



2016 Summary of New Maine Laws

State of Maine 127th Legislature, 2nd Regular Session

Published: May 16, 2016

Pierce Atwood. There's a reason...

PIERCEATWOOD.COM

Table of Contents

Section	Page Number
Overview - 2016 Summary of New Maine Laws	4
User Guide	4
For More Information	4
Disclaimer	4
Appropriations	5
Economic Development	6
Bond Issues	6
Business Development Financing Programs	6
Study Commissions	7
Education & Workforce Development	8
Primary and Secondary Education	8
Postsecondary Education	9
Election Laws	10
Employment	12
General	12
Workers' Compensation	13
Energy	14
Natural Gas	14
Electricity	15
Environmental & Renewables	18
Conservation and Public Lands.....	18
Environmental Permitting and Land Use	18
Marine Resources	19
Renewable Energy	20
Waste Management	20
Wildlife and Fisheries Management	21
Healthcare	22
Healthcare Delivery.....	22
Pharmacy	23
Insurance	24
Liquor Laws	25
Real Estate	26
Tax	27
Income Tax	27

Table of Contents

Section	Page Number
Transactional (Sales) Tax.....	27
Property Tax.....	28
Trusts & Estates	29
Pierce Atwood. There's a Reason.....	31
Honors & Distinctions	31
Office Locations.....	31

Overview - 2016 Summary of New Maine Laws

The new laws highlighted in this summary are those most relevant to our clients and does not include all laws enacted this past session. This summary of bills of interest includes legislation in the 127th Maine Legislature's 2nd Regular session that was either:

- Enacted as regular legislation, or
- 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 the legislation becomes law, it is assigned a Public Law year and chapter number for reference. The Public Law year is the first year of the Legislature's first regular session, which was 2015 for the 127th 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 July 29, 2016. Emergency bills became effective as law on the date signed by the Governor, which we note in red following the chapter number of laws enacted as emergencies.

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 Cianchette Maker](#) - 207.791.1101; [Elizabeth M. Frazier](#) – 207.791.1155; or [Megan D. Sanborn](#) – 207.629.5901.

You may access the *2016 Summary of New Maine Laws* under Publications on Pierce Atwood's website at www.pierceatwood.com/government-relations.

Disclaimer

The *2016 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.

Appropriations

If you have a question about any of the new laws summarized in the Appropriations 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.Maker@legis.maine.gov) - 207.791.1101; [Elizabeth M. Frazier](mailto:Elizabeth.M.Frazier@legis.maine.gov) - 207.791.1155; or [Megan D. Sanborn](mailto:Megan.D.Sanborn@legis.maine.gov) - 207.629.5901.

Contact

[John D. Delahanty](mailto:John.D.Delahanty@legis.maine.gov) – 207.791.1222

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

LD 1528, *An Act to Modernize and Consolidate Court Facilities* – Public Law 2015, [chapter 468](#).

This law authorizes the Maine Government Facilities Authority to issue up to \$95.6 million for the purposes of constructing a unified courthouse facility in York County and for conducting repairs and renovations to existing courthouse facilities in Waldo and York counties. The law also establishes a York County Courthouse Site Selection Commission, which is tasked with making a site selection recommendation to the Chief Justice of the Supreme Judicial Court by January 1, 2017. The new, consolidated courthouse will replace all the existing district and superior courthouses in York County and provide streamlined administrative offices for the county judicial system.

LD 1606, *An Act to Provide Funding to the Maine Budget Stabilization Fund and to Make Additional Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2016 and June 30, 2017* – Public Law 2015, [chapter 481](#). **This emergency law became effective on April 16.**

This law allocated \$21.5 million in funds from a recent settlement by the state of Maine and 18 other states against the credit rating agency Standard & Poor's over that agency's alleged understated risks of the mortgage-backed security investments that triggered the financial crash in 2008. This law provides funding allocations to a number of programs and tax changes including: the elimination of sales tax on fuels used in commercial agriculture, forestry, fishing, and aquaculture operations; a MaineCare cost-of-living adjustment for adult family care homes; education; the establishment of three new peer centers for substance abuse treatment in Maine; and, financial aid assistance programs. The law also directs \$10 million of the settlement funds to be transferred to the budget stabilization fund.

LD 1676, *An Act to Establish a Process for the Procurement of Biomass Resources* – Public Law 2015, [chapter 483](#). **This emergency law became effective on April 16.**

This law authorizes the Maine Public Utilities Commission ("MPUC") to use \$6.7 million a year from the unappropriated funds from the state's General Fund to subsidize electricity rates paid to at least two biomass generators for at least two years. On May 10, 2016, the MPUC initiated a proceeding to issue a competitive solicitation for the procurement of biomass resources in compliance with LD 1676. The filings related to this proceeding can be found on the Commission's case management system under Docket No. [2016-00084](#).

Economic Development

If you have a question about any of the new laws summarized in the Economic Development 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.Maker@legis.maine.gov) - 207.791.1101; [Elizabeth M. Frazier](mailto:Elizabeth.M.Frazier@legis.maine.gov) – 207.791.1155; or [Megan D. Sanborn](mailto:Megan.D.Sanborn@legis.maine.gov) – 207.629.5901.

Bond Issues

Contact

[John D. Delahanty](mailto:John.D.Delahanty@legis.maine.gov) – 207.791.1222
[Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@legis.maine.gov) – 207.791.1101

LD 1053, *An Act to Authorize a General Fund Bond Issue to Stimulate Investment in Innovation by Maine Businesses to Produce Nationally and Globally Competitive Products and Services* – Public Law 2015, [chapter 479](#).

This bond proposal was enacted this legislative session but will not be placed on the state-wide ballot for consideration by Maine’s voters until June 2017. This bond would authorize the borrowing of up to \$50 million. Of that amount, \$45 million would be designated for investment in research, development and commercialization in the state’s seven targeted technology areas, and \$5 million would be reserved to recapitalize the state’s Small Enterprise Growth Fund.

LD 1694, *An Act to Authorize a General Fund Bond Issue to Improve Highways, Bridges and Multimodal Facilities* – Public Law 2015, [chapter 478](#).

This bond proposal was enacted this legislative session and will be placed on the November 2016 state-wide ballot for consideration by Maine’s voters. This bond authorizes borrowing of up to \$100 million for construction, reconstruction, and rehabilitation of transportation infrastructure. In addition, this bond provides a transfer of funds to the Secretary of State if the number and/or length of referendum questions appearing on the November 2016 ballot requires more than one ballot to accommodate all referendum questions.

Business Development Financing Programs

Contact

[Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@legis.maine.gov) – 207.791.1101
[Jonathan A. Block](mailto:Jonathan.A.Block@legis.maine.gov) – 207.791.1173
[Kris J. Eimicke](mailto:Kris.J.Eimicke@legis.maine.gov) – 207.791.1248

LD 1480, *An Act to Create and Sustain High-quality Maine Jobs* – Public Law 2015, [chapter 415](#).

This bill establishes a new financing program to support business development in Maine. The Maine Capital Investment Program will provide loans or bond funding to eligible business development projects that have projected costs of at least \$50 million or that create or retain at least 250 full time jobs. The fund will operate as a mutual fund for business investments. The funding of this program will be from private companies, large trust funds and private endowments, and will be administered by the Finance Authority of Maine (“FAME”). Eligible businesses must provide 25 percent matching funding when borrowing from the fund. Five years after the funded program is completed, the recipient businesses will be required to invest 10 percent of the loan award as a way to replenish the program.

LD 1686, *An Act to Amend the Finance Authority of Maine Act* – Public Law 2015, [chapter 504](#).

This law amends the Finance Authority of Maine Act (“Act”) to allow the Finance Authority of Maine (FAME) to issue revenue obligation securities for energy distribution system projects or energy generating system projects if FAME issues a certificate of approval for such eligible projects prior to January 1, 2020. Prior to this amendment, the Act prohibited FAME from issuing revenue obligation securities for energy distribution system projects after January 1, 2018, and did not authorize FAME to issue revenue obligation securities for any energy generating system projects.

The Act also amends the definition of an “energy generating system that generates electricity” to include not only the generation facility itself, but also the wires, cables, and other equipment used to deliver electricity from the facility to the distribution utility. The amended definition allows for the energy generating system to be owned by a limited liability company, in addition to other previously-authorized ownership types under the Act, such as individual or corporate ownership, municipal or governmental ownership, or other business association ownership.

Study Commissions

Contact

[John D. Delahanty](#) – 207.791.1222

[Andrea Cianchette Maker](#) – 207.791.1101

LD 1693, *Resolve, Establishing the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry* – Resolve 2015, [chapter 85](#).

This resolve establishes the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry (“Biomass Commission”). The Biomass Commission is to consist of 13 members including: two members of the Senate, three members of the House of Representatives, a commercial wood harvester who supplies biomass, a representative of the biomass industry, a representative of a sawmill located in the state, a scientist from the University of Maine who studies forest health and silviculture, a representative of a conservation organization, a representative of a pulp and paper manufacturer located in the state, a representative of commercial timber holdings in the state, and a representative of a business that uses biomass or an expert in the use of biomass. All appointments to the Biomass Commission must be made by May 28, 2016.

The Resolve directs the Biomass Commission to review and evaluate the economic, environmental and energy benefits of Maine’s biomass resources, as well as the public policy and economic proposals to create and maintain a sustainable future for the Maine biomass industry. It is charged to consider the interconnection of economic markets for biomass and forest products and the energy policy of the state; consider whether the environmental, economic, and energy benefits of biomass support updating Maine’s energy policy to strengthen and increase the role that biomass and the forest products industry play throughout the State; and consider the costs of implementation of any recommendations, as well as the effect of leaving current policies in place. The Resolve also directs the Biomass Commission to submit a report and any suggested implementing legislation for presentation to the Joint Standing Committee on Energy, Utilities and Technology and the Joint Standing Committee on Agriculture, Conservation and Forestry no later than December 6, 2016.

Education & Workforce Development

If you have a question about any of the new laws summarized in the Education & Workforce Development 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.Maker@legis.maine.gov) - 207.791.1101; [Elizabeth M. Frazier](mailto:Elizabeth.M.Frazier@legis.maine.gov) – 207.791.1155; or [Megan D. Sanborn](mailto:Megan.D.Sanborn@legis.maine.gov) – 207.629.5901.

Primary and Secondary Education

Contact

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

[Margaret LePage](mailto:Margaret.LePage@legis.maine.gov) – 207.791.1382

LD 622, *An Act to Require Training of Mandated Reporters under the Child Abuse Laws* - Public Law 2015, [chapter 407](#).

This new law requires that every four years, any person required by law to report known or suspected child abuse or neglect to the Maine Department of Health and Human Services, must complete mandated reporter training that has been approved by that department. This new training requirement extends to the list of persons contained in current law, including school officials, teachers, guidance counselors and bus drivers and attendants, as well as healthcare providers, youth camp administrators and counselors, law enforcement, social service providers, clergy and others. Note that this law applies to institutions of higher education with respect to students or recruits who are minors, and where the school hosts programs on its campus for minors, such as summer sports clinics.

LD 1627, *An Act to Implement Certain Recommendations of the Maine Proficiency Education Council* – Public Law 2015, [chapter 489](#).

This law makes substantial changes to the Maine proficiency-based education standards, adopting several of the recommendations of the Maine Proficiency Education Council. This summary addresses only a handful of the changes adopted by the law with respect to proficiency-based education standards. Among the more substantial changes to the law are that it: specifies a phased implementation of the proficiency-based standards requirement for receiving a diploma; and directs the Commissioner of the Department of Education to develop rules to encourage flexibility for teachers and curriculum developers to adapt a program of education that meets the proficiency standards and also meets individual school and student need; and adds a 3-year review cycle of the costs and administrative services required to implement and maintain the proficiency-based education standards program in Maine.

LD 1641, *An Act to Establish a Commission to Reform Public Education Funding and Improve Student Performance in Maine and Make Supplemental Appropriations and Allocations for the Expenditures of the Department of Education and to Change Certain Provisions of the Law Necessary to the Proper Operations of Government for the Fiscal Year Ending June 30, 2017* - Public Law 2015, [chapter 389](#). **This emergency law became effective on March 10, 2016.**

The law directed the Commissioner of Education to assemble a commission to study how to reduce the cost of public education and improve student performance in Maine. It also requires the Commissioner to submit commission recommendations, which may include legislation, to the Governor and the Legislature by January 10, 2017 and January 10, 2018. The law further requires the transfer of \$15,000,000 from the General Fund to the Department of Education in fiscal year 2016-17. This law delays until 2017 the state's required annual increase in funding, for kindergarten to grade 12 essential programs and services, and adds charter schools to the list of components of essential programs and services to be reviewed every three years. The new law changes the deadline for the Commissioner of Education to make annual funding level recommendations to the Governor from December 15 to January 20.

Postsecondary Education

Contact

[Andrea Cianchette Maker](#) - 207.791.1101

[Margaret LePage](#) – 207.791.1382

LD 215, *An Act to Improve Student Retention in Maine's Postsecondary Institutions* – Public Law 2015, [chapter 466](#).

This law directs Jobs for Maine's Graduates to provide mentoring, counseling, graduation planning, peer support and financial guidance to eligible students in Maine. Students are eligible if they have previously been enrolled in a Jobs for Maine's Graduates program, have been or are currently in foster care or have earned a high school equivalent diploma within the last five years. Jobs for Maine's Graduates is to report its findings on this program to the Joint Standing Committee on Education and Cultural Affairs by the end of 2016, and the committee may submit legislation in the 2017 legislation session.

LD 1655, *An Act to Increase the Number of Science, Technology, Engineering and Mathematics Professionals in the State* – Public Law 2015, [chapter 435](#).

This law creates the Maine Science, Technology, Engineering and Mathematics ("STEM") Loan Program for Maine students by providing an opportunity for special interest rate loans to students who pursue an education in the fields of science, technology, engineering or math. Maine students in an undergraduate or community college program and high school seniors who are taking courses at an undergraduate or community college while in high school can take advantage of these loans. Students who received STEM degrees and pursue a STEM career in Maine, even if they received their education out of state, can qualify for an interest-free loan. Additionally, students who received STEM degrees and return to or continue to live in Maine but not work in STEM fields, can qualify for a 5% interest rate. Students who pursue a STEM degree in Maine but move out of state will be eligible for an 8% interest rate. Students will become responsible for repaying the loan principle and interest six months following completion of their postsecondary education. The law is designed to encourage Maine students to pursue STEM degrees, become employed in STEM-related careers in Maine, or at least become employed in Maine. A companion bill that would have provided a funding mechanism for this new program was defeated. So the program is now established by this law, and it will be implemented only if and when it receives funding.

LD 1657, *An Act to Simplify and Expand the Educational Opportunity Tax Credit* – Public Law 2015, [chapter 482](#). **This emergency law became effective on April 16.**

This law expands the Educational Opportunity Tax credit, which applies to students who attend college in Maine and continue to live and work in Maine upon graduation and to employers who reimburse the loans of students pursuing graduate degrees. Beginning in 2016, the law expands the tax credit to students who transfer to an accredited Maine college or university regardless of how many transfer credits were earned at a non-Maine college or university so long as they continue to live and work in Maine after graduation. Second, it expands the tax credit to individuals who work at sea upon graduation. Previously, the credit did not apply to individuals who worked outside of Maine for more than three months in the year, but now an individual can take the tax credit even if they work outside the state so long as they are employed on a vessel. Finally, the law encourages employers to reimburse their employees for student loans incurred during the pursuit of a graduate degree by including those degrees in the eligibility for the tax credit for employers.

Election Laws

If you have a question about any of the new laws summarized in the Election Laws 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.Maker@legis.maine.gov) - 207.791.1101; [Elizabeth M. Frazier](mailto:Elizabeth.M.Frazier@legis.maine.gov) – 207.791.1155; or [Megan D. Sanborn](mailto:Megan.D.Sanborn@legis.maine.gov) – 207.629.5901.

Contact

[John D. Delahanty](mailto:John.D.Delahanty@legis.maine.gov) – 207.791.1222

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

LD 1484, *An Act Regarding the Election Laws* – Public Law 2015, [chapter 447](#). **This emergency law became effective on April 10.**

This law makes a number of changes to Maine’s election laws and this summary highlights a few of them. The new law extends the restriction on a registrar from serving during an election when the registrar or an immediate family member of the registrar is a candidate for a federal office, as well as for state, local, or county offices. The new law clarifies that the Secretary of State is not required to print a primary ballot if there are no qualified candidates for any of the offices. The new law extends the deadline for candidate withdrawal from 60 days before an election to 70 days. The new law also clarifies that the display, as well as the distribution of campaign material, is prohibited at a polling location unless it occurs more than 250 feet from the polling location entrance. The law lowers the threshold for a candidate to request a recount from a difference of 2% to 1.5% of the total votes cast between the leading candidate and the requesting candidate.

LD 1510, *An Act to Improve the Disclosure of Financial Activities by Political Action Committees and Ballot Question Committees* – Public Law 2015, [chapter 408](#).

This law changes the reporting requirement for a political action committee (“PAC”) to require it to register with the Maine Ethics Commission when it receives contributions in excess of \$1,500 or \$5,000, depending on the nature of the PAC. Previously, the reporting requirement was only triggered once the PAC made expenditures in excess of either \$1,500 or \$5,000. The law also requires a person not defined as a PAC that receives contributions or makes expenditures for any purpose other than to a PAC or a ballot question committee, to register as a ballot question committee and file reports with the commission. The law also establishes a requirement that a ballot question committee have a treasurer and a principal officer, and that the committee register the names of all primary decision makers and fundraisers with the Commission. Finally, the law allows the commissioner to hold the treasurer and principal officer of a ballot question committee liable for fines for any violations relating to ethics filing and reporting requirements.

LD 1539, *An Act to Expand the Early Processing of Absentee Ballots* – Public Law 2015, [chapter 406](#). **This emergency law became effective on March 24.**

This law authorizes municipalities to process absentee ballots beginning three days prior to Election Day if they choose to do so. It also allows a person to inspect the ballots being processed early, so long as the inspection request is made by 9:00 a.m. on the day the ballots are to be counted. It also clarifies that along with counting absentee ballots, municipalities are prohibited from viewing results of high-speed ballot tabulators until after the polls close.

LD 1574, *An Act to Protect Maine Voters from Intimidating Videotaping at the Polls* – Public Law 2015, [chapter 422](#).

This law prohibits anyone from video recording from a location inside the guardrail of a poll site or within 15 feet of a voter, including when the voter is at the location where signatures are being collected. The law authorizes the municipal clerk, upon the recommendation of the warden, to remove any person who violates this new law.

LD 1673, *An Act to Establish a Presidential Primary System in Maine* – Public Law 2015, [chapter 474](#). Although this law outlines the statutory framework for a presidential primary system, it will be repealed on December 1, 2017, which is prior to the next presidential election. Meanwhile, the law requires the Secretary of State to examine the fiscal costs of a state presidential primary system, suggests methods of funding such a system and submit a report of the findings to the Legislature by December 1, 2017. The law also allows for a legislative bill on this topic to be considered in the 2017 legislative session.

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](mailto:John.D.Delahanty@legis.maine.gov) - 207.791.1222; [Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@legis.maine.gov) - 207.791.1101; [Elizabeth M. Frazier](mailto:Elizabeth.M.Frazier@legis.maine.gov) – 207.791.1155; or [Megan D. Sanborn](mailto:Megan.D.Sanborn@legis.maine.gov) – 207.629.5901.

General

Contact

[James R. Erwin](mailto:James.R.Erwin@legis.maine.gov) – 207.791.1237

[Allan M. Muir](mailto:Allan.M.Muir@legis.maine.gov) – 207.791.1365

[Charles S. Einsiedler](mailto:Charles.S.Einsiedler@legis.maine.gov) – 207.791.1388

LD 1389, *An Act to Conform Maine Law to Federal Law Regarding Closings and Mass Layoffs and to Strengthen Employee Severance Pay Protections* — Public Law 2015, [chapter 417](#).

This law amends the Maine severance pay statute to make notice requirements consistent with the federal Worker Adjustment and Retraining Notice Act (WARN) and to clarify who is eligible for severance and how to calculate severance pay. Maine law requires employers with 100 or more employees (a “covered establishment”) to provide advance notice when a closing or mass layoff is planned. The new law defines a mass layoff consistent with federal law as a reduction in the workforce of the lesser of 33% of the employees or 50 employees, or 500 employees. Maine law also requires a covered establishment to pay severance to eligible employees after a closing. The law was also amended to include a severance pay obligation when there has been a mass layoff. To be eligible for severance, the employee must have worked at the establishment for at least three years (including any time the employee was on a leave of absence), must not have been terminated for cause, and must not have accepted employment at the establishment or another establishment operated by the same employer. However, an employee who resigns employment to take a new job within the 30-day period prior to the date set by the employer for the closing or mass layoff is also eligible for severance.

Eligible employees are entitled to one week’s pay for each year (or partial year) of employment. One week’s pay is defined as the employee’s gross earnings during the 12 months previous to the date of the closing or mass layoff, divided by the number of weeks in which the employee received earnings during that period. Gross earnings is defined to include all pay for regular hours, shift differentials, premiums, overtime, floating holidays, funeral leave, jury duty pay, sick pay and vacation pay earned within the 12 months prior to the closing or mass layoff. The amendment clarifies that payments made by a third party, such as disability benefits, are not included in the calculation of gross earnings.

LD 1658, *An Act to Reform the Veteran Preference in State Hiring and Retention* — Public Law 2015, [chapter 438](#).

This law repeals the existing procedures for veteran preference for hiring by the state. Prior law required that honorably separated veterans (and certain widows, spouses, and parents of veterans) be given preference in hiring by adding a number of points to the test scores of the applicant. The new law repeals the point system and instead requires the hiring agency to interview any veteran (and a widow/widower of a veteran who is eligible for a gold star) who meets the minimum qualifications for the position. The new law also requires that in the event of a reduction in force by the state agency, qualifying veterans and gold star widows must be retained in preference to all other employees who have equal seniority, status and performance reviews.

Workers' Compensation

Contact

[James R. Erwin](#) – 207.791.1237

[Allan M. Muir](#) – 207.791.1365

LD 1553, *An Act to Improve the Workers' Compensation System* — Public Law 2015, [chapter 469](#).

This new law amends the penalty provisions of the Workers' Compensation Act in two ways. It clarifies that a criminal penalty or administrative dissolution may be imposed only if the employer has committed a knowing violation of the Act, and provides that in assessing civil penalties the board shall take into account the employer's efforts to comply with the Act. This law also establishes penalties if an employer misclassifies an independent contractor. Further, the Board is also tasked with performing a study of the independent contractor predetermination provisions and reporting back to the Legislature on any recommended legislation.

Energy

If you have a question about any of the new laws summarized in the Energy 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; [Elizabeth M. Frazier](#) – 207.791.1155; or [Megan D. Sanborn](#) – 207.629.5901.

Natural Gas

Contact

[John W. Gulliver](#) – 207.791.1296

[Sarah B. Tracy](#) – 207.791.1299

LD 881, *An Act to Allow the Public Utilities Commission to Contract for Liquefied Natural Gas Storage and Distribution* – Public Law 2015, [chapter 445](#).

This law amends the Maine Energy Cost Reduction Act (“Act”), 35-A M.R.S. § 1901, *et seq.* to allow the Maine Public Utilities Commission (“MPUC”) to execute, or to direct certain utilities to execute, a physical energy storage contract. A physical energy storage contract is a contract for liquefied natural gas storage capacity that: (i) is located in Maine on or after January 1, 2016, and (ii) will benefit the state’s energy consumers during times of regional supply constraint due to capacity limitations of interstate or intrastate pipelines or local distribution systems.

Prior to executing, or directing certain utilities to execute, a physical energy storage contract, the MPUC must: (i) pursue market and rule changes that will reduce the reliability risk faced by off-system natural gas users and on-system customers and will provide a physical hedge to higher-priced, on-peak winter-period natural gas supplies; and (ii) explore all reasonable opportunities for private participation that would achieve the objectives of a physical energy storage contract. If the MPUC determines that such market or rule changes or such private participation would, within the same time frame, achieve substantially the same cost-reduction effects for the state’s electricity and gas customers as the execution of a physical energy storage contract, the MPUC may not execute a physical energy storage contract or direct such a contract to be executed.

Additionally, the MPUC may execute, or direct certain utilities to execute, a physical energy storage contract if the MPUC finds the contract is:

- Commercially reasonable;
- In the public interest; and
- Reasonably likely to:
 - Materially enhance liquefied natural gas storage capacity in the state or the region;
 - Ensure that additional physical energy storage capacity will be economically beneficial to electricity or natural gas consumers in Maine (or both), and that the overall costs of the contract are outweighed by its benefits;
 - Provide the opportunity for access to lower-cost natural gas at times of regional peak demand for natural gas supplies or in the event of upstream natural gas infrastructure disruption; and
 - Enhance electrical and natural gas reliability in Maine.

As with energy cost reduction contracts executed under this statute, a physical energy storage contract must be approved by the Governor prior to execution and may be funded through assessments on ratepayers of certain T&D utilities, gas utilities, and/or natural gas pipeline utilities as directed by the MPUC.

The total cost of the physical energy storage contracts may not exceed \$25 million per year, and the total combined cost of all physical energy storage contracts and energy cost reduction contracts entered into under the Act may not exceed \$75 million per year.

LD 1651, *An Act to Exempt Certain Natural Gas Consumers from an Assessment and to Extend a Moratorium on Assessments for Other Large-volume Consumers of Natural Gas* – Public Law 2015, [chapter 425](#).

This law amends certain portions of the statute that establish and implement Efficiency Maine Trust's ("Trust") natural gas conservation program, 35-A M.R.S. § 10111 ("Gas Conservation Program Statute"). Under this law, wholesale electricity-generating facilities with a nameplate capacity of three megawatts or more are ineligible to participate in any natural gas conservation programs created under this Gas Conservation Program Statute. As a corollary, the law prohibits a gas utility from collecting an assessment through its rates from a wholesale electricity-generating facility that has a nameplate capacity of three megawatts or more to fund such gas conservation programs.

This law also establishes a moratorium on the participation of large-volume consumers of natural gas utilities in any of the Trust's natural gas conservation programs. Under the law, large-volume consumers are customers of a gas utility that use 1 million ccf or more of natural gas per year. The moratorium period runs until 90 days after the adjournment of the First Regular Session of the 128th Legislature (the 2016-2017 legislative session). During this same time period, natural gas utilities may not collect an assessment through their rates from large-volume consumers to fund such gas conservation programs.

During the moratorium period, the law also prevents the MPUC from making a final decision regarding the appropriateness of, or size of, such assessments from large-volume consumers or exempting from the natural gas conservation program assessment any consumers other than large-volume consumers or wholesale electricity-generating facilities with a nameplate capacity of three megawatts or more.

Prior to the expiration of the moratorium period, the natural gas conservation program assessment must be an amount necessary to capture all cost-effective energy efficiency that is achievable and reliable only for customers other than large-volume consumers or wholesale electricity-generating facilities with a nameplate capacity of 3 megawatts or more.

Electricity

Contact

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

[John W. Gulliver](#) – 207.791.1296

[John D. Delahanty](#) – 207.791.1222

LD 1398, *An Act to Reduce Electric Rates for Maine Businesses* – Public Law 2015, [chapter 498](#).

This law amends certain portions of the Regional Greenhouse Gas Initiative Trust Fund statute. This law requires Efficiency Maine Trust to transfer \$3 million of the revenue from the Regional Greenhouse Gas Initiative Trust Fund ("Fund") to the Maine Public Utilities Commission ("MPUC") during the fiscal years 2016-17, 2017-18, and 2018-19, and directs the MPUC to return these revenues to certain "affected customers" through an annual disbursement.

Under the law, an "affected customer" is an electric customer who: (i) is an energy-intensive manufacturer as defined in reports prepared by the U.S. Energy Information Administration; (ii) is not primarily in the business of selling electricity; and (iii) receives electric service at a transmission or subtransmission voltage level within the ISO-NE system.

The amount of disbursement to an affected customer is based on an affected customer's proportion of the customer's retail purchase of electricity as measured in kilowatt-hours for the prior calendar year.

Affected customers that elect to use the disbursement toward an efficiency measure approved by the Efficiency Maine Trust will receive \$1 of assistance from Efficiency Maine Trust for every \$3 that is applied toward the measure by the affected customer, as long as the total amount of assistance from the Trust and the disbursement allocated by the MPUC in that fiscal year does not exceed 65% of the total cost of the measure. Affected customers are not eligible to receive additional financial or other assistance from the Fund except as provided for above.

Any revenue in the Fund remaining after the \$3 million annual disbursement and other authorized costs are accounted for must be allocated on a 50/50 basis to residential programs and commercial/industrial programs. The law now allows such funds to be used: (a) for loans and technical assistance, in addition to the previously-authorized measures, investments, and arrangements that: (i) reduce electricity consumption; or (ii) increase energy efficiency or reduce greenhouse gas emissions and lower energy costs at commercial/industrial facilities; and (b) for investment in measures that lower the cost of residential heating energy demand and reduce greenhouse gas emissions.

The law requires that the MPUC conduct an expedited proceeding to determine the initial allocation of disbursements to each affected customer and to distribute those funds by November 1, 2016.

The MPUC is also required to include in its annual report a description of its activities in relation to the disbursement process, a list of affected customers receiving disbursements and those affected customers who elect to use the disbursement toward efficiency measures, and the results of the payment activities.

LD 1558, *An Act to Enable Low-income and Other Customers Greater Access to Efficient Electric Heat Pumps through Unique Financing and Third-party Installation and Maintenance* – Public Law 2015, [chapter 446](#).

This law creates a Heat Pump Program, codified as 35-A M.R.S. § 3105, that authorizes transmission and distribution utilities (“T&D utilities”) to implement programs to enable customers to access the benefits of efficient electric heat pumps and to advertise the availability of the programs to customers. The programs may serve any customer of the T&D utility, but must target low-income customers, senior citizens, customers who are unable to finance the purchase of a heat pump, and customers who reside in residential dwellings and small businesses.

Each program offered by a T&D utility is subject to prior review and approval by the Maine Public Utilities Commission (“MPUC”), who will determine if the proposed program is reasonably designed and consistent with the program elements set forth in the statute. All investments and revenues from a T&D utility’s heat pump program will be considered an unregulated business venture of the utility, and the prudent costs of the program are recoverable in rates only from customers participating in the program.

The law sets forth several requirements for the T&D utilities’ heat pump programs. All heat pump programs must, based on the best available information at the outset of the program, be expected to decrease the overall energy costs to customers as a result of their participation in the program. Additionally, the heat pump programs implemented under this statute may either: (i) offer incentives to participating customers to acquire efficient electric heat pumps from third-party sellers or installers that reduce the total installation cost of such heat pumps; (ii) provide efficient electric heat pumps to a customer who requests a heat pump but elects not to purchase and install the heat pump due to income or other reasons; or (iii) both.

The law also sets forth other elements of a T&D utility heat pump program that directly provides heat pumps, including, but not limited to: (a) requirements regarding the treatment of customers with delinquent payments; (b) requirements allowing qualified third-party sellers or installers to maintain and repair the heat pumps; (c) requirements allowing customers to buy the heat pumps at reasonable terms and to have the heat pump removed at no cost or penalty; and (d) requirements regarding notifications of cost comparisons between the T&D utility’s heat pump program and directly purchasing a heat pump.

The law also repeals section 11 of Public Law 2011, chapter 637, as amended, that allowed transmission and distribution utilities to develop and implement pilot programs to measure the effectiveness of efficient electric heating systems.

LD 1676, *An Act to Establish a Process for the Procurement of Biomass Resources* – Public Law 2015, [chapter 483](#). **This emergency law became effective on April 16.**

This law authorizes the Maine Public Utilities Commission (“MPUC”) to use \$6.7 million a year from the unappropriated funds from the state’s General Fund to subsidize electricity rates paid to at least two biomass generators for at least two years.

On May 10, 2016, the MPUC initiated a proceeding to issue a competitive solicitation for the procurement of biomass resources in compliance with LD 1676. The filings related to this proceeding can be found on the Commission’s case management system under Docket No. [2016-00084](#).

LD 1686, *An Act to Amend the Finance Authority of Maine Act* – Public Law 2015, [chapter 504](#).

This law amends the Finance Authority of Maine Act (“Act”) to allow the Finance Authority of Maine (FAME) to issue revenue obligation securities for energy distribution system projects or energy generating system projects if FAME issues a certificate of approval for such eligible projects prior to January 1, 2020. Prior to this amendment, the Act prohibited FAME from issuing revenue obligation securities for energy distribution system projects after January 1, 2018, and did not authorize FAME to issue revenue obligation securities for any energy generating system projects.

The Act also amends the definition of an “energy generating system that generates electricity” to include not only the generation facility itself, but also the wires, cables, and other equipment used to deliver electricity from the facility to the distribution utility. The amended definition allows for the energy generating system to be owned by a limited liability company, in addition to other previously-authorized ownership types under the Act, such as individual or corporate ownership, municipal or governmental ownership, or other business association ownership.

LD 1693, *Resolve, Establishing the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry* – Resolve 2015, [chapter 85](#).

This resolve establishes the Commission to Study the Economic, Environmental and Energy Benefits of the Maine Biomass Industry (“Biomass Commission”). The Biomass Commission is to consist of 13 members including: two members of the Senate, three members of the House of Representatives, a commercial wood harvester who supplies biomass, a representative of the biomass industry, a representative of a sawmill located in the state, a scientist from the University of Maine who studies forest health and silviculture, a representative of a conservation organization, a representative of a pulp and paper manufacturer located in the state, a representative of commercial timber holdings in the state, and a representative of a business that uses biomass or an expert in the use of biomass. All appointments to the Biomass Commission must be made by May 28, 2016.

The Resolve directs the Biomass Commission to review and evaluate the economic, environmental and energy benefits of Maine’s biomass resources, as well as the public policy and economic proposals to create and maintain a sustainable future for the Maine biomass industry. It is charged to consider the interconnection of economic markets for biomass and forest products and the energy policy of the state; consider whether the environmental, economic, and energy benefits of biomass support updating Maine’s energy policy to strengthen and increase the role that biomass and the forest products industry play throughout the State; and consider the costs of implementation of any recommendations, as well as the effect of leaving current policies in place. The Resolve also directs the Biomass Commission to submit a report and any suggested implementing legislation for presentation to the Joint Standing Committee on Energy, Utilities and Technology and the Joint Standing Committee on Agriculture, Conservation and Forestry no later than December 6, 2016.

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](mailto:John.D.Delahanty@maine.gov) - 207.791.1222; [Andrea Cianchette Maker](mailto:Andrea.Cianchette@maine.gov) - 207.791.1101; [Elizabeth M. Frazier](mailto:Elizabeth.M.Frazier@maine.gov) – 207.791.1155; or [Megan D. Sanborn](mailto:Megan.D.Sanborn@maine.gov) – 207.629.5901.

Conservation and Public Lands

Contact

[Thomas R. Doyle](mailto:Thomas.R.Doyle@maine.gov) – 207.791.1214

[Matthew D. Manahan](mailto:Matthew.D.Manahan@maine.gov) – 207.791.1189

[Brian M. Rayback](mailto:Brian.M.Rayback@maine.gov) – 207.791.1188

LD 1325, *An Act to Ensure a Public Process When Discontinuing or Abandoning a Public Road* – Public Law 2015, [chapter 464](#).

This new law creates a public process that municipalities must follow when discontinuing or abandoning public ways or easements. This is a major change to prior law, which merely provided that a presumption of abandonment existed if a municipality failed to keep a way passable for the use of motor vehicles at the expense of the municipality for a period of 30 or more years. The new law requires that a proposed discontinuance must be discussed by municipal officers at a public meeting. An order of discontinuance must then be filed, followed by a public hearing on that order. The municipal legislative body is then required to vote on the order of discontinuance ten or more days after the public hearing. If the order is approved, a certificate of discontinuance must then be filed in the registry of deeds.

LD 1600, *An Act Regarding Consent to Land Transfers to the Federal Government* – Public Law 2015, [chapter 458](#).

This law makes clear that the Maine Legislature does not consent to the federal government's acquisition of land within the state of Maine for the purposes of designating such land as a national monument.

Environmental Permitting and Land Use

Contact

[John D. Delahanty](mailto:John.D.Delahanty@maine.gov) – 207.791.1222

[Thomas R. Doyle](mailto:Thomas.R.Doyle@maine.gov) – 207.791.1214

[Matthew D. Manahan](mailto:Matthew.D.Manahan@maine.gov) – 207.791.1189

[Brian M. Rayback](mailto:Brian.M.Rayback@maine.gov) – 207.791.1188

LD 775, *An Act to Streamline Judicial Review of Certain Land Use Decisions* – Public Law 2015, [chapter 459](#).

This law provides that any party appealing a significant municipal land use decision may file the appeal with the Business and Consumer Docket of the Superior Court. Significant land use decisions are defined as land use development projects in excess of 10,000 square feet, or a total ground area in excess of three acres, or a project consisting of ten or more lots subject to municipal review. This law also requires that significant land use appeals be accepted by the Business and Consumer Docket, which otherwise has discretion to choose the cases it hears. Finally, the law requires that the plaintiff in the appeal shall reimburse the municipality for the cost of producing the municipal record.

LD 1568, *Resolve, Regarding Legislative Review of Portions of Chapter 373: Financial and Technical Capacity Standards of the Site Location of Development Act, a Major Substantive Rule of the Department of Environmental Protection* – Resolve 2015, [chapter 62](#). **This emergency resolve became effective on March 16.** This resolve authorizes the DEP to finally adopt its provisionally adopted changes to portions of the Department's Chapter 373 rules under the Site Location of Development Law (Site Law). On April 7, 2016, the Board of Environmental Protection adopted the changes to Chapter 373 without further revision. For more information on the changes that have been adopted, please refer to our electronic version of this Report and [click here](#) for our alert describing the revisions to Chapter 373, or contact one of our attorneys listed above.

LD 1569, *Resolve, Regarding Legislative Review of Portions of Chapter 375: No Adverse Environmental Effect Standards of the Site Location of Development Act, a Major Substantive Rule of the Department of Environmental Protection* – Resolve 2015, [chapter 63](#). **This emergency resolve became effective on March 16.** This resolve authorizes the DEP to finally adopt provisionally adopted changes to its Chapter 375 regulations under the Site Law. At its meeting on April 7, 2016, the Board of Environmental Protection adopted the changes to Chapter 375 without further revision. For more information on the adopted changes to Chapter 375, please refer to our electronic version of this Report and [click here](#) for our alert on this topic, or contact one of our attorneys listed above.

LD 1570, *Resolve, Regarding Legislative Review of Chapter 380: Long-term Construction Projects Under the Site Location of Development Act, a Major Substantive Rule of the Department of Environmental Protection* – Resolve 2015, [chapter 64](#). **This emergency resolve became effective on March 16.** This resolve authorizes the DEP to finally adopt its provisionally adopted revisions to Chapter 380 for long-term construction projects under the Site Law. On April 7, 2016, the Board of Environmental Protection voted to finally adopt the proposed changes to Chapter 380 without further revision. For more information on the changes to Chapter 380 that have been adopted, please refer to our electronic version of this Report and [click here](#) for our alert on this topic, or contact one of our attorneys listed above.

Marine Resources

Contact

[John D. Delahanty](#) – 207.791.1222

[William E. Taylor](#) – 207.791.1213

[Matthew D. Manahan](#) – 207.791.1189

[Dixon P. Pike](#) - 207.791.1374

LD 427, *Resolve, Directing Certain State Agencies to Consider the Effects of Marine Debris* – Resolve 2015, [chapter 76](#).

This resolve directs the Department of Marine Resources, Department of Environmental Protection, Department of Inland Fisheries and Wildlife, and the Department of Agriculture, Conservation and Forestry to consider the marine debris that might be generated by any actions taken by any one of these departments. Each department is also directed to consider the effects of debris that may be generated by any action each department takes, and to consider how the potential marine debris may be managed and mitigated.

LD 1254, *Resolve, To Further Study the Implementation and Funding of an Integrated Beach Management Program* – Resolve 2015, [chapter 66](#). **This emergency resolve became effective on March 27.**

This resolve directs the Commissioner of the Department of Environmental Protection and the Commissioner of the Department of Agriculture, Conservation and Forestry to convene a working group to review the report titled “Protecting Maine’s Beaches for the Future: A Proposal to Create an Integrated Beach Management Program,” dated February 2006. This report was prepared by the Beach Stakeholder’s Group and submitted to the Joint Standing Committee on Natural Resources during the Second Regular Session of the 122nd Legislature. The Commissioners are also directed to update the data and findings contained in the report and to develop recommendations regarding the implementation and funding of an integrated beach management program and comprehensive beach nourishment policy. Finally, the Commissioner of the Department of Environmental Protection is directed to submit, to the Joint Standing Committee of the Legislature having jurisdiction over environment and natural resource matters, a report detailing the findings related to the implementation and funding of an integrated beach management program.

Renewable Energy

Contact

[Matthew D. Manahan](#) – 207.791.1189

[Brian M. Rayback](#) – 207.791.1188

[Dixon P. Pike](#) - 207.791.1374

(Not Enacted) LD 1649, *An Act to Modernize Solar Power Policy and Encourage Economic Development*.

This bill, among other things, would have directed the Public Utilities Commission to enter into long-term contracts for the procurement of 248 megawatts of solar energy over a five year period beginning in 2017. Overall, the bill would have increased the amount of solar-generated electricity in Maine’s renewable energy portfolio by nearly 1,000%. The bill was passed by the Legislature, but was ultimately vetoed by Governor LePage. The Governor’s veto was narrowly upheld in the House by a vote of 93-50.

Waste Management

Contact

[John D. Delahanty](#) – 207.791.1222

[Kenneth F. Gray](#) – 207.791.1212

[Thomas R. Doyle](#) – 207.791.1214

[Dixon P. Pike](#) - 207.791.1374

LD 313, *An Act to Create a Sustainable Solution to the Handling, Management and Disposal of Solid Waste in the State* – Public Law 2015, [chapter 461](#).

This new law is aimed at creating sustainable solutions for reducing the amount of municipal solid waste (“MSW”) that is disposed in landfills or incinerated, with a special focus on diversion of surplus food, food scraps and other organic waste.

Among other things, this legislation (1) establishes a “food recovery hierarchy” to be used in conjunction with the state’s existing solid waste management hierarchy (with priority for reducing, reusing and recycling) as a guiding principle in making decisions related to surplus food/scrap and organic materials management; (2) extends until January 1, 2021 the deadline for achieving the state’s goal to recycle or compost 50% of all MSW generated in Maine; (3) repeals the solid waste reduction goal, which focuses on solid waste generated in the state, and establishes a disposal reduction goal focused instead on reducing the statewide per capita disposal rate of MSW tonnage to .55 tons disposed per person by January 1, 2019, and further reduces this rate by an additional 5% every five years thereafter; (4) establishes the Maine Solid Waste Diversion Grant Program to provide grants to public and private entities to assist in the development, implementation or improvement of programs designed to increase the diversion of solid waste from disposal in the state; (5) provides that revenues collected through the assessment of statutory solid waste fees may be expended by

the DEP to provide funding for the new Maine Solid Waste Diversion Grant Program; (6) provides authority for the DEP, but does not require it, to adopt rules, pursuant to the major substantive rulemaking process, imposing fees on the disposal or processing of MSW at landfills, incinerators or processing facilities and on the disposal of other types of waste at landfills, as long as such fees are consistent with the state's solid waste management and new food recovery hierarchies rules; and (7) directs the DEP to develop, implement, and administer a food scraps composting pilot program under which the DEP is required to collect data from participating entities and submit a report to the Legislature's Environment & Natural Resources Committee by January 15, 2019, detailing the data collected, including any recommendations for legislation to implement a permanent food scrap composting program at the state, regional, municipal and/or local level.

Wildlife and Fisheries Management

Contact

[William E. Taylor](#) – 207.791.1213

[Matthew D. Manahan](#) – 207.791.1189

[Brian M. Rayback](#) – 207.791.1188

LD 1502, *An Act to Provide Flexibility in the Administration of the Elver Fishery* – Public Law 2015, [chapter 391](#). **This emergency law became effective on March 16.**

This law made revisions to the existing elver harvesting law. The law allows license holders in the elver fishery to choose which type of elver harvesting gear they use. The law also extends the end of the elver fishing season from May 31 to June 7, and eliminates the prohibition on harvesting elvers from Friday to Sunday, leaving some flexibility for the Commissioner of the Department of Marine Resources to establish closed periods for the fishery if necessary.

The law also allows the Commissioner of Marine Resources to form agreements with tribal nations to eliminate the individual elver quota for tribal members, so long as the overall tribe quota is not exceeded and the individual tribal members continue to use the elver transaction cards and meet certain reporting requirements.

LD 1593, *An Act to Make Hunting, Fishing and Trapping the Basis of Managing Inland Fisheries and Wildlife Resources* – Public Law 2015, [chapter 416](#).

This new law provides that the Department of Inland Fisheries and Wildlife must use regulated hunting, fishing and trapping as the basis for managing the inland fisheries and wildlife resources of the state of Maine.

LD 1636, *An Act to Amend the Laws Relating to Endangered and Threatened Species* – Public Law 2015, [chapter 423](#). **This emergency law became effective on April 1.**

This law authorizes Maine Department of Inland Fisheries & Wildlife (DIFW) to create a widespread activity incidental take plan (ITP) for widespread, lawful activities that pose a manageable risk of taking an endangered or threatened species and will not impair the recovery of such species. The law also authorizes DIFW to adopt rules to provide a broad activity exemption for the taking of an endangered or threatened species, in essentially the same circumstances. The genesis of this law was the listing throughout most of the state of three species of bats under Maine's Endangered Species Act (ESA), and the consequent risk to timber harvesting and forest management activities. This law brings Maine's ESA in line with federal law regarding ITPs.

Healthcare

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](#) - 207.791.1222; [Andrea Cianchette Maker](#) - 207.791.1101; [Elizabeth M. Frazier](#) – 207.791.1155; or [Megan D. Sanborn](#) – 207.629.5901.

Healthcare Delivery

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

[Emily L. Cooke](#) – 207.791.1396

LD 622, *An Act to Require Training of Mandated Reporters under the Child Abuse Laws* - Public Law 2015, [chapter 407](#).

This new law requires that every four years, any person required by law to report known or suspected child abuse or neglect to the Maine Department of Health and Human Services, must complete mandated reporter training that has been approved by that department. This new training requirement extends to the list of persons contained in current law, including school officials, teachers, guidance counselors and bus drivers and attendants, as well as healthcare providers, youth camp administrators and counselors, law enforcement, social service providers, clergy and others. Note that this law applies to institutions of higher education with respect to students who are minors.

LD 1573, *An Act to Improve Hospital Governance by Clarifying the Requirement for a Certificate of Need for Intracorporation Transfers* – Public Law 2015, [chapter 453](#).

This law clarifies that there is an exception from Maine's existing certificate of need requirement applicable to acquisitions or changes of control of healthcare facilities, where a transfer or change of control: (1) involves only entities that are indirect or direct subsidiaries of the same parent corporation, (2) is between a parent corporation and its indirect or direct subsidiaries, or (3) is between entities under direct or indirect ownership of or ultimate control by the same parent corporation.

LD 1638, *An Act to Increase Payments to MaineCare Providers That Are Subject to Maine's Service Provider Tax* – Public Law 2015, [chapter 477](#). **This emergency law became effective on April 15.**

In connection with a January 2016 increase in Maine's service provider tax, this law appropriates funds to offset the effect of that increase on MaineCare providers that are subject to the service provider tax. These include various private non-medical institutions and facilities that provide behavioral services to children, individuals with substance use disorders, and adults with intellectual disabilities and autistic disorder.

Pharmacy

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

LD 1547, *An Act to Facilitate Access to Naloxone Hydrochloride* – Public Law 2015, [chapter 508](#).

This law authorizes a pharmacist to dispense naloxone, a drug used to combat opioid overdose, to an individual at risk of overdosing. The law requires the Maine Board of Pharmacy to establish rules for authorizing pharmacists to dispense naloxone, but generally expands access to naloxone to individuals without a prescription. The law also allows law enforcement agencies and fire departments to obtain naloxone and to administer naloxone in cases of overdose. Finally, the law provides immunity from civil or criminal liability to a healthcare professional or pharmacist who dispenses or prescribes naloxone in good faith, as well as for individuals who possess or administer naloxone, so long as that individual reasonably believes that they are acting to prevent an opioid-related drug overdose.

LD 1646, *An Act to Prevent Opiate Abuse by Strengthening the Controlled Substances Prescription Monitoring Program* – Public Law 2015, [chapter 488](#).

This law makes changes to the existing Prescription Monitoring Program in Maine and sets dosage and duration limits for the prescribing of opioid pain medication for pain treatment. The law now requires doctors and pharmacists to check the Prescription Monitoring Program before first prescribing any opioid for pain treatment to a patient, and in certain other circumstances. Additionally, physicians may not prescribe more than a 100 morphine milligram equivalent of an opioid to a patient unless the patient meets certain exception criteria. The physician may prescribe only a seven-day dose for acute pain and only a 30-day dose for chronic pain. This law greatly expands the monitoring and regulatory requirements associated with the administration and prescribing of opioids and directs the Maine Department of Health and Human Services to conduct rulemaking pursuant to the law by January 1, 2017.

LD 1685, *An Act to Clarify that Buprenorphine is a Scheduled Drug* – Public Law 2015, [chapter 492](#).

This law adds buprenorphine to the list of scheduled drugs under the Maine Criminal Code for the purpose of defining crimes related to drug trafficking.

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; [Elizabeth M. Frazier](#) – 207.791.1155; or [Megan D. Sanborn](#) – 207.629.5901.

Contact

[John D. Delahanty](#) – 207.791.1222

LD 1542, *An Act to Encourage Maine Employers to Offer and Employees to Enroll in Disability Income Protection Plans in the Workplace* – Public Law 2015, [chapter 490](#).

This law allows employers to take a \$30 income tax credit for each eligible employee who enrolls in a new, eligible long- or short-term disability income protection plan under an opt-out method of enrollment. The law clarifies the ability for employers to automatically withhold the cost of the plan premium from employee's paychecks. The law prescribes limitations on the type of long- and short-term disability income protection plans that qualify for the tax credit, and requires certain disclosures and education opportunities be provided by the employer to the employee about the opt-out enrollment plans.

LD 1545, *An Act to Amend the Maine Guaranteed Access Reinsurance Association Act* - Public Law 2015, [chapter 404](#).

This law extends the suspension of the operations of the Maine Guaranteed Access Reinsurance Association ("MGARA") for one additional year, until December 31, 2017 and repeals provisions that are irrelevant due to the extension. Also, pursuant to this law, the Superintendent of Insurance is required to submit to the Legislature before February 15, 2017 his recommendations on the future of MGARA following the suspension period.

Liquor Laws

If you have a question about any of the new laws summarized in the Liquor Laws 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; [Elizabeth M. Frazier](#) – 207.791.1155; or [Megan D. Sanborn](#) – 207.629.5901.

Contact

[Andrea Cianchette Maker](#) – 207.791.1101

LD 1461, *An Act to Allow All Manufacturers Licensed by the Bureau of Alcoholic Beverages and Lottery Operations To Provide Samples of Products to Retail Licensees* - Public Law 2015, [chapter 386](#).

This new law authorizes persons who are licensed by the Maine Bureau of Alcohol Beverages and Lottery Operations (“BABLO”) as manufacturers of malt liquor or wine to give samples of products to retail licensees. This authority was previously applicable only to licensed wholesalers of malt liquor and wines.

LD 1678, *An Act to Change the Definition of “Hard Cider” for Consistency with Federal Law* – Public Law 2015, [chapter 441](#).

This new law changes the definition of hard cider to include the fermentation of the juice of pears. Previously, the law only included the fermentation of the juice of apples. The law also defines hard cider as liquor made from apples or pears that is not less than ½ of 1% alcohol by volume and not more than 8.5% alcohol by volume. The effective date of this law is January 1, 2017.

LD 1687, *An Act to Assist Small Distilleries* – Public Law 2015, [chapter 440](#).

This law applies to small distilleries, which produce up to 50,000 gallons annually, and which have a liquor license to serve alcoholic beverages for on-premises consumption, or operate up to two locations where they may sell their product for off-premises consumption. This law removes the requirement that these distillers transport their spirits to a warehouse operated by the state liquor licensing agency and then have the spirits transported back to the premises where they will be sold or consumed.

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; [Elizabeth M. Frazier](#) – 207.791.1155; or [Megan D. Sanborn](#) – 207.629.5901.

Contact

[Andrea Cianchette Maker](#) - 207.791.1101

[Margaret G. Smith](#) - 207.791.1293

LD 1476, *An Act to Improve the Law Concerning Carbon Monoxide Detectors* – Public Law 2015, [chapter 396](#). **This emergency law became effective on March 16.**

This legislation preserves existing law created in 2015 that requires certain buildings to install carbon monoxide detectors, but expands the scope of acceptable monitoring technologies. The law allows carbon monoxide detectors installed in educational facilities and units of multifamily dwellings; fraternity houses, sorority houses and dormitories affiliated with educational facilities; children's homes, shelters and residential care facilities licensed by the Department of Health and Human Services; and eating and lodging places to be powered by a battery other than a nonreplaceable ten-year battery if the detector uses low-power radio frequency wireless communication, uses multiple sensors, has low-frequency audible notification capability or is connected to a control panel.

LD 1572, *An Act to Ensure Nondiscrimination against Gun Owners in Certain Federally Subsidized Housing* – Public Law 2015, [chapter 455](#).

This new law prohibits a rental agreement for subsidized apartments from containing a clause that requires the tenant to agree to a prohibition or restriction of the lawful ownership, use, or possession of a firearm or ammunition. A landlord may impose reasonable restrictions related to the possession, use or transportation of a firearm in common spaces. The legislation provides for landlord immunity to cover civil liability that may arise from any lawful firearm that the landlord is required to allow on the property, provided the landlord is not found to be willful, reckless, or grossly negligent.

LD 1607, *An Act to Implement the Recommendations of the Maine Affordable Housing Working Group* – Public Law 2015, [chapter 424](#).

This legislation became law without Governor LePage's signature due to inaction and a lapse of time after the First Regular Session. The law directs the Maine State Housing Authority and municipal housing authorities to create a single, statewide application and waiting list for Section 8 housing and to ensure that the application can be filled out online. Additionally, the Maine State Housing Authority and the Department of Health and Human Services are directed to ensure that the universal application can be used by individuals and families to apply for the federal Shelter Plus Care program and the state Bridging Rental Assistance Program. The legislation further directs the Maine State Housing Authority to examine options to increase access to affordable housing for families with incomes at or below 30% of the area median income and to establish a rental assistance pilot program.

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](mailto:John.D.Delahanty@legis.maine.gov) - 207.791.1222; [Andrea Cianchette Maker](mailto:Andrea.Cianchette.Maker@legis.maine.gov) - 207.791.1101; [Elizabeth M. Frazier](mailto:Elizabeth.M.Frazier@legis.maine.gov) – 207.791.1155; or [Megan D. Sanborn](mailto:Megan.D.Sanborn@legis.maine.gov) – 207.629.5901.

Income Tax

Contact

[Jonathan A. Block](mailto:Jonathan.A.Block@legis.maine.gov) – 207.791.1173

[Kris J. Eimicke](mailto:Kris.J.Eimicke@legis.maine.gov) – 207.791.1248

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

LD 1583, *An Act to Provide for Tax Conformity and Funding Methods* – Public Law 2015, [chapter 388](#). **This emergency law became effective on March 10.**

This new law conforms Maine’s income tax laws to the Internal Revenue Code (IRC) as of December 31, 2015, with certain modifications. The most significant changes resulting from conformity relate to so-called “bonus depreciation” and “section 179 expensing”. By conforming to the IRC, Maine taxpayers are allowed up to \$500,000 of section 179 expensing. Maine did not conform to federal bonus depreciation, however. Rather, this new law extends the Maine Capital Investment Tax Credit, a credit that is claimed in lieu of bonus depreciation with respect to new property placed in service in Maine. The credit is available to Maine taxpayers that place property in service in Maine and claim federal bonus depreciation with respect to the property. The credit is 9% of the federal bonus depreciation for corporations, 8% for individuals in 2015, and 7% for individuals in 2016 and beyond.

Transactional (Sales) Tax

Contact

[Jonathan A. Block](mailto:Jonathan.A.Block@legis.maine.gov) – 207.791.1173

[Kris J. Eimicke](mailto:Kris.J.Eimicke@legis.maine.gov) – 207.791.1248

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

(Governor Has Not Acted) LD 1613, *An Act to Exclude from Sales Tax Certain Sales by Civic, Religious and Fraternal Organizations*

This bill, passed by the Legislature on the final day of the session, provides a sales tax exemption for sales of prepared food by a civic, religious, or fraternal organization at a public or member-only event, except when alcoholic beverages are available for sale at the event, for the first 23 days during which such sales occur annually. This bill was passed by the House and Senate during the last day of the 127th Legislature, which has since adjourned sine die. In this situation, the Governor may sign the bill at any time before the next legislature is sworn in, unless the 127th Legislature reconvenes for at least three days, in which case he must act within those three days to sign the bill into law, to veto it, or to let it pass into law without his signature.

Property Tax

Contact

[Jonathan A. Block](#) – 207.791.1173

[Kris J. Eimicke](#) – 207.791.1248

[Andrea Cianchette Maker](#) - 207.791.1101

LD 1699, *An Act to Provide Relief for Significant Reductions in Municipal Property Fiscal Capacity* – Public Law 2015, [chapter 487](#).

This law amends how a municipality's "property fiscal capacity" (a key component in the formula for determining state aid) is determined for municipalities that have undergone a significant decline in valuation due to one taxpayer. This change applies to fiscal year 2016-2017 only, and was designed to provide aid to mill towns that have experienced a loss in value attributable to a single taxpayer, such as a mill closing or a substantial reduction in a mill's property tax valuation.

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; [Elizabeth M. Frazier](#) – 207.791.1155; or [Megan D. Sanborn](#) – 207.629.5901.

Contact

[Molly P. Liddell](#) – 207.791.1153

[Barbara K. Wheaton](#) – 207.791.1339

LD 1065, *An Act to Amend the Law Regarding Temporary Powers of Attorney over Minors and to Require Organizations to Screen Agents before Providing Care* – Public Law 2015, [chapter 467](#).

This law adds to and amends Maine's statute on the delegation of parental responsibilities by power of attorney. Under current law, a parent or guardian may delegate any of the parent's or guardian's powers to an agent other than the power to consent to marriage or adoption of a minor. This law adds that a parent also may not delegate the power to consent to termination of parental rights. The law further amends current law by clarifying that delegation of authority does not deprive the parent or guardian of parental or legal authority regarding care or custody.

In addition, the law also adds a new subsection to Maine's current statute. This new subsection provides that a parent's or guardian's execution of a power of attorney to delegate powers, without more, does not constitute abandonment, abuse or neglect of a minor. The new subsection prohibits agents from receiving financial compensation from the state, but does not disqualify the agent from applying for, and receiving, state or federal program-based benefits to assist the minor or agent. The new subsection also adds clarity by specifying that an agent is not considered to be providing a family foster home with the attendant licensing requirements. The new subsection, however, does not prohibit an agent from undertaking licensing to become a foster home.

Finally, the law imposes new background check and recordkeeping requirements on certain tax-exempt organizations that assist parents with the execution of powers of attorney for the temporary care of minors. The law includes penalties for non-compliance. For example, certain tax-exempt organizations now must undertake background checks on prospective agents and adult family members of the agent's household, including child abuse and federal criminal history screenings. In addition, such organizations must keep records of agent training and background checks, as set forth in the law. Penalties may be imposed upon the organization or an employee for inadequate background checks or insufficient recordkeeping, the failure to disclose records as required by the act, or continuing to assist a parent or guardian with appointing an agent after a background check reveals disqualifying information about the agent.

LD 1322, *Resolve, To Direct Legislative Staff to Recodify and Revise the Maine Probate Code and to Direct the Probate and Trust Law Advisory Commission and the Family Law Advisory Commission to Study and Make Recommendations on Related Issues* – Resolve 2015, [chapter 73](#).

This resolve supports the continued efforts of the Probate and Trust Law Advisory Commission in its review and overhaul of Maine's Probate Code by directing the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes to prepare a bill to recodify and revise the Maine Probate Code consistent with the Commission's recommendations in its 2014 and 2015 reports to the Joint Standing Committee on Judiciary. The bill is intended for introduction in the First Regular Session of the 128th Legislature.

This resolve also directs the Probate and Trust Law Advisory Commission to make recommendations on the inclusion of supported decision making in Maine's Probate Code and directs the Family Law Advisory Commission to oversee a comprehensive review of law and procedure within the Probate Code relative to parental rights with a view to evaluating consistency with other Maine statutes on point. The reports of both Commissions are due January 15, 2017.

LD 1470, *An Act to Amend Maine's Death Certificate Disclosure Law* – Public Law 2015, [chapter 393](#).

Under statute, certified or noncertified copies of vital records of a person are generally available to that person's spouse, parents, descendants, siblings, relatives, and their attorneys and agents upon request. This law amends Maine statute to provide that certified or noncertified copies of the death certificate of a minor's parent may not be made available to that minor's living parent if the parental rights of such living parent as to the minor have been terminated. The law also references the definition of "parent" as defined in the Maine Parentage Act.



PRACTICE AREAS

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

Pierce Atwood. There's a Reason...

There's a reason why informed decision makers nationwide turn to Pierce Atwood LLP. The reason is not just that we deliver exceptional service and value to our clients. It's "how" we do it. We start by attracting and retaining superb legal talent. We add to that a cost structure and a partnership system that allows us to put our clients first in all instances and to offer a reasonable rate structure including options for alternative fee arrangements, in addition to the billable hour. By rewarding our attorneys for teamwork and collaboration, rather than "originations," our clients get the right lawyer for the right job.

Pierce Atwood is a member of The Bridge Group, a network of law firms in the U.S., England, France, Belgium, and Germany that call upon each other to cover far-reaching geographic areas and to address different areas of expertise in order to provide the highest level of quality and service to our clients.

Honors & Distinctions

We are a team of 140 responsive, creative, collaborative and hard-working professionals who serve our clients from offices located in four New England states, the District of Columbia, and Stockholm, Sweden. Of our attorneys, past and present:

- **71** are listed in *The Best Lawyers in America*® 2016, covering more than 60 areas of law
- **63** are rated "AV Preeminent" by Martindale-Hubbell
- **40** are recognized in the 2015 edition of *Chambers USA*
- **4** have been elected members of the American College of Trial Lawyers
- **3** have been elected Fellows of the American College of Construction Lawyers
- **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 Governor of New Hampshire
- **1** former lawyer is currently serving as a judge on the U.S. Court of Appeals for the First Circuit
- **1** former lawyer is currently serving as a judge on the New Hampshire Superior Court.

Our attorneys also serve in many prominent roles within the legal community, including as immediate past president of the Maine Trial Lawyers Association, past president of the Boston Bar Association, former head of the American College of Trial Lawyers, and former Independent Counsel investigating allegations against the U.S. Secretary of Labor under President Clinton.

In the 2015 BTI Brand Elite research study, Pierce Atwood was recognized for its leadership, value, and innovation. BTI Consulting is the leading provider of strategic research to the legal community.

OFFICE LOCATIONS

Portland, ME 207.791.1100	Boston, MA 617.488.8100	Portsmouth, NH 603.433.6300	Washington, DC 202.530.6420
Augusta, ME 207.622.6311	Providence, RI 401.588.5113	Stockholm, SE +46.8.463.1232	