

The Restoration of Revenue Sharing: Municipal Top Priority

On Wednesday this week the Taxation Committee room was filled with municipal officials eager to participate in a public hearing regarding the program that defines the nature of the partnership between the state and municipal governments. Over the course of three hours, municipal officials provided fact-based, numbers-laden, straight forward testimony on five bills seeking to restore, retain, redirect and restructure the revenue sharing program. With the exception of the comments provided by two participants, the crowd at the hearing was overwhelmingly uniform in its message – reduce property taxes by restoring revenue sharing.

The two bills receiving the most comments were LD 133, *An Act To Support Lower Property Taxes by Restoring State-Municipal Revenue Sharing* and LD 492, *An Act to Restore Revenue Sharing*.

LD 133, submitted on behalf of MMA’s Legislative Policy Committee and sponsored by Senator Shenna Bellows of Kennebec County and Representative John Madigan, Jr. of Rumford, would increase by 1% each year the portion of sales and income tax revenue distributed to municipalities until FY 2020 when revenue sharing would be returned to its historic 5% level. LD 492, sponsored by Representative Denise Tepler of Topsham, would immediately increase to 5% the portion of sales and income tax revenue dedicated to the program, but allow for a transfer of \$51 million in FY 2018 and of \$35 million in FY 2019 from the program to the state’s General Fund coffers. In 2020 and subsequent fiscal years, 5% of total sales and income tax revenue would be distributed to municipalities statewide.

Sen. Bellows and Rep. Madigan pro-



Sen. Shenna Bellows of Kennebec Cty, sponsor of LD 133.

vided complementary testimony on LD 133. Sen. Bellows’ testimony focused on the social service impacts of the Legislature’s treatment of the revenue sharing program. She believes the state’s failure to pay its bills is directly responsible for increasing property taxes. As would be expected, Rep. Madigan, a 25-year veteran of local government, provided a bottom-line analysis of the revenue sharing program illustrating how over the last decade \$600 million has been transferred out of the program and into the state’s General Fund.

The municipal proponents to LD 133 and LD 492 included representatives

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New Public Workers’ Compensation Benefit Proposed This Session

Latest Presumption Would Apply to PTSD

On Thursday this week the Labor, Commerce, Research and Economic Development Committee held a public hearing on a bill which would expand the role of Workers’ Compensation benefits. LD 848, *An Act To Support Law Enforcement Officers and First Responders Diagnosed with Post-traumatic Stress Disorder*, sponsored by Rep. Jared Golden of Lewiston, would amend Workers’ Compensation law, creating a “rebuttable presumption” in favor of first responders and law enforcement officers.

In this case, the presumption would apply when a law enforcement officer, firefighter, corrections officer or emergency

medical services worker is diagnosed by a licensed physician specializing in psychiatry or a licensed psychologist as having post-traumatic stress disorder (PTSD); the disorder would be presumed to have arisen out of and in the course of the worker’s employment.

The sponsor was joined by at least 20 proponents including several firefighters and first responders, sheriffs, Paul Signolfi, the Director of the Maine Workers’ Compensation Board, the National Association of Firefighters, the National Alliance on Mental Illness (NAMI), the Maine Chiefs of Police Association, and the Maine As-

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The Restoration of Revenue Sharing (cont'd)

from the communities of Bangor, Belfast, Brewer, Damariscotta, Farmington, Jay, Kennebunkport, Lewiston, Presque Isle, Saco, Sanford, South Portland, Topsham, Union, Waterville, Winslow and Winthrop. The testimony focused on five general themes:

1. Municipalities General Sales and Income Tax Revenue. The state is able to annually collect roughly \$3 billion in sales and income tax revenues because of local level investments in infrastructure (e.g., roads, bridges, sidewalks, water, sewer, broadband, etc.) and economic development. Without these local level investments there would be much less “broad based” tax revenue collected by the state.

2. Tax Mix. Revenue sharing keeps property taxes down. In 2007, property tax revenue accounted for 42% of the total raised by sales, income and property taxes combined, with income and sales tax revenue accounting for 37% and 23%, respectively. However, in 2016 it is estimated that of the total revenue raised by these three sources of revenue, the property tax will account for 46%, the income tax 30% and the sales tax 24%.

3. Balanced Tax Code. The state needs to modernize Maine’s tax code and reduce the over-reliance of property taxes as the primary funding mechanism of both mandated and desired municipal services.

4. Service Must Be Provided. When revenues are tight, municipalities cannot stop providing critical and state mandated services.

5. Easing the State Back In. The incremental approach to restoring revenue sharing from the 2% of 5% portion of



Rep. John Madigan, Jr. of Rumford, co-sponsor of LD 133.

state sales and income tax revenue will transition the restoration rather than try to implement it all at once in 2020.

Other proponents of LD 133 and LD 492 included the AARP, AFL-CIO, MSEA-SEIU, Lewiston and Orono Firefighters’ Associations, Maine Association of Retirees, Maine Center for Economic Policy, Maine Education Association, Maine Municipal Association, Professional Firefighters of Maine, and several retired Maine residents. The testimony from these proponents focused on four general themes:

1. Important Element of a Relief Package. Revenue sharing is an important element of a comprehensive property tax relief package that also includes the Homestead Exemption and the property

tax fairness credit. The homestead program exports, in part, burdens to second homeowners, the income tax credit supports residents with high property tax to income ratios, and the revenue sharing program directly reduces the property taxes raised, providing generalized relief to all property owners.

2. Lack of State Support. Property taxes are skyrocketing, not because of out-of-control municipal spending, but because the state has failed to recognize its responsibility for school funding and revenue sharing.

3. Impact on Employee Morale. Although the state has reduced the amount of revenue distributed to towns and cities, the workload has not decreased. Employees are being asked to do more with less and to pay for some of the losses in revenue sharing through layoffs, higher health insurance costs and wage freezes.

4. Tough Choices. Older Mainers living on low, fixed incomes do not have the financial flexibility to continue to pay increased property taxes and meet their basic needs of food, fuel, health care and medication.

Work sessions on these bills have not yet been scheduled. On or before April 3, the Taxation Committee will be reporting back to the Appropriations Committee on its recommendation on the tax-related elements of Gov. LePage’s FY 18 – FY 19 proposed General Fund budget. A revenue sharing recommendation will likely be included.

Workers’ Compensation (cont’d)

sociation of Police.

Opponents of the bill included the Workers’ Compensation Coordinating Council, the Council of Self-Insurers and MMA. The Maine Hospital Association as well as the American Insurance Association and Property Casualty Insurers Association of America testified neither for nor against LD 848, offering minor amendments.

Relying on his own experience after returning from military deployment, Rep. Golden spoke of the need for this bill due to a perceived stigma against acknowledging post-traumatic stress. In his view, the cumulative effect of exposure to traumatic

incidents over time heightens the risk of the onset of PTSD. The National Association of Firefighters supported this perspective, stating that the average citizen is exposed to between one to three traumatic events in their lifetime, while firefighters typically have as many as four exposures per call according to their research, creating what they described as an “enormous” mental load over time. NAMI added to these statistics, claiming police officers have a 20% higher incidence of suicides than the general public, and double the rate of PTSD.

Also testifying in favor of LD 848,

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Legislative Bulletin

A weekly publication of the Maine Municipal Association throughout sessions of the Maine State Legislature.

Subscriptions to the *Bulletin* are available at a rate of \$20 per calendar year. Inquiries regarding subscriptions or opinions expressed in this publication should be addressed to: *Legislative Bulletin*, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330. Tel: 623-8428. Website: www.memun.org

Editorial Staff: Geoffrey Herman, Kate Dufour, Garrett Corbin and Laura Ellis of the State & Federal Relations staff.

The Tale of Two Cities

Medical marijuana facilities: The Dispensary/Caregiver Divide

The Marijuana Legalization Implementation Committee held a work session on Tuesday this week for the purposes of becoming better educated about the present state of the Maine Medical Use of Marijuana Program. Although the committee's primary charge is overseeing the implementation of the recreational marijuana program, there is an obvious and looming question about how the recreational program is going to interface with the medical marijuana program in terms of any number of issues, including regulatory consistency, taxation policy, product and facility advertising and packaging, the integration of possession allowances and other law enforcement protocols, etc.

According to a pre-arranged schedule, presentations were made to the committee, first by medical marijuana industry representatives, then by a representative of the Department of Health and Human Services (DHHS) as the state regulatory agency, then by representatives of the eight licensed medical marijuana dispensaries, and finally by representatives of the caregiver facilities. The session was extremely informative and the committee members were paying the closest possible attention.

For all of that, the opening line of Charles Dickens' *The Tale of Two Cities* was lurking in the background. If you haven't read the classic since you had to in the eighth grade, that first line begins "*It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness...*" and so forth.

In short, it would appear that there presently exists a very wide gulf in outlook between the caregiver system and the dispensary system, primarily in terms of regulatory oversight.

From the medical marijuana industry side, a cheerfully optimistic picture was painted.

The evolving history of the medical marijuana program in Maine and throughout much of the nation was positively described as a burgeoning movement slowly shaking off a century of irrational fear of

the substance and negative stereotype, especially when compared with society's embrace of alcohol.

A medical expert explained how the active ingredients in the flowering marijuana plant connect with certain receptors in the human body to achieve the desired medical results.

An industry consultant described the various systems of preparing the dried flowers for medical use, including essentially distilling the overall product by stripping the purely active glands in the flower buds from the other plant material with solvents, carbon dioxide or butane treatments, the latter of which was described as potentially dangerous if done outside a laboratory setting.

A caregiver with an obvious devotion to his craft and practice explained the fundamentals of both inside and outdoor growing operations, stressing the importance of best management practices that lead to a pesticide free product...a product of the highest quality that is grown, processed and distributed under the strictest environmental standards and neighborhood impact controls.

The tone of the work session turned on a dime and darkened, however, when Dr. Christopher Pezzullo addressed the Committee to present the perspective of the state regulatory agency. Dr. Pezzullo is the Chief Medical Officer of the Department of Health and Human Services' (DHHS) Center for Disease Control and Prevention.

In summary, Dr. Pezzullo described the state regulatory system for marijuana facilities as severely lacking, particularly on the primary caregiver facility side. There is certainly a large amount of certification issuance going on at DHHS, as the 3,360 caregiver facilities and the 35,000-plus Mainers qualified to obtain and use medical marijuana line up to be issued their annual certification or registration documents. Beyond generating the various permission documents, however, there are essentially no inspection, quality assurance, or production accountability programs in place with respect to the primary caregiver facilities. Dr. Pezzullo does not believe the necessary DHHS

inspection and accounting authority exists in current law.

As an example, there is apparently no meaningful accounting by DHHS or anyone else regarding the amount of marijuana produced by the caregiver facilities or how specifically it is distributed. The standard in law designed to control the amount of caregiver production (number of mature plants multiplied by number of caregiver patients) is so muddled that it challenges any capacity to enforce, even if someone was directed to keep track. At its essence, Dr. Pezzullo argued that the medical marijuana program is simply not a bona fide medical program. The quality of the dispensed medicine is not known, the frequency or intensity of patient use is not measured or controlled, the side effects are not studied or mandatorily imparted as is the case with pharmaceuticals, and the degree to which the produced marijuana may be diverted to other uses is not known, managed or controlled.

Following Dr. Pezzullo came the representatives from the eight established medical marijuana dispensaries, who backed up Dr. Pezzullo on many of his observations, but held DHHS to be responsible for some of the shortcomings in the regulatory system as well. The dispensary representatives pointed out that there is a required annual and unannounced inspection of all eight medical marijuana dispensaries, and as a matter of statute and rule the dispensaries are made subject to both state and local regulatory standards and accounting that are not applied to the caregiver facilities. There is insufficient DHHS staffing, there has been no medical marijuana program manager for months, and there is no rulemaking being conducted by DHHS. For example, no rules are being developed for marijuana testing facilities despite the fact that the dispensaries have expressly asked for those rules to be promulgated. Ironically, when the dispensaries are inspected by the Department, soil and plant samples are taken for testing, but apparently no actual testing is being conducted because the dispensaries do not receive any reports on the results.

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Weapon-Free Zones

Extending State Level Policy Authority to Municipalities

Last Friday, March 17, the Criminal Justice Committee convened for over eight hours to accept public testimony on 11 firearms-related bills. The bills ranged in topic from reducing the minimum age to carry a concealed firearm from 21 to 18, to an initiative that would make it illegal for a law enforcement officer to act upon a federal level order to confiscate weapons owned by Maine residents.

Included in the mix of bills was LD 351, *An Act to Allow Municipalities to Prohibit Weapons at Municipal Public Proceedings and Voting Place*. Rep. John Spear of South Thomaston sponsored the bill relying on his municipal experience as a retired school and municipal administrator and on a firm belief that weapons have no place in municipal facilities or polling places. Public buildings are owned by the residents and voters of the community and those residents should be provided the authority to decide whether firearms should be permitted in those places.

At the hearing, Rep. Spear also offered three amendments to LD 351. First, to allow municipalities to adopt ordinances prohibiting firearms in municipal buildings rather than at municipal proceedings, as proposed in the printed bill. This amendment would avoid any confusion as to where, within a municipal building, a firearm could and could not be carried. The second amendment would require municipalities adopting firearm prohibition ordinances to post notice of that ban in a conspicuous location. The third amendment would exempt law enforcement officers from the prohibition.

Also relying on her municipal experience, Rep. Lois Reckitt of South Portland, a member of the Criminal Justice Committee, offered testimony in support of LD 351. As an election warden, on a few occasions she witnessed tempers flare while residents waited in long lines, once during a snowstorm, to cast ballots on more controversial issues. She believes the presence of a firearm adds fuel to an already smoldering fire. Sen. David Miramant of Knox County also supported the bill because he believes municipalities should be able to put into motion policies to cool environments where debates can

become heated.

Other proponents of the bill included the Maine Sheriff's Association, who conditioned their support on the amendment providing an exemption to the firearms prohibition to both on-duty and off-duty officers. Former state lawmaker and Portland councilor, Ed Suslovic, also provided testimony in support of LD 351. Turning to the "what is good for the goose is good for the gander" adage, Mr. Suslovic testified that the protections the Maine State Legislature provides to itself should also be extended to municipal legislative bodies.

MMA provided testimony in favor of LD 351 on local control grounds. As proposed, the bill requires the people in the municipality to decide whether or not the limited restriction meets the unique needs of the community. The restriction becomes effective if, and only if, the community adopts the ordinance. The decision to move forward with an ordinance is entirely up to the residents of the community.

However, not all municipal officials

support LD 351. Laura Parker, representing the Sidney Board of Selectmen, provided testimony in opposition to the bill. Ms. Parker expressed deep-seated concerns that the bill provides local government officials, who are sworn to uphold the U.S. and Maine constitutions, an unconstitutional authority to infringe on the rights of Maine citizens.

Other opponents included the National Rifle Association, the Sportsman's Alliance of Maine, as well as residents from communities around the state concerned that the enactment of LD 351 would put law abiding citizens in harm's way. These opponents believe that the people intent on doing harm will not abide or care about a municipality's prohibition on firearms and leave others unarmed and unable to defend themselves.

The fate of LD 351 will be decided later today, Friday, March 24, when the Criminal Justice Committee convenes to work the 11 firearm-related bills heard last week.

Workers' Compensation (cont'd)

the Maine Association of Police asked for the same support from communities that the police provide to them. Several other officers, firefighters, and emergency responders shared difficult anecdotal stories as evidence of their need for this policy change. It was not clear whether they had been denied insurance coverage after seeking it.

The Director of the Maine Workers' Compensation Board, in what appeared to be his first ever support for the adoption of a new rebuttable presumption into Maine law, referenced the tragic shootings at the elementary school in Newtown, Conn. and Pulse nightclub in Orlando, Fla. to support the need for LD 848. Yet, at the time of those shootings, those two states did not support mental injuries in their Workers' Compensation law. Maine, on the other hand, has recognized those injuries as compensable in its Compensation law for decades.

In its opposition to LD 848, MMA pointed to the fact that mental injury claims are both in law and in practice

compensable. It does not appear that any other states with Workers' Compensation coverage for PTSD have created a comparable rebuttable presumption in their laws. This would be a first nationwide.

Second, the legal concept of a "rebuttable presumption" is intended to be applied out of fairness, when clear evidence of work-relatedness is difficult by its nature to obtain. Evidence of the types of traumatic work events that can lead to PTSD is not by its nature difficult to obtain. Rather, these incidents are ordinarily well-documented and that documentation will unquestionably justify the coverage of claims.

Third, the municipal community is concerned with the escalating implementation of rebuttable presumptions in state law targeted at local and county government employers. At least five bills this session propose new rebuttable presumptions that would be covered exclusively through property taxes, in addition to the three (out of four total) presumptions that already

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LEGISLATIVE HEARINGS

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

Monday, March 27

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

LD 488 – An Act To Provide for Municipalities To Allow Grocery Stores up to 10,000 Square Feet To Open on Thanksgiving, Easter and Christmas.

LD 970 – An Act To End Homelessness by Expanding Housing Support Services.

State & Local Government
Room 214, Cross State Office Building, 1:00 p.m.
Tel: 287-1330

LD 618 – Resolve, Authorizing the Mount Hunger Area of the Town of Gray To Proceed with the Secession Process.

LD 619 – Resolve, Authorizing the Area of the West Side of Little Sebago Lake of the Town of Gray To Proceed with the Secession Process.

LD 780 – An Act Authorizing the Deorganization of Cary Plantation.

LD 830 – An Act To Authorize Portions of the City of Caribou to Secede and Form the Town of Lyndon.

LD 850 – An Act To Prohibit a Person from Providing False Testimony to a Committee of the Legislature.

LD 956 – An Act To Establish the Maine Buy America and Build Maine Act.

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

LD 73 – An Act To Increase the Homestead Property Tax Exemption for Certain Persons Who Are at Least 75 Years of Age.

LD 974 – An Act To Increase the Homestead Exemption.

Veterans & Legal Affairs
Room 437, State House, 10:00 a.m.
Tel: 287-1310

LD 937 – An Act To Require the Fiscal Impact of a Direct Initiative of Legislation To Be Included on the Ballot.

LD 950 – Resolve, To Study Using Blockchain Technology in Conjunction with Paper Ballots in Maine Elections.

LD 980 – An Act To Improve Absentee Balloting.

LD 1012 – An Act To Improve the Availability of Agency Liquor Stores in Underserved Areas and To Expand the Sale of Spirits in New Channels.

LD 1035 – An Act To Require an Opinion of the Supreme Judicial Court on Direct Initiatives of Legislation.

Tuesday, March 28

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

LD 827 – An Act To Repeal the Laws Governing Truck Camper Registration.

LD 878 – An Act To Allow Municipalities To Permit the Operation of Golf Carts on Municipally Owned Streets.

LD 963 – An Act To Require Certain Personnel on a Bridge Painting Project To Be Certified.

LD 977 – An Act To Allow a Motorist To Make a Left Turn at a Red Light under Certain Conditions.

Wednesday, March 29

Education & Cultural Affairs
Room 202, Cross State Office Building, 9:00 a.m.
Tel: 287-3125

LD 862 – Resolve, To Establish a Pilot Program To Install Video Cameras in School Buses.

Energy, Utilities & Technology
Room 211, Cross State Office Building, 10:00 a.m.
Tel: 287-4143

LD 140 – An Act To Authorize a General Fund Bond Issue To Support Entrepreneurial Activity, Attract Business and Enhance Demographic In-migration by Investing in High-speed Broadband Infrastructure and To Amend the Law Governing the Municipal Gigabit Broadband Network Access Fund.

LD 257 – An Act To Enable Municipalities Working with Utilities To Establish Microgrids.

LD 421 – An Act To Promote Economic Development and Critical Communications for Rural Family Farms, Businesses and Residences by Strategic Public Investments in High-speed Internet.

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

LD 719 – An Act To Allow Slot Machines or a Casino in York County.

Thursday, March 30

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

LD 977 – An Act To Increase Funding to Schools by Repealing Unnecessary and Burdensome Regulations.

LD 1016 – An Act To Provide Funding for Career and Technical Education Based on Projected Enrollment.

Environment & Natural Resources
Room 216, Cross State Office Building, 1:00 p.m.
Tel: 287-4149

LD 1040 – An Act Regarding Permitting under the Natural Resources Protection Act.

Friday, March 31

Criminal Justice & Public Safety
Rm. 436, State House, 9:00 a.m.
Tel: 287-1122

LD 599 – An Act To Prevent Violence against Emergency Responders.

LD 888 – An Act To Strengthen Protections against Civil Asset Forfeiture.

1:00 p.m.

LD 511 – An Act To Amend the Laws Governing Domestic Violence and Setting Preconviction Bail.

Health & Human Services
Room 209, Cross State Office Building, 9:30 p.m.
Tel: 287-1317

LD 966 – An Act To Create Mental Health Liaison Positions in Each County Jail.

IN THE HOPPER

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

Appropriations & Financial Affairs

LD 1118 – An Act To Authorize a General Fund Bond Issue To Support Local Infrastructure. (Sponsored by Rep. Herbig of Belfast; additional cosponsors.)

This bill sends out to the voters a proposed \$15 million bond issue to provide funding for the Municipal Investment Trust Fund to support local infrastructure projects.

Education & Cultural Affairs

LD 1080 – An Act To Prevent Economic Hardship in Maine School Administrative District 44. (Sponsored by Rep. Head of Bethel; additional cosponsors.)

This bill prohibits the Town of Newry from withdrawing from School Administrative District #44 and additionally requires Newry's assessment to be based on the assessment established by statute.

Environment & Natural Resources

LD 1081 – An Act To Amend the Municipal Subdivision Laws Regarding the Exemption for Transfers to Owners of Abutting Land. (Sponsored by Rep. Denno of Cumberland; additional cosponsor.)

Under current law governing property subdivisions, a transfer of any parcel of land to an abutter does not count as a subdivided lot for the purpose of regulatory review at the time of the transfer, but if the transferred parcel is subsequently transferred within five years to another person without the rest of the land the parcel merged into, the exemption is erased and the originally transferred lot becomes a reviewable subdivision lot. This bill eliminates the language that provides for the removal of the exemption.

LD 1094 – An Act To Amend the Laws Governing the Review of Subdivisions. (Sponsored by Rep. Jorgensen of Portland; additional cosponsors.)

Under current subdivision law, the creation of leased dwelling units is not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to a municipal review as least as stringent as the subdivision review standards. This bill applies that same exception to the creation of all dwelling units, whether they are to be leased or sold outright. Presumably the exception is meant to apply when the dwelling units are being created within a single structure.

LD 1096 – An Act To Improve Shoreland Zoning Rules and Enforcement To Support Municipalities. (Sponsored by Rep. Blume of York; additional cosponsors.)

This bill makes four changes to the law governing the shoreland zoning program. The bill: (1) requires the Office of Community Development within the Department of Economic and Community Development to provide an advanced training course in the practice of shoreland zoning management for municipal code enforcement officers to be available in addition to the basic training course currently available, (2) requires municipal shoreland zoning ordinances to establish a requirement for all applicants seeking a permit for development within the shoreland zone to provide as part of that application preconstruction photographs and, ultimately, post construction photographs of the shoreland vegetation and development site, (3) increases the maximum per day civil penalty established in statute for a specific violation of a municipal land use ordinance from \$2,500 to \$5,000, and (4) increases the special maximum per day penalty for a violation of a land use ordinance within a resource protection zone from \$5,000 to \$10,000.

Health & Human Services

LD 1109 – An Act To Improve General Assistance Reimbursements.

(Sponsored by Sen. Chipman of Cumberland Cty; additional cosponsors.)

This bill repeals and replaces the law governing "residency" for the purpose of determining financial responsibility for providing General Assistance benefits to qualifying individuals. Under current law, physical presence through the GA application process is the general rule for determining municipal GA responsibility, although there are specific exceptions when one municipality assists in the applicant's relocation to another municipality. This bill establishes the "municipality of record" as the general rule to determine municipal financial responsibility, which is the municipality where the applicant was an occupant of a house, apartment or other dwelling unit immediately prior to applying for assistance, as verified by a lease document, utility bill or similar evidence.

LD 1119 – An Act To Ensure Safe Drinking Water in Public Buildings. (Sponsored by Rep. Brooks of Lewiston; additional cosponsors.)

Current law requires schools that take drinking water from sources other than public water systems to have that water annually tested for compliance with the state's primary drinking water regulations. This bill expands that requirement to include all public buildings, defined as any building or structure operated or maintained for use by the general public, including buildings used for state municipal or county purposes, education, health care, residential care nursing, facilities licensed by the Department of Health and Human Services, any places of public assembly, hotels, motels, inns, rooming or lodging houses or restaurants.

LD 1135 – An Act To Strengthen the Efficacy of the Medical Marijuana Laws. (Sponsored by Rep. Chace of Durham; additional cosponsors.)

This bill makes a number of amendments to the Maine Medical Use of Marijuana Act, including: (1) allowing municipalities to limit the number of primary caregivers that may operate within that municipality and allowing for the enactment of reasonable municipal regulations of those facilities, and (2) requiring a primary caregiver to disclose upon the request of a law enforcement official, municipal code enforcement officer or planning board, any of the information contained in applications and supporting information submitted by the primary caregiver to the Department of Health and Human Services with the exception of confidential and personally identifying information regarding any qualifying or registered patients.

Judiciary

LD 1139 – An Act To Clarify Certain Right-of-way Limitations. (Sponsored by Rep. Stearns of Guilford; additional cosponsors.)

This bill provides that a conveyance after January 1, 2018 of an easement or a right-of-way leading to or touching upon a water body does not include any right by implication to install a dock or other fixture on that waterbody unless expressly stated in the conveyance document. The bill further provides that a municipality, upon written request of the owner of a land subject to such an easement or right-of-way, may enforce the fact that the installation of the dock or fixture is not permitted by implication by ordering removal after notice and hearing.

Labor, Commerce, Research & Economic Development

LD 1072 – An Act To Amend the Laws Regarding Dealers in Secondhand Precious Metals. (Sponsored by Sen. Saviello of Franklin Cty; additional cosponsors.)

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This bill amends the law governing dealers in secondhand precious metals, including gold (other than coins or bullion), silver and, with this bill, palladium and platinum. Under current law, dealers in secondhand precious metals must obtain a permit from the municipal officers of the town or city where their place of business is located, and the statute provides a standard upon which such permits may be denied. This bill changes the requirement from a permitting system to a registration system, whereby the dealer would just have to register with the municipal officers, who would play no role in permitting the business.

LD 1093 – An Act To Clarify That Involuntary Transfers of Teachers and Municipal Public Employees Are Subject to Collective Bargaining. (Sponsored by Rep. Sylvester of Portland; additional cosponsors.)

This bill amends the labor relations law as it pertains to municipal employees to provide that the involuntary transfer of a teacher or other municipal employee is included in the definition of “working conditions” that must be collectively bargained in good faith.

LD 1140 – An Act To Preserve the Economic Viability of Maine’s Historic Properties. (Sponsored by Rep. Guerin of Glenburn; additional cosponsors.)

This bill limits the obligation for the business owner of a designated historic property to comply with the Maine Uniform Building and Energy Code (MUBEC) when found out of compliance during an inspection or when seeking license renewal or a permit for renovation. The limitation is that the property owner must meet only the standards under the version of the code adopted most recently after the license to operate the business was first issued by the municipality in which the property is located, and must update the condition to the next subsequent version of the code in increments of time nor more than 3 years until the condition is brought up to current standards.

State & Local Government

LD 1082 – An Act To Amend the Laws Governing the Granting of a Variance from the Dimensional Standards of a Zoning Ordinance. (Sponsored by Rep. Campbell of Orrington; additional cosponsors.)

Under current law governing the granting of variances by a municipal board of appeals from municipal land use standards, there is the standard 4-criteria test (no reasonable return, unique circumstances of the property, essential character of the neighborhood and actions of the owner or previous owner) that needs to be met for the variance to be granted. Current law also authorizes municipalities to amend their land use ordinances to somewhat soften those standards under the so-called “practical difficulty” alternative, which essentially converts the “no reasonable return” standard to a less-strict “practical difficulty” standard. This bill repeals the need to amend the local ordinance to utilize the alternative variance standard and make it a co-existing set of variance standards, significantly amends that alternative standard by repealing the “practical difficulty” standard altogether, repeals the variance standard that blocks a variance when the need for the variance was created by an action of the owner or previous owner, and allows variances to be granted within the shoreland zone, although not to reduce the minimum dimensional standards established in state law.

LD 1087 – An Act To Define When a Municipal Land Use Decision Is Considered Final for Purposes of an Appeal to Superior Court. (Sponsored by Sen. Breen of Cumberland County.)

With respect to a proposed land use development decision, whether an approval or denial, made at the municipal level, this bill establishes that such a decision is ripe for appeal to the Superior Court as a “final agency action” only after both the municipal planning board and the board of appeals have heard the land use matter and issued findings of fact.

Taxation

LD 1106 – Resolution, Proposing an Amendment to the Constitution of Maine To dedicate All Sales Taxes from All Vehicle Sales and Any Vehicle-related Sales to the Highway Fund for Roads and Bridge Capital Improvements. (Sponsored by Rep. Parry of Arundel;

additional cosponsors.)

This resolution sends out to the voters a proposed amendment to the state’s Constitution that would dedicate all sales and use tax revenue associated with the sales of motor vehicles and the sales related to motor vehicle to the state’s Highway Fund for road and bridge capital improvements.

LD 1121 – An Act Regarding the Exclusive Use of Tax Exempt Property. (Sponsored by Rep. Kinney of Limington; additional cosponsors.)

This bill amends the definition of a “benevolent and charitable” corporation and a “literary and scientific organization”, both of which are entitled to a property tax exemption with respect to the property they own that is used solely for their respective purposes, to provide that such property may not be used “incidentally” to provide goods, services or materials in exchange for any amount, type or form of remuneration. The term incidental use, a term coined by Maine’s State Supreme Judicial Court, is defined in the bill as a use of the property that is not directly related and necessary to the charitable or literary or scientific purposes of the corporation or institution.

Transportation

LD 1149 – An Act To Provide Revenue To Fix and Rebuild Maine’s Infrastructure. (Sponsored by Rep. McLean of Gorham; additional cosponsors.)

This bill is designed to increase the amount of fee and tax revenue dedicated to the state’s Highway Fund. Specifically, the bill: (1) increases a variety of fees established in statute for driver’s license examination, temporary license plate, nondriver identification cards, issuance of duplication registrations, etc., by \$3 - \$10, (2) imposes a \$200 surcharge on the registration of hybrid motor vehicles, battery-electric motor vehicles and hydrogen fuel cell motor vehicles; (3) expressly dedicates to the Highway Fund 10% of the state sales tax imposed on motor vehicles and the products related to the repair and maintenance of motor vehicles; and (4) increases the excise tax imposed on motor fuels to 36.5 cents per gallon, an increase of 7 cents.

Veterans & Legal Affairs

LD 1086 – An Act to Amend the Laws on the Conduct of Elections and To Establish a Nonpartisan Primary Election System for State and Federal Candidates. (Sponsored by Rep. Rykerson of Kittery; additional cosponsors.)

This bill removes all references or requirements in election statutes for a voter to be enrolled in the applicable political party in order to vote in a primary election for state legislators, other state or county elected officials, or the primaries for candidates for U.S. Senate or House seats, thereby make these primary elections open to all registered voters.

LD 1107 – An Act To Allow Municipalities To Adjust Times of Operation for Establishments That Serve Alcohol. (Sponsored by Rep. Parry of Arundel; additional cosponsors.)

Under current law, the period of time during the day when an establishment selling liquor for on-premises consumption can sell or deliver liquor is from 5 a.m. to 1 a.m. of the following day. This bill authorizes municipalities by a vote of the legislative body to authorize the extension of those hours of operation by one hour, either opening an hour earlier or shutting down an hour later, provided the municipality has a full time police department or contracts with the county sheriff or State Police to provide coverage during the extended hour.

LD 1125 – An Act To Establish a Recall Procedure for Elected Officials. (Sponsored by Sen. Chenette of York Cty; additional cosponsor.)

This bill establishes a procedure by which the voters of any election district in the state can petition for and, if successful, participate in an election to recall any elected office holder, including elected representatives to Congress, the state Senate or House, county elected office or municipal elected office. The grounds to initiate a petition are neglect of duty, misuse of office, incompetence, criminal conduct,

(continued on page 8)

The Tale of Two Cities (cont'd)

From the outside, it is hard to tell why no one is watching the state's Medical Use of Marijuana program very closely, particularly with regard to commercial caregiver facilities. Does the state agency dislike the program and, therefore, not exert itself very hard with respect to its management? Is the underlying law governing the medical marijuana program deficient in the tools it provides to the state agency to ensure program accountability? Maybe it's the case, as Dr. Pezzullo initially observed in his presentation to the Committee, that the law creating the Maine Medical Use of Marijuana Program was motivated by an interest in job creation more than management of a new medicine.

The answer to those questions, and whatever may have been the case until now, may not matter that much. After Tuesday's work session, it is clearer than ever that the Marijuana Legalization Implementation Committee will need to re-articulate the regulatory parameters of the medical marijuana program if it is going to have any chance of establishing coherent regulatory parameters for the recreational marijuana program.

Workers' Compensation (cont'd)

exist in statute.

Finally, a rebuttable presumption policy is a dramatic solution for treating the un-diagnosed and un-treated mental stress disorders that impact the first responder community. As one physician stated earlier in the day, it is better to place a guard rail at the top of a cliff to minimize injuries than an ambulance at the bottom to triage critical injuries after the fact. In the view of municipal officials, early intervention mental health employee assistance programs offer a far more responsive and effective form of treatment than a late intervention Workers' Compensation presumption.

The work session on LD 848 has yet to be scheduled.

HOPPER (cont.)

corruption, misappropriation of public funds, obstruction of voter-approved initiatives or violations of ethics laws. The bill establishes the number of necessary signatures to trigger a recall election at 15% of the number of voters who participated in the election of the office holder, and further provides the process to submit the petition to the appropriate filing official (either the Secretary of State for the recall of federal or state office holders or the appropriate county clerk for county or municipal office holders) and otherwise carry out the recall elections.