

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 JUDICIARY

June 2012

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MARGARET J. REINSCH, SENIOR ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

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.

Joint Standing Committee on Judiciary

Public Law 2011, chapter 524 implements recommendations of the Right To Know Advisory Committee relating to its review of existing public records exceptions in the Maine Revised Statutes, Titles 22 to 25.

It repeals the provision that designates as confidential lists maintained by the Attorney General's office of known unlicensed tobacco retailers. The Attorney General no longer maintains such lists as a result of a United States Supreme Court decision that state law is preempted by federal law.

It gives the Department of the Attorney General, Office of Chief Medical Examiner the discretion to release confidential information and materials about a missing person if the Chief Medical Examiner determines that releasing the information or materials may assist in the search for the missing person.

It removes language related to confidentiality of data held by the former Maine Health Care Finance Commission. Chapter 524 retains language authorizing the Board of Directors of the Maine Health Data Organization to determine certain financial data submitted to the organization by health care providers to be confidential if disclosure of the data will place the provider at a competitive economic disadvantage.

It provides that engineering estimates are public after the execution of project contracts and applies the public records provisions to all Department of Transportation and Maine Turnpike Authority records.

It removes the confidentiality provisions in current law that apply to the records of the Northern New England Passenger Rail Authority. It places the confidentiality provisions applying to the records of the Northern New England Passenger Rail Authority in a new section and clarifies what records are not subject to public access. Chapter 524 provides that records and correspondence relating to negotiations of agreements are confidential, although the final agreements are not designated confidential by this language. It also clarifies that estimates of costs of goods or services to be procured by or at the expense of the authority are confidential if the estimates are prepared by the authority or at the direction of the authority. It also revises the employment application confidentiality to be consistent with that of state, county and municipal employee applicants. All documents relating to applicants are confidential, except for records pertaining to the applicant who is hired, most of which become public. Personal contact information of a public employee is not a public record. Chapter 524 also clarifies the language concerning the lawyer-client privilege; it allows the authority to claim the lawyer-client privilege in the same manner and circumstances as a corporation is authorized to do so.

It amends current law to clarify that the confidentiality provisions of the Maine Health Security Act govern the confidentiality of reports to appropriate medical licensing boards.

It amends current law to authorize medical licensing boards to share confidential information with state and federal agencies when the information contains evidence of possible violations of laws enforced by those agencies. It clarifies that information provided by self-insurers to the governing board of the Maine Workers' Compensation Residual Market Pool or the Superintendent of Insurance related to payment of workers' compensation residual market surcharges continues to be confidential until that information is destroyed.

LD 1805

**An Act To Implement Recommendations of the Right To Know
Advisory Committee Concerning a Public Records Exception for
Proposed Legislation, Reports and Working Papers of the Governor**

**DIED IN
CONCURRENCE**

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM A
ONTP B
OTP-AM C

Joint Standing Committee on Judiciary

This bill is reported out by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G. This bill incorporates recommendations of the majority of the Right To Know Advisory Committee.

This bill creates a public records exception for proposed legislation, reports and working papers of the Governor and the Governor's office that is parallel to the Legislature's public records exception in existing law. The proposed legislation, reports and working papers do not become public records until they are publicly distributed or until the adjournment of the legislative session for which the proposed legislation, reports and working papers are prepared.

Committee Amendment "A" (H-882)

This amendment is the majority report of the Joint Standing Committee on Judiciary. It replaces the bill. It provides a temporary public records exception for records relating to the deliberative process of the Governor for legislative proposals and budgeting proposals and requests.

"Records relating to the deliberative process of the Governor" is defined to mean all records containing predecisional advice, opinions, deliberations or recommendations created by the Governor or the internal staff of the Governor and maintained within the exclusive custody and control of the Governor or the internal staff of the Governor. The internal staff of the Governor consists of the chief of staff, legal counsel, director of policy and employees under their direct supervision. The records become public when the first of the following occurs:

1. The records are made available to any person or agency outside the internal staff of the Governor;
2. The records are publicly distributed in accordance with legislative rules;
3. Adjournment of the Legislature for which the records were prepared occurs; or
4. Six months from the creation of the records has passed.

This amendment provides that the public records exception for the records relating to the deliberative process of the Governor is repealed December 31, 2013.

Senate Amendment "A" To Committee Amendment "A" (S-531)

This amendment maintains the provisions of Committee Amendment "A" and repeals the public records exception that applies to legislative working papers and other records. It also adds an appropriations and allocations section.

This amendment was not adopted.

Senate Amendment "B" To Committee Amendment "A" (S-544)

This amendment provides an effective date of January 1, 2015, and removes repealing provisions inconsistent with that change.

This amendment was not adopted.

LD 1810 An Act To Implement Recommendations of the Committee To Review Issues Dealing with Regulatory Takings

INDEF PP

Sponsor(s)

Committee Report

Amendments Adopted

OTP-AM MAJ
OTP-AM MIN