

The First Bill to Repair School Consolidation Law Clears Committee

For the second week in a row the Education Committee has dedicated all of its efforts to tackle the core issues that have been raised in response to the 2007 school consolidation law. An 18-page list of issues, concerns and “barriers” has been compiled by the Committee after hearing from the Department of Education, legislators, Reorganization Planning Committee facilitators and other policy groups. The opinions expressed by all these groups were presented in last week’s *Legislative Bulletin*.

The most-immediate core concerns that the Committee is grappling with are:

- the designated roles and authorities of local school boards within any newly created Regional School Unit (RSU),
- the immediate implementation of the school budget validation process and the several procedural flaws within that mandatory process,
- giving greater authority to the DOE Commissioner to accept school reorganization plans that include less than the required 1200 student minimum, and
- creating the authority for the new school system cost sharing arrangements to be developed at the local level, and removing other financial barriers to school reorganization.

The bill that was originally intended to be quickly enacted as “emergency” legislation is LD 1932, although the process has not gone as smoothly as proponents might have hoped. The Committee’s strategy at the moment is to advance LD 1932 to directly address these four issues. Now that LD 1932 has been moved out of the Committee to the full Legislature, the Committee has begun developing a second fix-up bill to

follow LD 1932 that will be designed to address a broader range of technical (and potentially substantive) issues that are not being addressed in LD 1932.

On Wednesday this week the Committee finalized its work on LD 1932, which previously received a 10-3 “ought to pass” Committee vote. The Committee’s minority report would allow school unions organized with stronger central administrations and serving certain minimum student populations to be considered compliant with the school reorganization law.

What follows is a description of each core element of LD 1932’s majority report.

Local School Board Authorities. The respective authorities that are allowed to coexist between the RSU Board of Directors and any local school board that may be created as part of a reorgani-

zation plan is the thorniest issue the Committee has worked on. What has emerged in LD 1932 as result of that effort is being referred to as the “stretched RSU plan”. A competing plan that has some support at the Committee level, but was not included in LD 1932, is a close cousin to the “stretched RSU plan” which is referred to as the “beefed-up school union plan”.

The so-called “stretched RSU plan” would allow reorganization planning committees to offer to their voters the following school structure.

1. The reorganized school system would still be a Regional School Unit with a governing Board of Directors and generally meeting all the minimum-student and other requirements of the 2007 law.

2. LD 1932 drills down into the 2007 law to expressly define the services that

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Unanswered Questions Remain in Jail Consolidation Plans

The good news is we now have some information on the two plans proposing to consolidate the state and county correction systems into an efficient, effective, modernized, tax- saving criminal detention system. One plan, referred to in this article as the “state plan” was drafted by Governor Baldacci’s Administration and is available as printed legislation. The second plan, referred to in this article as the “county plan” and jointly authored by the Maine County Commissioners’ Association and the Maine Sheriffs’ Association, is a 13-page document listing the objectives, purposes and expected outcomes of the pro-

posal. Both of these documents are available on MMA’s website (www.memun.org) or by calling MMA’s Laura Veilleux at 1-800-452-8786.

The bad news is that both plans leave many questions unanswered, chief among those questions is how the property taxpayers of Maine — those people responsible for funding county jail systems to a tune of \$75 million a year — will truly fare if either proposal is enacted by the Legislature this session.

While both the proposals are crafted with the intent to reduce costs and redundancies in service delivery, the promises

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SCHOOL (cont'd)

must be delivered at the RSU level as: the employment of the superintendent, a list of central office functions (such as accounting, payroll, financial management, purchasing, insurance and auditing), special education administration, transportation administration, core curriculum development and standardized testing services, adoption of the regional school unit, management of all school system employees, school calendar management, the adoption of all policies, and reporting to state and federal governments.

3. The reorganization plan would be allowed (but not required) to also create local school boards to be elected on the municipal level. Those local school boards could be expressly empowered with certain authorities with respect to what are now and will effectively remain municipal school systems within the RSU structure.

4. The reorganization plan may expressly delegate to the local school boards the authority to perform any duties, functions and services other than the above list of core RSU duties. The reorganization plan may also delegate to the local school boards the authority to supplement the core RSU services.

5. With respect to budgeting authorities, the delegation of responsibilities would work as follows: the local school board would present the proposed budget for the school under its jurisdiction to the RSU board during the RSU budget development process. Proposed expenditures in the local school board's budget that do not ultimately become part of the RSU's budget may then be presented to the municipality's legislative body and, if supported by that town meeting,

would get rolled into the final RSU budget and completely supported financially with local appropriations.

6. The local school committees could also be authorized to oversee the continuing municipal ownership of school property, which under LD 1932 would not have to be given over to the RSU (as required by the 2007 consolidation law) provided an arrangement for the management of that property is executed with the RSU.

The Delay of Budget Validation.

As finally adopted by the Committee, LD 1932 delays the mandatory school budget "validation" referendum process so that it does not have to be employed until 2009, except that the board of municipal officers for any municipal school system, and the school board for any school district (SAD or CSD), may vote to voluntarily implement the validation referendum process in 2008. People following this element of LD 1932 are of the general opinion that few if any school boards will voluntarily adopt the budget validation process in 2008, although some boards of municipal officers may decide to proceed with the mandatory referendum process for the municipal school systems. This general one-year delay of the referendum process does not delay the mandatory school budget formatting process, which requires all school expenditures to be organized into 11 cost-center categories for the purpose of review and approval by the voters.

On a related issue, LD 1932 amends (or clarifies) the 2007 law with respect to the delegation of authority to amend those 11 cost center categories during the school budget adoption process where the town or city council is the legislative body. Under the 2007 law, it appears that the city council would have to review and approve each of the 11 cost center categories even when the municipal charter only allows the city council to approve or reject the bottom line of the school board's proposed budget. With language written by the Maine School Management Association's lawyer, LD 1932 reverses that section of law and permits the city council only to approve or reject the bottom line of the proposed budget, and restricts the city councils from having a direct influence over the individual cost centers.

Note: In order for any of these changes to the budget validation mandate to take effect, LD 1932 would have to be enacted as "emergency" legislation with at least two-thirds vote of support in both the House and Senate.

DOE Discretion to approve smaller reorganizations. In an attempt to accommodate regions of the state that are geographically isolated or sparsely populated LD 1932 would give the DOE Commissioner the authority to approve the plans of proposed new Regional School Units that do not currently meet the 1200 student minimum provided the proposed reorganization would accommodate at least 1000 students. The standards that would apply in order to obtain the exception are: (1) the proposed reorganization includes at least three pre-existing school systems; (2) the school systems are totally surrounded by approved RSUs and other small school systems are not located nearby; or (3) the RSU includes at least two school systems that are eligible for the so-called "isolated small school adjustment". If the Commissioner denies an exception to school systems meeting these standards, the schools would be allowed to appeal to the State Board of Education.

Cost sharing, etc. LD 1932 would continue to contain the essential elements of LD 1932 as originally printed, which created an authority for the Reorganization Planning Committees to develop and codify as part of the reorganization plan an agreement on the way the participating municipalities would share the costs of an RSU school budget that exceeds the EPS allocation. LD 1932 would also repeal the mandatory two mill tax effort requirement, and allow so-called "minimum subsidy receivers" to effectively continue to receive their minimum subsidy even when joining into a RSU.

Although there are a few technical amendments and additions to the 2007 school consolidation law in addition to what is described here, these four components represent the substantive part of LD 1932. MMA will be sure to notify municipal officials when LD 1932 is put on the calendar for debate and initial voting by the full Legislature.

(Steve Tatko of Colby College assisted with this article)

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Efficiency of Local Government Re-confirmed

At the Maine Center for Economic Policy’s annual meeting held last Monday at the Augusta Civic Center, the relative fiscal efficiency of local governments in Maine was again confirmed. The confirmation was provided through materials prepared by Darcy Rollins Saas, who is the Deputy Director of the New England Public Policy Center at the Federal Reserve Bank of Boston.

Among the many pieces of information Ms. Rollins made available was a table that showed the employment levels and average pay of state and local government employees in Maine as compared to New England and National Averages. Local government includes both municipal and county government. The employment data is partially reproduced below.

The figures in Table 1 reflect the number of government employees per 10,000 citizens. Accordingly, Maine’s non-education, local government employment level is 116 employees per 10,000 Maine residents. This seemingly awkward formula is used by the Census Bureau to put employment levels into a standard metric so that cross-state comparisons can be made.

As you can see, Maine’s level of local government employment excluding the schools is : (1) 30% lower than the national average, (2) roughly equal to the New England average and (3) even less than local government employment levels in New Hampshire. State government and the schools exceed all three comparable standards.

The second set of data looked at salary levels of Maine’s government employees versus a series of comparables. That data set is partially reproduced in Table 2. In addition, we have added two columns (Maine vs. Comparable) which demonstrates the differences between Maine’s average salary and those of each comparable state. For example, Maine’s average local salary is 32% lower than the com-

parable average for Connecticut.

Both state and local governments compare favorably to peers by this standard as well (please note that benefit packages are excluded). Local government data includes the salaries of school employees.

Maine’s 500 local municipalities are often alleged (without supporting evidence) to be inefficient because of “fragmentation”. Maine’s municipali-

ties are certainly looking for more ways to be efficient. (If the Legislature would stop raiding the Local Efficiency Fund, these efforts could advance at a greater pace.) However, every time a neutral third-party actually analyzes the available data, Maine’s local governments look quite efficient when compared with national, regional and peer state averages.

Local government is doing well in terms of government efficiency in Maine according to the hard data. We appreciate the fact that respected outside sources continue to affirm this fact. But don’t hold your breath waiting for any acknowledgement of these data from Maine’s mainstream press.

Table 1

Full time equivalent employment in State and Local Government per 10,000 inhabitants.

| | United States Average | New England Average | Maine | New Hampshire |
|---------------|-----------------------|---------------------|------------|---------------|
| State | 57 | 52 | 58 | 59 |
| Education | | | | |
| Non-Education | 87 | 108 | 109 | 99 |
| Total | 144 | 160 | 167 | 158 |
| Local | | | | |
| Education | 231 | 240 | 291 | 252 |
| Non-Education | 167 | 117 | 116 | 119 |
| Total | 398 | 357 | 407 | 371 |

Source: U.S. Bureau of the Census, Public Employment and Payroll in 2005 (via New England Public Policy Center, Federal Reserve Bank of Boston).

Table 2

Average salaries for State and Local (municipal/county/school) Government employees.

| | Average State Salary | Maine vs. Comparable | Average Local Salary | Maine vs. Comparable |
|---------------|----------------------|----------------------|----------------------|----------------------|
| Maine | \$43,590 | | \$35,568 | |
| Connecticut | \$59,162 | -26% | \$52,247 | -32% |
| Massachusetts | \$54,723 | -20% | \$48,776 | -27% |
| New Hampshire | \$44,309 | -2% | \$38,794 | -8% |
| Rhode Island | \$54,337 | -20% | \$52,272 | -32% |
| Vermont | \$47,848 | -9% | \$36,846 | -3% |
| Iowa | \$51,829 | -16% | \$36,024 | -1% |
| Nebraska | \$37,132 | 17% | \$40,557 | -12% |
| Wisconsin | \$49,956 | -13% | \$44,367 | -20% |

Source: U.S. Bureau of the Census, Public Employment and Payroll in 2006 (via New England Public Policy Center, Federal Reserve Bank of Boston).

JAIL(cont'd)

to provide property taxpayers savings will need to be explained and presented in a clear fashion. The ever-growing list of unanswered questions, coupled with a high degree of skepticism with respect to any political claims of “savings” as a result of last year’s school consolidation legislation, will likely have an impact on the Legislature’s approach to this monumental task. As already evidenced in the Criminal Justice Committee’s pre-public hearing overview of the proposed state and county plans, legislators are not only looking for lists of recommendations and promises of savings, but the hard proof that the corrections system will be improved and savings will be realized if either plan is adopted.

State Plan. The state plan proposes to achieve an efficient statewide correctional system by absorbing the existing county jail system into the state corrections system. Of significant municipal interest is the element of the state plan that proposes to reduce future property tax exposure by freezing the tax assessment for county jails to the amount assessed in 2008. If enacted, and not counting the proportionate adjustments in county assessment related to relative changes in municipal valuation, a municipality’s portion of the county tax bill used to fund jails would be frozen in time. For example, if in 2008 Town A’s portion of the county tax assessment for jails was \$60,000, then Town A would effectively pay \$60,000 for its share of the regional correction system every year from now on until the law was repealed or amended by the Legislature. Those property tax dollars would essentially be paid directly to the state, through the counties’ treasuries.

As proposed, all existing state prisons and ten county jails (Androscoggin, Aroostook, Cumberland, Hancock, Knox, Lincoln/Sagadahoc, Penobscot, Somerset, Washington and York) would as of July 1, 2008 function uniformly as “Regional Correction Facilities” (RCF). Under this plan, all authority to oversee the statewide system rests with the Maine Department of Corrections (DOC). To assist the state in its efforts and to allow for local participation, “Criminal Justice Planning Committees” would be created

within each prosecutorial district. The charge to the planning committees is to regularly assess needs; advise on planning, funding and development; and monitor and oversee community correction investment. Among other public safety officials, a municipal law enforcement officer must be included on the district planning committee.

The five orphaned county jail systems in Franklin, Kennebec, Oxford, Piscataquis and Waldo, leaving a swath across the belt of Maine without fulltime jail systems, would be “downsized” to temporary holding facilities tasked with providing short-term detention services, such as pretrial confinement. As drafted, the Governor’s proposal authorizes the county to assess a property tax for owning and managing the holding facilities. With that taxing authority, it would appear as though the taxpayers in these five counties could be asked to fund more of the correctional system cost by adding to their 2008 “frozen assessment” the cost of funding a holding facility. Although the draft bill limits the time detainees can spend in a holding facility to 48 hours, DOC commissioner, Martin Magnusson, has gone on the record stating that jails would also be authorized to contract with the state and municipalities for providing 72-hour “holding” services.

Keeping with the cost theme, the frozen property tax assessment does not include transportation and debt related costs. The state plan holds counties (i.e., the property taxpayers) accountable for paying the transportation costs associated with moving inmates between hospitals and regional correction facilities and/or holding facilities and for the transportation of inmates from courts to regional facilities. Under the state plan, the property taxpayers in counties with any outstanding debt as of July 1, 2008 are responsible for paying the debt even though the regional system will relieve the county of the ownership of the property. That is, the jails would be transferred to the state debt free.

The state plan also includes several other administrative changes necessary to implement the state takeover of the county jail system including: 1) the process used to transfer county employees to the state employment system; 2) the immediate dedication of 3% of all court-

imposed fines, forfeiture and penalties to DOC rather than 2% of those revenues currently dedicated to the counties; 3) the formal establishment of the “Unified Correction System”; and 4) an initial appropriation of \$69 million to the Unified Corrections System Enterprise Fund.

County Plan. The cornerstone of the county plan is the creation of the Maine Jail and Community Corrections Authority. The Authority is a new level of administration tasked with accomplishing four defined goals by: 1) coordinating and managing jail bed space, population information and capacity growth; 2) coordinating services for inmates with mental health and substance abuse issues; 3) coordinating an inter-county inmate transportation system; 4) implementing group purchasing/contracts; 5) operating jail standards and inspection systems; 6) administering pretrial services and post conviction/sentencing programs and services; and 7) improving criminal justice system operations. In a nutshell, the Authority is held accountable for guiding the future policies of county jail administration to ensure that expected efficiencies are achieved.

As proposed, the Authority consists of a board of 15 directors including six county officials, two police chiefs, one prosecutor, one criminal defense attorney, two municipal officials, one victims’ advocate, and the commissioners of the Departments of Corrections and Health and Human Services. In addition to the 15 directors, the Authority is proposed to be staffed by 16 new employees and have an estimated annual operating budget of \$1.5 million. The draft county plan does not specify how long appointees would be asked to serve on the Authority, but does require that the Governor makes all appointments based on the recommendations of membership groups or associations.

Furthermore, the Authority is charged with operating the statewide system by utilizing existing resources and “regional approaches” whenever feasible and appropriate. Taking into consideration that property taxes are some of the existing resources available to help fund county services, it is possible that the Authority’s policies could

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Prosperity Committee Issues Final Report

As discussed in the December issue of MMA's *Maine Townsman*, the Legislature's Joint Select Committee on Future Prosperity has finished work on its report and recommendations. That report, and other materials related to the work of the Committee, can be accessed online: <http://www.maine.gov/legis/opla/meprospersity.htm>

Most of the recommendations focus on state government and the strategies that Maine can employ to foster prosperity growth in Maine. There are several elements of the report of interest to municipalities, two of which are discussed below.

Local Efficiency Fund

One specific issue discussed in the December *Townsman* that appears in the final report is the funding of the Local Fund for the Efficient Delivery of Local Services (Efficiency Fund). This fund was created by the Question 1A citizen initiative spearheaded by MMA. The statute directs that 2% of municipal revenue sharing be deposited in the Efficiency Fund to help facilitate regional approaches to service delivery. With this Efficiency Fund, municipalities stepped-up to the plate and dedicated municipal entitlement money to the cause of regionalization.

Unfortunately, the Legislature has taken approximately 78% of the revenue that should have gone to the Efficiency Fund and diverted it to the state's General Fund. Below is information that appeared in the December *Townsman*.

Accordingly, local efforts that could produce greater efficiency through regionalization have suffered a serious set-back due to these raids.

It appears that the Prosperity Committee understands this issue. One of its recommendations consists of a letter to the Appropriations Committee asking

that Appropriations fix this problem by ensuring that \$500,000 be the level of funding for this program. This recommendation mirrors the recommendation of a working group of municipal officials who proposed draft legislation to the Taxation Committee in the fall. The Taxation Committee indicated at the time that it would seriously consider this recommendation, along with other revenue-sharing based recommendations, when crafting a "Committee bill" on the subject this session.

BRAC-Committee on Government Spending

Arguably the centerpiece of the Prosperity Committee's recommendations is the draft legislation which creates: "*The Maine Government Efficiency Commission ... to identify government expenditures that can be eliminated or reduced by consolidating governmental entities, increasing efficiency in the provision of services and eliminating duplication.*" An Efficiency Commission was one of the central recommendations of the Brookings Institution's 2006 analysis of Maine entitled "Charting Maine's Future."

This Efficiency Commission would be designed as a "BRAC" commission, which is a reference to the federal government's Base Realignment and Closure process. The hallmark of the federal government's BRAC process is the "single up or down vote" on the entirety of their work as opposed to individual Congressional votes on the recommendations for each military base. This "single up or down vote" principle is included in the proposed Efficiency Commission bill. ("*Legislation submitted to the Legislature by the [Efficiency] commission must be subject to a straight yes or no vote, except that only revenue-*

neutral amendments may be considered.")

The draft legislation creating the Efficiency Commission in the report closely mirrors Section A of LD 1848, *An Act to Promote Sustainable Prosperity* that was heard by the Appropriations Committee in 2007 and carried over to this session. That bill was intended to implement many of the Brookings recommendations.

Brookings specifically noted in its report that the Legislature should, "*Create and empower a Maine Government Efficiency Commission to methodically review the structure and operations of state government and propose specific reforms to eliminate duplication and inefficiency. These recommendations would be subject to a single up-or-down vote.*" The Prosperity Committee's proposed legislation accepts this recommendation but for some reason it added local government operations to the mix.

MMA supports efforts to track state and local spending and identify possible areas of savings. LD 804, which is the bill developed by MMA and a coalition made up of the Maine State Chamber of Commerce, the Maine Education Association, the Maine Hospital Association and the Maine Service Center Coalition, includes a provision to review and track municipal spending.

However, the Efficiency Commission is entirely controlled at the state level. All of the appointments to the Commission are controlled by the State and the authority to adopt legislation is purely within the control of the State. Also, it is quite obvious given the last year's activity that a BRAC-style commission is not necessary in order to motivate the State to make significant consolidation proposals impacting local governments. Finally, given the timeline of the Efficiency Commission (it is to conclude its work in December 2008 and make its recommendations in January, 2009), it would seem nearly impossible to review both State and local government operations in this compressed time frame. We encourage the Appropriations Committee to refocus the Efficiency Commission to its intended purpose – state government.

| | 2% Set-Aside | Efficiency Fund | "Borrowed" by General Fund |
|----------------|--------------|-----------------|----------------------------|
| FY 2004-05 | \$1,000,000 | \$1,000,000 | - |
| FY 2005-06 | \$2,335,918 | 0 | \$2,335,918 |
| FY 2006-07 | \$2,451,935 | \$500,000 | \$1,951,935 |
| FY 2007-08 | \$2,652,233 | \$500,000 | \$2,152,233 |
| FY 2008-09 | \$2,744,682 | \$500,000 | \$2,244,682 |
| Totals: | \$11,184,768 | \$2,500,000 | \$8,684,768 |

Increased Liability for Transfer Stations

The Judiciary Committee took testimony Thursday on a bill that would specifically target transfer stations for increased exposure to personal injury lawsuits.

The Maine Tort Claims Act (MTCA) grants to governments limited immunity from any liability that would otherwise exist for personal injuries caused by government negligence. The basis for limited immunity is that governments provide services that are dangerous (police and fire services) and are responsible for facilities that are implicated in thousands of personal injury cases (roads, sidewalks, etc.). If there were not some limit to the potential liability of government, personal injury attorneys would have a treasure trove of opportunities to sue government and receive awards ultimately funded by the taxpayers.

However, this governmental immunity is far from absolute. Immunity is limited by broad exceptions that have been created by the Legislature. The biggest exceptions to immunity are for injuries caused by the governments' negligent ownership, operation or maintenance of public buildings, motor vehicles, other vehicles, and machinery and equipment.

The rationale for these exceptions to immunity is that the government's use of buildings and motor vehicles is not that different than the rest of the world. Furthermore, insurance is generally available for buildings and motor vehicles. Therefore, public policy has long reflected that many injuries that result from government negligence are compensable.

LD 2036, An Act to Clarify Governmental Liability with Respect to Transfer Stations, is sponsored by Rep. Janet Mills (Farmington). LD 2036 specifically identifies "transfer stations" as a stand-alone exception to the general grant of immunity provided by the MTCA. Transfer station is defined in the bill as "any solid waste facility con-

structed and managed for the transfer of solid waste." A "solid waste facility" is defined in statute as: "any land area, structure, location, equipment or combination of them, including dumps, used for handling hazardous, biomedical or solid waste, waste oil, sludge or septage."

Accordingly, LD 2036 would create liability for injuries that occur on "any land area" of the transfer station. Under current law, there is no doubt that if a transfer station has a building and an injury occurs in that building the municipality is exposed to liability if the injury was a result of the government's ownership, operation or maintenance of the building. Furthermore, there is also no doubt that if a municipal dump truck or other motor vehicle causes an injury at a transfer station the municipality is exposed to liability.

LD 2036 creates exposure to liability for every injury that occurs everywhere else and under other circumstances at a transfer station.

This one-of-a-kind exception in the Maine Tort Claims Act where a specific type of facility, as opposed to a general class of property - regardless of ownership - is targeted by the Legislature. Why?

The summary of the bill identifies its purpose as addressing an alleged inconsistency resulting from recent Law Court decisions. The bill doesn't identify those decisions but we believe the cases are *Adriance v. Town of Standish*, 687 A.2d 238 (1996) and *Reid v. Town of Mount Vernon*, 2007 ME 125 (2007). There is no inconsistency between these two cases and there is no need for this bill.

The *Adriance* case held that the Town of Standish is subject to liability for an injury which occurred at the Standish transfer station because the injury occurred in a "permanent, fully enclosed" structure and therefore "falls squarely within the public building exception to sovereign immunity." There is no dispute on this point.

The *Reid* case involved an indi-

vidual who tragically fell into a solid waste container which was located outdoors. The injury did not occur in a building, the plaintiff did not argue that the public building exception to sovereign immunity applied and the Court, and on its own initiative, clarified that the public building exception and the *Adriance* case has no relevance to this case.

There is no inconsistency between the two cases.

The plaintiff in *Reid* did argue that the dumpster was "machinery or equipment" and therefore fell within a different exception to sovereign immunity. By a 5-1 vote the Law Court disagreed.

The Law Court cited the settled law concerning the scope of the phrase "machinery or equipment." It has consistently held that in order for the "machinery or equipment" exception to apply, the machinery or equipment at issue must be of the same kind, class or nature to the vehicles listed in the same section of the MTCA. This is the interpretive legal doctrine of *ejusdem generis* ("of the same kind"). The other exceptions in this section of law are for: motor vehicles, trailers, aircraft, watercraft, snowmobiles and other "special mobile equipment". The *Reid* majority dismissed the argument that dumpsters possess the kinds of characteristics of motor vehicles and the other vehicles listed.

Municipalities are doing their best to deliver waste management services in an environmentally sound, safe and cost-effective manner. The age-old but costly solid waste mandate on municipal government could increase significantly if towns had to police and otherwise manage the outside activities at open transfer station sites - which include metal piles and wood piles and tire storage sites and open trash bins and recycling bins and waste oil and paint collection areas, etc. -- as though they were enclosed facilities.

There is no confusion in the law as a result of these two cases and there is no need for LD 2036. No citizens or legislators, other than the sponsor, testified in support of LD 2036. The only support for the bill came from one organization...the trial lawyers. MMA believes LD 2036 ought not to pass.

LEGISLATIVE HEARINGS

NOTE: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules and supplements are available at the Senate Office at the State House and the Legislature's web site at <http://www.state.me.us/legis/senate/Documents/hearing/ANPHFrame.htm>. If you wish to have updates to the Hearing Schedules e-mailed directly to you, sign up on the ANPH homepage listed above. Work Session schedules and hearing updates are available at the Legislative Information page at <http://www.state.me.us/legis/>.

Monday, January 21 – HOLIDAY

Tuesday, January 22

Education & Cultural Affairs

Room 202, Cross State Office Building, 3:00 p.m.

Tel: 287-3125

LD 1997 – An Act To fully Fund School Breakfast from Kindergarten to Grade 12.

LD 2026 – Resolve, To Reimburse School Administrative District No. 11 for the State Share of Retirement Contributions Paid in Error.

Health & Human Services

Room 209, Cross State Office Building, 1:00 p.m.

Tel: 287-1317

LD 2012 – An Act to Protect Children in Vehicles from Secondhand Smoke.

LD 2085 – An Act To Protect Children From Secondhand Smoke.

Natural Resources

Room 214, Cross State Office Building, 1:00 p.m.

Tel: 287-4149

LD 2009 – Resolve, Regarding Legislative Review of Portions of Chapter 150: Control of Emissions from Outdoor Wood Boilers, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Air Quality Control.

LD 2056 – An Act To Conserve Gasoline and Preserve Clean Air.

Taxation

Room 127, State House, 1:00 p.m.

Tel: 287-1552

LD 2099 – An Act To Provide Property and Excise Tax Relief to Disabled Maine Veterans.

Utilities & Energy

Room 211, Cross State Office Building,

Tel: 287-4143

LD 2117 – An Act To Create the Starboard Water District.

Wednesday, January 23

Education & Cultural Affairs

Room 202, Cross State Office Building, 1:00 p.m.

Tel: 287-3125

LD 2028 – An Act To Equalize the Tax Burden for Education Across Municipalities of the Lower Kennebec River Region Authorized To Form a Regional School Unit Pursuant to Private and Special Law 2007, Chapter 25.

State & Local Government

Room 216, Cross State Office Building, 10:00 a.m.

Tel: 287-1330

LD 1962 – An Act To Amend the Informed Growth Act.

LD 1968 – An Act To Clarify the Election of Municipal Charter Commission Members.

LD 2020 – An Act To Amend the Laws Governing the Granting of Disability Variances from the Zoning Laws.

LD 2057 – An Act To Amend the Conflict of Interest Laws for Notaries of Public.

Thursday, January 24

Business, Research & Economic Development

Room 208, Cross State Office Building, 1:00 p.m.

Tel: 287-1331

LD 2124 – An Act To Prevent the Theft of Certain Metals.

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.

Tel: 287-1338

LD 1979 – An Act To Amend the Provisions for All-terrain Vehicles.

LD 1982 – An Act To Amend Certain Provisions of the Fish and Wildlife Laws.

Insurance & Financial Services

Room 427, State House, 1:00 p.m.

Tel: 287-1314

LD 2092 – An Act To Amend the Public Workers Contractors' Surety Bond Law of 1971.

Judiciary

Room 438, State House, 1:00 p.m.

Tel: 287-1327

LD 2094 – An Act To Protect Personally Identifying Information.

'Prop 13' Style Assessing Proposal Killed

Ever since it was introduced in late 2006, municipal leaders have been watching LD 276 with concern.

If enacted by a two-thirds vote of both the House and the Senate, LD 276 would send to the voters a proposed amendment to Maine's Constitution that for the purposes of property taxation would freeze the valuation of primary residential land, allowing adjustments only at the rate of inflation. The assessed value of the property would rebound to market value only when property is sold, and "certain transfers" of property would be subject to a withdrawal penalty parallel to the minimum 'five-year-back-taxes' penalty that applies to Tree Growth, Farmland and Open Space withdrawals. The resolution also requires the municipality's state valuation to be unaffected by the frozen valuation system.

In short, LD 276 would have implemented a limited version of the "Prop. 13" assessing system used in California whereby property is no longer assessed for taxation purposes at its "just" or market value. LD 276 was introduced to the 123rd Legislature by Governor Baldacci, and at one time was given a great deal of attention by both the Administration and the press.

On Tuesday this week, the Taxation Committee voted unanimously and without discussion that LD 276 "ought not to pass".

JAIL(cont'd)

impact municipal property tax burden, both in a positive way by finding promised efficiencies through the elimination of redundancies or in a negative way, by requiring more tax dollar investments to fund the new administration.

Of particular interest in the county plan is a proposal to require the use of “non-property tax revenue” to pay off existing and future jail facility debt services. The counties estimate that it would require an annual investment of \$10.25 million to offset the debt. In addition to putting the state and other non-property tax revenue on the hook for debt, the plan requires the state to continue to fund the existing community corrections related funds found in state law. *(Note: As part of the Governor’s supplemental budget, in FY 09 the entire \$5.6 million county community corrections fund appropriation, which subsidizes the cost of jails to*

the counties, is redirected to the state’s General Fund. According to the budget document, the subsidy is unnecessary because of the state’s jail consolidation plan.)

Municipal Plan. At its meeting on Thursday this week, MMA’s Legislative Policy Committee (LPC) had an opportunity to review both proposals and voted to hold off taking a position on either table bill. Instead, the LPC instructed staff to monitor the process of legislative review and debate, watch for issues of municipal concern, and bring back the final version of the bill, as developed by the Criminal Justice Committee, to the LPC for review when the legislation has more substance. It is fair to say however, that municipal officials believe there is room for improvement in the way corrections services are provided in Maine and a need to relieve pressures these systems place on taxpayers. Additionally, municipal officials want to ensure that the

changes proposed in the final bill will result in actual savings for property taxpayers and not just in political claims of savings.

A public hearing on these bills has been scheduled for Monday, January 28th. If you have any feedback you would like MMA to be aware of or share with the members of the Criminal Justice Committee, please feel free to submit them to Kate Dufour at 1-800-452-8786 or kdufour@memun.org.