



LEGISLATIVE BULLETIN



Vol. XLIII No. 17 MAY 7, 2021

Dictating & Dismantling Home Rule SLG Committee Hears Controversial Bills

Legislative committee work this week hit an all-session high, leaving members and the public drinking public policy proposals from the state house fire hose. While the goal was to have all legislation voted on this week, it appears some committees will struggle to meet the deadline.

Some recently printed bills received work session attention the day following the public hearing on the effort. Others have been languishing in the wings because of their complex natures and potential consequences or costs. Many are just downright controversial.

The Committee on State and Local Government held public hearings on three controversial bills at the end of last week and beginning of this one, each shifting additional burdens on property taxpayers by dictating or expanding duties, limiting local control, or penalizing communities.

Yet another discontinued roads bill hit the committee last Friday. LD 1513, *An Act To Require the Maintenance of a Discontinued Public Road That Provides the Sole Access to One or More Residences*, sponsored by Rep. Daniel Newman of Belgrade, would force communities that retained a public easement on a discontinued or abandoned road to also maintain the road to a newly created “passable” condition.

As drafted, LD 1513 would: (1) require municipalities to maintain a discontinued road on which it held a public easement if a road is used to access even a single residence from which it collects taxes; (2) establish a new standard for maintenance as “passable” for residents, but does not require the town to keep the road safe and convenient to motor vehicles; and (3) leave determination of what is a “passable standard” up to the

county commissioners.

Proponents to the bill included Maine Roadways, Maine Realtors Association and several residents residing on abandoned or discontinued roads. Citing road damage from nefarious lumber companies and citizens, and declining property values when Realtors must disclose a property is on a discontinued road, supporters of the measure believe the most appropriate solution is to require all community property taxpayers to shoulder the expense of providing access to property on discontinued roads, even when it was an informed personal choice to buy the property.

In its opposing testimony MMA pointed out the need for local discussions, rather than state mandates dictating property tax allocations as the path forward. Along with the complex history of how municipalities inherited this problem, staff advised the

committee of remedies already available to discontinued road residents. Existing, recently adopted law requires that sellers tell a buyer whether the access road to the property is maintained or not and makes it illegal for any user to damage the road.

Public easements on discontinued roads have been created through a variety of different legal paths, including those forced on municipalities by the state because of water access or via state led road turnback initiatives. In these cases, communities were never offered a choice. Even under new laws, when an easement is retained by the community following the extensive legal discontinuance process, the entire intent is to announce there will be no future municipal maintenance of the road.

If the town’s legislative body has previously determined that the road in question

(continued on page 3)

Local Control vs. Workforce Housing

Interest among members of the Legislature to bring into production affordable and workforce housing sooner rather than later is causing some state leaders to sponsor legislation preempting, in part, local control in the area of land use regulation. Serious thought is being given by the members of the Labor and Housing Committee for support of two initiatives seeking to significantly impact the ability of municipalities to regulate certain types of housing within community boundaries.

LD 1312, *An Act To Remove Barriers to Accessory Dwelling Units and Allow Accessory Dwelling Units where Single-family Houses Are Allowed*, sponsored by Rep. Valli

Geiger of Rockland, requires a municipality to allow one accessory dwelling unit to be located on the same lot as a single-family dwelling unit, overriding related ordinances adopted in some communities and mandating this specific use. The bill also prevents municipalities from imposing a whole host of land use standards that are applicable to other residential structures located within the zoning district and provides that neither the primary nor accessory dwelling must be owner occupied. Despite the intent to increase affordable and workplace housing in Maine, the bill also explicitly allows the primary or accessory dwelling unit to be used as a short-term or vacation rental. The

(continued on page 3)

Hearing Schedule (cont'd)

LD 1222 – An Act To Reduce Property Taxes of Seniors in an Amount Equal to the Cost of Education.

LD 1283 – An Act To Amend the Maine Tree Growth Tax Law To Encourage Public Access.

LD 1406 – An Act To Encourage Relocation to Rural Maine.

LD 1514 – An Act To Provide for Fairness in Property Taxation by Assessing a One-time Tax on Financial Assets.

LD 1598 – An Act To Eliminate Taxpayer Subsidies for Discriminatory Employers.

FRIDAY, MAY 14

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

LD 1478 – An Act To Decriminalize Homelessness.

LD 1593 – An Act To Provide Pathways to Rehabilitation, Reentry and Reintegration.

Local Control vs. Workforce Housing (cont'd)

work session on LD 1312 will take place Friday, May 7.

LD 1530, *An Act To Allow People To Live in Tiny Homes as a Primary or Accessory Dwelling*, sponsored by Rep. David McCrea of Fort Fairfield, would allow structures of no more than 400 square feet to be located on an undeveloped lot where a single-family dwelling is allowed or as a primary or accessory unit on a property that already contains a structure. Because the bill allows municipalities to adopt less stringent regulations and no zoning regulations are provided in the bill, it is likely that the application of any land use standard would be challenged as being more restrictive than state law. However, MMA is working with the bill's proponents on a compromise to address the issues raised in the bill, as well as the concerns of municipal officials. The committee will hold a work session on LD 1530 on Wednesday, May 12.

In its opposition to these bills municipal officials pointed to the related-housing study

in LD 609 sponsored by Speaker Ryan Fecteau as an appropriate means for generating the necessary conversation among all the interested parties and repeatedly called for state investment in the technical assistance, resources and education necessary to successfully implement the needed improvements in housing stock. Those recommendations appear to have fallen short of lawmakers' expectations.

Our call to partner with the state to address this statewide issue collaboratively has instead resulted in the lawmakers asking municipal leaders to develop suitable housing ideas and solutions for consideration by the legislature. Later this month, MMA's Legislative Policy Committee will have an opportunity to discuss and respond to this information request. In exchange, municipal leaders ask the state to preserve the ability of residents to determine how best to manage growth and development within their communities.

Dictating & Dismantling Home Rule (cont'd)

should be discontinued, which involved a public hearing and a town meeting or council vote, again, the town's legislative body is in the best position to reassess that action by weighing the value of the road and continuing access against the town's other commitments and fiscal resources.

Along with road maintenance obligations, another bill, LD 1340, *An Act To Ensure Municipal Compliance with Federal Immigration Laws*, sponsored by Rep. Randall Greenwood of Wales, would also shift additional burdens onto municipalities. The bill, which received a public hearing on Monday, mandates municipal compliance with sections of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996, by requiring local law enforcement officials to gather and share information on suspected illegal immigrants with federal authorities. Failure to comply with these demands could result in the loss of general purpose aid for schools, general assistance funding, and state revenue sharing.

The bill's sponsor was the only propo-

nent.

The Immigrant Legal Advocacy Project, Maine Business Immigration Committee, Portland City Council, American Civil Liberties Union of Maine, MMA and 13 other members of the public, including a former senator and former United States Marshall, all testified in opposition to the measure.

From the Association's view, the section of federal law the bill demands municipal officials enforce already "notwithstands" local or state laws to the contrary. As federal administrative law does not intersect with local revenue generation efforts that allow for the collection of income, sales and lodging taxes to fill the state's coffers, suggesting that revenue sharing is a condition of enforcing the obligations of another level of government, strikes officials as an overreach that makes little sense.

The final attack on home rule came in the form of another attempt to strip municipalities of the ability to ban, by ordinance or application of ordinance, any short-term rental. As drafted, LD 1365, *An Act To Prohibit Municipalities from Prohibiting*

Short-term Rentals, sponsored by Rep. Billy Bob Faulkingham of Winter Harbor would not allow municipalities to ban or apply regulations to a short term rental unit if the effect of those regulations banned its operation, even if the same rule applied to a neighboring property.

During the work session held on Monday, committee members disclosed they had been inundated by an automatic boiler plate email advocacy push from a transient platform provider, which resulted in the receipt of a high volume of testimony in opposition to the bill.

Recognizing the uncharacteristic attack on home rule proposed in LD 1365, the members of committee quickly voted "ought not to pass" by a 9-2 margin.

Work sessions on LD 1513 and LD 1340 will be held Monday May 10 at 9:00 a.m. Municipal officials opposed to paying for dismantled discontinued roads or becoming de facto federal agents are encouraged to contact members of the State and Local Government Committee this weekend at SLG@legislature.maine.gov.

Utility Projects Coming to a Town Near You? Legislation Points to All Signs Being Yes

Recent legislation before the Energy, Utilities and Technologies Committee would empower municipalities to play a much more active role in local utility decisions. Up for discussion this week were three bills that hold merit individually and collectively pose significant changes to a municipality's ability to authorize, own, and operate a public utility.

The most ambitious bill, LD 1634, *An Act to Create the Maine Generation Authority*, sponsored by Rep. Nicole Grohoski of Ellsworth, creates a quasi-governmental entity, hopefully at arm's length, to take the lead in financing and owning renewable electricity projects. The Maine Generation Authority would enter into contracts with third parties for the construction, operation and maintenance of renewable energy generation projects. To cover the large costs of these projects, the authority would be permitted to supplement the revenue generated from selling electricity with sub-market bonds backed by Maine's electric ratepayers.

Opponents to the bill are rightly worried the authority could either be coopted by interests adverse to ratepayers, shift development risks onto ratepayers, or place the state as a competitor in the distributed energy market. For all the potential renewable energy the authority could provide, many were not able to support the bill while these concerns still loom. The Office of the Public Advocate, Governor's Energy Office, Public Utilities Commission, and Efficiency Maine Trust were all propelled to speak neither for nor against this bill even though they all held out hope the authority could be insulated from political interests.

The Public Advocate, Barry Hobbins, hinted that as long as the authority is making money on the sale of energy, it could be corrupted. Michael Stoddard, executive director of the quasi-governmental Efficiency Maine Trust, validated concerns for malfeasance but spotlighted his organization as proof that these types of entities can be insulated from politics.

Since the Legislative Policy Committee will establish the Association's official position on LD 1634 later this month, MMA provided provisional testimony highlight-

ing the need for a financing authority to make municipal energy projects affordable. Ratepayers would welcome clean energy, especially if it comes at equal or lower rates than fossil fuel generated power, but the price tag of renewable energy projects makes it cost-prohibitive for municipalities to afford on their own.

Unfortunately, LD 1634 would be big hit to municipal property tax revenue. The legislation exempts the authority from paying taxes on the property it owns, potentially amounting to billions of dollars of valuation. In response to this concern, proponents of the bill contend the rate savings created by the authority could equal or surpass the additional tax burden this bill creates.

There were multiple recommendations for this bill to become a resolve, which would provide the time necessary to gather details on impacts to energy markets and tax implications to municipalities. Knowing that the Legislature is considering such bold legislation, the remaining bills are evidence there is growing interest in giving municipalities more autonomy in utility decisions.

LD 695, *An Act to Allow Municipal Utility Expansion under Certain Conditions*, sponsored by Rep. Seth Berry of Bowdoinham adds a tool to the toolbox that municipalities have not generally needed in the past, but are happy to have and might use frequently in the future.

The bill directs the Public Utilities Commission (PUC) to facilitate the creation of municipal power districts so long as there is no proven net harm to any ratepayers. The PUC would be charged with determining if a harm to ratepayers exists and a fair market value of the property being transferred. To the extent that a municipality is interested in operating a power district, this legislation makes that easier.

Support came from the City of South Portland, Rockland Energy Committee, and a few respected individuals involved in public policy including the previous public advocate, Gordon Weil.

The bill was opposed by representatives from Central Maine Power and Eastern Maine Electric Cooperative. In true neither

for nor against fashion, the PUC and Office of the Public Advocate offered unbiased testimony, primarily offering language revisions for clarification.

The Association's provisional testimony welcomed the participation of the PUC in facilitating power districts. At present, few municipalities operate power districts and most do not anticipate doing so in the near future. However, the increasing affordability of solar panel arrays and the ambitious Maine Generation Authority could make municipal power districts more commonplace.

Another bill aims to address municipal utility decisions that has not been an issue in the past but could be of concern going forward. LD 1587, *An Act To Remove the Municipal Ordinance Exemption for the Development of Nonessential Transmission Lines*, sponsored by Rep. Scott Landry of Farmington, gives municipalities the final say in authorizing nonessential transmission lines. The bill defines this as transmission lines from a generation source located outside of the state that does not primarily provide electricity to customers within the state.

In short, it would allow municipalities to refuse construction of transmission lines, like the proposed CMP corridor, unless the PUC determines it is in the public interest of the state.

The Association presented provisional testimony stating the impact transmission lines have on the environment, human health, and municipal property values. For these reasons, it is appropriate to remove the municipal ordinance exemption for developments with no public benefit. It was also noted that these types of transmission lines might become more common as other states propose power corridors through Maine to acquire wind energy from the coast or hydro power from Canada.

IN THE HOPPER

Criminal Justice & Public Safety

LD 1478 – An Act To Decriminalize Homelessness. (Sponsored by Rep. Morales of South Portland)

This bill provides a response other than traditional arrest for a person who lacks a home who commits certain listed low-level violations of law including loitering, disorderly conduct and public drinking. The bill requires the Attorney General to adopt a homelessness crisis protocol to be implemented by law enforcement agencies. The protocol must provide mental health and substance use disorder professionals who are trained in crisis response to respond to the encounter between the law enforcement officer and the person who lacks a home and provide appropriate information and referrals to resources in the community, including, but not limited to, crisis services, emergency and transitional housing and case management services.

LD 1504 – An Act To Enhance Use of Critical Incident Stress Management Teams for Firefighters. (Sponsored by Rep. Gramlich of Old Orchard Beach)

This bill directs the Commissioner of Public Safety to provide critical incident stress management team services to all firefighters in the state by assisting fire departments in establishing critical incident stress management teams individually or in groups, providing critical incident stress management team services to a fire department that does not have a team, providing critical incident stress management training for at least one firefighter in every fire department and providing education, training and promotional programs and materials regarding critical incident stress management teams and services to fire departments. This bill also requires fire departments to have at least one employee or firefighter who has received critical incident stress management training and provide education and access to ongoing behavioral health care related to post-traumatic stress experienced by a firefighter. A fire department is also required, within department resources, to maintain a critical incident stress management team, which may include collaboration with another fire department.

LD 1585 – An Act To Increase Privacy and Security by Prohibiting the Use of Facial Surveillance by Certain Government Employees and Officials. (Sponsored by Rep. Lookner of Portland)

This bill prohibits a public employee from obtaining, retaining or using a facial surveillance system or entering into an agreement with a third party to do so. The bill also clarifies that a public employee or official may: (1) use evidence relating to an investigation of a crime that may have been generated from a facial surveillance system; (2) obtain or possess an electronic device that performs facial surveillance for the sole purpose of user authentication; (3) use social media, communications software, applications for communicating or automatic redaction software, provided the software does have the capacity to perform facial surveillance; or (4) comply with the National Child Search Assistance Act of 1990. A violation of the prohibition must result in consequences that may include retraining, suspension or termination.

Energy, Utilities & Technology

LD 1619 – An Act To Establish a Moratorium on Offshore Wind Power Projects in Maine’s Territorial Waters. (Emergency) (Governor’s Bill) (Sponsored by Sen. Lawrence of York Cty.)

This bill establishes a moratorium that, until 2031, prohibits any state agency or municipality or other subdivision of the state from licensing, permitting or otherwise authorizing or approving the siting, construction or operation of a windmill or wind turbine or tower for an offshore wind power project in state-owned submerged lands or Maine’s territorial waters. The moratorium does not apply to cables, transmission lines and portside infrastructure that may support offshore wind energy generation and does not apply to an offshore wind energy demonstration project proposed for location in the Maine Offshore Wind Energy Research Center for which the Public Utilities Commission has approved the terms of a long-term power purchase agreement.

LD 1634 – An Act To Create the Maine Generation Authority. (Sponsored by Rep. Grohoski of Ellsworth)

This bill establishes the Maine Generation Authority as a state authority authorized to issue revenue bonds that are backed by Maine electric ratepayers. The purpose of the authority is to finance and own electricity generation projects that generate electricity using renewable fuels that produce zero greenhouse gas emissions and that are located in Maine or, for those located in federal waters in

(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.)

the Gulf of Maine, capable of delivering all electricity generated into Maine in amounts sufficient to meet or offset residential and business energy requirements, and electricity storage systems that can store sufficient quantities of electricity generated by renewable generation projects to enable Maine’s electricity grid to meet total in-state demands for electricity at all times. The governance structure, administration, powers, obligations, property rights and bond issuance authority of the authority are modeled on the Maine Turnpike Authority. The amount of authorized bonding is intended to provide sufficient funding to allow the authority to meet the energy and storage targets set forth in the bill. The bill authorizes the authority to undertake the following activities in fulfillment of its purpose: (1) acquire fee simple ownership or easements in or enter long-term leases of real estate within the state or in federal waters in the Gulf of Maine; (2) issue revenue bonds for up to 100% of the costs of a renewable generation project or electricity storage system, including capitalized interest during construction of the project and system and working capital related to the operations and administration of the authority; and (3) enter into contracts with third parties for the construction of renewable generation projects or electricity storage systems, the operations and maintenance of renewable generation projects or electricity storage systems owned by the authority and the provision of support services to the authority, including energy planning, energy market sales, energy contract review, accounting, legal and other types of administrative services.

Environment & Natural Resources

LD 1429 – An Act To Implement the Most Time-sensitive Recommendations of the Maine Climate Council. (Sponsored by Rep. Dunphy of Old Town)

This bill implements the most time-sensitive recommendations of the Maine Climate Council by: (1) requiring school administrative units (SAU) to increase the amount spent on local Maine food from 10% of the total amount expended on food purchases to 30% before the beginning of 2026-2027 school year; (2) establishing the Maine Farm and Fish to School Program to promote the sale of food grown or raised by Maine food producers to educational institutions and creating a fund to support the program through grants to SAUs; (3) requiring the state to conduct a comprehensive statewide inventory of natural land and marine systems to sequester or release carbon in order to estimate carbon stock in regards to farm and open spaces and tree growth; (4) adding a declaration to the tree growth program that it is in the public interest to encourage carbon sequestration in the state; (5) directing the Governor’s Energy Office to develop a voluntary, incentive-based forest carbon program for forest managers and owners of forested land of 10 to 10,000 acres; (6) creating a \$2,000 fuel efficiency tax credit for commercial businesses in the freight transportation supply chain that participate in the US EPA’s SmartWay program; and (7) directing the University of Maine System and numerous state departments to increase their technical service capacity to deliver data, expert guidance and support to communities, landowners, farmers, loggers and foresters for activities that will support the state’s climate goals. The bill also allocates: (A) \$1.5 million in ongoing funds to the Electric Vehicle Accelerator Program; (B) \$400,000 per year for broadband infrastructure grant programs for expansion in rural areas; (C) \$400,000 per year for expansion of public transportation options in order to meet the Maine Climate Council’s recommendation that the state’s public transportation funding reach the national median of \$5 per capita by 2024; (D) \$225,000 per year to relaunch the GO MAINE ride matching program in order to significantly increase shared public community options by 2022; (E) \$1.4 million in ongoing funding to the Efficiency Maine Trust for heat pump and home and business weatherization rebate and incentive programs; and (F) \$7.5 million per year to the Land for Maine’s Future Board to leverage matching contributions to be used for the acquisition of land and interest in land.

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Refresh or Replace: How to Correct Inequity in School Funding Formulas

The Committee on Education and Cultural Affairs hosted two public hearings that proposed reforms to modify education funding formulas.

LD 1426, *An Act To Provide for the Equitable Funding of Education Chosen by Maine Families*, sponsored by Rep. Randall Greenwood of Wales suggests two changes: (1) creating per-pupil cost rates specific to each school administrative unit and limiting payment to students that opt out of traditional public school education to that calculated amount, and (2) repealing the restriction on providing public funds to sectarian schools. The Association based its position to oppose the bill on this second matter, as members are firmly against providing public money to sectarian schools. Without this provision, the bill would provide mixed benefits to many communities that are paying more to educate students selecting alternate private school options compared to public education.

Opposition testimony from Maine School Management Association, Maine Principals' Association, and Maine Education Associa-

tion dominated the majority of the public hearing. Only one individual from the public offered testimony in support.

The second proposed education funding reform garnered slightly more support even though it is still a concept draft. LD 1449, *An Act To Provide for Education Funding Reform for More Equitable State Support to Communities*, sponsored by Rep. Valli Geiger of Rockland, suggests the state adopt one of four alternate education funding formulas and makes per capita adjustments to the existing school funding formula until a new one is adopted.

Association members shared a common interest in reforming the education funding formula for the purpose of evening out state funding to municipalities that pay a disproportionate share of their property taxes to fund school districts or provide services to neighboring communities. However, the bill is a hurried adoption of either the foundation grant, guaranteed tax base, centralized, or Vermont model without providing any comparison of how these funding models

perform relative to the current essential programs and services (EPS) funding formula.

Instead of delving into unknown funding formulas, municipalities would prefer the state meet its goal of 55% funding of K-12 education before it gives up on the EPS formula that has yet to receive the level of state support promised in earlier legislation. Since the state has yet to meet its funding expectation, it is too early to say if the current education funding formula functions appropriately when given conditions, like 55% state support, are met. In testimony, MMA staff recommended the Legislature first achieve its funding goal before reforming a formula that never received complete support from the state.

Two councilors from the sponsor's hometown of Rockland and a Fayette school board member were in attendance to support this bill. No one spoke in opposition.

Work sessions for these bills are scheduled to take place on Tuesday, May 11.

IN THE HOPPER *cont'd*

LD 1471 – An Act To Establish a Stewardship Program for Packaging. (Sponsored by Sen. Dill of Penobscot Cty.)

This bill facilitates the establishment of one or more stewardship programs in the state for packaging material to be operated by a stewardship organization approved by the Department of Environmental Protection. Under such a program, the plan for which must be approved by the department and annually updated following a department review, participating responsible parties that sell, offer for sale or distribute for sale in or into the state certain products contained, protected, delivered, presented or distributed in or using packaging material are required to pay fees related to the packaging material associated with those products. Responsible party payments received by a stewardship organization are used to offset operational recycling costs incurred by eligible entities or to fund grants to eligible entities, which may include municipalities, refuse disposal districts and regional waste management associations in the state. As of Jan. 1, 2025, the bill preempts municipal authority to adopt ordinances establishing a packaging stewardship program and any ordinance or regulation that violates the preemption is void as of Jan. 15, 2025.

LD 1541 – An Act To Support and Improve Municipal Recycling Programs and Save Taxpayer Money. (Sponsored by Rep. Grohoski of Ellsworth)

This bill establishes a stewardship program in Maine for packaging material, to be operated by a stewardship organization contracted by the Department of Environmental Protection following a competitive bidding process. Under the program, producers of products contained, protected, delivered, presented or distributed in or using packaging material pay into a fund based on the amount by weight of packaging material associated with the products they sell, offer for sale or distribute for sale in or into the state. Producers can wholly or partially offset this payment obligation by implementing independent programs to recycle packaging of the same material type for which they have a payment obligation and can further reduce their payment obligation by reducing the amount of

packaging associated with the products they sell, offer for sale or distribute for sale in or into the state or by meeting other program incentives. Producer payments received by the stewardship organization are used to reimburse eligible municipalities for certain recycling and waste management costs. To be eligible for such reimbursements, a municipality must share with the stewardship organization certain data regarding its recycling and waste management costs and must provide for the collection and recycling of packaging material generated in the municipality that is determined to be readily recyclable. In addition to the payment of municipal reimbursements, the stewardship organization is authorized to use producer payments to cover the operational costs for the program, to pay department fees and to make investments in education and infrastructure aimed at reducing packaging waste and improving recycling outcomes in Maine.

LD 1639 – An Act To Protect the Health and Welfare of Maine Communities and Reduce Harmful Solid Waste. (Sponsored by Rep. Carney of Cumberland Cty.)

This bill amends the definition of “waste generated within the State” to limit the amount of the residue that may be disposed of by an incineration, recycling and processing facility at a solid waste landfill in the state to the weight of the solid waste initially generated in the state by that facility during its annual reporting period. The bill eliminates the provisions of the law regarding recycling and source reduction requirements for solid waste processing facilities that were in operation during calendar year 2018 and that accept exclusively construction and demolition debris.

Judiciary

LD 1577 – An Act To Require Police To Enforce Court-ordered Child Custody Agreements. (Sponsored by Sen. Moore of Washington Cty.)

This bill requires that upon a request of a parent, a law enforcement agency must enforce a child custody order, including a visitation order, issued by a court.

(continued on back page)

Offshore Wind Development: Abort or Halt?

The consequences of offshore wind generation to climate change mitigation, economic development, environmental health, and marine resources are so convoluted that even proposals to halt offshore wind are layered with hidden implications for Maine’s future.

By now, most Mainers are aware of both sides of the offshore wind (OSW) impasse. To some, offshore wind generation is progress towards achieving climate change mitigation, an opportunity to expand the clean energy sector, and a long-studied technology that is going forward in other states and strongly supported by the White House. For others, OSW poses an uncertain threat to a familiar way-of-life for generational fishing communities, puts marine resources in unknown peril, and appears to be spearheaded by foreign interests.

For a brief moment it seemed as if pro-offshore wind interests would triumph with Governor Janet Mills’ support of the nation’s first floating wind turbine pilot project and President Joseph Biden’s commitment to expanding the OSW industry in America. However, cries for caution and fastidiousness are keeping OSW development at bay in Maine

During a public hearing this week members of the Energy, Utilities, and Technology Committee heard hours of testimony pushing two different bills that by title appear similar but have dramatic differences in the detail.

LD 101, *An Act To Prohibit Offshore Wind Energy Development*, sponsored by Rep. Billy Bob Faulkingham of Winter Harbor, would prohibit the state and all of its political subdivisions from authorizing any offshore wind energy development project and halt ongoing pilot projects.

LD 1619, *An Act To Establish a Moratorium on Offshore Wind Power Projects in Maine’s Territorial Waters*, sponsored by Sen. Mark Lawrence of York County, achieves much of the same effect as LD 101 but without the prohibition. LD 1619’s moratorium would last 10 years and only apply in state managed waters, creating a pathway for Maine to pursue OSW in federal waters if desired. The moratorium also includes an exemption for the University of Maine’s innovative floating OSW pilot project.

The following gives a general overview of each bill’s pause on certain activities.

The Governor’s Energy Office supported a moratorium and opposed a prohibition on

	Can Maine approve...			Can other states approve OSW in the Gulf of Maine?
	OSW in State Waters?	OSW in Federal Waters?	The UMaine pilot project?	
LD 101, Prohibition LD 1619, Moratorium	☒ ☒	☒ ☑	☒ ☑	☑ ☑

As noted in the far right column, neither bill can prohibit other states from developing OSW in federal waters, such as the majority of the Gulf of Maine. This puts Maine in a difficult position. The Gulf of Maine is widely known for its premier wind resources and will experience OSW development regardless of the state’s involvement. Maine needs to decide if it wants to be an early mover in the OSW industry or if it wants to take a back seat to out-of-state interests in its coastal backyard. Maine can still benefit from OSW even if a prohibition or moratorium is imposed, or if other states take the lead in developing the Gulf of Maine. Nearby OSW projects will generate investment in port and harbor infrastructure and create good-paying jobs in engineering, construction and navigation.

Symbolism should also be considered when weighing prohibition against moratorium. The choice sends a clear message that Maine is either closed for business or cautiously considering how to participate in the infant OSW industry.

OSW. The Office of the Public Advocate testified similarly. Union groups were on both sides of the discussion, some wanted to do everything possible to preserve Maine’s heritage industries like lobstering, while other unions like Insulators, International Brotherhood of Electrical Workers, and United Association preferred the moratorium. Members of the general public in support of the prohibition far outnumbered residents in favor of the 10-year pause.

Maine Municipal Association stood opposed to LD 101 on the grounds that a prohibition is too difficult to reverse, abandons a revolutionary pilot project, goes against national momentum towards OSW, and does not provide any avenue for ongoing research or working groups to assess the unknown impacts of OSW. As for the moratorium in LD 1619, MMA submitted “neither for nor against” testimony with the belief that this bill strikes the right balance between precaution and exploration.

Work sessions for either bill have yet to be scheduled.

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 Dr., Augusta, ME 04330.
207-623-8428. Website: www.memun.org

Editorial Staff: Kate Dufour, Rebecca Graham, Neal Goldberg and Laura Ellis of the State & Federal Relations staff.

Layout: Sue Bourdon, Communication & Educational Services.





Maine Municipal Association

60 COMMUNITY DRIVE
AUGUSTA, MAINE 04330-9486

IN THE HOPPER *cont'd*

LD 1617 – An Act To Establish and Practice Restorative Justice. (Sponsored by Rep. Talbot Ross of Portland)

This concept draft bill proposes to amend the Maine Juvenile Criminal Codes to incorporate the principles and values of restorative justice. Restorative justice is a mechanism to address crime, disputes and community conflict through one or more meetings that are facilitated by one or more trained and impartial individuals and that include the victim, offender and representatives of the community. A central focus of restorative justice is identifying the harm caused by the offender, attempting to make amends and promoting reintegration while emphasizing the importance of community partnership and engagement.

State & Local Government

LD 1340 – An Act To Ensure Municipal Compliance with Federal Immigration Laws. (Sponsored by Rep. Greenwood of Wales)

This bill provides that a municipality is ineligible to receive general purpose aid for local schools, municipal general assistance reimbursement and state-municipal revenue sharing if that municipality prohibits or restricts, formally or informally, the exchange of information with federal immigration authorities or any other federal, state or local government entity regarding the immigration status, lawful or unlawful, of any individual or the maintenance of such information.

Taxation

LD 1222 – An Act To Reduce Property Taxes of Seniors in an Amount Equal to the Cost of Education. (Sponsored by Sen. Black of Franklin Cty.)

Beginning on or after April 1, 2021, this bill provides a property tax exemption for individuals 65 years of age or older equal in value to the taxes paid to fund public schools in the municipality where the real estate is located.

LD 1342 – An Act To Authorize a Local Option Sales Tax on Lodging and Other Goods and Provide Funding for Tax Abatement and Rental Relief. (Sponsored by Rep. Sylvester of Portland)

This bill allows a municipality to impose a local option sales tax of 1% on lodging that is currently subject to the sales and use tax if approved by referendum of the voters in that municipality. Ninety percent of the revenue from the local option sales tax is distributed to the municipality imposing the local option sales tax and the remaining 10% is distributed to the Maine State Housing Authority, which is required to establish a program of property tax relief and rent relief for municipalities using the revenue. Revenue received by a municipality may not be used to reduce or eliminate funding otherwise due the municipality under other provisions of law. The local option sales tax may not take effect before July 1, 2022.

LD 1514 – An Act To Provide for Fairness in Property Taxation by Assessing a One-time Tax on Financial Assets. (Sponsored by Rep. Lookner of Portland)

This bill establishes a one-time 0.5% tax on financial assets, including cash and cash equivalents, securities and other financial instruments, with a fair market value in excess of \$5 million. The State Tax Assessor is directed to: (1) determine the amount of tax due; (2) enforce the collection of the tax; (3) adopt routine technical rules necessary to administer and enforce the tax; and (4) transfer 50% of the receipts to the Local Government Fund and 50% to the Housing Opportunities for Maine Fund.

LD 1525 – An Act To Exempt from Sales Tax Plastic Bags Required by a Municipal Solid Waste Management Program. (Sponsored by Rep. Tuttle of Sanford)

This bill exempts from sales tax certain plastic bags that a municipality or other political subdivision of the state requires for the storage or disposal of solid waste in accordance with a solid waste management program adopted by the municipality or other political subdivision of the state.