PIERCE ATWOOD LLP

2012 Summary of New Maine Laws

State of Maine 125th Legislature, 2nd Regular Session

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Introduction

Pierce Atwood is pleased to provide a summary of the new Maine laws enacted during the 125th Maine Legislature's 2nd Regular Session that are relevant to our clients.

This Summary includes legislation that was either:

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

When the Legislature completes its business, we will update the *2012 Summary of New Maine Laws* report and mark it as the "FINAL ISSUE."

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.
- The Legislature assigns an "LD number" to each piece of legislation for reference through the legislative process. Once signed into law by the Governor, the legislation becomes a new law and is assigned a Public Law 2011 Chapter Number for reference, even in the year 2012. In the electronic version of the Summary, the Chapter Number links you to the new law.
- The effective date of non-emergency legislation will be 90 days after the Legislature adjourns, anticipated to be in mid-May. We will alert you of that date when it occurs. The effective date of legislation enacted as emergency legislation is noted in red following the Chapter Number.
- If the legislation was defeated but noted, the given link will take you to the website with the original text and any amendments presented.

For More Information

If you have a question about any of the bills summarized, what the statutory changes mean, or how to prepare for the next legislative session, please contact an attorneys in the relevant practice group (contact information is provided throughout the Summary) or a member of the Government Relations practice group. You may access the *2012 Summary of New Maine Laws* on the Pierce Atwood website at www.pierceatwood.com.

Disclaimer

The *2012 Summary of New Maine Laws* is not intended to provide a detailed legal brief of all aspects of the new laws summarized. For legal advice and counsel, please contact an attorney at Pierce Atwood.

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If you have a question about any of the bills 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 Practice Group.

Banking & Financial Services

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LD 1637, *An Act to Permit Financial Institutions to Share Certain Information for the Purpose of Preventing Electronic Bank Card Losses and Other Fraud* – Public Laws 2011, chapter 518.
Existing law prevents financial institutions authorized to do business in Maine from sharing customer information without permission, but provides certain exemptions, including the sharing of individual customers' information to the extent permitted under the federal Gramm-Leach-Bliley Act and its implementing regulations. This bill expands this exemption to include the sharing of records of a business entity customer; to the same extent that sharing of an individual customer's records is permitted.

Economic Development

Contact
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LD 323, *An Act to Implement a Coordinated Strategy to Attract New Businesses, Expand Existing Businesses and Develop a Consistent and Recognizable Maine Brand* – Public Laws 2011, chapter 563.
This bill amends numerous statutory provisions in an attempt to promote increased economic development, investment, and tourism in Maine. Specifically, the bill requires that the Commissioner of Economic and Community Development's comprehensive review of State investments in economic development include, among other programs, the Maine Tax Increment Financing Program, municipal tax increment financing, and the Pine Tree Development Zone program. Further, the bill changes the frequency of that evaluation from annual to biennial, provides that the evaluation be conducted by nonpartisan reviewers, and requires that this evaluation consider and report on outcome measures that assess the overall performance of the specific program being evaluated, as demonstrated by the number of jobs created and wages and state revenue attributable to the program.

In addition, the bill requires that the Department of Economic and Community Development, Office of Tourism seek direct input and consultation from the tourism industry and specific industry sectors regarding the development of its five-year marketing and development strategy for state tourism growth.

The bill also expands the authority of the Maine Rural Development Authority (the "Authority") by providing that the Authority may provide loans to businesses that do not own real estate and are not supported by private investment, and clarifying that the Authority may take custody of any machinery and equipment being held as collateral for a loan issued to a specific business.

The bill amends the definition of "qualified active low-income community business" under the New Markets Capital Investment Program to permit a business to qualify for a new markets capital investment credit if the qualified activities of the business occur within a municipality where the average unemployment rate is higher than the state average. *(continued on next page)*

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Finally, the bill requires that the Commissioner of Economic and Community Development conduct at least 5 meetings between August 1, 2012 and December 15, 2012 with marketing personnel from numerous state agencies including the Departments of Labor, Environmental Protection, Education, Inland Fisheries and Wildlife, Marine Resources, and Transportation, to gather information regarding marketing efforts, budgets, and strategies used by these agencies in order to determine if the State can market its products more efficiently.

LD 1437, *Resolve, Directing the Maine Economic Growth Council to Develop the Maine Prosperity Action Plan of 2012* – Resolves 2011, chapter 148.
This Resolve directs the Maine Economic Growth Council to review various reports issued in the past 6 years and to identify the best proposals for economic growth in Maine. The Council is directed to submit a plan and draft legislation to the Legislature by December 5, 2012, with the relevant legislative committee having the authority to report out legislation in reaction to the report received by the Council.

LD 1869, *An Act to Establish the Dairy Improvement Fund* - Public Laws 2011, chapter 625.
This bill establishes the Dairy Improvement Fund within the Department of Agriculture, Food, and Rural Resources in order to fund programs and activities that improve the economic viability of the dairy industry in Maine. Specifically, all money credited to the fund is to be used to provide loans to assist dairy farmers in making capital improvements and to pay the costs of processing loan applications and servicing and administering the fund. In addition, the bill provides that, beginning on July 1, 2013, one half of 1% of net slot machine revenue collected by a casino operator in Maine and delivered to the Gambling Control Board for distribution shall be credited to the fund.

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The Education Committee had its share of work during the "short session." Some of the legislation it considered was routine, though some of the proposals were more controversial. LD 1762, *An Act to Amend and Clarify the Public Charter School Law*, and LD 1783, R*esolve, Regarding Legislative Review of chapter 140: Public Charter Schools, a Major Substantive Rule of the Department of Education*, both related to the charter school law that was enacted by the Legislature less than one year ago. The charter school law remains controversial and these bills were under intense scrutiny as a result.

Governor LePage announced in his State of the State Address that one of his legislative priorities this session would be education and work force development. Late in the session, the Governor rolled out his education package in the form of four separate bills. These proposals included a bill to increase access to career and technical education, a bill regarding teacher evaluations, a bill to authorize open school enrollment and a bill to authorize State funding of religious schools. All four of these bills were major initiatives before the Education Committee. At the time of this preliminary report, only the teacher evaluation bill, LD 1858, has been signed into law and the religious school bill has been defeated in the Legislature.

If you have a question about any of the bills 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 Practice Group.

Primary Education

Contact
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LD 675, *Resolve, to Create a Working Group to Study Multidistrict Online Learning Options in Maine* – Resolves 2011, chapter 116.
Originally styled as a bill to authorize nonresident students' access to online learning content at a school administrative unit, this bill was turned into a Resolve. The Resolve directs the Department of Education to create a working group to study multidistrict online learning opportunities. This group is directed to report its findings to the Education Committee by January 4, 2013, and the Education Committee is authorized to report out legislation based on this report.

LD 1003, *Resolve, to Assist Maine Schools to Obtain Federal Funds for Medically Necessary Services* – Resolves 2011, chapter 145.
This Resolve directs the Department of Education and the Department of Health and Human Services to work together regarding improving access to the provision of medically necessary services to students in school-based settings. This Resolve was vetoed by Governor LePage, but the Legislature overrode his veto, the first veto overridden by the Legislature.

LD 1503, *An Act to Promote School Attendance and Increase School Achievement* – Public Laws 2011, chapter 614.
This new law makes a number of changes to the procedures regarding expulsion of students, the process for establishing a disciplinary code, as well as the process of reentry of an expelled student to school.

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LD 1762, *An Act to Amend and Clarify the Public Charter School Law* – Public Laws 2011, chapter 570.
This new law makes a number of technical changes to the charter school law that was enacted during the First Regular Session of the 125th Legislature. Specifically, this law:

- renames the charter school commission to the Maine Charter School Commission;
- clarifies that charter schools cannot intentionally exclude areas with high rates of poverty, at-risk students and students with disabilities;
- clarifies the length of terms of the members of the charter school commission;
- provides that future commission rules are major substantive rules;
- prescribes auditing procedures for charter schools;
- adjusts reimbursement procedures for high-cost student placement; and
- adjusts access to risk pools for high-cost services and fiscal emergencies.

LD 1770, *An Act to Encourage Parental Involvement in Education* – Public Laws 2011, chapter 571.
This new law directs the Commissioner of Education, in collaboration with stakeholders, to review parental involvement initiatives, with the Commissioner posting exemplary initiatives on the Department of Education's website. The Commissioner is also directed to disseminate this information to school administrative units and encourage these units to adopt parental involvement initiatives. School administrative units that adopt these initiatives may submit them to the Department for posting on the Department's website.

LD 1772, *An Act to Enforce Prompt Payment to Career and Technical Education Regions* – Public Laws 2011, chapter 489.
This new law authorizes career and technical education regions to seek judicial enforcement in Superior Court of unpaid installments owed by school administrative units for their shares of applicable career and technical education region assessments. Interest charges are authorized under this law.

LD 1783, *Resolve, Regarding Legislative Review of Chapter 140: Public Charter Schools, a Major Substantive Rule of the Department of Education* – Resolves 2011, chapter 136.
This Resolve provides for legislative review of a major substantive rule regarding public charter schools. The Resolve calls for final adoption of the proposed rule, provided the rule is amended regarding application procedures for conversion, and enrollment and transfer of records and funding.

LD 1858, *An Act to Ensure Effective Teaching and School Leadership* – Public Laws 2011, chapter 635.
As introduced, this bill was part of the Governor's education package and was a top priority of his administration. The bill was amended considerably during the committee process but still ran in the same direction that the Governor was headed. As enacted, this new law creates an evaluation system for teachers, with bad evaluations potentially having negative consequences on teachers' employment.

Higher Education

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LD 1631, *An Act to Address Research and Teaching in Maine's Institutions of Higher Education by Amending the Laws Governing the Purchase of Goods and Services by the State Involving Institutions of Higher Education* – Public Laws 2011, chapter 555.
This new law allows the Director of the Bureau of General Services to waive competitive bidding requirements for the purchase of goods or services if the purchase is part of a cooperative project between the State and the Maine Maritime Academy.

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LD 1645, *An Act to Require the Maine Community College System, the University of Maine System and the Maine Maritime Academy to Report the Number of Students Enrolled in Remedial Courses* – Public Laws 2011, chapter 615.
This new law requires the Maine Community College System, the University of Maine System and the Maine Maritime Academy to compile information regarding remedial course attendance for English language arts and mathematics, provided students cannot be personally identified. This information must be reported annually to the Commissioner of Education and the Legislature as well as being made available online. This law will sunset on July 1, 2016, unless a substantially similar federal law is enacted before that time.

LD 1899, *An Act to Implement the Recommendations of the Joint Standing Committee on Education and Cultural Affairs After Its Review of the Maine Health and Higher Education Facilitates Authority Pursuant to the State Government Evaluation Act* – Public Laws 2011, chapter 595.
This new law repeals the authority of the Maine Health and Higher Education Facilities Authority to issue revenue bonds and other obligations and loan proceeds to student loan corporations for the purpose of reducing the cost of financing higher education, an authority that has not been used in over twenty years.

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If you have a question about any of the bills 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 Practice Group.

Workers' Compensation

Contact
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LD 1913, *An Act to Review and Restructure the Workers' Compensation System* – Public Laws 2011, Chapter 647.
The intent of this new law is to reform the Workers' Compensation Act in order to make it easier and more fair to administer while not affecting cost. The centerpiece of the law amends section 213, which governs partial incapacity benefits, in such a way that partially incapacitated workers are entitled to 10 years of benefits unless they are deemed to be significantly disabled on an objective basis, defined as having permanent impairment in excess of 18% and earnings of less than 65% of their original average weekly wage. The amendment applies to injuries occurring on and after January 1, 2013.

In addition, the amendment increases the maximum compensation rate from 90% of the state average weekly wage to 100% of the state average weekly wage. It also bases compensation on 2/3 of the employee's gross average weekly wages, earnings or salary rather than 80% of the after tax weekly wage. It eliminates an employer's obligation to pay benefits pending appeal when the employer prevails before a Hearing Officer on a Petition for Review. It clarifies the statute of limitations by tolling the 2-year limitation only if the employer was required to file a First Report of Injury and failed to do so. It reduces the period in which notice of injury must be given from 90 days to 30 days. Finally, it restores an Appellate Division within the Board so cases can be considered by Board Hearing Officer panels acting as intermediate appellate bodies as a matter of right.

General

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LD 1207, *An Act to Amend the Labor Laws Relating to Certain Agricultural Employees* – Public Laws 2011, chapter 565.
This law repeals the chapter in Maine's Labor code permitting agricultural employees who cannot unionize under federal law to do so under state law. The law authorizing collective bargaining for Maine agricultural workers was enacted in 1997 in reaction to reports of abuses at DeCoster's egg farming operations. This law puts Maine law back to where it was before 1997. It also requires the Department of Labor (DOL), by January 15, 2017, to review the status of labor relations between agricultural employees and large agricultural employers, assess the impact of the effect of this change to the law, and develop any recommendations necessary to promote agreements between agricultural employers and agricultural employees to limit industrial strife, promote stability in the farm labor force and improve the economic status of workers and businesses. The DOL is also directed to submit its recommendations and any necessary implementing legislation to the Legislature.

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LD 1383, *An Act to Promote a Qualified Logging Workforce and to Ensure an Adequate Wood Supply for Maine Mills* – Public Laws 2011, chapter 620.
This compromise legislation amends the laws in Maine regulating the employment of temporary Canadian workers (commonly referred to as "bonds") in the logging industry.

The law:
1. Eliminated the "clearinghouse" for referral of domestic logging workers and replaced it with a training program that stakeholders believe will be a more effective tool in developing and recruiting a Maine based workforce;
2. Changed the reporting requirement from 3 days to 30 days for hiring of Canadian workers;
3. Reduced the Maine Department of Labor's role in determining if logging contractors who employ bonds are in compliance with state law, relying primarily upon existing federal regulation;
4. Changed the fine structure to allow the Commissioner of Labor greater flexibility in imposing fines with regard to violation of Maine's equipment ownership rules;
5. Retained existing restrictions on equipment leased for use by bonds.

LD 1530, *An Act to Amend the Housing Provisions of the Maine Human Rights Act* – Public Laws 2011, chapter 613.
Chapter 613 amends the housing discrimination provisions of the Maine Human Rights Act to maintain substantial equivalency with federal law and to update the accessible building requirements in public housing.

LD 1729, *An Act to Clarify the Minimum Wage Law as It Relates to People with Disabilities* – Public Laws 2011, chapter 483.
This law amends Maine's existing scheme for permitting employers to hire disabled workers at less than minimum wage. It updates current law to parallel requirements relating to the federal minimum wage outlined in Section 14(c) of the federal Fair Labor Standards Act of 1938. The revision permits the issuance of a certificate to an employer for the hiring of one or more persons with disabilities at a rate commensurate with the ability of those persons to perform the duties required in comparison to the ability of a person who does not have a disability. It extends the length of time a certificate is valid from one year to 2 years. As in current law, a certificate may be renewed.

LD 1777, *An Act to Correct an Inconsistency in the Employment Security Law* – Public Laws 2011, chapter 516.
This law addresses an inconsistency in the treatment of unemployment benefits for persons receiving pensions. Under current law an individual who otherwise qualifies for unemployment benefits is completely denied benefits if the individual receives a pension that was contributed to solely by a base period employer. The complete denial of benefits is inconsistent with the treatment of individuals who contributed less than 50% to their pension, which results in only a partial reduction in benefits. This law remedies this apparent inconsistency in the rare occurrences when the pension contributions were made solely by the base period employer by reducing unemployment benefits based on the amount of the pension.

LD 1786, *An Act to Amend the Requirement that the Department of Labor Calculate the Livable Wage* – Public Laws 2011, chapter 569.
This law changes the manner by which the Department of Labor is to calculate the livable wage, and requires a biannual report only if funds are appropriated for that purpose.

LD 1800, *An Act to Conform Maine Apprenticeship Program Standards with Federal Apprenticeship Regulations* – Public Laws 2011, chapter 491.
Recent changes to federal regulations provide that only a state agency that can be held accountable may be responsible for oversight and administration of state apprenticeship programs. In order to comply with these changes, LD 1800 eliminates the Maine Job Council's Standing Committee on Apprenticeship and creates the Maine Apprenticeship Program within the Department of Labor. It also creates the Maine Apprenticeship Council to assist and advise the Department in administering the program.

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LD 1832, *An Act to Increase the Amount of Time an Employer May Employ an Employee without Being Charged for Unemployment Benefits* – Public Laws 2011, chapter 499.
This law changes from 5 weeks to 6 weeks the amount of time an employer may employ an employee without being charged for unemployment benefits. It also sunsets that change by establishing a repeal date of March 14, 2014. Beginning on March 14, 2014, the law reverts back to 5 weeks as the amount of time an employer may employ an employee without being charged for unemployment benefits.

The law also requires a report from the Commissioner of Labor by December 15, 2013 to the joint standing committee of the Legislature having jurisdiction over labor matters on the effect of increasing from 5 to 6 the number of weeks that an individual can work for an employer before the employer becomes chargeable for unemployment benefits paid upon separation of that work. In addition to reporting the total impact of the change to the Unemployment Insurance Trust Fund, the report must include the impact on the number of employers affected and on prior employers who are charged for any ensuing benefits as a result of this change, as well as the impact on all employers if the costs are spread out among all employers.

LD 1844, *An Act to Amend the Laws Governing the Governor's Training Initiative Program* – Public Laws 2011, chapter 573.
This new law renames the "Governor's Training Initiative Program" the "Governor's Jobs Initiative Program" and clarifies that the program operates to the extent that there are available resources.

LD 1850, *An Act to Assist Maine's Current and Former Members of the United States Armed Forces* – Public Laws 2011, chapter 603.
This new law authorizes the Committee on Professional and Financial Regulation to recommend legislation and other measures to the Legislature and the Governor to assist current and former members of the armed forces in obtaining professional licenses related to that member's military training and experience.

LD 1874, *An Act to Rename the Maine Jobs Council as the State Workforce Investment Board and Make Changes to its Structure* – Public Laws 2011, chapter 627.
Chapter 627 makes minor changes to the legislation that created the Maine Jobs Council by renaming it the State Workforce Investment Board. It also eliminates some of its functions and adds committees on older workers and veterans.

LD 1894, *An Act to Restore Department Management over Costs of State-Paid Child Care* – Public Laws 2011, chapter 641.
This new law eliminates existing law that provides for collective-bargaining rights for private child-care providers who receive State subsidies.

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If you have a question about any of the bills 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 Practice Group.

Electric

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LD 935, *An Act to Create Fair and Open Competition in Line Extension Construction* – Public Laws 2011, chapter 484.
This law creates new 35-A M.R.S. § 315, which directs the Public Utilities Commission to establish rules setting standards for charges by transmission and distribution utilities serving more than 500,000 retail customers (a category which includes only Central Maine Power Company) for line extensions, supplementing and revising the Commission's existing Chapter 395, Construction Standards and Ownership and Cost Allocation Rules for Electric Distribution Line Extensions, established in 2002. The new rules will establish a method to be used to price line extensions, which may not incorporate any subsidy from telephone ratepayers. For residential customers, these charges may not include the cost of make ready work, though these costs may be included in rates. The law also requires Central Maine Power Company to report annually to the Commission the amount charged to customers for line extensions, and the total actual costs to complete those line extensions. If the amount charged to customers is more than 5% higher or lower than the actual costs, the law requires the Commission to open an investigation to adjust the methodology used to calculate customer line extension charges.

LD 1622, *Resolve, Regarding the Laws Governing Electric Industry Restructuring* – Resolves 2011, chapter 154.
This Resolve directs the Public Utilities Commission to submit a report to the utilities committee by December 15, 2012, summarizing its findings and decision in Docket No. 2011-170, in which Bangor Hydro Electric Company and Maine Public Service Company sought Commission approval to create an affiliate jointly owned by their parent company, Emera, Inc., and First Wind Holdings, LLC.

LD 1791, *Resolve, Regarding Legislative Review of Portions of Chapter 815: Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities, a Major Substantive Rule of the Public Utilities Commission* – Resolves 2011, chapter 128. This emergency law was effective on March 16.
As part of its statutory obligation to review and approve major substantive rules of the Public Utilities Commission, the Legislature approved this rule without modification or condition.

LD 1864, *An Act to Improve Efficiency Maine Trust Programs to Reduce Heating Costs and Provide Energy Efficient Heating Options for Maine's Consumers* – Public Laws 2011, chapter 637.
This Act primarily addresses reporting obligations relating to the activities of the Efficiency Maine Trust. The Act requires the Trust to provide semiannual reports to the Legislature on its revenue and expenses, and identify any significant departures from the Trust's triennial plan, and provide the Legislature with the opportunity to provide input on the development of the triennial plan. The Act also includes provisions to ensure that the natural gas conservation programs administered by the Trust benefit the consumers assessed to fund the programs, and directs the Governor's Office of Energy to assess the Trust's effectiveness in delivering these programs. *(continued on next page)*

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It authorizes transmission and distribution utilities to develop and implement, subject to review by the Public Utilities Commission, pilot programs to measure the effectiveness of electric heat pumps and electric thermal storage units, and directs the Trust and the Commission to report to the Legislature on its findings and recommendations relating to these pilot programs, and efficient heating options for residential and small business consumers generally, by March 31, 2013. Finally, the Act renames the state's Renewable Resource Fund as the "Energy Efficiency and Renewable Resource Fund," which will now provide funds for research, rebates and demonstration projects involving energy efficiency technologies in addition to renewable energy.

LD 1875, *An Act to Provide Transparency in Electricity Pricing for Maine Ratepayers* - Public Laws 2011, chapter 590.
This law requires the Commission and the Public Advocate to adopt "Zero-based budgeting," defined as "a method of budgeting in which programs and activities are justified for a budgetary period using cost-benefit analysis without regard to the amount that was budgeted for those programs in a prior budgetary period. It also requires the Commission to develop information useful to electricity ratepayers regarding the costs and effects of state policies on electric ratepayers.

Gas

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LD 1644, *An Act to Expand the Availability of Natural Gas to Maine Residents* – Public Laws 2011, chapter 586. This emergency law was effective on April 4.
This law makes changes to the provisions governing energy distribution system projects' receipt of financing assistance from the Finance Authority of Maine. It expands the definition of "energy distribution system project" to include, in addition to natural gas, systems that distribute or transmit oil, biofuels, propane, compressed natural gas or liquefied natural gas. It requires a minimum of 25% equity contribution to project costs, and reduces FAME's total debt obligation limit available for such projects from $330 million to $180 million. Under the law, FAME's authority to issue revenue obligation securities for energy distribution system projects now expires January 1, 2018, though projects approved prior to that date will remain eligible for assistance.

LD 1791, *Resolve, Regarding Legislative Review of Portions of Chapter 815: Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities, a Major Substantive Rule of the Public Utilities Commission* – Resolves 2011, chapter 128. This emergency law was effective on March 16.
As part of its statutory obligation to review and approve major substantive rules of the Public Utilities Commission, the Legislature approved this rule without modification or condition.

LD 1792, *Resolve, Regarding Legislative Review of Portions of Chapter 421: Safety and Operation Standards for Liquefied Petroleum Gas (LPG) Distribution Systems, a Major Substantive Rule of the Public Utilities Commission* – Resolves 2011, chapter 143. This emergency law was effective March 30.
As part of its statutory obligation to review and approve major substantive rules of the Public Utilities Commission, the Legislature conditionally approved this rule, subject to certain revisions. These include removal of the definition of "customer," amendment of the definition of operator to include contract operators, and elimination of the requirement that liquefied petroleum gas system operators promote the "811" and "OK to Dig" notification process. The Commission must also strike "Red Tag" marking requirements, any record retention requirement greater than one year not required by federal law, and provisions related to snow removal. The revised rules must also allow a liquefied petroleum gas operator 30 days to take corrective action prior to any formal written notice of violation.

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LD 1883, *An Act to Clarify the Regulation of Private Natural Gas Pipelines* – Public Laws 2011, chapter 592.
This law amends the private natural gas pipeline statute to clarify that the Public Utilities Commission has safety jurisdiction over a compression or liquefaction facility used to liquefy or compress natural gas for sale and distribution that is owned or operated by an affiliate of the owner of a private natural gas pipeline. The law clarifies that sales from such a compression or liquefaction facility does not make the owner or operator a public utility.

Telecommunications

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LD 1784, *An Act to Implement Recommendations to Reform Telecommunications Regulation* – Public Laws 2011, chapter 623.
This Act establishes a new regulatory regime for the telephone industry in Maine, the most significant revision to Maine's telecommunications laws since the federal Telecommunications Act of 1996. The law establishes a regulated basic calling service called "provider of last resort service," provided by incumbent local exchange carriers, who remain subject to Commission regulation of rates and service as public utilities, albeit in a lightened form. All other telephone service providers are either deregulated by the Act or were previously unregulated, though the Commission retains jurisdiction over local exchange carriers to the extent required to manage federal regulations regarding interconnection rights and obligations.

While the Commission maintains much of its traditional regulatory authority over providers of last resort service, other requirements are modified to reduce the cost and burden associated with providing this service, particularly with regard to reporting and information-gathering by the Commission. Initially, the rates for providers of last resort service are the current local rates, but the Act directs the Commission to establish a stakeholder group to develop the regulatory structure to set these rates in the future, and report the results of these efforts to the applicable legislative committee by January 15, 2013. The Act also phases out most of the existing requirements of the Alternative Form of Regulation ("AFOR") applicable to Fairpoint Communications, the state's largest incumbent local exchange carrier, directing the Commission to establish new service quality standards to replace those in the AFOR. Incumbent providers of last resort service may petition the Commission to transfer the provider of last resort status to another entity willing and able to assume those obligations.

While the act largely deregulates entities that are not providers of last resort service, it retains certain requirements and revises others. For these entities, including voice service providers, dark fiber providers, and wholesale competitive local exchange carriers, the Commission's previously broad investigative authority is sharply reduced to only those matters that are subject to the Commission's jurisdiction or related to laws to which the entity is subject. These entities are given expanded rights to construct lines and facilities, including along public roadways, and the Commission's jurisdiction to order joint use of equipment and prescribe the terms and conditions thereof is expanded. Voice service providers remain subject to consumer protection laws governing privacy, caller-ID blocking and "slamming" and "cramming." Voice service providers must also pay into the state universal service fund and telecommunications access fund.

The Act repeals a number of provisions of Chapter 35-A that are no longer necessary either due to technical obsolescence, such as laws governing emergency use of party lines and regulating audiotext services, or deregulation and industry changes, such as laws requiring utilities to maintain separate accounts for their mobile telecommunications or radio paging services. The Commission is directed to review Chapter 35-A and its implementing rules to determine what, if any, further changes are necessary to implement the changes set forth in the Act, and submit a bill to the 126th Legislature proposing any further recommended changes to the law.

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Utilities

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LD 1708, *An Act to Prevent the Theft and Illegal Sale of Copper and Other Metals* – Public Laws 2011, chapter 545. This emergency law was effective on March 29.
This statute broadens the definition of "scrap metal processor" to include any purchaser of scrap metal, regardless of whether they have a fixed place of business, and removes a weight and value limitation in the existing law governing scrap metal processors, so that processors must now maintain records of all purchases of scrap metal. Scrap metal processors must now photocopy a seller's photo identification, or if the photo identification is faded or otherwise indiscernible, take a photo of the seller, and store these records securely. Scrap metal processors may be subject to mandatory fines ranging from $1,000 to $5,000 and suspensions for repeat violations of these rules. If a law enforcement officer has a reasonable suspicion that scrap metal being held by a scrap metal processor is stolen or related to criminal activity, he or she may now impose a 7 day hold, which may be extended for an additional 7 days. Finally, the law requires the Commissioner of Public Safety to review the concept of using a statewide integrated criminal alert network to track scrap metal thefts across the State, and submit a report to the applicable joint standing committee of the Legislature on the merits and costs of using such a network by January 15, 2013.

LD 1789, *Resolve, Regarding Legislative Review of Portions of Chapter 316: Long-Term Contracting and Resource Adequacy, a Major Substantive Rule of the Public Utilities Commission* – Resolves 2011, chapter 138. This emergency law was effective on March 29.
As part of its statutory obligation to review and approve major substantive rules of the Public Utilities Commission, the Legislature conditionally approved this rule, provided that the Commission incorporate changes made by Public Law 2011, chapter 413, sections 2 and 3 to the process by which energy efficiency long-term contracts are approved and executed. Those changes allow the Commission to order transmission and distribution utilities to enter into long term contracts for energy efficiency capacity resources with the Efficiency Maine Trust, subject to approval by the Legislature, if the revenues from energy efficiency assessments are not enough to meet the budget allocations required by the Trust's triennial plan.

LD 1803, *An Act to Implement the Recommendations of the Dig Safe Working Group* – Public Laws 2011, chapter 588. This emergency law was effective on April 4.
This Act amends the dig safe law (23 M.R.S. § 3360-A) to implement certain of the recommendations of the Dig Safe Working group established by P.L. 2001, Ch. 72, among other revisions. The Act establishes notice requirements for excavations in areas where there are underground facilities owned or operated by a person who is not part of the dig safe system, and exempts excavators from liability if they delay excavation until after the facilities are marked or three days from notification. It also exempts certain grading activities on private roads. As part of the Legislature's statutory obligation to review and approve major substantive rules of the Public Utilities Commission, the Act conditionally approves the Commission's Chapter 895: Underground Facility Damage Prevention Requirements, subject to minor modifications to notification requirements, marking rules, and procedures for Commission investigation of violations. Finally, the Act specifies the membership of a new 22-person dig-safe work group, to be chaired and appointed by the Public Advocate, to examine ways to facilitate the creation of a centralized one-call system to notify operators of underground facilities of pending excavations.

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LD 1895, *An Act to Protect Consumers by Strengthening the Laws Governing Prepaid Home Heating Oil Contracts* – Resolves 2011, chapter 574. This emergency law was effective on March 30.
This law is intended to address concerns raised by the recent abrupt closure of home heating oil retailers that left customers with prepaid contracts without a refund or oil. It requires home heating oil, kerosene and propane dealers to register their intent to offer prepaid contracts with the Commissioner of Professional and Financial Regulation by June 30th of each year, along with a $100 fee. Dealers who offer prepaid contracts must file an annual report, signed by the dealer, by October 31st of each year demonstrating how such prepaid contracts are secured. Failure to file or false statements on such reports may be prosecuted as an unfair trade practice or an unsworn falsification, respectively. The Commissioner of Professional and Financial Regulation is authorized to adopt implementing rules as necessary.

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While there was no single piece of legislation during the Second Regular Session that attracted as much attention as LD 1, the regulatory reform bill, did during First Regular Session last year, the Legislature adopted or is poised to adopt a number of notable bills in 2012. For example, the Legislature concluded its review of the Land Use Regulation Commission (LURC) that began last session with the House and Senate voting, pending final appropriations, to overhaul both LRUC's function and make-up. Carried over legislation that opens the door for the future expansion of the Crossroads Landfill in Norridgewock also was passed, as was a new bill (awaiting the Governor's signature) that creates a new statutory framework for the regulation of metallic mineral mining in Maine. Administrative process continued to receive attention this session. The Legislature clarified who has standing to appeal agency decisions to LURC and the Board of Environmental Protection and addressed, but ultimately did not adopt, a bill that would have amended the law governing judicial deference given to agency decisions. A bill that would provide property owners with the option of seeking judicial relief if they suffer a regulatory taking received approval in the House, but is currently tabled in the Senate.

If you have a question about any of the bills summarized below, 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.

If you have a question about any of the bills 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 Practice Group.

Agency Organization & Administrative Process

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(Not Enacted) LD 1546, *An Act to Amend the Laws Governing the Deference Afforded to Agency Decisions*. As originally drafted, this bill would have prevented courts hearing an administrative appeal from giving any deference to an agency's interpretation of statutes it administers or its own rules. The bill was amended in committee to provide that reviewing courts were not required to give deference to an agency's interpretation of statutes and rules. Ultimately, no version of the bill was adopted.

LD 1647, *Resolve, To Require Rulemaking Regarding Standing to Appeal in Proceedings before the Board of Environmental Protection and the Maine Land Use Regulation Commission* – Resolves 2011, chapter 144.
This bill, originally presented as "An Act to Define 'Person Aggrieved' in Proceedings Before the Department of Environmental Protection and the Maine Land Use Regulation Commission," was amended and converted to a Resolve before adoption by the Legislature. The Resolve requires the Board of Environmental Protection (BEP) and Land Use Regulation Commission (LURC) to adopt rules to conform the standards for standing to appeal a decision to BEP and LURC, respectively, to be consistent with the judicial standard for standing to appeal a BEP or LURC decision to Superior Court.

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(Pending) LD 1798, *An Act to Reform Land Use Planning in the Unorganized Territory* – Placed on the special appropriations table.
This legislation reshapes how development activities in the unorganized and deorganized areas of the State are regulated. Among other things, the legislation replaces the Land Use Regulation Commission with the Land Use Planning Commission (LUPC). The LUPC will consist of nine members, all of whom will be subject to review by the Joint Standing Committee on Agriculture, Conservation, and Forestry and confirmation by the Senate. The Governor will nominate one of these members and each of the eight counties with the most acreage in the unorganized or deorganized areas, through the county commissioners, will nominate a LUPC member. During a transition period, existing members of LURC will continue to serve through expiration of their current terms. The bill shifts permitting authority over all grid-scale wind energy projects to DEP and shifts permitting authority over other significant development to DEP as well, unless that development is located within a planned subdistrict previously approved by LURC or accepted for review prior to September 1, 2012. LD 1738, which is discussed below, also transitions regulatory authority away from LURC, shifting oversight of forestry activities to the Bureau of Forestry. As reconstituted by both pieces of legislation, LUPC's primary function will be land use planning. Consistent with that role, LD 1798 directs LUPC to engage in prospective zoning in the unorganized and deorganized areas of the State. Finally, a controversial provision that would have allowed counties to opt out of LUPC planning and review is not included in the final legislation on the appropriations table.

(Pending) LD 1810, *An Act to Implement Recommendations of the Committee to Review Issues Dealing with Regulatory Takings* – Tabled in the Senate.
This legislation, as approved by the House, allows property owners to seek judicial relief if they suffer a regulatory taking. The Legislation was tabled by the Senate and awaits further action in May.

(Pending) LD 1830, *An Act to Establish the Department of Agriculture, Conservation and Forestry* – Placed on the special appropriations table.
This legislation consolidates the Department of Agriculture, Food and Rural Resources and the Department of Conservation into a single agency, the Department of Agriculture, Conservation and Forestry. The new Department would have the following divisions: (1) Agricultural Resource Development, (2) Forestry, (3) Parks and Public Lands, (4) Quality Assurance and Regulation, (5) Animal and Plant Health, (6) Geology and Natural Areas, and (7) Land Use Planning, Permitting and Compliance. If further legislation facilitating this merger and consolidating Maine Revised Statutes Title 7 and portions of Title 12 into the new Title 7-A is not enacted by December 3, 2014, the merger legislation contained in LD 1830 will be repealed.

Air Quality and Boilers

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LD 1738, *An Act to Make Minor Adjustments to Laws Administered by the Department of Environmental Protection* – Public Laws 2011, chapter 538.
As part of this omnibus bill, the period for which minor source air emissions licenses will be valid has been extended from five to 10 years. These licenses commonly are referred to as Chapter 115 minor source air licenses. For currently licensed minor sources, the new 10-year license period will begin upon the next renewal. Major sources air emissions licenses, commonly referred to as Title V or Part 70 licenses in reference to Title V of the Clean Air Act and the corresponding federal regulations that govern these source, 40 C.F.R. Part 70, will not be affected. Major source licenses issued pursuant to Chapter 140 will continue to have five year terms.

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Building Codes

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LD 1619, *An Act to Resolve Conflicts in the Implementation of the Maine Uniform Building and Energy Code* – Public Laws 2011, chapter 582.
Under existing state law, by July 1, 2012 all municipalities with more than 4,000 residents will have to enforce the Maine Uniform Building and Energy Code. This amendment establishes that communities not required to enforce this code may choose to adopt the code by reference. Where the code is adopted by reference or in a manner that does not provide for appeal of decisions made by building officials administering the code, the bill provides for appeal under existing statutory provisions.

LD 1697, *An Act Relating to the Calculation of Population for Purposes of the Maine Uniform Building and Energy Code and Public Safety Answering Point Assessments* – Public Laws 2011, chapter 505. This emergency law was effective on March 16.
Existing Maine law requires municipalities with more than 4,000 residents to adopt and apply the Maine Uniform Building and Energy Code by July 1, 2012. This new law excludes persons held in correctional facilities from those counted as residents of a municipality.

Environmental Enforcement and Liability

Contact
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LD 1602, *An Act to Remove the $100 Reporting Fee for Fertilizer and Agricultural Liming Materials Sold* – Public Laws 2011, chapter 607.
This new law removes a $100 minimum fee required for various grades of fertilizer and liming materials. The Department of Agriculture and the Department of Environmental Protection are also directed to review definitions of covered products and the need for inspection of these products as well as the cost of inspection. The Departments are directed to report back to the Legislature regarding these issues and may submit legislation by January 15, 2013.

LD 1658, *An Act to Protect Gasoline Marketers from Liability for Selling Federally Approved Gasoline* – Public Laws 2011, chapter 632.
This law protects distributors, blenders, and retail dealers of motor fuels containing more than 10 percent ethanol from liability for damage caused by the fuel, provided they have complied with federal law.

LD 1738, *An Act to Make Minor Adjustments to Laws Administered by the Department of Environmental Protection* – Public Laws 2011, chapter 538.
As part of this omnibus bill, proposed administrative consent agreements prepared by DEP must be posted to the Department's website at least 30 days before the Commissioner takes final action on the agreement. The bill also provides that if the terms of an administrative consent agreement are violated, both DEP and the Attorney General may institute injunctive proceedings to stop further violation.

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Environmental Permitting and Land Use

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LD 1648, *An Act to Clarify the Site Location of Development Laws Regarding Exemptions for Previously Developed Sites* – Public Laws 2011, chapter 551.
This law: (1) establishes that development that reuses a building and associated facilities in existence on January 1, 1970 is exempt from review under the Site Location of Development Law (Site Law); (2) amends the existing military base exemption to provide that former military base property leased by an authority, such as the Midcoast Regional Redevelopment Authority, retains its exemption; and (3) creates two new exemptions from Site Law review for limited new development at ski areas and educational institutions currently holding Site Law licenses.

LD 1689, *Resolve, To Revise Requirements of the Maine Land Use Regulation Commission Pertaining to Maple Sugarhouses* – Resolves 2011, chapter 123.
This Resolve directs LURC to amend its rules pertaining to maple sugar processing by, among other things, eliminating the 1,000 foot minimum setback from public roads, shorelines of great ponds and major flowing waters, and residential or commercial development.

LD 1793, *Resolve, Regarding Legislative Review of Portions of Chapter 375: No Adverse Environmental Effect Standard of Site Location Law, a Major Substantive Rule of the Department of Environmental Protection* – Resolves 2011, chapter 131. This emergency Resolve was effective on March 19.
Through this Resolve, the Legislature approved major substantive amendments to Chapter 375 of DEP's rules. The amendments to DEP's rules establish new, more stringent noise standards for wind energy developments.

LD 1794, *Resolve, Regarding Legislative Review of Portions of Chapter 378: Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products, a Major Substantive Rule of the Department of Environmental Protection* – Resolves 2011, chapter 139. This emergency Resolve was effective March 29.
Through this Resolve, the Legislature approved major substantive amendments to Chapter 378 of DEP's rules. The amendments, required by Resolves 2011, chapter 26, allow licensed mining operations to store limited amounts of diesel fuel over sand and gravel aquifers.

LD 1797, *Resolve, Regarding Legislative Review of Portions of Chapter 305: Permit by Rule, a Major Substantive Rule of the Department of Environmental Protection* – Resolves 2011, chapter 140. This emergency Resolve was effective March 29.
Through this Resolve, the Legislature approved major substantive amendments to Chapter 305 of DEP's rules. The amendments create a permit by rule under the Natural Resources Protection Act (NRPA) for new development in moderate value inland waterfowl and wading bird habitat, provided the development is located at least 150 feet from the wetland and occupies no more than 20 percent of the lot within the habitat.

LD 1846, *Resolve, Directing the Department of Environmental Protection to Adopt Rules Pertaining to Petroleum Storage and Gravel Pits* – Resolves 2011, chapter 149. This emergency Resolve was effective April 6.
This Resolve directs DEP to adopt an emergency rule to allow aboveground oil storage tanks that are used for the supply of diesel fuel to be located in excavations for borrow, clay, topsoil or silt, and quarries that are in significant sand and gravel aquifers. By statute, 5 M.R.S. § 8054, emergency rules may only be effective for 90 days. The Resolve also directs DEP, through nonemergency routine technical rulemaking, to adopt a rule that allows this same activity in significant sand and gravel aquifers.

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(Pending) LD 1853, *An Act to Improve Environmental Oversight and Streamline Permitting for Metallic Mineral Mining in Maine* – Awaiting the Governor's signature.
This bill creates a statutory framework for the regulation of metallic mineral mining in Maine by the Department of Environmental Protection. Under current law, metallic mineral mining in the unorganized territories is regulated by the Land Use Regulation Commission. Under the bill as amended by the majority committee report, beginning in January 2014, regulation of metallic mineral mining is no longer regulated under the Site Location of Development Law but is regulated under the Maine Metallic Mineral Mining Act. Existing LURC and DEP rules relating to metallic mineral mining remain in effect until the Legislature approves major substantive rules provisionally adopted by the DEP, except that the DEP and LURC are directed to amend their rules regarding exploration and advanced exploration through routine technical rulemaking.

Forestry

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LD 1739, *An Act to Change Regulation of Forestry Activities* – Public Laws 2011, chapter 599.
The centerpiece of this bill is the transfer of regulatory authority over certain activities within unorganized areas of the State designated as protection and management districts from LURC to the Bureau of Forestry. After this shift of authority from one division of the Department of Conservation to another, the Bureau of Forestry, within the specified districts, will regulate timber harvesting and timber harvesting activities, as well as the construction, maintenance, and repair of land management roads, water crossings, and gravel pits less than 5 acres in size. The Department of Conservation is directed to undertake rulemaking consistent with this shift in authority. This bill also directs the Department of Conservation to undertake rulemaking to allow for the placement of wood in streams for the purpose of enhancing cold water fisher habitat. This activity in streams is exempt from permitting requirements under the Natural Resources Protection Act.

LD 1740, *An Act to Remove the Repeal Date for Outcome-based Forestry* – Public Laws 2011, chapter 488.
This emergency law was effective on March 8.
Maine's Forest Practices Act allows for the designation of areas within the state where outcome-based forest practices may be applied. These practices are intended as an alternative to prescriptive regulation and a way to attain statewide sustainability goals and allow landowners the use of creativity and flexibility to achieve their forest management objectives, all while providing for the conservation of public trust resources and the public value of forests. The statutory provisions of the Forest Practice Act allowing outcome-based forest practices were set to sunset on July 1, 2012. This bill eliminates that sunset date.

LD 1776, *Resolve, To Streamline Forester Licensing Requirements* – Resolves 2011, chapter 130.
This Resolve directs the Board of Licensure of Foresters and the Maine Forest Service to review the current licensing requirements for foresters and develop recommendations for streamlining these requirements, including through the simplification of the education, testing, and experience requirements. The Board is directed to submit its recommendations and draft implementing legislation to the Committee on Labor, Commerce, Research and Economic Development by December 18, 2012.

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Renewable Energy

Contact
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Matthew D. Manahan – 207.791.1189
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(Not Enacted) LD 1686, *An Act to Amend the Process for Issuing State Water Quality Certificates to Hydropower Projects that Withdraw Water from Great Ponds*.
This defeated legislation would have provided the Department of Inland Fisheries & Wildlife and the Department of Conservation with veto power over state water quality certifications issued by DEP that are associated with hydropower projects that use water from impoundments managed as great ponds (*i.e.*, water bodies greater than 10 acres in size in their natural state and artificially formed water bodies greater than 30 acres in size).

Waste and Recycling

Contact
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LD 693, *An Act Concerning Solid Waste Facility Citizen Advisory Committees* – Public Laws 2011, chapter 543.
As originally proposed during the 1st Regular Session, this bill would have granted landfill citizen advisory committees the right to appeal DEP licensing decisions. After amendment, the enacted legislation requires an applicant for a DEP license or amendment associated with a solid waste facility to notify individual advisory committee members at least 10 days prior to filing an application with DEP and, at the time of filing, to provide a copy of the application to the advisory committee.

LD 879, *An Act to Ensure Adequate Landfill Capacity in the State for Solid Waste* – Public Laws 2011, chapter 566.
This Act makes several changes to Maine's solid waste management laws, including: (1) allowing expansion of the Crossroads Landfill in Norridgewock onto adjacent property, subject to review and approval of the expansion by DEP; (2) defining the immediate, short-term, and long-term capacity needs of the state that must be served by a new or expanded solid waste disposal facility as meaning the state's solid waste disposal capacity needs within the next 3, 5, and 10 years, respectively; and (3) providing additional clarification regarding the DEP Commissioner's decision-making process when evaluating whether a proposed solid waste disposal facility or the expansion of such a facility provides a substantial public benefit.

LD 1278, *An Act to Stabilize Solid Waste Management Funding* – Public Laws 2011, chapter 544.
This law establishes a waste handling fee for construction and demolition debris and residue from the processing of construction and demolition debris disposed of at landfills. The new fee is $1 per ton in 2013 and $2 per ton thereafter. The fee must be paid by commercial, municipal, regional association, and state-owned landfills, except for municipal or regional association landfills less than six acres in size that accept only inert fill, construction and demolition debris, debris from land clearing, and wood wastes.

(Pending) LD 1683, *An Act to Provide Funding to Operate the Dolby Landfill in the Town of East Millinocket* – Placed on the special appropriations table.
This legislation, if enacted, makes General Fund appropriations of $250,000 for the operation of the Dolby Landfill in the Town of East Millinocket.

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Water

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LD 1768, *An Act to Improve the Department of Environmental Protection's Annual Waste Discharge License Fee System* – Public Laws 2011, chapter 546. This emergency law was effective on March 29.
This amendment to the Waste Discharge license fee system primarily is intended to simplify the calculation of license fees. DEP staff was spending a considerable amount of time calculating these fees for several categories of dischargers and the new, simplified process will cut back on this time. The amendment also provides dischargers with some measure of consistency in their annual license fee. Previously the fee could fluctuate substantially from year to year.

Wildlife and Fisheries Management

Contact
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Brian M. Rayback – 207.791.1188

LD 1849, *An Act to Protect Landlocked Salmon Fisheries in Schoodic and Seboeis Lakes from Invasive Fish Species* – Public Laws 2011, chapter 612.
This bill prevents the installation of fish passage at dams at the outlets of Schoodic and Seboeis lakes that would allow upstream passage of invasive fish species. Additionally, under current law, the Commissioner of the Department of Inland Fisheries and Wildlife is responsible for overseeing fishway proceedings that address passage of anadromous or migratory fish at dams and other artificial obstructions. The bill makes the Commissioner of DIF&W and the Commissioner of the Department of Marine Resources jointly responsible for overseeing fish passage and these proceedings.

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The Legislature regularly refines Maine election laws. Being elected officials, legislators are more interested than most in all the facets of election law. During this legislative session slight reforms in this area, including greater disclosure requirements are being enacted. In response to a U.S. Supreme Court case, Maine's matching funds provision of the Clean Elections Act has been repealed, a major policy issue.

Another area of law that is constantly revisited by the Legislature is the ability of citizens to access public records. The Legislature and the Right to Know Advisory Committee continually evaluate the balance between the need to safeguard certain information and the need for disclosure of public records. The Legislature continued to fine tune this balance.

There were also a number of proposals considered this session regarding how state Government operates. Legislation that addressed legislative and executive procedures was diverse this session. Also included in this mix are the various supplemental budget bills that were enacted this year.

If you have a question about any of the bills summarized in the Government & 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 a member of our Government Relations Practice Group.

Campaign Financing and Election Procedures

Contact
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Andrea C. Maker – 207.622.6311 or 207.791.1318
Avery T. Day – 207.622.6311 or 207.791.1157

LD 199, *Resolve, Directing the Secretary of State to Study Voter Participation and Registration and the Conduct of Elections in the State* – Resolves 2011, chapter 133.
Originally introduced as a bill to require photo identification in order to vote, this carry over bill was quite controversial. Ultimately, this bill was turned into a Resolve that directs the Secretary of State to study voter participation and registration and the conduct of elections. This report to the Legislature is due before February 1, 2013.

LD 1150, *An Act to Improve the Administration of the Legislative Ethics Laws* – Public Laws 2011, chapter 471.
This new law allows the Commission on Governmental Ethics and Election Practices to investigate potential violations of legislative ethics on its own motion and to commence an investigation on information received other than a complaint. Legislators are afforded an opportunity to answer a complaint in writing and in person before the Commission commences an investigation.

LD 1618, *An Act to Amend the Campaign Finance Laws Regarding Reporting Refunds of Campaign Expenditures* – Public Laws 2011, chapter 522.
This new law makes several changes to procedures of the Maine Clean Election Act, by providing the Commission on Governmental Ethics and Election Practices with better access to financial records associated with a Clean Elections candidate's campaign.

LD 1774, *An Act Regarding the Matching Funds Provisions of the Maine Clean Election Act* – Public Laws 2011, chapter 558.
This new law is in reaction to a 2011 United States Supreme Court case, which held Arizona's "matching funds" provision to be unconstitutional. In response to this ruling, this new law strikes "matching funds" and compliance with "matching funds" provisions from Maine election laws.

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Freedom of Access

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Avery T. Day – 207.622.6311 or 207.791.1157

LD 1804, *An Act to Implement Recommendations of the Right to Know Advisory Committee Concerning Public Records Exceptions* – Public Laws 2011, chapter 524.
This new law implements the recommendations of the Right to Know Advisory Committee, which is charged with reviewing various titles of Maine's statutes each year. These recommendations coincide with a review of Titles 22 to 25. This law adjusts the confidentiality of records held by the Attorney General's Office, the Chief Medical Examiner, the Maine Health Data Organization, the Department of Transportation, the Maine Turnpike Authority, the Northern New England Passenger Rail Authority, medical licensing boards, the Maine Workers' Compensation Residual Market Pool and the Superintendent of Insurance.

Legislative/Executive Process

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Avery T. Day – 207.622.6311 or 207.791.1157

LD 543, *An Act to Protect Legislative Intent in Rulemaking* – Public Laws 2011, chapter 479.
This new law is designed to give the Legislature additional oversight regarding agency rulemaking. Under this law, agencies are required to notify the primary sponsor of legislation authorizing rulemaking of that rulemaking, provided it is within two years of enactment of the legislation. This new law also requires that the Secretary of State provide the Legislature with an annual report of new rules. Legislative Committees can review new rules under their jurisdiction and require members of the agency in question to appear before that committee. Committees are also authorized to report out legislation reacting to newly promulgated rules.

LD 972, *An Act to Provide Administrative Support to the Citizen Trade Policy Commission* – Public Laws 2011, chapter 468.
This new law provides an additional appropriation of $12,000 annually for the Maine Citizen Trade Policy Commission, a standing Legislative Commission to study international trade policy.

LD 1726, *An Act to Make Technical Corrections to the Laws Governing the Indian Representatives to the Legislature* – Public Laws 2011, chapter 467. This emergency law was effective on January 4.
This new law amends current law regarding the seating of a representative from the Houlton Band of Maliseet Indians to provide that, for purposes of the Second Regular Session of the 125th Legislature, that representative may be appointed rather than elected by the Houlton Band of Maliseet Indians.

LD 1736, *An Act to Make Allocations from Maine Turnpike Authority Fund for the Maine Turnpike Authority for the Calendar Year ending December 31, 2013* – Private and Special Laws 2011, chapter 21.
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, 2013.

LD 1806, *An Act to Promote Transparency in Government* – Public Laws 2011, chapter 634.
This new law makes a number of amendments to current law requiring financial disclosures by legislators and certain Executive Branch employees. It also expands reporting requirements by requiring additional disclosures related to businesses and organizations in which legislators and Executive Branch employees have an interest.

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LD 1816, *An Act to Implement the Recommendations of the Streamline and Prioritize Core Government Services Task Force for the Fiscal Years Ending June 30, 2012 and June 30, 2013 and to Make Certain Other Allocations and Appropriations and Changes to the Law Necessary to the Operation of State Government* – Public Laws 2011, chapter 477. This emergency law was effective on February 23.
This new law provides supplemental budget allocations to the Department of Health and Human Services for the fiscal year ending June 30, 2012, as the Department was projected to run out of funds before the end of the State's fiscal year. Also included in this new law is language to implement the recommendations of the Streamlining Task Force, which was charged with finding $25 million in savings during the current biennium.

Proposed cuts to the Department of Health and Human Services were very controversial and the Appropriations Committee spent a considerable amount of time working on this budget package. Included in this law are a variety of initiatives, including:

- Reductions in State spending for general purpose aid for local schools;
- Limits on the length of time a MaineCare recipient can remain on drugs designed to treat opioid addiction;
- A cross-agency deappropriation (i.e., "haircut") of close to 1% of "All Other" appropriations;
- Language sweeping various special revenue funds with excess balances;
- Spending caps for the MaineCare childless adult program in an effort to limit enrollment;
- Language authorizing the substitution of generic drugs for brand-name drugs; and
- Language limiting access to various services for MaineCare members.

LD 1843, *An Act to Implement the Recommendations of the Office of Program Evaluation and Government Accountability and the Government Oversight Committee Regarding Quasi-Independent State Entities* – Public Laws 2011, chapter 616.
This new law implements "best practices" for quasi-independent agencies, which stems from the investigation into the Maine Turnpike Authority by the Office of Program Evaluation and Government Accountability. This law requires certain state entities to implement procedures related to procurement practices, contributions to outside organizations, travel, meal and entertainment expenses, lobbying and reporting annually to the Legislature regarding procurement and contributions. This law also establishes a procedure for determining whether additional quasi-independent agencies should comply with these "best practices" requirements.

LD 1870, *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 the State Government to Address Revenue Shortfalls Projected for the Fiscal Year Ending June 30, 2012* – Public Laws 2011, chapter 575. This new emergency law was effective on March 30.
This new law reallocates funds in various accounts to make up for an almost $5 million revenue shortfall. This supplemental budget measure was not controversial and more a matter of "housekeeping," to meet the State's Constitutional requirement that the budget remain in balance.

LD 1892, *An Act to Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry Under the State Government Evaluation Act* – Public Laws 2011, chapter 579.
The State Government Evaluation Act requires periodic legislative review of various state agencies. This new law amends that act by establishing dates for review of agriculture-related agencies and removing the Blueberry Advisory Committee and the Seed Potato Board from the list of agencies to be reviewed. Further, it provides for staggered terms for members of the Wild Blueberry Commission of Maine and requires the Maine Potato Board to report to the Legislature regarding seed potato production, distribution and sales by January 15, 2013.

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If you have a question about any of the bills 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 Practice Group.

Healthcare Delivery

Contact
Andrea C. Maker – 207.622.6311 or 207.791.1318

LD 955, *An Act to Establish a Dental Adjudicatory Panel System* – Public Laws 2011, chapter 581.
This new law establishes a dental adjudicatory panel system, where panels and not the Board of Dental Examiners will hold adjudicatory hearings under the Administrative Procedures Act. This system will rely on panels constituted on a case-by-case basis and not a standing adjudicatory panel. This new system is scheduled to sunset on September 15, 2014.

LD 1625, *An Act to Amend the Organization of the Quality Assurance Review Committee* – Public Laws 2011, chapter 495.
This new law gives the Department of Health and Human Services the duty to establish a quality assurance review committee to review the provision of home care coordination services for long-term care services and supports for the disabled. Previously this committee was established by a contractor to the Department.

LD 1626, *An Act to Clarify the Authority of the Department of Health and Human Services to Impose Administrative Sanctions upon Vendors, Providers and Participants in the Women, Infants and Children Special Supplemental Food Program* – Public Laws 2011, chapter 512.
This new law clarifies that the Department of Health and Human Services has the authority to fine and penalize WIC vendors, disqualify local providers and demand repayment from and disqualify participants, provided that they are afforded a hearing before this determination.

LD 1629, *An Act to Allow for a Contingency Fee Agreement with a MaineCare Program Integrity Recovery Audit Contractor* – Public Laws 2011, chapter 593. This emergency law was effective on April 5.
This new law authorizes the Department of Health and Human Services to enter into agreements with recovery audit contractors, as required under the Affordable Care Act, and establishes the parameters of these contracts. Contractors will perform audits to identify overpayments and underpayments and will be paid on a contingent fee basis.

LD 1638, *An Act to Enhance the Duties and Responsibilities of the Director of the Division for the Deaf, Hard of Hearing and Late Deafened* – Public Laws 2011, chapter 474.
This new law clarifies that the Director of the Division for the Deaf, Hard of Hearing and Late Deafened has oversight of vocational rehabilitation counselors that serve deaf, hard of hearing and late deafened persons.

LD 1688, *An Act to Clarify the Status of Patients Held Under Involuntary Commitment Applications* – Public Laws 2011, chapter 541.
This new law clarifies that an application for admission to a psychiatric hospital, known as a "blue paper," is not a determination of commitment to a psychiatric hospital.

LD 1694, *Resolve, Directing the Department of Health and Human Services to Review Rules Governing Reimbursement to MaineCare Recipients for Transportation to and from MaineCare Services* – Resolves 2011, chapter 142.
Originally introduced as a Resolve to direct the Department of Health and Human Services to promulgate rules regarding reimbursement for transportation to methadone clinics, this bill was amended to direct the Department to review reimbursement for transportation for MaineCare members to all services. The Department is directed to submit this report to the Legislature by December 15, 2012.

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LD 1812, *Resolve, Directing the Department of Health and Human Services to Submit an Application for a Waiver from the United States Department of Agriculture* – Resolves 2011, chapter 155.
This Resolve directs the Department of Health and Human Services to seek approval from the United States Department of Agriculture for new rules requiring a person to show photo identification when using an electronic benefits transfer card. The Department is also directed to develop other strategies to combat fraud and abuse of electronic benefits transfer cards and to report on strategies to combat fraud to the Legislature by December 1, 2012.

LD 1845, *An Act to Implement the Recommendations of the Department of Health and Human Services and the Maine Developmental Disabilities Council Regarding Respectful Language* – Public Laws 2011, chapter 542. This new emergency law was effective on March 20.
This new law amends various sections of existing law, primarily, to replace the term "mental retardation" with "intellectual disability." This law also directs the Department of Health and Human Services to implement this language change in future rules, forms, policies and publications.

LD 1848, *An Act to Expand the Notification Requirements of the Maine Certificate of Need Act of 2002* – Public Laws 2011, chapter 636.
This new law specifies that if an existing health care facility may lose capacity or close due to a project requiring a certificate of need, then notification must be sent to municipal officers and legislators representing the municipality in which the existing facility is located. This new law also adds to the information that must be included in public notices regarding facilities affected by the certificate of need process.

LD 1855, *An Act Regarding the Fund for a Healthy Maine's Prevention, Education and Treatment Activities Concerning Unhealthy Weight and Obesity* – Public Laws 2011, chapter 617.
This new law adds prevention, education and treatment activities associated with unhealthy weight and obesity to the enumerated purpose of the Fund for a Health Maine. Further, this new law requires that a new budget line to fund prevention, education and treatment activities associated with unhealthy weight and obesity be added to the State's biennial budget beginning in fiscal year 2014-15.

LD 1893, *Resolve, Regarding Legislative Review of Portions of Chapter 850: Health Plan Accountability, a Major Substantive Rule of the Department of Professional and Financial Regulation* – Resolves 2011, chapter 150. This new emergency Resolve was effective April 6.
This Resolve provides for legislative review of a major substantive rule of the Department of Professional and Financial Regulation. The underlying rule at issue, Chapter 850: Health Plan Accountability, is being revised in reaction to the overhaul of Maine's health insurance laws enacted last year as Public Law 2011, Chapter 90.

Health Information Technology

Contact
Andrea C. Maker – 207.622.6311 or 207.791.1318

LD 806, *An Act to Increase Access to Information Regarding Health Care Facility and Practitioner Payments* – Public Laws 2011, chapter 525.
As originally drafted, LD 806 would have required hospitals to post the prices of the 100 most commonly performed procedures in that hospital. As enacted, this new law provides direction to the Maine Health Data Organization regarding the information that organization posts to its website.

LD 1813, *An Act to Amend the Laws Governing Confidentiality of Health Care Information* – Public Laws 2011, chapter 572. This new emergency law was effective on March 30.
This new law amends existing law regarding confidentiality of health care information to allow a health care practitioner or facility to report evidence of criminal conduct that occurred on premises to federal, state and local governmental entities.

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Pharmacy

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Avery T. Day – 207.622.6311 or 207.791.1157

LD 1679, *An Act to Conform Maine's Prescription Drug Privacy Laws with the United States Constitution* – Public Laws 2011, chapter 494.
This new law repeals an existing Maine law providing confidentiality to prescriber data in reaction to a United State's Supreme Court decision holding a similar Vermont law unconstitutional.

LD 1691, *An Act Related to Specialty Tiers in Prescription Medication Pricing* – Public Laws 2011, chapter 611.
This new law requires health benefit plans that provide prescription drugs to provide a separate total limit for out-of-pocket expenses for prescription drugs provided under the health plan subject to coinsurance that does not exceed $3,500 per year if the carrier does not include out-of-pocket expenses for prescription drugs subject to coinsurance under the health plan's total limit for out-of-pocket expenses for all benefits provided under the health plan.

LD 1714, *An Act to Restrict Further the Amount of Methamphetamine Precursors that May Be Bought or Sold* – Public Laws 2011, chapter 584.
This new law places new quantity restrictions on the purchase and sale of methamphetamine precursors, limiting purchases and sales to 3.6 grams per person per day and 9 grams per person per month. Under this bill, the Maine Drug Enforcement Agency must establish a real-time electronic logging system that must be used by retailers to log and block illegal sales.

LD 1715, *An Act to Allow for Timely Access to and Enhanced Administration of All Vaccines* – Public Laws 2011, chapter 577.
This new law allows licensed pharmacists to administer vaccines licensed by the United States Food and Drug Administration that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices for administration to adults. It also expands the scope of who may prescribe administration of a vaccine by allowing nurse practitioners to prescribe these administrations. Finally, it requires one-time approval from the Maine Board of Pharmacy of a pharmacy's plan of operation for vaccine administration clinics.

LD 1852, *An Act to Provide a More Comprehensive Ban on the Possession of Synthetic Hallucinogenic Drugs* – Public Laws 2011, chapter 578.
This new law expands upon Maine's criminalization of "bath salts" by identifying additional illegally synthetic hallucinogenic drugs that are covered by the existing law.

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If you have a question about any of the bills 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 Practice Group.

Health Insurance

Contact
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Andrea C. Maker – 207.622.6311 or 207.791.1318

LD 1497, *An Act Relating to Navigators Under Health Benefit Exchanges* – Public Laws 2011, chapter 631.
Originally introduced as one of two competing bills to establish a Maine health insurance exchange to act as an exchange envisioned by the federal Affordable Care Act, this bill was amended considerably during the legislative process. As enacted, this new law does not establish the framework to create a health insurance exchange. Rather, this new law sets forth criteria for a party to act as a health insurance exchange "navigator."

LD 1670, *An Act Relating to Rating on the Basis of Group Size in the Small Group Health Insurance Market* – Public Laws 2011, chapter 638.
This bill addresses the use of group size as a factor in setting rates in the small group health insurance market. Prior to the bill's passage, the use of group size was permitted in setting premium rates, and variances based on group size, as with those based on occupation and industry, family membership, and participation in wellness programs, were not subject to constraints limiting variances to a maximum percentage of base rates. This bill makes the use of group size, and the use of group size and age as a combined factor, subject to such constraints, which are expressed as percentage bands.

LD 1702, *An Act to Correct Inconsistencies and Ambiguities in the Maine Guaranteed Access Reinsurance Association Act* – Public Laws 2012, chapter 621.
This bill makes a series of corrections to Chapter 54-A of the Maine Insurance Code, which chapter was enacted in 2011 to establish the Maine Guaranteed Access Reinsurance Association as a reinsurance program for the higher risk segment of Maine's individual health insurance market. These corrections, among other things, (1) clarify the process by which insurance carriers may designate covered persons for reinsurance by the Association and protects the confidentiality of health information used in such designation determinations; and (2) clarifies technical aspects of the initial period of Association operations, which will commence on July 1, 2012.

Miscellaneous

Contact
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LD 1773, *An Act Regarding Insurance Adjusters and Reporting Requirements for Insurance Companies* – Public Laws 2011, chapter 554.
This new law clarifies that the performance of clerical activities associated with licensed adjuster activities for portable electronic devices does not require an adjuster's license and requires insurance companies to notify the Superintendent of Insurance of all executive officers and directors of entities owning and individuals owning 51% or more of their outstanding voting securities.

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If you have a question about any of the bills 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 Practice Group.

Judicial Process Reforms

Contact
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LD 1377, *An Act to Adopt the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act* – Public Laws 2011, chapter 564.
This new law adopts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act and comments, which address jurisdiction in relation to adult guardianships, conservatorships and other protective proceedings. The intent is that only one state will have jurisdiction at any one time. Amendments to this uniform act were adopted at the recommendation of the Probate and Trust Law Advisory Commission. Commission amendments address:

- Definitional inconsistencies between the uniform act and existing Maine statute;
- The emergency term of a guardian;
- The need for a hearing;
- The evidentiary standard applied to proceedings involving transfer of guardianship and protective proceedings;
- The scope of the actions a conservator may take;
- The examination and modification of foreign orders; and
- The ability of a court to intervene if foreign registration is inappropriate.

LD 1659, *An Act to Facilitate Recovery of Debts Owed to the State for Indigent Legal Services* – Public Laws 2011, chapter 547.
This new law provides the Maine Commission on Indigent Legal Services with additional, confidential information regarding defendants who are ultimately responsible for some or all of the costs of their defense so that the Commission can use this information to recover these costs.

LD 1698, *An Act to Establish Veterans Treatment Courts* – Public Laws 2011, chapter 500. This emergency law was effective on March 14.
This new law authorizes the Chief Justice of the Law Court to establish veterans treatment courts, which specialize in select criminal sentencing of veterans in order for veterans and social service agencies to provide treatment to the defendant. Federal funding could be sought to establish these courts.

LD 1719, *An Act to Update the Powers and Duties of the Bureau of Maine Veterans' Services* – Public Laws 2011, chapter 539.
This new law clarifies that interment of a veteran or dependent in the Maine Veterans' Memorial Cemetery System is permanent and final, except the Director of the Bureau of Maine Veterans' Services is granted the discretion to allow disinterment when the State would bear no costs. This new law also directs the Bureau and the Department of Health and Human Services to submit a report to the Legislature regarding ongoing efforts to transfer veterans from MaineCare benefits to veterans' benefits.

LD 1802, *An Act to Implement Recommendations of the Commission to Study Priorities and Timing of Judicial Proceedings in State Courts* – Public Laws 2011, chapter 559.
This new law is the result of a legislative study committee that was formed to examine the priorities granted to various actions through statute. The law eliminates some statutory priorities and standardizes other priorities in order to rationalize the current system of granting priorities to specific actions. This new law also includes reform of the procedures that must be utilized in order to seek a protection from harassment order.

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Traffic/Driver's Licenses

Contact
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LD 1896, *An Act to Provide a Temporary Registration Plate to Certain Members of the Armed Forces* – Public Laws 2011, chapter 605.
This new law authorizes the Secretary of State to provide a temporary license plate to members of the armed forces for 30 days, provided that member has recently returned to Maine from a deployment outside the continental United States.

General

Contact
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LD 1594, *An Act to Clarify the Requirements of Income Withholding Orders* – Public Laws 2011, chapter 528.
This new law amends current law regarding income withholding orders. Specifically, this new law addresses the various ways to provide the payor notice.

LD 1595, *An Act to Impose a Penalty for Making False Claims Regarding Affiliation with a Federally Recognized Tribe* – Public Laws 2011, chapter 583.
This new law establishes a civil penalty of up to $2,500 for anyone who falsely claims to be a member of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation with the intent to obtain property of another and who, because of the false claim, does obtain that property.

LD 1605, *An Act to Promote Agricultural Activity in Maine by Limiting the Liability for Agritourism Activities* – Public Laws 2011, chapter 609.
This new law provides for limited liability for those engaged in agritourism activities. Provided participants in agritourism activities are given notice, those who conduct agritourism operations will not be held liable for inherent risks of agritourism.

LD 1635, *An Act Regarding Inmates on Public Works Projects* – Public Laws 2011, chapter 506. This emergency law was effective on March 16.
This new law allows sheriffs of regional and county jails to permit inmates to work on public works and charitable projects throughout the state. Currently, this work must be performed in the county in which that inmate is housed.

LD 1643, *An Act to Enhance a Community's Ability to Establish or Update Its Veterans Honor Roll* – Public Laws 2011, chapter 481.
This new law allows the Bureau of Maine Veterans' Services to release information about veterans to municipalities for the purpose of establishing or updating a veterans honor roll.

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LD 1650, *An Act Concerning the Collection of Child Support Obligations* – Public Laws 2011, chapter 550. This emergency law was effective on March 29.
This new law amends existing law regarding child support obligations, which automatically suspends child support obligations when the obligor is on public assistance. Under this new law, tax refunds, lottery winnings and lump sum awards can be applied to prior child support debt, regardless of whether the obligor is on public assistance.

LD 1660, *An Act to Provide Tort Claims Immunity for Out-of-State Regional Transit Organizations that Provide Regular Service in Maine* – Public Laws 2011, chapter 520.
This new law allows bus companies that operate in Maine but are organized under New Hampshire law to enjoy the immunities and limitations on liability provided for in the Maine Tort Claims Act.

LD 1720, *An Act to Increase the Membership of the Homeland Security Advisory Council* – Public Laws 2011, chapter 529.
This new law expands the membership of the Maine Homeland Security Advisory Council from 6 members to 9 by adding the Commissioners of Inland Fisheries and Wildlife, Marine Resources and Conservation as members.

LD 1754, *An Act to Amend Certain Provisions of Law Governing the Department of Corrections* – Public Laws 2011, chapter 515.
This new law makes a number of technical corrections to laws regarding the Department of Corrections. This includes expanding upon current law allowing for the release of personal inmate information to state and federal agencies to determine eligibility for state and federal programs. This new law also provides for the donation of prison industries program goods and services to government and nonprofit entities.

LD 1760, *An Act to Ensure Notification to Victims of Domestic Violence, Sexual Assault and Stalking when Defendants are Released on Bail* – Public Laws 2011, chapter 639.
Domestic violence was a signature issue this year, with the Governor and the Chief Justice both making this issue one of their priorities. This new law provides for notification of victims of certain crimes when defendants are released on bail. Specifically, this new law requires an arresting officer to obtain a victim's contact information in cases of domestic violence, sexual assault and stalking. Victims would then be contacted, should the defendant be released on bail. This new law does provide immunity to those required to notify victims.

LD 1769, *An Act Regarding Subrogation of Medical Payments Coverage* – Public Laws 2011, chapter 509.
Existing law provides that in tort cases where the award or settlement does not exceed $20,000, insurance companies are prohibited from asserting a claim for medical payment subrogation. This new law repeals this prohibition, so that medical payment subrogation can be pursued in all cases, regardless of the size of the award or settlement.

LD 1841, *An Act to Ensure Funding for the Victims' Compensation Fund* – Public Laws 2011, chapter 628.
Current law provides for a $25 assessment on those convicted of Class A, B and C crimes and a $10 assessment on those convicted of Class D and E crimes, with the assessments going to the Victims' Compensation Fund. This new law removes the discretion of courts to waive the collection of these assessments.

LD 1859, *An Act to Protect Firearm Ownership During Times of Emergency* – Public Laws 2011, chapter 626.
This new law prohibits state and local officials from placing restrictions on the lawful possession, use, carrying, transfer, transportation, storage or display of firearms and ammunition during a declared state of emergency. Further, this new law repeals the existing authority of the Governor to limit the sale, dispensing and transportation of firearms during a declared state of emergency.

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LD 1867, *An Act to Protect Victims of Domestic Violence* – Public Laws 2011, chapter 640.
This new law makes a number of changes to the bail code in respect to domestic violence crimes so that those setting bail are provided with more information regarding the crime in question and the severity of that crime.

LD 1900, *An Act to Support Members of the Law Enforcement Community Who Have Suffered Catastrophic Illness* – Public Laws 2011, chapter 596. This emergency law was effective April 5.
This new law allows law enforcement agencies and associations to solicit donations from law enforcement officers, agencies and associations for the benefit of law enforcement officers and their family members that are suffering from a catastrophic illness.

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If you have a question about any of the bills 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 Practice Group.

Discontinued Town Ways

Contact
Rebecca West Greenfield – 207.791.1246
Robert A. Creamer – 207.791.1322

LD 1596, *Resolve, to Review Laws and Policies Related to Discontinued and Abandoned Roads* – Resolves 2011, chapter 120.
The Legislature has directed the Department of Conservation to convene a stakeholder group to review laws and policies related to discontinued and abandoned roads. Issues to be examined by the group include continued road access through public easements, damage to roads due to use by abutting owners or members of the public, maintenance of private roads with public easements and maintaining access for intermittent users of roads. The stakeholder group is limited to no more than ten members and must include: (1) representatives from the Department of Transportation; (2) up to two residents who own property on a discontinued or abandoned road with an easement; and (3) members of statewide organizations representing municipalities, small woodlot owners, producers of forest products, snowmobilers and other interested parties. The Department of Conservation shall report the stakeholder group's finding and any recommendations that it makes to the Legislature by January 15, 2013.

Registries of Deeds

Contact
Rebecca West Greenfield – 207.791.1246
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LD 1616, *An Act Concerning Copying Fees for Users of County Registries of Deeds* – Public Laws 2011, chapter 508.
This emergency legislation amends 33 M.R.S. § 751(14-B), which sets the fees for making abstracts and copies of records at the county registries of deeds, by removing the language which stated that this provision would be repealed as of July 31, 2012. As a result, the fees set in 33 M.R.S. § 751(14-B) will remain in effect. In addition, this legislation repeals 33 M.R.S. § 751(14-C), which would have allowed County Commissioners to set fees for making abstracts and copies of records at the county registries of deeds as of August 1, 2012.

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(Not Enacted) LD 1881, *An Act regarding the Commercial Sales of Deeds Records*.
This bill would have: (1) prohibited the resale of "digital abstracts" and copies of deeds; (2) imposed a fine of not more than $1,000.00 on such prohibited resales; and (3) required a person requesting 1,000 or more digital abstracts and copies of consecutive deeds records to provide the registry with a signed written statement asserting that those records would not be sold or offered for sale.

Maine's real estate attorneys were extremely concerned about this bill because they routinely procure copies of deeds and other records when advising clients on such issues as title status and property rights. Normal practice is to charge a client for the costs of procuring such records. On its face this bill would have prohibited these charges. In addition, many attorneys and other real estate professionals order more than 1,000 copies of deeds and other records from the county registries each year. Tracking the number of records requested and submitting the required statements would be very burdensome. Finally, the bill did not define "digital abstracts," creating uncertainty as to the bill's application.
After listening to these concerns, raised at public hearing by members of the Maine State Bar Association's Real Estate Section, the Committee on State and Local Government unanimously voted that LD 1881 "Ought Not to Pass."

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If you have a question about any of the bills summarized in the State & Local Tax/Federal 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 Practice Group.

Contact
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LD 590, *An Act to Codify the Review Practice of Certain Changes in the Application of the Sales and Use Tax Law* – Public Laws 2011, chapter 503.
To assist with legislative oversight, before implementing a significant change in policy, practice or interpretation of the sales and use tax law that would result in additional revenue, Maine Revenue Services must now consult with the Attorney General to determine if the change should be reviewed by the appropriate legislative committee. The committee may then schedule a time for review and discussion of the proposed change.

LD 1138, *An Act to Amend the Maine Tree Growth Tax Law and the Open Space Tax Law* – Public Laws 2011, chapter 618.
This Act imposes additional restrictions to be satisfied by owners seeking to classify their property under the Maine Tree Growth Tax Law. Beginning August 1, 2012, when asked to provide evidence of compliance with a forest management and harvest plan, a landowner will be required to attest that the property is being used to grow trees to be harvested for commercial use or for other allowable purposes. The Act creates a multi-step process for notifying a landowner of failure to comply with the Law, and imposes penalties for such failure. Property classified under the Law will now be reduced if it has a structure on it or if it is in a shoreland area.

The Act also amends the Farm and Open Space Tax Law by creating an additional category for "managed forest open space land," which is an area of forest for which the owner has submitted a forest management and harvest plan. Managed forest open space is eligible for an additional 10 percent reduction in value under the alternative valuation method.

LD 1470, *An Act to Evaluate the Harvesting of Timber on Land Taxed under the Maine Tree Growth Tax Law* – Public Laws 2011, chapter 619.
The Director of the Bureau of Forestry has been tasked with conducting periodic random sampling of land enrolled under the Maine Tree Growth Tax law to ensure compliance with forest management and harvest plans. Furthermore, upon request by a municipal assessor or the State Tax Assessor, the Director of the Bureau of Forestry also must provide assistance in evaluating whether a forest management and harvest plan satisfies the statutory requirements and whether a landowner's harvesting complies with his or her plan.

LD 1535, *Resolve, Directing the Department of Administrative and Financial Services, Bureau of Revenue Services To Develop a Pilot Project for a Tax Simulation Model for State Dynamic Fiscal Analysis* – Resolves 2011, chapter 114.
To help aid with fiscal analysis, the Legislature has directed Maine Revenue Services to undertake a pilot project to develop and evaluate a tax simulation model for estimating the effect a change in the tax laws would have on state tax revenue as well as the impact on overall economic activity that may occur as a result of the tax law change.

LD 1607, *An Act to Preserve the Integrity of the Maine Certified Public Accountant Examination* – Public Laws 2011, chapter 478. This emergency law was effective on February 29.
This new law amends the education requirements that must be satisfied before a candidate can take the Maine CPA exam by requiring that accounting courses be taken prior to taking the exam.

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LD 1735, *An Act to Promote Jobs in the Motor Coach Industry by Providing a Sales Tax Exemption for Certain Buses* –Public Laws 2011, chapter 501.
This Act clarifies that buses with a capacity of at least 47 passengers will be exempt from sales tax if providing transportation pursuant to a contract between the bus company and a cruise provider for travelers on an interstate or foreign cruise while the cruise ship is in port.

LD 1748, *An Act To Conform the Maine Tax Laws for 2011 to the United States Internal Revenue Code* – Public Laws 2011, chapter 530. This emergency law was effective on March 19.
This Act amends the definition of "Internal Revenue Code" for purposes of the tax laws to the Code as in effect on December 31, 2011, as opposed to December 31, 2010.

LD 1764, *An Act to Reduce High-Technology Tax Evasion and Theft* – Public Laws 2011, chapter 526. This emergency law was effective on March 19.
To combat tax evasion, the Legislature has created a new tax crime related to "automated sales suppression devices" and "phantom-ware," which are software programs that falsify electronic sales records, often through cash registers, to reduce a company's tax obligations. The possession, purchase, or ownership of an automated sales suppression device or phantom-ware is a Class D crime. The manufacture, sale, installation or transfer of these programs is a Class C crime.

LD 1799, *An Act Regarding the Collection of Fees for Prepaid Wireless Service* – Public Laws 2011, chapter 600.
The Act imposes a "prepaid wireless fee," which is the sum of: (1) a state Universal Service Fund fee; (2) a Telecommunications Education Access Fund fee; and (3) the statewide prepaid wireless telecommunications service E-9-1-1 surcharge. The Public Utilities Commission must determine by rule the amount of the state Universal Service Fund fee and the amount of the Telecommunications Education Access Fund fee to be collected from prepaid wireless telecommunications service consumers no later than October 1, 2012. The statewide prepaid wireless E-9-1-1 surcharge is currently imposed at a rate of 45¢ per retail transaction.

The Act further requires a seller of prepaid wireless telecommunications services to collect the prepaid wireless fee from a prepaid wireless consumer for each retail transaction occurring in Maine. The amount of the prepaid wireless fee must be separately stated on an invoice, receipt or similar document that is provided to the prepaid wireless consumer by the seller, when practicable. If not practicable, the seller must make the information regarding the amount of the prepaid wireless fee available to the prepaid wireless consumer in another manner.

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There's a reason why informed decision makers nationwide turn to Pierce Atwood LLP. And the reason is not just that Pierce Atwood delivers exceptional service and value to its clients. It's "how" we do it. We start by attracting and retaining superb legal talent. We then layer over 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.

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We are a team of responsive, creative, collaborative and hard-working professionals. Of our more than 130 attorneys,

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- **59** are rated "AV Preeminent" by Martindale-Hubbell;
- **4** have been elected members of the American College of Trial Lawyers;
- **3** have served as Special Master to the United States Supreme Court; and
- **2** have served as Chief Justice of the Maine Supreme Judicial Court.

Our attorneys also serve in many prominent roles within the legal community, including as immediate past presidents of the Boston Bar Association and Maine State 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.

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