

LEGISLATIVE BULLETIN



Vol. XLIV No. 5 FEBRUARY 11, 2022

Election Official Protection Bill Passes with Amendment

At a work session on Feb. 7, the Veteran and Legal Affairs Committee discussed an amendment to LD 1821, *An Act To Make Interfering with an Election Official a Class C Crime*, proposed by committee chair, Sen. Craig Hickman of Kennebec County.

As originally proposed by Rep. Bruce White of Waterville, the bill makes the intentional interference by force, violence or intimidation of a public official performing a function related to a federal, state, or municipal election a Class C crime punishable by up to five years in prison and a \$5,000 fine.

Although the proposed amendment does not elevate the class of crime, it adds intentional interference with an election official to the list of election-related Class D crimes, which are punishable by less than a year in prison and the assessment of a \$2,000 fine. Additionally, the amendment expands the definition of public officials protected by the provision to include municipal clerks and registrars of voters.

In recognition of the increased threats to election officials, the bill also amends existing training requirements to include education on the de-escalation of conflicts, and the process for reporting threats or harassment to the Secretary of State. Starting on Feb. 1, 2023, and annually thereafter, the secretary is tasked with providing the committee a summary of the reported threats.

During the work session, Sen. Hickman recognized Patti Dubois, Waterville City Clerk, who in referencing the testimony provided on Jan. 12, cited the increase in citizen anger and frustration that is directed at public officials as the reason the remedy sought in the bill is needed. She noted that in this age of technology, threats are increasingly made through email, voicemail, and other social media platforms. Though not a face-to-face interaction, the threats are still disconcerting.

Including interference with an election official in the statute governing elections will automatically involve the

Attorney General's office, and as Dubois noted, allow resources to be streamlined for prosecution, if necessary.

Discussion among committee members led to the addition of a reporting requirement. Members expressed a belief that the resulting compilation of crime data, not currently in practice, will provide valuable insight on the extent to which these crimes occur, and provide an additional level of safety for public officials.

At the conclusion of the discussion, the committee voted unanimously that LD 1821 "ought to pass as amended."

PTSD Presumption Sunset Provision Extended

Study of related costs to become routine.

By a unanimous vote, the Labor and Housing Committee supported an amended version of LD 1879, *An Act To Support Law Enforcement Officers, Corrections Officers, E-9-1-1 Dispatchers, Firefighters and Emergency Medical Services Persons Diagnosed with Post-traumatic Stress Disorder*. As described in the Feb. 4 Legislative Bulletin, current law makes a diagnosis of post-traumatic stress disorder (PTSD) in public safety officials, including police, fire, EMS and dispatch, a rebuttable presumption of workplace injury under the Workers' Compensation laws.

The PTSD presumption is set to expire on Oct. 1, 2022. LD 1879 as printed, repeals the sunset clause making the presumption permanent.

Recognizing that more study is necessary to understand the financial impacts on municipalities and counties, the amended version of LD 1879 extends the sunset date to Oct. 1, 2025. The amendment also requires a study of impacts for both five years and 10 years after the implementation of an existing or new PTSD related presumption.

EUT Committee Wrap-Up

The Committee on Energy, Utilities and Technology lived up to its name last week with two bills filled with energetic debate that touched on numerous hot-topic utility issues in Maine.

Investor-owned electric utilities, such as Central Maine Power (CMP) and Versant, were back in the spotlight during a work session on LD 1847, *An Act To Prohibit a Public Utility from Terminating or Disconnecting Service to a Public Safety Facility without Advance Notice and Approval*, sponsored by Rep. Seth Berry of Bowdoinham. The bill is described in-depth in the Jan. 28 issue of the Legislative Bulletin.

A CMP representative expressed support for ending terminations of service for non-payment but warned that this authority to terminate should be maintained for emergency situations, or at the request of the public safety facility. At least one committee member was so convinced that an amendment was proposed to limit the bill to only address terminations for non-payment, and to

add an administrative fine if a utility is wrongfully terminated.

CMP made a further argument that while the company can readily implement the requirements of LD 1847, it will necessitate a substantial amount of capital. On this point, the committee was unconvinced.

In the words of sponsor Rep. Berry, “It is astonishing to me that that would be required... [it] makes zero sense to me that we need to invest in new billing systems to require this basic awareness of public safety.” Committee chairperson Sen. Mark Lawrence of York County expressed an unwillingness to let the threat of cost prevent the committee from moving such an important bill forward.

Near the end of the work session Rep. Steven Foster of Dexter suggested that rulemaking through the Public Utilities Commission (PUC) could be a more appropriate avenue for this new requirement. Committee members could not agree on language for a resolve to be sent to the PUC. Instead, the sponsor doubled-down and motioned to add an emergency preamble to the bill, which the committee voted to support.

The Committee also held a public hearing that kept the spotlight on utility providers, this time implicating all providers, consumer- and investor- owned. LD 1894, *An Act To Support Municipal Broadband Infrastructure through Incentives and Competition*, sponsored by Sen. Eloise Vitelli of Sagadahoc County gives consumer-owned utilities the authority to own, lease, construct, maintain and operate broadband, or other internet access systems, on the utility’s delivery system. Additionally, the bill modifies the Municipal Gigabit Broadband Network Access Fund to award funds that provide matching grants to municipalities planning to bring broadband to unserved or underserved areas.

The sponsor’s intent is to increase access to funding for public, or public-private, broadband networks, and to encourage the reuse of existing transmission and delivery infrastructure, rather than creating redundant networks.

Industry stakeholders from Charter Communications, Consolidated Communications, Comcast, and the Maine State Chamber of Commerce came out in force to oppose the bill. Their arguments were largely the same: (1) leave the business of broadband to industry experts not public officials; (2) public competition in a private industry opposes the understanding of free market; (3) the ratepayer will experience increased costs from new capital investments required to expand coverage; and (4) the sharing of transmission and delivery infrastructure presents a safety risk to contractors working on unfamiliar pole attachments.

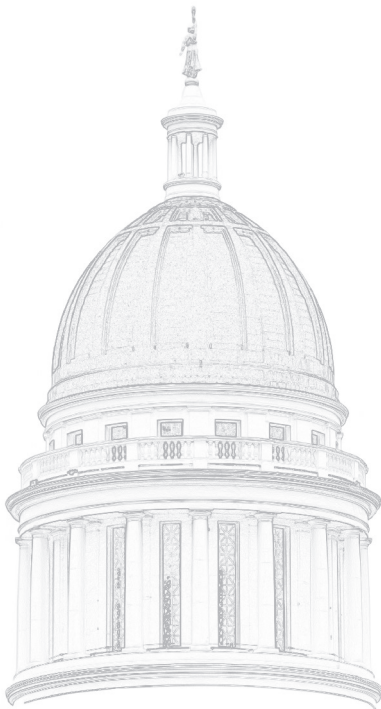
MMA’s neither for nor against testimony substantiated some of the opposition’s concerns. It was raised by numerous municipal officials that using public funds is inappropriate since there is no guaranteed public benefit. Or more specifically, the expansion of broadband through consumer-owned utilities does not ensure affordable broadband access will be expanded.

The industry’s safety concern was also captured in MMA’s testimony, albeit from an insurability perspective.

MMA’s members are only able to access market-rate insurance for services and assets that are covered by Maine’s Tort Claims Act (MTCA). Insurance carriers for activities outside of MTCA do exist, but rates are typically much higher since there is no statutory limit on claim amounts.

Since broadband delivery is not included as an essential government

(continued on next page)



service under MTCA, the addition of broadband attachments to the transmission and delivery infrastructure of municipal utilities creates an insurability conflict. There is a realistic concern that unless the language is amended, municipalities will not be able to afford insurance on the pole attachments, which undermines the objective of this bill.

During the public hearing, MMA presented two solutions to this dilemma, either add broadband to the covered services under MTCA or limit the attachments described in the bill to the limit in MTCA statute. The committee gave no hint as to whether either solution was amenable.

Support for the bill largely came in the form of neither for nor against testimony from interested parties such as Maine Connectivity Authority, the Island Institute, Office of the Public Advocate, ConnectMaine, the PUC, and the Telecommunications Association of Maine. For many different nuanced reasons these parties could not offer outright support for the bill, however, the overarching sentiment is that the heart of the bill is in the right place, but details need to be resolved.

A work session for LD 1894 is yet to be scheduled.

HEARING SCHEDULE

For the week of February 14, 2022

MONDAY, FEBRUARY 14

Labor & Housing

Room 202, Cross Building, 10:00 a.m.

Tel: 287-1331

LD 1673 – An act To Create a Comprehensive Permit Process for the Construction of Affordable Housing.

LD 1884 – An Act To Create Affordable Agricultural Homesteads.

State & Local Government

Room 214, Cross Building, 9:00 a.m.

Tel: 287-1330

LD 1610 – An Act To Promote Equity in Policy Making by Enhancing the State's Ability To Collect, Analyze and Apply Data.

TUESDAY, FEBRUARY 15

Agriculture, Conservation & Forestry

Room 214, Cross Building, 12:00 p.m.

Tel: 287-1312

LD 626 – An Act To Clarify Temporary Mooring Privileges for Moorings on Inland Waters.

Energy, Utilities & Technology

Room 211, Cross Building, 9:00 a.m.

Tel: 287-4143

LD 1913 – An Act To Review Strategies for Improving Utility Rate Affordability and To Provide Utility Relief.

Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly schedules for hearings and work sessions can be found on the Legislature's website at: <http://legislature.maine.gov/calendar/#Weekly/>.

Due to COVID-19 related restrictions (and until further notice), all public hearings and work sessions will be conducted remotely. Municipal officials interested in providing live remote testimony will need to email lio@legislature.maine.gov or call (207) 287-1692 no later than 5 p.m. the day before the hearing for information on how to participate. Comments on bills can be submitted in advance of a public hearing using the Legislature's testimony submission form (Online Testimony Submission (mainelegislature.org)) and interested parties can view committee proceedings, both live and recorded, on the Legislature's YouTube channel (News | Maine State Legislature.)

LD 1949 – An Act To Amend the Caribou Utilities District Charter To Include Broadband Services.

Judiciary

Room 438, State House, 9:00 a.m.

Tel: 287-1327

LD 1626 – An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act.

Taxation

Room 127, State House, 10:00 a.m.

Tel: 287-1552

LD 276 – An Act To Improve and Update Maine's Tax Laws.

LD 392 – An Act To Amend the Tax Laws.

THURSDAY, FEBRUARY 17

Health & Human Services

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

Tel: 287-1317

LD 1824 – An Act To Improve the Maine Child Welfare Services Ombudsman Program by Providing Additional Resources.

Judiciary

Room 438, State House, 9:00 a.m.

Tel: 287-1327

LD 906 – An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water.

LD 1665 – An Act To Amend An Act To Implement the Maine Indian Claims Settlement Concerning Land Acquisition and Criminal Jurisdiction.

LD 1907 – An Act To Review State Lands and Waterways That Have Sacred, Traditional or Other Significance to the Wabanaki Tribes.

FRIDAY, FEBRUARY 18

Criminal Justice & Public Safety

Room 436, State House, 10:00 a.m.

Tel: 287-1122

LD 1552 – An Act To Provide Reentry Services to Persons Reentering the Community after Incarceration.

LD 1939 – An Act To Protect School Administration Officials from Harassment and Abuse.

Psilocybin Services Denied

But Maine residents are one step closer to home delivery of adult use marijuana.

Psilocybin Services. LD 1582, *An Act To Enact the Maine Psilocybin Services Act*, sponsored by Sen. Donna Bailey of York County, establishes the framework necessary to allow psilocybin treatment in Maine. However, comforted by the efforts of the Federal Drug Administration’s review and study of the treatment benefits of psilocybin, a hallucinogenic chemical obtained from certain mushrooms, the members of the Health and Human Services Committee voted “ought not to pass” by a margin of 8 to 3.

The minority “ought to pass as amended” report creates an advisory board directed to strategically plan for the implementation of the use of psychedelic medications, including psilocybin, once the federal government approves its use for treatment.

Statewide Delivery of Adult Use Marijuana. By a margin of 7 to 4, the members of the Veterans and Legal Affairs Committee supported an amended version of LD 1827, *An Act To Permit Limited Delivery of Adult Use Marijuana*, authorizing the delivery of adult

use marijuana and related products to all areas of the state, including in communities that have not opted to allow sales in their municipalities.

As amended, the bill directs the Office of Marijuana Policy to develop an educational program to ensure retail store owners do not sell or deliver products to individuals under the age of 21; prohibits delivery in areas designated as drug free zones; limits delivery to residences only; and authorizes curbside delivery at adult use retail stores provided certain security measures are in place.

Commission on Roads Accelerates Out of SLG Committee

On Monday, the Committee on State and Local Government intended to hold a second public hearing on a committee amended version of LD 1513, *An Act To Establish the Maine Abandoned and Discontinued Roads Commission*, though it was conducted more as a work session with only specific parties asked to weigh in. The end result, however, was unanimous support for the committee amendment which was originally proposed by Rep. Will Tuell of East Machias.

As drafted, the amendment establishes a 12-member commission of stakeholders including representatives from the Departments of Transportation, Inland Fisheries and Wildlife (IFW), and Agriculture Conservation and Forestry (ACF), and eight members of the public, including individuals residing on discontinued or abandoned roads, wood lot owners, snowmobile and ATV users, municipal and county officials, real estate attorneys, and owners of conserved lands. Additionally, the committee membership includes one unaffected member of the public.

The commission’s members will dive into issues around “who pays and who plays” on public easements retained via the process for the abandonment or discontinuance of a road. Specific focus areas include abutting landowner liability for injury, land or environmental damage from public use, the scope of allowable uses over public easements, statutory terminology, review of current processes for abandonment and discontinuance, and development of legislation around these matters for future legislative debate.

Initially, the commission was designed to be staffed by the Departments of IFW and ACF on a rotating basis. However, both departments declined because of a lack of resources thought necessary to engage in the process. It will now be an intersession only commission that will be staffed by the Legislature’s non-partisan Office of Policy and Legal Analysis.

While the path through the thorny forest will be challenging to unpack without disturbing the delicate fact-based web of public and private interests woven

into democratic processes necessary to balance public expenditure, at least there will be far more stakeholders along for the journey to inform future Legislatures.

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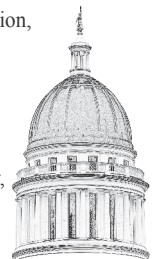
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IN THE HOPPER

Environment & Natural Resources

LD 1970 – An Act To Implement Agency Recommendations Relating to Sea Level Rise and Climate Resilience Provided Pursuant to Resolve 2021, Chapter 67. (Reported by Rep. Tucker of Brunswick for the Joint Standing Committee on Environment & Natural Resources)

In part, the bill amends the laws governing municipal planning and land use regulation to define “local climate action plan” to incorporate such plans into a municipality’s or multi-municipal region’s growth management program through the preparation of a climate vulnerability assessment and by addressing in its program the climate risks identified in such assessments; and to require the Department of Agriculture, Conservation and Forestry to prioritize grants, and technical and financial assistance to municipalities and multi-municipal regions that have adopted local climate action plans and prepared climate vulnerability assessments. The bill also amends the site location of development laws to authorize the Department of Environmental Protection (DEP) to consider the effects of sea level rise in determining whether a developer has made adequate provision for fitting a proposed development harmoniously into the existing natural environment. It amends solid waste facility siting laws to authorize DEP to consider the effects of sea level rise in determining whether an applicant for a solid waste facility license has made adequate provision for fitting a proposed facility harmoniously into the existing natural environment.

LD 1974 – An Act To Establish and Fund the Maine Climate Corps Program Pursuant to Recommendations in the Report Required by Resolve 2021, Chapter 25. (Reported by Sen. Brenner of Cumberland Cty. for the Joint Standing Committee on Environment & Natural Resources)

This bill establishes the Maine Climate Corps program to provide grants, technical assistance and training to community service corps programs focused on responding to the impacts of climate change. The program prioritizes aiding disproportionately affected communities and requires that individuals in service positions represent the economic demographic diversity of communities. The bill includes ongoing fund to support five program leadership positions; a one-time appropriation to fund 20 program participants; and a one-time appropriation to increase opportunities for individuals to devote a year of service to communities in Maine.

Health & Human Services

LD 1968 – An Act To Expand Access to Mental Health and Crisis Care for Individuals in Jails and Individuals Experiencing Homelessness. (Sponsored by Rep. Talbot Ross of Portland)

This concept draft bill proposes to create pathways to alleviate the crisis of individuals experiencing homelessness and those in the county jail system who are suffering from acute mental health crises and substance use disorder by implementing the following measures to improve their access to psychiatric treatment, wraparound services, supportive housing and other services that are part of the continuum of care, including: (1) examining and removing barriers to admission to crisis services, psychiatric facilities,

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

detoxification services and recovery residences; (2) removing barriers to permanent supportive housing by creating pathways to develop rapid rehousing and affordable housing, including the creation of landlord and developer incentives; (3) providing secure treatment centers for nonviolent individuals in the custody of jails when diversion is recommended by a prosecutor and approved by a judge; (4) hiring and training of additional intensive case managers within the Department of Health and Human Services, Office of Behavioral Health in order to provide outreach and support from the time individuals are homeless or incarcerated through when they are successfully housed; (5) increasing the number of peer coaches to provide mental health services to individuals by establishing a 30-hour certificate program; and (6) requiring real-time reporting to the Department of Health and Human Services of available treatment beds in psychiatric facilities and community-based residential treatment facilities in order to highlight and address the challenges of serving individuals in need of treatment; (7) including an assertive community treatment team in the assessment of a defendant for placement in an appropriate institution for the care and treatment of persons with mental illness; and (8) providing that a defendant may not be placed in a jail or a Department of Corrections facility unless competency restoration services can be provided in that setting within 30 days.

Judiciary

LD 1971 – An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Remote Participation. (Reported by Rep. Harnett of Gardiner for the Joint Standing Committee on Judiciary)

This bill authorizes a public body to adopt the required remote participation policy through remote participation via a two-step process. First, if the chair of the public body determines that an emergency or urgent issue exists that prevents the public body from meeting in person, the chair may call a meeting of the public body in which the members may participate by remote methods. Public notice of the meeting must be provided and include information about how the public can participate in the meeting. Once the meeting is convened, the members must vote on whether to support the chair’s determination that an emergency or urgent issue exists that prevents the public body from meeting in person. Second, if the members vote in support of the chair’s determination, after an opportunity for hearing, the members may vote on adopting a policy authorizing remote participation.



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MMA Advocacy & Communications Goes Social!

It's official, the Advocacy & Communications (A&C), formerly State & Federal Relations, team has entered the Twitter-verse.

To push out information to local leaders in real time and increase awareness of the issues of municipal interest before the Advocacy & Communications (A&C) has launched the Twitter feed **@memun_advocacy**.

We can't promise witty banter like Wendy's Twitter feed, but we can commit to keeping the content non-partisan and issues focused, as is the case with all our advocacy efforts. The goal is to simply provide another tool to municipal officials who like to stay informed with what is happening in the State House.

We will continue to produce MMA's weekly Legislative Bulletin, which provides readers details of the issues addressed by legislative committees in the past week and important reminders for upcoming public hearings. If you are not on our electronic bulletin mailing list and would like to be, please contact Laura Ellis at lellis@memun.org.

As we explore new ways to ensure municipal voices are heard, including a future podcast, we hope you will follow us, give us feedback and, of course, share our feed.