

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

July 2013

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

STATE OF MAINE

126TH LEGISLATURE

FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 126th 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 126th Legislature is October 9, 2013. 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

LD 1116 An Act To Amend the Attorney's Fees Provision in Foreclosure Actions

ONTP

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

This bill provides that if the mortgagee does not prevail in a foreclosure action or if the court finds the action was not brought in good faith, then the court must order the mortgagee to pay reasonable attorney's fees and court costs to the mortgagor, unless the court determines that making such an order would be unjust. If the court determines that the order would be unjust, the court must provide an explanation of that determination.

Foreclosure issues have been consolidated for consideration under LD 1389, which is carried over.

LD 1118 An Act To Amend Public Access Laws To Improve Accountability for Public Funds by Making Public the Board Meetings of Hospitals Receiving Significant State Funding

**ACCEPTED
MAJORITY
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PRIEST SAVIELLO	ONTP OTP-AM	

This bill requires that meetings of a general hospital's board of directors be public if that hospital receives more than 50% of its gross operating revenues in the form of payments and reimbursements from the State Government and Federal Government in its prior fiscal year.

Committee Amendment "A" (H-383)

This amendment is the minority report of the Joint Standing Committee on Judiciary. It replaces the bill. This amendment requires a hospital to provide public notice and host a public meeting prior to closing its 24-hour emergency room. The notice must be published in the newspaper with the greatest daily circulation in the municipality in which the hospital is located no less than 6 months prior to the date 24-hour emergency room service will end. The hospital must notify in writing the municipal officers of the municipality in which the hospital is located no less than 6 months prior to the date 24-hour emergency room service will end. The governing body of the hospital is required to conduct a meeting in the municipality in which the hospital is located to which the public is invited to attend and speak. A majority of the governing body of the hospital must attend. The meeting must be scheduled no earlier than 30 days after the notice is provided and no later than 30 days before the 24-hour emergency room service will end.

This amendment was not adopted.

LD 1119 An Act To Establish Superior Court as the Forum in Which Appeals of Agency Decisions Must Be Taken

**DIED BETWEEN
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CROCKETT	OTP-AM ONTP	

Joint Standing Committee on Judiciary

This bill amends the laws governing appeals of agency decisions. Currently, appeals of decisions of the Workers' Compensation Board and the Public Utilities Commission and appeals of final action by the Board of Environmental Protection or the Commissioner of Environmental Protection on applications for expedited wind energy development, general permits for tidal energy demonstration projects and general permits for offshore wind energy demonstration projects are heard by the Law Court. Under this bill, those decisions are instead subject to appeal to the Superior Court.

Committee Amendment "A" (H-384)

This amendment replaces the bill. It removes the exclusive jurisdiction of the Law Court over an appeal by a person aggrieved by an order or decision of the Board of Environmental Protection or Commissioner of Environmental Protection on an application for an expedited wind energy development, allowing an appeal to be made to the Superior Court. The amendment is the majority report of the committee.

This amendment was not adopted.

LD 1136 An Act To Provide State Recognition for the Kineo Band of Maliseet Indians ONTP

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

This bill provides for state recognition of the Kineo Band of Maliseet Indians as a Native American tribe. Recognition does not create, extend or form the basis of any right or claim to land or real estate in the State or any right to conduct gambling activities prohibited by law. The Kineo Band of Maliseet Indians and the individual members of the band remain subject to all the laws of the State.

LD 1193 An Act To Allow a Wrongful Death Cause of Action for the Death of an Unborn Child ACCEPTED MAJORITY (ONTP) REPORT

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VOLK TUTTLE	ONTP OTP-AM	

This bill provides for a cause of action for the wrongful death of an unborn viable fetus. The bill specifies that such an action must be brought in Probate Court. An unborn viable fetus is a fetus that has reached the 12th week of gestation or beyond.

The bill specifies that a cause of action for the wrongful death of an unborn viable fetus does not exist:

1. Against the mother;
2. Against a health care practitioner or health care provider performing an abortion permitted by law and for which required consent was given; or
3. Against a health care practitioner or health care provider if the health care practitioner or health care provider did not know of the pregnancy and, under the applicable standard of care, had no medical reason to know of the pregnancy.