

# MAINE STATE LEGISLATURE

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



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

**JOINT STANDING COMMITTEE ON AGRICULTURE,  
CONSERVATION AND FORESTRY**

June 2012

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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 Second 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.

<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 &amp; 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&amp;S XXX</i> .....	<i>chapter # of enacted private &amp; 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 125<sup>th</sup> 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.

*Joint Standing Committee on Agriculture, Conservation and Forestry*

This bill repeals the deposit requirements for containers of limited and restricted use pesticides.

**Committee Amendment "A" (S-392)**

This amendment provides purchasers who paid a deposit on pesticide containers an opportunity to recover the deposit if the containers are returned before December 31, 2017.

**Enacted Law Summary**

Public Law 2011, chapter 510 repeals the deposit requirements for containers of limited and restricted use pesticides. It provides purchasers who paid a deposit on pesticide containers an opportunity to recover the deposit if the containers are returned before December 31, 2017.

**LD 1759 An Act To Amend the Laws Governing the Pull Events Commission**

**PUBLIC 487**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CRAY	OTP-AM	H-701

This bill reduces the number of members on the Pull Events Commission from 9 members to 5 members.

**Committee Amendment "A" (H-701)**

This amendment increases the membership of the Pull Events Commission from 9 to 10 and revises the membership. It provides for the staggering of the terms of members appointed in 2012. It requires 6 members of the 10-member commission to be present to transact business. A majority vote of those present is necessary to approve any action.

**Enacted Law Summary**

Public Law 2011, chapter 487 increases the membership of the Pull Events Commission from 9 to 10 and revises the membership by specifying that 2 members are appointed by farmers associations representing owners of animals who participate in pull events. It specifies that the fair superintendent who serves on the commission is appointed by the Commissioner of Agriculture, Food and Rural Resources. It provides for a member to be appointed by a state association of agricultural fairs. It eliminates the member representing the animal pulling industry appointed by the Commissioner of Agriculture, Food and Rural Resources. It provides for the staggering of the terms of members appointed in 2012. Subsequent appointments are for 3 years. It requires 6 members of the 10-member commission to be present to transact business and a majority vote of those present to approve any action.

**LD 1798 An Act To Reform Land Use Planning in the Unorganized Territory**

**PUBLIC 682**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-918 S-611 ROSEN R

This bill contains statutory changes to implement the recommendations of the Commission on Reform of the Governance of Land Use Planning in the Unorganized Territory. This bill is submitted by the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Resolve 2011, chapter 113, section 9.

## ***Joint Standing Committee on Agriculture, Conservation and Forestry***

It establishes a process beginning in September 1, 2015, for a county to assume authority for land use planning and regulation for the unorganized and deorganized areas of that county. It changes the Maine Land Use Regulation Commission to the Maine Land Use Planning Commission. It revises the membership to include 3 members appointed by the Governor and subject to confirmation by the Legislature and 6 members appointed by counties. The county commissioners of each of the 6 counties with the most acreage in the unorganized or deorganized areas of the state would select one among them or appoint another resident of that county to serve on the commission.

The Joint Standing Committee on Agriculture, Conservation and Forestry has not taken a position on the substance of the recommendations in the report or this bill to implement those recommendations. The committee is not suggesting and does not intend to suggest that it agrees or disagrees with the recommendations of the commission or that it supports the substance of this bill. The committee is submitting the bill for the sole purpose of turning the commission's proposal into a printed bill that can be referred to the committee for an appropriate public hearing and subsequent work sessions. The committee is taking this action to ensure clarity and transparency in the legislative review of the commission's proposal.

### **Committee Amendment "A" (H-918)**

This amendment removes the provisions for a county to assume authority for land use planning and regulation for the unorganized and deorganized areas of that county. This amendment increases the number of county nominees to the Maine Land Use Planning Commission to 8 and requires all members to be confirmed by the Senate. It includes a provision for the Governor to make a nomination if a county does not make a nomination within 90 business days of that county's being eligible to make a nomination. It requires county nominees to meet certain qualifications. It specifies that county representatives may not be nominated before December 15, 2012.

It specifies that the Maine Land Use Planning Commission retains jurisdiction over a planned subdistrict if a municipality or plantation in which the planned subdistrict is located assumes authority for land use planning and regulation unless the owner of the land delineated as a planned subdistrict agrees to the transfer of authority.

It clarifies which projects will be reviewed and permitted by the Department of Environmental Protection.

It clarifies that the Maine Land Use Planning Commission must receive certification from the Department of Environmental Protection prior to permitting non-grid-scale wind energy development.

It clarifies that certification from the Maine Land Use Planning Commission is needed prior to the Department of Environmental Protection's issuing permits under the site location of development laws. The Maine Land Use Planning Commission retains responsibility for the review and permitting of projects in planned subdistricts approved or accepted for review prior to September 1, 2012.

It adds a section of unallocated law that directs the Maine Land Use Planning Commission to establish a process by which a landowner can request a preapplication meeting to discuss a potential project with the commission and a section directing the Maine Land Use Planning Commission to initiate prospective zoning and to provide information on its progress in its January 2013 report.

It lists in unallocated law all planned subdistricts that have been approved and proposals for planned subdistricts that have been accepted for processing as of March 16, 2012. It adds an appropriations and allocations section that transfers two Environmental Specialist II positions from the Department of Conservation to the Department of Environmental Protection.

### **House Amendment "A" To Committee Amendment "A" (H-926)**

This amendment removes the appropriations and allocations section and requires the Department of Environmental Protection to carry out its responsibilities under this legislation using existing budgeted resources.

## *Joint Standing Committee on Agriculture, Conservation and Forestry*

### **Senate Amendment "A" To Committee Amendment "A" (S-611)**

This amendment changes the effective date provision for selected sections from August 1, 2012 to September 1, 2012. It adds an appropriations and allocations section to transfer one Environmental Specialist Position III from the Land Use Regulation Commission to the Department of Environmental Protection.

#### **Enacted Law Summary**

Public Law 2011, chapter 682 changes the name of the Maine Land Use Regulation Commission to the Maine Land Use Planning Commission (LUPC). It increases the commission's membership from 7 to 9 and specifies that the Governor nominates only 1 member of the commission. Each of the 8 counties with the most acreage in the commission's jurisdiction nominates one member. All nominations are subject to review by the legislative committee of jurisdiction and confirmation by the Senate. All nominees must meet certain qualifications established in statute.

Chapter 682 requires commission meetings to be held within the jurisdiction or in a convenient location approved by the commission Chair. It requires field offices to be in or close to the jurisdiction and LUPC employees to receive regular training on customer service.

It defines "planned subdistrict" and authorizes the commission to designate planned subdistricts and establish unique standards for each. It removes the standard in statute that development districts be areas that are "discernible as having patterns of intensive use," requiring instead that the areas are "appropriate for" such use. It removes statutory language prohibiting a change in a land use district boundary unless the proposed land use district "satisfies a demonstrated need in the community or area."

Chapter 682 authorizes but does not require the commission to delegate certain permitting and enforcement functions to a county. It specifies that LUPC retains jurisdiction over a planned subdistrict if a municipality or plantation in which the planned subdistrict is located assumes authority for land use planning and regulation unless the owner of the land delineated as a planned subdistrict agrees to the transfer of authority.

It transfers responsibility for permitting grid-scale wind energy development in the unorganized and deorganized areas to the Department of Environmental Protection (DEP). LUPC retains authority to review and permit community-based offshore wind development projects and non-grid-scale wind energy development. LUPC must receive certification from DEP prior to issuing a permit for non-grid-scale wind energy development.

Chapter 682 provides for all projects reaching the threshold for review under the Site Location of Development law (Title 38, Chapter 3, Subchapter 6) to be reviewed by DEP rather than LUPC except for projects proposed within a planned subdistrict that was approved or accepted for review prior to September 1, 2012. LUPC retains authority to review and permit development within these areas. Certification from LUPC is required prior to DEP issuing a permit for a project within the unorganized or deorganized areas under the site location of development law.

Chapter 682 requires legislative approval of the comprehensive land use plan (the CLUP) prior to final adoption. It provides for involvement of the commission in developing and implementing regional comprehensive plans when a county or counties request the commission's assistance. It requires the commission to submit an annual performance report to the legislative committee of jurisdiction.

Chapter 682 directs LUPC to establish a process by which an applicant can request a public preapplication meeting with the LUPC commissioners to discuss a proposed project. It also directs LUPC to initiate prospective zoning and to provide information on the initiatives in their January 2013 report. It contains provisions for the transition from the Land Use Regulation Commission to the Land Use Planning Commission and for the transfer of certain project review and permitting functions to DEP.