



2014 Summary of New Maine Laws

State of Maine 126th Legislature, 2nd Regular Session

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Overview - 2014 Summary of New Maine Laws

The laws and bills summarized in this report are those most relevant to our clients. This summary includes legislation in the 126th Maine Legislature's 2nd Regular session that was either

- Enacted as regular legislation,
- Enacted as emergency legislation, or
- Defeated but noteworthy.

User Guide

The summary is organized by subject matter and subcategories.

- You may link from the [Table of Contents](#) directly to your area of interest.
- Each legislative document is assigned an "LD #" for reference through the legislative process. Once signed into law by the Governor, the legislation is assigned a Public Law year and chapter number for reference. Although bills were enacted in 2014, the Public Law year is the first year of the Legislature's first regular session, which was 2013 for the 126th Legislature. Ultimately, the language is incorporated into the Maine Statutes.
- In the electronic version of this Summary, the chapter number links to the new law.
- Unless specific effective dates are provided in the legislation, the effective date of non-emergency legislation enacted during the 2nd Regular Session is August 1, 2014. Emergency bills became effective as law on the date signed by the Governor, which we note in red following the chapter number.

For More Information

If you have any questions about a summary, what a statutory change means, or how to prepare for the next legislative session, please contact an attorney in the relevant practice group (contact information is provided throughout the report) or a member of our [Government Relations Group](#): [John D. Delahanty](#) - 207.791.1222; [Andrea C. Maker](#) - 207.791.1101; or [Avery T. Day](#) - 207.791.1157.

You may access the *2014 Summary of New Maine Laws* under Publications on the Pierce Atwood website at www.pierceatwood.com/governmentrelations.

Disclaimer

The *2014 Summary of New Maine Laws* is not intended to provide a detailed legal analysis of all aspects of the new laws summarized. For legal advice and counsel, please contact an attorney at Pierce Atwood.

Overview - 126th Legislature, 2nd Regular Session

Political Highlights

This year's 2nd regular legislative session was focused largely on budget matters, carry over legislation and a limited number of new bills. Most newly introduced legislation was minor or technical in nature while only a few large reform proposals survived the legislative process.

This was the second year of divided government with the administration of Republican Governor Paul LePage controlling the Executive Branch and Democrats controlling both the House and Senate. Given this partisan divide between the executive and legislative branches and the fact that 2014 is an election year; this year's session is more a study of what did not get enacted than what became law. Many of the bills introduced by the Governor did not garner sufficient support from Democrats to survive the legislative process and many of the priorities of Democrats failed as a result of the Governor's veto authority. What did become law therefore had widespread support in order to garner majorities in the Legislature and the Governor's signature or acquiescence or to garner over 2/3rds support in the House and Senate to survive the Governor's veto pen.

Even in this difficult political structure, some bills did become law. Of those that did, only a few set some significant political direction. These included various budget bills, which were essential to keeping State government operational. Additionally, the Joint Select Committee on Maine's Workforce and Economic Future reported some bills that were enacted. Also, at the end of the session, the legislature passed some bond measures which will be sent to the voters in the fall. Beyond that, about 180 other bills became law.

In total, 288 new bills were introduced this session, including bills initiated by legislators, Executive Branch agencies and the Governor. Additionally, the Legislature considered 212 bills that were carried over from last session. Of these 500 bills that were considered this session, only 196 became law.

One of the big headlines of the session, particularly at the end of the session, was the number of vetoes issued by Governor LePage. In total, Governor LePage vetoed 74 bills this year. Of these 74 vetoes, 51 were sustained, killing the underlying bill, and 23 were overridden, enacting the bill into law over the Governor's objections. In the past two years of divided government, Governor LePage has vetoed a total of 156 bills, with 128 of these vetoes being sustained. This is a record number of vetoes for any Maine Governor.

Key Issues Addressed

Budget Matters

Each year, adjustments to the State's budget are inevitable, given the difficulty in accurately predicting State spending and tax revenues. This year was no different, with the Legislature enacting two separate supplemental budgets and two additional budget-related bills.

The first budget-related bill enacted this session, LD 1762, was designed to restore \$40 million in municipal revenue sharing. This \$40 million hole was created in the biennial budget, which charged the Legislature with identifying \$40 million in tax expenditures to eliminate or else an equivalent amount of money would be taken from municipal revenue sharing. The Legislature, however, was unable to identify any tax expenditures to reduce or eliminate and, instead, restored funding for municipal revenue sharing by reallocating various existing funds, including the State's "Rainy Day Fund."

The Governor objected to this "raid" of the "Rainy Day Fund" and legislation to restore the roughly \$21 million taken out of this Fund, LD 1807, was enacted less than a month after LD 1762 became law. LD 1807 proceeded in tandem with a bill, LD 1843, to balance the State's budget during the current State fiscal year, which ends June 30, 2014. The fiscal year 2014 supplemental budget bill closed a roughly \$40 million budget gap for the current fiscal year, much of this gap being caused by unanticipated Department of Health and Human Services spending.

The final budget-related bill of the session was the fiscal year 2015 supplemental budget bill, LD 1858. This bill was designed to close a roughly \$32 million budget gap for the remainder of the budget biennium. The Governor vetoed this bill on the basis that he believed it used budget gimmicks to balance the State's budget. But it became law over the Governor's objections when his veto was overridden the last day of the session.

Medicaid Expansion

Medicaid expansion was very likely the signature issue of this year and the entire 126th Legislature. At stake was expansion of MaineCare, the Maine Medicaid program, to an estimated 70,000 people as authorized under the federal Affordable Care Act. The battle over Medicaid expansion was first fought last year, when the Legislature sent two separate Medicaid expansion bills, LD 1066 and LD 1546, to the Governor's desk where he vetoed both bills, and both vetoes were sustained by the Legislature.

This year, however, Medicaid expansion remained a top agenda item. The first attempt at Medicaid expansion came via LD 1487, a bill that proposed tying Medicaid expansion to the issue of instituting a managed care system for the MaineCare program. This proposal had some Republican support and the potential to garner veto-proof support in the Legislature. Veto-proof support, however, never materialized and this bill faltered after being sent to the Governor. Subsequently, two more Medicaid expansion proposals were sent to the Governor at the end of the legislative session, LD 1578 and LD 1640, though neither one had any serious prospects of surviving a gubernatorial veto. In all, five separate expansion proposals were enacted over the past two years, each dying after being vetoed by the Governor.

Welfare Reform

While Democrats in the Legislature were working to expand access to healthcare by expanding Maine's Medicaid system, Governor LePage was busy promoting welfare reform. Likely both parties were talking about the same issue but talking past each other. In any event, the Governor unveiled a welfare reform agenda toward the end of the legislative session focused on the Temporary Assistance for Needy Families ("TANF") Program and Electronic Benefit Transfer ("EBT") cards, including:

- LD 1815 – requiring TANF recipients to look for a job as a condition of receiving benefits,
- LD 1820 – limiting EBT benefits to in-state transactions, and
- LD 1822 – prohibiting EBT expenditures on tobacco, liquor, gambling and bail.

While there was considerable discussion of this issue, the Governor's welfare reform agenda did not have sufficient support from Democrats in the Legislature and these, and other welfare reform proposals, failed to garner sufficient support in the Legislature. LD 1820, regarding out-of-state use of EBT cards was turned into a resolve directing a study of this issue by the Legislature, which died after being vetoed by the Governor.

Workforce Development Select Committee

At the start of the 2013 session, legislative leaders created the Joint Select Committee on Maine's Workforce and Economic Future to address workforce development and other issues during the two years of the 126th Legislature. Much of this Committee's work came to fruition at the end of this year's legislative session with the enactment of policy bills, such as LD 1172, which supports the Maine Downtown Center, and LD 1489, which establishes the Maine Workforce Opportunities Program. Perhaps the biggest success of this Committee were the four bond bills that will be on November's ballot that reflect the priorities of this Committee and that propose to support biotechnology, genetic and biometric research, marine business and small business jobs.

Environmental Reforms

By and large environmental bills were not able to secure widespread support and many environmental bills did not become law this session. There were, however, some minor proposals that did advance, such as LD 1634, which accelerates the implementation date for a product stewardship program, and LD 1671, which limits motorized gold prospecting in some Maine waters. Legislation regarding major environmental issues like metallic mineral mining, LD 1771, LD 1772 and LD 1851, and additional regulation regarding Maine lakes, LD 1744, did not become law.

Tax Policy

The Taxation Committee had a busy session, as is usually the case. Some bipartisan work of the Committee did survive the legislative process. This includes LD 1643, a law that establishes a regular review process for tax expenditures, which also survived a gubernatorial veto. This Committee also worked to restore charitable and medical tax deductions, which were subject to an annual cap as part of the biennial budget. The charitable cap will now be phased out pursuant to LD 1664 and the medical cap was eliminated as part of the fiscal year 2015 supplemental budget bill. Of course, not all work of this Committee was bipartisan and one bill of note, LD 1120, was designed to tax income from certain foreign jurisdictions deemed "tax havens." This bill was defeated when the Legislature voted to sustain the Governor's veto of this bill.

Other Proposals That Were Not Enacted

Many of the bills introduced by the Governor this session came toward the end of the session and were not enacted into law. This included LD 1811, a proposal to increase efforts to investigate and prosecute drug crimes; LD 1828, a proposal to assert some State authority over any decision to locate a national park in Maine; LD 1835, a proposal to establish "open for business zones" to attract major corporations to Maine; LD 1838, a proposal to provide heating assistance with revenues from expanded timber harvests on state land; and various welfare reform proposals mentioned above.

The Governor's initiatives were not the only major policy proposals to falter this year. Other bills of note that did not advance include LD 1710, a proposal to claw back economic incentives from call centers that offshore jobs; LD 1641 and LD 1833, proposals to modify workers' compensation laws; LD 1458, a proposal to drastically modify the relationship between franchisors and franchisees; LD 788, a proposal to implement a so-called "right to repair" as it relates to automobiles; and any number of bills related to Maine's laws regarding wind power, a perennial legislative debate.

A Look Ahead

The remainder of the 2014 election year will be busy politically. Maine's primary elections occur on June 10th, just a little over a month after the Legislature adjourned *sine die*. The race to fill an open seat in Maine's second congressional district has resulted in a primary fight on both sides of the aisle. State Senator Emily Cain and State Senator Troy Jackson are competing to be the Democratic nominee for this race and former State Treasurer Bruce Poliquin and former Senate President Kevin Raye are competing to be the Republican nominee for this race. These are the most watched primaries on the June ballot, though there are also a few contested State Senate primaries throughout the State.

Once the primary fights are resolved, all attention will turn to this November's elections. One of Maine's U.S. Senate seats will be on the ballot as well as both Congressional seats. The federal race that will draw the most attention this fall will be the race in Maine's second congressional district, as this is an open seat. In the other two federal races the incumbents are heavily favored to retain their seats.

Regardless of what goes on federally, Maine's most heated and most watched election this year is certain to be the gubernatorial election. Governor LePage, a Republican, is seeking re-election after four years in office. He, again, is in a three-way race that involves Independent Eliot Cutler. This time, however, both candidates face Congressman Michaud as the Democratic challenger. Given control of the State's Executive Branch is at stake, this is an important race. The candidates themselves have already stated that this race will involve a lot of political spending, both by the candidates as well as independent PACs.

Of course, all 151 seats in the Maine House and 35 seats in the Maine Senate are on the ballot this year. Going into the fall, candidates will be competing in new legislative districts, as the Legislature reapportioned state legislative districts last year. While reapportionment did not result in wild swings in the composition of districts, State legislative races are traditionally very close and can be decided by a couple hundred votes. Redistricting could result in some surprises in November. Also of note regarding legislative elections is the fact that Senate and House Republicans fielded candidates in every district this election year, which is not always the case.

Regardless of the outcome of November's elections, the composition of the 127th Legislature is certain to be different than the 126th. Currently 41 of the 151 members of the House and 8 of the 35 members of the Senate are not seeking re-election, many due to term limits. These numbers could potentially grow over the coming months. This may fall in line with recent turnover numbers for the Legislature, which has been at about one-third of each chamber each election. On the ballot are 27 candidates who served as House or Senate members sometime prior to the 126th Legislature.

November's ballot will also contain ballot questions, which may or may not have implications for candidates on Election Day. Most controversial is likely a bear baiting referendum initiated by the U.S. Humane Society. This is a replay of an identical ballot measure that was rejected in 2004 by a vote of 53 percent to 47 percent. Also on the November ballot will be six bond issues reported out of the Legislature this session related to small business loans, grants for marine-based industries, support for the Jackson Laboratory, support for the Mount Desert Island Biological Laboratory, support for a laboratory at the University of Maine, and funding for water-related projects.

Business

If you have a question about any of the new laws summarized in the Business section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:

[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Banking & Financial Services

Contact

[James B. Zimpritch](#) - 207.791.1270

[John D. Delahanty](#) - 207.791-1222

[Avery T. Day](#) - 207.791.1157

LD 1389, *An Act to Expedite the Foreclosure Process* – Public Law 2013, [chapter 521](#).

The new law creates an expedited process for the foreclosure of vacant and abandoned property in uncontested cases. Under this new act, upon proof of abandonment by clear and convincing evidence in an uncontested case, a court may now declare a property abandoned and advance the foreclosure on its docket. The redemption period is shortened from 90 to 45 days. The new law assigns a plaintiff certain duties upon entry of an order of abandonment, including a duty to assume the duties of a landlord if the premises include dwelling units and to notify the municipality in which the premises is located. If a court has determined that a property has been abandoned, the foreclosure sale of that property may be adjourned only once and for not more than seven days absent an order of the court. The Act also amends title 14 to clarify the standards of foreclosure mediation including the scope of issues addressed, requisite qualifications of mediators and mandatory content to be included in a mediator's report. Additionally, the Act amends the real estate transfer tax law to ensure that the transfer tax is paid on property when there is a foreclosure sale whether the property is transferred by deed, assignment or otherwise. Finally, the Act clarifies the obligations of property preservation companies that act on behalf of mortgage servicers to take possession of homes and authorizes their regulation by the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection.

LD 1691, *An Act to Stop Unlicensed Loan Transactions* – Public Law 2013, [chapter 480](#).

This new law makes an unlicensed loan transaction (made directly or through an agent) to a consumer an unfair or deceptive act or practice in violation of the Maine Unfair Trade Practices Act and the Maine Consumer Credit Code. It is also a violation for any processor to process a check, draft, other form of negotiable instrument or electronic funds transfer from a consumer's financial account in connection with such an unlicensed loan transaction. The bill also affects any party that has provided substantial assistance to either a lender or processor in connection with such a transaction, but does not affect supervised financial organizations.

LD 1712, *An Act to Make Technical Corrections to the Maine Consumer Credit Code to Facilitate the Multistate Licensing Process* – Public Law 2013, [chapter 466](#).

This legislation makes certain technical amendments to the Maine consumer credit code to clarify that residential lenders and loan brokers applying for a license to make supervised loans pursuant to the Act must apply electronically through the nationwide mortgage licensing system and registry, paying certain application, renewal, and late fees where applicable. Each place of business requires a separate license and each branch location license application must be accompanied by a surety bond in the amount of \$50,000. The law grants the administrator discretion to require both annual and quarterly reports relating to the licensee's supervised loans. The law retains the pre-licensing and continuing education obligations for mortgage loan originators, but repeals specific subject area requirements within those obligations.

Commerce and Trade

Contact

[David Champoux](#) - 207.791.1364

[John D. Delahanty](#) - 207.791-1222

[Avery T. Day](#) - 207.791.1157

(Not Enacted) [LD 111](#), *An Act to Restrict the Sale, Purchase and Use of Fireworks in the State.*
This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

LD 718, *An Act to Protect Maine Food Consumers' Right To Know about Genetically Engineered Food* – Public Law 2013, [chapter 436](#).

This new law was introduced during the 1st Regular Session and was held by the Governor, ultimately becoming law without the Governor's signature early this year. This new law requires that any food offered for retail sale that is genetically engineered be labeled as such and prohibits genetically engineered food from being identified as "natural." Violations of this labeling requirement would result in a fine up to \$1,000 per day per misbranded product per sales location. This law does not take effect until similar labeling laws are adopted in at least five contiguous states, including Maine, and will sunset if five contiguous states do not adopt similar laws by January 1, 2018.

(Not Enacted) [LD 788](#), *An Act to Provide Vehicle Owners and Repair Facilities Access to Vehicle Diagnostic and Repair Information and Equipment.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. As introduced, this bill proposed requiring vehicle manufacturers to provide diagnostic and repair information and equipment to vehicle owners and independent vehicle repair facilities. Additionally, this bill proposed that vehicle owners and independent vehicle repair facilities also be granted access to on-board diagnostic and repair information. This bill would have provided that violations of these requirements would be an unfair trade practice pursuant to Title 5.

LD 1076, *An Act to Provide a Mechanism to Allow Certain Commercial Motor Vehicle Weight Limits and Vehicle Dimension Standards to be Exceeded in Order to Promote Economic Development while Ensuring Public Safety* – Public Law 2013, [chapter 565](#).

This new law authorizes the Commissioner of Transportation to establish specific routes where overweight trucks may transport certain commodities. This new law is intended to assist a wood pellet operation in Limestone that plans to ship its final product through the port of Eastport. Various truck configurations not currently allowed under Maine law could reduce shipping costs for this project.

(Not Enacted) [LD 1328](#), *An Act to License Home Building and Improvement Contractors.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) [LD 1458](#), *Resolve, To Establish the Commission to Study Business Format Franchising.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. As introduced, this bill proposed drastic changes to existing law regulating the relationship between a franchisor and a franchisee. Among other things, this bill would have limited the ability of a franchisor to control promotional campaigns, sales quotas, prices and hours of operation. Additionally, this bill would have imposed certain fiduciary duties on franchisors, regulated transfers of licenses and franchises and provided for treble damages and attorneys' fees when certain actions are brought by franchisees.

LD 1482, *An Act to Amend the Motor Vehicle Franchise Laws* – Public Law 2013, [chapter 534](#).

This new law includes several amendments to the motor vehicle dealer franchise law that will alter the relationship between vehicle manufacturers and vehicle dealers. Among other things, this bill touches upon the supply and mix of vehicles provided to dealers, purchases of special or essential tools, access to dealership data and payment for warranty service. This revision of existing dealer franchise law was initiated by automobile dealers and the final language of this law reflects a compromise struck between automobile dealers and automobile manufacturers.

LD 1512, *An Act to Increase Funding for Start-ups* – Public Law 2013, [chapter 452](#). This emergency law became effective on March 2.

Specifically, this law amends the Maine Uniform Securities Act (the “Act”) in order to promote and encourage the growth of Maine small businesses by facilitating the sale of small amounts of securities to a wider pool of small investors with fewer restrictions. The law provides for a short-form registration statement for securities issued pursuant to the new law. The offerings qualify if: (i) the issuer is a business entity with its principal place of business in Maine; (ii) they do not exceed \$1,000,000 in any twelve month period; (iii) the issuer limits sales to any one investor to \$5,000 during any twelve month period, unless the investor is an “accredited investor” under federal law; (iv) they meet the requirements for federal exemption under Rule 504 of the Securities Act; and (v) the issuer provides potential investors with an offering document that includes certain proscribed content.

LD 1713, *An Act to Permit the Sharing of Revenue from the Sale of Alcoholic Beverages at Sporting Events* – Public Law 2013, [chapter 446](#). This emergency law became effective on February 18.

This law creates an exception to the law that prohibits a liquor license from being sold, assigned or subject to the control of a person other than the licensee. The law allows a licensee that has the capacity to seat at least 3,000 people and is the designated host facility for a professional sports team, to enter into a revenue sharing agreement with the professional sports team. Revenues to be shared are limited to revenues from the sale of alcoholic beverages at the time of team sporting events. The licensee must disclose any such agreement (and the terms thereof) at the time of application for a liquor license.

LD 1763, *An Act to Make Available to the Public Certain Information Concerning the Alcohol Content of Malt Liquor, Wine and Spirits* – Public Law 2013, [chapter 504](#). This emergency law became effective on April 3.

Current law prohibits a licensee from posting any advertisement that includes the alcohol content of malt liquor, expressed in any manner. This new law ensures that a person licensed to manufacture, sell or distribute alcoholic beverages may display the alcohol content of malt liquor, wine or spirits when such content is expressed as a percentage of alcohol by volume.

LD 1856, *Resolve, To Conduct a Market Analysis Regarding the Feasibility of Expanded Gaming in Maine* – Resolve 2013, [chapter 111](#). This emergency resolve became effective on April 30.

This resolve directs the Executive Director of the Legislative Council to enter into a contract with an experienced gaming consulting firm to conduct an analysis of the potential market for expanded casino-style gaming in the State. The resolve requires the analysis and a report to be completed by September 1, 2014. The resolve authorizes the Joint Standing Committee on Veterans and Legal Affairs to hold up to 4 meetings to review the analysis and authorizes the joint standing committee of the Legislature having jurisdiction over veterans and legal affairs to report out legislation to the 1st Regular Session of the 127th Legislature.

Economic Development

Contact

[James M. Saffian](#) - 207.791.1319

[Andrea Cianchette Maker](#) - 207.791.1101

[Avery T. Day](#) - 207.791.1157

LD 738, *An Act to Promote the Maine Economy and Support Maine’s Sporting Camp Tradition* – Public Law 2013, [chapter 437](#).

This new law creates a new moose hunting permit lottery system for hunting outfitters who may sell or transfer the permits as part of an eating, lodging and hunting package. The permits made available for this lottery, if any, will come from a percentage of the total number of moose hunting permits issued through the general lottery to individuals. Individuals hunting with a hunting outfitter’s permit issued under this system must hunt with a licensed Maine guide. Proceeds of the new lottery system will be allocated to youth conservation education programs under certain conditions and any remainder will be allocated to the Moose Research and Management Fund.

(Not Enacted) [LD 314](#), *An Act to Create the Office of Marketing.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. As introduced, this bill proposed the creation of an office of marketing within the Department of Economic and Community Development. This office would have overseen all State marketing efforts through a State marketing plan, which would include coordinating request for proposals, marketing contracts and participation in exhibits.

LD 1043, *An Act to Improve the Regional Economic Development Revolving Loan Program* – Public Law 2013, [chapter 605](#).

This law amends current law regarding the Regional Economic Development Revolving Loan Program of the Finance Authority of Maine. The new law expands the purposes of the loan program to include revitalization of downtowns and building stronger communities and a sustainable economy. Further, entities that participate in the program as lenders are now permitted to use revenue from commitment fees and interest to cover operating costs, including loan fund management. Finally, program changes expand the program by: (i) allowing additional business types to participate, including businesses engaged in commercial and mixed-use real estate and community facilities, businesses engaged in serving tourists and value-added natural resource enterprises; (ii) increasing the size of companies that can participate (increasing from 50 or fewer employees to a 100 or fewer and from annual sales of five million or less to ten million or less); and (iii) increasing the total loan amount from \$250,000 to \$350,000 for corporations and from \$100,000 to \$350,000 for qualify childcare projects. The effective date of the Act, however, is contingent upon the Legislature appropriating or allocating funds of at least \$1,000,000 to FAME for the purposes of the Act.

(Not Enacted) [LD 1393](#), *An Act to Encourage Entrepreneurial Investment in Maine.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

LD 1709, *An Act to Authorize a General Fund Bond Issue to Support the Growth of and To Build Infrastructure for the Marine Sector of the State's Economy* – Public Law 2013, [chapter 592](#).

This new law authorizes the issuance of bonds in the amount of \$7,000,000, to be matched by at least \$7,000,000 in private and other funds, to support Maine's marine economy in order to create jobs in the State's marine economy and related industries through capital investments awarded after a competitive process.

LD 1725, *An Act to Provide for the 2014 and 2015 Allocations of the State Ceiling on Private Activity Bonds* – Private & Special Law 2013, [chapter 20](#). **This emergency law became effective on March 6.**

This new law establishes the allocations of the state ceiling on issuance of tax-exempt private activity bonds for calendar years 2014 and 2015 among the state-level issuers of tax-exempt bonds. For 2014: Treasurer of State allocation is \$5,000,000; Finance Authority of Maine is \$40,000,000; Maine Municipal Bond Bank is \$10,000,000; Maine Education Loan Authority is \$15,000,000; Maine State Housing Authority is \$50,000,000; and the Unallocated State Ceiling is \$176,825,000. For 2015, the same allocations are made.

LD 1790, *An Act to Designate Maine State Housing Authority to Receive Funds from the National Housing Trust Fund* – Private & Special Law 2013, [chapter 23](#). **This emergency law became effective on March 22.**

This law designates the Maine State Housing Authority as the entity to receive and allocate funds from the National Housing Trust Fund established by the federal Housing and Economic Act of 2008. The National Housing Trust Fund is a HUD-administered block grant to the states and will provide communities with funds to build, preserve, and rehabilitate rental homes that are affordable for extremely and very low income households.

Education

If you have a question about any of the new laws summarized in the Education section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:

[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Primary Education

Contact

[Margaret C. LePage](#) - 207.791.1382

[Andrea Cianchette Maker](#) - 207.791.1101

LD 39, *An Act to Expand the Number of Qualified Educators* – Public Law 2013, [chapter 486](#).

This new law allows certain teachers who are retired but still teaching to receive their full pension and 100 percent of their teaching salary under certain circumstances. This new law rewrites Maine law enacted during the 125th Legislature that reduced retired teachers' salaries by 25 percent and was enacted over the Governor's veto.

LD 783, *An Act to Change the Voting Requirements for the Withdrawal of a Municipality from a Regional School Unit* – Public Law 2013, [chapter 461](#). **This emergency law became effective on March 3.**

This new law amends existing law regarding voting procedures for municipalities proposing withdrawal from a regional school unit. This new law determines what proportion of a municipality must vote for withdrawal for withdrawal to become effective and limits the ability of a municipality to repeatedly petition for withdrawal when previous votes on withdrawal have failed.

LD 906, *An Act to Permit a School Administrative Unit Discretion Concerning Participation of Students from Charter Schools in School Extracurricular and Interscholastic Activities* – Public Law 2013, [chapter 601](#).

This new law establishes standards for decisions regarding when a student of a public charter school must be permitted to participate in extracurricular and interscholastic activities at a school administrative unit. Under this new law, these opportunities can be denied if there is not enough space at the school administrative district or the public charter school already offers the activity in question. Decisions to deny approval must be made in writing by a superintendent.

LD 1096, *An Act to Amend the Laws Governing Students Experiencing Education Disruption* – Public Law 2013, [chapter 439](#).

This new law modifies existing statutes regarding procedures that must be followed when a student experiences an "education disruption" due to homelessness, foster care placement, extended absences and multiple enrollments within a single school year. These procedures are designed to minimize any disruption and provide students with timely access to curricula and assignments.

LD 1353, *An Act to Further Reduce Student Hunger* – Public Law 2013, [chapter 445](#).

This new law requires school administrative units with schools where at least half of its students qualify for free or reduced-price lunch to operate a federal summer food service program during summer vacation or to work with a local institution to provide a food service program. School administrative units, however, may choose not to operate such a program, subject to a vote of the governing body of the school administrative unit, conducted by certain procedures. This new law was enacted over the Governor's veto.

LD 1530, *An Act to Establish a Process for the Implementation of Universal Voluntary Public Preschool Programs for Children 4 Years of Age* – Public Law 2013, [chapter 581](#).

This new law establishes a universal public preschool program for children four years of age to be phased in by the 2018-2019 school year. This new law also provides various sources of funding to school administrative units as they develop their ability to provide preschool services. Also included in this new law is a process for establishing uniform, state-wide kindergarten assessments.

LD 1579, *An Act To Authorize Public Safety Personnel and Members of the Military To Wear Their Uniforms When Visiting Schools in Their Official Capacities* – Public Law 2013, [chapter 450](#).

This new law clarifies that members of the armed forces and public safety agencies may wear their uniforms when visiting secondary schools. This is similar to LD 1503, a Governor’s bill introduced during the 1st Regular Session that clarified that military recruiters were authorized to wear their uniforms when visiting secondary schools. That original bill failed in the House due to lack of support. This year’s bill, however, was strongly supported in both chambers and was enacted into law.

LD 1581, *An Act To Improve Business Certainty for Providers of Quality Child Care* – Public Law 2013, [chapter 559](#).

This new law directs the Department of Health and Human Services to establish a four-step incentive system for child care facilities meeting or making substantial progress toward meeting nationally recognized quality standards.

LD 1591, *An Act To Amend the Process Controlling the Transfer of a Student between School Administrative Units* – Public Law 2013, [chapter 456](#).

This new law modifies existing law regarding the process for approving a request to transfer a student from one school administrative unit to another. Existing law provides that both the sending and receiving superintendent must consent to a transfer. This new law requires that, when a superintendent does not approve such a request, a written description of their determination is provided to the parent of the student. This new law also modifies the timing of an appeal of a superintendent’s decision regarding a transfer by requiring the State Board of Education to decide an appeal within 45 days, as opposed to the existing 30 day-deadline.

LD 1657, *An Act To Ensure Equity in Teacher Retirement Costs for Private Academies* – Public Law 2013, [chapter 497](#). **This emergency law became effective on April 2.**

This new law clarifies the formula for determining how much a school administrative unit may be charged by a private school accepting students from that administrative unit. It also allows the maximum to be exceeded in school year 2013-2014 with respect to retirement costs, if the private school receiving the tuition participates in the Maine Public Employees Retirement System.

LD 1747, *Resolve, Regarding Legislative Review of Chapter 180: Performance Evaluation and Professional Growth Systems, a Major Substantive Rule of the Department of Education* – Resolve 2013, [chapter 113](#). **This emergency resolve became effective on May 1.**

This resolve provides for legislative review of a Department of Education proposed rule regarding teacher evaluations. Unlike most resolves providing for major substantive review of a new rule, this resolve makes extensive revisions to the Department’s proposed rule. Teacher evaluations and the percentage of these evaluations dependent on student growth are controversial issues and this resolve was ultimately passed into law over the objections of Governor LePage, who vetoed this law.

LD 1819, *Resolve, To Create the Task Force To End Student Hunger in Maine* – Resolve 2013, [chapter 107](#). **This emergency resolve became effective on April 16.**

This resolve establishes a 17-member task force that is charged with studying the creation of a public-private partnership to provide expertise to school administrative units regarding best practices and maximizing available federal funds for addressing student hunger. This task force is charged with producing a report and suggested legislation by December 9, 2014.

LD 1850, *Resolve, To Establish the Commission To Strengthen the Adequacy and Equity of Certain Cost Components of the School Funding Formula* – Resolve 2013, [chapter 114](#).

This resolve establishes the Commission to Strengthen the Adequacy and Equity of Certain Cost Components of the School Funding Formula. The Commission is charged with examining various reports related to the Essential Programs and Services School Funding Act and various issues that can affect funding equity, such as public preschool programs, regional salary differences, and debt service for locally approved projects. The

Commission is required to submit a report to the Legislature regarding its findings and recommendations by December 9, 2014.

LD 1852, *An Act To Amend the Process Regarding the Transfer of Students between School Administrative Units* – Public Law 2013, [chapter 561](#).

This new law provides that the approval of the transfer of a student from one school administrative unit to a school administrative unit that does not operate a public school that includes the grade level of the student whose parent requests the transfer may not be approved unless the superintendents of both the sending and receiving school administrative units approve the transfer. This new law is largely a technical correction of legislation enacted in 2013 regarding superintendent transfer agreements.

Higher Education

[Margaret C. LePage](#) - 207.791.1382

[Andrea Cianchette Maker](#) - 207.791.1101

(Not Enacted) LD 963, *An Act to Expand Access to Early Postsecondary Education*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. As introduced, this bill proposed amending existing law regarding when a high school, adult education, home school or private school student is eligible for state subsidy to take postsecondary courses, the amount of that subsidy, and how these courses are credited at the current educational institution and an eventual postsecondary institution.

LD 1746, *An Act To Facilitate Informed Planning for Higher Education and Careers*– Public Law 2013, [chapter 593](#).

This new law establishes the State Education and Employment Outcomes Task Force, which is charged with developing procedures to disseminate Department of Labor data regarding educational outcomes and their relationship to employment and earnings. This new law also requires this Task Force to submit annual reports to the Legislature regarding this data and its dissemination.

LD 1768, *An Act To Allow All Current Members and Veterans of the United States Armed Forces To Be Eligible for In-state Tuition Rates* – Public Law 2013, [chapter 488](#). **This emergency law became effective on March 22.**

This new law provides that current members of the armed forces and veterans of the armed forces who have been honorably discharged are eligible for in-state tuition at the University of Maine System, the Maine Community College System and the Maine Maritime Academy, regardless of that person's state of residence.

LD 1849, *Resolve, To Establish the Commission to Study College Affordability and College Completion* – Resolve 2013, [chapter 109](#). **This emergency resolve became effective on April 29.**

This new resolve establishes the Commission to Study College Affordability and College Completion. This Commission is charged with making recommendations regarding strategies to keep the cost of public postsecondary education in the State affordable and to increase graduations rates at state-supported public higher education facilities. This Commission is directed to submit its recommendations to the Legislature by December 9, 2014.

Secondary Education

[Margaret C. LePage](#) - 207.791.1382

[Andrea Cianchette Maker](#) - 207.791.1101

LD 1716, *An Act To Increase the Rate of Reimbursement for Providing Career and Academic Advising and Counseling Services to Adult Education Students* – Public Law 2013, [chapter 460](#).

This new law provides that career and academic advising and counseling costs incurred by local adult education program are reimbursed by the State at the rate of 75 percent of those costs. Existing statutes treated these costs as "administrative costs," which are reimbursed at the rate of 70 percent of those costs.

LD 1718, *An Act To Improve the Job Creation Through Educational Opportunity Program* – Public Law 2013, [chapter 525](#).

This new law is largely a recodification of the Educational Opportunity Tax Credit, which was found in both Title 20-A and Title 36. Pursuant to this new law, this credit has been consolidated within Title 20-A. This tax credit is designed to reimburse for student loan payments of former students who live and work in Maine. While this new law is largely a recodification of this tax credit, it does amend some of the criteria to qualify for this tax credit, as these criteria relate to attending Maine or non-Maine institutions, and living and working in Maine.

Employment

If you have a question about any of the new laws summarized in the Employment section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:

[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

General

Contact

[James R. Erwin](#) - 207.791.1237

[Allan M. Muir](#) - 207.791.1365

[Avery T. Day](#) - 207.791.1157

(Not Enacted) LD 690, *An Act to Ensure Efficiency in the Unemployment Insurance System.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 1154, *An Act to Establish the Maine Length of Service Award Program.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 1157, *An Act to Establish the Fair Chance for Employment Act.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

LD 1194, *Resolve, Directing a Study of Social Media Privacy in School and in the Workplace* – Resolve 2013, [chapter 112](#). **This emergency resolve became effective on May 1.**

Originally a bill to prohibit employers and educational institutions from requiring employees or students to make personal email addresses and social media passwords available, LD 1194 turned into a study: *That the Joint Standing Committee on Judiciary of the 126th Legislature, referred to in this resolve as "the committee," shall study the issues involved in social media and personal e-mail privacy with regard to education and employment.*

(Not Enacted) LD 1328, *An Act to License Home Building and Improvement Contractors.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

LD 1489, *An Act to Address Maine's Immediate Workforce Needs* – Public Law 2013, [chapter 443](#).

This new law creates the Maine Workforce Opportunities Program to match qualified employees with positions at companies with significant unmet demand for skilled labor. It includes a tax credit for employees' education costs through the Job Creation Through Educational Opportunity Program.

LD 1622, *An Act to Amend the Laws Governing Firefighter Absence from Work for Emergency Response* – Public Law 2013, [chapter 477](#). **This emergency law became effective on March 16.**

26 M.R.S. § 809 protects volunteer firefighters from being disciplined or discharged for being absent to respond to an emergency. Because volunteer fire departments are increasingly being replaced by municipal fire departments, this law extends the same protection to members of municipal fire departments.

LD 1643, *An Act To Enable the Bureau of Labor Standards to Access Federal Reimbursement by Amending State Law To Conform to Federal Law* – Public Law 2013, [chapter 473](#).

This law conforms laws regarding the enforcement of workplace safety by the State's Bureau of Labor Standards to federal law, making the bureau eligible for federal funds.

LD 1668, *An Act to Expedite Training Waiver Decisions for Unemployment Claimants by Transferring Original Jurisdiction from the Unemployment Insurance Commission to the Bureau of Unemployment Compensation* – Public Law 2013, [chapter 474](#). **This emergency law became effective on March 10.**

This law transfers original jurisdiction over training not approved by the federal Workforce Investment Act of

1998 from the Maine Unemployment Insurance Commission to the Department of Labor, Bureau of Unemployment Compensation. This change allows the Unemployment Insurance Commission to serve in the appellate capacity for training waiver cases. It addresses a bottleneck at the Department of Labor for training waivers.

LD 1701, *An Act to Amend the Work-sharing Program to Conform with Federal Law* – Public Law 2013, [chapter 448](#). **This emergency law became effective on February 20.**

This law changes the law regarding work-sharing programs to bring it into conformity with federal provisions that govern short-time compensation programs.

LD 1802, *An Act to Allocate a Portion of the Reed Act Distribution of 2002 to Use for the Administration of the Unemployment Insurance and Employment Services Programs* – Public Law 2013, [chapter 511](#). **This emergency law became effective on April 3.**

This law authorizes the use of \$17,500,000 of the funds in the Unemployment Trust Fund, requiring that all of the 2002 Reed Act funds be used first before using any of the American Recovery and Reinvestment Act of 2009 funds to meet the \$17,500,000 allocation. The funds will be used to maintain and operate the State's unemployment and employment programs, including paying the administrative costs required to administer the unemployment insurance program, delivering employment assistance services through the Department of Labor's career center system and providing labor market information program services for Maine workers and employers.

LD 1832, *An Act to Increase Employment Opportunities for Veterans* – Public Law 2013, [chapter 576](#).

This law allows a private employer to have a veteran preference employment policy. The policy must be in writing and must be applied uniformly to employment decisions regarding hiring, promotion or retention during a reduction in workforce.

LD 1854, *An Act Regarding Compensation for the Panel of Mediators* – Public Law 2013, [chapter 553](#).

This law increases the payment for mediation services provided by the members of the Panel of Mediators from \$100 to \$300 for a 4-hour period and removes the provision that allows mediators to be paid on a per-dispute-mediated basis. This law also requires the Maine Labor Relations Board to report on the effect of these changes to payment of mediators.

Energy & Telecommunications

If you have a question about any of the new laws summarized in the Energy & Telecommunications section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:

[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Electric

Contact

[Jared S. des Rosiers](#) - 207.791.1390

[John W. Gulliver](#) - 207.791.1296

[John D. Delahanty](#) - 207.791-1222

[Avery T. Day](#) - 207.791.1157

(Not Enacted) LD 616, *An Act To Amend the Expedited Permitting Area for Wind Energy Development under the Jurisdiction of the Maine Land Use Planning Commission.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 646, *An Act To Remove the 100-megawatt Limit on Renewable Sources of Energy.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 796, *Resolve, To Enhance Economic Development by Encouraging Businesses Adjacent to Electric Power Generators To Obtain Power Directly.*

This resolve was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 826, *An Act To Eliminate the Opt-out Charges for Smart Meters.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 950, *An Act To Establish the Electromagnetic Field Safety Act.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 1085, *An Act To Establish the Renewable Energy Feed-in Tariff.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

LD 1278, *An Act To Ensure Equitable Support for Long-term Energy Contracts* – Public Law 2013, [chapter 454](#).

This law ensures that consumers of investor-owned transmission and distribution utilities in the State equitably share in the costs and direct benefits of long term capacity resource contracts and community-based renewable energy projects. The law applies to investor-owned transmission and distribution utilities rather than all transmission and distribution utilities. The law is meant to equally distribute the benefits and costs of long-term energy contracts more equitably among those that currently receive the benefits and pay the costs of long term energy contracts, and is not intended to make classes or certain bodies of ratepayers who do not currently receive the benefits or pay the costs of long-term energy contracts do so. The law provides that the Public Utilities Commission will determine the eligible costs and benefits of long-term energy contracts annually, and will allocate to each investor-owned transmission and distribution utility its pro rata share of such eligible costs and benefits as determined by the commission. This law is intended to be prospective in nature, and is intended to provide the Public Utilities Commission with the flexibility to identify the best process for how the benefits and cost mechanism is to be created.

LD 1652, *An Act To Support Solar Energy Development in Maine* – Public Law 2013, [chapter 562](#).

This law states specific legislative findings that it is in the public interest to encourage development of solar energy production in the State. This includes finding that solar energy development makes a significant

contribution to the general welfare of the citizens of the State and the reduction of greenhouse gas emissions. The law requires the Public Utilities Commission to take specific measures regarding solar energy, including monitoring development and market trends and determining the value of distributed solar energy generation. The law requires the State, including the Small Enterprise Growth Program, the Maine Technology Institute, the Maine Rural Development Authority, the Finance Authority of Maine, and the Department of Economic and Community Development, to seek opportunities to promote solar energy development, generation and manufacturing within existing programs, and establishes state solar energy generation goals.

LD 1825, *An Act to Assist Electric Utility Ratepayers* – Public Law 2013, [chapter 556](#).

This law requires transmission and distribution utilities to implement arrearage management programs to assist eligible low-income residential customers who are in arrears on their electricity bills. The Public Utilities Commission must develop the program through rulemaking. The program must include measures to help participants reduce their energy consumption, including a free electricity usage assessment and the requirement that transmission and distribution utilities work with the Efficiency Maine Trust to provide complementary energy efficiency programs for program participants. The law requires that a transmission and distribution utility recover in rates all costs of the program except those arrearages that are forgiven and written off as bad debt.

LD 1860, *An Act to Provide for Temporary Commissioners at the Public Utilities Commission* – Public Law 2013, [chapter 554](#). **This emergency law became effective on April 17.**

This law authorizes the Governor to appoint, subject to confirmation by the Legislature, three individuals to be alternate commissioners of the Public Utilities Commission on a case by case basis whenever two or more commissioners, due to a conflict of interest, disability or other reason, are unable to serve in a proceeding, which results in the commission's being unable to maintain a quorum.

Gas

Contact

[John W. Gulliver](#) – 207.791.1296

[Avery T. Day](#) – 207.791.1157

(Not Enacted) LD 916, *An Act To Promote Investment in Maine's Communications Network and Natural Gas Network*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 1252, *An Act To Improve Maine's Economy and Energy Security with Solar Energy*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill was intended to reinstate the solar and wind energy rebate program. The bill would have established the Renewable Energy Rebate Program Fund under the Efficiency Maine Trust. The bill would have required the trust to provide rebates for the purchase of certain renewable energy equipment until December 31, 2016.

LD 1620, *An Act to Increase the Maximum Gas Safety Administrative Penalty Amounts* – Public Law 2013, [chapter 495](#).

This law increases the maximum gas safety administrative penalty amounts to be consistent with federal law. The Maine Public Utilities Commission is a certified agent of the United States Department of Transportation's ("DOT") Pipeline and Hazardous Material Safety Administration ("PHMSA") for the purposes of enforcing safety and maintenance standards for intrastate pipelines. The commission certifies on a yearly basis that the State has adopted the minimum safety standards contained in federal statutes and regulations. Federal law (the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011) doubled the maximum civil penalty amount that the PHMSA can issue to pipeline operators for violating pipeline safety regulations from \$100,000 to \$200,000 for each violation and from \$1,000,000 to \$2,000,000 for a related series of violations. This law increases the maximum penalty amounts which the Maine Public Utilities Commission can impose from \$100,000 to \$200,000 for each violation and from \$1,000,000 to \$2,000,000 for a related series of violations, to be consistent with federal law.

LD 1621, *An Act To Include Natural Gas Expansion in the State Energy Plan* – Public Law 2013, [chapter 541](#). This law adds natural gas expansion as an issue to be included in the state energy plan developed by the Governor's Energy Office. The Governor's Energy Office is required by this law to include a description of the State's activities relating to the expansion of natural gas service, any actions taken by the office to expand access to natural gas in the State, and any recommendations for actions by the Legislature to expand access to natural gas in the State.

LD 1860, *An Act to Provide for Temporary Commissioners at the Public Utilities Commission* – Public Law 2013, [chapter 554](#). **This emergency law became effective on April 17.**

This law authorizes the Governor to appoint, subject to confirmation by the Legislature, three individuals to be alternate commissioners of the Public Utilities Commission on a case by case basis whenever two or more commissioners, due to a conflict of interest, disability or other reason, are unable to serve in a proceeding, which results in the commission being unable to maintain a quorum.

Telecommunications

Contact

[Catherine R. Connors](#) – 207.791.1389

[Andrea Cianchette Maker](#) - 207.791.1101

[Avery T. Day](#) – 207.791.1157

(Not Enacted) LD 196, *An Act Regarding the Implementation of the Quality Assurance Program for Public Safety Answering Points*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 275, *Resolve, To Require the Emergency Services Communication Bureau To Expand the Existing Quality Assurance System*.

This resolve was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 916, *An Act To Promote Investment in Maine's Communications Network and Natural Gas Network*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) LD 1013, *An Act To Create the Children's Wireless Protection Act*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. This bill would have required that any notification related to radio-frequency exposure supplied by a cellular telephone manufacturer must have the language of the notification plainly visible on the outside of the product packaging or a label, plainly visible on the outside of the product packaging, directing the consumer where to find the information.

LD 1479, *An Act To Clarify Telecommunications Regulation Reform* – Public Law 2013, [chapter 600](#).

This law is intended to clarify Maine's law regarding provider of last resort service and assessments paid by voice over internet protocol service providers. The law amends the section of law related to the assessment to fund the Public Utilities Commission and the Office of the Public Advocate to include all utilities that were included prior to the enactment of Public Law 2011, [chapter 623](#) (telecommunications regulatory reform legislation enacted in 2012). This law prohibits the commission from collecting funds until 90 days following the adjournment of the 1st Regular Session of the 127th Legislature for the purpose of disbursing funds from a state universal service fund to any company that operates more than 50,000 access lines in the State, unless expressly authorized to do so by law after the effective date of this legislation. This law requires the Public Utilities Commission to submit a report to the joint standing committee of the Legislature having jurisdiction over energy and utilities matters by January 7, 2015. In the report, the commission shall address various options for decreasing the cost of ensuring that there are adequate and affordable basic telephone service options throughout the State. The committee has authority to report out a bill to the subject matter of the report to the 1st Regular Session of the 127th Legislature.

Utilities

Contact

[Jared S. des Rosiers](#) – 207.791.1390

[John W. Gulliver](#) – 207.791.1296

[John D. Delahanty](#) – 207.791-1222

[Avery T. Day](#) – 207.791.1157

(Not Enacted) [LD 38](#), *Resolve, Regarding Legislative Review of Chapter 201: Provider of Last Resort Service Quality, a Major Substantive Rule of the Public Utilities Commission.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) [LD 965](#), *An Act To Improve Maine's Underground Facility Damage Prevention Program.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

(Not Enacted) [LD 1252](#), *An Act To Improve Maine's Economy and Energy Security with Solar and Wind Energy.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill was intended to reinstate the solar and wind energy rebate program. The bill would have established the Renewable Energy Rebate Program Fund under the Efficiency Maine Trust. The bill would have required the trust to provide rebates for the purchase of certain renewable energy equipment until December 31, 2016.

[LD 1618](#), *An Act To Enhance the Sustainability of the Corinna Water District* – Private & Special Law 2013, [chapter 26](#).

This law amends the charter of the Corinna Water District by changing the boundaries of the district, and by amending the trustees section of the charter to require that a trustee of the water district must be a resident of the Town of Corinna, instead of the district of Corinna. This amendment is intended to enhance the sustainability of the Corinna Water District by facilitating cooperation between water districts and protecting the interests of ratepayers in the event of a merger between water districts.

[LD 1621](#), *An Act To Include Natural Gas Expansion in the State Energy Plan* – Public Law 2013, [chapter 541](#).

This law adds natural gas expansion as an issue to be included in the state energy plan developed by the Governor's Energy Office. The Governor's Energy Office is required by this law to include a description of the State's activities relating to the expansion of natural gas service, any actions taken by the office to expand access to natural gas in the State, and any recommendations for actions by the Legislature to expand access to natural gas in the State.

[LD 1647](#), *An Act to Make Changes to the So-called Dig Safe Law* – Public Law 2013, [chapter 557](#).

This law amends the "Dig Safe Law" by clarifying that excavators must renew notification to the owners or operators of underground facilities for each successive 60-day period during which they will be excavating. The law clarifies that the provision that allows excavators to commence excavation on underground facilities located on private property that are owned and operated by the owner of that property before those facilities are marked or the passing of three business days from the date of notification, whichever occurs earlier, only applies when the underground facilities provide service to a single family residence. The law also adds a provision that requires the Public Utilities Commission to review its rules regarding underground facility damage prevention and excavator and underground facility operator practices to identify ways to decrease the number of notices that do not result in a marking. The commission may submit a report with recommended changes to the law to the joint standing committee of the Legislature having jurisdiction over utility matters.

[LD 1693](#), *An Act To Amend the Anson and Madison Water District Charter* – Private & Special Law 2013, [chapter 21](#).

This law amends the charter of the Anson and Madison Water District to allow the trustees of the District, in the event of a vacancy on the board of trustees, to appoint a person who is recommended by the trustees of the district from the town in which the vacancy occurs to fill the vacancy until the next annual meeting of that town. The law also provides the trustees the option of calling a special election to fill a vacancy on the board.

LD 1752, *An Act To Preserve Certain Rights Granted to Maine Public Service Company Before Its Merger with Bangor Hydro Electric Company* – Private & Special Law 2013, [chapter 25](#).

This law was submitted on behalf of Emera Maine, which is the new name for Bangor Hydro and Maine Public Service. Bangor Hydro and Maine Public Service completed their merger on January 1, 2014. This law provides that any rights previously granted by private and special law to Maine Public Service Company and any duties imposed by private and special law upon Maine Public Service Company are transferred to and assumed by Bangor Hydro Electric Company in the same manner and to the same extent as those rights and duties applied to Maine Public Service Company. These rights were awarded to Maine Public Service by the Maine Legislature at various points over the past hundred years, and they include rights such as: the ability to lay poles and wires; the right to serve in certain municipalities; and the granting of certain rights of way.

LD 1784, *An Act To Reform Regulation of Consumer-owned Water Utilities* – Public Law 2013, [chapter 573](#).

This law requires the Public Utilities Commission to adopt rules to establish standards and procedures to exempt consumer-owned water utilities from portions of the Maine Revised Statutes, Title 35-A. This law outlines specific requirements related to standards for granting an exemption:

1. Specifies ways a request for exemption may be initiated;
2. Lists specific provisions of Title 35-A from which a consumer-owned water utility may not be exempted;
3. Directs the commission to ensure that customers of consumer-owned water utilities still have access to the services provided by the consumer assistance division within the commission; and
4. Directs the commission to establish by rule a process by which customers of a consumer-owned water utility can request that an exemption be rescinded. The law also authorizes the Public Utilities Commission to rescind an exemption on its own motion.

The law requires that rate schedules issued by a consumer-owned water utility be submitted to the commission.

LD 1826, *An Act To Protect the State's Authority in Issues Concerning Federal Relicensing of Dams Located in the State* – Public Law 2013, [chapter 545](#).

This law directs the Department of Environmental Protection ("DEP") to, by January 15, 2015 and annually thereafter, submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report describing all pending applications for water quality certification under Section 401 of the federal Clean Water Act for dams located in the State that are subject to the jurisdiction of the Federal Energy Regulatory Commission. The law directs the DEP to include within the report certain information relating to pending applications as well as licensing or relicensing deadlines anticipated to occur within 5 years after the deadline of the report.

LD 1860, *An Act to Provide for Temporary Commissioners at the Public Utilities Commission* – Public Law 2013, [chapter 554](#). **This emergency law became effective on April 17.**

This law authorizes the Governor to appoint, subject to confirmation by the Legislature, three individuals to be alternate commissioners of the Public Utilities Commission on a case by case basis whenever two or more commissioners, due to a conflict of interest, disability or other reason, are unable to serve in a proceeding, which results in the commission being unable to maintain a quorum.

Environmental & Renewables

If you have a question about any of the new laws summarized in the Environmental & Renewables section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:

[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Air Quality and Boilers

Contact

[Dixon P. Pike](#) - 207.791.1374

[Brian M. Rayback](#) - 207.791.1188

[John M. Formella](#) - 603.373.2010

[Avery T. Day](#) - 207.791.1157

LD 1773, *Resolve, Regarding Legislative Review of Portions of Chapter 106: Low Sulfur Fuel, a Late-Filed Major Substantive Rule of the Department of Environmental Protection* – Resolve 2013, [chapter 95](#). **This emergency resolve became effective on March 22.**

This resolve reports the legislative approval of previously provisionally adopted portions of [Chapter 106: Low Sulfur Fuel](#), a major substantive rule of the Department of Environmental Protection that was filed outside the legislative rule acceptance period.

LD 1796, *An Act to Delay Implementation of Reformulated Gasoline Requirements in Maine* – Public Law 2013, [chapter 453](#). **This emergency law became effective on March 6.**

This law extends by one year and one month the implementation date for reformulated gasoline to be the only gasoline sold in 7 southern counties in the State. The law also requires the Department of Environmental Protection (“DEP”) to study the feasibility of easing the multiple gasoline requirements in Maine and achieving the use of a single type of gasoline for the entire State. By January 30, 2015, DEP must submit to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters a report and implementing legislation directing the State to use a single type of gasoline. The joint standing committee is authorized to report out a bill on the subject matter of the department’s report to the 1st Regular Session of the 127th Legislature.

Chemical Control and Products

Contact

[Kenneth F. Gray](#) - 207.791.1212

[Dixon P. Pike](#) - 207.791.1374

[John M. Formella](#) - 603.373.2010

[Avery T. Day](#) - 207.791.1157

LD 1567, *Resolve, Regarding Legislative Review of the Portions of Chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition, a Late-filed Major Substantive Rule of the Department of Agriculture, Conservation and Forestry* – Resolve 2013, [chapter 88](#).

This resolve reports the legislative approval of previously provisionally adopted portions of [Chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition](#), which is a major substantive rule of the Department of Agriculture, Conservation and Forestry.

LD 1569, *Resolve, Regarding Legislative Review of Portions of Chapter 51: Notice of Aerial Pesticide Application, a Late-filed Major Substantive Rule of the Department of Agriculture, Conservation and Forestry* – Resolve 2013, [chapter 86](#).

This resolve reports the legislative approval of previously provisionally adopted portions of [Chapter 51: Notice of Aerial Pesticide Application](#), a major substantive rule of the Department of Agriculture, Conservation and Forestry that was filed outside the legislative rule acceptance period.

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Environmental Permitting and Land Use

Contact

[John D. Delahanty](#) – 207.791-1222

[Thomas R. Doyle](#) – 207.791.1214

[Matthew D. Manahan](#) – 207.791.1189

[Philip F.W. Ahrens](#) – 207.791.1298

[Brian M. Rayback](#) – 207.791.1188

(Not Enacted) LD 331, *Resolve, To Expand Economic Development in the Town of Orrington by Releasing Certain Riverfront Land from State-Imposed Environmental Restrictions.*

This resolve was carried over from the 1st Regular Session, but it ultimately did not pass into law. This resolve would have directed the Department of Environmental Protection to release all DEP-imposed development restrictions on certain portions of the former HoltraChem Manufacturing Company site in Orrington that are not targeted for cleanup and remediation under DEP clean-up orders.

(Not Enacted) LD 794, *An Act to Amend Setback Requirements and Standards Related to Species Migration Under the Laws Regulating Development Near Vernal Pools.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill proposed to amend the laws regulating significant vernal pool habitat to account for species migration patterns. The proposal would have changed the area that is regulated around the vernal pool depression to implement a concept that is often referred to as a “directional buffer” to account for how the species of concern move through the habitat surrounding the depression itself. Proponents of the bill wanted to ensure that the Maine Department of Inland Fisheries & Wildlife must affirmatively approve any directional buffers before they could be implemented in any permit issued by the Maine Department of Environmental Protection.

(Not Enacted) LD 1528, *Resolve, To Provide for Livable, Affordable Neighborhoods.*

This resolve was carried over from the 1st Regular Session, but it ultimately did not pass into law. As introduced, the Resolve would have directed the Department of Transportation to develop recommendations for roadway projects in urban areas that emphasize walkable communities. It also would have directed the Department of Agriculture, Conservation and Forestry to develop models designed to encourage productive use of rural lands while providing opportunities for resource-based industries to thrive, and conversely, to develop a model for compact village development to promote high residential density with mixed land uses.

(Not Enacted) LD 1565, *An Act to Preserve Code Enforcement Officer Training and Certification.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill proposed reassigning the responsibility of code enforcement officer training and certification. During the previous Legislature, the State Planning Office was dismantled, and this responsibility was transferred to the Department of Economic and Community Development. This bill proposed shifting this responsibility to the Department of Environmental Protection. This bill also proposed amending current law regarding the funding of the training so that it would have taken place regardless of the availability of surcharges to fund the training.

LD 1644, *An Act To Allow the City of Saco To Stabilize the Coastline and Coastal Sand Dune System Adjacent to the Saco River* – Private & Special Law 2013, [chapter 24](#).

This law allows the City of Saco to undertake certain limited property and municipal infrastructure protection measures without a Natural Resources Protection Act permit. It applies to areas along the coastline and within the coastal sand dune system and waterways of the Saco River Harbor area, the Saco River Federal Navigation Project area, the Camp Ellis Beach area, and the Ferry Beach area. The law also authorizes the Department of Environmental Protection to approve an individual permit for the City of Saco to undertake, over a 7-year period, annual maintenance dredging of the Saco River channel and harbor and to use the dredged materials as beach nourishment on Camp Ellis Beach and Ferry Beach in Saco. Finally, the City of Saco is authorized to continue annual dredging and beach nourishment measures for an additional 7-year period so long as it pursues and obtains a permit by rule.

LD 1755, *An Act To Amend the Mandatory Shoreland Zoning Laws To Exclude Subsurface Waste Water Disposal Systems, Geothermal Heat Exchange Wells and Wells or Water Wells from the Definition of "Structure"* – Public Law 2013, [chapter 489](#).

This law amends the definition of "structure," as that term is defined in the state's shoreland zoning laws, to exclude subsurface waste water disposal systems, geothermal heat exchange wells, and water wells. The primary effect is that these features will not be subject to restrictive setbacks within the shoreland zone.

Forestry

Contact

[John D. Delahanty](#) – 207.791-1222

[Thomas R. Doyle](#) – 207.791.1214

[Dixon P. Pike](#) – 207.791.1374

[John M. Formella](#) – 603.373.2010

LD 1665, *An Act To Clarify the Confidentiality of Wood Processor Report Information* – Public Law 2013, [chapter 513](#).

This new law makes clear that information collected by the Maine Forest Services on the volume, species, type, and county of origin of forest products as well as personally identifying information of forest products suppliers to roundwood processing operations and importers or exporters of forest products is confidential.

LD 1673, *An Act to Further Delegate Permit-granting Authority to the Bureau of Forestry* – Public Law 2013, [chapter 570](#).

This law consolidates timber harvesting permitting authority under the Bureau of Forestry by providing that the Bureau of Forestry must issue all permits under the Natural Resources Protection Act for timber harvesting activities in all areas of the State of Maine. In addition, the law provides that the Bureau of Forestry must consult with the Department of Environmental Protection prior to issuing permits for the mining of gravel used for the construction and maintenance of roads that are used primarily for timber harvesting in the organized areas of the State.

LD 1777, *Resolve, To Amend the Resolve to Promote the Expansion of the Maine Maple Sugar Industry* – Resolve 2013, [chapter 102](#).

This resolve authorizes the task force convened pursuant to Resolve 2011, [chapter 132](#) to develop strategies to address obstacles to the expansion of Maine's maple sugar industry to continue its work during the interim between the 2nd Regular Session of the 126th Legislature and the 1st Regular Session of the 127th Legislature. The resolve changes the deadline for the final report of the task force from December 4, 2013 to January 15, 2015.

LD 1792, *An Act to Protect Jobs in the Forest Product Industry* – Private & Special Law 2013, [chapter 27](#). **This emergency law became effective on April 7.**

Current law restricts the ability of Great Northern Paper, LLC, to receive revenue from the sale of electricity from Brookfield Renewable Energy Partners when there is a long-term cessation of paper production for a period of at least 90 days. This new law clarifies that current law does not prohibit short-term load-shedding agreements, and expressly authorizes such agreements for the stated purpose of promoting the continued viability of paper production facilities and preserving the work force employed at those facilities. It also allows a one-time, limited exemption from certain provisions of current law, including the prohibition on agreements relating to longer-term paper mill closings, for the current cessation of paper production at the East Millinocket paper production facility that began on January 23, 2014, as long as certain conditions are met, including a reopening of the facility no later than June 30, 2014 with the number of employees agreed upon by the unions representing the employees and the owner of the paper production facility.

LD 1847, *An Act to Clarify Outcome-based Forestry* – Public Law 2013, [chapter 542](#).

This new law amends the laws governing outcome-based forest policy experimental areas by changing the term "experimental area" to "outcome-based forestry area." The law requires the Director of the Bureau of Forestry within the Department of Agriculture, Conservation and Forestry to seek to designate outcome-based

forestry areas of various sizes owned by different landowners. The Director is explicitly authorized to renew an outcome-based forestry agreement if all applicable requirements are met, and the term of subsequent outcome-based forestry agreements may not exceed 5 years.

In addition, the law amends the membership of the technical panel assessing those experimental areas to consist of at least 6 members, and specifies that they must have expertise in the areas of outcome-based principles. The technical panel is required to determine whether the practices applied in an experimental area provide at least equivalent forest and environmental protection as provided by the local, state and federal rules and regulations that would otherwise apply to that experimental area. The panel of technical experts, when conducting an assessment, may consider information provided by the Bureau of Forestry, the landowner, or a 3rd-party forest certification program auditor.

The law requires the Director of the Bureau of Forestry, in consultation with the technical panel, beginning March 1, 2015 and annually thereafter, to submit a report to the joint standing committee of the Legislature having jurisdiction over forestry matters detailing the progress on each outcome-based forestry agreement. The law also provides that when an initial outcome-based forestry agreement is approved by the Director of the Bureau of Forestry, the Director is required to notify the joint standing committee of the Legislature having jurisdiction over forestry matters within 15 days. In the notification, the Director is required to address how the proposed agreement will provide at least the equivalent forest and environmental protection as provided by applicable rules and regulations. The law provides that when an outcome-based forestry agreement is renewed, the Director is required to notify the joint standing committee of the Legislature having jurisdiction over forestry matters within 15 days. Finally, the requires that reports, notifications and other information relating to outcome-based forestry projects must be placed on the Department of Agriculture, Conservation and Forestry's publicly accessible website.

Hydropower

Contact

[Matt Manahan](#) – 207.791.1189

[Brian Rayback](#) – 207.791.1188

[John Formella](#) – 603.373.2010

[John D. Delahanty](#) – 207.791-1222

LD 1826, *An Act to Protect the State's Authority in Issues Concerning Federal Relicensing of Dams Located in the State* – Public Law 2013, [chapter 545](#).

This new law directs the Department of Environmental Protection (DEP), by January 15, 2015 and annually thereafter, to submit to the Environment and Natural Resources Committee a report describing all pending applications for water quality certification under Section 401 of the federal Clean Water Act for dams that are subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC). The report must include certain information for each application, including the application's filing date, DEP's response deadline for the application, and a short statement describing DEP's plan to address its response deadline. Finally, the report must include a list of the licensing or relicensing deadlines for Maine dams subject to FERC jurisdiction that are anticipated to occur within five years after the date of the report and, if applicable, DEP's plan to address each deadline.

Mining and Natural Resources

Contact

[Thomas R. Doyle](#) – 207.791.1214

[Matthew D. Manahan](#) – 207.791.1189

[Brian M. Rayback](#) – 207.791.1188

[John D. Delahanty](#) – 207.791-1222

(Not Enacted) [LD 1772](#), *Resolve, Regarding Legislative Review of Chapter 200: Metallic Mineral Exploration, Advanced Exploration and Mining, a Late-filed Major Substantive Rule of the Department of Environmental Protection.*

This resolve would have disapproved the final adoption of [Chapter 200](#): Metallic Mineral Exploration, Advanced Exploration and Mining, a provisionally adopted major substantive rule of the Department of Environmental Protection, as well as portions of [Chapter 13](#): Metallic Mineral Exploration, Advanced Exploration and Mining, a provisionally adopted major substantive rule of the Maine Land Use Planning Commission.

In addition to disapproving all or portions of the above rules, the resolve would have directed the Department of Environmental Protection (“DEP”) to, as soon as practicable, repeal its existing metallic mineral mining rules and adopt metallic mineral rules identical to those rules in effect immediately prior to the routine technical rule amendments to exploration and advanced exploration sections that took effect on April 21, 2013. DEP would have been directed to, by February 1, 2016, provisionally adopt and submit to the Legislature for review major substantive rules related to the Maine Metallic Mineral Mining Act (“Mining Act”). The Maine Land Use Planning Commission (“LUPC”) would have been directed to, by February 1, 2016, provisionally adopt and submit to the Legislature for review major substantive rules related to Commission certification of metallic mineral mining permit applications as described in the Mining Act.

Upon passage by the Maine House and Senate, this resolve was vetoed by Governor LePage. The Governor stated that the bill represented an attempt to outlaw mining through rulemaking, rather than through the repeal or amendment of the Mining Act that was enacted by the Legislature two years ago. The House sustained the Governor’s veto and killed the resolve. The result of this year’s legislative and executive actions is that the Mining Act will take effect June 1, 2014, but the Legislature has yet to approve the mining rules provisionally adopted by DEP. For the time being, per the terms of unallocated language in the Mining Act, the 1991 DEP mining rules, which in multiple areas are inconsistent with the Act, remain in effect. Presumably the executive branch will now decide how it intends to proceed next with the rules provisionally adopted by both DEP and LUPC.

(Not Enacted) [LD 1851](#), *An Act to Delay Implementation of the Maine Metallic Mineral Mining Act and Related Statutory Provisions.*

This bill would have amended Public Law 2011, [chapter 653](#), section 33 to delay implementation of the Maine Metallic Mineral Mining Act and related statutory provisions for two years, with a new effective date of June 1, 2016. Upon passage by the Maine House and Senate, this bill was vetoed by Governor LePage. The Governor’s veto was sustained and the bill was killed. The effective date of the Maine Metallic Mineral Mining Act remains June 1, 2014.

Renewable Energy

Contact

[Philip F.W. Ahrens](#) – 207.791.1298

[Matthew D. Manahan](#) – 207.791.1189

[Thomas R. Doyle](#) – 207.791.1214

[Avery T. Day](#) – 207.791.1157

(Not Enacted) LD 616, *An Act to Amend the Expedited Permitting Area for Wind Energy Development Under the Jurisdiction of the Maine Land Use Planning Commission.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill proposed to amend Public Law 2007, [chapter 661](#), to remove Carrying Place Township, Concord Township, Highland Plantation, Lexington Township and Pleasant Ridge Plantation from the expedited permitting area for the purposes of that Act and would have directed the Maine Land Use Planning Commission to amend its rules accordingly.

(Not Enacted) LD 1147, *An Act to Protect Maine's Scenic Character.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. As introduced, this bill proposed a number of additional requirements for siting wind energy developments in order to create additional regulations to protect the viewsheds of certain areas of the State.

(Not Enacted) LD 1252, *Act to Improve Maine's Economy and Energy Security with Solar and Wind Energy.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill would have reinstated the solar and wind energy rebate program to provide rebates for the purchase of certain solar and wind energy equipment until June 30, 2018. The program had expired December 31, 2010. This bill would also have increased the limit on the total amount of renewable capacity allowed under the community-based renewable energy pilot program from 50 megawatts to 60 megawatts and would have required the Public Utilities Commission to reserve 10 megawatts in that program for solar-powered generating systems. The bill would have increased the limit on the contract price the Commission may authorize for eligible solar-power generation, and would have indexed the price limit to the Consumer Price Index. The repeal date for the Community-based Renewable Energy Act would have been extended from December 31, 2015, to December 31, 2017. Finally, the bill would have required the Commission to submit to the Legislature by January 15, 2014, a report on options for establishing a solar carve-out, or solar set-aside, for an amount of energy that must be solar, within the State's renewable portfolio standard.

(Not Enacted) LD 1323, *An Act Regarding Wind Power Siting in the Unorganized Territory.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill would have required Maine Land Use Planning Commission (LUPC) certification before any Department of Environmental Protection approval of a grid-scale wind energy development in the unorganized or de-organized areas of the State. Under the bill, LUPC would have been required to certify that the area where the development would be located had been zoned for planned development. The bill would also have removed a legislative finding regarding wind energy development in the unorganized and de-organized parts of the State.

(Not Enacted) LD 1434, *An Act to Clarify the Laws Governing Noise from Wind Turbines.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill would have required unregulated energy developments that buy and sell electricity to meet the same sound level standards that must be met by wind energy developments permitted under the [Maine Revised Statutes, Title 38](#), chapter 3, subchapter 1, article 6.

Sewer

Contact

[Brian M. Rayback](#) – 207.791.1188

[William E. Taylor](#) – 207.791.1213

[John Formella](#) – 603.373.2010

LD 1532, *An Act to Provide Model Language for Standard Sewer District Charters* — Public Law 2013, [chapter 555](#).

This new law is known as the “Standard Sewer District Enabling Act,” and it creates a model standard sewer district charter in statute. The law aims to provide standard language for the common provisions included in a sewer district charter. The law retains most of the mandatory requirements of the Maine Revised Statutes, Title 38, chapter 12 (which the law repeals), except for the requirements that a new sewer district be formed under the Sanitary District Enabling Act and that a proposed amendment to extend the boundaries of a sewer district be approved by referendum before the amendment is presented to the Legislature. For existing districts, the law provides that certain changes are automatically incorporated by law into the private and special law governing that district and that any conflicting provision is void. Among such provisions are those governing trustee compensation, rights of eminent domain, provisions requiring coordination with municipal officials for sewer extensions, and the process for adopting rate schedules.

Waste and Recycling

Contact

[John D. Delahanty](#) – 207.791-1222

[Thomas R. Doyle](#) – 207.791.1214

[Kenneth F. Gray](#) – 207.791.1212

[Dixon P. Pike](#) – 207.791.1374

LD 1483, *An Act to Implement the Solid Waste Management Hierarchy* – Public Law 2013, [chapter 458](#).

This new law amends [38 MRSA §1310-N, sub-§1](#) to require that the practices of an applicant for a solid waste facility license be consistent with the State’s solid waste management hierarchy. The law also directs the Department of Environmental Protection to adopt rules incorporating the State’s solid waste hierarchy as a review criterion for waste facility licensing approval. Finally, the law adds an appropriations and allocations section that provides one-time funding for rulemaking in the fiscal year 2014-2015.

Wildlife and Fisheries Management

Contact

[William E. Taylor](#) – 207.791.1213

[Matthew D. Manahan](#) – 207.791.1189

[Brian M. Rayback](#) – 207.791.1188

[Avery T. Day](#) – 207.791.1157

(Not Enacted) LD 153, *An Act to Establish a Comprehensive Hunting and Fishing License*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill proposed to replace the former “Super Pack” Hunting License with a new Comprehensive License. The Comprehensive License would have included all licenses and permits to hunt and fish all legal game and fish species during any open season on that species. The Comprehensive License would also have included entry into the moose and antlerless deer lotteries. The Comprehensive License would have differed from the Super Pack License in that: (1) the holder would not have been allowed to take more deer than is permitted for other hunting license holders; (2) the license would not have included an antlerless deer permit for use in wildlife management districts in which 3,500 such permits are issued; (3) the resident fee for the license would have been \$35 instead of \$200; (4) the license would have been available to nonresidents and aliens for a fee of \$125; and (5) there would have been no license fee category for a person who holds 2 or more lifetime licenses.

(Not Enacted) LD 931, *An Act to Prevent Fish Kills and to Allow for Recreational Use of Sebago Lake*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill would have established water flow requirements for the Eel Weir Dam and bypass area, which controls the water level of Sebago Lake and the flows entering the Presumpscot River. The bill sought to provide higher water levels for boating uses, at the expense of multiple other uses of Sebago Lake and the Presumpscot River.

LD 1602, *Resolve, Establishing the Commission to Study the Effects of Coastal and Ocean Acidification and Its Existing and Potential Effects on Species That Are Commercially Harvested and Grown along the Maine Coast* – Resolve 2013, [chapter 110](#). **This emergency resolve became effective on April 30.**

This resolve establishes a commission to identify the actual and potential effects of coastal and ocean acidification on commercially valuable marine species. The stated aim of the commission is to identify scientific data and knowledge gaps that hinder Maine's ability to craft policy and other responses to coastal and ocean acidification and to prioritize strategies for filling those gaps. The Commission must submit a report of its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over marine resources matters by December 5, 2014.

LD 1604, *An Act to Make Technical Changes to Marine Resources Laws* – Public Law 2013, [chapter 492](#). **This emergency law became effective on March 22.**

This new law makes a number of changes to the state's marine resources laws, including (1) lowering the license surcharge for nonresident lobster and crab permits, (2) adjusting the amount of shell scallops permitted in the personal use exemption contained in the scallop licensing laws from one bushel to 1.5 bushels, (3) allowing the holder of a marine worm dealer's license and a wholesale seafood dealer's license to purchase and sell green crabs without a green crab only license, and (4) lowering the cost of a green crab only license from \$38 to \$10 for residents and from \$76 to \$20 for non-residents.

LD 1605, *An Act to Amend Maine's Aquaculture Laws* – Public Law 2013, [chapter 509](#).

This new law makes a number of changes to Maine laws that relate to aquaculture. Among other changes, the law requires holders of limited-purpose aquaculture licenses to annually submit to the Department of Marine Resources a seeding and harvesting report for the past year and a seeding and harvesting plan for the coming year. The law also allows holders of aquaculture leases or limited purpose aquaculture licenses to grow clutchless American oysters without obtaining a clutchless American oyster grower's license, as long as the holder's aquaculture lease or license specifies that clutchless American oysters may be grown.

LD 1625, *An Act Concerning Maine's Elver Fishery* – Public Law 2013, [chapter 485](#). **This new law became effective on March 18.**

This new law was enacted as emergency legislation in order to establish a new management scheme for the elver fishery during the 2014 fishing season. Under this new law, this fishery is transferred from a fishery managed through effort controls to a quota-based fishery. This law establishes individual fishing quotas for elver harvesters and establishes penalties to police these quotas and to prevent quota overages.

LD 1687, *An Act to Create Parity for Proprietary Information Submitted to the Department of Marine Resources* – Public Law 2013, [chapter 512](#).

This law allows certain businesses licensed under Maine's marine resource laws to request that certain information submitted to the Department of Marine Resources be kept confidential in order to protect proprietary business information. This includes information submitted to the department pursuant to provisions regarding (1) special licenses for research, aquaculture, or education, (2) surveillance and inspection of all segments of the state's fishing industries, and (3) the shellfish sanitation certificate and the deputation certificate.

LD 1689, *An Act to Encourage and Protect Innovation in Fisheries, Aquaculture and Seafood Processing* – Public Law 2013, [chapter 518](#).

This new law provides that records describing research for the development of processing techniques for fisheries, aquaculture, and seafood processing or the design and operation of a deputation plant in the

possession of the Department of Marine Resources are not subject to disclosure under the Freedom of Access Act.

LD 1723, *An Act to Improve Enforcement of Marine Resources Laws* – Public Law 2013, [chapter 468](#). **This emergency law became effective on March 13.**

This law makes a number of changes to Maine's marine resources laws that are aimed primarily at enhancing the state's enforcement efforts. Among other changes, this law:

1. Creates an administrative process for assessing a penalty for pecuniary gain realized from the unlawful purchase, sale or fishing of elvers;
2. Establishes an elver transaction card to be issued by the Department of Marine Resources to the holders of elver fishing licenses issued by the Department of Marine Resources and the federally recognized tribes in the State and requires the holder of an elver fishing license to present the card issued to that person, which includes that person's name and license number, in order to sell or transfer elvers the license holder has taken to a dealer;
3. Requires every individual fishing for elvers to possess, on that individual's actual person, an elver fishing license, government-issued photo identification card and elver transaction card. Failure to present the elver fishing license and elver transaction card if required constitutes prima facie evidence of a violation;
4. Clarifies for revocation purposes that a habitual violator is a license holder and, notwithstanding other specific penalties that may be applied, the Commissioner of Marine Resources is authorized to suspend licenses for violating marine resources laws; and
5. Provides a process for suspending an elver dealer's license for failure to comply with daily reporting requirements that includes telephone notification or, after 24 hours, mailing or providing the notice in hand to the license holder.

LD 1808, *An Act to Protect the Public from Mosquito-borne Diseases* – Public Law 2013, [chapter 548](#).

This new law charges the Department of Health and Human Services with monitoring mosquito-borne diseases in Maine and authorizes the Commissioner to declare a public health threat when warranted. Under this new law, the Department of Agriculture, Conservation and Forestry is authorized to manage mosquito populations in response to a public health threat, pursuant to the policies established in this law. Additionally, municipalities may coordinate with each other to create mosquito management districts.

Government and Public Affairs

If you have a question about any of the new laws summarized in the Government and Public Affairs section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:

[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Bond Issues

Contact

[John D. Delahanty](#) - 207.791.1222

[Andrea Cianchette Maker](#) - 207.791.1101

[Avery T. Day](#) - 207.791.1157

LD 221, *An Act to Authorize a General Fund Bond Issue to Provide Funds for a Public-private Partnership for a New Science Facility at the Maine Maritime Academy* – Public Law 2013, [chapter 433](#).

This bond proposal was enacted during an August 2013 Special Legislative Session and was placed on the November 2013 state-wide ballot, where it was approved by the voters. This bond authorizes borrowing of up to \$4.5 million for a new science facility at the Maine Maritime Academy, which would be matched by private funds.

LD 245, *An Act to Authorize a General Fund Bond Issue for Maintenance and Improvement of State Armories and the Purchase of Land for Maine Army National Guard Training* – Public Law 2013, [chapter 432](#).

This bond proposal was enacted during an August 2013 Special Legislative Session and was placed on the November 2013 state-wide ballot, where it was approved by the voters. This bond authorizes borrowing of up to \$11 million for capital costs for Maine Army National Guard readiness centers and support facilities and up to \$3 million for the purchase of up to 6,000 acres of land to be used by the Maine Army National Guard for training purposes.

LD 636, *An Act to Authorize a General Fund Bond Issue to Invest in the Maine Community College System* – Public Law 2013, [chapter 431](#).

This bond proposal was enacted during an August 2013 Special Legislative Session and was placed on the November 2013 state-wide ballot, where it was approved by the voters. This bond authorizes borrowing of up to \$15.5 million to upgrade buildings, classrooms and laboratories on the seven campuses of the Maine Community College System.

LD 782, *An Act to Authorize a General Fund Bond Issue to Support Science, Technology, Engineering, Mathematics and Nursing Education to Enhance Economic Development* – Public Law 2013, [chapter 430](#).

This bond proposal was enacted during an August 2013 Special Legislative Session and was placed on the November 2013 state-wide ballot, where it was approved by the voters. This bond authorizes borrowing up to \$15.5 million to update and improve existing laboratory and classroom facilities at the University of Maine campuses throughout the State.

LD 1095, *An Act to Authorize a General Fund Bond Issue to Improve Highways, Bridges and Multimodal Facilities* – Public Law 2013, [chapter 429](#).

This bond proposal was enacted during an August 2013 Special Legislative Session and was placed on the November 2013 state-wide ballot, where it was approved by the voters. This bond authorizes borrowing up to \$100 million for reconstruction and rehabilitation of transportation infrastructure. This includes \$44 million for state highways; \$5 million for municipal partnerships and secondary roads; \$27 million for bridges; and \$24 million for marine, aviation, and railroad facilities and equipment.

LD 1223, *An Act to Authorize a General Fund Bond Issue to Support Human Health Research in Maine* – Public Law 2013, [chapter 568](#).

This bond proposal was enacted this legislative session and will be placed on the November 2014 state-wide ballot for consideration by Maine's voters. This bond authorizes borrowing of up to \$3 million for the Mount Desert Island Biological Laboratory to expand Maine's workforce in the microbiology and medical research sectors.

LD 1455, *An Act to Authorize a General Fund Bond Issue to Ensure Clean Water and Safe Communities* – Public Law 2013, [chapter 589](#).

This bond proposal was enacted this legislative session and will be placed on the November 2014 state-wide ballot for consideration by Maine's voters. This bond authorizes borrowing of up to \$10 million for water-related projects, including funding for the wastewater and drinking water revolving loan funds.

LD 1756, *An Act to Authorize a General Fund Bond Issue to Support Biomedical Research in Maine* – Public Law 2013, [chapter 574](#).

This bond proposal was enacted this legislative session and will be placed on the November 2014 state-wide ballot for consideration by Maine's voters. This bond authorizes borrowing of up to \$10 million for the Jackson Laboratory in Bar Harbor to expand its genetics and medical workforce.

LD 1827, *An Act to Authorize a General Fund Bond Issue to Support Maine Small Business and Job Creation* – Public Law 2013, [chapter 596](#).

This bond proposal was enacted this legislative session and will be placed on the November 2014 state-wide ballot for consideration by Maine's voters. This bond authorizes borrowing of up to \$12 million in order to make loans to small businesses to spur job growth.

LD 1861, *An Act to Authorize a General Fund Bond Issue to Create an Animal and Plant Disease and Insect Control Facility Administered by the University of Maine Cooperative Extension Service* – Public Law 2013, [chapter 572](#).

This bond proposal was enacted this legislative session and will be placed on the November 2014 state-wide ballot for consideration by Maine's voters. This bond authorizes borrowing of up to \$8 million for an animal and plant disease and insect control laboratory at the University of Maine. This bond proposal was slightly amended by Public Law 2013, [chapter 608](#), which further clarifies the purpose of this bond proposal.

Budget

Contact

[John D. Delahanty](#) – 207.791.1222

[Andrea Cianchette Maker](#) – 207.791.1101

[Avery T. Day](#) – 207.791.1157

LD 725, *An Act to Implement the Recommendations of the Judicial Compensation Commission* – Public Law 2013, [chapter 563](#). **This emergency law became effective on April 24.**

This new law adjusts the annual cost-of-living adjustment for State judges down from a maximum of a four percent increase annually to a maximum of a three percent increase annually. Additionally, this new law adjusts salaries of State judges up two percent on July 1, 2014 to reflect some of the value of recently foregone cost-of-living adjustments for the Judicial Branch.

(Not Enacted) LD 1572, *An Act to Correct Minor Technical Errors and Inconsistencies in the Unified Budget Bill*.

This bill from the 1st Regular Session was held by the Governor, and was ultimately vetoed and did not pass into law. As introduced, this bill would have largely implemented technical corrections to the biennial budget. This bill became contentious because it sought to clarify a portion of the biennial budget that increases sales taxes from 5 percent to 5.5 percent.

LD 1679, *An Act to Appropriate Funds for the Maine Criminal Justice Academy, Code Enforcement Officer Training, Increased Enforcement of Tax Collection, Water Quality Control, Clinical Staff at the Maine State Prison and HIV Prevention Education* – Public Law 2013, [chapter 591](#).

This new law is an amalgamation of a number of spending proposals and could be termed “omnibus” legislation. Included in this new law is funding for code enforcement officer training, funding for the Maine Criminal Justice Academy, funding for mental health staff at the Maine State Prison, funding for HIV prevention training and education, and funding for the LakeSmart program. This new spending is offset by special revenues held by the Gambling Control Board and by providing additional staff to the Bureau of Revenue Services, as this staff actually generates revenue through the performance of their jobs.

LD 1725, *An Act to Provide for the 2014 and 2015 Allocations of the State Ceiling on Private Activity Bonds* – Private & Special Law 2013, [chapter 20](#). **This emergency law became effective on March 6.**

This new law establishes the allocations of the state ceiling on issuance of tax-exempt private activity bonds for calendar years 2014 and 2015 among the state-level issuers of tax-exempt bonds. For 2014: Treasurer of State allocation is \$5,000,000; Finance Authority of Maine is \$40,000,000; Maine Municipal Bond Bank is \$10,000,000; Maine Education Loan Authority is \$15,000,000; Maine State Housing Authority is \$50,000,000; and the Unallocated State Ceiling is \$176,825,000. For 2015, the same allocations are made.

LD 1788, *An Act to Make Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2014 and June 30, 2015* – Public Law 2013, [chapter 586](#). **This emergency law became effective on April 30.**

This new law establishes supplemental state spending on highways and bridges for the remainder of the biennium. This highway fund budget provides for the ongoing operation of state transportation assets as well as for the paving of hundreds of miles of roads and the purchase of new heavy equipment. Included in the supplemental highway fund budget is funding for the improvement or replacement of the Sarah Mildred Long Bridge between Kittery, Maine, and Portsmouth, New Hampshire; and funding to account for unanticipated spending due to winter weather. Finally, this new law authorizes the Department of Transportation to sell 1.9 miles of Interstate 95 in Kittery to the Maine Turnpike Authority for \$30 million.

LD 1807, *An Act to Restore Funding in the Maine Budget Stabilization Fund Through Alternative Sources* – Public Law 2013, [chapter 487](#). **This emergency law became effective on March 21.**

This new law restores roughly \$21 million to the Budget Stabilization Fund, known as the “Rainy Day Fund.” This funding is provided by adjusting retiree health insurance funding and general purpose aid for local schools funding. This legislation was submitted by Governor LePage to reverse another law enacted this session, Public Law, [Chapter 452](#) (LD 1762), which restored municipal revenue sharing funding, in part through transferring funds out of the “Rainy Day Fund.”

LD 1843, *An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government to Address Supplemental Funding Needs Projected for the Fiscal Year Ending June 30, 2014 and To Adjust Funding for the Fiscal Year Ending June 30, 2015* – Public Law 2013, [chapter 502](#). **This emergency law became effective on April 3.**

This new law closes a roughly \$40 million budget gap for the current fiscal year, which ends June 30, 2014. Much of this budget gap was created by unanticipated spending within the Department of Health and Human Services, and this budget plan closes this gap. Savings were generated in this package in a number of ways, including the elimination of the Research and Development Super Credit on a prospective basis. Pine Tree Development Zone tax incentives were reduced by this new law but this decision was revisited and reversed in a subsequent supplemental spending proposal, LD 1858.

LD 1858, *An Act to Achieve the Savings Required under Part F of the Biennial Budget and to Change Certain Provisions of the Law for Fiscal Years Ending June 30, 2014 and June 30, 2015* – Public Law 2013, [chapter 595](#). This emergency law became effective on May 1.

This new law closes a roughly \$32 million budget gap for the state fiscal year beginning July 1, 2015. Much of this budget gap was created by unanticipated spending within the Department of Health and Human Services, and this budget plan closes this gap. This new law created savings by adjusting the timing of payments to providers of MaineCare services, a concept Governor LePage cited as a budget gimmick and a reason for his veto of this law. The most significant policy developments included in this new law were tax-related, including a reversal of a previous attempt to limit Pine Tree Development Zone income tax incentives and elimination of the cap on medical and dental expense tax deductions.

Legislative/Executive Process

Contact

[John D. Delahanty](#) – 207.791.1222

[Andrea Cianchette Maker](#) – 207.791.1101

[Avery T. Day](#) – 207.791.1157

LD 1616, *An Act Regarding Appointments of Certain Positions in the Department of Corrections* – Public Law 2013, [chapter 491](#).

The new law restructures the politically appointed positions within the Department of Corrections. Under this new law, an associate commissioner position is eliminated and a deputy commissioner position is created. This deputy commissioner is authorized to assume the duties of the commissioner when the commissioner is unable to perform the duties of that office. This new law also confers appointment power on the commissioner for other positions within the Department.

LD 1632, *Resolve, Directing the Commissioner of Defense, Veterans and Emergency Management to Request the Federal Government to Recognize Environmental Hazards at the Military Training Center in Gagetown, New Brunswick and the Resulting Health Risks and Disabilities Suffered by Certain Members of the Maine National Guard* – Resolve 2013, [chapter 100](#).

This resolve directs the Commissioner of Defense, Veterans and Emergency Management to request that the federal Department of Veterans Affairs recognize environmental hazards at a Canadian military base in Gagetown, New Brunswick, and the potential health risks associated with training at that base. Additionally, the Commissioner is directed to report to the Legislature developments regarding this issue by January 10, 2015.

LD 1653, *An Act to Designate the Maine Armed Forces Museum Operated by the Maine Military Historical Society as the Official State Military History Museum* – Public Law 2013, [chapter 463](#).

This new law designates the Maine Military Historical Society's Maine Armed Forces Museum as the official state military history museum.

LD 1655, *An Act to Amend the Military Bureau Laws* – Public Law 2013, [chapter 469](#).

This new law provides that certain capital repair projects undertaken by the Department of Defense, Veterans and Emergency Management costing less than \$500,000 are not subject to legislative approval, while projects costing more than this amount require legislative authorization. Prior to this law, the statute set this threshold at \$300,000.

LD 1708, *An Act to Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2015* – Private & Special Law 2013, [chapter 22](#).

This private and special law allocates revenues of the Maine Turnpike Authority to pay for the Authority's operating expenses for the calendar year ending December 31, 2015.

LD 1801, *An Act to Eliminate Inactive Boards and Commissions* – Public Law 2013, [chapter 533](#).

This new law eliminates various State government boards and commissions who have failed to file an annual report or have reported inactivity during 2012 and 2013. Those boards and commissions that were eliminated under this new law are:

- The Advisory Board of the Maine Learning Technology Fund
- The Maine Wild Mushroom Harvesting Advisory Committee
- The State Court Library Committee
- The State Sentencing and Corrections Practices Coordinating Council

LD 1806, *An Act to Implement the Recommendations Contained in the State Government Evaluation Act Review of the Maine Public Employees Retirement System* – Public Law 2013, [chapter 602](#).

This new law makes a number of changes to laws governing the Maine Public Employees Retirement System to: (1) allow for the System to combine certain assets for investment, but not liability, purposes; (2) add emergency medical services personnel to participating employees with a special retirement plan; and (3) establish a task force to recommend an environmental, social and governance policy for the System.

LD 1824, *An Act to Provide Additional Authority to the State Board of Corrections* – Public Law 2013, [chapter 598](#). **This emergency law became effective on May 1.**

This new law significantly reforms the State Board of Corrections and its relationship with Maine's county jails to provide more coordination between these jails. Among other things, this new law facilitates the transfer of inmates between jails to address overcrowding and demands for various services. It also authorizes the Board to contract for the entire jail system, and implements uniform accounting and budgeting among jails. This new law also addresses funding and budgeting matters.

LD 1841, *An Act to Correct Errors and Inconsistencies in the Laws of Maine* – Public Law 2013, [chapter 588](#). **This emergency law became effective on April 30.**

This new law is part of an annual process where each year an errors and inconsistencies law is enacted by the legislature to clean up statutory drafting mistakes that have been identified over the past year. This legislation is traditionally purely technical in nature and does not enact substantive changes in law.

Healthcare

Consistent with a prominent theme in healthcare reform efforts both in Maine and nationally, this session saw a number of bills relating to perceived underlying causes of high healthcare costs, including bills addressing support for independent living, LD 20; tobacco cessation, LD 386; and price transparency, LD 1642.

The Legislature also passed a suite of bills relating to the treatment of, and services available to, persons with intellectual disabilities and autism, LDs 1582, 1583, 1584, and 1598; and further developing the state's medical marijuana regulatory regime, LDs 1597 and 1623.

Efforts to enact Medicaid expansion in Maine again failed, with insufficient votes obtained to override Governor LePage's veto.

If you have a question about any of the new laws summarized in the Healthcare section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [John D. Delahanty](mailto:John.D.Delahanty@legis.maine.gov) - 207.791.1222; [Andrea Cianchette Maker](mailto:Andrea.Cianchette@legis.maine.gov) - 207.791.1101; [Avery T. Day](mailto:Avery.T.Day@legis.maine.gov) - 207.791.1157.

Healthcare Delivery

Contact

[Andrea Cianchette Maker](mailto:Andrea.Cianchette@legis.maine.gov) - 207.791.1101

[Emily L. Cooke](mailto:Emily.L.Cooke@legis.maine.gov) - 207.791.1396

LD 20, *Resolve, Directing the Department of Health and Human Services To Review the Need for and the Costs of Services That Enable Populations Who Are Elderly or Have Disabilities To Live Independently* - Resolve 2013, [chapter 79](#).

This resolve directs the Department of Health and Human Services to commence a review and analysis of the need for, costs of, and potential savings with respect to, support services for instrumental activities of daily living among Maine's elderly residents and those with disabilities. (Such services are currently provided through the state's Homemaker Services Program, which has a wait list due to funding constraints.) The resolve directs the Department to examine, among other things, the possibility of prioritizing applicants based on need. The resolve further directs the Department to submit an inquiry to the federal Department of Health and Human Services as to the feasibility of obtaining a Medicaid waiver to enable Maine to provide coverage for such activities under the MaineCare program, and to apply for such a waiver by July 1, 2014 if available.

LD 386, *An Act to Reduce Tobacco-related Illness and Lower Health Care Costs in MaineCare* - Public Law 2013, [chapter 444](#).

This law requires MaineCare to cover tobacco cessation treatment for MaineCare members who are 18 years of age or older, or who are pregnant, without copays or cost-sharing; and directs the Department of Health and Human Services to maximize the opportunities for federal reimbursement for the costs of such coverage to the extent available.

LD 390, *An Act to Restore MaineCare Coverage for Ambulatory Surgical Center Services* - Private & Special Law 2013, [chapter 29](#). **This emergency law became effective on April 30.**

This new private and special law directs the Department of Health and Human Services, by July 1, 2014, to adopt rules for the reimbursement of ambulatory surgical centers under the MaineCare program that are identical to rules that were in effect on January 1, 2012.

LD 538, *An Act to Align Costs Recognized for Transfer of Nursing Facilities and Residential Care Facilities with Ordinary Commercial and Government Contracting Standards* - Public Law 2013, [chapter 582](#).

This new law establishes a new methodology under the MaineCare program for calculating recapture of depreciation on the sale of nursing facilities and certain residential care facilities. This policy change would require approval from the federal Centers for Medicare and Medicaid Services of a state plan amendment in order to be effective.

LD 1230, *An Act to Improve Access to Oral Health Care* – Public Law 2013, [chapter 575](#).

This new law establishes a complex licensing procedure as well as the scope of practice for dental hygiene therapists, who have been authorized to provide some services traditionally provided by licensed dentists. Additionally, this new law addresses reimbursement rates for dental hygiene therapists under the MaineCare program. This was a particularly controversial bill when considered in the Legislature, pitting dentists and dental hygienists against each other over this issue.

(Not Enacted) LD 1487, *An Act to Implement Managed Care in the MaineCare Program*.

This bill, which proposed establishing managed care for certain members of the MaineCare program, was carried over from the 1st Regular Session, but it ultimately did not pass into law. The bill had set forth in detail managed care requirements and the contracting process to be used by the Department of Health and Human Services for managed care services.

(Not Enacted) LD 1578, *An Act To Increase Health Security by Expanding Federally Funded Health Care for Maine People*.

This bill would have expanded medical coverage under the MaineCare program to provide MaineCare coverage for those whose incomes fall between the existing MaineCare eligibility threshold and the threshold for federal subsidies for health insurance under the federal Affordable Care Act (this is the so-called “Medicaid expansion” contemplated as part of the federal health reform legislation). It ultimately did not pass into law.

LD 1596, *Resolve, Directing the Department of Health and Human Services to Amend MaineCare Rules as they Pertain to the Delivery of Covered Services via Telecommunications Technology* – Resolve 2013, [chapter 105](#). **This emergency resolve became effective on April 8.**

This resolve directs the Department of Health and Human Services to convene a working group to review MaineCare rules regarding the definition of “telehealth” and the technologies used for provider-patient interaction for MaineCare patients. The Department is further directed to amend its rules regarding “telehealth” based on the results of this working group’s deliberations.

LD 1642, *An Act to Clarify the Law Governing Public Disclosure of Health Care Prices* – Public Law 2013, [chapter 515](#).

This law modifies Maine’s recently enacted law requiring practitioners to disclose the price of common health care procedures they perform. Specifically, it: specifies that the law is applicable to health care practices and facilities in addition to individual healthcare practitioners (but not pharmacies or pharmacists); provides that CPT (current procedural technology) codes, rather than diagnosis codes, must be included with price disclosures; and provides that entities disclosing price information must “inform patients about the availability” of price information, rather than making price lists available on request.

LD 1686, *An Act to Address Preventable Deaths from Drug Overdose* – Public Law 2013, [chapter 579](#). **This emergency law became effective on April 29.**

This new law authorizes the prescription, possession and administration of naloxone hydrochloride, a drug to prevent opioid overdoses, in certain circumstances. This new law also authorizes trained law enforcement officers and municipal firefighters to administer intranasal naloxone hydrochloride.

LD 1727, *An Act to Establish Guidelines for the Stocking and Administration of Epinephrine Autoinjectors in Schools* – Public Law 2013, [chapter 526](#).

This new law establishes guidelines for the stocking and administering of epinephrine autoinjectors in schools through collaborative practice agreements between physicians or school health advisors and school nurses.

LD 1760, *An Act to Implement the Recommendations of the Commission to Study Transparency, Costs and Accountability of Health Care System Financing* – Public Law 2013, [chapter 560](#).

This new law clarifies the information that must be provided by hospitals and ambulatory surgical centers when a patient inquires as to the average cost of a service by specifying that these facilities must also account for third-party costs in an estimate of the total price of services. Additionally, this new law requires these facilities to display a notice informing patients of their right to request this cost information. This new law also

provides uninsured patients the right to request a personalized estimate of costs for a single medical encounter.

LD 1766, *An Act to Clarify and Update a Nurse's Authority to Administer Medication* – Public Law 2013, [chapter 540](#). **This new law will become effective on January 1, 2015.**

This new law clarifies existing law regarding the authority of a nurse to administer medication. Existing statute authorizes a nurse to administer medication if acting pursuant to the direction of a list of licensed professionals. This new law, however, relies on a general description of licensed professionals as opposed to an enumerated list, in the event this list does not capture all appropriate professionals.

LD 1776, *An Act to Implement the Recommendations of the Commission to Study Long-term Care Facilities* – Public Law 2013, [chapter 594](#). **This emergency law became effective on May 1.**

This new law implements a number of recommendations of the Commission to Study Long-Term Care Facilities, including amending the statutory funding formula regarding the compensation of nursing homes, and targeting the collection of cost-of-care overpayments. Additionally, this new law directs the Department of Health and Human Services to amend its rules regarding nursing facility reimbursements as well as establishing the Commission to Continue the Study of Long-Term Care Facilities, a Commission that is charged with making additional legislative recommendations by October 15, 2014.

LD 1779, *An Act Relating to Nursing Facility and Inpatient Hospice Patients and Medical Marijuana Use* – Public Law 2013, [chapter 520](#).

This new law authorizes a hospice facility or a nursing facility to allow qualifying patients to use marijuana for medical use without requiring additional registration of the facility or the patient.

Health Information Technology

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

[Emily L. Cooke](#) – 207.791.1396

LD 1740, *An Act to Amend Laws Relating to Health Care Data* – Public Law 2013, [chapter 528](#).

This law directs the Maine Health Data Organization (“MHDO”) to promulgate rules for public access to data held by the organization, and aligns MHDO’s restrictions on the release of protected health information with federal law on the same subject.

Health Insurance

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

[John D. Delahanty](#) – 207.791.1222

[Avery T. Day](#) – 207.791.1157

LD 347, *An Act to Amend Insurance Coverage for Diagnosis of Autism Spectrum Disorders* – Public Law 2013, [chapter 597](#).

This new law expands health insurance coverage for autism spectrum disorders to insureds who are ten years and under, as opposed to existing coverage requirements of five years and under. This applies to individual, group health and HMO insurance policies renewed after January 1, 2015.

(Not Enacted) LD 1345, *Resolve, To Study the Design and Implementation of Options for a Universal Health Care Plan in the State That Is in Compliance with the Federal Patient Protection and Affordable Care Act.*

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. As introduced, this bill would have created a single payer healthcare system in Maine. This bill was turned into a resolve in Committee and would have directed the Insurance and Financial Services Committee to hire a consultant to design a universal health care system. This bill was enacted and sent to the Governor but it died when the Governor’s veto of this bill was sustained.

LD 1600, *An Act to Require Health Insurers to Provide Coverage for Human Leukocyte Antigen Testing to Establish Bone Marrow Donor Transplantation Suitability* – Public Law 2013, [chapter 603](#).

This new law requires insurance carriers offering health plans to provide coverage for human leukocyte antigen testing costs, up to \$150. This new law applies to health plans issued or renewed after January 1, 2015. This requirement became law over the Governor's objections, as he vetoed this law.

LD 1676, *An Act to Strengthen Disclosure about Provider Networks in Health Insurance Plans to Consumers and Providers* – Public Law 2013, [chapter 535](#).

This new law requires health insurance carriers offering managed care plans to disclose certain information about its provider network, including providers not included in the network and the financial responsibilities associated with accessing out-of-network providers. Additionally, this new law requires health insurance carriers to disclose to providers reasons why that provider was not included within the network.

Pharmacy

Contact

[John D. Delahanty](#) – 207.791-1222

[Andrea Cianchette Maker](#) – 207.791.1101

[Avery T. Day](#) – 207.791.1157

LD 1840, *An Act to Implement the Recommendations of the Substance Abuse Services Commission with Regard to the Controlled Substances Prescription Monitoring Program* – Public Law 2013, [chapter 587](#). **This emergency law became effective on April 30.**

This new law implements various changes to the Controlled Substances Prescription Monitoring Program, including repealing provisions of the program pertaining to specific participation requirements. Additionally, this new law directs the Department of Health and Human Services to modify the enrollment mechanism for the program so that enrollment is automatic with the application for or renewal of a professional license.

Insurance

If you have a question about any of the new laws summarized in the Insurance section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:

[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Health Insurance – [See Health Insurance under Healthcare](#)

Long-term Care

Contact

[John D. Delahanty](#) - 207.791.1222

[Avery T. Day](#) - 207.791.1157

(Not Enacted) LD 1092, *An Act to Increase the Use of Long-term Care Insurance*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. As introduced, this bill would have created a new benefit under the MaineCare program. Through this proposed program, a person otherwise eligible for long-term care benefits under MaineCare who owns a life insurance policy in excess of \$10,000 could qualify for MaineCare provided they entered into a life settlement contract with payments going directly to a provider of long-term care benefits.

Intellectual Property

If you have a question about any of the new laws summarized in the Business section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:

[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Contact

[Peter J. Guffin](#) - 207.791.1199

[Robert H. Stier, Jr.](#) - 207.791.1163

[Kyle J. Glover](#) - 207.791.1289

LD 1660, *An Act Regarding Bad Faith Assertions of Patent Infringement* – Public Law 2013, [chapter 543](#).

This law is one of a number of similar laws that have been passed by nine states in the midst of growing public concern about so-called “patent trolls.” This law prohibits “bad faith assertion[s] of patent infringement” and authorizes a person or entity that has been sued for patent infringement or threatened with suit for patent infringement (the “Target”) to bring its own lawsuit in state court against the person or entity making those threats (the “Patent Holder”). The statute even provides remedies to Targets whose customers have been threatened. This law provides a detailed list of factors that should be considered by the court to determine whether the Patent Holder’s claim of patent infringement is made in bad faith, including, notably, whether the Patent Holder has done a reasonable pre-threat investigation, whether Patent Holder has won or lost in previous litigation involving the same or similar patents, and whether the Patent Holder is the original inventor. A Target who prevails in a claim of bad faith patent infringement is entitled to injunctive relief, attorney’s fees, and damages, including punitive damages. This law also enables a Target to request an order that the Patent Holder post a bond pending the outcome of the state-court litigation.

The law also enhances regulatory oversight and enforcement over patent trolls. It authorizes the Maine Attorney General to bring a claim to enjoin a Patent Holder, establishes that bad faith assertions of patent infringement violate the Maine Unfair Trade Practices Act, and requires the Maine Attorney General to promulgate additional regulations to implement the law.

LD 1660 provides Targets with a new means of increasing the costs and risks to Patent Holders who seek to enforce their patent rights, and has the potential to generate a great deal of additional state-court litigation concerning patents. It also raises constitutional issues because it expands state-court power in an area that is reserved exclusively to the federal government under the U.S. Constitution. It will be interesting to see whether this and similar laws survive constitutional challenge and whether they actually reduce patent-troll litigation without stifling good-faith efforts by Patent Holders to enforce their federal patent rights.

Litigation

If you have a question about any of the new laws summarized in the Litigation section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:

[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Automotive Related

Contact

[Avery T. Day](#) - 207.791.1157

LD 1590, *An Act to Amend the Operating-Under-the-Influence Laws* – Public Law 2013, [chapter 459](#). **This emergency law became effective on March 12.**

This new law makes a number of technical corrections to Maine’s operating-under-the-influence laws. Included in these reforms is an amendment to the administrative suspension process for drivers’ licenses through which the Secretary of State can suspend a license. Under this new law, a first offense would result in a 150 day suspension, as opposed to the previous 90 day suspension. This suspension period now mirrors the length of a suspension for a first offense that is imposed by a court.

LD 1729, *An Act to Increase the Period of Time for the Calculation of a Prior Conviction for Operating under the Influence* – Public Law 2013, [chapter 604](#).

This new law makes a number of changes regarding how prior convictions for operating under the influence are calculated by clarifying that a driver is never eligible for reinstatement of their license when convicted of criminal operating under the influence. Additionally, this new law calculates a prior conviction from the date the sentence is imposed, as opposed to the existing formula when the clock starts on the date of the docket entry of conviction.

LD 1862, *An Act to Enhance the Availability of Special Restricted Licenses in Cases of Medical Need* – Public Law 2013, [chapter 606](#).

This new law clarifies the requirements that must be met for a special restricted license due to educational, employment or medical need to be issued to a driver who is only 15 years old. Additionally, this new law creates and defines the new category of medical need for 15 year olds seeking a driver’s license.

Judicial Process Reforms

Contact

[Avery T. Day](#) - 207.791.1157

(Not Enacted) LD 396, *An Act to Appropriate Sufficient Funds for Indigent Legal Services*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. As introduced, this bill would have increased the hourly rate of pay for attorneys providing indigent legal services. Though funding was not identified for this bill and it ultimately died, a modest increase in this hourly rate of pay was provided in the biennial budget.

LD 1589, *Resolve To Ensure Notification to the Public of the Location in Maine of Persons Convicted in Foreign Countries of Certain Crimes* – Resolve 2013, [chapter 97](#).

This resolve, which became law over the Governor’s veto, directs the Commissioner of Public Safety to convene a task force to develop notification procedures to inform the public of the location of persons convicted of certain crimes in other countries. Currently, foreign convictions do not result in a person being added to Maine’s sex offender registry.

LD 1656, *An Act to Increase Safety for Victims of Domestic Violence and Victims of Sexual Assault* – Public Law 2013, [chapter 478](#). **This emergency law became effective on March 16.**

This new law is part of the Governor's and the Legislature's focus on domestic violence over the past two years. This new law makes a number of reforms to procedures designed to protect victims of domestic violence and victims of sexual assault. This includes creating a new offense of improper contact prior to the setting of bail, which recognizes that bail commissioners are constrained in their ability to set pre-conviction bail in some instances.

LD 1697, *An Act to Provide Funding for the Veterans Treatment Courts* – Public Law 2013, [chapter 584](#).

This new law provides additional funding for Veterans Treatment Courts. Under this new law, an additional part-time Assistant District Attorney position is created and funded in order to participate in Veterans Treatment Courts.

LD 1730, *An Act to Assist Victims of Human Trafficking* – Public Law 2013, [chapter 537](#). **This emergency law became effective on April 10.**

This new law received a lot of media attention as it made its way through the legislative process. As enacted, this law allows victims of human trafficking to seek compensation from the Victims' Compensation Fund and assesses fees on those convicted of human trafficking for this Fund. This new law also creates a new affirmative defense to the crime of engaging in prostitution if those charged can establish they were compelled to do so as a result of human trafficking. This new law was slightly amended by Public Law 2013, [chapter 607](#), which contains a technical correction to the underlying law.

LD 1737, *Resolve, Extending the Date by Which the Family Law Advisory Commission Must Report on Its Study of the Uniform Parentage Act and Other Similar Laws and Proposals* – Resolve 2013, [chapter 83](#).

This resolve simply extends the deadline by which the Family Law Advisory Commission must report to the Legislature its recommendations regarding reforming certain Maine statutes. This Commission is expressly charged with examining the Uniform Parentage Act and other family law statutes.

LD 1738, *Resolve, Concerning Maine's Involuntary Treatment and Involuntary Commitment Processes* – Resolve 2013, [chapter 106](#). **This emergency resolve became effective on April 15.**

This resolve confirms that the Chief Justice of the Supreme Judicial Court will convene a working group to review Maine's involuntary commitment and involuntary treatment processes to identify ways to improve both of these processes. This working group is charged with submitting a report of its findings and recommendations to the Legislature by December 15, 2014.

LD 1778, *An Act to Revise the Description of Commercial Fishing Vessels That Are Exempt from Attachment* – Public Law 2013, [chapter 510](#). **This emergency law became effective on April 2.**

This new law revises the description of commercial fishing vessels that are exempt from attachment by changing the definition from one that is based on the weight of the vessel (i.e., "5 tons burden") to one that is based on the length of the vessel (i.e., "46 feet in length").

LD 1789, *An Act to Modernize and Improve the Efficiency of Maine's Courts* – Public Law 2013, [chapter 571](#).

This new law authorizes up to \$15 million in bonding to plan, purchase and implement an electronic case management and electronic filing system for the state court system.

General

Contact

[John D. Delahanty](#) – 207.791.1222

[Avery T. Day](#) – 207.791.1157

LD 1734, *An Act to Create a Cold Case Homicide Unit in the Department of the Attorney General* – Public Law 2013, [chapter 585](#).

This new law establishes a “cold case” homicide unit within the Department of the Attorney general to work exclusively on unsolved murders. This unit would be staffed by one attorney, two detectives and one employee of the State’s crime laboratory. This new law directs the Attorney General to seek federal funding to implement this new law. The effective date of this new law is contingent on securing federal funding.

Real Estate

If you have a question about any of the new laws summarized in the Real Estate section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:
[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

General

Contact

[Andrea Cianchette Maker](#) - 207.791.1101
[Margaret G. Smith](#) - 207.791.1293
[Avery T. Day](#) - 207.791.1157

(Not Enacted) LD 1177, *An Act to Implement the Recommendations from the Discontinued and Abandoned Roads Stakeholder Group*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law.

Tax

If you have a question about any of the new laws summarized in the Tax section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group:
[John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Income Tax

Contact

[Jonathan A. Block](#) - 207.791.1173

[Kris Eimicke](#) - 207.791.1248

[Andrea Cianchette Maker](#) - 207.791.1101

[Avery T. Day](#) - 207.791.1157

LD 440, *An Act To Create a Tax Credit for Primary Care Professionals Practicing in Underserved Areas* – Public Law 2013, [chapter 599](#).

This new law creates a tax credit available to eligible primary care doctors and nurses practicing full time in an underserved area. An “underserved area” means an area in Maine that is a health professional shortage area or medically underserved area or that contains a medically underserved population as defined by the federal Department of Health and Human Services, Health Resources and Services Administration. An eligible primary care professional may claim the credit in an amount equal to the annual payments made on the professional's student loan not to exceed \$6,000 in the first year, \$9,000 in the second year, \$12,000 in the third year, \$15,000 in the fourth year and \$18,000 in the fifth year.

LD 743, *An Act to Extend and Improve the Maine Seed Capital Tax Credit Program* – Public Law 2013, [chapter 438](#).

At publication of our previous edition of this legislative summary, this law had been passed and was pending action by the Governor. This law ultimately was enacted without the Governor's signature. The Seed Capital Tax Credit, which recently ran out of funding, has been extended; however, the amount of seed capital tax credit certificates is limited to \$675,000 in 2014, \$4,000,000 in 2015 and \$5,000,000 in 2016 and beyond. The new law also makes the amount of the tax credit the same for individual investors and venture capital funds, clarifies that producers of value-added natural resource products are eligible, removes the ambiguous eligibility for businesses that “bring capital into the State,” specifies that eligible businesses must certify that the investment is necessary to allow the business to create or retain jobs in the State, and makes various other technical changes.

(Not Enacted) LD 1120, *An Act to Improve Maine's Tax Laws*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. The carry over bill was a concept bill only. During this session, the bill was amended and would have required corporations that file unitary income tax returns in Maine to include income from certain foreign jurisdictions (so-called “tax havens”) in net income when apportioning income among tax jurisdictions. The bill was passed by the Legislature but vetoed by the Governor. That veto was sustained.

LD 1463, *Resolve, To Develop a Process for Tax Expenditure Review* – Resolve 2013, [chapter 115](#).

This resolve directs the Office of Program Evaluation and Government Accountability to develop a proposal for implementation of a process for review of tax expenditures by the Legislature. The office is required to submit the proposal by March 1, 2015. The joint standing committee may submit legislation related to the proposal to the 1st Regular Session of the 127th Legislature.

LD 1661, *An Act to Clarify the Provisions of a Historic Preservation Tax Credit* – Public Law 2013, [chapter 550](#).

This law provides that the \$5,000,000 cap applicable to each certified rehabilitation project applies with respect to each certified rehabilitation or to each building that is a component of a certified historic structure,

whichever is greater. The law also provides that a certified rehabilitation that is placed in service over multiple taxable years is allowed up to \$5,000,000 in credit for the portion of the certified rehabilitation placed in service for each taxable year.

LD 1664, *An Act to Encourage Charitable Contributions to Nonprofit Organizations* – Public Law 2013, [chapter 590](#).

Beginning in 2013, Maine individual taxpayers became subject to a \$27,500 cap on the amount of itemized deductions, including charitable contribution deductions, they could claim on their Maine income tax returns. This new law phases out that limitation, as it relates to charitable contributions. For tax years 2014 and 2015, the cap remains at \$27,500. For 2016, the cap will be \$27,500, plus another \$18,000 of charitable contributions. For 2017 and beyond, the cap will be \$27,500 plus unlimited charitable contributions.

LD 1705, *An Act to Conform the Maine Tax Laws to the United States Internal Revenue Code* – Public Law 2013, [chapter 472](#). **This emergency law became effective on March 6.**

This law revises the definition of the Internal Revenue Code, to the Code as of December 31, 2013, rather than January 2, 2013.

LD 1858, *An Act to Achieve the Savings Required under Part F of the Biennial Budget and To Change Certain Provisions of the Law for Fiscal Years Ending June 30, 2014 and June 30, 2015* – Public Law 2013, [chapter 595](#). **This emergency law became effective on May 1.**

Among the changes enacted by the Biennial Budget were several tax changes. The cap on itemized deductions (discussed above, LD 1664) no longer applies to medical and dental expense deductions. The income tax credit available to pine tree zone companies had been reduced earlier in this session from 100% for the first five years and 50% for the subsequent five years to 50% and 25%, respectively. This law reverses those changes, thus reestablishing the credit at 100% for the first five years and 50% for the subsequent five years.

Transactional (Sales) Tax

Contact

[Jonathan A. Block](#) – 207.791.1173

[Kris Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) - 207.791.1101

[Avery T. Day](#) – 207.791.1157

(Not Enacted) LD 996, *An Act to Improve the Accuracy of Fuel Tax Reporting*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. It would have allowed taxpayers the option of using net gallons, which take temperature into account, when calculating inventory taxes on internal combustion engine fuel and special fuel instead of taking the allowance for certain losses. This would have allowed taxpayers to more accurately account for fuel lost due to shrinkage during cold weather periods.

LD 1370, *An Act to Exempt from Sales Tax the Sales of Adaptive Equipment to Make a Vehicle Handicapped Accessible* – Public Law 2013, [chapter 442](#).

The legislature has enacted a new exemption from sales tax for sales of adaptive equipment for installation in or on a motor vehicle to make that vehicle operable or accessible by a person with a disability.

(Not Enacted) LD 1402, *An Act to Amend the Taxes Imposed on Alcohol and Lodging*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. It would have repealed the excise taxes and premiums imposed on spirits, wine and malt liquor. It would have increased the sales tax imposed on lodging from 7% to 9% and on liquor sold for consumption off premises from 7% to 9%. The bill also would have reduced the exemption of casual rentals of living quarters from less than 15 days to less than 8 days.

LD 1707, *An Act to Amend the State's Tax Laws* – Public Law 2013, [chapter 546](#).

This law makes several technical and clarifying changes to the tax laws. Among those changes is a clarification that the term “tangible personal property” includes any product transferred electronically as that term is defined in Maine sales and use tax law.

LD 1722, *An Act to Exempt from Sales and Use Tax Sales of Publications to be Distributed without Charge and Printed Materials Included in Publications* – Public Law 2013, [chapter 564](#). **This emergency law became effective on April 24.**

This law exempts from sales and use tax certain free printed publications and printed paper materials, including advertising flyers, and promotional materials purchased for inclusion in a publication.

Property Tax

Contact

[Jonathan A. Block](#) – 207.791.1173

[Kris Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) - 207.791.1101

[Avery T. Day](#) – 207.791.1157

(Not Enacted) LD 936, *An Act to Authorize Municipalities to Impose Service Charges on Tax-Exempt Property Owned by Certain Nonprofit Organizations*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. It would have authorized municipalities to impose service charges on owners of certain real property that is currently exempt from property tax. The charges would be based on the actual cost of providing municipal services to the property and the persons using the property.

(Not Enacted) LD 998, *An Act to Provide Consistency in the Application of the Property Tax Exemption for Religious Organizations*.

This bill was carried over from the 1st Regular Session, but it ultimately did not pass into law. It would have expanded the property tax exemption for property owned by religious organizations to include all real and personal property owned and occupied or used solely for its own purposes by a religious organization in connection with religious worship. Also, it would have removed the \$6,000 limitation on the exemption for personal property.

LD 1607, *An Act to Reinstate Statutory Authority for Local Property Tax Assistance Programs* – Public Law 2013, [chapter 455](#). **This emergency law became effective on March 9.**

The budget bill passed in the prior session discontinued the Circuitbreaker Program, which had the unintended consequence of also repealing statutory authority for municipal property tax relief programs. This law restores that statutory authority retroactive to June 26, 2013.

LD 1627, *An Act to Amend the Reporting Requirements for the Business Equipment Tax Exemption* – Public Law 2013, [chapter 544](#). **This emergency law became effective on April 15.**

The Business Equipment Tax Exemption program (“BETE”) reporting provisions enacted in the prior session (P.L. 2013, c. 368, Pt. K, § 1) were problematic for several reasons, including that they would have required disclosure of confidential information and would have imposed substantial burdens on municipal assessors. This law addresses these issues by amending the problematic provisions.

LD 1696, *An Act To Clarify That Veterans Who Served in Iraq and Afghanistan Qualify for the Veterans' Property Tax Exemption*– Public Law 2013, [chapter 471](#).

This law extends the property tax exemption to veterans who served in the military campaigns in Iraq and Afghanistan.

LD 1751, *An Act to Provide Property Tax Relief to Maine Residents* – Public Law 2013, [chapter 551](#).

This law makes a number of changes to the property tax fair credit for tax years beginning on or after January 1, 2014. It makes certain changes to the way income is defined for purposes of determining the credit. It also changes the maximum amount of the credit from \$300 for eligible residents under age 70 and \$400 for those age 70 and over, to \$600 for eligible residents under age 65 and \$900 for those age 65 and over.

Trusts & Estates

If you have a question about any of the new laws summarized in the Trusts & Estates section of this report, what the statutory changes mean for you and your business, or how to prepare for the next legislative session, please contact one of the attorneys listed below or a member of our Government Relations Group: [John D. Delahanty](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Avery T. Day](#) - 207.791.1157.

Contact

[Molly Liddell](#) - 207.791.1153

[Barbara Wheaton](#) - 207.791.1339

[Avery T. Day](#) - 207.791.1157

LD 1742, Resolve, Extending the Date by Which the Probate and Trust Law Advisory Commission Must Report on Its Review of the Issue of Inheritance of Digital Assets – Resolve 2013, [chapter 81](#).

This resolve extends the deadline by which the Probate and Trust Law Advisory Commission must submit a final report and implementing legislation to the Judiciary Committee on the issue of inheritance of digital assets. The Commission was originally charged in Resolve 2013, [Chapter 27](#) with conducting “a review of the legal impediments to the disposition of digital assets upon an individual's death or incapacity and develop legislative recommendations based on the review” and then submitting a report and implementing legislation by December 1, 2013. However, it was only able to submit an “interim report” within that timeframe. The deadline for submitting the final report and legislation has been extended to December 15, 2014.



PRACTICE AREAS

- Admiralty & Maritime
- Antitrust
- Banking & Financial Services
- Bankruptcy & Creditors' Rights
- Business
- Employee Benefits
- Employment
- Energy
- Environmental & Land Use
- Federal Tax
- Government Relations
- Immigration
- Intellectual Property & Technology
- Litigation
- Privacy & Data Security
- Real Estate
- State & Local Tax
- Trusts & Estates

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- **63** are rated "AV Preeminent" by Martindale-Hubbell;
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- **3** have served as Special Master to the United States Supreme Court;
- **2** have served as Chief Justice of the Maine Supreme Judicial Court;
- **1** former lawyer is currently serving as a judge on the U.S. Court of Appeals for the First Circuit; and
- **1** former lawyer is currently serving as a judge on the New Hampshire Superior Court.

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OFFICE LOCATIONS

Portland, ME 207.791.1100	Boston, MA 617.488.8100	Portsmouth, NH 603.433.6300	Washington, DC 202.470.6420
Augusta, ME 207.622.6311	Providence, RI 401.588.5113	Stockholm, SE 46.8.509.012.32	