

## Increasing School Budget Voter Awareness

### Using Unanticipated School Aid

The first of the 10 initiatives on the Maine Municipal Association’s (MMA) 2019-2020 legislative platform received a public hearing before the Education and Cultural Affairs Committee this week. The bill, *LD 236, An Act Regarding the Use of Unanticipated State Aid for Kindergarten to Grade 12 Education*, sponsored by Rep. Paul Stearns of Guilford, requires school district voters to decide how to expend unanticipated state aid.

“Unanticipated state aid” is the term used to describe the additional state revenue for K-12 education that is distributed to school units after all districtwide decisions have been made, hearings conducted and the budget finally adopted via the validation referendum.

Under existing statute, unanticipated funds must be allocated to the school district’s surplus account, unless the voters have instructed the school board on its appropriate use. Specifically, through the inclusion of an article on the school budget referendum validation warrant, the voters can direct the board to use unanticipated state aid to: (1) increase expenditures for an approved cost center (e.g., regular instruction, special education, career and technical education, student and staff support, school administration, etc.); (2) increase a district’s reserve fund allocation; (3) decrease the local share of the school district’s budget; or (4) a combination of the cost center, reserve fund or property tax relief options.

Whether the voters have the opportunity to decide on one of these options, however, is a decision exclusively reserved for the district’s school board. The law allows, but does not require, the board to include on the warrant an article determining how those additional revenues

will be used.

LD 236 seeks to address the issue by requiring school boards to include one of the existing choices on the school budget warrant. At the end of the day, the school board retains the authority to decide which of the options will be advanced to the voters for an up or down vote.

The Maine School Management Association joined the sponsor and MMA in providing testimony in favor of LD

236. All of the proponents agree that the change proposed in the bill simply requires a conversation and decision to be made in advance of the distribution of unanticipated school aid, rather than trying to determine how best to use the revenue after the fact.

No other testimony on LD 236 was offered.

The work session on the bill has not been scheduled.

## FY 2020-2021 General Fund Budget Update

### Homestead Exemption Clarification

A memo issued by MMA earlier this week highlighted the municipally relevant elements of Governor Mills’ proposed FY 2020 - 2021 General Fund budget. At that time, MMA thought the governor’s initiative advancing “changes to the Homestead program to increase municipal aid by more than \$5 million a year” would result in an

increase in the amount of reimbursement for lost property tax revenue municipalities receive under the existing program.

We were wrong. The \$5 million investment ensures that adequate funding is available in both years of the biennium to reimburse municipalities at the current 62.5% level of lost revenue.

## Posted Roads Legislation Needs “Boots On the Ground” Voices

At the request of the Transportation Committee, on Tuesday a working group of stakeholders met to discuss the issues raised in LD 261, *An Act To Restrict the Authority for Posting of Roads*, sponsored by Sen. Russell Black of Franklin County, which was described in last week’s edition of the Legislative Bulletin.

As drafted, LD 261 seeks to erode the ability of municipal officials to protect

property taxpayer investments in local roads by preventing the imposition of weight-related restrictions over publically maintained roads that: (1) impact commercial entities either headquartered or conducting business activities in the state; (2) apply during any time the air temperature is below 31 degrees Fahrenheit; or (3) are longer than a six week period, unless

*(continued on page 2)*

written notice and justification is provided by the governmental entity seeking an extension beyond six weeks.

Participants at the working group’s first meeting included the bill’s sponsor, three members of the Transportation Committee, and four industry representatives who favor passage of the bill. The opponents of LD 261 were represented by five officials from the Maine Department of Transportation (MEDOT) and a representative of the Maine Municipal Association (MMA).

The first stakeholder meeting proved to be a repetition of the bill’s Feb. 7 public hearing, with both the proponents and opponents holding their ground.

MEDOT and MMA were unwavering in their support for a regulatory system allowing the municipal and state officials most familiar with conditions and vulnerabilities to post roads as a means of protecting taxpayer investment in the public transportation system essential to Maine’s economic vitality.

However, without the benefit of local level information on the condition of the 13,000 miles of local roads that crisscross the state, at the stakeholder’s first meeting the proponents of the bill unapologetically continued to lay blame for their perceived road posting problems at the feet of municipal public work directors, road commissioners and elected officials. From the proponent’s perspective, roads are posted too early, signs remain in place beyond

acceptable periods of time, and local and county law enforcement officials do not understand that appropriately loaded vehicles do not cause damage to roads regardless of road condition, or other environmental factors.

A second stakeholder meeting will likely take place in the coming weeks.

In order to ensure that the municipal perspective is clearly understood, it is important that municipal officials feel welcome to participate in the next meeting. Information and feedback on how and why road posting decisions are made is neces-

sary to challenge the proponent’s claims.

If you are interested in participating in future stakeholder meetings, please contact Rebecca Graham at [rgraham@memun.org](mailto:rgraham@memun.org) or 624-0101. If you cannot make the meeting, MMA is happy to share your comments, data, photos of roads in your community that are frequently posted, budget information or any other relevant information you may want to share with the proponents of LD 261, the bill’s sponsors and most importantly, the members of the Transportation Committee who will decide the outcome of the bill.

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## New Option For Labeling Referendum Questions

### A, B, C ... It’s easy as 1, 2, 3

The State and Local Government Committee on Monday of this week made quick work of LD 53, *An Act To Clarify Local Referendum Ballots*. The bill, sponsored by Sen. Heather Sanborn of Cumberland County, had its public hearing on Feb. 4, and proposed listing local referendum questions alphabetically rather than numerically on election ballots.

The purpose of this change, according to Sen. Sanborn, is to decrease voter confusion. The confusion, it seems, arises during campaign season, when it may be difficult to know whether advertisements are referring to state or local referendum questions. She testified that in her district, the City of Portland, a coalition in 2017 found itself urging defeat of a local ballot question and support for a state ballot question, yet each referendum was marked by the same number. Sen. Sanborn aims to solve this information communication dilemma by keeping state questions numbered at 1 and counting, while requiring municipal initiative and referendum questions to be lettered A through Z.

At the hearing, no one opposed LD 53 and the League of Women Voters, Maine Town and City Clerks Association (MTCCA), and the Maine Municipal

Association (MMA) testified in support of the bill. The League saw the bill as proposing a common-sense solution to a demonstrated problem that will improve clarity in communications with voters. The MTCCA suggested allowing municipalities to continue to use numbers in elections that do not include state referendum questions.

MMA went a bit further and suggested making the bill permissive, allowing municipalities the authority to use alphabetical letters on their ballots for local referendum questions when they wish to, without making this a requirement. The basis for the recommendation is out of concern that the change could lead to a new issue of confusion when local referendum questions transition in certain communities from the town meeting warrant, where in keeping with tradition the questions are likely to be listed with numbers, to the ballot.

At the committee’s work session, all members present approved of this suggestion, changing the word “must” in the bill to “may.” With a unanimous report, there is a good chance that Portland and other communities confronting this issue will be legally authorized to identify local referendum questions using letters rather than numbers in future elections.

### Legislative Bulletin

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# Downed Wires After Storms

## How Long Is Too Long To Wait?

In Samuel Beckett's *Waiting for Godot*, two characters spend the entirety of the play awaiting the arrival of Godot, who [spoiler alert] never arrives. During the wind storm of October, 2017, much of the community of Harpswell felt like those two characters when it took Central Maine Power (CMP) five days to clear a downed power line blocking the only road on or off the peninsula, and even longer to restore power. After the storm, the situation led to several productive conversations among stakeholders, and the development of LD 372, *An Act to Increase the Safety of Municipal Residents by Allowing Municipalities To Address Downed Wires in Extended Power Outages*.

At a public hearing before the Energy, Utilities and Technology Committee on Thursday, Rep. Jay McCreight of Harpswell explained that she sponsored LD 372 to find a safer method of clearing blocked roads than allowing members of the public to take into their own hands the work that ought to be done by electric utility line workers. Ordinarily, people understand the need to wait for the utility. But when people can't leave to get food, medicine, or generator fuel, or emergency vehicles can't get in, residents start clearing debris out of desperation, whether or not the obstruction is near downed lines. In Rep. McCreight's view, severe storms are likely to return, and a safer solution seems needed when, for whatever reason, the utility company doesn't show up.

Her proposal would authorize municipalities, in the event of a power outage of five or more days, to hire appropriately licensed professionals to address power, telephone and similar lines that have been felled by weather events and that are preventing access to roadways within the municipality. LD 372 also allows a municipality to apply to receive compensation from the local electric utility, the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency, the United States Department of Homeland Security, Federal Emergency Management Agency or any other funding source. At the hearing, Rep. McCreight offered an amendment to the bill that would lower the minimum

number of outage days prior to municipal action to three days.

The sponsor was joined by Harpswell Selectboard Chair Rick Daniel, as well as Harpswell Fire Administrator and Emergency Management Agent Art Howe, and MMA in support of the bill. Mr. Daniel testified that the entire town selectboard supports this legislation in the interest of ensuring there is a system in place to address any future instances of the main road on a peninsula being blocked and the utility not responding. While he believes after a meeting with representatives of CMP that the utility company is sincere about intending to be more responsive in the future, he also knows that the public safety consequences are too important not to have a back-up plan.

Mr. Howe echoed the comments, adding his understanding of the imperative to restore power to the most populated or critical areas first. But in his mind that did not do away with the need to add another emergency tool to public safety officials' toolkits.

MMA's Legislative Policy Committee voted to support the bill on the same premise, while offering an amendment clarifying that the bill grants a new power and does not limit any existing municipal authorities, nor release the utilities from their obligations to the public.

The International Brotherhood of Electrical Workers (IBEW), AFL-CIO, Maine Emergency Management Agency (MEMA), Emera Maine, CMP, Charter Communications, Comcast, and the Dirigo Electric Cooperative companies (Van Buren, Houlton, Eastern Maine Electric, Madison Electric, Kennebunk Light & Power and Fox Island) all spoke against LD 372. The Public Utilities Commission (PUC) testified neither for nor against, raising several technical and legal questions.

The Dirigo consumer-owned utilities seemed to appreciate the frustrations associated with the type of situation that prompted the bill, but could not accept the potential safety risks amid a series of questions associated with hiring a third party to address their infrastructure. The Dirigo companies also believe their response times are generally much faster than the

other major electric utilities.

Emera Maine expressed concern regarding coordination between the municipally-hired contractors and the grid operators, raising the specter of slowed response times and increased costs to ratepayers and taxpayers. The company testified that nothing in law prevents anyone from addressing a downed wire, but that the law should not be seen as encouraging practices which could be unsafe. Emera explained how it is asking the PUC for permission to increase its rates in part to be able to hire more staff to improve response in the future, and that it is lowering its preventive limb cutting practice from once every six years to once every five years.

CMP's manager of emergency preparedness provided a candid assessment that was in line with the other utilities' perspectives, emphasizing how issues with staff and response time only occur in unusually large weather events and that the company's track record fairs far better in more ordinary storms. CMP also committed to prioritizing road opening in critical areas prior to power restoration, sharing anecdotes from meetings in small towns like Brooks that convinced them of the importance of clearing lines out of roads first.

The IBEW had the committee's ear for over 30 minutes, educating most in the room not just on safety protocols, but also workforce needs. Having identified labor shortages in 2011, the electrical workers union likened communicating with CMP in Augusta, who is overseen by management in Connecticut, to waiting for the Santa Maria to sail across the Atlantic. The union expressed sympathy for the root cause of the bill, but called the idea of hiring third party workers a "disaster waiting to happen" if such personnel are even available for hire. The AFL-CIO seconded the interest in ensuring worker safety.

Most of the questions raised throughout the hearing by members of the committee showed both their understanding of the seriousness of the issue, and their concern regarding liability, not just for employee and public safety, but also for the costs of any potential damage.

Liability considerations will likely be a key focus of the work session on LD 372, which has not yet been scheduled.

## 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 18 – HOLIDAY

### Tuesday, February 19

**Agriculture, Conservation & Forestry**  
**Room 214, Cross Building, 1:00 p.m.**  
**Tel: 287-1312**

LD 445 – An Act To Appropriate Funds to the Department of Agriculture, Conservation and Forestry To Maintain All-terrain Vehicle Trails.

LD 446 – An Act To Appropriate Funds to the Department of Agriculture, Conservation and Forestry to Maintain Snowmobile Trails.

LD 630 – An Act To Clarify That Food and Food Products Containing Hemp-derived Cannabidiol Produced and Sold within the State Are Not Adulterated and To Match the State’s Definition of “Hemp” to the Definition in Federal Law.

**Appropriations & Financial Affairs**  
**Room 228, State House, 1:00 p.m.**  
**Tel: 287-1635**

LD 295 – An Act To Authorize a General Fund Bond Issue To Increase Rural Maine’s Access to Broadband Internet Service.

LD 354 – An Act To Authorize a General Fund Bond Issue To Encourage the Provision of Reliable High-speed Internet in Rural Underserved Areas of Maine.

**1:45 p.m.**

LD 172 – An Act To Authorize a General Fund Bond Issue To Invest in Smart City Technology.

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

LD 153 – An Act To Strengthen Testing for Lead in School Drinking Water.

**Innovation, Development, Economic Advancement & Business**  
**Room 202, Cross Building, 1:00 p.m.**  
**Tel: 287-4880**

LD 397 – Resolve, Directing the Commissioner of Professional and Financial Regulation To Conduct a Sunrise Review Regarding the Proposal To License Building Contractors, Insulation Installers and Energy Auditors.

**Marine Resources**  
**Room 206, Cross Building,**  
**Tel: 287-1337**

LD 629 – An Act To Ensure a Seat on the Shellfish Advisory Council Is Held by a Person with a Background and Credentials in a Field of Marine Science.

### Wednesday, February 20

**Appropriations & Financial Affairs**  
**Room 228, State House, 10:00 a.m.**  
**Tel: 287-1635**

*Initiatives under the jurisdiction of the Joint Standing Committee on Energy, Utilities & Technology*

LR 2406 – An Act To Make Supplemental Appropriations and

Allocations for the Expenditures of State Government and To Change Certain Provisions of Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2019.

**11:00 a.m.**

*Initiatives under the jurisdiction of the Joint Standing Committee on Education & Cultural Affairs*

**1:00 p.m.**

*Initiatives under the jurisdiction of the Joint Standing Committees on Appropriations & Financial Affairs; Agriculture, Conservation & Forestry; Judiciary; Marine Resources and Taxation.*

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

LD 329 – An Act To Exempt from Criminal Liability Persons Reporting a Drug-related Medical Emergency.

LD 342 – An Act To Require a Person To Notify Law Enforcement Officers of the Possession of a Hypodermic Needle.

**1:00 p.m.**

LD 64 – An Act To Make Post-conviction Possession of Animals a Criminal Offense.

**Education & Cultural Affairs**  
**Room 208, Cross Building, 9:00 a.m.**  
**Tel: 287-3125**

LD 375 – An Act To Promote the Forest Products Industry in School Construction and Renovation Involving Heating Systems.

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

LD 289 – An Act To Prohibit the Use of Certain Disposable Food Service Containers.

**Inland Fisheries & Wildlife**  
**Room 206, Cross Building, 1:15 p.m.**  
**Tel: 287-1338**

LD 525 – An Act To Increase the Registration Fee for Snowmobiles for Residents.

**Labor & Housing**  
**Room 202, Cross Building, 12:00 p.m.**  
**Tel: 287-1331**

LD 480 – An Act To Ensure Pay Transparency and To Reduce Gender and Racial Wage Inequities.

LD 507 – An Act To Amend the Laws Governing Employer Recovery of Overcompensation Paid to an Employee.

**State & Local Government**  
**Room 214, Cross Building, 10:00 a.m.**  
**Tel: 287-1330**

LD 209 – An Act To Prohibit Municipalities from Prohibiting Short-term Rentals.

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## LEGISLATIVE HEARINGS (cont.)

LD 390 – An Act To Amend the Laws Governing Dangerous Buildings.

LD 391 – Resolve, To Establish the Study Committee To Develop a Disposition Plan for Future Surplus State Property in York County.

LD 431 – An Act To Make Election Day a State Holiday.

### Taxation

**Room 127, State House, 1:00 p.m.**

**Tel: 287-1552**

LD 43 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Dedicate All Sales Taxes from All Vehicle Sales and Vehicle-related Sales to the Highway Fund for Roads and Bridge Capital Improvements.

LD 560 – An Act To Improve Access to Property Tax Exemptions for New Homeowners.

### Veterans & Legal Affairs

**Room 437, State House, 9:00 p.m.**

**Tel: 287-1310**

LD 499 – An Act To Prohibit Payment per Signature on Petitions for Direct Initiatives and People’s Veto Referendums.

LD 514 – An Act To Amend the Laws Governing Political Party Representation of Election Clerks.

LD 517 – An Act To Facilitate Fair Ballot Representation for All Candidates.

## Thursday, February 21

### Appropriations & Financial Affairs

**Room 228, State House, 12:30 p.m.**

**Tel: 287-1635**

LR 2406 – An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change

Certain Provisions of Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2019.

*Initiatives under the jurisdiction of the Joint Standing Committees on Veterans & Legal Affairs; Criminal Justice & Public Safety and Health & Human Services.*

### Education & Cultural Affairs

**Room 208, Cross Building, 1:00 p.m.**

**Tel: 287-3125**

LD 404 – An Act To Fund the School Revolving Renovation Fund.

LD 427 – An Act To Require the State To Fund Teacher Retirement.

LD 557 – An Act To Create and Fund the School Revolving Maintenance Fund To Support the Usefulness and Longevity of Public School Buildings.

### Energy, Utilities & Technology

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

**Tel: 287-4143**

LD 475 – An Act To Ensure Caller Access to E-9-1-1 Call Recordings.

### Judiciary

**Room 438, State House, 1:00 p.m.**

**Tel: 287-1327**

LD 357 – An Act Regarding Court Facilities in York County.

LD 506 – An Act To Provide Architects, Engineers and Certain Other Professionals Immunity from Civil Liability When Volunteering for Evaluating Damage from Disasters.

## IN THE HOPPER

(The bill summaries are written by MMA staff and are not necessarily the bill’s official 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](http://www.memun.org).)

### Agriculture, Conservation and Forestry

LD 723 – An Act To Enhance Resource Management of Submerged Lands beneath Impounded Waters. (Sponsored by Rep. Rykerson of Kittery)

This bill provides that all lands beneath the mean low-water mark of waters impounded prior to Jan. 1, 1997 are state-owned submerged lands held in trust for the benefit of the people of Maine.

### Energy, Utilities & Technology

LD 743 – An Act To Create Local Options in E-9-1-1 Protocol Mandates. (Sponsored by Rep. Blume of York)

This concept draft bill proposes to enact certain measures designed to allow for increased flexibility in emergency dispatch protocols. Currently, structured, standardized call-taking processes are implemented to assess a caller’s condition, scene information and the appropriate response to dispatch to the emergency. This bill would examine: (1) whether protocol-based call-taking processes result, in certain instances, in delays in emergency response and the need for additional staffing; (2) the extent to which the use of protocols improves or impedes the delivery of emergency services; (3) any outstanding issues associated with appropriate and effective training in the use of

emergency dispatch protocols; and (3) the costs associated with the implementation of standardized police dispatch protocols that are borne by municipalities.

LD 674 – An Act To Improve the E-9-1-1 System. (Sponsored by Rep. Riley of Jay)

This concept draft bill proposes to enact measures designed to upgrade the state’s E-9-1-1 system in accordance with certain recommendations contained in the report related to standardized dispatch protocols for police 9-1-1 calls.

### Environment and Natural Resources

LD 590 – An Act To Promote Climate Resiliency Measures To Protect Beaches and Near-shore Infrastructure. (Sponsored by Rep. Blume of York)

This concept draft bill proposes to enact measures designed to provide flexibility in the regulation of development near the shore and encourage creative approaches to protecting beaches and critical near-shore infrastructure threatened by sea level rise and storm damage.

LD 774 – An Act to Protect Maine’s Beaches and Shoreline. (Sponsored by Rep. Gramlich of Old Orchard Beach)

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## **HOPPER (cont.)**

This bill amends the Maine's coastal management policies laws to ensure that the policies address the effects of coastal erosion on beaches and shoreline and ensure the health of the State's beaches and shoreline for habitat protection for coastal wildlife species and for protection against storms. The bill also creates an advisory group on beach management, to be convened by the Commissioner of Environmental Protection for the purpose of developing and recommending objectives, strategies, legislation and other actions to mitigate coastal erosion in the state and to keep beaches healthy for storm protection, habitat protection for coastal wildlife species and for recreational use. The group is directed to review the report titled "Integrated Beach Management Program Working Group Report," dated January 2017 and submitted to the Joint Standing Committee on Environment and Natural Resources in the First Regular Session of the 128th Legislature, update the data and findings contained in that report, if necessary, and review and update the specific recommendations for legislative, regulatory or other actions contained in that report, if

necessary. No later than Feb. 15, 2020, the commissioner is required to submit a report to the Environment and Natural Resources Committee containing the findings and recommendations of the group following its review of the 2017 report, including any proposed legislation necessary to implement those recommendations.

### **Veterans and Legal Affairs**

LD 245 – An Act To Reestablish a Presidential Primary System in Maine. (Sponsored by Sen. Luchini of Hancock Cty.)

This bill makes permanent the temporary provisions in law for presidential primaries that were repealed on December 1, 2018.

LD 780 – An Act to Change Municipal Campaign Contribution Limits. (Sponsored by Sen. Chipman of Cumberland Cty.)

This bill reduces from \$750 to \$350 the maximum allowable contribution for candidates for municipal office.