement measures to mitigate the State's closure costs, including the consideration of cost caps on the closure costs; and the office's having received from the buyer an acceptable business plan, including employment projections. Chapter 90 expressly preserves the sovereign immunity of the State with respect to any agreement authorized under the resolve. Under chapter 90, the municipality in which the disposal facility is located may not regulate the operation of the disposal facility and, if the type of waste permitted to be disposed of at the disposal facility changes, the municipal officials of the Town of East Millinocket and the Town of Millinocket are directed to establish a joint citizen advisory committee regarding the disposal facility. Chapter 90 directs the Executive Department, State Planning Office to submit a report to the Joint Standing Committee on Environment and Natural Resources by February 15, 2012 on the acquisition of the disposal facility and a review of the operations related to the disposal facility.

Resolve 2011, chapter 90 was finally passed as an emergency measure effective June 17, 2011.

**LD 1575**

**An Act To Conform the Authority of the Department of Environmental Protection to Federal Law**

**PUBLIC 357  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RAYE	OTP-AM MAJ OTP-AM MIN	S-201

This bill removes a statutory restriction on a person's serving as Commissioner of Environmental Protection if the person has received a significant portion of income directly or indirectly from license or permit holders or applicants for a license or permit under the Federal Water Pollution Control Act. The bill provides that the commissioner, employees of the Department of Environmental Protection and members of the Board of Environmental Protection may participate in National Pollutant Discharge Elimination System matters to the extent permitted under federal law and permits a commissioner who is restricted from participation to delegate duties to a department employee who is not restricted from participation.

## *Joint Standing Committee on Environment and Natural Resources*

### **Committee Amendment "A" (S-201)**

This amendment, which is the majority report of the committee, adds a provision that employees who are delegated duties when the Commissioner of Environmental Protection receives or during the previous 2 years has received a significant portion of income from National Pollutant Discharge Elimination System permit holders or applicants must be employees who do not hold major policy-influencing positions at the Department of Environmental Protection. The amendment also adds a provision requiring the Governor to submit a plan for delegating the restricted duties at the time of nomination of a person for the position of Commissioner of Environmental Protection. The amendment also makes it clear that the Commissioner of Environmental Protection is also governed by the conflict-of-interest provisions of the Maine Revised Statutes, Title 5, section 18.

### **Enacted Law Summary**

Public Law 2011, chapter 357 provides that the Commissioner of Environmental Protection may not participate in the review of or act on an application for a National Pollutant Discharge Elimination System permit or the modification, renewal or appeal of a permit under Section 402 of the Federal Water Pollution Control Act if the commissioner receives, or during the previous 2 years has received, a significant portion of income directly or indirectly from NPDES permit holders or applicants. Members of the Board of Environmental Protection are subject to similar restrictions. If the commissioner's authority is restricted, duties related to the restricted matter must be delegated to employees who do not hold major policy-influencing positions at the Department of Environmental Protection. The Governor must submit a plan for delegating the restricted duties at the time of nomination of a person for the position of Commissioner of Environmental Protection. Chapter 357 also makes it clear that the Commissioner of Environmental Protection is also governed by the conflict-of-interest provisions of the Maine Revised Statutes, Title 5, section 18.

Public Law 2011, chapter 357 was enacted as an emergency measure effective June 15, 2011.