

Legislative BULLETIN

A PUBLICATION OF MAINE MUNICIPAL ASSOCIATION

Vol. XXIX No. 1

January 5, 2007

Will the Legislature Set the Spending Limit Example?

This is a call to action for all municipal officials committed to working with the schools, the counties and state government to reduce Maine's tax burden in a responsible, even-handed and rational manner.

As implausible as it may seem, the jumping-off point for all of that is something called a "joint legislative rule".

And time is of the essence. The "joint rules" for the 2007-2008 biennium will be finally adopted by the Legislature either on January 9th or January 16th. If the particular joint rule that is the subject of this article is not adopted within the next 11 days, it's all over.

A special legislative committee was convened on Tuesday this week for the purpose of reviewing and giving its recommendations with respect to a dozen-plus proposed amendments and additions to the existing body of "joint rules". That special committee will meet again on Monday, January 8 to vote out its recommendations on all the proposed joint rules that various legislators are recommending. Either one day or one week later, the Legislature will make the final decision.

It is a difficult task to get local officials and the general public focused on the inside-baseball of the Legislature's joint rules. The joint rules are often thought of as mere procedure rather than substance.

The savvy politician, however, understands that procedural rules often control substantive output.

We are urging you to talk to your legislators immediately and pay close attention to the upcoming votes on the joint rules in both the House and the Senate. Here's the deal:

The Maine Municipal Association, along with the Maine Service Center Coalition, the Maine State Chamber of Commerce, the Maine Education Association and the Maine Hospital Association, have developed and will be advocating for a comprehensive tax burden reduction bill during the upcoming legislative session. That legislation will tighten-up the voting procedures required at every level of government to override the annual spending limits established by the "LD 1" formulas in current law. The details of the bill (*The Responsible Government Spending and Investment Act*) were provided in the December issue of the *Maine Townsman*.

For the municipalities, schools and counties, a change to the law is all it takes to tighten-up those voting procedures. State law is fully enforceable at the local level. For state government, however, a simple change to the law is not fully enforceable because the Legislature can always step aside any law that applies to it. The only law the Legislature cannot "notwithstanding" is the law in Maine's Constitution.

That's where the joint rules come in. Unlike a regular law, after a joint rule is adopted by the Legislature, that rule absolutely governs the Legislature unless it is overridden or amended by a supermajority two-thirds vote in both the House and the Senate. Therefore, if the Legislature's LD 1 override procedure is incorporated into the Legislature's joint rules, it becomes binding and enforceable.

On Tuesday this week, amendments and additions to the existing body of legislative joint rules were presented to the special 10-member Joint Rule Committee. There were proposed joint rules to amend the Legislature's conflict of interest standards. There were proposed joint rules to restrict legislators from getting coached by text messaging communications from lobbyists during committee hearings. There were proposed joint rules to streamline state budget review procedures.

And two legislators, Representative Patrick Flood (Winthrop) and Senator Peter Mills (Somerset Cty.), each proposed their own version of a joint rule that would establish the Legislature's LD 1 spending limit override procedure as a two-thirds vote requirement in both the House and the Senate.

Rep. Flood explained to the Committee that his joint rule would lay the groundwork for a legislative proposal he is submitting that would require supermajority two-thirds voting for every level of government – municipal, school, county or state – to exceed their respective LD 1 spending limits.

Sen. Mill's joint rule proposal was offered more in line with the goals of the MMA/MEA/Maine State Chamber coalition that is advancing *The Responsible Government Spending and Investment Act*. Sen. Mill's joint rule is not predicated on supermajority voting as the only appropriate override procedure that should be applied to all levels of government. As Sen. Mills explained to the Committee, a two-thirds voting requirement is the most practically effective override system for the Legislature, but for smaller units of government, a referendum voting process might be more appropriate than the supermajority requirement.

(continued on page 6)

Joint Rules Committee

Sen. Phil Bartlett (Cumberland Cty.)
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Sen. Richard Rosen (Hancock Cty.)
Sen. Carol Weston (Waldo Cty.)
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Rep. Stacey Fitts (Pittsfield)
Rep. Henry Joy (Crystal)
Rep. Stan Gerzofsky (Brunswick), Co-Chair
Rep. Nancy Smith (Monmouth)

(The bill summaries are written by MMA staff and are not necessarily the bill's summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the *Legislative Bulletin* to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, www.memun.org.)

Agriculture, Conservation & Forestry

LD 21 – Resolve, To Provide Access for Persons with Disabilities to Great Ponds. (Sponsored by Rep. Pineau of Jay.)

This resolve directs the Department of Conservation and the Department of Inland Fisheries and Wildlife to develop a plan to provide adequate access for persons with disabilities to inland bodies of water that are 10 acres or greater in size (Great Ponds). The plan must be reported to the Legislature by January 3, 2008.

Education & Cultural Affairs

LD 20 – Resolve, Prohibiting the Use of Carpeting in Schools. (Sponsored by Rep. Beaudoin of Biddeford.)

This resolve directs the Department of Education to adopt rules prohibiting carpeting as flooring in newly constructed or renovated public school facilities.

Health & Human Services

LD 12 – An Act To Establish a Residency Requirement for MaineCare Recipients. (Sponsored by Rep. Browne of Vassalboro; additional cosponsors.)

This bill requires all applicants to prove to the Department of Health and Human Services that they have been physically present in the State for 30 days or longer prior to qualifying for MaineCare benefits.

LD 28 – An Act To Establish a Statewide Residency Requirement for General Assistance. (Sponsored by Rep. Browne of Vassalboro; additional cosponsors.)

This bill requires a person to have resided in a municipality for at least 30 days before that person can be determined eligible to receive General Assistance.

LD 29 – An Act To Amend the Laws Governing Welfare. (Sponsored by Rep. Beaudoin of Biddeford.)

This "concept draft" bill proposes to require welfare recipients to work with town officials to seek meaningful employment and perform work or provide volunteer services in order to receive welfare benefits.

Legislative Bulletin

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

Subscriptions to the *Bulletin* are available at a rate of \$20 per calendar year. Inquiries regarding subscriptions or opinions expressed in this publication should be addressed to: *Legislative Bulletin*, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330. Tel: 623-8428. Website: www.memun.org

Editorial Staff: Geoffrey Herman, Kate Dufour, Jeff Austin, and Laura Veilleux of the State & Federal Relations staff.

Legal & Veterans Affairs

LD 27 – An Act To Clarify Election Laws Concerning Election Clerks' Qualifications. (Emergency) (Sponsored by Rep. Barstow of Gorham.)

This bill relaxes the residency requirement for the appointment of election clerks when the municipal officers are unable to appoint a sufficient number of election clerks who are residents of the municipality. In that circumstance, the bill allows the election clerk to appoint deputy clerks who are not residents of the municipality if they are at least residents of the county and are otherwise qualified to serve as election clerks.

Natural Resources

LD 25 – An Act To Change the Maine Land Use Regulation Commission's Lot Size, Coverage and Setback Requirements for Some Affordable Housing Lots on Coastal Islands. (Sponsored by Rep. McKane of Newcastle; additional cosponsor.)

This bill directs the Maine Land Use Regulation Commission (LURC) to adopt dimensional standards for affordable housing on certain coastal islands within LURC's jurisdiction where development is restricted to less than 50% of the island's land area due to easements, statute, or rule. The dimensional standards for affordable housing must allow for denser development and less restrictive setbacks than the dimensional standards for general development. For a municipality or plantation under LURC's jurisdiction, the dimensional standards would only apply when the municipality or plantation has designated the affected property as suitable for affordable housing.

State & Local Government

LD 32 – An Act To Create a Regional Jail System. (Sponsored by Rep. Weddell of Frankfort.) (By request)

This "concept draft" bill proposes to require county governments to create regional jails and to share the costs of building and maintaining those regional jails.

Taxation

LD 26 – An Act To Fund Transportation Projects. (Sponsored by Rep. Marley of Portland.)

This "concept draft" bill proposes to authorize any county in Maine to adopt by referendum a local option sales tax. 90% of the collected revenue would be retained by the county to fund transportation-related projects in the county. 10% of the revenue would be deposited in the State Transit, Aviation and Rail Transportation Fund.

Transportation

LD 9 – An Act To Continue the Axle Weight Law Changes Beyond September 15, 2007. (Sponsored by Rep. Thomas of Ripley; additional cosponsors.)

A bill passed by the 122nd Legislature amended truck weight-limit standards as they apply not to overall truck weights but to the truck's axle weights. That bill: (1) amended the calculation of the tandem axle weight fines for 6-axle trucks hauling special commodities to clarify that the lower of the fines specified in statute apply; (2) amended the axle weight fine schedules to moderate the fine increases for smaller violations for trucks hauling forest products; and (3) eliminated axle weight fine violations during the months of January and February on most state roads. The changes went into effect on September 17, 2005 and are scheduled to be repealed (sunsetting) on September 15, 2007. This bill would make the changes permanent by repealing the sunset.

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LEGISLATURE (cont'd)

On Monday, January 8th, the special Joint Rules Committee (*see box on front page*) will vote out its recommendations regarding a dozen-plus proposed new joint rules, including the proposals regarding the Legislature's LD 1 override procedures.

In the tax burden reduction/tax relief/tax reform debate, everyone seems to acknowledge that "something" needs to be done in 2007. There is no dispute from any quarter in that regard. The question that remains is whether that "something" will be serious, enforceable, genuine, real, and binding. Of all the rules you may encounter in the world, the legislative joint rules are not made to be broken. Please contact your legislators and urge them to support the joint rule to govern the Legislature's LD 1 override procedure so that we can move forward and help build a rational and responsible governmental spending limitation system that the people of Maine can be proud of and that can serve as the foundation of true tax reform.