Proposed State Budget: Further Explorations

The last two editions of the Legislative Bulletin have focused on the impacts of Governor LePage’s proposed two-year state budget on the municipalities and Maine’s property taxpayers measured on a statewide basis. Our attempt in this edition is to provide some closer-to-home examples of how the elements of the budget will impact towns and cities and the people who support the towns and cities with their property taxes. In some cases, the scenarios presented use the actual impact data provided by municipal officials. In other cases, hypothetical “Town A” versus “City B” impacts are used to illustrate how the proposals impact similarly or differently situated communities or property taxpayers. While the scenarios provide a photograph of the impacts, nothing can compare with a local level assessment of how these changes will impact your community and its property taxpayers. Municipal officials are urged to develop local assessments and to share the results widely with members of the Legislature, local business leaders and residents.

**Taxing Nonprofits.** The Governor’s proposal to make 50% of the value of certain privately owned, tax-exempt properties subject to taxation has garnered the interest of municipal officials with high concentrations of exempt property within their borders. Since the Governor announced this proposal three weeks ago, MMA has received information from municipal assessors detailing how the expanded taxing authority would impact their community’s coffers.

As of Thursday of this week, 43 municipal officials had submitted data estimating that their communities would collectively raise $28 million in property tax revenue. Taking into consideration that approximately 75% of all charitable and benevolent and literary and scientific property value is located in these communities, we are now estimating that no more than 75 communities statewide will raise approximately $37.5 million in property tax revenue under the Governor’s proposal, and over 400 towns will not have any appreciable access to this new proposed revenue source. As shown in the excerpted “Impact of Governor’s Nonprofit Partial Tax Exemption Proposal” table, shown below, the biggest winners are the oceanfront communities of Bar Harbor, Brunswick, Damariscotta, Kennebunkport and Mount Desert. These five communities alone are projected to raise $5.5 million under the Governor’s proposal. It is estimated that each of these communities would generate more property tax revenue than would be distributed to them under the revenue sharing program both at the currently-truncated $62.5 million level and the fully funded $158 million level.

**Telecommunications Tax.** As reported in the past two editions of the Legislative Bulletin, the Governor’s budget includes a proposal to transfer to the municipalities the state’s authority to assess taxes on two-way telecommunications property, which is the personal property of telephone companies, broadband service providers, etc. If enacted, the taxing authority would generate approximately $8.25 million in local source revenue each year, but we don’t yet know which communities would be the beneficiaries. That information is housed with Maine Revenue Services. That agency continues to assure municipal officials they are working on compiling that data for municipal review. Stay tuned.

*(continued on page 2)*

### Impact of Governor’s Nonprofit Partial Tax Exemption Proposal

<table>
<thead>
<tr>
<th>Community</th>
<th>Revenue from Partial Exemption</th>
<th>FY 2016 Rev Share @ $62.5 M</th>
<th>FY 2016 Rev Share @ $158 M</th>
<th>Partial Exemption vs. $62 M Rev Share</th>
<th>Partial Exemption vs. $158 M Rev Share</th>
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<tbody>
<tr>
<td>Bar Harbor</td>
<td>$1,630,186</td>
<td>$122,264</td>
<td>$309,511</td>
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<td>$3,223</td>
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</tbody>
</table>
**Proposed State Budget (cont’d)**

**BETR to BETE Conversion.** Although the two initiatives described above seek to expand the municipal property tax base, the Governor is also proposing to restrict the local tax base by transferring approximately $3 billion worth of taxable personal property enrolled in the Business Equipment Tax Reimbursement (BETR) program over to the Business Equipment Tax Exemption (BETE) program. The impacts of this proposal will vary from community-to-community, with the municipalities hosting the state’s largest industrial and commercial businesses bearing the brunt of the conversion, at least on the short term, with all municipalities feeling the loss of that tax base over time as the impacts of reducing state valuations in the BETR-heavy communities ripple through the school aid, revenue sharing and county assessment systems.

**Tale of Two Cities.** Thanks to the information provided by the assessors in the Town of Skowhegan and the City of South Portland, we are able to show how the Governor’s BETR and other property tax related proposals (including the repeal of revenue sharing, expanded local tax authority and redesigned Homestead Exemption) would impact the average homeowner in these two communities. Please note that the following assessment only scratches at the surface. Communities with BETR and BETE enrolled properties understand the consequences are far reaching. Impacted municipalities will be faced with the added administrative burdens necessary to facilitate the conversion and experience frustrating delays in adjustments to state valuation that, if not delayed, would offset some of the loss in tax revenue with increases in municipal revenue sharing and General Purpose Aid for education.

As shown in the “Impacts of the Governor’s Property Tax Related Proposals” table, shown above, both the Town of Skowhegan and the City of South Portland would lose a significant amount of taxable personal property if the Governor’s proposal to repeal the BETR program was enacted. Skowhegan would lose $201 million in taxable value, while South Portland would stand to lose $161 million. However, the tax base in both communities would benefit from the Governor’s Homestead Exemption and limited nonprofit exemption status proposals.

**Homestead Exemption and tax base.** The current $10,000 exemption provided to all Maine homesteaders would be eliminated under the Governor’s proposal for those homesteaders under the age of 65 but doubled to $20,000 for homesteaders 65 years old or older. There are many more homesteaders under the age of 65 than there are 65 years of age or older, so eliminating those exemptions, on balance, actually expands the municipal tax base.

Currently, 1,966 homeowners residing in Skowhegan are enrolled in the Homestead Exemption program. According to the U.S. Census, nearly 18% of the town’s population is 65 years of age and older. Using the Census data, it is estimated that only 346 residents would qualify for the Governor’s proposal...
In South Portland, a resident under 65 years of age living in a median valued home of $112,700 would experience an increased property tax of $790. In South Portland, the number of participants in the Homestead Exemption program would fall from 5,733 to 780, causing $41.7 million of currently exempt property to become taxable. In addition, the Governor’s proposal to limit nonprofit organizations’ property tax exemption would increase Skowhegan’s tax base by $9.2 million and South Portland’s base by $42.5 million.

When taking all these changes together, Skowhegan’s taxable base is reduced from $1.1 billion to $884 million. In South Portland, the tax base is reduced from $3.6 billion to $3.5 billion.

Although some proponents of the Governor’s proposal will claim that these communities could reduce the level of services provided to account for reductions in revenue, this impact analysis assumes that the loss in tax base would result in an increased mill rate. As shown in the “Impacts of the Governor’s Property Tax Related Proposals” table, shown on page 2, Skowhegan’s commitment (i.e., revenue necessary to raise by taxation) would increase by nearly $2 million from $17.4 million to $19.4 million. In South Portland, property taxpayer burden would increase by $2.2 million from $59.5 million to $61.7 million. In Skowhegan, the mill rate would increase by $5.55 mills, from $16.40 to $21.95. In South Portland, the mill rate increase would be $1.01 mills, from $16.70 to $17.71.

**From the Homeowner’s Perspective**

After taking into account the gross impacts on local tax rates associated with the BETR-to-BETE conversion, elimination of revenue sharing, and the elimination of a majority of homestead exemptions, the analysis at the homeowner’s level can begin.

As shown in the “Taxes Paid on Median Valued Home” table, shown above, the Governor’s mixed bag of property tax related proposals would have disparate impacts on the property taxpayers in each community. A Skowhegan resident less than 65 years of age living in a median valued home of $219,800 would experience an increase of $388. The homeowners over the age of 65 would be treated similarly in both communities, with Skowhegan’s senior residents receiving a modest $43 property tax reduction and those in South Portland experiencing a modest property tax increase of $34.

**Property Tax Fairness Credit.** Although many of the Governor’s municipally relevant policy changes appear to further burden the property taxpayers, the proposed budget also includes amendments to the property tax fairness credit that results in a significant increase, from approximately $30 million in statewide benefit to nearly $90 million, in property tax-related income tax benefits. The “Property Tax Fairness Credit” table, printed on page 4, shows how the changes would impact filers, both under the age of 65 and 65 years of age and older in four different income and property tax categories.

It is important to note that regardless of the property taxes actually paid on a homestead property, there is cap on the amount of taxes that can be considered in the calculation of the property tax fairness benefit. Under the existing program, for single filers the cap is $2,000 and $3,200 for joint filers with more than two personal exemptions. Under the Governor’s proposal, those caps would be increased to $3,000 for single filers and up to $5,000 for joint filers with more than two personal exemptions. The cap for joint filers with no more than two personal exemptions would increase from $2,600 to $4,000. Although the law provides for differential treatment of taxpayers over the age of 65, the enhanced benefit threshold is difficult to trigger. When the calculation of property taxes paid as a percentage of income is controlled by the maximum amount of property taxes that will be considered in the analysis, a natural limit is created with respect to the extent the special maximum levels designed for the elderly can be achieved.

As shown in the table, the benefit is primarily targeted at homeowners with household incomes in the $60,000 range or less. For example, under the current system a single income tax filer, less than 65 years of age, who earns $20,000 and has a $2,000 property tax bill is currently eligible for a property tax fairness credit of $400. Under the Governor’s proposal, that same taxpayer would be eligible for an $800 credit.

**General Assistance.** As would be expected, the Governor’s budget includes a proposal to amend the way in which municipalities are reimbursed under the state/municipal General Assistance program. Under the current funding model, municipalities are reimbursed for 50% of the direct benefits provided until the total amount of benefits provided exceeds 0003 of the community’s state valuation. For every dollar expended over the threshold amount, the state reimbursement increases to 90%.

As proposed by the Governor, the state would instead reimburse municipalities 90% of direct costs until the community had distributed an amount of aid equal to 40% of its six year average. As soon as the GA spending reached the proposed threshold, the state’s share would drop to 10% for the remaining GA benefits issued during that fiscal year.

Almost all the towns and cities in [continued on page 4]
Maine are 50% receivers. Just a few of the state’s largest urban communities have General Assistance programs large enough to trigger the enhanced 90% reimbursement rate. For the 487 or so “50%” municipalities, the impacts of the Governor’s proposal are simple. The less GA the municipality issues relative to its six-year average, the higher the level of state reimbursement. If during the course of a fiscal year the municipality issued just 40% in GA benefits relative to its previous six year average, it would be rewarded with 90% state reimbursement. If the municipality happens to issue the approximate amount of its 6-year average, it will be reimbursed for 42% of the total distribution rather than 50%. If a municipality has to issue more GA than its average distribution, the state’s reimbursement level begins a decline from the 42% level.

For example, if a community expended an average of $10,000 on its GA program each year, it would receive $0.90 for every dollar spent until the municipality had expended $4,000. For every dollar over $4,000 spent on GA benefits, the state’s share would drop to $0.10. Under this proposed funding mechanism, the community would receive $4,200 in state reimbursement at the end of the fiscal year if its GA expenditures matched the 6 year average. Under the existing funding formula, the community would receive $5,000 in state reimbursement.

The municipalities disproportionately affected by this proposal are the major urban centers. Currently, when taking into account the enhanced reimbursements provided to the state’s largest service center communities who play host to a majority of the GA clients statewide, the state’s overall share in General Assistance is approximately 60% of the total value of benefits issued. Under the Governor’s proposal, assuming municipalities issue the same approximate level of benefits as historically distributed, the state share will drop to just over 40%, and state government will save approximately $4 million. By far, the cities of Portland, Lewiston and Bangor will be hardest hit by this proposed redesign of the reimbursement system.

Stay Tuned. Municipal officials have long advocated for the enactment of a comprehensive tax reform proposal that seeks to more equitably balance the burdens placed on the sales, income and property taxpayers. Currently, that “tax mix burden” is more heavily laid upon the property taxpayers who carry 45% of the total burden, while income and sales taxpayers contribute 31% and 24%, respectively.

MMA’s 70-member Legislative Policy Committee appreciates Governor LePage’s willingness to take comprehensive tax reform by the horns. Although the Governor’s proposal as it currently stands focuses on lowering the income tax burden by expanding the sales tax base and rate, municipal officials remain optimistic and look forward to engaging in the process of developing a comprehensive tax reform plan that treats all taxpayers in an equitable and balanced manner as well as all levels of government engaged in the delivery of public services.

### Property Tax Fairness Credit

<table>
<thead>
<tr>
<th>Income Level</th>
<th>Current</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>$20,000 Income with $2,000 Tax Bill</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Filer</td>
<td>Under 65: $100</td>
<td>65+: $700</td>
</tr>
<tr>
<td>Joint Filers - 2 or less PE*</td>
<td>Under 65: $100</td>
<td>65+: $700</td>
</tr>
<tr>
<td>Joint Filers - more than 2 PE</td>
<td>Under 65: $100</td>
<td>65+: $700</td>
</tr>
<tr>
<td>$30,000 Income with $2,500 Tax Bill</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Filer</td>
<td>Under 65: $100</td>
<td>65+: $700</td>
</tr>
<tr>
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<tr>
<td>Joint Filers - more than 2 PE</td>
<td>Under 65: $100</td>
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</tr>
<tr>
<td>$40,000 Income with $3,000 Tax Bill</td>
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<td></td>
</tr>
<tr>
<td>Single Filer</td>
<td>Under 65: $100</td>
<td>65+: $700</td>
</tr>
<tr>
<td>Joint Filers - 2 or less PE*</td>
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</tr>
</tbody>
</table>

*Personal Exemptions

**As proposed in the Governor’s budget, regardless of the taxes paid, $5000
Getting Up To Speed on Broadband

At least fourteen bills will be introduced this legislative session to expand broadband internet access throughout Maine. Because broadband is likely to be a hot topic under the dome, and already is in many municipalities, this article is meant to provide a basic snapshot of where things currently stand.

The term “broadband” refers to reliable high-speed internet. The meaning of “broadband” hasn’t changed over time; it is the meaning of “high-speed” that has evolved. While the downloading/uploading speed of 10 megabits per second (Mbps) was once considered a very high speed, it is now widely regarded as a minimum baseline. It is estimated that roughly 20 percent of Maine’s households currently have access to broadband at download speeds of at least 10Mbps, but only 12 percent have access to upload speeds that fast. Many entities now recognize 100Mbps as a more realistic target when considering the rapid pace of technological change and commensurate needs of businesses.

The difference between download and upload speeds is that the former refers to a user’s ability to view or receive information, and the latter refers to a user’s ability to post content online for others to see. Access to high download speeds is more common, yet upload speeds are crucial for online video-conferencing, remote file sharing, and other functions commonly used by businesses, governments, educational institutions, nonprofits and others. On both fronts, Maine lags the national average. Internet speeds in Maine run about half the average speed available in Boston.

In one way, Maine is ahead of the curve because of the significant broadband capacity existing in its 1,100 mile “3-Ring Binder” that was completed about two years ago. On a map, this backbone of fiber optic internet infrastructure forms three rings in southern, central and northern Maine. Practically speaking, however, Maine is regarded as being behind the curve, ranking 49th out of the 50 states in terms of the quality and availability of its broadband internet.

This is due, at least in part, to the fact that the binder’s fiber optic cables have gone largely untapped in communities that are not located along the binder corridors. The binder created a “middle mile” broadband highway, and more on/off-ramps are now needed. Some municipalities have therefore decided to back legislation this session that would assist with “last mile” connections to the existing three-ring binder network.

The municipal interest in broadband (continued on page 6)
Jail Consolidation Partnership

In the Legislative Crosshairs

The Maine Municipal Association recently published a report titled “State-Municipal Partnership Programs: Past, Present and Future.” The purpose of the document was to draw attention to the many and varied partnerships the state has forged with municipalities in order to more effectively deliver governmental services. The overarching theme of the report focuses on the need for both sides of the partnership to honor the commitments made to forge the partnership agreement.

Although the MMA report focuses on municipal/state partnerships, the state has other local government partners, including the counties.

In 2008, the state and counties entered into a partnership agreement over the management of the corrections system. As result of a year’s worth of meetings and work by both county and state officials, the members of the 123rd Maine Legislature enacted a bill consolidating the county jail and state prison operations into a unified system. A nine member State Board of Corrections (now down to five) was established to oversee the transformation of the then bifurcated system. That Board is still charged with managing the operations of the unified system, but its facing an enormous obstacle of state government intransigence. The funding for the unified system comes, in part, from state sources and federal inmate revenues.

Over the past seven years municipal officials have supported efforts to improve the existing system and to keep the property taxpayer share of the unified system at the capped $62 million level. However, the Maine Municipal Association’s 70-member Legislative Policy Committee will have an opportunity to revisit that policy stance when it convenes on February 12 to take positions on several bills of municipal significance, including LD 186.

A third option has just been presented as LD 186, An Act To Reverse Jail Consolidation. Under this proposal, the unified system would dissolve and management would return to the pre-2008 bifurcated state prison and county system.

If enacted, the partnerships created between the state and counties in the provision of correctional services would become empty. The agreements brokered to address overcrowding of inmates within the unified system become irrelevant. Counties currently tasked with performing 72-hour pre-trial holding services would be left to figure out how after an eight year hiatus to fund and provide both pre-trial boarding and post-trial imprisonment services. The system of providing rehabilitation services, now coordinated on a statewide basis, would be turned back to a county-by-county approach.

In addition, the promise made to the property taxpayers that their investments in the provision of correctional services would be capped at $62.2 million would more likely than not be broken. Although, LD 186 requires the state to provide at least $12.2 million in “community corrections” funding, it is unclear that $12 million represents the appropriate state share, and that this new state commitment will be honored over time. Municipal officials cannot be faulted for asking which state financial commitments have ever been honored over time.

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Broadband (cont’d)

capacity is directly related to economic development. Studies have linked broadband internet to business growth, and companies are now asking, if not expecting, their host communities to provide access to high speed internet. Maine’s municipalities are looking at a variety of ways to heed the call, either through legislation, public-private partnerships with existing providers, or local initiatives.

As part of its downtown revitalization efforts the City of Augusta, for example, is offering free high-speed wireless internet to the first 50 downtown businesses that sign up. Orono and Old Town have formed the company “Orono-Old Town (“OTO”) Fiber” to help develop an open broadband network, leveraging municipal and other resources. Rockport unveiled its own network as well, which offers upload and download speeds of 100Mbps, the fastest in Maine. The total Rockport build-out cost was about $60,000, with about half that investment coming from tax revenue generated within a tax increment financing district. South Portland is following suit, and their internet speed may eventually be as high as 1 Gigabit (1,000Mbps).

It is clear that the internet is also being increasingly utilized by the education, healthcare, and government sectors. Many municipalities are now offering administrative functions through their websites in an effort to save taxpayer resources. Of Maine’s 492 municipalities, at least 319 operate an official website (the links to which are available at www.memun.org). The ConnectME Authority’s website (www.maine.gov/connectme) also contains a host of resources for communities seeking to design broadband programs, including a tool for determining which providers currently serve your address.

Broadband is coming to be considered an integral part of utility infrastructure, in the same vein as water, electricity, energy and transit. Governor Paul LePage, with the support of the Maine’s Congressional Delegation, has introduced legislation to the Legislature and legislators, have recently expressed strong support for broadband capacity expansion. Perhaps Maine will soon be online, at speeds more in line with the rest of the country.
interests by the imposition of land use regulation or exempted from the be compensated for any regulatory “takings” of his or her property. This bill establishes a right for the owner of any property to either (Sponsored by Rep. O’Connor of Berwick; additional cosponsors.) LD 162 – An Act To Protect the Rights of Property Owners. (Sponsored by Rep. O’Connor of Berwick; additional cosponsors.)

This bill establishes a right for the owner of any property to either be compensated for any regulatory “takings” of his or her property interests by the imposition of land use regulation or exempted from the offending land use regulation. The bill defines a “public entity” as the state government and all political subdivisions of the state, including municipal and quasi-municipal governments such as water or sewer districts. A “takings” is defined as any reduction in fair market value of a property created by restricting the use or interest in privately owned land. The bill prohibits any public entity from creating or enforcing a taking without providing compensation to the landowner or enacting a land use regulation without including a compensation system. The bill also creates a private right of action for a landowner to make a demand for compensation and provides for the public entity 180 days to provide a remedy. Remedies include repealing the land use regulation, modifying it to remove the “takings” effect, exempting the land use owner from the regulation or providing compensation. If the public entity fails to provide a remedy within the 180 day period, the landowner may proceed to Superior Court to obtain the remedy and, if prevailing, attorney’s fees, expenses and court costs. This entitlement to compensation for regulatory takings does not apply to historically recognized public nuisances, public health and safety codes (fire codes, health and sanitation regulations, etc.), land use codes in effect before the owner’s acquisition of the property, and certain codes that derive their authority from the federal or state constitutions.

Labor, Commerce, Research & Economic Development
LD 164 – An Act To Establish the Maine Length of Service Award Program. (Sponsored by Rep. Evangelos of Friendship; additional cosponsors.) This bill establishes the framework for a statewide pension-type program for volunteer firefighters and emergency medical services (continued on page 8)
personnel. The bill creates the “Length of Service Award Program” and establishes a 7-member Board of Trustees which is charged with administering the program utilizing the services of firms providing administrative, investment, custodial, and auditing functions. Each municipal fire chief would be responsible for posting a list of volunteer firefighters and EMS volunteers working for the municipality that year, providing an opportunity for the list to be challenged, and ultimately submitting a certified list to the trustees. The primary method of financing this pension system is increasing the sales tax rate on consumer fireworks to 10% and dedicating the revenue associated with the rate increase to the program. The program is also authorized to collect and invest funds from state government, local governments, municipal fire departments or companies, and the federal government. Eligible volunteers vest in the program after 5 years of service, and receive a pension upon the attainment of 65 years of age or having earned 20 years of service credit before 65 years of age.

**State & Local Government**

LD 167 – An Act to Prohibit a Municipality from Holding a Referendum To Legalize the Recreational Use of Marijuana. (Sponsored by Rep. Campbell of Newfield; additional cosponsors.)

This bill prohibits a municipality from including a referendum question to legalize the recreational use of marijuana on a ballot or in a warrant for consideration of that proposal at town meeting.

**Taxation**

LD 183 – An Act To Decrease Property Taxes by Increasing the Sales Tax. (Sponsored by Rep. Picchiotti of Fairfield; additional cosponsors.)

This bill increases the value of the homestead property tax exemption from $10,000 to $20,000, with the lost tax revenue associated with the first $10,000 of the exemption being reimbursed by the state at the 50% level and the lost tax revenue associated with the second $10,000 in exemption being reimbursed by the state at the 100% level. The bill provides the additional state revenue to cover the costs of the expanded exemption by increasing the sales tax on general retail sales for property or services valued at $5,000 or less to 6%. That rate is currently 5.5% and scheduled to drop to 5% on July 1, 2015.

**Transportation**

LD 185 – An Act To Prohibit the Use of a Mobile Telephone When Operating a Motor Vehicle Except in Hands-free Mode. (Sponsored by Sen. Katz of Kennebec Cty; additional cosponsors.)

This bill generally prohibits the use of a handheld mobile telephone while operating a motor vehicle. Exceptions are provided for law enforcement officers, corrections officers, firefighters, drivers of authorized emergency vehicles, holders of commercial drivers licenses, physicians, municipal public works personnel, Maine Turnpike Authority personnel and state transportation personnel who are operating motor vehicles within the scope of their employment.

**Veterans & Legal Affairs**

LD 197 – An Act To Strengthen Maine’s Election Laws by Requiring Photographic Identification for the Purpose of Voting. (Sponsored by Sen. Collins of York Cty; additional cosponsors.)

This bill requires that a voter provide proof of identity with photographic identification in order to cast a ballot. The bill specifies the types of photographic identification that may be used to verify the identity of the voter and provides a process for a voter without photographic identification to cast a provisional ballot, as well as the system by which the provisional ballot may be counted if the voter subsequently provides acceptable photographic identification within 3 business days of the election.