

## The 124<sup>th</sup> Maine State Legislature Gets Down to Business

Although members of the newly elected Legislature were sworn into office in early December and conducted some preliminary business of an organizational nature, this week marked the get-down-to-business kick-off of the 2009 legislative session.

The Appropriations Committee started off the week by holding public hearings on Governor Baldacci's proposed supplemental budget for the current fiscal year, which is designed to address a \$150 million gap between projected expenditures and General Fund state revenues that must be bridged between now and June 30, 2009.

The other legislative committees of jurisdiction, in turn, are holding their organizational, get-to-know-you meetings and reviewing the elements of the Governor's proposed supplemental budget that affect the state agencies and programs that fall under their subject areas of review.

Meanwhile, the hundreds of bills filed by legislators covering all topics great and small have begun to be printed, and on Wednesday this week, the full Legislature convened and began the process of referring the printed bills to the appropriate legislative committees.

In short, the gears of the legislative process are beginning to turn. Over the next couple of weeks the entire machine will begin to creak and groan and lumber itself into full productive capacity.

This edition of the Legislative Bulletin is essentially organizational. The membership of MMA's 70-member Legislative Policy Committee (LPC) is pub-

lished for your information. The LPC is the entity that develops this Association's legislative agenda and determines MMA's position on all municipally-related bills that are submitted to the Legislature.

All municipal officials are strongly encouraged to regularly communicate with their municipal colleagues serving on the Legislative Policy Committee to assist the LPC in being as representative as possible.

We are also publishing the membership of all the Joint Standing Committees of the Legislature. Municipal offi-

cially are similarly encouraged to establish effective lines of communication with the legislators who serve on these important committees.

This edition of the Bulletin also provides a brief summary of the Governor's proposed supplemental budget bill as it impacts municipal government, a brief review of MMA's legislative agenda for the 2009-2010 legislative biennium, and a description in our "Hopper" section of the municipally-related bills that are beginning to be referred to the legislative committees and scheduled for public hearing.

### The Proposed Supplemental Budget to Balance the Current Fiscal Year

On December 16th, Governor Baldacci provided to the incoming Legislature and the general public the changes to the current-year state budget (FY 09) he is proposing in order to cover a \$140 million revenue shortfall. That budget is now in the hands of the Appropriations Committee for review and possible adjustment before presentation to the full Legislature.

The Governor's supplemental budget incorporates the \$80 million "curtailment order" he issued in mid-November. The biggest impact associated with that curtailment order on the local level, eclipsing any other, was a \$27 million reduction in this year's distribution of school subsidy (General Purpose Aid to Local Schools, or GPA). The proposed

supplemental budget formalizes that reduction but does not alter the impact of that reduction in any material way (see GPA statistics, below).

None of the major proposals to bridge the remaining gap between the \$80 million curtailment order and the \$140 million revenue shortfall significantly impact municipal government. Examples of those proposals include:

- Gain \$45 million by tapping the state's budget stabilization fund.
- Gain \$6.4 million through a return in over-assessments in state-paid health insurance premiums for employees in the Maine Community College system
- Gain \$5 million as an advancement in income tax revenue by requiring "self-

*(continued on page 6)*

# GA Emergency Contact Data Misunderstanding

In 2008, the 123rd Legislature enacted a law (PL 2007, Chapter 600) requiring the Department of Health and Human Services (DHHS) to collect each town and city's emergency General Assistance (GA) contact information. As enacted, the law requires DHHS to forward the collected municipal contact information to the "2-1-1" telephone social service information program. The 2-1-1 system was created in 2005 to provide 24-hour/7-day access to a single source of information about the programs and services available to Maine people.

We have heard from municipal officials that some 2-1-1 staff members are insinuating that the law requires the emergency contact person to be immediately available "24/7" to handle all emergency calls. That, however, is not what the newly enacted legislation requires of municipal officials.

The intent of the law is simply to provide the emergency contact information found on the GA program notice posters to the 2-1-1 system. According to DHHS rules, the GA program notices must provide information on where and when persons can apply for GA and the name and telephone number of a contact person to reach in an emergency.

By providing the notice data to the 2-1-1 system, call center employees can now provide the information over the phone, saving a caller the trip of finding the contact information on the notice posted on the doors of the town office. In a nutshell, the law modernizes the existing system by making the

notice information available over the telephone as well as on paper.

Contact has been made with DHHS officials and the administrator of the 2-1-1 system regarding this issue. Both DHHS and the 2-1-1 system administrator agree that the emergency contact person is not required to be immediately available to process calls. As a

result of this misunderstanding, we will be meeting with DHHS and 2-1-1 officials next week to discuss issues and concerns. If you have issues regarding the 2-1-1 system that you would like MMA to raise at that meeting, please feel free to contact MMA's Kate Dufour at 1-800-452-8786 or [kdufour@memun.org](mailto:kdufour@memun.org).

## MMA's 2009-2010 Legislative Agenda

(adopted by the Legislative Policy Committee on 12/10/08)

The following nine initiatives make up MMA's 2009-2010 legislative agenda.

**Taxation; comprehensive tax reform.** Re-submit the well-crafted comprehensive tax reform legislation designed by the Taxation Committee during the First Session of the 123rd Legislature.

**Taxation; property tax exemptions.** Establish a system whereby a municipality, through the adoption of an ordinance, can require certain property tax exempt institutions to pay a service fee for the vital municipal services they receive such as public safety and snow removal.

**Revenue Sharing.** Redirect the 2% set-aside within the municipal revenue sharing program so that those resources are dedicated to the Municipal Investment Trust Fund rather than the Local Government Efficiency Fund, which has been repeatedly raided by the Legislature.

**Education; the integrity of the GPA/EPS ratio.** Protect the integrity of the system measuring the state's support for education by not allowing the state to artificially achieve a certain level of contribution by including the salaries and benefits of state employees in that measurement.

**Education; repair the school consolidation system.** Amend the school consolidation law, with particular focus on reconstructing the penalty system, as currently designed, into an incentive system.

**Codes; delegated life safety code review.** Establish a program to allow the State Fire Marshal to delegate the commercial project "plan review" responsibility to qualified municipalities that would like to do the review locally.

**Codes.** Clean-up the building code legislation enacted last spring to address such issues as which municipalities are covered by which deadlines, the degree to which a municipality can rely on the work of third-party inspectors, the application of the concept of "inconsistent" ordinances, etc.

**Administration; local petition process.** Write into statute the legal standard governing the legitimacy of local petitions.

**Administration; credit card use at city hall.** Allow municipal governments to pass through to the consumer the credit card "merchant fees" that credit card companies charge to municipalities that accept credit cards.

For a complete description of each of these legislative proposals and the reasoning behind them, please refer to the "Legislative Overview" article in the December issue of the Maine Townsman, which may be easily accessed at the MMA website [www.memun.org](http://www.memun.org).

### Legislative Bulletin

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## **BUDGET (cont'd)**

filers" to pay their estimated income taxes based on estimates that are more accurate than the previous year's income when that income has grown by more than \$500,000.

- Save \$4.5 million by reducing certain MaineCare reimbursement rates to hospital-based physicians and "critical care" hospitals.

- Save \$2.1 million in funds withdrawn from the Capital (Complex) Construction Reserve Fund

- Save \$1.6 million as a reduction or lapsed balance from the Legislature's spending account

- Save \$1 million in debt service reduction

- Achieve savings through the elimination of more than 90 positions in state government, 50-plus of which are currently vacant and 40 of which are actual layoffs.

Other lines in the proposed supplemental budget of municipal interest are:

### **Additional appropriations:**

- \$1.26 million is appropriated to provide the state's share of disaster assistance for previously declared floods (cited as the May 8, 2008, Patriot's Day, Oxford County and St. Patrick's Day floods).

### **Funding cuts:**

- A cut of \$128,000 in the funding to local reorganization planning committees in the process of forming regional school units.

### **Lapsed balances:**

- \$250,000 of the homestead property tax exemption reimbursement appropriation is lapsed to the state General Fund as unneeded.

- \$10,000 in the Community Forestry Fund is lapsed to the General Fund.

### **Bookkeeping:**

- Formally recognizing that an Augusta-based historic property construction project to be funded in part by means of the recently-enacted Historic Property Investment Tax Credit was not initiated in time to draw down \$475,000 in tax credit with respect to income tax year 2009 filings.

### **Additional state revenue:**

- The state-level property tax rate applied to two-way telecommunications

property, which was scheduled to decline from 22 mills to 21 mills in 2009, will be retained at 22 mills, providing an additional \$800,000 in state revenue.

### **Corrections issues:**

- A housing unit in the Charleston Correctional Facility will be closed, causing 22 state prisoners to be relocated in county jails. (Note: County jail operating costs that exceed the 2008 property tax cap as established in last session's corrections unification law are borne by the state.)

- Establishing a cap on the boarding rates charged by the counties for housing state prisoners at the county jail's "marginal cost" rate.

- Clarifying that the property tax contribution to fund the county jail system, capped at the 2008 level, is both the maximum and minimum contribution.

### **The GPA statistics:**

- For FY 09, the total state and local dollars the EPS school funding model calculated as necessary to provide an adequate public education was \$1.861 billion. To put the model into perspective, in the last fiscal year for which complete data is available (FY 07) the actual total spending on K-12 education was \$2.092 billion.

- The state share of the full EPS amount originally appropriated for FY 09 was \$983.5 million. That figure represents 52.8% of the full EPS allocation and 47% of the actual spending levels of 2 years ago.

- With the reduction in school subsidy in the proposed supplemental budget of \$27 million, the total appropriation of school subsidy will drop to \$956.5 million, representing 51.4% of the full EPS allocation and 45.7% of the actual spending levels of 2 years ago. (*Note: Due to the complex two-track statutory ramp-up to "55% state funding" developed by the Legislature in 2005, the state share recorded in statute after the \$27 million reduction is 52.52%. That percentage of state-share funding, however, does not apply to the full EPS allocation. Instead, it applies to an artificially reduced EPS allocation where the total operating allocation, which is the major component of EPS, is reduced to a 97% level.*)

- To effect the \$27 million reduction

and organize its distribution, the proposed supplemental budget implements a mid-year, after-the-fact increase in the required local share for each school system's contribution, which proportionately reduces the state share each school system receives. Prior to the reduction, the required local share was the amount of money generated by 6.55 mills of equalized tax effort. To implement the reduction, the supplemental budget increases the required local share to 6.79 mills of effort.

- For the so-called low-receiving school districts, which would not be affected by the increase in required mill rate effort, the reduction in state subsidy is achieved by reducing the minimum subsidy level those systems receive from 50% of the school's special education costs (as calculated by EPS) to 45%.

## IN THE HOPPER

*(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](http://www.memun.org).)*

### Appropriations & Financial Affairs

LD 10 - An Act To Authorize a General Fund Bond Issue for Wastewater Treatment Facilities and Drinking Water Programs. (Sponsored by Rep. Flood of Winthrop; additional cosponsors.)

This bill would send out to the voters an \$11.1 million bond proposal to provide three years of construction resources for wastewater and drinking water facilities. \$6 million of the total bond issue would be provided to wastewater treatment facilities at the rate of \$2 million a year. \$5.1 million would be provided to drinking water facilities at the rate of \$1.7 million a year.

### Business, Research & Economic Development

LD 11 - Resolve, To Encourage the Preservation of Dark Skies. (Sponsored by Rep. Schatz of Blue Hill; additional cosponsors.)

This resolve directs the State Planning Office to establish uniform state lighting standards for the outside space surrounding new commercial construction with the goal of limiting light pollution and preserving dark skies.

LD 58 - Resolve, To Suspend Certain Maine State Housing Authority Rules for Low-income Home Energy Assistance Program Grant Applications. (Emergency) (Sponsored by Rep. Flood of Winthrop; additional cosponsor.)

This emergency resolve authorizes the officials administering the Low-income Home Energy Assistance Program (LIHEAP) to waive the requirement to conduct personal interviews with applicants prior to determining eligibility. The authority to waive that part of the application process would run until June 30, 2010.

### Criminal Justice & Public Safety

LD 69 - An Act To Provide a Reward for Information Regarding the Murder of a Law Enforcement Officer. (Sponsored by Rep. Harlow of Portland)

This bill provides a \$25,000 reward from the state's General Fund as a reward for information that leads directly to a conviction for the murder of a law enforcement officer.

### Health & Human Services

LD 19 - An Act To Amend the Laws Regarding Public Rest Rooms. (Sponsored by Rep. Beaudoin of Biddeford; additional cosponsors.)

This bill requires that all bathroom facilities in any "place of public accommodation" must provide disposable toilet seat covers. In addition to private-sector establishments that open their doors to the public, "places of public accommodation" include all municipal buildings, public school buildings, auditoriums, convention centers, lecture halls, parks, libraries, etc.

### Labor

LD 27 - An Act To Amend the Definition of Employment for Purposes of Unemployment Compensation. (Sponsored by Rep. Flood of Winthrop)

This bill creates a minimum threshold of 16 hours of employment before unemployment insurance coverage is required.

### Legal & Veterans Affairs

LD 3 - An Act To Designate Registered Voters Not Enrolled in a Political party as Independent Voters. (Sponsored by Sen. Courtney of York County) (by request)

This bill amends Maine election law by designating any unenrolled voter as an "independent" voter.

LD 5 - An Act To Amend the Laws Governing Liquor Licenses. (Sponsored by Sen. Diamond of Cumberland County)

This bill deletes the limitation in current law that restricts the number of liquor stores that may be licensed in a municipality.

LD 28 - An Act To Promote the Integrity of Citizens' Initiatives. (Emergency) (Sponsored by Rep. Bryant of Windham; additional cosponsors.)

This bill requires that a person who collects signatures for a state-level citizen initiative must be a voter registered in Maine.

### Marine Resources

LD 32 - An Act To Clarify the Disposition of Fines from Maine's Soft-shelled Clam Laws. (Sponsored by Rep. Richardson of Warren)

This bill requires that a fine collected for a violation of soft-shelled clam laws be paid to the municipality in which the violation occurred.

### State & Local Government

LD 34 - An Act To Clarify the Election of Municipal Charter Commission Members. (Emergency) (Sponsored by Rep. Hayes of Buckfield)

Under current law, a municipality has 200 days from the referendum day when the voters elect to establish a charter commission to elect the charter commission members. This bill removes that deadline.

### Taxation

LD 35 - An Act To Require Municipalities To Enforce the Collection of the State Excise Tax on Motor Vehicles, Aircraft and Watercraft Owned by Maine Residents and Registered outside the State. (Sponsored by Rep. Wheeler of Kittery; additional cosponsors.)

This bill mandates municipalities to enforce the watercraft and motor vehicle excise tax laws by prosecuting people who register their vehicles or boats outside of Maine to avoid the excise taxes.

LD 51 - An Act To Allow Military Personnel Living in Maine To Benefit under the Maine Resident Homestead Property Tax Exemption. (Emergency) (Sponsored by Rep. Mazurek of Rockland; additional cosponsors.)

This emergency bill provides the property tax homestead exemption to a person on active duty serving in the armed forces who is permanently stationed at a military or naval post, station or base in Maine, even if that person is a permanent resident of another state.

LD 57 - An Act To Exempt Small Privately Owned Windmills from the Property Tax. (Sponsored by Rep. Flood of Winthrop; additional cosponsor.)

This bill creates a property tax exemption for windmills or wind turbines that are not more than 50 feet in height, have a peak generating capacity of 50 kilowatts or less, and generate electricity that is used to provide power to the property on which the windmill is located.

LD 71 - An Act To Raise the Property Tax Exemption for Veterans. (Sponsored by Rep. Nass of Acton; additional cosponsors.)

This bill would increase the value of the veterans' property tax exemption from \$6,000 to \$7,000.

### **Transportation**

LD 6 - An Act To Establish a Distracted Driver Law. (Sponsored by Sen. Diamond of Cumberland County)

This bill establishes that "driving while distracted" is an offense that violates the state's laws governing motor vehicle operations, establishes a framework of standards to define the offense, and gives the Department of Public Safety rule-making authority to fully implement the law.

LD 8 - An Act To Deter Road Rage. (Sponsored by Sen. Rosen of Hancock County)

This bill defines the act of "road rage" and establishes road rage as a Class E crime.

LD 15 - An Act To Prohibit the Sale of a Road Sign Originally Placed by the State, a County or a Municipality. (Sponsored by Rep. Schatz of Blue Hill; additional cosponsors.)

This bill defines as a Class E crime the act of selling a sign that the state, county or municipality has placed on a highway or street.

LD 40 - An Act To Prohibit Certain Uses of Cellular Telephones and Handheld Electronic Devices while Operating a Motor Vehicle. (Sponsored by Rep. Hogan of Old Orchard Beach; additional cosponsors.)

This bill makes using a handheld cellular telephone or a handheld electronic device while operating a motor vehicle an infraction of Maine's motor vehicle law. Law enforcement officers, firefighters, drivers of emergency vehicles, and municipal public works personnel are included in the list of motor vehicle operators who would be exempt from this prohibition whenever driving within the scope of their employment.

LD 48 - Resolve, To Delay the Sustainability of the Highway Fund. (Emergency) (Sponsored by Rep. Mazurek of Rockland)

This emergency resolve, which must be submitted to the Legislature as a matter of statute, suspends for the upcoming biennium what would otherwise be an automatic inflation-based indexing of the motor fuel excise tax. "Gas tax" revenues are used to capitalize the state's Highway Fund.

LD 61 - An Act To Make Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2009. (Emergency) (Governor's Bill) (Sponsored by Rep. Mazurek of Rockland; additional cosponsor.)

This is Governor Baldacci's proposed supplemental budget bill designed to bridge an \$8 million gap between revenue and expenditures in the current year (FY 09) Highway Fund budget. Among other Highway Fund reductions proposed by this bill, it reduces the amount of local road assistance funding ("URIP") by \$855,000, which represents the local share (approximately 10%) of the projected revenue shortfall to the Highway Fund.

### **Utilities & Energy**

LD 44 - An Act To Require Transmission Lines To Be Placed Underground near Certain Facilities. (Sponsored by Rep. Valentino of Saco; additional cosponsors.)

This bill generally requires all electric transmission lines capable of operating at 115 kilovolts or more to be placed underground if those lines are to be installed after October 1, 2009 and placed adjacent to a residential area, public playground, public or private school, child care facility or recreational camp that serves children.

LD 55 - An Act To Prohibit the Commercial Sale of Water by a Water District. (Sponsored by Rep. Martin of Eagle Lake)

This bill prohibits any water district from selling water for profit to any person or entity outside of its territory or for any commercial purpose not related to the public health, safety, comfort and convenience of the users within the water district.

LD 73 - An Act To Protect the Right To Use Solar Energy. (Sponsored by Rep. Hinck of Portland; additional cosponsors.)

This bill prohibits and makes void any law, ordinance, regulation, deed, covenant or contract that prohibits or has the effect of prohibiting a person from installing or using solar collectors or clotheslines or other equipment for the solar drying of clothing. The bill further provides that the prevailing party is entitled to be reimbursed for his or her attorney fees by the losing party with respect to any litigation arising from the statutory prohibition.