

MAINE STATE LEGISLATURE

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STATE OF MAINE
125TH LEGISLATURE
SECOND REGULAR SESSION



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

JOINT STANDING COMMITTEE ON TAXATION

June 2012

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STATE OF MAINE

125TH LEGISLATURE
SECOND 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 Second 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.

<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; legislation died</i>
<i>DIED BETWEEN HOUSES</i>	<i>House & Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i>	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i>	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i>	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i>	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i>	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i>	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i>	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i>	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i>	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> ...	<i>ought-not-to-pass report accepted; legislation 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>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 125th Legislature is Thursday, August 30, 2012. 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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reporting those rentals and replaces it with a tax registration certificate and record-keeping requirement. Additionally, the characteristics of the registration certificates are clarified.

4. It provides that an amount claimed as an income modification for military survivor benefits may not include an amount representing employee retirement benefits for which an income modification is claimed.
5. It provides that any income recognized on a taxpayer's federal tax return from the new markets capital investment credit is subtracted from federal adjusted gross income for state income tax purposes.
6. It provides that certain refundable tax credits are included for purposes of calculating the taxpayer's alternative minimum tax credit.
7. It provides that certain refundable tax credits may be applied to reduce the taxpayer's alternative minimum tax liability.
8. It clarifies the State Tax Assessor's responsibilities with regard to special fuel tax obligations under the International Fuel Tax Agreement and further delegates responsibilities to the Secretary of State. It also clarifies that the International Fuel Tax Agreement governing documents referenced in the Maine special fuel tax law include amendments to those documents that have been adopted as of December 31, 2011.
9. It repeals the requirement for the Bureau of Revenue Services to submit to the Legislature a biennial report on the value of working waterfront land and sales of the land.
10. It repeals the requirement for the Department of Agriculture, Food and Rural Resources and the Bureau of Revenue Services to jointly submit an annual report to the Legislature on federal estate tax changes affecting Maine farmland.
11. It makes changes to the Maine fishery infrastructure investment tax credit. Under current law, a taxpayer may not claim a Maine fishery infrastructure investment tax credit if the taxpayer claims a deduction for the investment under another provision of the Maine income tax law. Public Law 2011, chapter 644 replaces this prohibition with a retroactive income tax addition modification for individuals and corporations to increase Maine taxable income by the amount of any deduction claimed for expenses that are used to calculate the Maine fishery infrastructure investment tax credit, and authorizes the Department of Administrative and Financial Services, Bureau of Revenue Services to disclose information to the Department of Inland Fisheries and Wildlife necessary to administer the Maine fishery infrastructure investment tax credit.
12. It repeals a requirement that the Bureau of Revenue Services submit a report to the Legislature regarding electronic filing mandates.

LD 1750 An Act To Create the Maine Board of Tax Appeals

**PUBLIC 694
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KNIGHT	OTP-AM MAJ OTP-AM MIN	H-860 S-603 ROSEN R

This bill makes the following changes to the laws governing appeals of decisions of the State Tax Assessor.

1. It provides the means for a taxpayer to consider that a petition for reconsideration has been denied if a

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decision has not been issued by the Department of Administrative and Financial Services, Bureau of Revenue Services within 90 days of the receipt of the petition.

2. It provides for a reconsidered decision on a small claim request at the bureau level, which may be appealed directly to the Superior Court, and defines a small claim request. It provides that all other reconsidered decisions may be appealed de novo to either the Superior Court or the Maine Board of Tax Appeals.

3. It eliminates the Independent Appeals Office, as created in Public Law 2011, chapter 439, and instead creates the Maine Board of Tax Appeals, an independent, 3-member board appointed by the Governor. The members of the board serve 3-year terms. It provides for per diem compensation to the board members and outlines the powers and duties of the board, including adopting rules necessary to oversee formal appeals of decisions of the State Tax Assessor. It creates a special revenue account for appeals fees to be used for operating expenses of the board.

4. It amends the provision in current law allowing for a redacted copy of certain documents to be made public to comply with federal confidentiality statutes and to clarify that the dissemination of those documents is on a prospective basis only.

5. It eliminates the restriction on the disclosure of information by the State Tax Assessor to the taxpayer advocate, since this bill also maintains the taxpayer advocate as an employee of the Bureau of Revenue Services.

6. It allows the State Tax Assessor to disclose information to the Maine Board of Tax Appeals and allows the board to disclose that information, but limits the disclosure to information that is pertinent to an appeal or other action or proceeding before the board.

7. It provides for the transfer of funds from the Bureau of Revenue Services to the Maine Board of Tax Appeals, the elimination of positions within the bureau, the creation of new positions in the appeals office of the Maine Board of Tax Appeals and the transition of cases from the bureau to the board.

Committee Amendment "A" (H-860)

This amendment, which is the majority report, does the following.

1. It makes the review by the Superior Court of a final determination by the State Tax Assessor or the Department of Administrative and Financial Services, Maine Board of Tax Appeals a de novo review.

2. It provides that the Chief Appeals Officer serves at the pleasure of the Commissioner of Administrative and Financial Services and is a confidential employee at salary range 33.

3. It clarifies that the board may not have any ex parte communication with or on behalf of any party, but may have such communication related to administrative matters.

4. It provides that either the taxpayer or the assessor may appeal a decision to the Superior Court.

5. It provides that a person who wishes to appeal the board's decision to the Superior Court must file a petition for review within 60 days after receipt of the board's decision or the decision becomes final and no further review is available.

6. It provides that the board begins to receive appeals on November 1, 2012, and begins to consider appeals on January 1, 2013.

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7. It eliminates provisions related to the transfer of cases between the eliminated appellate division within the Department of Administrative and Financial Services, Bureau of Revenue Services and the Maine Board of Tax Appeals, the continuation of rules, regulations, procedures and contracts and the use of related forms, licenses, letterheads and similar items.

8. It provides for the transfer of positions from the eliminated appellate division to the Maine Board of Tax Appeals and includes an appropriations and allocations section.

Committee Amendment "B" (H-861)

This amendment, which is the minority report, restores the tax appeals process that was in place prior to enactment of Public Law 2011, chapter 439. It retains the provisions of Public Law 2011, chapter 439 pertaining to the taxpayer advocate. This amendment adds an appropriations and allocations section.

This amendment was not adopted.

Senate Amendment "A" To Committee Amendment "A" (S-603)

This amendment removes the date changes regarding when appeals for reconsidered decisions of the State Tax Assessor to the Maine Board of Tax Appeals begin and when appeals to the board must be conducted in accordance with the provisions of the bill.

Enacted Law Summary

Public Law 2011, chapter 694 makes the following changes to the laws governing appeals of decisions of the State Tax Assessor.

1. It eliminates the Independent Appeals Office, as created in Public Law 2011, chapter 439, and instead creates the Maine Board of Tax Appeals, an independent, 3-member board appointed by the Governor. The members of the board serve 3-year terms. It provides for per diem compensation to the board members and outlines the powers and duties of the board, including adopting rules necessary to oversee formal appeals of decisions of the State Tax Assessor. It creates a special revenue account for appeals fees to be used for operating expenses of the board.

2. It provides the means for a taxpayer to consider that a petition for reconsideration has been denied if a decision has not been issued by the Department of Administrative and Financial Services, Bureau of Revenue Services within 90 days of the receipt of the petition.

3. It provides for a reconsidered decision on a small claim request at the bureau level, which may be appealed directly to the Superior Court, and defines a small claim request. It provides that all other reconsidered decisions may be appealed de novo to either the Superior Court or the Maine Board of Tax Appeals.

4. It makes the review by the Superior Court of a final determination by the State Tax Assessor or the Department of Administrative and Financial Services, Maine Board of Tax Appeals a de novo review.

5. It provides that the Commissioner of Administrative and Financial Services shall appoint a Chief Appeals Officer to assist the board and outlines the duties of the position.

6. It amends the provision in current law allowing for a redacted copy of certain documents to be made public to comply with federal confidentiality statutes and to clarify that the dissemination of those documents is on a prospective basis only.

7. It eliminates the restriction on the disclosure of information by the State Tax Assessor to the taxpayer advocate, since this bill also maintains the taxpayer advocate as an employee of the Bureau of Revenue Services. It allows the State Tax Assessor to disclose information to the Maine Board of Tax Appeals and allows the board to disclose that information, but limits the disclosure to information that is pertinent to an appeal or other action or proceeding

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before the board. It clarifies that the board may not have any ex parte communication with or on behalf of any party, but may have such communication related to administrative matters.

8. It provides an appeals procedures and requires that the board set a rate of no more than \$150 as a processing fee for each petition that proceeds to an appeals conference. It provides that that either the taxpayer or the assessor may appeal a decision to the Superior Court and that a person who wishes to appeal the board's decision to the Superior Court must file a petition for review within 60 days after receipt of the board's decision or the decision becomes final and no further review is available.

9. It provides for the transfer of funds from the Bureau of Revenue Services to the Maine Board of Tax Appeals, the elimination of positions within the bureau and the creation of new positions in the appeals office of the Maine Board of Tax Appeals and provides for the transfer of property and equipment from the bureau to the board.

Public Law 2011, chapter 694 was enacted as an emergency measure effective July 1, 2012.

LD 1751 *Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory*

RESOLVE 129

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KNIGHT	OTP-AM	H-748

This resolve authorizes the State Tax Assessor to convey the interest of the State in several parcels of real estate in the Unorganized Territory.

Committee Amendment "A" (H-748)

This amendment reauthorizes the State Tax Assessor to convey certain real estate in the Unorganized Territory. Authorization to convey these parcels was originally granted in Resolve 2011, chapter 54 but that authorization expires April 1, 2012, and conveyances cannot be completed by April 1, 2012, due to administrative delays. This amendment extends the deadline until April 1, 2013 and updates tax liability amounts.

Enacted Law Summary

Resolve 2011, chapter 129 authorizes the State Tax Assessor to convey the interest of the State in several parcels of real estate in the Unorganized Territory. It also reauthorizes the State Tax Assessor to convey certain real estate in the Unorganized Territory that was originally granted in Resolve 2011, chapter 54. That authorization expired April 1, 2012, and conveyances could not be completed by April 1, 2012, due to administrative delays. Resolve 2011, chapter 129 extends the deadline until April 1, 2013, and updates tax liability amounts.

LD 1752 *An Act Concerning Technical Changes to the Tax Laws*

PUBLIC 548

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KNIGHT	OTP-AM	H-767

This bill makes the following changes to the laws governing taxation.

1. It makes technical changes to correct cross-references, correct clerical errors, resolve statutory numbering