

MAINE STATE LEGISLATURE

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STATE OF MAINE
127TH LEGISLATURE
SECOND REGULAR SESSION



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

JOINT STANDING COMMITTEE ON JUDICIARY

May 2016

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STATE OF MAINE

127TH LEGISLATURE

SECOND 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 Second Regular Session of the 127th 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. An appendix provides a summary of relevant session statistics.

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 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 127th Legislature is July 29, 2016. 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

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to implement the recommendations of the Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission. The Maine Wabanaki-State Child Welfare Truth and Reconciliation Commission presented its final report in June 2015. It contained no legislative recommendations.

LD 268 An Act Regarding the Penobscot Nation's and Passamaquoddy Tribe's Authority To Exercise Jurisdiction under the Federal Tribal Law and Order Act of 2010 and the Federal Violence Against Women Reauthorization Act of 2013 Died On Adjournment

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

This bill was carried over from the First Regular Session of the 127th Legislature.

This bill amends the Act To Implement the Maine Indian Claims Settlement by:

1. Transferring jurisdiction over violations of a tribal ordinance from the State to the Passamaquoddy Tribe and the Penobscot Nation over a person who is not a member of either tribe or nation in accord with and to the extent authorized by federal law;
2. Increasing the level of certain criminal offenses from a maximum period of imprisonment of one year and a maximum amount of \$5,000 to a maximum period of imprisonment of three years and a maximum amount of \$15,000 over which the Penobscot Nation has the right to exercise exclusive jurisdiction as authorized by the federal Tribal Law and Order Act of 2010; and
3. Clarifying that the Penobscot Nation has concurrent jurisdiction with the State over criminal offenses as authorized by the federal Violence Against Women Reauthorization Act of 2013.

LD 268 was received by the Clerk of the House pursuant to Joint Rule 309 without a committee report.

LD 775 An Act To Streamline Judicial Review of Certain Land Use Decisions PUBLIC 459

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBS B	OTP-AM OTP-AM	H-602

This bill was carried over from the First Regular Session of the 127th Legislature.

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to establish a streamlined judicial review process of major land use permitting decisions in order to facilitate economic development and reduce overall costs and the time associated with issuing permits for new developments.

Committee Amendment "A" (H-602)

This amendment is the majority report of the committee. It replaces the bill, which is a concept draft. It provides

Joint Standing Committee on Judiciary

that a complaint for review of a municipal decision on a significant land use project may be filed with either the general docket of the Superior Court, as in current law, or directly with the Business and Consumer Docket in the Superior Court established by the Maine Supreme Judicial Court by Administrative Order JB-07-1 (A.11-08). It also provides that, if a complaint is filed with the general docket, any party to the appeal may request that the complaint be transferred to the Business and Consumer Docket and the Business and Consumer Docket is required to accept the transfer.

The amendment requires that a defendant municipality must file the record of the proceedings being reviewed as agreed upon by the parties within 35 days of the commencement of the action, as opposed to 40 days pursuant to current court rules, unless the court extends the time for cause. The plaintiff is required to reimburse the municipality for the cost of producing the record.

A party may appeal the Superior Court decision of a significant municipal land use decision, whether from the general docket or the Business and Consumer Docket, to the Supreme Judicial Court. Upon the request of any party, and in the interests of justice, the Supreme Judicial Court may expedite the briefing schedule.

Committee Amendment "B" (H-603)

This amendment is the minority report of the committee. It is identical to Committee Amendment "A" except that it does not require a plaintiff filing a complaint for review of a municipal decision on a significant land use project to reimburse the municipality for the cost of producing the record of the proceedings being reviewed.

This amendment was not adopted.

Enacted Law Summary

Public Law 2015, chapter 459 provides that a complaint for review of a municipal decision on a significant land use project may be filed with either the general docket of the Superior Court, as in current law, or directly with the Business and Consumer Docket in the Superior Court established by the Maine Supreme Judicial Court by Administrative Order JB-07-1 (A.11-08). It also provides that, if a complaint is filed with the general docket, any party to the appeal may request that the complaint be transferred to the Business and Consumer Docket and the Business and Consumer Docket is required to accept the transfer.

This law requires that a defendant municipality must file the record for review as agreed upon by the parties within 35 days of the commencement of the action, as opposed to 40 days pursuant to current court rules, unless the court extends the time for cause. The plaintiff is required to reimburse the municipality for the cost of producing the record.

A party may appeal the Superior Court decision of a significant municipal land use decision, whether from the general docket or the Business and Consumer Docket, to the Supreme Judicial Court. Upon the request of any party, and in the interests of justice, the Supreme Judicial Court may expedite the briefing schedule.

**LD 778 Resolve, Regarding Legislative Review of Portions of Chapter 3:
Eligibility Requirements for Specialized Case Types, a Late-filed Major
Substantive Rule of the Maine Commission on Indigent Legal Services**

**RESOLVE 75
EMERGENCY**

Sponsor(s)

Committee Report

Amendments Adopted

OTP

This resolve was carried over from the First Regular Session of the 127th Legislature.

This resolve provides for legislative review of portions of Chapter 3: Eligibility Requirements for Specialized Case Types, a major substantive rule of the Maine Commission on Indigent Legal Services that was filed outside the