

STATE OF MAINE
123RD LEGISLATURE
SECOND REGULAR AND FIRST SPECIAL SESSIONS



Summaries of bills, adopted amendments and laws enacted or finally passed
during the Second Regular or First Special Sessions of the 123rd Maine
Legislature coming from the

JOINT STANDING COMMITTEE ON LABOR

May 2008

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Joint Standing Committee on Labor

LD 125 Resolve, To Expedite a Workers' Compensation Case

**ACCEPTED ONTP
REPORT**

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

This resolve requires the Joint Standing Committee on Labor to review the case of Joseph Greenier. The resolve also requires the committee to make recommendations to the Workers' Compensation Board for resolution of the case.

Committee Amendment "A" (H-642)

This amendment, which is the majority report of the Joint Standing Committee on Labor, directs the Workers' Compensation Board to hold a hearing to review the case of Joseph Greenier and to report its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over labor matters by January 15, 2009, which then may submit legislation relating to the report to the First Regular Session of the 124th Legislature.

LD 297 Resolve, Authorizing Elizabeth O'Connor To Rejoin the Maine State Retirement System

ONTP

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

This resolve authorizes the Maine State Retirement System to allow Elizabeth O'Connor to rejoin the Maine State Retirement System and buy back service credits without paying any applicable interest charges from October 2005 to December 2006.

LD 412 An Act To Clarify the Application of Prevailing Wage Requirements

**DIED BETWEEN
HOUSES**

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

This bill clarifies that in publicly-funded construction projects under the jurisdiction of the federal Davis-Bacon Act or other federal acts, minimum wages and benefits under Maine law apply unless minimum wages and benefits established by the federal Secretary of Labor are higher than the minimum wages and benefits under Maine law.

LD 591 An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects

**DIED BETWEEN
HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PATRICK	ONTP MAJ OTP-AM MIN	H-635

Joint Standing Committee on Labor

This bill requires a successful bidder and all subcontractors of the successful bidder entering into a public works contract on or after July 1, 2008 worth \$10,000 or more to certify and provide documentation demonstrating that all employees working on the project have completed a course in construction safety, no shorter than 10 hours in duration, approved by the United States Occupational Safety and Health Administration. The bill also specifies that, in addition to fines provided in existing law, violation of these requirements may result in removal of employees for whom the required documentation is not provided, as well as cancellation or enforcement of performance of the contract.

Committee Amendment "A" (H-635)

This amendment, which is the minority report of the Joint Standing Committee on Labor, clarifies that the employee training requirement imposed by the bill applies only to state public works and only to those works entered into on or after July 1, 2009. It also increases the amount of the contract from \$10,000 to \$100,000 as the minimum bid for the application of the training requirement.

LD 869 Resolve, Directing the Maine State Retirement System To Recalculate the Retirement Benefits of D'Lila Terracin **ONTP**

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

This bill directs the Maine State Retirement System to retroactively recalculate the retirement benefits of D'Lila Terracin to allow her to receive 2 years of disability payments between 58 and 60 years of age and to calculate her Maine State Retirement System retirement benefits at 60 years of age to enable her to avoid early retirement penalties.

LD 1032 An Act To Improve Employment Opportunities for Persons with Disabilities in Maine **DIED BETWEEN HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	OTP-AM	S-395

This bill requires state agencies to provide copies of their disability employment plans and annual updates to the joint standing committee of the Legislature having jurisdiction over labor matters and to the Commission on Disability and Employment within the Department of Labor, Maine Jobs Council by March 1st of each year. The bill also provides funding for one Disability Employment Services Coordinator position within the Department of Administrative and Financial Services, Bureau of Human Resources.

Committee Amendment "B" (S-395)

This amendment replaces the appropriations and allocations section of the bill to reflect delay in the passage of this carry-over legislation.

LD 1060 Resolve, To Study the State's Career Center Network and Create a Sustainable System **ONTP**

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

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This resolve is a concept draft pursuant to Joint Rule 208. The purpose of this resolve is to study the State's job opportunities with the intent of creating a sustainable career center network.

LD 1223 An Act To Provide a Uniform Retirement Plan for Corrections Officers and Mental Health Workers

INDEF PP

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

This bill was reported by Senator Strimling for the Commission to Study Eliminating the Normal Retirement Age for Corrections Officers and Mental Health Workers pursuant to Resolve 2005, chapter 181.

The bill is contingent upon the full actuarial costs having been accumulated in a reserve of the Maine State Retirement System, this bill adds mental health workers to the 1998 Special Plan for certain Maine State Retirement System members and requires that service retirement benefits for corrections and mental health workers included in the 1998 Special Plan be computed on the basis of all the member's creditable service, regardless of when that service was earned. The bill provides for funding the full actuarial costs of new corrections and mental health worker retirement benefits by creating a reserve and transferring funds to it that would otherwise qualify for transfer to the Retirement Allowance Fund from unappropriated surplus of the General Fund. Transfers continue until the accumulation of funds to cover the full actuarial costs, including normal costs for 6 years, is complete. Under the bill, retirement service credit may not be given and increased benefits may not be paid until the full actuarial costs of the liability for the increased value of that service has been funded.

LD 1275 An Act To Promote Workplace Safety and Certainty within the Construction Industry by Authorizing the Workers' Compensation Board To Issue Construction Contractor Certificates

**ACCEPTED ONTP
REPORT**

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

This bill requires the Workers' Compensation Board to issue a construction contractor certificate to a person working in the construction industry upon proof that the person functions in a particular trade or occupation as an independent contractor rather than an employee or upon proof that the person has secured the payment of compensation by obtaining insurance coverage. The certificate creates a binding presumption that the person is an independent contractor so long as the person works in the trade, business, occupation or profession identified in the certificate. The application for and issuance of a certificate constitutes a waiver of rights under the Maine Workers' Compensation Act of 1992. A person who engages in construction work without a certificate is deemed an employee of the person's hiring agent.

LD 1345 An Act To Simplify Standards for Determining Independent Contractor Status for Unemployment Compensation Purposes

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	ONTP	

This bill defines "independent contractor" under the laws governing unemployment compensation to make it consistent with the definition of that term under the laws governing workers' compensation. In addition, this bill authorizes the Bureau of Unemployment Compensation to issue a predetermination of independent contractor status.

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LD 1454 An Act To Care for Working Families

**ACCEPTED ONTP
REPORT**

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

This bill requires an employer to pay each employee a minimum of one hour of paid sick leave for every 30 hours worked by the employee. An employer is not required to provide to an employee paid sick leave in excess of 72 hours or 9 days annually. Paid sick leave may be used by an employee during an absence from employment due to the illness of the employee or the illness of an immediate family member.

Committee Amendment "A" (H-636)

This amendment, which is the majority report of the Joint Standing Committee on Labor, reduces the amount of paid sick leave required to be provided by employers. Under the bill, an employer is not required to provide an employee more than 9 days of sick leave annually. The amendment reduces the amount an employer is required to provide an employee from 9 days to 5 days of sick leave annually. The amendment also reduces from 5 to 3 the number of consecutive days of sick leave after which an employer may require verification of illness from an employee.

**LD 1585 An Act To Assist the Independent Medical Examiner Program for
Workers' Compensation**

ONTP

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

This bill changes independent medical examiner eligibility criteria which currently provide that a physician is ineligible where any Title 39-A, section 207 examination has been performed during the previous 52 weeks. Under the bill, a physician is not ineligible unless the physician has examined: the employee; or ten or more employees in accordance with section 207; or ten or more employees referred to the physician directly or indirectly by counsel for the employee during the previous 52 weeks.

The bill also provides that the Workers' Compensation Board's determination of an independent medical examiner's eligibility may not be raised as an issue in the dispute resolution process for the claim of an employee and that such Board determinations constitute final agency action. Finally, the bill requires that the deposition of an independent medical examiner may take place only in accordance with section 309, subsection 3, and that the subject matter of the deposition must be confined to the claim of the employee and the medical questions arising from that claim.

LD 1672 An Act Relating to Death Benefits for Certain Law Enforcement Officers

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM	S-394

This bill allows detectives in the Office of the Attorney General to elect to participate in the 1998 Special Plan of the Maine State Retirement System. Under that plan, a person may retire at 55 years of age with 10 years of creditable service, or may retire before 55 years of age with 25 years of creditable service and a reduced benefit. This bill also amends the definition of "law enforcement officer" for purposes of the law governing death benefits to ensure that

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all sworn law enforcement officers are eligible to receive so-called "line of duty" death benefits.

Committee Amendment "B" (S-394)

This amendment replaces the bill but preserves an altered version of that portion of the bill relating to death benefits for certain law enforcement officers.

Under current law, a state benefit of \$50,000 is paid to the family of an eligible law enforcement officer who has died in the line of duty. Funding for the benefit comes from the Maine Budget Stabilization Fund. This amendment expands the list of eligible law enforcement officers to include forest rangers, Baxter State Park rangers, detectives employed by the Office of the Attorney General, investigative officers employed by the Department of Corrections, juvenile community corrections officers, probation officers, certain security officers appointed by the Commissioner of Public Safety, and motor vehicle investigators appointed by the Secretary of State. This amendment also removes an obsolete reference to liquor enforcement officers.

LD 1693 An Act To Restore Equity to the Maine Public Employees Retirement System

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM MAJ ONTP MIN	S-451 S-621 RAYE S-652 MILLS P

The Maine State Retirement System currently contains two separate benefit structures based upon the status of participants on July 1, 1993. This bill addresses one of the major benefit reductions imposed upon employees with less than ten years of service on July 1, 1993 by reducing the penalty for retiring earlier than 62 years of age from 6% per year to 3% per year.

Committee Amendment "A" (S-451)

This amendment does the following:

1. It reduces the early retirement reduction factor from 6% to 3% for members of the legislative retirement program and the judicial retirement program who are currently subject to the 6% reduction factor. This ensures consistency with the same reduction that is provided to members of the state employee and teacher retirement program under the bill;
2. It allows the Board of Trustees of the Maine Public Employees Retirement System to reduce the payment in fiscal year 2007-08 toward the unfunded actuarial liability of the state employee and teacher retirement program and, if such a reduction is made, to apply the balance of the amount appropriated for that purpose to fund the past service liabilities created by the benefits provided under the amended bill, the increase in normal cost in fiscal year 2008-09 associated with the benefits provided under the amended bill, and any increased unfunded liability payments required in fiscal year 2008-09 resulting from the reduced unfunded liability contribution in fiscal year 2007-08; and
3. It provides that the substantive changes to the Maine Public Employees Retirement System accomplished by this legislation take effect only if the Board of Trustees of the Maine Public Employees Retirement System determine that the reduction in the required unfunded liability payment in fiscal year 2007-08 is consistent with sound actuarial practice.

Senate Amendment "E" (S-621)

The bill, as amended by Committee Amendment "A," reduces the penalty for early retirement from 6% to 3% for

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members of the state employee and teacher retirement plan, the legislative retirement plan and the judicial retirement plan. This amendment limits the reduction in penalty to only those employees who were already employed in a position that is covered under the State Employee and Teacher Retirement Program, the Legislative Retirement Program or the Judicial Retirement Program prior to the time the penalty was increased from 2.25% to 6% per year and only those employees who do not have the option to retire at 55 years of age under a special plan.

Senate Amendment "G" (S-652)

This amendment directs the Maine Public Employees Retirement System, the Commissioner of Administrative and Financial Services and the State Employee Health Commission, within their existing resources, to design a unified pension and benefit plan to apply to all state employees and teachers that are first hired after December 31, 2009.

This unified pension and benefit plan would include the following provisions:

1. In order to enhance portability of benefits and eliminate the issues associated with the government pension offset and the windfall elimination provision of the federal Social Security Act, every state employee and teacher subject to the plan will be covered under Social Security;
2. All new employees will be members of a common health plan with benefits that are identical to those paid for in accordance with current law and collective bargaining contracts;
3. In addition to Medicare and Social Security, each member will be entitled to a supplemental defined pension and retiree health benefit;
4. The present actuarial cost of retiree benefits under the plan will be limited to 6% of payroll to be divided equally between the employee and the employer;
5. Continuing health coverage will be offered to retirees and their dependents;
6. A retired member may receive a subsidy of up to 90% of the cost for the retiree's own insurance and up to 45% of the cost of a spouse or dependent. The level of subsidy will be graduated to reflect length of service;
7. The future cost of retiree health benefits will be paid into an existing dedicated revenue account by assessing the current payroll of active members a percentage that is divided equally between the member and the member's employer;
8. Each member's supplemental defined pension will be calculated as a percentage of base year compensation times years of service. The percentage, rounded to the nearest tenth, will be calculated based on funding available after deducting the cost of the retiree health benefit from the 6% total benefit cost; and
9. A vested member may retire after 30 years of service or at 62 years of age, whichever occurs first. A member who retires early may recover 1.5% of the member's own contribution plus 6% interest if benefits are withdrawn as cash.

The amendment directs the Maine Public Employees Retirement System, the Commissioner of Administrative and Financial Services and the State Employee Health Commission to submit their report on the design of the unified pension and benefit plan, together with proposed implementing legislation, to the joint standing committee of the Legislature having jurisdiction over labor matters no later than December 10, 2008 and authorizes the committee to report out a bill to the First Regular Session of the 124th Legislature.

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LD 1697 An Act To Ensure Fair Wages

PUBLIC 640

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	OTP-AM MAJ ONTP MIN	S-452 S-570 STRIMLING S-587 DOW S-628 STRIMLING

This bill increases the minimum wage to \$7.70 per hour in 2008 and to \$8.40 per hour in 2009. Each year after that, the minimum wage is adjusted based on the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W.

The bill removes exemptions to the State's minimum wage and overtime laws. Removed from exempt status are domestic service providers, public and educational non-profit employees, and those working in hotels, motels, restaurants, and other eating establishments.

The bill changes the tip credit to \$3 per hour rather than 50% of the state minimum wage as under current law.

The bill also amends the laws governing enforcement of minimum wage and overtime laws by increasing penalties, increasing remedies in private civil actions, and expanding the scope of antiretaliation provisions.

Committee Amendment "A" (S-452)

This amendment, which is the majority report of the Joint Standing Committee on Labor, does the following:

1. It lessens the increase in the minimum wage proposed in the bill. Rather than raising the minimum wage to \$7.70 per hour in 2008 and to \$8.40 per hour in 2009, the amendment raises the minimum wage to \$7.35 per hour in 2008, to \$7.70 per hour in 2009, and to \$8.00 per hour in 2010;
2. It amends the date to begin the calculation of the adjusted minimum wage rate using the Consumer Price Index for Urban Wage Earners and Clerical Workers, CPI-W, from September 30, 2009 to September 30, 2010; and
3. It removes the bill's proposed changes to the tip credit an employer may consider as part of the wages of a service employee.

Senate Amendment "A" (S-570)

This amendment reduces the increase in the minimum wage proposed in Committee Amendment "A" from \$7.35 per hour in 2008 and \$7.70 per hour in 2009 to \$7.25 per hour in 2008 and \$7.50 per hour in 2009. This amendment also eliminates the increase proposed for 2010 and eliminates the annual indexing.

Senate Amendment "A" (S-587)

This amendment removes provisions regarding employees' remedies and provisions that increase penalties for violation of the minimum wage laws.

Senate Amendment "C" (S-628)

This amendment requires the Department of Labor, Bureau of Labor Standards to perform any inspection or investigation associated with the removal of several major exemptions from the minimum wage and overtime provisions under the Act using its existing resources.

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Enacted Law Summary

Public Law 2007, chapter 640 increases the minimum wage to \$7.25 per hour on October 1, 2008 and to \$7.50 per hour on October 1, 2009. It removes the exemption of domestic service providers, public and educational non-profit employees, and those working in hotels, motels, restaurants, and other eating establishments from the State minimum wage and overtime laws. It also requires the Department of Labor, Bureau of Labor Standards to use existing resources when performing any inspection or investigation associated with the removal of the exemptions from the minimum wage and overtime laws.

LD 1931 An Act To Protect Employee Choice of Collective Bargaining Agents in the Educational Unit Consolidation Process

PUBLIC 566

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN	OTP-AM MAJ ONTP MIN	S-475

This bill removes language from the regional school unit authorization laws requiring the merger of bargaining units on a regional school unit-wide basis and enacts new provisions preserving existing bargaining units, existing collective bargaining agents and existing collective bargaining obligations.

Committee Amendment "A" (S-475)

This amendment maintains current provisions of the regional school unit authorization laws requiring the merger of bargaining units on a regional school unit-wide basis, but extends the deadline for the merger of bargaining units represented by different collective bargaining agents until August 31, 2012.

Enacted Law Summary

Public Law 2007, chapter 566 maintains current provisions of the regional school unit authorization laws requiring the merger of bargaining units on a regional school unit-wide basis, but extends the deadline for the merger of bargaining units represented by different collective bargaining agents until August 31, 2012.

LD 1934 An Act To Require the State To Divest Itself of Funds from Companies Doing Business with Iran

DIED BETWEEN HOUSES

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	OTP-AM	S-458

This bill requires the Treasurer of State and the Board of Trustees of the Maine Public Employees Retirement System to divest holdings from companies that do business with Iran.

Committee Amendment "A" (S-458)

This amendment requires only the Board of Trustees of the Maine Public Employees Retirement System, not the Treasurer of State, to divest state pension and annuity funds from companies that do business with Iran. It also adds a sunset provision repealing the requirement July 1, 2012.

Senate Amendment "A" (S-530)

This amendment narrows the requirement of divestiture contained in the bill, as amended by Committee Amendment "A." Under this amendment, the Board of Trustees of the Maine Public Employees Retirement System is required to divest itself of holdings in investments that contribute to the development of petroleum or natural gas resources of the Islamic Republic of Iran in an amount that totals more than \$20,000,000 since August 5, 1996. This

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amendment also adds a contingent repeal to the legislation.

LD 1996 An Act To Allow Changes of Beneficiaries under the Maine Public Employees Retirement System

PUBLIC 523
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BENOIT	OTP-AM	S-453

Current law allows a retiree to make a one-time change of the retiree's previously designated beneficiary for retirement benefits without the permission of the beneficiary if the beneficiary is not the spouse or former spouse of the retiree. This bill would allow a retiree to change a previously designated beneficiary more than once.

Committee Amendment "A" (S-453)

This amendment creates a one-time exception to the current law. This amendment would allow a retiree to change the retiree's previously chosen new beneficiary back to the original beneficiary.

Enacted Law Summary

Public Law 2007, chapter 523 creates an exception to the one-time beneficiary change permitted to a retiree under the Maine Public Employees Retirement System if the beneficiary is not the spouse or former spouse of the retiree. It permits the retiree who previously chose to exercise the one-time change in beneficiary to revert back to the originally named beneficiary.

Public Law 2007, chapter 523 was enacted as an emergency measure effective March 27, 2008.

LD 2007 An Act To Make Technical Corrections to the Employment Security Law

PUBLIC 506
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	OTP-AM	S-437

This bill corrects a wording error in the definition of the Competitive Skills Scholarship Fund planned yield and updates a reference to the former Division of Labor Market Information within the Department of Labor. It is now called the Center for Workforce Research and Information.

Committee Amendment "A" (S-437)

This amendment incorporates a fiscal note.

Enacted Law Summary

Public Law 2007, chapter 506 corrects a wording error in the definition of the Competitive Skills Scholarship Fund planned yield and updates a reference to the former Division of Labor Market Information within the Department of Labor. It is now called the Center for Workforce Research and Information.

Public Law 2007, chapter 506 was enacted as an emergency measure effective March 20, 2008.

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LD 2055 An Act To Improve the Elections Process under the Maine Labor Relations Board Laws

ONTP

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

This bill amends the labor relations laws for municipal public employees, state employees, judicial employees, and employees of the University of Maine System, the Maine Maritime Academy and the Maine Community College System as follows:

1. It requires the Executive Director of the Maine Labor Relations Board to conduct a hearing in the event of a dispute over the appropriateness of the composition of the proposed bargaining unit. The hearing must be scheduled to occur within 15 days of the filing of the petition, with the goal of completing the election within 45 days;
2. It requires an employer to recognize an employee organization that demonstrates majority support by the bargaining unit employees. Current law allows an employer to voluntarily recognize an employee organization or to ask for an election. Under this bill, unless the employer shows good cause to the board to believe that the majority support was obtained by fraud or duress, the employer must recognize the employee organization; and
3. It makes final the review by the Maine Labor Relations Board of a decision of the executive director. Current law allows a party to appeal the board's decision to the Superior Court. This bill removes that right and also removes the procedural specifications for how the board is to issue its decision.

The bill also standardizes the language of these labor relations laws, amending the laws to bring them into conformity with current drafting standards.

LD 2095 An Act To Ensure the Freedom of Family Child Care Providers To Jointly Negotiate with the State

PUBLIC 672

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CUMMINGS	OTP-AM MAJ ONTP MIN	H-901 S-612 DIAMOND S-692 ROTUNDO

This bill does the following:

1. It provides for collective bargaining between the State and "Family child care providers" as defined in the bill;
2. It provides that the State be considered a public employer with regard to collective bargaining;
3. It specifies the issues the public employer and the bargaining agent are obligated to confer and negotiate in good faith upon. They include: subsidy reimbursement rates and procedures; access to health care insurance and other benefits; training and education opportunities for providers; mechanisms for improving the quality of care and the enforcement of regulations affecting the licensing of family child care providers; and governing the participation of providers in the child care subsidy program;
4. The bill delineates the procedure of submitting negotiated cost items for inclusion in the Governor's operating budget and that if the Legislature rejects any of the cost items submitted to it, those cost items be returned to the parties for further bargaining;

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5. It states that only one bargaining unit may be recognized and that it consists of all family child care providers in the State;
6. It recognizes the initial bargaining agent selected by the family child care providers in October 2007;
7. It allows the bargaining agent and the State to agree to authorized deductions of service fees from subsidy payments by the State without signed authorization from the employee;
8. The bill states that family child care providers are deemed self-employed for any purpose except those designated in the bill; and
9. It states the intent to apply state action exemption to the application of federal and state antitrust laws to the family child care providers and their representatives.

Committee Amendment "A" (H-901)

This amendment adds to the definition section of the bill. In addition to "Family child care provider," it defines "Collective bargaining," and "Issues of mutual concern."

The amendment further delineates the collective bargaining process, adding contract grievance arbitration, payment procedures, member dues, and representation or service fees for nonmembers, while stating specifically that retirement benefits or coverage by the state employee health insurance program are not issues of mutual concern and may not be bargained for.

The amendment provides a procedure to resolve collective bargaining disputes. It also ensures that the Department of Health and Human Services and the family child care providers' collective bargaining agent work collaboratively in the establishment of this relationship.

Senate Amendment "A" (S-612)

This amendment grandfathers the membership, as of May 1, 2008, of an active regional or local family child care provider association incorporated as a nonprofit corporation with the Secretary of State. This grandfathered status allows, but does not require, the local association members to elect to become a member of the collective bargaining agent or to pay service fees pursuant to the collective bargaining agreement.

Senate Amendment "B" (S-692)

This amendment requires the Commissioner of Administrative and Financial Services to review vacant positions throughout State Government and identify one additional position to be eliminated to achieve a minimum savings of \$106,952 in the General Fund.

Enacted Law Summary

Public Law 2007, chapter 672 provides for collective bargaining between the State and family child care providers.

It does the following:

1. It defines "Collective bargaining," "Family child care provider," and "Issues of mutual concern." Issues of mutual concern include training and other requirements and opportunities that are appropriate for providers; reimbursement rates; payment procedures; contract grievance arbitration; member dues deduction; representation or service fees for nonmembers; and any other changes to current practice that would improve recruitment and retention of qualified providers, would improve the quality of the programs provided, would encourage providers to seek additional education and training, and would promote the health and safety of providers and the children in their care.

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2. It provides that the State be considered a public employer with regard to collective bargaining;
3. It delineates the procedure for collective bargaining of issues of mutual concern between the State and providers;
4. It supplies the process for submitting negotiated cost items for inclusion in the Governor's operating budget to the Legislature. It further explains that if the Legislature rejects any of the cost items submitted to it, those cost items be returned to the parties for further bargaining;
5. It states that only one bargaining unit may be recognized and that it consists of all family child care providers in the State;
6. It recognizes the initial bargaining agent selected by the family child care providers in October 2007;
7. It provides a procedure to resolve collective bargaining disputes;
8. It states that family child care providers are deemed self-employed for any purpose except those designated in the law;
9. It grandfathers the membership, as of May 1, 2008, of an active regional or local family child care provider association incorporated as a nonprofit corporation with the Secretary of State. This grandfathered status allows the local association members to elect whether to become a member of the collective bargaining agent or to pay service fees pursuant to the collective bargaining agreement;
10. It requires the Department of Health and Human Services and the family child care providers' collective bargaining agent work collaboratively in establishing a constructive relationship; and
12. It further requires the Commissioner of Administrative and Financial Services to review vacant positions throughout State Government and identify one additional position to be eliminated to achieve a minimum savings of \$106,952 in the General Fund.

LD 2127 An Act To Increase the Per Diem for Members of the Workers' Compensation Board

ONTP

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

This bill increases the compensation for Workers' Compensation Board members from \$100 to \$200 per day.

LD 2132 An Act To Amend the Family Medical Leave Laws To Include Siblings

PUBLIC 519

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE STRIMLING	OTP-AM	H-725

This bill allows an employee to take family medical leave for a sibling with a serious health condition or who dies.

Committee Amendment "A" (H-725)

This amendment modifies the bill to allow an employee to take family medical leave for a sibling with a serious health condition or who dies while on active military duty if the sibling and the employee are jointly responsible for

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each other's common welfare as evidenced by joint living arrangements and joint financial arrangements.

Enacted Law Summary

Public Law 2007, chapter 519 allows an employee to take family medical leave for a sibling with a serious health condition or who dies while on active military duty if the sibling and the employee are jointly responsible for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements.

LD 2146 An Act To Improve the Codification of Retirement Plans Administered by the Maine Public Employees Retirement System

PUBLIC 491

Sponsor(s)

TUTTLE

Committee Report

OTP

Amendments Adopted

Public Law 2007, chapter 58 changed the name of the Maine State Retirement System to "Maine Public Employees Retirement System" to better reflect the broad range of groups that the system serves. This bill implements the effect of the name change.

Enacted Law Summary

Public Law 2007, chapter 491 implements the effect of the name change by clarifying how the various retirement plans and other programs administered by the Maine Public Employees Retirement System are referenced in the system's governing statutes.

LD 2150 An Act To Clarify Retirement Programs for Participating Local Districts

PUBLIC 490
EMERGENCY

Sponsor(s)

CLARK

Committee Report

OTP

Amendments Adopted

This bill makes consistent the standards for optional retirement system membership for employees of participating local districts that also have Social Security or another Internal Revenue Service-qualified plan. It eliminates the once per year option for a local district to join the Maine system. These changes are proposed in anticipation of school district consolidation and other local and regional consolidation efforts and to promote choice of retirement plans for employers and employees.

Enacted Law Summary

Public Law 2007, chapter 490 makes consistent the standards for optional retirement system membership for employees of participating local districts that also have Social Security or another Internal Revenue Service-qualified plan. It eliminates the once per year option for a local district to join the Maine system.

Public Law 2007, chapter 490 was enacted as an emergency measure effective March 7, 2008.

LD 2177 An Act To Correct the Law Regarding Portability of Pension Benefits for Law Enforcement Officers and Firefighters

PUBLIC 542

Sponsor(s)

EDMONDS

Committee Report

OTP-AM

Amendments Adopted

S-464

Joint Standing Committee on Labor

This bill implements the intent of PL 2005, chapter 636, Part B. It allows law enforcement officers and firefighters to carry service credit and compensation from a prior retirement plan to a new retirement plan within the Maine Public Employees Retirement System as long as they pay the additional cost of doing so.

Committee Amendment "A" (S-464)

This amendment makes clear that employer contributions are transferred to the new retirement plan when a law enforcement officer or firefighter elects to pay for portability of service and compensation under this bill.

Enacted Law Summary

Public Law 2007, chapter 542 allows law enforcement officers and firefighters to carry service credit and compensation, including employer's contributions, from a prior retirement plan to a new retirement plan within the Maine Public Employees Retirement System as long as the law enforcement officers and firefighters elect to pay for the portability of service and compensation.

LD 2205 An Act To Further Clarify Worker Payments for Clothing and Equipment

PUBLIC 524

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

This bill prohibits an employer from charging an employee for uniforms, personal protective equipment and other tools of the trade. This bill clarifies that shirts and other items with a company logo are uniforms. It allows an employer to deduct the cost of cleaning and maintenance of a uniform upon written agreement with the employee. The bill also corrects a conflict created when Public Law 2007, chapter 357 and Public Law 2007, chapter 415 both substantively affected the same provision of law.

Enacted Law Summary

Public Law 2007, chapter 524 prohibits an employer from charging an employee for uniforms, personal protective equipment and other tools of the trade. It clarifies that shirts and other items with a company logo are uniforms. It allows an employer to deduct the cost of cleaning and maintenance of a uniform upon written agreement with the employee.

LD 2273 Resolve, To Temporarily Suspend the Rate-setting Procedures for the Forest Products Industry

RESOLVE 189
EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON		S-492 MARTIN

This resolve provides for the immediate suspension until June 1, 2009 of the requirements of the Maine Revised Statutes, Title 26, chapter 18, which regulates rates of compensation for forest products harvesting and hauling services, except for the section of that chapter that allows harvesters or haulers to form an association for rate determination proceedings. The suspension may be lifted by the Governor prior to June 1, 2009 if the Legislature is not in session.

This resolve also requires the Department of the Attorney General to conduct a study of the statewide market for forest products harvesting and hauling services and to submit legislation implementing the department's recommendations. The final report must be submitted by January 15, 2009.

Senate Amendment "A" (S-492)

Joint Standing Committee on Labor

This amendment changes the reference to the committee of jurisdiction and clarifies that certain records obtained by the Department of the Attorney General in conducting its study may be kept confidential pursuant to law.

Enacted Law Summary

Resolve 2007, chapter 189 provides for the immediate suspension until June 1, 2009 of the requirements of the Maine Revised Statutes, Title 26, chapter 18, which regulates rates of compensation for forest products harvesting and hauling services, except for the section of that chapter that allows harvesters or haulers to form an association for rate determination proceedings. The suspension may be lifted by the Governor prior to June 1, 2009 if the Legislature is not in session.

This resolve also requires the Department of the Attorney General to conduct a study of the statewide market for forest products harvesting and hauling services and to submit legislation implementing the department's recommendations. The final report must be submitted by January 15, 2009.

Resolve 2007, chapter 189 was enacted as an emergency measure effective April 8, 2008.

LD 2285 An Act To Implement the Recommendations of a Task Force Convened To Evaluate and Recommend Revisions Regarding the Statutory Definition of "Service Dog"

PUBLIC 664

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ ONTP MIN	H-943 S-598 STRIMLING

This bill implements the recommendations of the task force convened by the Commissioner of Labor to evaluate and recommend, among other things, revisions to the definition of "service dog" pursuant to Resolve 2007, chapter 96.

The bill defines "service animal" as animals determined necessary for individuals with both physical and mental disabilities. The bill replaces the current statutory terms "guide dog," "trained dog" and "personal care dog" with the new term "service animal" or "service dog."

The bill clarifies the procedures and criteria for licensing a service dog with a municipality.

The bill amends the Maine Human Rights Act by adding language protecting the use of service animals in housing and in public. It also increases the maximum fine for misrepresentation of a service animal from \$100 to \$500.

Committee Amendment "A" (H-943)

This amendment clarifies the definition of "service animal" by stating it "must be necessary to mitigate the effects of a physical or mental disability" as determined by a medical professional or is an animal "individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability."

It further amends the bill by striking out references to the mentally disabled in sections of the Maine Revised Statutes, Title 17, chapter 47, subchapter 2.

Senate Amendment "A" (S-598)

This amendment retains reference to the mentally disabled in sections of the Maine Revised Statutes, Title 17, chapter 47, subchapter 2.

Enacted Law Summary

Public Law 2007, chapter 664 defines "service animal" as any animal determined necessary to mitigate the effects of a physical or mental disability or as any animal trained to do work for individuals with physical or mental

Joint Standing Committee on Labor

disabilities. It replaces the current statutory terms "guide dog," "trained dog" and "personal care dog" with the new term "service animal" or "service dog." It clarifies the procedures and criteria for licensing a service dog with a municipality. It amends the Maine Human Rights Act by adding language protecting the use of service animals in housing and in public. It also increases the maximum fine for misrepresentation of a service animal from \$100 to \$500.

LD 2318 **Resolve, To Appoint Members to and Establish Terms for the Workers' Compensation Board**

RESOLVE 208

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE		S-625 STRIMLING

This resolve does the following:

1. Requires the employer and labor organizations designated in the Maine Revised Statutes, Title 39-A, section 151, subsection 1 to each submit to the Governor, no later than July 20, 2008, a list of no fewer than 12 names of proposed board members to the Workers' Compensation Board;
2. Requires the Governor to nominate, by February 1, 2009, 3 management representatives and 3 labor representatives to serve on the Workers' Compensation Board;
3. Requires incumbent members of the Workers' Compensation Board representing management and labor to resign their positions on the board effective no later March 1, 2009;
4. Establishes the conditions under which incumbent members of the board may be appointed under this resolve; and
5. Establishes the terms of the members appointed to the Workers' Compensation Board pursuant to this resolve.

Senate Amendment "A" (S-625)

This amendment specifies that the employer and labor organizations designated to submit names of proposed board members each submit 3 lists of no fewer than 4 names, rather than one list of no fewer than 12 names as proposed in the bill.

Enacted Law Summary

Resolve 2007, chapter 208 does the following:

1. It requires the employer and labor organizations designated in the Maine Revised Statutes, Title 39-A, section 151, subsection 1 to each submit to the Governor, no later than July 20, 2008, 3 lists of no fewer than 4 names of proposed board members to the Workers' Compensation Board;
2. It requires the Governor to nominate, by February 1, 2009, 3 management representatives and 3 labor representatives to serve on the Workers' Compensation Board;
3. It requires incumbent members of the Workers' Compensation Board representing management and labor to resign their positions on the board effective no later March 1, 2009;
4. It establishes the conditions under which incumbent members of the board may be appointed under this resolve; and
5. It establishes the terms of the members appointed to the Workers' Compensation Board pursuant to this resolve.

Joint Standing Committee on Labor

SUBJECT INDEX

Collective Bargaining

Enacted

LD 1931	An Act To Protect Employee Choice of Collective Bargaining Agents in the Educational Unit Consolidation Process	PUBLIC 566
LD 2095	An Act To Ensure the Freedom of Family Child Care Providers To Jointly Negotiate with the State	PUBLIC 672

Employee Benefits

Enacted

LD 2132	An Act To Amend the Family Medical Leave Laws To Include Siblings	PUBLIC 519
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Not Enacted

LD 1454	An Act To Care for Working Families	ACCEPTED ONTP REPORT
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Employment Practices

Enacted

LD 2007	An Act To Make Technical Corrections to the Employment Security Law	PUBLIC 506 EMERGENCY
LD 2205	An Act To Further Clarify Worker Payments for Clothing and Equipment	PUBLIC 524
LD 2273	Resolve, To Temporarily Suspend the Rate-setting Procedures for the Forest Products Industry	RESOLVE 189 EMERGENCY

Not Enacted

LD 412	An Act To Clarify the Application of Prevailing Wage Requirements	DIED BETWEEN HOUSES
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Individuals with Disabilities Employment

Enacted

LD 2285	An Act To Implement the Recommendations of a Task Force Convened To Evaluate and Recommend Revisions Regarding the Statutory Definition of "Service Dog"	PUBLIC 664
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Not Enacted

LD 1032 **An Act To Improve Employment Opportunities for Persons with Disabilities in Maine** **DIED BETWEEN HOUSES**

Labor Department

Not Enacted

LD 1060 **Resolve, To Study the State's Career Center Network and Create a Sustainable System** **ONTP**

Labor Relations

Not Enacted

LD 2055 **An Act To Improve the Elections Process under the Maine Labor Relations Board Laws** **ONTP**

Occupational Safety

Not Enacted

LD 591 **An Act Regarding Occupational Safety and Health Training for Workers on State-funded Construction Projects** **DIED BETWEEN HOUSES**

LD 1275 **An Act To Promote Workplace Safety and Certainty within the Construction Industry by Authorizing the Workers' Compensation Board To Issue Construction Contractor Certificates** **ACCEPTED ONTP REPORT**

State Retirement System

Enacted

LD 1996 **An Act To Allow Changes of Beneficiaries under the Maine Public Employees Retirement System** **PUBLIC 523 EMERGENCY**

LD 2146 **An Act To Improve the Codification of Retirement Plans Administered by the Maine Public Employees Retirement System** **PUBLIC 491**

LD 2150 **An Act To Clarify Retirement Programs for Participating Local Districts** **PUBLIC 490 EMERGENCY**

LD 2177 **An Act To Correct the Law Regarding Portability of Pension Benefits for Law Enforcement Officers and Firefighters** **PUBLIC 542**

Not Enacted

LD 297 **Resolve, Authorizing Elizabeth O'Connor To Rejoin the Maine State Retirement System** **ONTP**

LD 869 **Resolve, Directing the Maine State Retirement System To Recalculate the Retirement Benefits of D'Lila Terracin** **ONTP**

LD 1223 **An Act To Provide a Uniform Retirement Plan for Corrections Officers and Mental Health Workers** **INDEF PP**

LD 1672	An Act Relating to Death Benefits for Certain Law Enforcement Officers	DIED ON ADJOURNMENT
LD 1693	An Act To Restore Equity to the Maine Public Employees Retirement System	DIED ON ADJOURNMENT
LD 1934	An Act To Require the State To Divest Itself of Funds from Companies Doing Business with Iran	DIED BETWEEN HOUSES

Unemployment Comp

Not Enacted

LD 1345	An Act To Simplify Standards for Determining Independent Contractor Status for Unemployment Compensation Purposes	ONTP
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Wages

Enacted

LD 1697	An Act To Ensure Fair Wages	PUBLIC 640
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Workers' Compensation

Enacted

LD 2318	Resolve, To Appoint Members to and Establish Terms for the Workers' Compensation Board	RESOLVE 208
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Not Enacted

LD 125	Resolve, To Expedite a Workers' Compensation Case	ACCEPTED ONTP REPORT
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LD 1585	An Act To Assist the Independent Medical Examiner Program for Workers' Compensation	ONTP
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LD 2127	An Act To Increase the Per Diem for Members of the Workers' Compensation Board	ONTP
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**JOINT STANDING COMMITTEE ON
LABOR**

Summary of Committee Actions

I. BILLS AND PAPERS CONSIDERED	<u>Number</u>	<u>% of Comm Activity</u>	<u>% of All Bills/Papers</u>
A. Bills referred to Committee			
<i>Bills referred and voted out</i>	12	42.9%	2.1%
<u><i>Bills Carried Over from previous session</i></u>	<u>16</u>	<u>57.1%</u>	<u>2.8%</u>
Total Bills referred	28	100.0%	5.0%
B. Bills reported out by law or joint order	0	0.0%	0.0%
Total Bills considered by Committee	28	100.0%	5.0%
Orders and Resolutions referred to Committee			
<i>Joint Study Orders referred and voted out</i>	0	0.0%	0.0%
<i>Joint Resolutions referred and voted out</i>	0	0.0%	0.0%
<u><i>Orders and Resolutions Carried Over</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Orders and Resolutions Referred	0	0.0%	0.0%
II. COMMITTEE REPORTS	<u>Number</u>	<u>% of this Committee's Reports</u>	<u>% of All Committee Reports</u>
A. Unanimous committee reports			
<i>Ought to Pass</i>	3	10.7%	0.6%
<i>Ought to Pass as Amended</i>	8	28.6%	1.5%
<i>Ought to Pass as New Draft</i>	0	0.0%	0.0%
<u><i>Ought Not to Pass</i></u>	<u>8</u>	<u>28.6%</u>	<u>1.5%</u>
Total unanimous reports	19	67.9%	3.6%
B. Divided committee reports			
<i>Two-way reports</i>	9	32.1%	1.7%
<i>Three-way reports</i>	0	0.0%	0.0%
<u><i>Four-way reports</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total divided reports	9	32.1%	1.7%
Total committee reports	28	100.0%	5.3%
III. CONFIRMATION HEARINGS	7	N/A	N/A
IV. FINAL DISPOSITION	<u>Number</u>	<u>% of Comm Bills/Papers</u>	<u>% of All Bills/Papers</u>
A. Bills and Papers enacted or finally passed			
<i>Joint Study Orders</i>	0	0.0%	0.0%
<i>Public laws</i>	11	39.3%	2.0%
<i>Private and Special Laws</i>	0	0.0%	0.0%
<i>Resolves</i>	0	0.0%	0.0%
<u><i>Constitutional Resolutions</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total Enacted or Finally Passed	11	39.3%	2.0%
B. Resolves to authorize major substantive rules			
<i>Rules authorized without legislative changes</i>	0	0.0%	0.0%
<i>Rules authorized with legislative changes</i>	0	0.0%	0.0%
<u><i>Rules not authorized by the Legislature</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total number of rules reviewed	0	0.0%	0.0%
C. Bills vetoed or held by Governor			
<i>Vetoes over-ridden</i>	0	0.0%	0.0%
<i>Vetoes sustained</i>	0	0.0%	0.0%
<u><i>Held by the Governor</i></u>	<u>0</u>	<u>0.0%</u>	<u>0.0%</u>
Total	0	0.0%	0.0%

Note: A committee vote on a bill is not included here if the bill was subsequently re-referred to another committee or recommitted and carried over.

Prepared by the Office of Policy and Legal Analysis
123rd Legislature, Second Regular and First Special Sessions