

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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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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retirement system and the judicial retirement system, who commits a crime in connection with the member's public office or public employment or a crime the member's position placed the member in a position to commit.

Chapter 606 allows the court to award to the spouse, dependent or former spouse of the employee benefits that would otherwise be payable if not for the forfeiture because of the crime. The Maine Public Employees Retirement System is required to provide information concerning the member's membership that the court considers relevant to the determination of the amount of an award pursuant to an order of the court. The Maine Public Employees Retirement System is not required to provide any additional benefits or benefit options.

LD 1860 An Act To Allow Marriage Licenses for Same-sex Couples and Protect Religious Freedom INDEF PP

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

This initiated bill repeals the provision that limits marriage to one man and one woman and replaces it with the authorization for marriage between any 2 persons that meet the other requirements of Maine law. It also specifies that a marriage between 2 persons of the same sex in another state that is valid in that state is valid and must be recognized in this State. It also provides that a member of the clergy is not required to perform and a church, religious denomination or other religious institution is not required to host a marriage in violation of the religious beliefs of that member of the clergy, church, religious denomination or other religious institution and that any such refusal cannot be the basis for a lawsuit or liability and does not affect the tax-exempt status of the church, religious denomination or other religious institution.

This initiated bill will appear on the November 2012 ballot.

LD 1868 An Act To Correct Errors and Inconsistencies in the Laws of Maine PUBLIC 691 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-928 S-566 HASTINGS S-585 HASTINGS S-586 HASTINGS

This bill is submitted to the Joint Standing Committee on Judiciary pursuant to Title 1, section 94.

Part A makes technical corrections in the laws of Maine.

Part B corrects one reference to the Department of Administration and several references to the Bureau of Public Improvements, which is now the Bureau of General Services.

Committee Amendment "A" (H-928)

This amendment deletes sections in the bill addressing provisions of law that have been addressed in other

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legislation. Part A, section 7 is deleted to allow the appropriate department and committee of jurisdiction to propose corrective legislation. Part B, sections 21 and 22 are deleted because they apply to school construction prior to the reorganization and renaming of the Bureau of Public Improvements. Part B, section 30 is amended by replacing the term "deemed" with "determined."

This amendment adds Part C to make technical changes.

This amendment adds Part D to make changes that are or may be considered substantive.

Section 1 repeals the Maine Revised Statutes, Title 2, chapter 5. Public Law 2011, chapter 90 repealed Title 2, sections 101, 103 and 104 and Public Law 2011, chapter 213 repealed Title 2, section 102, all of which are in Title 2, chapter 5. The only section left in chapter 5 is section 105, which gives the Governor the authority to adopt rules to implement the chapter.

Section 2 corrects an internal reference.

Section 3 corrects a formatting error in Title 11, section 3-1301.

Section 4 repeals a duplicate section of law.

Sections 5 and 6 correct the error of requiring a municipality proposing to join an existing regional school unit to vote and not the municipal members of that existing regional school unit.

Sections 7 and 8 clarify that a regional school unit must conduct, not call, a referendum vote on an article to allow a new municipality to join an existing regional school unit after the vote has been conducted by the joining municipality and the results are in the affirmative. This allows the referendum election to be called but not conducted before the results from the municipality proposing to join the regional school unit are known.

Section 9 corrects an error in the structure of a subsection.

Section 10 amends the statute governing the State Board of Alcohol and Drug Counselors within the Department of Professional and Financial Regulation, which now has 5 members, to provide that a majority of members constitutes a quorum.

Section 11 corrects a clerical error.

Section 12 corrects the description of an easement to cross a state-owned recreational trail in Franklin County.

This amendment adds Part E to restore provisions that were repealed by their own terms. The restored provisions provide for the Department of Education to approve the annual entitlement plan and budget of intermediate education units and establish a state-level advisory committee, composed in part of members of each board of directors of a regional site, to provide advice to the Department of Education on implementing the general administration and supervision provisions. These changes are substantive.

Senate Amendment "A" to Committee Amendment "A" (S-547)

This amendment corrects a conflict created when Public Law 2011, chapter 298 amended the Maine Revised Statutes, Title 17-A, section 1057, subsection 3 and chapter 394 repealed Title 17-A, section 1057, subsection 3. It corrects the conflict by repealing the subsection and replacing it with the chapter 298 version. The chapter 298 version provides that it is not a defense to a prosecution under the laws governing the possession of firearms in an establishment licensed for on-premises consumption of liquor that a person holds a permit to carry a concealed weapon.

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This amendment was not adopted.

House Amendment "A" To Committee Amendment "A" (H-954)

This amendment corrects a clerical error by removing a comma that was erroneously included in a description of the fees and taxes that are not required to be paid by an out-of-state business that responds to a state of emergency in this State. The law corrected by this amendment was enacted by Public Law 2011, chapter 622.

This amendment was not adopted.

Senate Amendment "B" To Committee Amendment "A" (S-566)

This amendment corrects a clerical error by removing a comma that was erroneously included in a description of the fees and taxes that are not required to be paid by an out-of-state business that responds to a state of emergency in this State. The law corrected by this amendment was enacted by Public Law 2011, chapter 622.

Senate Amendment "D" To Committee Amendment "A" (S-585)

This amendment removes the provision that amends the Maine Revised Statutes, Title 38, section 410-M, last paragraph, which is repealed in Public Law 2011, chapter 655, Part EE, section 22.

It also removes provisions, added by the Committee Amendment, that provide for the Department of Education to approve the annual entitlement plan and budget of intermediate education units and establish a state-level advisory committee to provide advice to the department on implementing general administration and supervision provisions because of changes made in Public Law 2011, chapter 655, Part OO.

Senate Amendment "C" To Committee Amendment "A" (S-570)

This amendment amends Committee Amendment "A" to provide that the Appellate Division of the Workers' Compensation Board is established on January 1, 2013. Current law will continue to apply to appeals of decisions of hearing officers before January 1, 2013.

This amendment was not adopted.

Senate Amendment "E" To Committee Amendment "A" (S-586)

Public Law 2011, chapter 527, which took effect on March 18, 2012, allows the Commissioner of Marine Resources to close contaminated areas to the harvesting of marine organisms through issuing text and map descriptions rather than through emergency rulemaking. Although the intent was to cover all clams, quahogs, oysters and mussels, the new closure process inadvertently omitted mahogany quahogs and mussels. This amendment provides that the new closure process applies to mahogany quahogs and mussels.

Enacted Law Summary

Public Law 2011, chapter 691 corrects errors and inconsistencies in the laws of Maine.

Part A makes technical corrections.

Part B corrects one reference to the Department of Administration and several references to the Bureau of Public Improvements, which is now the Bureau of General Services.

Part C makes technical changes.

Part D makes changes that are or may be considered substantive.

Section 1 repeals the Maine Revised Statutes, Title 2, chapter 5. Public Law 2011, chapter 90 repealed Title 2,

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sections 101, 103 and 104 and Public Law 2011, chapter 213 repealed Title 2, section 102, all of which are in Title 2, chapter 5. The only section left in chapter 5 is section 105, which gives the Governor the authority to adopt rules to implement the chapter.

Section 2 corrects an internal reference.

Section 3 corrects a formatting error in Title 11, section 3-1301.

Section 4 repeals a duplicate section of law.

Sections 5 and 6 correct the error of requiring a municipality proposing to join an existing regional school unit to vote and not the municipal members of that existing regional school unit.

Sections 7 and 8 clarify that a regional school unit must conduct, not call, a referendum vote on an article to allow a new municipality to join an existing regional school unit after the vote has been conducted by the joining municipality and the results are in the affirmative. This allows the referendum election to be called but not conducted before the results from the municipality proposing to join the regional school unit are known.

Section 9 corrects an error in the structure of a subsection.

Section 10 amends the statute governing the State Board of Alcohol and Drug Counselors within the Department of Professional and Financial Regulation, which now has 5 members, to provide that a majority of members constitutes a quorum.

Part E corrects a clerical error by removing a comma that was erroneously included in a description of the fees and taxes that are not required to be paid by an out-of-state business that responds to a state of emergency in this State. The law corrected by Part E was enacted by Public Law 2011, chapter 622.

Public Law 2011, chapter 527, which took effect on March 18, 2012, allows the Commissioner of Marine Resources to close contaminated areas to the harvesting of marine organisms through issuing text and map descriptions rather than through emergency rulemaking. Although the intent was to cover all clams, quahogs, oysters and mussels, the new closure process inadvertently omitted mahogany quahogs and mussels. Part F provides that the new closure process applies to mahogany quahogs and mussels.

Public Law 2011, chapter 691 was enacted as an emergency measure effective May 22, 2012.