

MAINE STATE LEGISLATURE

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STATE OF MAINE
127TH LEGISLATURE
FIRST REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON STATE AND
LOCAL GOVERNMENT**

August 2015

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STATE OF MAINE

127TH LEGISLATURE

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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 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.

<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 First Regular Session of the 127th Legislature is October 15, 2015. 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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discontinuance by the municipal legislative body; and the filing of the certificate of discontinuance by the municipal clerk in the registry of deeds and with the municipality. The bill requires the abutters of a public easement that is discontinued to be granted a right-of-way. The municipality may charge a reasonable fee to fulfill any request for records obtained by the municipality from the registry of deeds.

The bill continues to exempt a municipality from liability for nonperformance of a legal duty with respect to a town or county way that has not been kept passable for the use of motor vehicles at the expense of that municipality for a period of 30 or more years.

It requires that a public easement must be retained in a discontinued road if abutting property owners need to use it to access their property. It also provides that a public utility easement will be in place whenever a road is discontinued, regardless of whether a public easement is retained.

A way that is presumptively abandoned retains a public easement, as is the default position under current law. The bill does not modify common law abandonment.

The bill allows a municipality to prepare a list of all town ways in that municipality that are currently maintained with public funds; a list of all town ways that have been discontinued since 1965 and whether or not a public easement was retained, if known; and a list of all town ways that have been abandoned since 1965 and whether or not a public easement was retained, if known. If a municipality prepares a list, the municipality must publish the list on its publicly accessible website or make copies available at the municipal office, for which the municipality may charge a reasonable fee. The municipality must record the list at the county registry of deeds.

This bill was carried over to any special or regular session of the 127th Legislature by joint order, H.P. 992.

LD 1328

An Act To Clarify the Ownership of and Access to Ancient and Family Burying Grounds

CARRIED OVER

Sponsor(s)

CUSHING
TEPLER

Committee Report

Amendments Adopted

This bill creates the following provisions:

1. A municipality or its caretaker may access an ancient burying ground on privately owned land annually or as determined by the municipality or its designated caretaker;
2. A municipality or its designated caretaker may use photography, video recording, geographic positioning systems and transcription of grave marker inscriptions to document condition and preserve historic information in a burying ground;
3. A municipality or its designated caretaker may use ground-penetrating radar or other methods to determine the location of unmarked graves and cemetery boundaries;
4. A person who owns land that contains an ancient burying ground must provide a descendant or relative of a person buried in the ancient burying ground, or a descendant or relative's designated agent, access to the ancient burying ground for the purposes of protecting or preserving it;
5. A municipal clerk of the municipality where an ancient burying ground is located must notarize a document allowing access to an ancient burying ground on privately owned land to a descendant or relative of a person buried in an ancient burying ground or the designated agent of the descendant or relative by the person who owns the parcel of land;

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6. A descendant or relative of a person buried in an ancient burying ground, or the agent of a descendant or relative, may use photography, video recording, geographic positioning systems and transcription of grave marker inscriptions to document condition and preserve historic information in the burying ground. A descendant or relative of a person buried in an ancient burying ground, or the designated agent of a descendant or relative, may also erect and repair fencing and repair gravestones;

7. A descendant or relative of a person buried in an ancient burying ground or the designated agent of a descendant or relative may employ a person to use ground-penetrating radar or other methods to determine the location of unmarked graves and cemetery boundaries;

8. The inability to locate a record of a burying ground at a registry of deeds in the county in which the burying ground is located or in the records of the municipal clerk of the municipality in which the burying ground is located does not negate ownership of the burying ground;

9. If a descendant or relative of a person buried in the burying ground, or the designated agent of a descendant or relative, a municipality or its designated agent, a historical society, a lineage society or the faculty of an educational institution is unable to locate records of a burying ground, that individual or entity may file a description of the location and boundaries of the burying ground, along with supporting documentation, with the municipal clerk of the municipality where the burying ground is located;

10. The inability to locate a record of a family burying ground at a registry of deeds of the county in which the family burying ground is located or in the records of the municipal clerk of the municipality in which the family burying ground is located does not negate ownership of a family burying ground by descendants or relatives of a person buried in the family burying ground;

11. A descendant or relative of a person buried in a family burying ground, or the designated agent of a descendant or relative, may file a description of the location and boundaries of the burying ground, along with supporting documentation, with the municipal clerk of the municipality where the burying ground is located. If a descendant or relative of a person buried in a family burying ground cannot be located, the municipality or its designated agent, a historical society, a lineage society or the faculty of an educational institution may file the description of the burying ground;

12. A descendant or relative of a person buried in a family burying ground, or the designated agent of a descendant or relative, may use photography, video recording, geographic positioning systems and transcription of grave marker inscriptions to document condition and preserve historic information in the burying ground. A descendant or relative of a person buried in a family burying ground, or the designated agent of a descendant or relative, may also erect and repair fencing and repair gravestones;

13. A descendant or relative of a person buried in a family burying ground, or the designated agent of a descendant or relative, may employ a person to use ground-penetrating radar or other methods to determine the location of unmarked graves and cemetery boundaries;

14. A relative of a person interred in a family burying ground is given an easement to access the burying ground if a property surrounding the burying ground is conveyed in a way that makes it inaccessible from any public way. Current statute already gives this benefit to the spouse, ancestors and descendants of a person interred in a family burying ground. Under this bill, the easement may be used only during daylight hours, and the property owner must designate the direct route a person must use to access the family burying ground; and

15. The property owner who gives access to the spouse, ancestors, descendants and relatives of a person interred in a family burying ground is not liable for any injuries sustained by a person accessing the burying ground by the designated direct route or within the boundaries of the burying ground.

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This bill was carried over to any special or regular session of the 127th Legislature by joint order, H.P. 992.

LD 1347 An Act To Implement Recommendations of the Government Oversight Committee To Clarify That Competitive Bid Provisions Apply to Grant Awards

PUBLIC 179

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

This bill implements a recommendation of the Government Oversight Committee stemming from the Office of Program Evaluation and Government Accountability report on Healthy Maine Partnerships' fiscal year 2013 contracts and funding. The bill adds the word "grant" where applicable to clarify that the statutory provisions requiring competitive bidding, and related provisions, apply to grant awards as well as contracts.

Enacted Law Summary

Public Law 2015, chapter 179 implements a recommendation of the Government Oversight Committee stemming from the Office of Program Evaluation and Government Accountability report on Healthy Maine Partnerships' fiscal year 2013 contracts and funding. Public Law 2015, chapter 179 adds the word "grant" where applicable to clarify that the statutory provisions requiring competitive bidding, and related provisions, apply to grant awards as well as contracts.

LD 1354 An Act To Improve the Maine Administrative Procedure Act

Died Between Houses

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

This bill amends the Maine Administrative Procedure Act as follows.

1. It repeals a requirement that rules be approved for form and legality by the Attorney General and adds a requirement that rules be submitted to the Attorney General for advice as to form and legality.
2. It changes a statutory provision, which previously provided that the Attorney General may not approve a rule if it is reasonably expected to result in a taking of private property except under certain conditions, to provide that an agency may not adopt a rule if it is reasonably expected to result in such a taking.
3. It changes notice requirements, which previously provided that notice and copies of proposed rules be provided by mail unless the requestor specified they be provided electronically, to provide that notice and copies of proposed rules be provided electronically unless the requestor specifies they be provided by mail.
4. It allows for electronic submission of certain rule-making information.
5. It enacts a provision that allows an agency to choose to incorporate by reference subsequent amendments to a code, standard, rule or regulation.
6. This bill also corrects cross-references.

Committee Amendment "A" (H-301)