

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
129<sup>TH</sup> LEGISLATURE  
FIRST SPECIAL AND SECOND REGULAR SESSIONS



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

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

November 2020

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**STAFF:**

LYNNE CASWELL, LEGISLATIVE ANALYST

OFFICE OF POLICY AND LEGAL ANALYSIS

13 STATE HOUSE STATION

AUGUSTA, ME 04333

(207) 287-1670

<http://legislature.maine.gov/opla/>

\*Committee member for a portion of the session

# STATE OF MAINE

129<sup>TH</sup> 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 129<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 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 129<sup>th</sup> 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.

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may apply to the Governor or the Governor's designee for a waiver of the requirement if the executive head of the public agency finds that the application of the requirement would be inconsistent with the public interest, that the necessary manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality or that inclusion of manufactured goods made in the United States will increase the cost of the overall project contract by an unreasonable amount. The Department of Administrative and Financial Services is directed to develop rules to implement the Act.

The bill requires that, if the department has reason to believe that any person, business or other entity has intentionally made fraudulent representations about the domestic content of a manufactured good or has intentionally violated any provision of the Act, the department must, after a hearing, debar that person, business or other entity from contracts or subcontracts with the State for two years.

The bill provides that the provisions of this legislation must be applied in a manner consistent with the State's obligations under any applicable international agreements pertaining to government procurement.

The bill also requires that, in the award of a bid for the construction, reconstruction, alteration, repair, improvement or maintenance of a public building or public work or for services to be provided to or on behalf of the State, if two or more bids are submitted that are substantially similar, preference must be given to the bid submitted by an in-state contractor, which includes a business at which at least 60% of the employees are residents of Maine. If the bid submitted by an in-state contractor is higher than the lowest bid submitted by a contractor that is not an in-state contractor, the in-state contractor must be given the opportunity to match the lowest bid submitted.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special session of the 129th Legislature by joint order, S.P. 788.

### **LD 1415 An Act To Improve the Laws Regarding Abandoned Roads**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NADEAU C DIAMONDB	OTP-AM	H-691

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322. The Presiding Officers authorized the formation of the Subcommittee on Abandoned and Discontinued Roads to meet during the interim between the First and Second Regular Sessions.

Under current law, a presumption of abandonment exists if a municipality fails for a period of 30 or more years to keep a way passable for the use of motor vehicles at the expense of the municipality. This bill eliminates that presumption for ways that have not met that statutory requirement by January 1, 2020, and instead specifies that the only process that a municipality may use to terminate its interests in a public way is through the discontinuance process established in the Maine Revised Statutes, Title 26, section 3026-A. This bill also amends the filing required by the clerk of a municipality following the determination of discontinuance by abandonment of a town way to require that the record filed with the registry of deeds include the evidence used by the municipality to make the determination of abandonment and the effective date of that determination of abandonment.

#### **Committee Amendment "A" (H-691)**

This amendment adopts the subcommittee's recommendations. Effective October 1, 2020, it repeals the current statute on the abandonment of town ways and enacts a new abandonment process that a municipality may choose to follow to declare a town way abandoned. The optional process includes notice provisions to abutting property owners, property owners for whom the town way is the only means of access and adjacent municipalities and counties. The optional process provides for a public hearing and a local appeals process. The amendment clarifies

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that the public easement retained in a town way discontinued by abandonment is limited to rights of access by foot or motor vehicle, which are the limits of public easements laid out by a municipality through its eminent domain powers in the Maine Revised Statutes, Title 23, section 3022.

The fiscal note on this amendment identifies a requirement in the amendment as a potential state mandate with a moderate statewide cost. The committee finds that the provisions identified as a potential mandate do not require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue. In order to be a mandate pursuant to the Constitution of Maine, Article IX, Section 21, a provision must require a local unit of government to expand or modify its activities so as to necessitate additional expenditures from local revenue.

The requirements in this amendment that a municipality or county provide notice and the opportunity for hearing if the municipality or county takes the step of declaring a town way abandoned does not require an expansion or modification of activities because there is no requirement that a municipality or county abandon a town way or declare a town way abandoned. Additionally, a municipality or county that chooses to abandon a town way may do so under the common law presumption of abandonment recognized by the Maine Supreme Judicial Court since 1916.

This bill was carried over on the Special Appropriations Table to any special session of the 129th Legislature by joint order, S. P. 788.

**LD 1458     An Act To Protect Taxpayers in the Privatization of State Services**

**CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BELLOWS S MARTIN D		

This bill was carried over in committee from the First Regular Session of the 129th Legislature by joint order, H.P. 1322.

This bill creates a process by which a state agency can enter a privatization contract with a nongovernmental entity to perform basic agency services for up to five years if a number of criteria are met, including:

1. Wages and benefits for employees of the contractor are comparable to state employees performing the same services;
2. The contractor endeavors to hire agency employees terminated due to the privatization;
3. The agency provides an estimate of its costs in providing the subject services in the most efficient manner;
4. The agency provides support and resources to allow agency employees to submit a competing bid to provide the privatized services;
5. The agency considers as a contract cost any income tax revenue lost to the State as a result of services to be performed out of state under the contract; and
6. The Attorney General performs a review to determine that all of the requirements of the bidding process and privatization contract have been met.

This bill, which had been voted but not yet reported out of committee, was carried over in committee to any special