

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH LEGISLATURE
FIRST REGULAR SESSION



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

**JOINT STANDING COMMITTEE ON
LABOR AND HOUSING**

August 2019

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SEN. MARK W. LAWRENCE
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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 129th 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 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 129th Legislature is Thursday, September 19, 2019. 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 Labor and Housing

This bill creates an alternate minimum wage applicable to employees of a small employer, to the first 90 consecutive days of employment for employees who are under 20 years of age and to employees who are under 18 years of age. The wage is \$9.75 starting January 1, 2020 and will be increased by any increase in the cost of living starting January 1, 2021, and every subsequent January 1st.

Committee Amendment "A" (H-81)

This amendment, which is the minority report of the committee, adds an appropriations and allocations section.

This amendment was not adopted.

LD 756

An Act To Improve the Maine Workers' Compensation Act of 1992

PUBLIC 344

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYLVESTER M	OTP-AM	H-603

This bill is a concept draft pursuant to Joint Rule 208. This bill proposes to enact measures designed to improve the Maine Workers' Compensation Act of 1992.

Committee Amendment "A" (H-603)

This amendment replaces the bill, which is a concept draft. The amendment does the following.

It amends the definition of "average weekly wages, earnings or salary" to clarify that, for an injury occurring on or after January 1, 2020, any fringe or other benefit paid by the employer that does not continue during the disability must be included to the extent that the inclusion of the fringe or other benefit will not result in a weekly benefit amount that is greater than 2/3 of 125 percent of the state average weekly wage at the time of the injury.

It requires that the Workers' Compensation Board must vote with the support of five of the seven members of the board to contract for the services of or to employ administrative law judges beginning January 1, 2020, except for the reappointment of administrative law judges appointed prior to January 1, 2020.

It allows an exception to the requirement that the first payment must be made by an employer within 14 days after notice of the injury or death if the payment cannot be made due to a factual mistake, an act of God or unavoidable circumstances.

It increases the maximum benefit level to 125 percent of the state average weekly wage for an injury occurring on or after January 1, 2020.

It requires a cost-of-living adjustment to be applied in cases of total incapacity after 260 weeks of benefits.

It extends the cap of benefits for partial incapacity from 520 weeks to 624 weeks.

It eliminates the provision relating to the extension of benefits for partial incapacity if the whole person impairment resulting from the injury is in excess of 18 percent for an injury occurring after January 1, 2020.

It clarifies how payments for paid time off are coordinated with workers' compensation benefits.

It provides that, if a deceased employee has no dependents, the employer must pay benefits to the parents of the deceased employee for a period of 500 weeks.

Joint Standing Committee on Labor and Housing

It extends the notice of injury requirement from 30 days to 60 days.

It caps the maximum percentage of attorney's fees that may be awarded at 10% in a lump-sum settlement in cases in which the injury occurred on or after January 1, 2020.

It authorizes the Workers' Compensation Board to consider adopting a rule to establish time frames for the filing of any petition related to a controversy with the board if a full agreement is not reached by the parties after conclusion of any mediation pursuant to the Maine Revised Statutes, Title 39-A, section 313.

It requires the Workers' Compensation Board to study the advocate program established pursuant to the Maine Revised Statutes, Title 39-A, section 153-A, including the salary paid to advocates, and make recommendations for any changes to improve the advocate program and its representation of injured workers to the Joint Standing Committee on Labor and Housing no later than January 1, 2020.

It directs the Workers' Compensation Board to convene a working group of stakeholders to evaluate issues related to work search and vocational rehabilitation requirements for injured workers and protections for injured workers whose employers have wrongfully not secured workers' compensation payments. On behalf of the working group, the Workers' Compensation Board is required to report to the Joint Standing Committee on Labor and Housing by January 30, 2020, with recommendations and any draft implementing legislation to address these issues.

Enacted Law Summary

Public Law 2019, chapter 344 makes the following changes to the Maine Workers' Compensation Act of 1992. It amends the definition of "average weekly wages, earnings or salary" to clarify that, for an injury occurring on or after January 1, 2020, any fringe or other benefit paid by the employer that does not continue during the disability must be included to the extent that the inclusion of the fringe or other benefit will not result in a weekly benefit amount that is greater than 2/3 of 125 percent of the state average weekly wage at the time of the injury.

It requires that the Workers' Compensation Board must vote with the support of five of the seven members of the board to contract for the services of or to employ administrative law judges beginning January 1, 2020, except for the reappointment of administrative law judges appointed prior to January 1, 2020.

It allows an exception to the requirement that the first payment must be made by an employer within 14 days after notice of the injury or death if the payment cannot be made due to a factual mistake, an act of God or unavoidable circumstances.

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It requires the Workers' Compensation Board to study the advocate program established pursuant to the Maine Revised Statutes, Title 39-A, section 153-A, including the salary paid to advocates, and make recommendations for any changes to improve the advocate program and its representation of injured workers to the Joint Standing Committee on Labor and Housing no later than January 1, 2020.

It directs the Workers' Compensation Board to convene a working group of stakeholders to evaluate issues related to work search and vocational rehabilitation requirements for injured workers and protections for injured workers whose employers have wrongfully not secured workers' compensation payments. On behalf of the working group, the Workers' Compensation Board is required to report to the Joint Standing Committee on Labor and Housing by January 30, 2020, with recommendations and any draft implementing legislation to address these issues.

LD 757 An Act To Improve Labor Laws for Maine Workers

PUBLIC 135

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYLVESTER M	OTP-AM ONTP	H-151

This bill is a concept draft pursuant to Joint Rule 208. This bill would provide employees more rights under the labor laws.

Committee Amendment "A" (H-151)

This amendment, which is the majority report of the committee, strikes the bill, which is a concept draft, and replaces it with an amendment to the labor relations laws governing municipal public employees. When employees in a collective bargaining unit file a request with their public employer to be represented by a certain organization as their collective bargaining agent, current law allows the public employer to request an election from the Maine Labor Relations Board in order to determine whether the organization indeed represents a majority of the members in the collective bargaining unit. Instead, this amendment would require an election only in such cases if, after examining the demonstration of majority support, the Maine Labor Relations Board finds majority support for the organization to be in question.

Enacted Law Summary

Public Law 2019, chapter 135 amends the labor relations laws governing municipal public employees. When employees in a collective bargaining unit filed a request with their public employer to be represented by a certain organization as their collective bargaining agent, the law previously allowed the public employer to request an election from the Maine Labor Relations Board in order to determine whether the organization indeed represents a majority of the members in the collective bargaining unit. Instead, this law requires an election only in such cases if, after examining the demonstration of majority support, the Maine Labor Relations Board finds majority support for the organization to be in question