

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
127<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



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

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

May 2016

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# STATE OF MAINE

127<sup>TH</sup> 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 127<sup>th</sup> 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 127<sup>th</sup> 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.

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expand or modify its activities so as to necessitate additional expenditures from local revenue.

The requirement in the amendment that a municipality make an appropriate filing in the registry of deeds if it makes a final determination that a road has been abandoned does not require an expansion or modification of activities so as to necessitate additional expenditures from local revenue since there is no requirement that a municipality abandon one of its roads or determine the road has been abandoned. The amendment requires only that a municipality take the appropriate legal step of recording a determination of abandonment if the municipality chooses to make such a determination.

**Senate Amendment "A" To Committee Amendment "A" (S-414)**

This amendment restores the mandate preamble.

**Enacted Law Summary**

Public Law 2015, chapter 464 outlines specific steps a municipality must follow to discontinue a road: the notification of proposed discontinuance to the abutting property owners; a meeting of municipal officers to discuss the proposed discontinuance and the filing of an order of discontinuance; a public hearing on the discontinuance; approval of the order of 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. It specifies that when filing an order of discontinuance the municipal officers must specify whether or not a public easement is retained, and, if this is not specified, the public easement is retained. Public Law 2015, chapter 464 requires the municipal clerk to provide a photocopy of the certificate of discontinuance to the Department of Transportation, Bureau of Maintenance and Operations.

Public Law 2015, chapter 464 provides that a public utility easement is in place whenever a road is discontinued, regardless of whether a public easement is retained.

Public Law 2015, chapter 464 provides that a municipal clerk must file a record with the registry of deeds that a town way has been discontinued by abandonment if, either on their own or after being presented with evidence of abandonment, the municipal officers determine that a town way has been discontinued by abandonment. It requires the municipal clerk to provide a copy of the document to the Department of Transportation, Bureau of Maintenance and Operations.

**LD 1328**

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

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CUSHING A TEPLER D	ONTP	

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

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

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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.
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.

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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.

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.

**LD 1456      Resolve, Authorizing the Commissioner of Administrative and Financial Services To Convey Approximately 0.75 Acre of Land in Madrid Township to the Madrid Historical Society      RESOLVE 67**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVIELLO T	OTP-AM	S-377

This resolve authorizes the Commissioner of Administrative and Financial Services to convey a parcel of land of about 0.75 acre that abuts the Madrid Historical Society to the Madrid Historical Society.

**Committee Amendment "A" (S-377)**

This amendment retains the substance of the resolve and adds the following provisions.

1. It defines "state property" and "commissioner" for the purposes of the resolve.
2. It makes a clarification regarding the ownership of a parcel of land abutting the parcel to be sold.
3. It clarifies that the State acquired the parcel of land upon the deorganization of the Town of Madrid.
4. It authorizes the Commissioner of Administrative and Financial Services to negotiate and execute purchase and sale agreements and provides that the title of the property must be transferred from the State by quitclaim deed without covenant or release deed to the Madrid Historical Society.
5. It exempts the transfer from any statutory or regulatory requirement that the property be offered to a state or local agency or offered through competitive bidding.
6. It specifies that any proceeds from a sale must be deposited in the Unorganized Territory Education and Services Fund.
7. It provides that the resolve is repealed five years after its effective date.

**Enacted Law Summary**

Resolve 2015, chapter 67 authorizes the Commissioner of Administrative and Financial Services to convey a parcel of land of about 0.75 acre that abuts the Madrid Historical Society to the Madrid Historical Society. It authorizes the Commissioner of Administrative and Financial Services to negotiate and execute purchase and sale agreements and provides that the title of the property must be transferred from the State by quitclaim deed without covenant or release deed to the Madrid Historical Society. Resolve 2015, chapter 67 exempts the transfer from any statutory or regulatory requirement that the property be offered to a state or local agency or offered through competitive bidding and specifies that any proceeds from a sale must be deposited in the Unorganized Territory Education and Services Fund. It also provides that the resolve is repealed five years after its effective date.