

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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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

Current law provides that an employer may not discriminate against an employee for asserting a workers' compensation claim. In *Maietta v. Town of Scarborough*, 2004 ME 97, 854 A.2d 223, the Law Court interpreted this provision as prohibiting discrimination against an employee only if the assertion of the workers' compensation claim was the primary basis or cause for the employer's adverse action against the employee. This bill amends the law to specify that if an employee's assertion of a workers' compensation claim or right constitutes any part of the basis upon which an employer decides to discipline or terminate an employee, it is a violation of the prohibition.

LD 1625 An Act To Eliminate the Durational Cap on Partial Benefits under the ONTP
Workers' Compensation Laws

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

Current law limits to 520 weeks the duration of workers' compensation benefits for partial incapacity due to injuries occurring on or after January 1, 2013. This bill removes that durational cap.

While LD 1625 was voted "Ought Not to Pass," a provision extending the cap from 520 weeks to 624 weeks for an injury occurring on or after January 1, 2020, was included in LD 756, An Act To Improve the Maine Workers' Compensation Act of 1992. See LD 756, which was enacted as Public Law 2019, chapter 344.

LD 1639 An Act To Require Comprehensive Responsible Contracting Practices CARRIED OVER
for Public Construction Projects

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON T GIDEON S		

Part A of this bill, for the purpose of ensuring that the work on public construction contracts is performed by responsible, qualified contractors that maintain the capacity, expertise, personnel and other qualifications and resources necessary to successfully perform public contracts in a timely, reliable and cost-effective manner, establishes responsible contractor requirements for publicly funded construction projects that receive state funds. The Part outlines a responsible contractor certification process to be administered by the Department of Administrative and Financial Services, Bureau of General Services.

Part A also clarifies that, for the purpose of the law requiring fair minimum rate of wages and benefits on public works contracts, "public works" includes any construction projects funded all or in part with state funds. Part A also amends the method of determining the prevailing wage and benefits rate paid in the construction industry to require the Department of Labor, Bureau of Labor Standards to ascertain the applicable wage and benefits rates established in collective bargaining agreements in private construction and includes in benefits wages paid to apprentices in apprenticeship programs registered with the department.

Part B of this bill requires the Executive Director of the Workers' Compensation Board or the executive director's designee to immediately issue a stop-work order to an employer who fails to procure workers' compensation insurance coverage. It requires the executive director or the executive director's designee to issue a stop-work order to an employer if the executive director or the executive director's designee finds after a hearing that the employer knowingly misrepresented employees as independent contractors or provided false, incomplete or misleading information to an insurance company on the numbers of employees the employer has for the purpose of paying a lower payment.

Joint Standing Committee on Labor and Housing

Part C of the bill encourages the State to use project labor agreements for large-scale state-funded construction projects of \$10,000,000 or more. A project labor agreement is a prehire collective bargaining agreement with one or more labor unions that establishes the terms and conditions of employment for a specific construction project.

Part D of the bill requires an employer with a public works contract with the State of \$50,000 or more to provide to all employees who will be on the construction work site a safety training program that uses a curriculum approved by the United States Department of Labor, Occupational Safety and Health Administration and that is at least 10 hours in duration. Flaggers, security workers and certain other employees not considered to be on the work site are exempt from this requirement. A contractor that violates this safety training program requirement may be assessed a fine of up to \$2,500 and an additional fine of \$100 per employee for each day of noncompliance.

Part E of the bill provides that for public works construction contracts that involve funding from the Federal Government the prevailing wage requirements in state law apply unless the prevailing wage requirements that would otherwise apply under the federal Davis-Bacon Act would result in higher total wages under the contract. An exception is provided for funds received under the United States Housing Act of 1937 if the application of a state prevailing wage is expressly preempted by federal law.

This bill was carried over to any special or regular session, or both, of the 129th Legislature by joint order, H.P. 1322.

LD 1654 An Act To Create Veteran-friendly Workplaces

PUBLIC 350

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINGS B	OTP-AM	H-445

This bill requires an employer who provides paid leave and has 10 or more employees to allow a veteran to take paid leave to attend a scheduled appointment at a medical facility operated by the United States Department of Veterans Affairs. An employer who does not provide paid leave and has 10 or more employees must grant unpaid leave to a veteran to attend a scheduled appointment at a medical facility operated by the United States Department of Veterans Affairs.

An employer who provides paid leave and has fewer than 10 employees must allow a veteran to take paid leave to attend a scheduled appointment at a medical facility operated by the United States Department of Veterans Affairs when the veteran provides the employer at least two weeks' notice of such an appointment unless the United States Department of Veterans Affairs provides the veteran less than two weeks' notice of an appointment, in which case the veteran shall provide the employer notice of the appointment as soon as reasonably possible. An employer who does not provide paid leave and has fewer than 10 employees must grant unpaid leave to a veteran to attend a scheduled appointment at a medical facility operated by the United States Department of Veterans Affairs when the veteran provides the employer at least two weeks' notice of such an appointment unless the United States Department of Veterans Affairs provides the veteran less than two weeks' notice of an appointment, in which case the veteran shall provide the employer notice of the appointment as soon as reasonably possible.

Committee Amendment "A" (H-445)

This amendment requires an employer to allow a veteran to take paid leave or unpaid leave, depending on whether or not the employer offers paid leave, to attend a scheduled appointment at a medical facility operated by the United States Department of Veterans Affairs, as long as the veteran gives the employer notice of the appointment as soon as reasonably possible.