

## TABOR II Supporters Bash Legislature

The Maine Heritage Policy Center (Heritage) is pushing two citizen initiatives in 2009.

The excise tax initiative was given its public hearing a couple of weeks ago. That initiative would slash motor vehicle excise tax rates and reduce municipal revenue for road and bridge repairs by over \$80 million a year. At that public hearing, the Heritage proponents described Maine's selectmen and town and city councilors as wanton spendthrifts who act irresponsibly with respect to the management of taxpayer dollars.

The Heritage message was that local government is disconnected from its constituents; that average people have no say with respect to local government decisions.

On Thursday last week, the public hearing was held on the 2009 version of the "Taxpayer Bill of Rights" proposal. This "TABOR II" proposal is the other Heritage initiative. The printed bill is LD 976, *An Act to Provide Tax Relief*.

This time it was the Legislature's turn to be insulted by the initiative's supporters, who hurled criticism at state lawmakers for their chronically irresponsible and wasteful mis-spending of taxpayers' resources. Some proponents of TABOR II cut even deeper by accusing the Legislature of confiscating wealth from the private sector, catering to everyone except Maine's taxpayers, driving young residents out of the state, and reducing Maine's citizens to a crippled state of welfare dependency.

The fate of these two initiatives will be decided in November at the general election. The apparent strategy of Heritage and other initiative supporters going into the campaign season is to paint

state and local governments as dangerously irresponsible and out of control, and describe the systems of both direct (town-meeting) democracy and representative democracy as failing in this state to advance the interests of the majority.

TABOR II is a modified version of the TABOR initiative that Heritage unsuccessfully advanced in 2006. The actual changes in law that would be created if TABOR II is adopted are described in a sidebar to this article.

Most of the 15 members of the general public who testified in favor of TABOR II were members of a statewide taxpayers group who, for all the references, had apparently been involved in "tea party" anti-tax demonstrations that occurred on April 15, the day before the TABOR II public hearing. Only two business groups spoke in favor of the spending limit system.

The Maine State Chamber of Commerce testified in favor of the initiative, but the support was tepid. The State Chamber would clearly prefer that a different

spending limit system be developed and advanced by the Legislature as a "competing measure" to go on the ballot as an alternative to TABOR II. The Chamber's preferred system would be one that did not hamstring the state's Highway Fund and was otherwise more in alignment with the existing "LD 1" spending limit formulas.

The Greater Portland Chamber of Commerce was less overtly negative toward TABOR II in its testimony in support, although that business group, also, could support a competing measure that would avoid completely rewriting the LD 1 spending limit system for state government. A competing measure suggested by the Greater Portland Chamber would leave LD 1 alone and simply require a statewide referendum to increase state sales or income tax rates for the purpose of generating additional state revenue.

The remaining 13 proponents of TABOR II from the general public were

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## Municipal Preemption of Sex Offender Residency Ordinances

On Friday last week, the Criminal Justice Committee held a public hearing on LD 385, *An Act to Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders*. As proposed by Rep. Anne Haskell of Portland, the bill would prevent a municipality from adopting ordinances designating where within the community boundaries a registered sex offender could reside.

In her testimony, Rep. Haskell

pointed to several studies outlining the problems residency restrictions cause. According to the studies, the experts believe that residency requirements do more harm than good for two reasons. First, residency restrictions generally cause registered sex offenders to move from community-to-community, never establishing a permanent residence, or simply to go "underground". The studies show that this

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## TABOR II (cont'd)

either Heritage employees or self-described members of a statewide taxpayers group. Their testimony ranged from the alleged reasonableness of TABOR II to the unconscionable irresponsibility of the Maine State Legislature. Some proponents described a growing outcry for state spending reductions – particularly in the areas of welfare and Medicaid — which they believe is heating up to a feverish pitch among Maine’s electorate.

There were many references in the proponents’ testimony about how Maine has the fourth highest tax burden in the nation, disputing the most recent analysis by the conservative Tax Foundation organization which ranked Maine’s tax burden as the 15<sup>th</sup> highest in the nation. When a proponent was asked for the actual source of the 4<sup>th</sup>-in-the-nation information, he didn’t know.

Mary Adams recounted in detail the way she spearheaded a referendum in the 1970’s to repeal the system of funding K-12 education known as the “uniform property tax”, and suggested that the sense of taxpayer revolt is running just as strong now as it was back then.

The strongest damn-the-Legislature testimony came from a David Crocker, a Portland attorney who said he was serving as the state chair of a new group of TABOR supporters. Crocker said that irresponsibility was running amok in the State House, the Legislature is turning its hard-working citizens into dependents, and the state will collapse if left in the hands of Maine’s lawmakers. Crocker’s prophesy was that the people would rise up in support of TABOR II to restrain the Legislature’s gross irresponsibility.

Several of the TABOR II proponents

testified to their involvement at the local government level, but much of that testimony recognized the spending controls that are inherently in place at the local level under current law. Beth O’Conner, who serves as a regional coordinator for the statewide taxpayers group and as one of Berwick’s directors on the SAD #60 board spoke about the frugal budget being advanced by the district’s school board this year. Waterville Mayor Paul LePage provided a detailed explanation of how that City has been steadily decreasing its tax rate and improving the quality of service delivery since he took office. Penny Morrell, representing the Kennebec County Republican Committee, described with favor how a strong turnout at the Belgrade Town Meeting led to the defeat of a proposed capital project. When asked why TABOR II would be necessary on the local level given an apparent ability to influence and directly manage local spending decisions, the response was merely that TABOR II “provides another tool”.

Five legislators also testified in support of TABOR II: Representatives Sarah Lewin (Eliot), Henry Joy (Crystal), Leslie Fossel (Alna), and Kathy Chase (Wells), and Senator Doug Smith (Piscataquis Cty.).

Six people testified in opposition to TABOR II, including representatives of the Maine Education Association, the Maine Center for Economic Policy, the state employees union, the American Association of Retired Persons (AARP), the Maine Municipal Association and a landowner from the Town of Poland who listened to the debate while waiting for another bill to be heard and had an observation to add to the mix.

MMA’s testimony in opposition to TABOR II focused on two points. First, under Maine’s home rule system, Maine’s towns and cities have every ability to adopt TABOR II or any other spending limit system for their local government. The “additional tool” that TABOR II would supposedly add to the tool box has actually been in the local government tool box for the last 40 years. People who truly believe in home rule believe in the rights of the voters in any community to decide for themselves how they will organize their government and the best way to make important local decisions.

In the past, several municipalities adopted spending caps, and about a dozen towns currently adopt their municipal budgets through a referendum process, and that is entirely their prerogative. In contrast, TABOR II advocates a one-size-fits-all approach to centralized governing, whereby every town and city must hold a referendum vote when certain formulas are triggered regardless of the decision-making process actually adopted and preferred by the local community.

The second point in opposition raised by MMA was the negative impact TABOR II would have on the ability of state government to restore appropriate levels of support for K-12 education and local road assistance after the recession, and generally honor its other financial commitments to local and regional government. By reestablishing the state spending baseline at the FY 2010 levels for both General Fund and the Highway Fund spending (which will be historically low because of the deep recession), and by requiring expensive statewide referenda in order to exceed the redesigned TABOR II spending limits, it is unlikely the state will ever be in a position to actually provide 55% of the cost of K-12 education, fully honor its longstanding commitment to the local road assistance program, leave municipal revenue sharing alone so that it can provide property tax relief as designed, fully fund the various municipal reimbursement programs such as Tree Growth or General Assistance, etc.

As the public hearing on TABOR II was drawing to a close, Stan Tetenman from the Town of Poland got up to speak in opposition. Mr. Tetenman was waiting to speak on another bill that afternoon, but he had listened patiently to the four-hour TABOR II debate. His perspective was not as a town official but, rather, as a town meeting attendee who recently participated in Poland’s annual business meeting. Mr. Tetenman questioned the underlying claim made by TABOR II supporters that referendum voting necessarily engages more voters in the democratic process at the local level. The town meeting he had just participated in provided the opportunity for a type of engagement, debate and education on the

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

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## TABOR II (cont'd)

issues to be decided that would likely be lost with mandatory referendum voting. In the referendum process, Mr. Tetenman

noted, voters are more likely to be influenced by emotion and advertising than information and engagement, and mandatory referenda at the state, county, school and municipal levels could drive

voters away from the real interactivity necessary for healthy democracy.

The first work session on the TABOR II legislation is scheduled for Thursday, April 30.

### TABOR II

TABOR II makes changes to the current law that since 2005 has imposed spending limits on Maine's state, county, and municipal governments and all school systems. That law is referred to as the "LD 1" spending limit system.

Generally, the TABOR II changes would place additional limits on the authority of: (1) the voters at town meeting; (2) the representative town or city councils; (3) the boards of county commissioners and the county budget advisory committees, and (4) the Maine Legislature to adopt budgets or enact tax changes that exceed certain limits established by formula in the TABOR II initiative.

The following is an explanation of TABOR II:

#### With respect to state government:

- **TABOR II imposes growth limits on all state spending, including the state's Highway Fund, not just General Fund allocations like current law.** Current law restricts state spending from the General Fund account. TABOR II would restrict spending from the dedicated accounts, including the Highway Fund and Special Revenue Funds.

- **TABOR II recalibrates the entire spending limit system for state government, and in so doing TABOR II establishes Fiscal Year 2010 as the baseline year for all future growth in the state's General Fund, Highway Fund and Special Funds revenue.** Because of the current nationwide economic recession, the FY 2010 General Fund and Highway Fund revenues are currently projected to come in at unusually low levels. For example, the currently projected General Fund revenue for FY 2010 is expected to be \$55 million less than the General Fund revenue actually received three years earlier, in FY 2007. Similarly, the currently projected Highway Fund revenue in FY 2010 is expected to be \$48 million less (13%) than the Highway Fund revenue actually received four years earlier, in FY 2006. Going forward, therefore, TABOR II will have the effect of locking-in state-level spending at historically low levels.

- **TABOR II's spending limits for state government are more volatile than current law.** TABOR II limits the growth of state spending to three-year average population growth plus previous year's inflation. Current law (LD 1) limits growth to ten-year average real growth in total personal income plus ten-year average population growth. A spending growth allowance based on inflation can be very volatile. The LD 1 limit is more stable over time.

- **In certain circumstances, TABOR II may result in higher spending limits for state government than provided under current law.** Under current law the state's spending growth allowance is the average annual real increase in total personal income (2.28%) plus the 10-year average state population growth rate. The total growth allowance would be calculated today as 2.87%. Under TABOR II, the state's spending growth allowance would be the most recently calculated rate of inflation plus the 3-year average state population growth rate. The TABOR II total growth allowance would be calculated today as 4.2%.

- **TABOR II creates a financial disadvantage for state government if the Legislature enacts a budget that is more frugal than the TABOR II spending allowance.** An element of the LD 1 spending limit system allows state government to be more frugal than the spending limit might allow without losing forever that authorized spending capacity. The policy behind this element of LD 1 is to avoid creating a "use-it-or-lose-it" phenomenon where the government maximizes its spending allowance in order to save those resources for a rainy day. TABOR II rejects that policy for state government. If the Legislature enacts a budget that spends less than the TABOR II allowance, it would lose forever that authorized spending capacity.

- **TABOR II imposes significant administrative costs on state and local governments by requiring referendum voter approval for all revenue increases and for expenditure increases above the growth limit.** On the state level, this includes: (1) any increases in General Fund spending and Highway Fund spending over the newly-designed TABOR II limits; (2) any state-level tax rate increase, tax base expansion or repeal of any tax exemption that net generates more than approximately \$300,000 a year, and (3) the annual increases to fuel taxes, which are currently indexed to inflation.

- **Prior to any statewide referendum vote, TABOR II requires that certain notices and financial information be mailed to every registered voter in the state.** Without considering the administrative costs of assembling the data required by this mandatory requirement to mail a special notice to the state's 994,000 active registered voters, the direct costs are estimated to be approximately \$800,000 for each mandated referendum.

- **Municipal costs of conducting statewide referenda.** In addition to the costs of providing the special mailed notice that the state would pay, the municipal costs to the property taxpayers associated with conducting a statewide referendum election are approximately \$1 million.

#### With respect to municipal and county government:

- **TABOR II also mandates referendum voting on the county and municipal level.** On the county and municipal level, TABOR II requires a referendum vote to approve any budget that exceeds the municipal or county spending limit. In general, those limits would still be calculated by the existing LD 1 system, except those limits would be specially capped by TABOR II in high-growth communities.

- **Although TABOR II preserves the current method for calculating growth limits for municipal property taxes and county assessments, it further specifies that they may not exceed the statewide ten-year average real income growth plus forecasted inflation.** This will restrict the ability of communities that experience new residential and commercial development to meet increased service and infrastructure needs.

- **TABOR II would require municipalities and counties to adopt a uniform budget format.**

# Greenhouse Gas Bill

Two weeks ago, the Natural Resources Committee took testimony on LD 1333, *An Act to Establish Climate and Energy Planning in Maine*, sponsored by Speaker Hannah Pingree (Vinalhaven). The Conservation Law Foundation helped craft the bill.

Much of the bill is focused on state agency-level planning and regulatory requirements designed to reduce greenhouse gas emissions associated with new development projects that require state permitting or licensing. The bill also directs the Department of Transportation (DOT) and any political subdivision (county or municipality) responsible for developing transportation plans or projects that are funded with state or federal funds to generally include bicycle and pedestrian ways in those plans and projects unless there are clear reasons why the inclusion of bicycle or pedestrian ways would be inappropriate. This bill also requires the Department of Environmental Protection (DEP) to amend its rules in such a way to require municipalities to achieve natural stream flow when installing road culverts. The bill also directs the State Planning Office to review and revise its rules, standards and guidelines governing local and regional planning activities including comprehensive planning to ensure the incorporation of best management practices to reduce the climate change effects resulting from those planning activities.

In addition to DEP and DOT, supporters, included the Conservation Law Foundation (CLF), Maine Audubon, the Bicycle Coalition of Maine, East Coast Greenway Alliance, and the Natural Resource Council of Maine (NRCM), the Maine Voters Education Fund and the Maine Environmental Priorities Coalition (MVEF-MEPC). These proponents pointed to the generally accepted goals of reducing dependence on foreign fuels and reducing greenhouse gas emissions due to its link to global climate change.

The bill would get at these issues by requiring the DOT and DEP to review new developments for their greenhouse gas emissions both during the construction process and over the “lifetime” of the project. The two primary factors here

are vehicle trips associated with a project and energy consumption by the project (e.g., heating and electricity). There were also a few citizen proponents, most from the Moosehead region, and they focused on the establishment of meaningful planning and review standards in the LURC (Land Use Regulatory Commission) area.

Opposition came from the construction sector, industrial energy consumers, forest/land management, the forest products industry, landowners, realtors, the Maine State Chamber of Commerce and the Maine Better Transportation Association. The opposition noted that there is no agreed upon methodology to calculate the climate change impacts as the bill requires. The unknown of what may be produced through rulemaking is disconcerting to many in the regulated community.

The heart of the bill requires DEP and DOT permitting decisions to be “consistent” with the State’s existing greenhouse gas emission reduction goals. Those goals are to have Maine’s total emission levels in 2010 be equivalent to the level in 1990; and by 2020 having emissions 10% below 1990 levels. The question is how can a new project, even utilizing the most environmentally sensitive construction methods, be “consistent” with a state goal to reduce emissions? It would appear to be a standard so vague as to invite problems.

By analogy, there are other environmental protection laws that prohibit net increases in pollution. In such cases, a primary way for a new project to be permitted is for the developer to pay an “offset” fee. The revenues generated by the fee are then used to reduce pollution elsewhere. If it is technically impossible to build a structure that is consistent with a goal of reducing greenhouse gasses, it may be that LD 1333 is headed toward the establishment of offset fees.

A final criticism is that global climate change is just that, global. This is unlike other environmental issues managed by the state where the causes and impacts being regulated are very local. Maine’s development activities with respect to greenhouse gas emissions don’t even register a blip on the radar screen of

global climate change. Regional efforts like the Regional Greenhouse Gas Initiative are the kinds of efforts that might make a meaningful impact. As long as China and India don’t undertake significant changes in their behavior, Maine should continue to focus on regional efforts.

MMA opposed two portions of the bill directly impacting municipalities.

The primary municipal issue is that the bill requires local planning activities such as comprehensive planning to account for greenhouse gas emissions and climate change. The first municipal concern is a lack of understanding how to do this job. That is, how do municipal planning boards direct developers to calculate the lifetime climate impacts from a project? The second concern is once the emission data is available, what does the municipality do with it? A new residential subdivision, even one that is designed “smartly”, would produce an increase in emissions and therefore would appear to be inconsistent with the state’s reduction goals. So, what does one do? Are municipalities to cap the emissions per development? Are they to establish offset fees?

A third concern is that the biggest land use related greenhouse gas issue is transportation – car traffic generated by development. For that reason, there have been efforts recently to further integrate transportation planning with land use planning in a sensible fashion. The goal is to reduce or minimize “vehicle miles traveled” as a result of development patterns. This is already a very significant issue in comprehensive planning, and the Department of Transportation’s new review criteria clearly address this issue. Furthermore, the Legislature enacted a statewide energy code last session (which will be formally adopted sometime in 2010) addressing energy efficiency of buildings. LD 1333 is unclear as to the additional steps municipal planners and permitting authorities are supposed to take. Do municipalities begin setting indoor temperature caps? Do they require building owners to turn-off lights at night?

The second issue that municipalities are concerned about is a somewhat vague requirement for the DEP to adopt

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# For the Clam Flats: New Surcharges Proposed for Septic/Wastewater Licensing

Maine has productive shellfish harvesting areas, commonly called clam flats. According to data from the Department of Marine Resources (DMR), harvesters of these flats landed approximately 8 million pounds of softshell clams in 2007. This is down from just over 13 million pounds in 2001. Another 30 million pounds of Northern Shrimp, Blue Mussels and Mahogany Quahogs were landed in 2007 as well.

The Department of Marine Resources has a "Shellfish Growing Area Classification Program" the purpose of which is to monitor flats for the quality of the water. If the water is polluted, the shellfish are not healthy for human consumption. If the area is polluted the flat may have to be closed to harvesting and then go through a rigorous testing protocol to reopen.

Furthermore, if the shellfish are going to be sold outside of Maine, the product becomes a subject of interstate commerce and federal laws overseen by the Food and Drug Administration (FDA) are triggered. In particular, the FDA has a National Shellfish Sanitation Program (NSSP) which establishes the oversight responsibilities for each state. Essentially, the FDA wants to know that the DMR is adequately monitoring its flats.

Each year, the FDA conducts a Program Element Evaluation Report (PEER) which is an audit of the DMR's Shellfish Growing Area Classification Program. These PEER audits have noted for the past 5 years that DMR's program (within its Public Health Division) is understaffed. In the cover letter to the latest report, issued in November 2008, the FDA wrote that there were several deficiencies in Maine's program.

*"A number of those issues are a direct result of inadequate staffing levels within the Public Health Division—Growing Area Classification Section, a concern previously noted in the FY 2004 Growing Area PEER and each of the subsequent annual evaluations. In order to comply...the DMR must have all necessary resources available so that all required work (report writing, sampling,*

*pollution assessment, etc.) can be completed in the appropriate time frames."*

The bottom line is that the DMR needs three additional staffers to satisfy the federal requirements or else Maine's shellfish will not be allowed to be sold outside of Maine. Currently, 90% of the shellfish harvest is sold out-of-state.

Representative Dianne Tilton (Harrington) and Senator David Trahan (Lincoln Cty.) have proposed LD 1399, *An Act Concerning Water Quality in Watersheds* as a solution. The bill was given its public hearing on Friday, April 17<sup>th</sup> by the Natural Resources Committee.

The bill establishes new sources to provide the DMR with adequate funding to hire the three additional staff. The new funding sources are:

1. A one-time \$10 fee on new septic systems upon installation, to be collected by the Local Plumbing Inspector;
2. A new \$75 annual fee on "licensed overboard discharges" (OBD) of which Maine has approximately 1,400;
3. A new annual fee on municipal combined sewer overflow (CSO) systems, not to exceed \$350; and
4. A new annual fee on publicly owned wastewater treatment facilities (POTW) equal to \$2 per ratepayer.

The annual amount of revenues generated by these fees are roughly estimated to be: septic systems (unknown); OBDs (\$100,000); CSOs (\$3,000) and POTW (\$480,000).

Proponents made three basic arguments in favor of the approach to funding these positions taken by LD 1399. First, while the General Fund is the sponsors' preferred method of financing the 3 DMR positions, they concede that General Fund support is not realistic at this time and Maine can't afford to delay any further. Also, the General Fund already provides approximately 70% of the revenues needed by DMR to meet the \$2 million payroll in its Public Health Program. The total program cost is approximately \$2.5 million.

Second, the supporters maintain that harvester licensing fees should not be

increased to generate more revenues. While the harvesters profit from their licenses, they already pay almost \$400,000 into DMR's Public Health Program and their current \$115 license fee is proposed to increase 15% this year. Those increased licensing revenues are going directly to the General Fund, not DMR.

Third, the supporters say the "polluters" should pay. One of the primary reasons for flats to be monitored/closed is fecal coliform which is the result of sewage being discharged to the flats. This sewage comes from septic systems, OBDs, CSO events and public sewer systems. These contributors to the problem, it is argued, should also contribute to the solution. If the bill passes, "polluters" would provide approximately 13% of the funding; licenses would produce 16%; and the General Fund would produce 66% of the funding for the Public Health Program.

The only opposition came from the Maine Association of Site Evaluators. The Maine Wastewater Control Association testified "neither for nor against". Each recognized the problem and the need to do something. But, they questioned the fairness of the assertion that septic systems and public sewer systems, particularly those inland, contribute meaningfully to flat closures on the coast.

MMA like all others who testified recognized the benefit of the industry and the need for additional staffing. However, MMA also expressed concerns with the bill. The 3 DMR positions appear to represent a \$300,000 problem yet the bill is at least a \$600,000 solution. It's not clear that all the revenues generated by the bill are needed. Also, there is great municipal trepidation to creating a new revenue stream that may be utilized for other uses later. Finally, the political issue of raising fees from inland septic and sewer systems may be a legal issue if the fees aren't related to a service received by the fee payer, since fees are not taxes and there are generally "nexus" standards that apply to the imposition of fees.

The Natural Resources Committee seems interested in satisfying the federal demand for more monitors. However, it wants to proceed cautiously before it imposes significant new statewide fees.

# Committee Supports Narrowing Special Tax Exemption

A quiet recommendation of the Taxation Committee represents history in the making. Property tax exemptions are often enacted or expanded by the Legislature, but they are never repealed — at least until now.

The bill is LD 545, *An Act To Amend the Tax Exemption Regarding Leased Property*. Sponsored by Senator Larry Bliss (Cumberland Cty.), LD 545 corrects an overly broad tax exemption for property leased by hospitals that was enacted 35 years ago.

The background and Committee-level debate on LD 545 was covered in the March 6 and March 27 editions of the *Legislative Bulletin*. In summary, a bill was enacted 35 years ago that was clearly intended to exempt from taxation the personal property (e.g., X-ray or MRI machines, leased computer systems, etc.) that a hospital might rent instead of purchase. The way the bill was written, however, any real estate the hospital might rent was made exempt from taxation as well. Under the general principles of tax law, however, all real property must be both owned and used by a legitimately tax-exempt corporation in order to qualify for exempt status. Therefore, the special exemption enjoyed by hospitals (and/or their commercial landlords) that rent land and buildings for their various enterprises is completely unique. Property rented by all other charitable or otherwise exempt institutions is subject to taxation, even property rented by the federal or state government is subject to taxation.

This special exemption went unnoticed for many of the past 35 years because hospitals were not in the practice of renting real estate. That's changing now. In a South Portland example, Mercy Hospital was leasing 15,000 square feet of a 75,000 square foot commercial warehouse for data storage purposes and asking the City to exempt something like 20% of the commercial facility from taxation.

On Thursday, April 9<sup>th</sup> the Com-

mittee cast its vote in support of LD 545, with one member dissenting. In order to provide the hospitals with some lead-time notice, the bill was amended in such a way that the hospital leased property exemption will not apply to leased real estate on or after April 1, 2012.

## SEX OFFENDER (cont'd)

reaction increases rather than decreases offenses, limits access to necessary treatment, reduces access to important resources such as employment, community and family, and makes tracking convicted sex offenders much more difficult. Second, experts believe that the restrictions provide a false sense of security. Just because sex offenders are not allowed to live within 1,000 feet of a school or park, for example, does not mean that children are safe.

The Department of Corrections provided testimony in favor of the bill, citing many of the same arguments for the preemption as did Rep. Haskell. However, the Department did agree it was important to involve municipalities in the discussion around the development of a statewide uniform residency policy. Others testifying in support of the bill included the Maine Coalition Against Sexual Assault, Maine Civil Law Advisory Commission and two registered sex offenders.

MMA provided testimony in opposition to the bill. Municipal officials oppose LD 385 because it is an infringement on home rule authority and would interfere with the legitimate interests of the residents of a community to protect themselves from a perceived threat. As proposed, that task of protection would be shifted to the state. This is a task that municipal officials are not convinced the state is prepared to address in the near term.

The only existing state statute that addresses sex offender locational limitations is found in Title 17-A, section 261. As provided, a registered sex

offender convicted of an offense with a person under the age of 14 is prohibited from having contact with a minor in a “sex offender restricted zone”. As defined, the “sex offender restricted zone” includes public or private elementary or middle schools, child care centers, facilities and day care facilities or athletic fields, parks, playgrounds or recreational facilities. A person convicted of having contact with a minor in a prohibited zone commits a Class D crime which is punishable by a prison sentence of less than one year and a fine of up to \$2,000.

Limitations on convicted sex offenders can also be placed by a court order outlining the conditions of probation. The court order can prohibit contact with the victim or prevent indirect or direct contact with any person under a certain age. The specifics of the court order are related to the nature of the crime committed.

In light of the relatively weak state-level law that currently exists, municipal officials are not convinced that a statewide policy actually exists regarding the residency location of sex offenders, unless of course the statewide policy is that there should be no residential limitations. For that reason, in its testimony MMA suggested that the preemption of municipal home rule authority be postponed until the state could develop and implement a statewide policy addressing the residency concerns.

Representative Joe Wagner, who represents Waterboro and Lyman, submitted written testimony in opposition to LD 385. Those two communities have adopted sex offender residency restriction ordinances. Rep. Wagner is concerned that negating locally adopted sex offender residency ordinances would result in revisiting the emotional upset those communities experienced when developing and adopting the ordinance. He also pointed out that the local ordinances adopted by the two communities, “were products not of hysteria but of measured, rational thought.”

The work session on LD 385 is scheduled for Wednesday, May 6<sup>th</sup> at 1:00 p.m.

## LEGISLATIVE HEARINGS

*Monday, April 27*

**Criminal Justice & Public Safety**  
**Rm. 436, State House, 10:00 a.m.**  
**Tel: 287-1122**

LD 1224 – An Act Regarding the Operation of County Jails and the State Board of Corrections.

LD 1130 – An Act To Clarify the Crime of Obstructing Government Administration.

LD 1338 – An Act To Deter Graffiti.

**Education & Cultural Affairs**  
**Room 202, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-3125**

LD 1160 – An Act To Prohibit a Person from Being Hired in a School Administrative Unit in a Position for Which a Relative Serves in a Supervisory Capacity.

**Legal & Veterans Affairs**  
**Room 437, State House, 9:00 a.m.**  
**Tel: 287-1310**

LD 1346 – An Act To Amend the Laws Governing Games of Chance.

LD 1081 – An Act To Clarify the Laws on Licensing for Charitable and Fraternal Organizations and Games of Chance.

LD 1437 – An Act To Permit Video Gaming for Money Conducted by Nonprofit Organizations.

LD 1329 – An Act To Allow a Resort Casino in Oxford County.

**State & Local Government**  
**Room 216, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1330**

LD 1425 – An Act Regarding Payment to Municipal and Quasi-municipal Entities for Emergency Response to Hazardous Materials Incidents.

**Taxation**  
**Room 127, State House, 1:00 p.m.**  
**Tel: 287-1552**

LD 1217 – An Act To Provide an Income Tax Credit for Property Tax Relief.

*Tuesday, April 28*

**Health & Human Services**  
**Room 209, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1317**

LD 1303 – An Act To Improve the General Assistance Program.

LD 1375 – An Act Regarding the Formula for the General Assistance Program.

LD 1363 – An Act To Establish and Promote Statewide Collaboration and Coordination in Public Health Activities and To Enact a Universal Wellness Initiative.

**Insurance & Financial Services**  
**Room 427, State House, 1:00 p.m.**  
**Tel: 287-1314**

LD 641 – An Act To Notify Municipal Assessors of Foreclosure Actions.

*Wednesday, April 29*

**Agriculture, Conservation & Forestry**  
**Room 206, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1312**

LD 1238 – An Act Concerning the National Animal Identification System.

**Health & Human Services**  
**Room 209, Cross State Office Building, 3:00 p.m.**  
**Tel: 287-1317**

LD 1360 – An Act To Allow Law Enforcement and Family Members To Petition the District Court To Initiate Assisted Outpatient Treatment.

**State & Local Government**  
**Room 216, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1330**

LD 1028 – An Act To Enhance Municipal Home Rule Statutes.

LD 1119 – An Act To Clarify the Municipal Jurisdiction of a Portion of Saco Bay.

**Taxation**  
**Room 127, State House, 1:00 p.m.**  
**Tel: 287-1552**

LD 1146 – An Act To Authorize Municipalities To Impose Service Charges to Tax-exempt Property Owned by Certain Organizations Whose Primary Activities Are Not Charitable.

LD 1290 – An Act To Amend the Law Authorizing the Application of Service Charges to the Owners of Certain Real Property Exempt from Property Taxation.

LD 1253 – An Act To Establish a Local Option Sales Tax.

LD 1426 – An Act To Allow Municipalities To Impose a Local Option Lodging or Meals Tax.

LD 1381 – An Act To Allow Counties To Provide Property Tax Relief by Enacting a County Option Meals and Lodging Tax.

LD 788 – An Act To Aid Municipalities and the Unorganized Territory in the Reduction of Property Taxes.

LD 1314 – An Act To Reform and Lower Maine Taxes.

LD 1368 – An Act To Broaden and Increase the Sales Tax, Increase the Earned Income Tax Credit and Amend the Application Process for the Circuitbreaker Program.

**Utilities & Energy**  
**Room 211, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-4143**

LD 1176 – An Act To Revise the Charter of the Portland Water District.

LD 1317 – An Act To Amend the Charter of the Addison Point Water District.

LD 1318 – An Act To Create the Hancock Pond Water District.

LD 1369 – An Act To Amend the Charter of the Clinton Water District.

LD 1349 – An Act To Streamline Ratemaking for consumer-owned Water Utilities.

LD 650 – An Act To Create a Sustainable Funding Mechanism for Water and Wastewater Infrastructure in the State.

*Thursday, April 30*

**Business, Research & Economic Development**  
**Room 208, Cross State Office Building, 1:00 p.m.**  
**Tel: 287-1331**

LD 1393 – An Act To Provide an Exception to the Pine Tree Development Zone Requirements for Seafood Processing Business.

**Judiciary**  
**Room 438, State House, 1:00 p.m.**  
**Tel: 287-1327**

LD 1353 – An Act Regarding Salary Information for Public Employees.

**Transportation**  
**Room 126, State House, 1:00 p.m.**  
**Tel: 287-4148**

LD 1190 – An Act To Amend the Motor Vehicle Laws.

*(continued on page 8)*

## HEARINGS (cont'd)

LD 1315 – An Act To Amend the Private Way Laws with Regard to Road Associations.

LD 1383 – An Act To Provide Support to Municipal Government by Imposing a Municipal Surcharge on Traffic Violations.

### Utilities & Energy

**Room 211, Cross State Office Building, 1:00 p.m.**

**Tel: 287-4143**

LD 44 – An Act To Require Transmission Lines To Be Placed Underground near Certain Facilities.

LD 1350 – An Act To Establish the Maine Transmission Mitigation Trust Fund.

*Friday, May 1*

### Criminal Justice & Public Safety

**Rm. 436, State House, 10:00 a.m.**

**Tel: 287-1122**

LD 1177 – An Act To Establish the Maine Emergency Services Institute.

LD 1187 – An Act To Allow the Sale and Use of Consumer Fireworks.

LD 1242 – An Act To Streamline the Regulatory Process for Commercial Building Construction Projects.

LD 1391 – An Act To Amend the Laws Governing Emergency Management.

### Transportation

**Room 126, State House, 10:00 a.m.**

**Tel: 287-4148**

LD 1341 – An Act To Reform Maine's Motor Fuel Tax Laws.

## GREENHOUSE (cont'd)

new culvert standards to better allow for “natural flow” of streams and rivers so that fish and other aquatic life can pass through the culverts. The potential cost of this as-yet adopted rule is the concern.

The big-picture goals of this bill are

laudable and many opponents acknowledged that more can be done to address climate change. However, the on-the-ground impact of the bill to both the regulated developers and also to state and local permitting agencies is unclear. The Natural Resources Committee unanimously supported LD 460, Resolve, To

*Evaluate Climate Change Adaptation Options for the State* earlier this session. This resolve requires a detailed evaluation of the options available to Maine people and businesses for adapting to the likely environmental effects of climate change. It may be wise to allow the LD 460 process to take place before enacting new permitting standards and review processes.

### Correction...

An article in last week's *Legislative Bulletin* covered a bill designed to raise the level of consciousness regarding the types of state expenditures that are being defined within the “General Purpose Aid for Local Schools” appropriation (GPA). The bill is LD 1126, *An Act to Limit the Scope of Miscellaneous Costs with the General Purpose Aid for Local Schools Appropriation*. The article stated that the personnel costs of 23 Department of Education employees and 7 Department of Corrections employees, for a total of 30 state employees, were being covered within the GPA appropriation. That was an error. It is actually the personnel costs of 23 Department of Education employees and 3 Department of Corrections employees, for a total of 26 state employees, that are being covered under the GPA appropriation. We apologize for the editing error.