

LOCAL GOVERNMENT IN MAINE



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PREFACE

Politics is the practical exercise of the art of self-government, and somebody must attend to it if we are to have self-government; somebody must study it, and learn the art, and exercise patience and sympathy and skill to bring the multitude of opinions and wishes of self-governing people into such order that some prevailing opinion may be expressed and peaceably accepted. Otherwise, confusion will result either in dictatorship or anarchy. The principal ground of reproach against any American citizen should be that he is not a politician. Everyone ought to be, as Lincoln was.

Elihu Root, Speech presenting statue of Lincoln to the British people July 28, 1920



ACKNOWLEDGMENTS

The original “Local Government In Maine” was published in 1979. Kenneth Roberts, a staff writer for Maine Municipal Association (MMA) at the time, was the principal author; however, several other individuals contributed to the editing and research of the publication. Tim Sample, the noted Maine humorist and a talented illustrator, did the artwork for the original book.

The 2005 edition of “Local Government in Maine” was truly a collaborative effort. The original book has been sorely out-of-date for a number of years. Revising the book was something that typically was put on the “when we’ve got time” workplan. As we turned the corner on the 21st Century, the Communications staff at MMA decided to get more serious about updating the book.

Professor G. Thomas Taylor, chairman of the Public Administration Department at the University of Maine at Orono, was contacted a few years ago to see if the University could help with the rewrite. Professor Taylor and graduate research assistant, David Kinney, now the town administrator in Lincolnville, took the original edition of the book and came up with our first draft of the revised book.

In early 2005, MMA’s Communications department set a goal of publishing the book before the end of the year. Douglas Rooks, a freelance writer and regular contributor to the Maine Townsman, was hired to rework the draft done by the University folks. He edited and contributed additional material to the draft. Geoff Herman, MMA’s Director of State & Federal Relations, and I did some final editing and proofing. Jaime Granger Clark, hired by MMA in April of this year as a graphic designer, did the design and layout.

Thanks to everyone who played a part in helping us publish the 2005 edition of “Local Government in Maine”.

Michael Starn
Director of Communications & Educational Services
Maine Municipal Association

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Chapter 1

Government is People



Government is people. It is people deciding the rules they will live by, the services they need, and the representatives they will elect or appoint to carry out their wishes. Municipal or local government is the unit of government closest to the people it serves.

Often people in a community will say, “Nobody cares or no one can make a difference.” They think that their government is not working to identify and solve difficult problems. The history of local government of Maine, however, shows that, over time, it has proven to be both responsive and adaptive to needs identified by citizens, needs that have grown and changed over the years.

In the 1970s, people in the northern community of Ashland thought their town needed a recreation center, a place that would benefit people of all ages and provide a gathering place that was lacking as the town moved away from its agricultural past. The town had the chance to buy an abandoned church for the recreation center, but there was opposition. It was a significant expense in a small community and opinion seemed to be running against the center.

Some seventh grade students, however, believed strongly that the recreation center would provide wide and lasting benefits for townspeople of all ages. With the help of their social studies teacher, they wrote a paper detailing what the recreation center would accomplish, touching on themes that had not yet been considered. After broad distribution of their paper, the town meeting called to consider the recreation center project supported it overwhelmingly.

In the 1970s and '80s, China Lake – the geographic and economic center of the town of China – was visibly deteriorating. With a relatively shallow lake typical of central Maine, deforestation of its shoreline and intensive agriculture in the watershed had made the lake eutrophic, leading to spectacular algae blooms that generated

news coverage and tarnished China Lake's image as a vacation resort. While federal legislation was already making a major difference in cleaning up and restoring Maine's rivers, there was much less funding for, and knowledge about, lake water quality.

In cooperation with neighboring towns, citizens proved that they could make a difference, forming the China Lake Association and working with town and state governments to identify and then address the lake's water quality problems, which included continued farming and inadequate septic systems. After years of unmanaged growth within the China Lake watershed, people banded together to make changes.

Education continues to be an important part of the process. The China school system has integrated environmental education into the curriculum. High school students have repaired sites damaged by erosion. Other changes, brought about by comprehensive planning and implementation, included the replacement of failing septic systems, redesign of roadways and drainage, and tighter controls on land use.

Although the work to improve China Lake has been expensive and time-consuming, the common effort to improve the lake's water quality and attractiveness has yielded striking results and continues to motivate community participation.

In the 1980 and '90s, Gorham was among a number of fast-growing towns in Cumberland County feeling the strain as new citizens began demanding services but taxpayers resisted the budget increases necessary to provide those services. Building on an idea introduced several decades earlier, the local fire chief decided that Gorham should explore cooperating with neighboring towns to provide fire protection, all of which were also experiencing heavy population growth.

While Gorham maintained its central fire station as before, it built substations near the boundaries of its neighbors, and now jointly owns fire stations with the towns of Windham, Scarborough

and Standish. Fire equipment belonging to each town is housed in the stations, and professional and volunteer firefighters turn out together to fight fires. The town where the fire occurred reimburses the others for hourly wages and worker's compensation payments. Recently, two of the towns jointly purchased their first fire engine together, sharing a significant capital expense.

As a result, Gorham and its neighbors have reduced response times while saving money for taxpayers. Gorham's fire department budget is significantly lower than most similar-sized towns. Its arrangements, apparently unique in Maine, show that cooperation across town boundaries can improve services while also satisfying taxpayers.

These and other examples show that municipal government is capable of responding to new demands, and thinking creatively about the challenges of providing services in a new century.

The Need for Local Government

From the beginning of recorded time, groups of people have had to set rules for everyday living. Native Americans had local governments, with chiefs and Indian tribal councils chosen by the various tribes. Four tribal governments, the Penobscot, Passamaquoddy, Aroostook Band of Micmacs, and Houlton Band of Maliseets exercise a degree of autonomy within Maine's geographic boundaries and govern tribal lands with minimal interference.

The Pilgrims made plans for local government even before they landed at Plymouth. While anchored in the harbor on November 11, 1620, they wrote the Mayflower Compact. The men who signed the Compact agreed to make "such just and equal laws . . . for the general good of the colony." Those who signed the Compact promised to obey these laws. The Mayflower Compact was important because, for the first time, a group of ordinary people had set rules to guide them in everyday life.

After landing on the shores of what is now Massachusetts, the Pilgrims established settlements. People in each of the settlements

realized they needed rules as well as services to meet their needs, so they agreed upon certain laws. Among the first needs faced by these early settlements was fire protection and public safety, and the education of children.

The colonists were a group of people who had left their homelands to seek a better life outside the boundaries of monarchy, which still dominated Europe. In signing the Mayflower Compact, they formed the first local government in the European settlement of North America. It was, as Abraham Lincoln later described it in his Gettysburg Address, “government of the people, by the people and for the people.” The idea that people can govern themselves without rulers established by heredity is the basis for local government. It is also the idea behind state government, and the United States Constitution, which established the federal government. The traditions of local government are not specifically recognized by the U.S. Constitution, which doesn’t mention city and town government, but are recognized in the Maine Constitution.

New England Local Government

Town Meeting was the new form of government established in the early New England settlements, including the territory that became Maine. On town meeting day in March the male citizens of a community met in the town hall to discuss local problems, set taxes, and elect officers.

The principal officers elected at the town meeting were called the “select-men.” Usually three in number, the selectmen carried out the laws and decisions voted by town meeting. Since every eligible citizen had a right to speak at the town meeting, it represented direct democracy in a form not widely seen since the days of ancient Greece. By our contemporary standards, even town meetings were not completely democratic since women were not allowed to vote until much later. Some communities also required membership in the established church or property ownership. All these restrictions on

the right to vote have long since been abolished.

As Maine communities have grown, people have adopted other forms of local government in place of town meetings. Some larger communities have replaced town meeting with town or city councils. Many communities have turned to professional administrators, town or city managers, who carry out municipal policy under direction of the elected officials. While the number of communities with a town meeting form of government continues to dwindle, the overwhelming majority of Maine municipalities still conduct business at the annual town meeting, in a form that has survived well over 300 years. Unique to New England, town meeting is still seen by Mainers as the best way to govern themselves.

Chapter 2

Evolution of Local Government In Maine



The interest in local control of government seen today has been present since the times of the earliest settlers. That interest in local control was certainly among the reasons the emigrants boarded sailing ships for the long and dangerous voyage to an unknown land thousands of miles away. The people who came in the 1600s and 1700s to the New World were mostly from England, France, Spain and Holland. In New England, most of the early settlers came from England and France.

Kings ruled both England and France throughout the Colonial period. Local government, as we know it today, did not exist, and the right of people to represent themselves was unrecognized. People were called “subjects” and many aspects of their lives were controlled by the monarch. Those who emigrated sought religious and political freedom, and wanted to be masters of their own destiny.

Before 1639, settlers in what we now know as Maine managed their own affairs as best they could. This tacit freedom to rule themselves was not to last long. The King of England began asserting control of the land being settled along the Atlantic coast as colonies of the British Empire. As these areas were brought under crown control, the king appointed royal governors and other officials to oversee each colony, whose right to rule was established by charter.

King Charles I of England established the Massachusetts Bay Colony. The King selected men from that colony to become Lord Proprietors or overseers. In 1639, the king named Sir Fernando Gorges as overseer of the “Province or Countie of Maine.” It included all of the territory between the Kennebec and Piscataqua rivers. In 1652, the Colony of Massachusetts Bay claimed the land as its own colony, the only case of such an annexation of non-contiguous territory in the English settlements. The Province of Maine then

became a county of Massachusetts called Yorkshire. Most residents gave their allegiance to the new colony. It was the beginning of organized government in Maine.

Colonial Town Government

The governing body of the Massachusetts Bay Colony was known as the General Court, a name still preserved in some New England states. The General Court functioned similarly to what we know as our State Legislature. The General Court had the authority to grant charters to towns. The charters were a local constitution giving townspeople the right to manage local affairs. They could elect officials, make laws and assess taxes. Each charter required that any local law be consistent with the laws of the General Court. This provision required townspeople to give up a measure of control, but they also gained the right to elect representatives to the General Court, giving them a voice in the shaping of laws affecting their towns.

The General Court of the Massachusetts Bay Colony let each chartered plantation or town send two or three deputies (or representatives) to the General Court. The number was based on the population of the town. Townspeople still elect their representatives to the Legislature, though in much stricter proportion to population thanks to the legal concept of “one person, one vote.”

In the early town charters, the General Court required two town officers to be chosen: a constable and a highway surveyor, who was in charge of town roads. Towns were permitted to choose other officials necessary to improve the effectiveness of local government. Later in the Colonial Period, the General Court permitted towns to elect not less than three, and not more than nine, selectmen to oversee all daily operations. Later, town clerks were added to maintain official records.

The Massachusetts General Court passed a number of laws relating to town government. A 1691 statute provided that “town meetings be held annually in the month of March [*and*] that warrants

be issued by constables ...” The General Court in 1715 required that a moderator be selected for every town meeting “with power to impose fines for speaking without permission.” Ten or more freeholders or citizens were permitted to include questions to be decided at town meetings. No vote could be taken on subjects not included in the warrant. It was Thomas Jefferson who called Town Meeting government “the wisest invention ever devised by the wit of man for the perfect exercise of self government and for its preservation.”

In its early days, town meeting was far more than a device for making decisions about government. Coming near the end of a long Maine winter, it was a time for socializing, renewing acquaintances and indulging in a number of indoor sports. An account of one such meeting, in 1908 in Stockton Springs, was penned by perhaps the longest serving town clerk in the nation. When he died at the age of 98 in 1978, Walter Trundy had served as town clerk for 69 years. Here’s his account of that gathering in March, nearly 100 years ago: “The meeting was held in what we called the Old Meeting House. Everyone stood because there were no seats; wooden boxes filled with sawdust were scattered among the townspeople for the tobacco chewers; the men wore buffalo coats, the cheapest available at the time; the meeting house was filled with smoke from men’s pipes; and there were no women. Buffalo coats, tobacco spit, smoke...it was a pretty tough meeting.”

In 1820, Maine entered the Union as a free state under terms of the Missouri Compromise, after earlier receiving the assent of Massachusetts to a separation, thanks to an agreement brokered by William King, who briefly served as Maine’s first governor. The Compromise, considered a landmark in the national struggle over slavery, allowed Maine to join the Union as a free state that did not permit slavery. Missouri, though north of the Mason-Dixon line previously used to demarcate slave-holding territory, was allowed to join as a slave state. This maintained the equal numbers in the Senate

between senators from free and slave states.

When Maine entered the Union as its 23rd state in 1820, it consisted of 240 towns and no cities. The new Maine Constitution permitted all of the towns incorporated under the General Court of Massachusetts to be recognized as incorporated towns by the new state. With relatively few changes, the Constitution of Maine was derived from the body of laws that had been passed by the General Court. Thus, most of Maine's municipal government originates from the government of Massachusetts, and the early records of Maine towns and counties continue to be kept by its southern neighbor.

Government begins to grow

The period of fighting with Indian tribes that followed the outbreak in 1670 known as “King Philip’s War,” named after a powerful tribal chieftain, set back the course of settlement in Maine for almost 100 years, abetted by frequent conflict between France and England over the region. As other colonies began producing larger villages and cities, Maine remained isolated and largely undeveloped. By the pre-Revolutionary period, though, Maine had again become desirable for farmers and traders from southern New England, and the population began to grow. As it did, local governments also grew and became more complex.

The earliest settlers built many churches, and they also valued education. It is not surprising that after providing for the common defense by building forts, the settlers turned to building schoolhouses.

New England was the pioneering region in the movement that led to today's public school systems in all 50 states. In 1635 the first system of formal education was started in Boston. In 1647 the General Court of Massachusetts passed a law calling for a common school system throughout the colony. Education today still reflects this law's basic principles. All children were required to go to school, and settlements that did not offer schooling were fined. Basic

education law remained almost unchanged until after the Revolutionary War, when the colonies separated from England and became the United States of America.

From earliest settlers teaching their children to read from the family Bible to the roving teachers who found their students in distant settlements, education has been a priority for Maine's citizens, and the first record of a schoolhouse in Maine comes from York in 1724. Since then, education has come to be a complex and expensive service people demand of their government. In Maine, unlike many states, the responsibility for public education is vested in the municipality, with the Constitution providing that, "the Legislature are authorized, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools." At the same time, the Legislature has long provided direct state support for schools, with specific appropriations coming as early as the 1840s.

The earliest town meetings had brief warrants (the document that has the articles – or issues – to be voted on by the town meeting). The colonists elected selectmen to govern between town meetings. They voted for fence viewers to settle disputes about boundaries and constables to maintain law and order. They hired ministers and teachers. As settlements grew, still other needs arose. Settlements needed to control free roaming sheep, hogs, and dogs and lumber had to be cut and removed. Hog reeves and surveyors of lumber were added, and a few towns retain these positions, at least on paper, to this day. Plots of land were subdivided, particularly those along the shores of the fast moving rivers and streams, where saw and grist mills harnessed Maine's abundant water power.

In the 1770s, roads became a major local concern. Timber needed to be transported to sawmills and corn to gristmills, and finished products needed to be brought to market. Farmers also wanted to get their products to the settlements. Many of today's roads and highways can be traced to this period.

Private citizens usually built the first roads and bridges after receiving permission from the town meeting. Farmers would use their own equipment and time to build a road from farms to settlements. They were often permitted to charge tolls for anyone else using the road. Other citizens would work off their taxes by helping to build and maintain town roads. Public thoroughways, sometimes called rangeways, were provided almost as soon as towns were organized. These rights of way helped prevent the large accumulations of landholdings that were common in Europe, and which the democratic citizenry of the new nation were determined to prevent in their organized towns.

Over the years, as the needs of the poor and the sick grew and the need for fire and police protection became clear, greater demands were placed on towns. Local government began to grow.

Government Becomes More Professional

In the 19th century, towns became subject to various responsibilities placed on them by state government, including school curriculum, health regulations, road construction standards, election procedures, tax assessments, town clerk duties, and care of the old and needy. It was not until the 20th century that the federal government began to make similar demands.

Over the decades, people came to believe that the business of local government was becoming too big and too expensive to be operated solely by elected officials. They felt that professional help was needed to help municipal governments deliver services. By the mid-20th century, many Maine communities had hired professional managers to supervise daily operations.

A town or city manager, defined by statute and appointed by the Board of Selectmen or Council, has the following responsibilities:

- to supervise the activities of local government;
- to appoint personnel working for the government who are not elected, such as police and fire chiefs and director of public works,

among others;

- to prepare the budget for the selectmen; and
- to provide the selectmen with advice on the needs of the community.

A community that adopts a local charter can define its own roles and relationships for the town or city manager.

Auburn was the first municipality to employ a professionally trained manager, adopting that form of government in 1917. Portland followed in 1923, Belfast in 1929, and Bangor and Brewer in 1931. During the 1930s, the towns of Camden, Fort Fairfield, Mt. Desert, and Washburn all began employing managers.

Maine municipalities, despite their often small size, have taken to the town manager form of government in large numbers. Of Maine's 491 incorporated units of local government, 183, almost 40%, employ managers, and an additional 75 have professional administrators or administrative assistants to the board of selectmen. The state has long provided extensive training for the manager role, particularly in the public administration programs offered through the University of Maine system.

Towns as small as 71 year-round residents (Frye Island) and Amity (pop. 201) employ managers, but the form is not universally accepted. Some larger towns in southern Maine, including Buxton (7,866), Lebanon (5,512) and Hollis (4,114) do not employ any professional manager or assistant, and rely on selectmen for administration. All of Maine's 22 cities have a representative form of government (city council) where the citizens elect a legislative body as opposed to a town meeting where all the residents constitute the legislative body. All of these cities also employ city managers or administrators.

The motivation to adopt the manager form is often financial. With professional administration, communities found that local services could be provided more efficiently and less expensively. In financial terms, the manager functions as a chief financial officer,

coordinating the purchases and activities of the various municipal departments and scrutinizing them through the budget process.

The growing professionalism in municipal government in Maine that began in the 1930s and continued, in various forms, through the 1970s is an outgrowth of the national progressive movement that sought to bring “good government” to the local level, replacing the “spoils system” of patronage developed in the 19th century. This reform movement ushered in such changes as nonpartisan ballots, at-large elections of council members, and the council-manager form of government. Only a handful of municipalities, all of them cities, still have partisan local elections. The town manager form of government is still democratic, since the manager serves at the pleasure of the selectmen, who are in turn elected by the people.

Following World War II, many professional organizations have been created at the national and state level to assist and represent municipalities and the various officials who serve in local government. The Maine Municipal Association, Maine Town and City Management Association, Maine Chapter of the American Public Works Association, and the Maine Chiefs of Police Association are examples of such Maine organizations. They often sponsor professional training and may give technical and legal advice on numerous issues and problems that relate to the specific municipality or department’s mission and responsibilities.

Professional training for a variety of local government posts is offered through the University of Maine System. The University of Maine has the nation’s oldest undergraduate degree program in public management, founded in 1945. The Orono campus added a master’s degree (MPA) in 1968. The University of Southern Maine’s Muskie School of Public Service was first established as a graduate degree program in policy and management in 1984. It now offers training on various public policy issues. Both UM and USM have related doctoral programs designed for advanced students.

Governments Work Together

Until the 20th century, Maine local governments were relatively unaffected by mandates from the state and federal government beyond the basic charges to operate schools, care for the poor and elderly, and maintain roads. The change from a rural-agricultural society to an urban-industrial nation had profound effects on government, however. New industries were started, businesses grew, and trade with the other states flourished. The federal government began to pass new laws to protect the health and welfare of all citizens in the United States. These federal laws often required state governments in turn to provide for the common good of its people. State laws often translated these requirements down to the level of local government.

It was no longer a matter of people in a community deciding what they wanted for themselves at town meeting. They were also being required to take part in state and even national efforts aimed at improving the lives of all citizens. Probably the best examples of these regional or national aims concern public health and the environment.

To help protect the health and environment of the region and nation, the old system of garbage pits, open-burning dumps, and use of rivers as conduits for sewer systems had to be overhauled and systematized. Until the 1960s and the beginning of the contemporary environmental movement, these responsibilities were almost entirely the concern of local government.

Americans reached a consensus that waste disposal was more than a local problem. One town's sewage pouring into a river polluted the stream as it passed through all the towns downstream and on into the ocean. One town's burning dump polluted the air breathed by people for miles around. Water seeping through the dump was polluting drinking water supplies many miles away.

And because polluted air, rivers and coastlines often affected more than one state, pollution became a national issue. As in the development of professional municipal administration, Maine was a

pioneer in influencing national solutions to the problems of solid waste and pollution. Edmund Muskie grew up in Rumford, a paper mill town where, like dozens of others, the river stank and turned various colors whenever the mills discharged. In 1954, he was elected governor as a Democrat at a time when state government was dominated by the Republican Party. After two terms, he decided he could do more to clean up Maine's air and water in Washington, and won a seat in the U.S. Senate, where he served from 1958-80. Working with both Republican and Democratic administrations, Muskie used his chairmanship of the Energy and Commerce Committee to centralize federal environmental programs. His efforts bore fruit through creation of the Environmental Protection Agency shortly after the first Earth Day in 1970. The same year saw passage of the Clean Air and Clean Water Acts that made cleanup of rivers, streams and air important national priorities. By the late 1970s, the construction of massive sewage treatment plants by municipalities and paper mills had such dramatic results that Maine rivers were declared fit for swimming, and native fish began to return in large numbers. Air quality improved, though it has provided much more complex challenges that are still being dealt with today. Muskie's work was carried on by his successor, Sen. George Mitchell, who authored the 1990 Clean Air Act, the last major revision of federal environmental policy up to the present.

Maine took on solid waste disposal as a state priority, centralizing requirements through mandates on municipalities. Over 15 years, all the municipal open-burning dumps were closed, and most communities operate transfer stations to transport waste to a small number of large landfills and incinerators. The state also adopted a goal of recycling 50 percent of its solid waste, which has not yet been achieved.

These are just a few examples of actions taken by different levels of government working together to solve problems for the common good. No single family, neighborhood, town or state, by itself, could

possibly afford to achieve these goals, but as a nation, working together, we could. It was people, through their elected officials, doing something together they could not do by themselves. Maine's example of strong leadership showed that Congress and the Legislature could act together, be an agent for change, and influence their quality of life for the better.

Home Rule Rebounds

The strong trend toward centralization of government authority eventually created a counter-movement at both the national and state levels. “Big government” began to be seen as a problem, and some federal responsibilities – such as housing programs – were terminated and turned over to the states. The federal government had intruded into local decision-making by requiring Special Education programs for students outside the mainstream, in an effort to provide equal educational opportunity for all.

The burdens and expenses created by this approach to government galvanized local authorities to champion “home rule” as an antidote to excessive federal and state mandates. While not specifically mentioned in the original Maine Constitution, home rule protection became a reality through a 1969 constitutional amendment and a number of other key constitutional provisions adopted around this time.

The “home rule” amendment was adopted in 1969, ratified by the voters that November, and went into effect in February 1970. Municipalities were given the right to adopt and to amend their city or town charters and ordinances (local laws) without specific legislative authorization, and the right to govern themselves in any area unless it is prohibited by state or federal law. Municipalities still must seek legislative authorization to incorporate, deorganize or change their boundaries.

Home rule recognized that some concerns of government are strictly local and have no impact outside the community. It also recognized that municipal charters should be tailored to meet the

needs of a specific community, and decisions to adopt or to amend them are best made locally. The home rule movement rekindled civic pride, citizen interest and participation in local affairs. Another significant amendment to the Maine Constitution, passed in 1977, provides that if the Legislature reduces property tax revenues by providing new or expanded property tax exemptions, it must reimburse the affected municipalities by at least 50 percent of this lost revenue. This requirement plays a role in ongoing debates over such levies as the personal property tax on business equipment and the motor vehicle excise tax.

The home rule movement is an example of what President Abraham Lincoln expressed by saying, “Let government do for the people only that which they cannot best possibly do for themselves.” Home rule recognizes a continuing balancing act between the duties and responsibilities of federal, state, regional and local government.

Chapter 3

How Municipalities Are Organized



Maine's geography includes great variety and is one of its trademarks as a state. From rocky coast to vast interior valleys and mountain ranges, Maine's landscape has impressed visitors from the time of the earliest explorers. Maine's municipalities exhibit equal variety. Its largest city, Portland, is one of New England's major statistical metropolitan areas, as defined by the U.S. Census Bureau, yet Maine also has incorporated towns with fewer than 100 residents. It has cities of barely 1,500 people and towns of more than 20,000. In municipal terms, the population remains highly dispersed. Nearly half of Maine's people live in communities with a population of less than 5,000.

The state's 1.3 million people live in 491 organized municipalities, but Maine is unique among eastern states in having half its land mass, more than 10 million acres, in unorganized territory, most of it in the northern and easternmost counties. For the 10,000 people who live in the unorganized townships, taxes are paid to the state. The Land Use Regulation Commission (LURC) establishes basic rules, and services are provided by the state and counties and by contract with nearby towns and school districts. Diversity extends even to the geographic size of municipalities. The largest, the city of Ellsworth, covers 93 square miles, while the town of Randolph, Maine's smallest organized community, is contained within just two square miles.

The early European settlement of Maine followed the coastline and major rivers, and water access still plays a key role in population growth, along with major highways such as Interstate 95. Portland and Searsport prospered as commercial centers because of their deep and safe harbors, and in fact most of Maine's cities are located on major rivers. In the early days these waterways provided the only

source of power for industry and were the primary transportation link with the sea and the outside world.

The availability of other natural resources was another important factor in determining where settlements were established and how they prospered. Some had rich soils for farmland; others were near vast forests for logging and the manufacturing of forest products. Communities located near mountains, lakes and ocean beaches have thrived as vacation and tourist centers, first with the railroads in the 19th century and then with major highways in the 20th century. The rapid construction of the Maine Turnpike after World War II, completed to Portland by 1947, is credited with launching a new boom in summer and all-season recreation that continues to this day.

The dominance of transportation in the location and growth of settlement is striking. The 2000 census showed that 70 percent of Maine's population, nearly a million people, lives in a 40-mile corridor running along I-95 from Kittery to Houlton. Just 7,600 people inhabit the more than 40 percent of the Maine in the northern sections that include over 400 unorganized townships.

A new way of looking at municipalities is the "service center" community, which goes beyond government organization to consider economic function. Service center communities, unlike suburbs or "bedroom communities," are those that combine government, commerce and transportation to serve as hubs of their regions. Reflecting Maine's highly dispersed population, the State Planning Office designates 69 communities as service centers. In Maine, 71 percent of all employment, 74% of all services, such as hospitals, social services, education institutions, cultural activities, and government, and 77% of all retail sales occur within these 69 cities and towns. The service centers are thus the state's "engine of growth," where people work, shop, and seek a wide variety of services.

Recognizing their common interest, many of these municipalities joined forces in 2001 as the Maine Service Center Coalition to bolster the state's urban areas, large and small. Many of these

communities support daytime populations twice the size of their census numbers.

The State of Maine is divided up into 914 minor civil divisions, which include organized units of local government and unorganized territories. The organized units of local government – often referred to as the municipalities – come in just four types: cities, towns, plantations, and Indian Nations. At the beginning of 2005, there were 491 municipalities in Maine. Of the 491 municipalities, 432 are towns, 34 are plantations, 22 are cities, and there are three Indian Nations that also exercise municipal powers, two on the Passamaquoddy reservations and one for the Penobscots. The number of organized units of local government has remained remarkably stable over time. Over the last 50 years, the total number has never varied by more than 10-15 municipalities. During the last half century, a few towns have split into two individual municipalities, in the case of Dover-Foxcroft, two towns merged into one, a few village corporations (generally a built up part of a town) have broken away and formed their own municipality (e.g., Ogunquit separated from Wells in the early 1980s), and a few communities (mostly small plantations) have deorganized. However, there has been far more continuity than change.

Cities

Maine is not known for its cities. There are only three – Portland, Lewiston and Bangor – with as many as 30,000 people, yet during the 19th century acquisition of a city charter was a popular way of asserting civic pride, and the state now has 22 cities. Twenty of them were created during a relatively brief portion of the state’s history, from 1833-1893.

The difficulty of creating sustained growth leading to cities is illustrated by the very first attempt within Maine’s borders. The City of Georgeana, first in all of America, was located in what is now York, but it did not prosper and its legal status was changed to a town, renamed York, when the province of Maine became part of

Massachusetts in 1652.

Portland was the first to gain a city charter from the Legislature, in 1833, followed quickly by Bangor in 1834. A flurry of incorporations took place in the pre-Civil War period that marked the period of Maine's fastest economic growth. From 1847-1855, Bath, Augusta, Gardiner, Belfast, Calais, Hallowell, Rockland, and Biddeford all became cities. Lewiston was a relative latecomer, gaining a charter in 1861. With the incorporation of Eastport in 1893, the 19th century growth of cities came to a halt.

In the 20th century, only two more towns became cities. Reflecting Aroostook County's growth in agriculture and, after World War II, expansion of military bases, Presque Isle became a city in 1940 and Caribou in 1968. The population of the largest city, Portland, is 64,249, while the smallest, Eastport, has 1,549 people. By comparison, the largest town, Brunswick, has 21,242, while Sanford is next at 21,173. In 2000, 344,414 Mainers, just over a quarter of the population, lived in cities.

All cities in Maine have local charters that provide for a representative form of government – meaning they have a city council that serves as the legislative body. Most towns do not have charters, and therefore have the town meeting as their legislative body. A charter is the written, legal body of principles by which a community will govern itself, comparable to the Constitution for the nation and its states. Municipal ordinances are local laws passed within the framework of the charter to meet new situations and concerns. Maine cities have a representative body, usually called a council, elected by, and answerable to, the citizens. At one time, some cities even had a bicameral arrangement similar to the Legislature, which included a board of aldermen. Now, single-chamber councils prevail and most are chosen through non-partisan elections. The office of mayor varies considerably from city to city, with only a few acting as chief executive officer. Some mayors are popularly elected by the vote of the people while others are elected by a vote of their

fellow councilors.

The city council, as a representative form of government, replaces, at least in part, the direct democracy of town meeting. City residents elect the council that establishes policies and oversees day-to-day operations of government. Some cities have an initiative-and-referendum process similar to that of state government, while a few have recall provisions for councilors. The larger size of the typical city means that citizens have decided to sacrifice some degree of direct control for the efficiency and effectiveness of council government.

Towns

Towns remain the cornerstone of Maine local government. As of 2005 there are, 432 towns in Maine of which 182 have fewer than 1,000 residents.

A Maine community becomes a town when it is incorporated by a special act of the Legislature. At that time, it is given certain privileges and responsibilities, and obligations to perform certain duties like all other towns. Under Home Rule, towns may take any action or change their form of government in any way not denied or precluded by state or federal law.

Within Maine towns, village corporations can also be authorized by special acts of the State Legislature. These corporations are commonly established to provide a specific service, such as fire protection or water supply. In this manner, those who use a service pay for it, and rural families who do not benefit from the service are not taxed for it. From the 1830s to the 1930s, more than 124 such village corporations were created by the Legislature. As transportation and construction techniques improved, such isolated systems were seen as less necessary or desirable. Many village corporations have ceased operating. In the early 1980s, Ogunquit became a town in its own right by separating from Wells; and in 1997, Frye Island separated from Standish. In 2000, there were still at least five active village corporations, mostly in small towns along the coast that had to provide services to numerous summer residents.

Governance of towns has expanded from the original board of selectmen to include town managers, town councils, budget committees, municipal departments and various professional managers. In a small number of mostly larger towns, the council exerts legislative control without a town meeting. In others, a ballot vote is used to approve the budget rather than the open town meeting. Within the same legal structure as existed through most of Maine's history, towns have changed and evolved to reflect greater demands and responsibilities.

With the exception of the 19th Century's move toward cities, few towns have changed their boundaries or their status in recent years. Long Island separated from Portland to become a separate town in the late 1990s. Although during the past few decades several towns have started the deorganization process, only a few have seen it to completion. In Franklin County, Madrid, which had 178 residents, deorganized in 1999; and Washington County's Centerville, with just 19 citizens, deorganized in 2004. In the late 1980s and early 1990s, the towns of Benedicta and Greenfield completed the deorganization process. The statutory and procedural requirements for deorganization limit the number of communities that complete the process.

Plantations

Plantations are a type of local government unique to Maine. They originated with the Massachusetts Bay Colony, and were at first intended to be a temporary government to help guide a community in changing from an unincorporated township to an incorporated town. In Maine, they have continued as a basic governmental unit in small rural areas. In 2001, there were still 34 plantations in the state, down from 58 two decades earlier. Plantations are typically rural, heavily forested, and sparsely populated. There is little demand in them for the full menu of public services provided in larger communities.

Plantations are similar to towns in that voters at the annual

meeting are the legislative body. During the meeting, assessors are elected to carry on the daily operation of government and function much as the selectmen in towns, though without that title. Taxes are raised and appropriated and voters are registered.

But plantations are different from towns in two major ways. First, they can be organized merely by a vote of the residents at a meeting called by county commissioners; towns are incorporated by vote of the Legislature. Second, they do not have the powers granted to towns under Maine's Home Rule amendment and statute. For example, the voters in a plantation do not have the authority to enact noise control ordinances.

Plantations seem likely to continue as long as they retain their peculiarly rural nature. In 2001, only 3,338 citizens resided in the 34 plantations in Maine, and two-thirds of the plantations had populations less than 100.

Chapter 4

Forms of Local Government



The primary purpose of local government is to provide public services. Each unit of government must balance what the citizens of a community want for services with how much they are willing to pay for them. Once the legislative body of a community determines the level of services to be provided, the local officials then have the responsibility for providing those services and collecting the taxes and revenues necessary to pay for them. Citizen participation is needed so that municipal officials understand just what citizens want, and what form of government is best suited for the community to enable those officials to accomplish their responsibility.

Maine's 491 plantations, towns, and cities have created a variety of forms of government that continue to evolve to meet the changing needs and demands of citizens. Since the creation of Home Rule by constitutional amendment in 1969, municipal government has become more diverse and varied. Citizens have been empowered to build their local governments from the bottom up. An example is "referendum government" that is being used in over a half-dozen Maine municipalities, including the towns of Jay and York, where citizens vote on their warrant items in the voting booth, rather than at the traditional town meeting. Legislation has created similar opportunities for school districts, and referendum voting on school budgets has been exercised in a number of school administrative districts, or SADs.

Municipal government, like its federal and state counterparts, must be structured to carry out legislative, executive and judicial functions. Its legislative function is to determine what the laws (ordinances) will be; the executive function is to carry out, enforce, and administer those laws; and the judicial function is to settle disputes that arise as laws are enforced. The judicial function does

not involved courts and judges but instead “quasi-judicial” boards or committees, such as planning boards.

To carry on these functions, and meet the needs of its citizens, municipal government in Maine operates under several basic forms of government. The five most common are:

- Town Meeting - Selectmen
- Town Meeting - Selectmen - Manager
- Town Meeting - Council - Manager
- Council - Manager
- Mayor - Council

There are numerous variations within these five forms, but these basic formats cover all but a handful of communities.

Town Meeting - Selectmen

During the more than 300 years it has endured and served towns in New England and throughout Maine, the Town Meeting-Selectmen form of government has often been called the purest form of democracy.

The key to this traditional form of local government is the annual town meeting. It is typically held one day each year, traditionally in March, when the citizens gather in one place to decide the important issues facing the town. Towns that have adopted a July-June fiscal year usually meet in May or June. The issues to be brought before the voters are listed as articles on the warrant, which also announces the time and place of the meeting. At the meeting, votes may be taken only on warrant articles. The first article calls for the election of a moderator, a person chosen to chair the meeting. The moderator has broad powers to regulate the meeting and may even have unruly persons who disrupt the meeting removed.

The town meeting performs the legislative function of local government and each eligible citizen may directly participate in this “peoples’ assembly.” The town meeting passes laws needed for orderly governance, approves a budget, decides the amount of property taxes to be raised, and elects various town officers.

Among the town officers elected at the town meeting, often by ballot preceding the business session, is the board of selectmen, which performs the executive function by administering, enforcing, and carrying out decisions made at the meeting. The selectmen usually number three, five or, in a few cases, seven. Under state law, they have specific duties relating to town meetings and elections, finances, personnel, streets and highways, public safety, human services, public works and planning. State law grants boards of selectmen some legislative powers as well. These include enacting laws or ordinances regulating vehicles, public ways, cable television, and the local welfare program (general assistance).

Other officials often elected by the town meeting include town clerk, tax collector, road commissioner, and treasurer, although in some towns these positions are appointed by the selectmen or town manager. The duties and responsibilities of all these officials are also specified in state law. Particularly in small towns, the board of selectmen often assumes multiple responsibilities. Duties assumed by a board of selectmen might include road commissioner, assessor and overseer of the poor. Where applicable, state law also requires the town meeting to elect a school board, which appoints a superintendent of schools to supervise public education. Regional and community school districts operate separately from the town meeting.

Special town meetings also may be held during the year when the need arises. They are called by the board of selectmen, or by a sufficient number of qualified voters signing a petition.

One of the most important values of the town meeting form of government is that it provides citizens an opportunity to participate directly in governing their community. They truly become “citizen legislators.” In recent decades, there has been widespread concern over lack of attendance at, and participation in, town meetings. Wider use of elections to approve town and school budgets has been one response. However, in 2003, Town Meeting-Selectmen remained

the form of government in 184 Maine towns, and most towns with managers still conduct town meetings as well. The town meeting will probably remain popular in Maine's municipalities for years to come and will likely remain the rule for towns with populations under 2,000.

One unique variation of the Town Meeting-Selectmen form of government was adopted by Sanford, the state's second largest town by population, in 1935. Similar to a form widely used in Massachusetts, it establishes a Representative Town Meeting. Instead of voting directly themselves, citizens elect representatives from a number of districts within the town. While any citizen may speak at the town meeting, only the elected representatives may vote on warrant articles. Sanford remains the only town in Maine to use this form of local government. In 2004, Sanford residents approved a charter change that created a town council form of government with a representative town meeting. Under this new form of government, the representative town meeting must approve the municipal budget; other legislative decisions are made by the town council.

Town Meeting - Selectmen - Manager

As towns grew, it became increasingly difficult for their part-time, elected officials to effectively run town government. To help carry out the daily operations, the board of selectmen hire a town manager, usually a professional trained in public administration.

Even before the statutory Town Manager Plan was authorized by the Legislature in 1939, many Maine communities had already seen the need for professional help and had obtained special legislative approval to hire a manager. By 1932, 11 Maine cities and towns employed managers. The City of Auburn became the first municipality to appoint a manager, in 1917. In 1925, Camden became the first Maine town to adopt this form of government, followed by Fort Fairfield, Mt. Desert, Washburn, Rumford and Dexter.

The Town Manager Plan clearly defines the duties,

responsibilities, and powers of the manager. As administrator of local government, the manager appoints some municipal employees directly and some with the approval of the board of selectmen or council. Towns are also permitted to discontinue some traditionally elected officials, such as clerk, treasurer or tax collector, and give the manager some or all of these responsibilities.

The law gives the manager authority over much of the town's operations. The manager prepares the budget for the selectmen to submit to town meeting, and the manager administers the budget, with the oversight of the selectmen, following town meeting approval. The manager reports to the board of selectmen and may be removed by the board according to provisions of the state law and any contractual agreement. The manager administers all municipal operations, but not the public schools, which are separately controlled by a school board and superintendent.

With the passage of Home Rule, Maine's cities and towns gained the authority to adopt by local charter any form of government employing a town/city manager. Thus, a town also has the option of choosing the statutory Town Manager Plan or of setting forth its own list of duties and responsibilities for the manager in the local charter.

In the Town Meeting-Selectmen-Manager form of government, the legislative and executive functions of government remain divided. The town meeting continues as the legislative body, determining what laws should govern the town and where the money is to be spent. The board of selectmen is the executive body, but it now has a single chief administrator, the manager, to supervise daily operations.

There are many variations of this form of government within Maine communities. Towns have considerable flexibility in determining which offices will be under the town manager, which departments the manager will head, which departments have a separate person in charge reporting to the manager, and which offices will be elected at town meeting.

A few communities share a town manager. Sometimes called a

“circuit-riding” manager, this person administers the operations of government in more than one community. This variation is usually found in smaller towns that cannot afford a professional administrator on their own. By joining together and paying the manager collectively, the towns can obtain the professional assistance they need.

One professional manager has served the towns of Castle Hill, Mapleton and Chapman for many years; another serves the towns of Merrill and Smyrna. The largest of these towns is Mapleton with a population of 1,889 and the smallest is Merrill with 249. Other communities have considered adopting this variation of the town manager system. Small communities also seek professional help on their own. Towns as small as Amity (pop. 201), Blaine (832) and Carrabassett Valley (406) employ managers, some of them part time. Other, larger towns, continue to rely on selectmen, although often the “first” selectmen carries out administrative duties. These include Buxton (pop. 7,866) Hollis (4,114) and Lebanon (5,512).

Another variation of the manager form of government is in effect in towns where the selectmen have hired a full or part-time administrative assistant (AA). These assistants are generally hired by the selectmen to advise them on specific matters, often finances. There is no state law providing for an administrative assistant, and the responsibilities and duties of administrative assistants vary from town to town, depending on what authority is given to them by the board of selectmen. This variation has proved to be a popular alternative to the manager form, and has been employed by an increasing number of towns. A 2003 report showed 75 communities using the Town Meeting-Selectmen-Administrative Assistant option.

In all, 223 towns – almost half – were using managers, town administrators or administrative assistants in 2003.

Town Meeting - Council - Manager

This form of government differs from Town Meeting-Selectmen-Manager in that some legislative functions are exercised by the town

meeting and some by the council. In communities with this variation, most legislative functions regarding the budget are reserved for the town meeting. The council exercises legislative functions regarding ordinances. In this form, the council serves the executive function as well as exercising certain legislative responsibilities. In 2003, 18 Maine communities were operating under this form of government.

A similar variation of this form of government is the Financial Town Meeting-Council-Manager system. In this form, the town meeting votes only on the budget, and the council exercises all other legislative functions. Veazie, Hermon, Yarmouth and Sanford (with its Representative Town Meeting) are four municipalities that have adopted this system.

All of these forms of local government retain the town meeting and entrust at least part of the legislative function to citizens who participate and vote at town meeting. The limits on the pure town meeting form are usually made so decisions can be made more efficiently and economically. Citizens in mostly-larger communities have been willing to give up direct control through the representative form of government familiar at the state and national level. Citizens still retain a measure of local control through the ballot box, and continue to employ a mix of direct and representative democracy.

Council - Manager

The Council-Manager form is the most popular municipal government option used in the United States, and is used in Maine in those communities that have dropped the town meeting form, including all of Maine's cities and several towns. Unlike town meeting government, which existed at statehood, the council form must be adopted through a local charter.

In this form, the council is the elected body of government and serves both legislative and executive functions. The number of council members varies, but most communities elect five, seven, or nine. The method of election also varies. Most communities elect

councilors “at-large,” meaning citizens vote for candidates regardless of where they live in the community. In some communities, councilors are elected from wards – electoral subdivisions of the city or town – and only the voters in that ward elect the person to represent them on the council. Some have a mixture of councilors elected by wards and at-large.

In some of the Council-Manager communities in Maine, the mayor is elected directly by the voters to be the council’s presiding officer. More commonly, the mayor is a council member elected to the position by the other councilors. However chosen, the mayor serves as the presiding officer and represents the council on ceremonial occasions. Most mayors in the Council-Manager communities have neither special administrative duties nor appointive powers. In a few Maine cities, the mayor does have appointive powers, although appointments are often subject to council approval.

In performing its legislative and executive functions, the council sets policies that govern the community and hires a manager to carry them out. The councilors are answerable to the people who elect them. Citizens unhappy with the decisions of the council may replace councilors at the next election, or, in a few instances, recall sitting councilors. The appointed manager is answerable to the council. If the council becomes dissatisfied with the manager’s performance, there are legal procedures that must be followed for the manager’s removal, similarly to those governing managers under boards of selectmen.

By 2003, 18 Maine cities and a small number of towns had adopted the Council-Manager form of government.

Mayor - Council

Only in Westbrook is the mayor given substantial administrative authority through the municipal charter. There is in Westbrook a professional administrator who works for the mayor, but the city government’s administrative authority resides with the mayor. Until

a charter change voted in November, 2005, the City of Waterville also had administrative authority vested in the elected mayor.

The Mayor-Council form of government, where the mayor is the chief elected and chief administrative official, is quite common outside of Maine. Several Maine communities elect mayors, but only one has a “strong mayor”. The term “strong mayor” is often used to distinguish a chief elected official in a community with a town or city council, who has administrative responsibilities by local charter, from chief elected officials who have little or no administrative authority.

Lewiston is an example of the changing structures that can develop within the forms of local government in Maine. Lewiston’s initial system was unique in Maine, and perhaps the nation. It was once described “as a government of 37 legs and no head,” by the late Dr. Edward Dow of the Political Science Department at the University of Maine. Government administration and finance rested with six boards and commissions with five members each, a seven-member council, and a mayor.

Since 1980, Lewiston’s city government has been a Mayor-Council-City Administrator form of government. The new charter passed in 1979 by Lewiston voters brought in a Council-Administrator government, superceding most of the mayor’s previous responsibilities. As in other cities, a professional administrator is now responsible for supervising departments and producing and executing the budget. The administrator, who does not have the title of manager, reports to the city council, whose members are elected to two-year terms.

Lewiston’s changing governmental structure illustrates that after Home Rule was instituted, more and more communities acted as architects, designing organizational structures to meet varying needs. Revisions of city charters have become more common. Augusta has made two major revisions to its charter, in the first instance replacing

an all-ward system of electing councilors with four ward representatives and three at-large members. A second charter commission further revised election districts. Augusta's mayor is separately elected by the voters, can veto council actions, and also may vote to break ties.

In other larger cities, such as Portland and Bangor, the mayor is elected among the membership of the council. Portland specifies a one-year term for mayor and has rejected a citizen initiative to directly elect the mayor. In these cities, the city manager performs a larger executive role, and the council performs a primarily legislative function. Eastport is unique among Maine cities in not designating a mayor, while Pittsfield is a town that nonetheless does choose a mayor. In Eastport, the highest elected official is the city council chairman.

Partisan elections have become a rarity in Maine's local contests, but they continue in the three of the four cities that began with "strong" mayors – Biddeford, Waterville, and Westbrook.

The term "hybrid" has begun to be used more frequently with various forms of city and town government, because of the newfound freedom at the community level to design unique adaptations of familiar local government forms. Such experiments will no doubt continue in the future as the competing needs of citizens and taxpayers find new expression.

Chapter 5

What Local Governments Do



Many of the things people need are too expensive or complicated to be provided individually. Most parents, on their own, could not provide an adequate education for their children. Individuals could certainly not build and maintain a road from their home to their workplace. And to ensure the safety and protection of families against crime or fire, professional help is needed. By combining their resources and working together, people in a community can obtain these important services.

Of all levels of government, municipal government has the most direct role in providing visible services within a community. But in some instances, even the resources pooled within the community are insufficient to meet a particular need. Cooperation within a larger context than one community is necessary. Such cooperation may take place with county, state, or federal governments or by communities forming a regional school district or other special purpose districts, such as sewer or water districts. This chapter focuses on the specific services provided by municipalities, and how the major tasks are accomplished.

Although providing services is not the whole of what local government does, it is its most important and recognizable function. Local government provides services demanded by citizens at a cost they believe they can afford. Since citizens are the beneficiaries of municipal services, their participation is vital in deciding what the community's wants and needs are for the present and future. Government services change depending on location, population and changes in the community itself. Whether a community has 100 residents or several thousand, is located on the coast or in the mountains, it will only get the services from the local government that its citizens want and for which they are willing to pay, except

those required by state or federal law.

Population and employment have a major impact on what services a community can afford, and a declining job base will ultimately affect what municipalities can offer in services. The 2000 Census found a continued migration of people from northern and eastern Maine toward the coastal and southern coastal counties. While Maine as a whole has shown slow growth, some counties have lost population, and the state's population has become older. There has been widespread concern about the loss of young people and families to other states. Overall, the counties of Aroostook, Penobscot, Piscataquis and Washington lost 6 percent of their population from 1990-2000, while the two southernmost counties, York and Cumberland, grew by 11 percent, adding 45,000 people. Population losses and demographic shifts have revived an interest in regional cooperation to offer services, with discussion of school district organization, public safety services, and other municipal functions continuing in many parts of the state.

Assessing and Taxing Property

The most basic function of local government may also be its least popular — assessing property and collecting taxes. While no one likes paying taxes, without revenue government could provide no services, and its ability to provide services is limited by the amount of money it receives from taxes.

All governments rely on a number of different taxes for their revenues, but in Maine, the property tax is by far the most important source of revenue for local governments. In fact, the property tax supplies more than half the revenue needed to operate local governments in Maine. Various state aid programs and the motor vehicle excise tax, reserved exclusively for local use, make up most of the balance. Property taxes make up more than 85 percent of the revenue municipalities collect themselves.

The legislative body of the community — the town meeting or the council — determines annually what amount of money will be

needed to operate the local government. It is then the assessors' duty to set the tax rate, or the "mill" rate (Latin for "one thousandth") needed to raise the amount the legislative body has determined. At a mill rate of one, a property owner would have to pay one dollar in taxes for every thousand dollars of property valuation. If the mill rate is 20, and a property is valued at \$60,000, the owner would owe \$1,200 (\$20 per \$1,000 in value). Since municipal appropriations and the amount of taxable property change annually, the mill rate often does too. There can be significant differences in tax bills for similar properties in different communities across the state.

All organized communities in Maine have their own tax assessors. If they are elected, there will be a board of three, five or seven. In many communities, selectmen also serve as assessors. Some communities, however, prefer to have a single assessor appointed by the selectmen or council. Many communities are now hiring certified Maine assessors, from the private sector or as town employees, to work as assessor's agents under the direction of the board of assessors. The State Tax Assessor, through the Property Tax Division of Maine Revenue Services, assesses property in the unorganized territory, and the State Treasurer's Office collects the taxes.

The property taxed to provide local revenues includes real property, such as land and buildings, and personal property, such as business machinery and equipment.

Before property can be taxed, it must be assessed to determine fair market value. If a fair price to sell an acre of land is \$1,000, it will be assessed at that value. Municipal assessments may be based on 100 percent of the property's value or based on a fraction of full value as long as all property in the municipality is being assessed equally at this percentage of market value. For example, if a town's assessment were at 80 percent of fair market value, then a \$10,000 lot would be taxed on a value of \$8,000. According to state law, local assessments are supposed to be maintained at no less than 70 percent of full value.

Maine Revenue Services (formerly the Bureau of Taxation)

monitors each municipality's assessment practices and compares municipal assessed values with actual sales prices. Through this sales analysis process, MRS is able to determine each municipality's total taxable value if it were assessing all property at 100% of market value. The municipality's "equalized" State Valuation is used to determine the distribution of state aid to each municipality and the amount of county taxes a community pays. State valuations also serve as a guideline for local assessors to see where the municipal valuation is relative to market value.

State valuations are deployed through formulas to determine General Purpose Aid to Education, general assistance reimbursement, municipal revenue sharing, and each municipality's financial obligation to support county government. In 2005, the state was expected to distribute \$836 million in K-12 education subsidies and \$115 million in revenue sharing among Maine's 491 municipalities.

Additional municipal revenue sources include the excise taxes collected on registered vehicles, including trucks, cars, watercraft and airplanes; fee collections, such as marriage licenses; and other state and federal funds.

Property Tax Exemptions

Property tax exemptions relieve their owners from the necessity of paying taxes on a given parcel of land and its buildings. Exemptions are granted to properties owned by the federal, state, county and municipal governments, public airports, sewage and water facilities, charitable institutions, churches, colleges (literary and scientific institutions), veteran service clubs, and other designated properties. With the exception of the property owned by the federal government, all of these exemptions are the result of state laws.

According to the Maine Revenue Services' 2005 Municipal Valuation Return Statistical Summary, \$13.6 billion worth of property in Maine was exempt from taxation. Of that \$13.6 billion figure, \$8.1 billion was property owned by government. The federal government exemption totaled \$3.6 billion, the state \$1.1 billion,

and local governments \$3.5 billion. The remaining \$5.5 billion, or 40 percent of the exempt total, was owned by private corporations and institutions. The total taxable property in Maine in 2005 was \$115.6 billion, so just over 10 percent of all property is tax-exempt.

Had this \$13.6 billion in property been taxed, an additional \$189 million would have been collected. Considering only private or charitable exempt property, an additional \$76 million in property taxes would have been collected.

Municipalities now enjoy some protection against further loss of revenue should the state grant additional property tax exemptions. According to a state constitutional amendment adopted by voters in November 1978, state government must fund through non-property tax sources 50 percent of any future exemptions granted by the Legislature.

While the state does supply substantial aid to municipalities, its laws also mandate significant local expenditures for education and other programs that directly contribute to rising property taxes. The Legislature has created additional tax relief programs including the “Circuit Breaker” property tax and rent rebate program (formally known as the Maine Resident Property Tax Program) for qualifying individuals whose property taxes (or a portion of their rent) exceed 4 percent of their income, and the homestead exemption, which exempts a portion of the value of Maine residents’ primary residence.

Mandated services are those that one level of government requires another to provide. Examples of federal mandates on states and municipalities include the conduct of elections (Helping America Vote Act), special education services, and the No Child Left Behind Act, which requires states and local schools districts to conduct educational tests and set graduation requirements. Extensive water, stormwater and wastewater environmental mandates are also established by the federal government. State mandates require municipalities to provide adequate K-12 public education, facilities for solid waste disposal, general assistance for people in need, road

maintenance, certain levels of land use regulation, building inspections, and health protection services. Although the state requires these services, and may set a minimum level, each community determines the methods used to provide them.

In most Maine communities, education is by far the largest municipal expense, followed by public works, police and fire protection.

Administrative Services

The board of selectmen, and in many communities town or city managers, provide the administration that makes possible the delivery of municipal government services. Other municipal officials are engaged in primarily administrative services. Clerks record vital statistics and supervise elections, while assessors and treasurers levy and collect various taxes.

Each municipality must also furnish an annual report. The report includes a list of all financial transactions, a statement of assets and liabilities, and a report by an auditor of the municipality's finances. The annual report also contains a list of delinquent taxpayers and the amount of taxes they owe. Copies of the report must be made available at least three days before the town meeting. Communities without a town meeting have no deadline for publication. Most communities now include much more information than the state requires. Typically included are reports by selectmen or councilors, department heads and other officials. Photographs and historical notes may also be featured.

Functional Services

Functional services provided by local government are those directly affecting individuals, and go beyond administration and record keeping. Clearing snow from the streets is an important functional service in most municipalities, for instance. While each municipality decides what services it provides, most such services can be categorized under public safety, public works, social services, and

recreation.

Public Safety

Police and fire departments provide for the safety of the citizens of a community, but the type and extent of services varies widely from one Maine community to another. Despite these differences, each community tries to respond to the particular needs identified by its citizens.

At one end of the scale, Portland, Maine's largest city with 64,249 people, has a fire department consisting of no fewer than eight divisions: administration, fire prevention, firefighting, fireboat, signal system, apparatus maintenance, building maintenance, and hydrants. Portland has nine fire stations and a staff of 232. The 2001 municipal fire budget was \$11.2 million.

Maine's small towns face a different situation. Until 1973, the town of Monticello, in Aroostook County, with a population of 790, did not have any fire department. It relied on the fire departments of neighboring communities. But in 1970, the townspeople decided that they wanted their own fire protection, and began to organize a volunteer fire department. It now has its own fire station, four trucks, and 34 volunteer firefighters. The budget in 2001 for the volunteer department was \$11,500.

Citizens in Portland and Monticello decided that they needed fire protection and have provided the necessary money for different levels of services. In 2001, Portland paid \$175 per capita for fire protection, and Monticello paid \$15.

The importance of local police and fire services is illustrated most prominently during local disasters and periods of crisis that develop regionally or nationally. The January 1998 ice storm demonstrated the importance of local emergency services. Events such as the September 11 terrorist attacks made the case for preparedness even more vividly. Despite whatever state, national and international responses are required, local police and fire departments provide front line protection from natural or human-caused disasters, and must

work effectively with their counterparts at other levels of government. Although it often goes unnoticed, Maine's local fire departments have integrated into a large network through hundreds of "mutual aid" agreements to ensure that public emergencies requiring a combined response will be addressed, without relying solely on a centrally organized public safety response system.

Public Works/Solid Waste

All organized Maine communities provide road and street construction, repair and maintenance. Municipalities also have the responsibility of ensuring that their residents have a way of disposing solid waste. Except for education, roads and solid waste services combined are the most expensive service delivered by local governments in Maine.

Winter and summer road maintenance and solid waste operations typically are provided through the local public works department. Additionally, larger municipal public works crews often take care of sewers, drains, sidewalks, and trees.

Building and maintaining adequate roads is a year-round activity. In the warm months, roads must be swept and tarred, old culverts replaced, potholes repaired, signs and posts installed, lines painted, roadsides mowed and gravel roads graded. Sometimes, roads need to be completely reconstructed or new roads built. In the winter, roads must be plowed, salted and sanded, snow fences erected, and snow removed in densely developed areas. Throughout the year trucks, loaders, and graders must be maintained, and salt and sand collected and stored.

In Maine, local governments take care of some 13,800 miles of roads and streets, greater than the 8,000 miles maintained by the state; towns and cities also plow some state roads in winter. End to end, these roads and streets would provide a four-lane highway from Maine to California. Maintaining roads and streets costs Maine's local governments more than \$140 million annually.

Again, municipalities have different approaches to meeting local

needs. The city of Lewiston maintains 195 miles of roads, employs 131 people in its public works department, operates over 175 vehicles, and maintains 105 vehicles from other departments. The department's annual budget is \$6.5 million.

By contrast, the town of Randolph, geographically the smallest community in Maine with just two square miles, needs only one part-time employee, one vehicle, and a budget of \$11,408 to maintain seven miles of roads.

Solid waste management services also vary depending on the size of the municipality, the attitudes of the citizenry concerning recycling and the availability of private sector involvement in providing such services.

Maine's approach to solid waste management has evolved from burning the garbage at open dump sites up until the late 1950s, then burying the trash in landfills during the 60s, 70s and early 80s, and finally building waste-to-energy incinerators in the 1980s, closing old landfills, and in a few cases replacing them with lined landfills. During the late 1980s, there was a strong push from state government to set up recycling programs to reduce the amount of waste that needed to be incinerated or buried in landfills.

The private sector is heavily involved in solid waste management in Maine. In small towns, local trash haulers are predominately used by residents who don't take their trash themselves to the transfer station or landfill. Two of the four waste-to-energy plants were built and operated by private companies – one has since turned over the operation to a quasi-municipal group. The other two incinerators, Regional Waste Systems and Mid-Maine Waste Action Corp., were set up as quasi-municipal operations with several municipalities joining together to build and operate the facilities. Around 70 percent of Maine's solid waste, not recycled, is sent to one of the four waste-to-energy incinerators. Maine also has two privately owned landfills and a third landfill that is owned by the state but leased and operated by a private waste management company. In 2005, there

were eight municipal landfills remaining in the state.

Public Transportation

Public transportation in Maine is limited but growing. Established programs exist within the larger communities and the more densely populated areas. Public bus programs include The Metro in Greater Portland, and The Bus or BAT in six communities around Bangor. Since 2001, the publicly supported Downeaster, with Amtrak train service to New Hampshire and Boston, has left Portland four times daily, with stops in Saco, Old Orchard Beach and Wells.

A seasonal program has also been successful on Mount Desert Island. The Island Explorer operates 17 propane-powered buses, originally from late June through Labor Day, with service extended in 2003 through Columbus Day. The bus service is free and ridership has grown from 193,000 in the 2000 season to 340,000 in 2003. It is considered a model program for reduction of air pollution and vehicle congestion around national parks, and is supported by the U.S. Department of Transportation, National Park Service, Maine DOT, and also receives annual support from each town on MDI, Friends of Acadia, and local businesses.

Maine DOT also operates the Maine State Ferry Service, which has long provided access to the island towns of Vinalhaven, North Haven, Matinicus, Islesboro, Swans Island, and Frenchboro. The ferry service has been described as the “water highway” of Maine, and in one recent year transported 191,207 vehicles and 513,718 passengers.

Social Services

Municipal governments are required by state law to provide basic general assistance to citizens of their communities who are in need, with state reimbursement for a portion of the benefits issued. While the state law sets minimum standards, it is up to the various local governments to raise the money and to establish methods for providing services. General assistance is intended to ensure that all

needy persons and families have at least the essentials for adequate health and decency, including shelter, food, heating fuel, clothing, and medicine.

Another “human service” provided by local government is appointment of a health officer. This person is responsible for assuring that the community maintains a healthy environment for its citizens.

The needs of elderly citizens have provided the impetus for greater local efforts, as advances in science, medicine and health have enabled more people to live longer than ever before. Local governments have been faced with a new challenge of providing for the special needs of older citizens, including housing, health, transportation and safety.

Recreation

Recreation services vary significantly from one community to another. Communities decide for themselves what type of recreational services they want to offer.

In the cities and larger towns, a recreation department, sometimes with a full-time director, takes charge of recreation programs, independently and in conjunction with local schools. In addition, department personnel maintain recreational buildings, playgrounds and parks.

Some recreational programs have become quite extensive. In 2001 Auburn, population 23,203, had 12 full-time recreation employees and spent more than \$450,000. Many sports are offered, including football, basketball, baseball, bowling, skiing, hockey, figure skating, indoor and outdoor tennis, softball, and volleyball. Cultural programs in music and arts and crafts are offered, and there are special events for young and old throughout the year. Auburn purchased a surplus building from the state, and converted it into a recreation center offering programs for citizens of all ages.

Small towns find ways to provide recreation, too. In Jonesboro, population 594, the town spent just \$100 on recreation in 2001,

with no paid staff. Instead, as in many small towns, volunteers and private community organizations, such as athletic associations, sports clubs, or the Lions Club, provide public recreation opportunities. Jonesboro supports its recreation programs through fund drives, bake sales, tag days, and contributions from private individuals and organizations, not through taxes.

Community Planning and Sustainable Growth

Municipal government is more than a provider of a wide variety of specific services; it also performs important functions in planning and development review. Local governments fulfill their responsibilities in a variety of ways as they attempt to preserve their historical heritage and plan for the future. As development becomes larger and more sophisticated, it is increasingly important for communities to establish a vision of their future and an orderly process to cope with and manage growth.

Comprehensive Planning

Community planning is not an easy task, but it is an important one. The goal of planning is to create a better community, one that is a healthier, more attractive, more convenient, and a safer place in which to live and work. Comprehensive planning in a community ideally includes human, physical, social and economic factors. Without such broad discussion, a plan may be too limited or one-sided.

Most, though not all, local governments have a planning board whose major duty is to help plan and regulate the growth of a community. The planning board or another appointed committee works to devise a comprehensive plan, sometimes called a master plan, for the community. This comprehensive plan is a public document that includes a review of physical, economic and human resources. It also sets forth goals that will guide the community long-term. The plan attempts to balance concern for the environment with concern for the community's economic and cultural well-being.

Developing an effective plan, requires three steps:

- 1) an inventory is taken of all items a community has going for it (assets) and against it (liabilities);
- 2) the needs and desires of the community are assessed, based on existing conditions and the community's potential, and the resulting plan assesses what is necessary for sound growth; and
- 3) finally, a good plan provides for implementation, along with suggestions on how to design and pay for new initiatives.

In developing a comprehensive community plan, many factors have to be considered by the planning board or comprehensive planning committee.

One factor is population. How fast is the population growing, or declining, and are such trends likely to continue? Who makes up the population? Are they mostly young or elderly? Are the workers unskilled or skilled?

Another important factor is how the land in the community should be used. Plans generally designate lands within five categories: residential, agricultural, industrial, commercial, and shoreland.

Towns with an industrial and commercial base have different growth needs than primarily bedroom communities. Housing will take different forms in densely developed towns and cities than in dispersed rural communities. Commercial areas will vary widely in size and extent, depending on work, shopping and commuting patterns.

Transportation is another key driving force behind planning. Are the streets safely planned and are there enough of them? Is there enough parking and is it located where it is needed? Local government plays a lead role in determining the need, and providing for community infrastructure.

Consideration should be given to the community's history. Comprehensive plans provide an ideal forum to discuss how the community's heritage can be preserved for future generations. Parks and open space should also be considered.

By focusing on existing commercial and industrial property, and its possible future reuse and expansion, a community can be in the position of planning future development, rather than being dependent on what proposals are brought before the planning board. Transitions from a primarily industrial to a service economy can be effectively dealt with through planning. Towns can discover whether they want to welcome certain types of development and seek it out by consulting the community as a whole. Creating a healthy and diversified tax base is one of the goals of a well-designed plan.

Since passage of the Growth Management Act of 1988, the state has taken an increasing interest in comprehensive plans, and the State Planning Office reviews many local plans to certify their compliance with state planning goals. The courts have also provided increased scrutiny to comprehensive plans in recent years, and have ruled that it is a municipal responsibility to provide ordinances that facilitate the objectives contained in the plan.

Zoning

While theories of planning and land use have changed over the generations, zoning ordinances are still frequently a part of how comprehensive planning is translated in specific building and development regulations in a community. Zoning came relatively late to Maine, but as of 1983, when Augusta passed its first zoning ordinance, all major cities and most larger towns have used zoning to regulate development. The link of zoning to comprehensive planning has been required as a matter of case law (court decisions) since the early 1900's. The link between zoning and planning was made explicit by the Legislature in 1973, when it required any municipality considering zoning to first adopt a comprehensive plan.

Comprehensive planning and zoning are ideas that took time to win acceptance in Maine. Some saw land use regulations as taking away their freedom to do what they wished with private property. But as towns grew, it became increasingly clear that what one person did

with property could have a serious impact on neighbors and on the whole community. Careful planning and zoning, developed through a democratic process, can protect property owners against incompatible uses. A community with zoning offers homeowners in a residential neighborhood assurance that they won't wake up one morning to find a chemical plant being built next door. Planning and zoning can maintain property values and solidify neighborhoods.

A zoning ordinance establishes zones, or areas of the community, where specific activities are either permitted or prohibited. These typically include residential, commercial, agricultural, industrial, and other purposes.

Zoning ordinances, along with building codes, also mandate standards for construction, height, width, number of stories, area and bulk of structures. They may also deal with lot sizes and open space, population density, and the setback of structures from rights-of-way and other property.

After a community has been divided into zoning districts, the ordinance must define permitted and prohibited uses. Zoning applications typically go to the planning board for an initial decision. If applicants don't agree with the planning board's decision, they may appeal to a local board of appeals, whose decisions may also be reviewed by the court system. Landowners are permitted reasonable use of their property within the regulatory system established by state and local governments.

Zoning was adopted first in larger communities, and by 2001, all municipalities in Maine with populations of 10,000 or more had municipal-wide zoning ordinances. Smaller towns can also suffer adverse consequences from development, particularly if their open space proves attractive to a large developer. Only 15 percent of municipalities with populations under 500 had adopted town-wide zoning by 2001.

If properly designed, a zoning ordinance can prevent poor development, preserve a community's unique character and heritage,

and help maintain its overall well-being.

Community/Economic Development

Deciding how fast and to what extent a community will grow is an important consideration for municipal leaders. Two key factors must be weighed before determining a community's potential for economic development. First, the citizens' desire for economic growth must be measured; second, the community's ability to support growth and development with its infrastructure and municipal services should be analyzed. These two factors are likely to change over time; therefore, periodic reassessment is necessary.

Perhaps the best evidence of changes in economic development patterns can be found in farming. In 1880 there were 64,300 farms in Maine. By 1950, there were only 30,300 farms and in 1960 there were 18,900. By 2000, only 5,810 farms were left, not all of them full-time operations. In the past century, the number of acres in farmland has been reduced by more than 80 percent.

More recently, the industries that largely replaced farming in employing large numbers of workers have themselves begun to decline, and the state, like most of its neighbors, has been developing a "service economy" (as opposed to a manufacturing or agricultural economy) as its primary means of employment. While siting of major new industries still occurs, it is less likely to be presented to a municipal planning board than a large retail complex or residential subdivision. Such planning decisions can affect a community's makeup, tax base, and way of life for years to come.

Communities, particularly in southern Maine, which experienced unplanned rapid growth, are other examples of the need for planning. The changes in previously rural communities in York and Cumberland counties beginning in the 1980s forced them to provide new services. Constructing streets, sewers, water lines, schools, and public safety buildings costs a great deal of money, and municipal tax rates increased as a result. Many such towns have subsequently adopted growth controls in the form of limits on building permits.

The courts have found such controls acceptable, but only in conjunction with a comprehensive plan that provides for fair access to building permits and a diversified housing stock.

Community planning can often prevent sudden and expensive demands for services. It allows a community to grow in an orderly manner and better afford increased services.

State and Federal Laws

Local boards do not work in isolation in planning for their communities. Numerous federal and state laws affect and in some cases limit the ability of a community to make decisions about the future. Conversely, federal and state grants can also help communities plan for their future. Environmental protection, solid waste disposal, shoreland zoning and subdivision rules are the primary focus of such state and federal laws.

Maine has a statewide site plan review law that regulates major development proposals, such as those covering 20 acres or more, or involving structures covering more than three acres. It also has a law that requires zoning control over all shoreland areas, even in towns without any other zoning regulations or even a local planning board. All municipalities in Maine are also required to regulate subdivision activity.

To assist local planning boards in complying with these and other laws, a few communities hire professional planners for technical advice, and most seek help from their regional planning commissions or councils of government, which also receive state or federal funding.

Regional planning commissions were established in 1969, as part of a federal initiative from the Economic Development Administration. By 1977, 80 percent of communities had joined a regional commission, some of which are known as councils of governments. The establishment of state and federal assistance also coincided with the growth of local planning boards. In 1968, only 47 percent of Maine municipalities had a planning board, but by 1977

more than 90 percent did.

Ultimately, plans for the future development of communities need to come from the citizens. Broad public participation is essential not only for comprehensive plans to be properly devised, but to work well over time in each community.

Chapter 6

Interlocal and Regional Cooperation



No single municipal government on its own could ever provide its citizens with all the services and programs they need and want. Solutions to such problems as crime, air and water pollution, and inadequate transportation require resources that are beyond the capacity of any single community. Since these types of problems affect everyone, governments work together in attempting to solve them.

Sometimes problems are big enough that it takes all levels of government — municipal, regional, county, state, and federal — to craft solutions. Any time two or more governments join in a common effort, they are engaged in intergovernmental activity, using cooperative arrangements to achieve a specific goal.

Interlocal Agreements

Agreements between communities are the most common way municipal governments join together to provide various services too costly for them to provide individually. Informal agreements can be created quickly since they do not require approval of the voters, or change the structure of the governments involved.

Local governments contracting with other towns, counties, or the private sector to provide services is a voluntary arrangement that has seen increasing use. Municipalities contract with each other for the joint provision of services. In some instances, these arrangements grow out of informal mutual aid pacts, especially for police and fire protection, into a more formal written contract between two or more local governments. To gain efficiencies, small towns may elect to cooperate with larger communities, councils of government, and counties for certain services. Surveys of local officials indicate that a third of communities with town or city managers use joint service or

purchasing agreements as a “major” strategy, while another 29 percent employ it as a “minor” strategy.

Most interlocal cooperation involves one of two types of arrangements: joint agreements or service contracts. In a joint agreement, the participating governments divide the services to be provided amongst themselves. Under a service contract, one governmental entity agrees to buy a service from another government for a given amount of money or other consideration. Typical service contracts are in public safety and solid waste disposal.

Local governments often take advantage of interlocal agreements. A good example is the cooperation between governments demonstrated in Alna, Westport Island, and Wiscasset. For many years, Westport Island contracted to use the Wiscasset landfill. When that landfill, like most municipal dumps, was closed, Westport elected to use the Wiscasset transfer station. Alna decided to close its landfill and it, too, contracted to use the Wiscasset transfer station. Together these communities have been able to offer their citizens solid waste disposal more efficiently. The same three communities also have a mutual aid fire agreement and are served by the same ambulance service.

Lewiston and Auburn have numerous examples of interlocal cooperation. These two cities jointly own and operate an industrial park and an airport. They also have a joint dispatching operation for emergency calls.

Special Purpose Districts

Sometimes community needs are so specialized that the local government cannot meet them. In such cases, a special district government can be established. These governments are called “special purpose districts” because they are created to deliver a specific service. Special purpose districts are created by law as separate governmental entities, with the legal authority to levy taxes or fees, sign contracts for services, and buy and sell property. They also have their own

administrators. Most special purpose districts in Maine are created to provide sanitation, water, solid waste disposal and education.

Water districts are established by a special act of the Legislature, which must approve any changes in their charters. Sanitary districts may be created by a special legislative act or under a procedure set out in general law. The governing body of these districts may be elected by the people within the district or appointed by the relevant municipal officials.

Light and power districts are established by special acts of the Legislature, but such districts must also be approved by vote of the citizens within the district. The administrative body of these special districts is an elected board of trustees. While many years ago this was a common service provided by the public sector in Maine, the number of municipal light and power districts has been steadily declining to where only a couple of them now exist.

Special purpose districts often work together with other districts and levels of government to achieve broader goals and provide better services in a wider area. The Augusta area offers a successful example. The Augusta Sanitary District was supervising a big and expensive sewage treatment plant capable of handling much more sewage than Augusta produced on its own. Working with the Winthrop, Manchester and Monmouth Sanitary Districts, a trunk line was built to pump more than two million gallons of sewage per day from those communities to the Augusta treatment plant. The Augusta Sanitary District became more efficient and gained new revenue because it was working closer to plant capacity. And it was a great help to the other communities, which gained sewage treatment capacity without having to build their own plants.

Another good example is in the Rockport area. In the early 1990s, Rockport did not have its own municipal sewer service. In the more populated areas of Rockport, waste was handled by private septic systems, many of which were malfunctioning, or by untreated discharges into Penobscot Bay. Meanwhile, Rockland and Camden

had excess capacity at their wastewater treatment facilities. Rather than constructing its own treatment plant, Rockport, with federal and state grants, constructed a new collection system that pumps wastewater from various parts of town to either Rockland or Camden. Rockport solved a troubling environmental problem economically, while Rockland and Camden benefited from additional users who helped pay for the system.

School Districts

As the most expensive and perhaps most important service provided by local government, K-12 education has a unique status among governmental functions provided at the local level.

Local school systems come in four types: school administrative districts (SADs), community school districts (CSDs), school unions and municipal school systems. The SADs and CSDs are separate legal entities from city or town government.

In smaller towns that have their own school system or are part of a school union, the school board, or committee, prepares the budget and presents it directly to town meeting, usually without the direct involvement of selectmen. Even in large communities, where the town or city council has final say over both school and municipal budgets, the school board usually presents the budget independently, and it is responsible for making any adjustments voted by the council. Each school system must employ its own superintendent, and even towns without their own schools are required to provide professional school administration. Schools are perhaps the only municipal service specifically provided for in Maine's constitution, which charges the Legislature to require "the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools."

Over the decades, the state has also come to play a major role in the organization of school systems, providing rules for what is taught, and in funding their operations. Under terms of a 2004 referendum

vote, the state is required each year to provide 55 percent of the total state and combined local cost of kindergarten through grade 12 public education. In addition, the state has traditionally paid the entire employer cost of teacher retirement. The state administers standardized tests known as the Maine Educational Assessment (MEAs), outlines curriculum standards in the Learning Results, fingerprints teachers as a condition of employment, and sets standards for local funding under Essential Programs and Services guidelines. The EPS system has also been combined with a new school funding formula that substitutes local tax effort – a designated mill rate raised for education — for the previous system based on property valuation and personal income, combined with the number of students.

Like the other municipal services provided in Maine, schools have changed greatly over the years. Large school systems have employed their own superintendents for many years. In the 1930s, the state required all towns to seek the services of professional administrators, which led to formation of school unions – towns that operate their own independent school systems, but share a superintendent in common. Many unions still exist in rural areas.

Starting in the 1950s, the state authorized the creation of formal regional school districts under the Sinclair Act, known as school administrative districts. Some 77 such districts have been formed over the years, though not all are regional and some have ceased operations. An SAD, as they are commonly known, has a single school board and budget, and bills member towns according to a formal cost-sharing agreement that until recently was developed locally, as a matter of mutual agreement, but that now is determined as a matter of state law.

At the time most SADs were formed – roughly a 10-year period following passing of the Sinclair Act in 1957 – Maine’s school enrollment was growing rapidly as a result of the baby boom, there was widespread interest in creating comprehensive high schools in all

part of the state, and regionalization was seen as improving education.

In the 1960s, the Legislature provided another form of interlocal cooperation for schooling called the community school district. Under this form, several towns, often members of an existing school union, jointly operate particular schools – usually a high school or a high school and middle school – while retaining their own elementary school and their own school board. Each town remains responsible for its own school budget, with expenses for the joint school apportioned according to a cost-sharing system now determined by state law. A CSD board, similar to a school union board, is drawn from the membership of each municipality’s school board to oversee the common school.

Governance of SADs and CSDs requires proportional representation under the U.S. Supreme Court’s “one person, one vote” doctrine. The number of board members in SADs is based on a community’s population.

Some 15 CSDs have been created, with all but one organized by the mid-1970s. In the 1990s, one existing SAD (Camden-Rockport) joined with three rural neighbors to create the Five Town CSD. Otherwise, school district organization has changed very little over the last 30 years, although a number of municipalities have explored withdrawing from existing SADs. Despite these efforts to create larger, consolidated districts, most municipalities continue to operate their own school systems, particularly their elementary schools, with 285 school administrative units serving the state’s 491 municipalities.

Regional Councils

As part of efforts in the 1960s and ’70s to expand the federal government’s reach into new policy areas, include housing, public safety, the environment and planning, states were provided funding to create regional councils that in many states were attached to county government or existing regional authorities. In Maine, they

were given independent status. After some reorganization, there are now 11 regional councils covering most of the state. Some are called regional planning commissions, such as the Southern Maine Regional Planning Commission, serving York County, and others are called councils of governments, such as the Kennebec Valley Council of Governments, serving central Maine. In all, there are four COGs and seven regional planning commissions.

These commissions still rely primarily on federal funding to accomplish their missions, plus dues from member municipalities. The regional councils are strictly advisory and cooperative. They cannot levy taxes or independently establish or enforce land use laws.

Regional planning districts were established around the major river basins to assist communities in planning orderly growth, coordinating government programs, and promoting economic development. In general, the regional councils hire staff and focus on activities where they find a demand for services.

The planning role is the most extensive. Regional councils can write comprehensive plans for their districts and assist communities in writing applications for federal and state grants to combat air and water pollution and dispose of solid waste. They help their communities with their growth management responsibilities and shoreland zoning. Communities vote on whether or not they wish to participate. If they do, the selectmen or council appoints representatives to the regional council's governing board.

Soil and Water Conservation Districts are similar to the regional councils in that they are advisory. If 25 or more landowners within a given area sign a petition, the State Conservation Commission holds a public hearing to determine whether or not to establish a conservation district. If, after a referendum election, a district is established, it is governed by five supervisors who direct the voluntary programs offered to all levels of government in the district, and to individuals. The programs provide technical assistance in conservation practices, flood prevention, and land use. In addition,

districts can offer some financial aid through the U.S. Department of Agriculture to control soil erosion.

County Government

County government in America was adapted from the British system of “shires.” It was established in Maine from the county system in Massachusetts. There, counties had been created primarily for operating a system of courts statewide. Maine laws enacted by the first Legislature carried on the county system.

County government in many states, particularly those of the South and West, has extensive legislative and executive powers, operating schools, public safety agencies and other services that in Maine are seen as municipal. In New England, town government developed earlier than county government, and county governments were granted authority only for specific tasks by the Legislature. There are no home rule provisions in the state Constitution for counties similar to those provided for municipalities.

As the state’s population grew, the Legislature established new counties until, by the mid-19th century, there were the 16 counties we know today. The state also designated a community to serve as the county seat or “shire town.” Each Maine county has a courthouse, and all but one a jail in the county seat. Sometimes, the county seat is also the largest municipality, as with Portland in Cumberland County. In other cases, it is simply near the geographic center, as with Alfred in York County. In keeping with the model of counties as a subdivision of state government, the Legislature also originally established the positions that would administer counties, salaries that would be paid, and the terms of office for each position.

The citizens in each county typically elect three commissioners (in York County five are elected) to administer the county government. In addition, counties have a treasurer, sheriff, judge of probate, register of probate and a register of deeds, all of them elected. The former county court system and county attorneys have

been adapted or replaced by the state. Courts are now a part of an integrated system with District Courts, Superior Courts and a Supreme Judicial Court. District attorneys, also elected, serve a single county, as with York and Cumberland, or up to four smaller counties in a single district. In all, there are eight district attorneys.

The communities within each county finance their county government through a county tax in proportion to taxable property valuation. Originally, the Legislature had to approve each county's budget, a process that became increasingly cumbersome as county budgets grew in size and complexity. Starting in the 1980s, the Legislature began devolving the budget process, and each county now has its own individual budget process, and adopts its own budget. Some counties elect budget committees while others have appointed finance committees or advisory budget committees. In some instances, the budget committees have substantial influence; in others, they are strictly advisory.

By the 1970s, the growth of both the state and federal governments put the need for county government into question. With the absorption or adaptation of the county court and prosecutor systems, the major services provided by counties were sheriff's patrols and jails. Many municipalities were expanding their police departments and saw less need for services from the sheriff's department. Counties also continue to maintain the traditional registry of deeds and probate courts. Property transfers within each county are recorded at the registry and certain property tax disputes are heard by the county commissioners.

Legislation to make county jails part of the state system was introduced repeatedly in the 1980s. Legislative attempts to abolish county government in Maine also failed over the past few decades. Some New England states, notably Connecticut and Rhode Island, had abolished county government except for its administrative boundaries, and Massachusetts reduced county government functions.

The federal government began cutting back support for direct services, declaring a “new federalism,” and the state became preoccupied with filling gaps created by federal withdrawals, notably in housing and urban development programs. Most counties, meanwhile, began rebuilding and expanding their jails to comply with state directives. By the 1990s, discussion of abolishing counties had waned, and the costs of providing services had become a new focal point. Although the counties assess a proportion of property taxes directly, the taxes are actually collected by municipalities.

In part because of the higher operating costs of state prisons, the state began encouraging counties to expand jails rather than turn them over to state supervision. The need to provide policing for growing suburban and rural communities placed greater demands on sheriff’s patrols. And programs such as E-911 to electronically identify callers for emergency response prompted discussion of a new dispatching system, with counties playing a larger role and, along with State Police, absorbing municipal dispatch centers. The Legislature has directed that Maine’s existing 46 dispatch centers be reduced to 24, with consolidation at the state and county level expected.

Partly in response to questions about its financial management, county government also began seeking more professional administration. Six counties now have full-time managers, and Knox County has joined Aroostook County in adopting a charter giving commissioners greater responsibilities.

Like municipal government, each county provides a different roster of services. Some are the home for regional non-profit social service providers. Some offer regional public safety dispatching services, while others house agricultural county extension offices. Cumberland County owns a civic center in Portland, home to a minor league hockey team and a major stage for concerts and other events.

Penobscot County has been a leader in implementing the

enhanced 911 System for dispatching emergency services. Unlike Cumberland County, which maintains 14 separate dispatch centers, Penobscot, the state's third largest county, dispatches all police, fire, and ambulance services for all of Penobscot County except for Bangor, Lincoln and Old Town. Old Town uses the State Police dispatch center located there, and Bangor continues to discuss joining the county center. Currently participating are the city of Brewer, 50 towns, 11 plantations, and 42 unorganized townships. All participating municipalities realize savings from operating at a single location.

Lincoln County became the site for an innovative effort to comply with the federal Clean Air Act of 1970, authored by Maine's Sen. Edmund Muskie and passed by Congress. In addition to regulating pollution by industry, the Clean Air Act provided that all municipal or private open burning dumps be closed. Open burning was particularly common in rural Maine, and most municipalities operated their own dumps.

While regional solutions to ultimate disposal in incinerators or large landfills became common statewide, Lincoln County towns were unique in deciding to join together for recycling and waste collection. Federal grants were instrumental in helping build transfer stations, which elsewhere in Maine supported larger numbers of smaller facilities. The Lincoln regional collection system continues, and provides an example of how municipalities can function together at the county level.

Regionalism

For the first time since the 1970s, regional initiatives have gained increasing prominence in recent years. While it has yet to produce numerous tangible results, discussions of regional cooperation have certainly increased. The Legislature created a Joint Select Committee on Regionalization and Community Cooperation in 2004, succeeded by a permanent Intergovernmental Advisory Commission. The school funding referendum of the same year contained a fund to

encourage both municipal and school regional efforts.

The state's effort to centralize dispatch services includes a state, county and municipal center at the new State Police headquarters in Augusta, also authorized by legislation.

In the November 2004 election, Lincoln and Sagadahoc County voters approved construction of the first two-county jail, Sagadahoc being the one county previously without its own jail.

All over Maine, municipalities and school districts are discussing different forms of regional cooperation, from expanded school districts to increased use of purchasing cooperatives. While formation of new or merged governmental entities is clearly some way off, the renewed emphasis on regionalism has at least the potential for reshaping the way local government is organized, and how it delivers public services.

Chapter 7

Federal & State Government Relations



State Authority

When the delegates from the original 13 colonies met to draft a constitution for their new nation, two things were foremost in their minds — forming a union and distributing power. They wanted to draft a document that would guarantee the nation’s survival, and that the liberty for which Americans had fought so hard and so long would endure for future generations.

Having experienced the tyranny of monarchs, delegates were careful about granting too much power to the federal government. They delegated to it only those powers they felt could not be exercised by the individual states. Powers delegated to the federal government included establishing a uniform currency, creating a judicial system, providing for the common defense and domestic tranquility, making treaties with other nations, and levying and collecting taxes.

The first Congress of the United States was so concerned with clearly defining the rights of states and individuals that it submitted the first 10 amendments to the Constitution to the states for ratification. These amendments are now called the Bill of Rights, and significant among these rights is Article X: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.”

It was established early in American government and remains so today that the federal government is granted the power to do those things it can best do for all the American people. But individual states kept the right and power to do what they can best do for their citizens.

All states have adopted a constitution that provides for the

election of a governor who will be the chief executive officer of the state, and a Legislature, usually consisting of two houses — a House of Representatives and a Senate. The state constitutions also permit establishment of government agencies to carry out the programs and to deliver the services mandated by the Legislature.

State government plays the pivotal role in intergovernmental relations. It often serves as a direct link for municipal and county governments to the federal government in delivery of public services financed by federal funds. Municipal and county governments must maintain close relations with state government so that services and programs required of them by the Legislature are efficiently fulfilled.

For example, Maine law requires that each municipality ensure that people's basic necessities, such as food and shelter, are met. Municipalities establish basic guidelines for this safety-net program known as general assistance. The federal government provides aid under many separate welfare programs, including one now known as Temporary Aid to Needy Families (TANF). The TANF program is administered through the State Department of Human Services; however, it is administered according to federal, not state, guidelines. In Maine, state government plays a pivotal role in administering the major federal health and human service programs, including TANF and Medicaid. The role of Maine municipalities in providing or financing health and human service programs is limited.

The expanding role of the federal government that began after World War II and accelerated in the 1960s and 1970s has fundamentally altered the relationships of governments at all levels. State governments have also seen their roles expanded, and work in partnership with federal and municipal governments in various domains. The federal government has become involved in new fields, including arts and culture, environment, energy, transportation, health and human services, community development, housing, parks and recreation. Included are laws, rules, regulations – and, sometimes, money.

Federal Authority

The federal government assumed a far more expansive role by the mid-20th century than it had played a hundred years earlier, when its principal revenue source came from tariffs, and most domestic affairs were the concern of state and local authorities. The 10th Amendment notwithstanding, financial aid provided by the federal budget to state and local governments is the “big business” of intergovernmental relations — big in terms of the money provided, in the way this affects state and local spending decisions, and in the delivery of services at all levels.

Today, there are few services provided by state and local governments that are not in some way affected by the federal government, and governments at all levels have become increasingly interdependent.

One key milestone in the expansion of federal authority came in 1913 when the required three-quarters of the states ratified the 16th Amendment to the Constitution, authorizing the Congress to lay and collect income taxes using graduated rates. As federal taxes began to become a more important part of providing government services, it became important for federal programs to be provided fairly among the states, communities, and individual citizens.

When the Great Depression hit the nation in the 1930s, the federal government undertook many programs states could not afford on their own. It was during this period that the federal government began to recognize most clearly that some citizens and institutions required special programs and services designed to provide for the common good of the nation. Known collectively as the New Deal, the measures included legislation to:

- Provide employment in public works, such as building roads and bridges.

- Assist farmers through federal guarantees of bank loans, and price support for various crops and commodities.

- Stabilize the banking system through deposit insurance and

federal regulation designed to ensure solvency.

— Provide electricity service throughout rural America, which had not yet benefited from the electric grids set up in cities.

— Create the Social Security system, which originally provided old age pensions and later disability insurance to all qualifying workers and their families, and assisted states in providing a permanent unemployment insurance system.

— Standardize employment practices through the Fair Labor Standards Act, which set a minimum wage and maximum hours for employees in companies engaged in interstate commerce.

Since the Depression, the federal government has continued to identify new social needs and create new programs.

Intergovernmental relations have thus become vital to programs and services at all levels.

In the post-World War II period, the federal government assumed major responsibilities in housing, transportation and health care. Housing became a pressing concern with the post-war economic boom, and publicly owned and subsidized apartments became common in all major cities, peaking with the “urban renewal” programs of the 1960s. The first federal motor fuel tax was enacted in 1955 to finance the Interstate Highway System, a nationwide system of free, limited access roads, and federal transportation bills are now a major support for state and local highway, rail, port and transit programs. The 1960s also saw passage of Medicare for those 65 and older, financed through the federal payroll tax, and Medicaid, for lower income citizens, paid for through a combination of federal and state general revenues.

When federal commitments are cut back, this often means just a shift in responsibility and financing to the state or local governments. In the 1980s, federal housing programs were reduced sharply, but this government role has in part been assumed by states, in Maine through creation of the Maine State Housing Authority.

By 2000, direct federal aid to local and state governments totaled

more than \$242 billion a year, with more than one billion dollars coming into Maine. Between a quarter and a third of all money spent by state government originates with federal sources. That is 30 times more federal aid than local and state governments received in 1960, and three times the federal assistance received in 1978. Despite reports of a “new federalism” and proclaimed limits on federal authority, there is little sign that Washington has actually become less important in the affairs of states and municipalities, and thus of the citizens they serve.

The \$242 billion sent to state and local governments in 2000 by the federal budget amounted to more than 10 percent of federal spending, and represents 21 percent of combined state and local budgets. Federal aid is now distributed through more than 1,000 programs by 63 federal agencies.

Local Concerns

To say that governments are interdependent does not mean that the relationships between them always work smoothly. Municipalities have a different perspective on state programs and offerings than they do on the programs and requirements of the federal government.

The connection of a state law to a local program is usually direct and visible to all concerned. When, for instance, the state banned open burning dumps and, later, required towns to discontinue open salt and sand piles for winter road maintenance, it did so after full discussion, if not full agreement, with municipal representatives. While there are often additional municipal costs involved, they are usually subject to cost-sharing between different levels of government. In the case of salt and sand sheds, the state has been willing to go back and review the mandates in a way that focuses on potential environmental harm while removing some of the burden on local budgets.

Many state legislators are former municipal officials themselves, and the Legislature in general is comfortable with the input of

municipal officials, both in the form of representation through the statewide municipal association and other municipal groups, and by direct contact between lawmakers and selectmen, councilors and managers. While the Legislature is in session, such contacts are frequent, even daily, and the various parties come to know each other face to face.

Dealing with the federal government is much different for municipalities. Not only are personal contacts much less frequent, but there are not the same effective links between state and national legislators that there are, in Maine, between municipal and state officials. The National Governors Association and the National Conference of State Legislatures have become more prominent in recent years, but they do not provide the kind of immediate contact with Congress that would help shape legislation of interest to state and local governments, and those they represent.

The No Child Left Behind Act is an example of recent federal legislation that is broad and sweeping, setting new standards of educational accountability, down to the level of classrooms and even individual student performance. It was enacted, however, without significant participation from the states and local school districts that are supposed to carry out the law. As a result, there have been numerous questions about how to align state and national requirements, how tests are supposed to be designed, and how teachers are supposed to be trained. Several states have filed lawsuits in order to relax NCLB standards and address funding shortfalls, and few state education departments are satisfied their questions have been answered. It is difficult to imagine the Legislature in Maine passing a similar law without greater local consultation and involvement.

Grants and Assistance

Federal financial assistance is provided to local and state governments through two different kinds of grants.

Categorical grants, the oldest and largest form of federal assistance, are provided through no less than 800 programs. These grants, defined and apportioned by law, are to be used by local and state governments for specific purposes in transportation, agriculture, education, environmental protection, housing, health care, social welfare, and unemployment. An example of a categorical grant is the federal funding, along with state matching funds, that is made available to build municipal sewage treatment plants.

Block grants provide considerably more discretion to state and local government in how funds can be used. Block grants enable states and communities to determine their own priorities and meet what they consider to be the most pressing needs. In 2000, block grants were available for providing health care, controlling crime, retraining workers, promoting community and economic development, and developing plans to deliver health and human services. With a block grant, for instance, one community might decide federal assistance could best be used for improving the training of police officers, while another community might want to hire personnel for community policing efforts. Such uses of federal funds are appropriate under the Local Law Enforcement Block Grant Program.

Some federal programs involve a mix of categorical and block grants. Under the Medicaid program, for instance, states are required to provide certain services to all citizens enrolled in the program. Other services, such as prescription drug discounts, eye care and dentistry, are discretionary, and may be provided by states which then gain additional federal funding for these purposes. In 2003, Maine began a program called Dirigo Health, which expanded enrollment in the state Medicaid, or MaineCare, program and is designed to change the way health services are provided.

Competition for federal grants increased among community, county and state governments in the 1960s and became especially fierce in the 1970s. States and municipalities began hiring and

contracting for grant writers and specialists. In many cases, state agencies act as an intermediary for municipalities seeking discretionary federal assistance; in others, federal funding is provided directly to the municipality. Federal grants often require state, local or private matching funds, adding additional complexity and sometimes expense to local budgets.

In the heyday of block grants, the federal government provided nearly no-strings-attached funding through revenue sharing. As tax cuts became a popular cause in the 1980s, however, federal revenue sharing ended and block grants became less common. There are still dozens of federal grant programs remaining, some of them recent, and it seems certain that the federal government will continue a key role in financing state and some local programs.

The tension over the appropriate federal role is evident in the proportion of federal expenditures devoted to state and local aid in recent decades. By the 1970s, the high water mark for federal involvement in domestic programs, some 15.5 percent of federal spending went directly to state and local governments.

In the 1980s, cutbacks in state and local aid, and a corresponding buildup in federal defense spending, resulted in a decrease to just 10.8 percent of federal expenditures apportioned to state and local governments. The trend reversed again during the 1990s, with new federal-state initiatives in health care and other programs, paired with declining defense spending, resulting in 15 percent of federal spending going to state and local aid by 1997.

The new century may provide yet another pendulum swing. The national response to terrorism and military action abroad, and the funding required, have begun to constrict the domestic programs that are provided in partnership with state and local governments.

Mandates

In the 1960s and 1970s, the federal government showed a lot of interest in both program development and funding in areas that

previously had been considered a state or local government responsibility. But with funding, particularly in the case of categorical grants, came rules and regulations, some of which states and local governments have found unwelcome or even onerous.

Two examples come from education, a field long left to the states and local school districts, even after the federal role was expanded in other areas.

In 1970, the federal law providing for equal educational opportunity for all students, which has come to be known as special education, set up a complex series of guidelines and requirements for local school districts. Each student who qualifies must have an individual education plan, and school districts must hire additional personnel to provide these services. The 1970 law envisioned direct federal support amounting to 40 percent of special education costs, but actual funding has been far less – generally no more than half that amount, and frequently below that level.

The No Child Left Behind Act of 2001 mandated an extensive regimen of standardized testing and high school graduation standards. While still being implemented, many states have asserted that the promised federal funding under the law has not been forthcoming.

Maine municipalities concerned about escalating state demands were successful in promoting two state constitutional amendments that to some degree protect their interests. One requires that bills that impose responsibilities on municipalities requiring additional local expenditures must be passed by two-thirds of both houses of the Legislature unless the state provides 90 percent of the required funding. Another specifies that municipalities must be reimbursed by the state for at least 50 percent of lost property tax revenues from new or expanded property tax exemptions. To date, there has been no equivalent effort to prevent unfunded mandates at the federal level.

The emerging priorities of the federal government over the past 30 years have tended to distance federal policy from the domestic

concerns which are the nearly exclusive focus of state and local government. The recognized federal role in shaping the economy, the long debate over taxes, the federal debt and annual budget deficits, and maintenance of a large national defense establishment that has fought wars in each of the last six decades, are all developments that have tended to set Washington apart from state and local government.

Without significant consultation, the federal government has attached various requirements to state and local grants to promote its vision of the general welfare. Among the best known are restrictions on federal transportation funding to promote highway safety through uniform speed limits on interstate highways and the use of seat belts. Requirements under the special education laws and NCLB are other far-reaching mandates.

It is safe to say that over the past half century, the relationship of federal, state and local governments has become more important, complex and, at times, contentious. What are perceived as the proper boundaries for various governments continue to change as part of a process of legislation and negotiations whose end is nowhere in sight.

While voters elect others to represent them at all levels of government – federal, state and local – the system cannot work well without the active participation of an informed citizenry. In many Maine communities, voters also have the responsibility of direct democracy through town meeting, where each vote counts equally and each voice can be heard.

While voting itself is often assumed to be an uncontested right of adulthood, this was not always the case. At the time the federal Constitution was ratified, women could not vote, nor could slaves or most non-European males. In many states, a man had to own property to vote. Over time, and through a series of constitutional amendments, the voting franchise has been expanded to include all but a small number of citizens.

Since 1971, when the voting age was lowered from 21 to 18, the major requirements for voting are that the person:

- 1) Be a citizen of the United States,
- 2) Be 18 years old or older, and
- 3) Be registered to vote.

While the United States is the oldest democratic nation with a written constitution, worries about the lack of exercise of citizen rights have a long history. In part because of a lack of strong identification with political parties, voting frequency is among the lowest of democracies in the developed world, just over half of those eligible, even in presidential elections – though the most recent election in 2004 did show increased participation.

In Maine, concern about participation at town meetings is also widespread, with a few towns abandoning meetings altogether, and others taking steps to diminish the central role of a gathering of citizens, such as approving budgets through a referendum ballot. In

some towns, such as those with a rapidly growing or changing population, town meeting participation has dropped markedly, at least as a percentage of the total voting population.

These concerns are based on a simple observation about representative government. Without broad participation in decision-making, there is no guarantee that government can actually carry out the wishes of those it represents. Whatever the causes of non-voting – and they appear to be complex and variable – the burden on those who do serve in government is much greater when they cannot receive a clear verdict on their actions from their constituents.

Maine stands ahead of many states in making it easy to vote, and in encouraging voting and participation. Through such innovations as election day registration, uniform polling hours and numerous polling places, Maine has regularly ranked among the top two or three states for presidential year turnout. In 2000, when 54.3 percent of the nation's eligible voters cast ballots, 67.3 percent of Mainers did, second among the 50 states. In 2004, national participation rose to 59.6 percent, and Maine's did too, to 73.7 percent, the highest rate of voting ever recorded by the Secretary of State's office in a statewide election.

In other respects, Maine grants broad access to the ballot. It is one of only two New England states, along with Massachusetts, that allows citizens to enact laws through the initiative and referendum process. If 10 percent of those who voted in the last gubernatorial election sign petitions to change a law or enact a new one, the question appears on the next statewide ballot unless the Legislature adopts it in the same form as presented.

Town meeting, of course, provides opportunities for citizen action on any issue coming before the meeting as a warrant article. But in larger towns and cities, a charter often provides for an initiative and referendum process similar to the state's. Voters often can review and reject actions of the city or town council, including decisions to sell municipal property and adopt new ordinances.

Still, local elections, unless they coincide with state and national elections, often draw far fewer voters, raising questions of just how representative they are. When issues or candidates are controversial, turnout is far greater, indicating that voters do see the need to participate in local elections when they believe something important is at stake.

A number of attempts have been made in recent years to encourage voting and participation in government by reaching out to the young people who will be tomorrow's voters.

At the State House and in several town and city halls, student government days provide opportunities to elect classmates to play the roles of various government positions. In the community versions, elected students spend an entire day with a municipal official, such as the manager, police chief or selectman. They discuss current issues of importance and are invited to ask questions. These may include whether the community should hire another police officer, buy a fire truck, resurface more streets, establish a recycling program, or change the form of government. At the end of the day, those students elected to the legislative body meet and vote on the issues.

Renewed interest in civics education and the lack of specific curriculum standards prompted the Legislature to include new requirements in 1997 as recommended by the Learning Results Task Force. For the first time, Maine's primary and secondary school students and their teachers have standards based on specific results that guide their progress. The Maine Learning Results standards aim to increase students' understanding of their civic responsibility and strengthen awareness of local government.

Such understanding is vital but not always sufficient. Voting can be effective in guiding representative government only when there are candidates and this, too, can sometimes be a problem. Several years ago in the town of Sweden, all three selectmen had resigned prior to town meeting. The seven persons nominated to fill those positions at town meeting all declined. The town then had to call a special town

meeting a week later, at which three persons were found who agreed to serve, and were quickly nominated and elected. A number of small towns have deorganized or considered doing so in part because of the difficulty in finding enough people willing to serve. Only when qualified citizens accept the responsibility of public office can the people be said to be adequately represented.

Voting alone is not the only ingredient required for effective government. A local government depends on both the elected leadership and appointed administrators and how these people work together as a team. If a community has an inappropriate form of government, even the most qualified people may struggle to make it function. If it has the right form, but unqualified people serving, the chances of success are still not good. Effective government requires periodic review of both the form of local government and how those charged with carrying out the will of the people discharge those responsibilities.

Getting Involved

Policymaking is a broad subject in which the details are of critical importance. While town meetings and, in larger communities, public hearings may be sufficient to establish general direction, only through the working of administrative boards and committees are these policies translated into specific decisions.

This is as true of local government as it is at the state and national levels. If a municipal government is going to meet the needs of its citizens, it is essential that its officials know what those needs are. The need for services in a community is expressed through public discussion. Discussion may take place at public hearings or at regularly scheduled meetings of the selectmen, city council, or school board.

For citizens to have an impact on the decisions made by the people they have elected, they must participate in these public discussions. This requires regular attendance at public hearings and

meetings of the governing body and the town meeting. It means stating opinions on matters of concern to others in the community.

The democratic system of government works through majority rule. Citizen participation and involvement is especially important because it is often the majority of those who participate who actually make decisions. For instance, a group of 50 citizens might attend a town council meeting and demand the town government create a new recreation program. It could be that the majority of all citizens would not support such a program, but unless they participate, the council might conclude the program has broad public support.

When citizens in a community join together as a group to petition their government, they are often labeled as a “special interest.” As a descriptive term, this is what they are. Since everyone has special needs, though, special interests are a predictable and legitimate part of the process of policymaking. A family with children will likely be more concerned about a community’s education, recreation and health programs than a family with no children. Similarly, older citizens in a community will be more interested in public transportation and affordable housing than many of the middle-aged citizens. By making their needs known and understood, such groups can help elected officials create the proper balance, making intelligent decisions about which services should be available within limited resources.

Some of the most active groups in community politics represent economic interests, such as chambers of commerce, boards of realtors, merchant associations, and business groups promoting economic development. Civic and social groups, like Kiwanis, Lions, Rotary, Jaycees and the local PTA, can also influence government decisions. In Maine, such groups are numerous, diverse in mission and effectiveness, and provide many opportunities for citizens who want to become involved in improving their community. Working within a group is a significant means of citizen participation.

Volunteering to Serve

Service in government is another important way to participate. There are many appointed and volunteer positions without which local government simply could not function.

Most small communities have volunteer fire departments. They generally require some support from the town budget, yet volunteer departments provide important fire protection services. Volunteers not only undergo training and fight fires, but also equip vehicles and erect firehouses. Fundraising events often involve the entire community, and the citizen firefighters may be one of the most important groups in town.

Another local government service that thrives on, and depends on, volunteer efforts is community planning. The planning and zoning boards themselves require much volunteer time and effort in reviewing development proposals to ensure their conformity with ordinances and other legal requirements. When a community is designing or updating a comprehensive plan, the circle of volunteers is often much broader.

Some communities have involved literally hundreds of citizens in subcommittees that consider each part of a comprehensive plan, studying land use, housing, conservation, recreation, public services, transportation and other community needs. Such a process is often lengthy and even tedious, but communities that use this method produce plans that not only promote sound growth and development, but incorporate community needs and goals in a way impossible for a small planning board or single town meeting to accomplish.

Running for office is perhaps the most important way to serve. Some municipalities have many elective offices, others only a few. In some, elected positions are filled by consensus, while others feature lively contests almost every year. Regardless of how much or little competition there is, those elected serve at the pleasure of the people. They hold the key responsibilities of government, and must be the

most responsive to public opinion as expressed in meetings, hearings and other forums.

The number of elective offices in each community varies considerably, and is related, in large part, to the availability of professional administrators. Population is a general gauge for the level of administration needed. In small communities, elected town clerks, tax collectors, and selectmen are sometimes the only administrators required. Larger communities, however, have more appointed administrators because their operations are more complex and require more people with knowledge and background in specific areas. Voters may elect only selectmen or councilors, who appoint or approve the department heads who carry out the workings of municipal government. Good government occurs when citizens actively participate and administrators and elected officials understand and fulfill their roles.

Whatever the size of a community, a lack of candidates for local office can be a serious problem, since elected officials must devote long hours to town business and receive little financial reward. Finding dedicated and capable citizens to seek election is often not easy.

This is why it is important for communities to cultivate public attendance and participation in town and council meetings, and volunteer service on boards and commissions. Citizens who become involved in this way are the most likely to be good candidates for office, and to serve effectively once elected.

Electing good candidates is not enough, though. While most elected officials are conscientious people who want to make decisions they feel are in the best interests of the community, they would like their decisions to be based on discussions with citizens who participate in public meetings. When few persons attend and even fewer speak out, a gap opens between the people and their elected representatives. While helpful, letters to the editor and phone calls from those most directly affected by an issue cannot provide an

overall sense of community opinion. Elected officials sometimes feel they are making decisions in a vacuum, acting more as trustees than as true representatives. Only significant citizen participation can close this gap.

Townpeople Assembled

While all forms of municipal government are significant, the one that must be singled out for special attention is town meeting, one of the rare forms of direct democracy still present in contemporary times. Town meetings can justly be called the “purest form of democracy,” because citizens, not their representatives, participate directly in the making of laws and the raising and spending of taxes.

The decline of town meeting is, however, an old subject in Maine. In the *Maine Almanac*, published in 1978, Jim Brunelle summarized prevailing opinion: “To many students of government the town meeting has become obsolete, little more than a ceremonial holdover from older times, kept on more for sentimental reasons than anything else. What was once considered the purest form of participatory democracy, they say, has become only a ritualistic drama ... in which the script remains unchanged from year to year.” He goes on to observe that “Voter apathy has been particularly observable in the larger communities. The pressures of the 20th century are apparently moving against the town meeting. Some believe it will soon disappear from the Maine scene, the victim of voter neglect and the need to find more efficient methods of conducting municipal affairs.” Yet the writer is not quite convinced. “In more than 300 Maine communities which still cling to this traditional form of local government, the town meeting is a readily available electoral steam valve, where any voter can stand up and call his elected officials on the carpet to explain just how his tax dollars are being spent.”

A pithy explanation of why people should participate in town meetings was included in a Biddeford *Journal Tribune* editorial from

March 23, 1994:

“If you ask why town meetings are so poorly attended, people will tell you they go if there’s something exciting on the warrant. They’ve been watching too much television. When it comes to doing your civic duty (which is the key to accountability in self-government) there’s no room for channel surfing. On town meeting day, town meeting is the only show in town.

“Or they’ll say town meeting is held at the wrong time, or that there’s too many issues decided by secret ballot, or that the selectmen do what they want no matter what people say. Well, the way to get things changed (including town meeting scheduling and secret ballot votes) is to attend town meeting and put up a fuss ... The purest form of democracy is participatory democracy, in which you put your butt in the chair and you have your say and cast your vote on every last blessed item on the warrant ... You might slip out for a coffee or a smoke, but you don’t slip out for the whole day. If you do you’re part of the problem and somebody else is going to solve it.”

Writing in 2005, newspaper columnist and former selectman George Smith renewed the theme of obsolescence: “It is the dinosaur of democracy, a dying tradition peculiar to New England. Life without the annual town meeting is unthinkable, but too many people are thinking they can do without it. In central Maine, the virulent anti-meeting virus has spread through the population and no antidote appears available. Some towns are going to secret ballots for budget and other issues, content in the theory that the town’s business is best done in secret, away from the public debate and discourse that is traditionally featured at the town meeting.”

In many Maine towns the annual town meeting tradition continues. In Strong, voters still recess the meeting for lunch. “For 105 years the menu has not changed: baked beans, brown bread, hot dogs, coleslaw, rolls, pickles and homemade pies.” Writer Smith defends town meeting vigorously, opining, “The issue is community – something we are steadily losing all over Maine. The chance to get

off our couches, break out of our cabins and spending a day discoursing with our neighbors is what makes this annual tradition so special.” He concludes, “In the United States, we have never been intimidated from standing up and being counted. And that is what town meetings are all about.”

While the health of the town meeting tradition continues to be debated, town meeting itself is largely intact. Participation is open to every voting citizen in town, and others may observe the proceedings.

What happens at town meeting is sometimes confusing, but there are rules of procedure. A moderator is elected at the outset, and runs the meeting. The moderator is familiar with parliamentary procedures to keep the meeting moving forward until all of the warrant articles, or items of business, have been acted upon. Voters may not talk without being recognized by the moderator. If an item of business is not on the warrant, town meeting cannot act on it.

It is customary for the moderator to read the article aloud and ask if someone will make a motion; usually someone will respond by saying “I move the article;” the moderator then asks, “Is there is a second?” Someone will usually respond, “I second the motion.” This formality sets the stage for discussion. The moderator then rereads the motion and calls for a vote. The best approach in opposing an article is to move the article, call for a vote, and vote against it.

Sometimes, during the discussion, someone will propose a change. For example, in an open-ended money article, a person may want to increase or decrease the amount of money recommended by the budget committee or selectmen. The amendment must be seconded; there must also be an opportunity to discuss the amendment before voting. If the amendment passes, then the motion, as amended, is voted. If the amendment does not pass, and there are no further amendments, then the original motion is voted on.

Most articles in the warrant are brief and written to comply with legal requirements, and may not be self-explanatory. Some towns

include a reader-friendly explanation along with the article. Citizens who want or need more information have a duty to ask for it. Some of the common questions asked are:

- How much did we spend last year on this? How does this compare with this year? Please explain the difference.
- Can we set up a committee to study this? The town doesn't have enough information to vote.
- Should we establish a reserve account over several years instead of borrowing money or raising taxes this year?
- Are we taking too much from surplus? How much will this leave us?
- Is this ordinance necessary? Is there a real problem?
- Why is work being done on a particular road this year?

When asking questions at a town meeting:

- Keep questions short and to the point.
- Ask one question at a time.
- Direct questions to the moderator.
- Don't interrupt the person who is trying to answer.
- Don't get personal.

Everyone should be ready to ask questions, discuss, and vote. All those who participate in discussion of issues and then by voting can make a difference in quality of community in which they live and the government which serves them.

Citizen Awareness

Since the 1950s state law has decreed that the conduct of government is the public's business and that the people have the right to know about it. Meetings of elected or appointed governmental bodies are open to the people, who may, in most instances, also participate in the discussion. The results of all votes taken and the relevant records and documents are available to the public; the only business of local government that may be conducted in secret, or documents withheld, are those specified in state and federal law. For example, discussing candidates for municipal employment or a

potential land sale price is permitted in “executive session” (outside the public meeting), but any actions taken must be recorded and ultimately made public. The state’s Freedom of Access Act, or “Right to Know” law, provides citizens with the means to make judgments regarding the decisions of those who serve them in government and conduct the public’s business.

Further Safeguards

In addition to participating in local government and voting, citizens of Maine have other means of governing themselves through the citizen initiative and petition process. Similar to the state level, citizens initiatives are typically used when a municipal legislative body fails to act on an issue that citizens think is important. Citizen petitions can be circulated to force a referendum vote on actions taken by the legislative body that citizens disagree with. Except as provided under a municipal charter, under both “home rule” and other provisions of state law, people generally are allowed to petition for a referendum vote on a number of matters pertaining solely to their community. For instance, a group might want to amend the town charter to change the form of government. If they obtain the required number of signatures from eligible voters, the council would be required to set a date for a referendum vote on the question. If a sufficient number of people vote for the proposal, the citizens have started the process to change their form of government.

In some communities, voters can remove an elected official from office before his or her term expires. Such recall provisions, if included in a town or city charter or local ordinance, allow the citizens, after presenting a valid petition, to vote on whether or not they want to allow an official to continue serving in an office to which he or she was elected.

Actions taken by a municipal government may also be challenged in a court of law. Even if approved by majority of a municipality’s legislative body, an action cannot stand if it does not conform to state and federal laws and constitutions. The case law that results from

such challenges also becomes part of the basis by which future legal decisions are made.

All the People

For government to function effectively in providing people with the services they need — particularly local government — the participation of all the people is ideal. All Maine local governments provide their citizens with ample opportunities to participate in governing themselves. If many citizens fail to participate, the system designed by the founders of the nation and the state, admired around the world, cannot work well. Just as public servants have duties and obligations to serve the people, so do citizens. They have not only the right to participate, but the obligation to involve themselves in the government that serves them.

At its best, all democratic government, and particularly local government, is, as Abraham Lincoln put it in his Gettysburg Address, “of the people, by the people, and for the people.” It is up to the citizens of every town and city to ensure that this remains more than just a promise, but a reality in their community.

