

Land Conservation Tax Exemptions Topic of Discussion

A provision in the FY 2018 - FY 2019 General Fund budget, enacted in 2017, which was initiated by Governor LePage, directed the Legislature's Agriculture, Conservation and Forestry Committee to undertake a study to determine how land owned by nonprofit conservation organizations impacts municipalities, the economy and general public. Specifically, the committee was charged with reviewing the: (1) extent to which landowners make property tax payments, including payments in lieu of taxes, to municipalities; (2) economic impacts of land conservation efforts, including impacts on Maine's tourism industry; and (3) community benefits associated with conserved property. The committee was further directed to hold at least three meetings and to report out its findings no later than Feb. 15, 2018.

On Monday, the committee met for the third time to finalize its report.

In an effort to gather the information necessary to make its recommendations, the committee requested feedback from owners of conserved lands, municipal officials and state agency officials. At the committee's October 2017 meeting, representatives from land trusts provided information regarding the number of acres conserved statewide, as well as their efforts to work with municipalities and relieve the property tax burdens by making payments in lieu of taxes to their host communities.

At its December 2017 meeting, the committee received input from municipalities. At that meeting MMA provided information about the two property tax exemption/reduction programs that are available to land trusts and other

conservation-focused entities. The more generous of Maine's tax programs provides qualifying "benevolent and charitable" organizations with a 100% tax exemption on the property "owned and occupied or used solely" for the benefit of the charitable organization. The other land conservation tax program finds its roots in the state's Constitution. By directive of Maine voters in the Nov. 3, 1969 referendum election and through

subsequent amendment, the Legislature has enacted three resource protection-focused current use programs (e.g., tree growth tax, farmland and open space tax, and working waterfront). These programs allow qualifying property to be taxed on the basis of its "current use" value, rather than the higher "just" (or market) value.

Municipal officials from Alna,
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Broadband Funding Eggs All In One Basket

In 2015 and 2017, MMA's Legislative Policy Committee adopted as part of its advocacy platform a \$10 million bond to fund the expansion of Maine's internet infrastructure into unserved and underserved areas of the state.

For years, municipal officials have been seriously concerned that the lack of reliable, affordable internet in many parts of the state is detrimental to local efforts to attract residents and businesses and cultivate economic development. While the state continues to question the merits of publicly funding new infrastructure into areas that private internet service providers are reluctant to enter for understandable return-on-investment reasons, the rest of the world is passing us by.

On Thursday of last week, the Legislature's Energy, Utilities and Technology Committee voted to kill MMA's bond proposal, 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, sponsored by Rep. Norman Higgins of Dover-Foxcroft.

In its place, committee co-chair Rep. Seth Berry of Bowdoinham, and his colleagues who support a broadband bond, are going all-in on his bill, LD 520, *An Act To Authorize a General Fund Bond Issue To Increase Rural Maine's Access to Broadband Internet Service*, which would generate a bond of \$100 million. In their view, the \$10 million proposed by MMA is not enough to get the job done.

Municipal officials concerned about Maine's lack of internet access are encouraged to contact their legislators to urge them to support LD 520.

Cumberland, Falmouth, and Lubec also provided the members of the committee with two different viewpoints on land conservation efforts. For some communities, the act of preserving land is a welcomed activity that has positive impacts on residents, businesses and visitors. In these communities, conservation efforts protect vital environmental resources, attract new residents and provide access to recreational activities. For other communities, however, the property tax exemptions provided to conserved land are seen as adversely impacting development efforts and shifting additional burdens onto the remaining property taxpayers who cannot afford the increase.

To support the governor's claim that land conservation efforts place too much burden on the state's property taxpayers, the Office of Policy and Management (OPM) provided the committee with several handouts. After reviewing the information, the committee decided that the data was not entirely relevant to the task at hand. One of the handouts provided information on the assessed value of all exempt property in the state, including property owned by federal, state and local governments and charitable organizations, rather than the value of conserved property. Another handout provided information on the public land owned by the federal government and no other conservation entity. Additionally, OPM confirmed via an email to the committee that a list and chart showing the

amount of acreage owned by conservation land organizations was incorrect due to double counting. Since OPM did not send a representative to the final meeting, committee members were unable to get answers to their questions and subsequently decided to set the data aside.

The committee also requested information from Maine Revenue Service (MRS) and Department of Agriculture, Conservation and Forestry, regarding the state's tree growth and open space current use programs. Both state agencies declined the invitation to participate in the study.

Despite its frustration with the lack of state agency level information, the committee took its charge seriously and spent a fair amount of time at its last meeting discussing the impact land conservation efforts have on municipalities and its property taxpayers.

Sen. Paul Davis of Piscataquis County spoke about a community in his district that is surrounded by conserved lands. In this community the financial burden of delivering services is shared among less than 300 taxpayers. As a result, the town is seeking to de-organize, against its will, because it can no longer afford to keep the office open a few hours a week. While there is no dispute that land trusts add value to the Maine economy, Sen. Davis also pointed out that the revenue they generate through tourism and outdoor sports activities largely goes to the state and not directly to the communities where they are located.

Rep. Norman Higgins of Dover-Foxcroft reiterated his wish that the committee had received the information from MRS. He thought it would have been beneficial for legislators to have town-by-town data to better understand the impact of these tax exempt/tax reduction programs on particular communities.

While land trusts claim that municipalities collect property tax revenue from 95% of land held for conservation, those payments, generally, represent only a portion of the taxes that would have been collected if the property was assessed at the full value. Furthermore, in communities with a higher than average number

of conserved acres, the burden of land conservation efforts is more pronounced. In Camden for example, no payments in lieu of taxes are provided for over 930 acres of conserved property. According to Kerry Leichtman, the community's tax assessor, this exemption creates a property tax revenue loss of \$205,487 annually, which is the equivalent of a 22 cent increase to its mil rate.

Based on Monday's deliberations, the committee's final report is expected to include three findings:

1. A majority of conserved lands owned by non-profits are contributing to the property tax coffers, adding to the greater Maine economy, improving air and water quality, and protecting wildlife habitats.

2. Public access and traditional uses (e.g., snowmobile trail, hunting and fishing access, etc.) should be retained when property is enrolled in a land conservation program.

3. The adverse effects caused by current use taxation exemption programs, which shift tax burden among classes of property owners in a community, warrant greater scrutiny. To that end, the committee unanimously agreed to submit a letter to the Taxation Committee requesting that they examine the property tax implications associated with these programs, as well as the disproportionate impacts imposed on communities statewide.

On a related note, one of the governor's goals for this session is to convince the Legislature to adopt legislation requiring all property owners, including those currently exempt, to make financial contributions for the provision of municipal services. In his State of the State address and in a subsequent press release, the governor encouraged legislators and citizens to ask municipal officials "how much land has been taken off the tax rolls, as well as how much in tax revenue that land would have been contributing today to offset property taxes." As a result, municipal officials might soon receive requests for data from members of the Legislature and the public.

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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, February 19 – HOLIDAY

Tuesday, February 20

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

LD 1830 – An Act To Amend the Anson and Madison Water District Charter.

Wednesday, February 21

State & Local Government
Room 214, Cross State Office Building, 9:00 a.m.
Tel: 287-1330

LD 1828 – An Act To Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by the City of Bath.

Thursday, February 22

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

LD 1821 – An Act To Implement Recommendations of the Right To Know Advisory Committee Concerning Freedom of Access Training for Public Officials.

LD 1831 – An Act Concerning Remote Participation in Public Proceedings.

LD 1832 – An Act To Implement Recommendations of the Right To Know Advisory Committee Concerning Remote Participation.

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.)

State & Local Government

LD 1840 – An Act To Revise the Municipal Consolidation Referendum Process. (Sponsored by Sen. Brakey of Androscoggin County)

This bill provides that if a municipality receives a petition proposing to form a joint charter commission for the purpose of consolidating with one or more municipalities, the municipal officers must hold a referendum to determine the willingness of the voters of the municipality to form the commission. If the referendum question is approved by a majority of voters in each municipality the commission must be formed. The bill also provides that a municipality may not be party to a consolidation agreement for 10 years, instead of 3 years as in current law, after the date a consolidation agreement is rejected, except when a majority of the municipal officers in each municipality subject to the rejected consolidation agreement vote to form a joint charter commission.