

Jail Consolidation Between a Rock and a Hard Place

Years of study on how to fix Maine’s disjointed county jail system led to two steps being taken forward in the creation of the State Board of Corrections. By choosing not to staff the Board, Governor LePage took that progress one step backwards. The Governor would reportedly like either the state to both control and pay for the jails, or for the counties to do so.

The rub for municipalities in this proposal is that counties do not pay for the jails; local property taxpayers do. And the property taxpayers with concerns about their tax bills take those concerns to the municipalities that collect the tax, not the counties that lay down the assessments.

On both Tuesday and Thursday this week, the Criminal Justice and Public Safety Committee held work sessions on the jail consolidation bills, LD 186, *An Act To Reverse Jail Consolidation*, as well as LD 195, *An Act Regarding County Jails*. Whether to step forward or step backward is the question for the Committee.

At the request of Rep. Mike Lajoie (Lewiston), the Committee solicited input from municipalities after hearing at great length from county and state officials, who tend to dominate the discussion. On Thursday, the Maine Municipal Association attempted to answer the Committee’s call for “concrete” solutions to help chart the future course of county jails in Maine.

MMA began by reiterating the position of its Legislative Policy Committee, expressed in the testimony provided at the public hearing on LD 186, that the right choice from the municipal perspective is clearly to continue to step forward, toward increased coordinated, non-silo management of the jail/correctional system, and provide proper state level funding for what is clearly a state government issue.

The piecemeal approach of the past created a commodities market for prisoners that led to, from a systems-management perspective, inflated jail operational costs that would likely be better controlled by a more coordinated management system.

As MMA explained at the public hearing, state government should not abandon the program it established and the commitments it made to Maine’s property taxpayers in 2008 with PL 2007, chapter 653. LD 186 would cancel-out a major state commitment, but everywhere the municipal community turns, state commitments are bending and breaking.

MMA went on to offer a suggestion that would provide cold comfort but at least some form of a backstop in the event the state decides to return the jails entirely

to county control. If the state is going to capitulate on the system it established seven years ago that was designed to more effectively coordinate the utilization of the state’s jails and, instead, return to a system where each county attempts to provide jail services for the other counties, increased municipal authority needs to be provided to govern the county budget adoption process.

Specifically, in the event of a retreat on jail consolidation, both the county-specific laws regarding the authorities of the county budget committees that are composed of municipal officials, as well as the general law governing the authority of the municipal finance committees pursuant to county charters, should be

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Relaxing the MUBEC Mandate Attacked

When the Maine Uniform Building and Energy Code (MUBEC) was established as the statewide code in 2008, the law provided that some municipalities would be mandated to enforce the code within their jurisdictions and others would not. The building and energy code itself, however, was spread out over the whole land as a matter of state law regardless of whether the town or city was mandated to enforce it or not. Even though MUBEC applied everywhere, only the 168 municipalities with more than 2,000 residents were mandated to enforce it. Well over 300 municipalities in the state were not.

Three years later, the original vision was substantially altered. In 2011, the MUBEC law was changed so that the “statewide” code only applied as a matter

of state law in the 89 municipalities with more than 4,000 inhabitants. In the other 400 towns, no building codes could be adopted or enforced other than MUBEC, and that could only happen if a town among that large group of smaller communities chose to adopt MUBEC at town meeting. Otherwise, no building or energy code would apply. Apparently 20 of the 400 municipalities under 4,000 in population have adopted the MUBEC code.

That’s where the MUBEC law stands today but the Legislature’s Labor, Commerce, Research and Economic Development Committee held public hearings on Wednesday that would alter the MUBEC landscape yet again.

One of those bills (LD 1093) would

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change the population level for municipalities obligated to enforce MUBEC from 4,000 inhabitants to 5,000. Another proposal (LD 1120) would repeal MUBEC altogether.

The bill developed by MMA's Legislative Policy Committee as part of the Association's 2015 legislative agenda cuts a different path. Sponsored by Senate President Mike Thibodeau (Waldo Cty.), the proposal developed by MMA was designed to keep MUBEC in place in the 89 municipalities where it is currently the building code, but remove the municipal obligation to enforce, allowing for pure private sector rather than public sector enforcement. In short, the bill developed by MMA's Legislative Policy Committee would scale back one of the most recent, large-scale unfunded state mandates enacted by the Legislature, but otherwise keep the MUBEC code essentially in place.

Unfortunately, there were a couple of structural obstacles that made the clarity of the discussion on MMA's proposal more difficult.

First, MMA's proposal was changed in the Revisor's Office before being printed as LD 1191, *An Act To Remove the Municipal Mandate To Enforce the Maine Uniform Building and Energy Code*, and the changes made the proposal more disruptive in implementation than the Association's Policy Committee was proposing.

Second, the public hearing on LD 1191 was a combined public hearing on all the MUBEC-related bills, including the bill that would repeal the MUBEC code outright, so the general theme of the public hearing assumed that all the bills would substantially weaken or roll-back the presence of the MUBEC code, which is not solidly the case with respect to LD 1191.

Even if the bill had been printed as submitted, however, and even if the LCRED Committee did not combine several proposals into one hearing, the tenor of the public hearing would probably not have changed much. Many interest groups are deeply invested in MUBEC for both financial and philosophical reasons and their preference would be to see MUBEC

returned to the law of the land statewide, fully enforced in all municipalities regardless of size. From what could be gleaned from the public hearing on LD 1191, an "unfunded state mandate" imposed on the municipalities is a concept that doesn't trigger a microscopic level of concern among MUBEC proponents.

The original version of LD 1191 (unlike the printed version) would have merely switched the word "must" to the word "may" in the section of MUBEC law that requires all towns and cities over 4,000 in population to enforce the building and energy code. The bill as proposed would not do away with the code in those 89 municipalities; any and all of those communities that wished to continue to enforce the code could do so seamlessly, without any interruption. If a municipality within that group decided it would like to discontinue investing public resources into MUBEC's enforcement, the code could still be enforced at the private-sector level through the use of "third party inspectors" to satisfy any requirements of financing institutions, insurance companies, governmental loan programs, etc.

Senator Thibodeau presented LD 1191 to the Committee expressing two core concerns with the MUBEC requirements. The first was the problem of unfunded state mandates and how they can force municipalities to prioritize programs in a manner that substitutes state government's priorities for the priorities of the local voters. The second but equally important concern expressed by Sen. Thibodeau was the way adherence to the MUBEC code can substantially increase the costs of construction activities beyond some of Sen. Thibodeau's constituents' financial capacity.

Dover-Foxcroft's Town Manager, Jack Clukey, testified in support of LD 1191 with a description of how his community of just over 4,000 residents never had a building code before the MUBEC code was mandated, and the nearest community to his town that falls under the MUBEC code is at least 40 miles away. Building construction is being pushed out of Dover-Foxcroft, building permits are dropping each year, and the local busi-

nesses associated with construction are very concerned.

MMA also testified in support of LD 1191. MMA's Legislative Policy Committee developed the proposal as part of its 2015 legislative agenda for two primary purposes. The current layout of the MUBEC system in Maine is pushing at least some development over the town or city line into communities without the MUBEC code. Creating development incentives adverse to a population-based class of communities should not be the result of state imposed policy. The other public policy injustice associated with MUBEC is the significant retraction in any state financial support for the mandatory functions the Legislature imposes on local government. The municipal revenue sharing program has been cut by over \$300 million since MUBEC was enacted in 2008, but the state mandates stay rock solid in place without relaxation or abatement.

About 20 people testified in opposition to the MUBEC bills, including: the American Council of Civil Engineers, GrowSmart Maine, the Code Enforcement Officer for the City of Saco, the Homebuilders/Remodelers Association of Maine, the Structural Engineers Association of Maine, Maine Preservation, the Maine Chapter of the American Institute of Architects, the Maine Building Officials and Inspectors Association, the Maine Real Estate and Development Association, the Maine Contractors and Builders Alliance, the New England Energy Efficiency Partnership, State Farm Insurance, the International Codes Council, Efficiency First, the Maine Indoor Air Quality Council...you get the idea.

As indicated above, those testifying in opposition (with one exception) did not spend a lot of time trying to parse out the differences between the several MUBEC-related bills. The testimony generally repeated several key claims:

- The MUBEC code promotes the public's health, safety and welfare so retreating from MUBEC in any way will be detrimental to the public good.

- At least 40 other states have adopted a full blown MUBEC system or something similar, so retreating from MUBEC in any

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MMA's 2014 – 2016 Legislative Policy Committee

LPC/Senate District 1: Donald Guimond Manager – Fort Kent Christina Therrien Manger – Madawaska	Councilor – Ellsworth James Schatz Selectman – Blue Hill	Stuart Smith Selectman – Edgecomb	James Smith, III Manager – Sebago	Steve Moriarty Planning Board – Cumberland	LPC/Senate District 31: Larry Mead Manager – Old Orchard Beach Howard Carter Dir. Water Resource Recovery Div.
LPC/Senate District 2: James Bennett Manager – Presque Isle Paige Coville Chair of Selectboard – Island Falls	LPC/Senate District 8: Derek Goodine Manager – Bucksport James Smith Assistant Manager – Brewer	LPC/Senate District 14: Curtis Lunt Manager – Monmouth Scott Morelli Manager – Gardiner	LPC/Senate District 20: *Auburn appoints 1 member Howard Kroll, Manager – Auburn John Hawley Manager – Mechanic Falls	LPC/Senate District 26: Louis Stack Assessment Review Board Member – Standish David Nadeau Councilor – Windham	LPC/Senate District 32: *Biddeford appoints 1 member John McCurry, Jr., Councilor – Biddeford John Sylvester Selectman – Alfred
LPC/Senate District 3: Elaine Aloes Selectman – Solon Richard Bartlett Chair, Bd. Of Assessors – Madison	LPC/Senate District 9: *Bangor appoints 1 member Nelson Durgin, Councilor – Bangor Roger Raymond Manager – Hermon	LPC/Senate District 15: Kelly Couture Selectman – Sidney *Augusta appoints 1 member Cecil Munson, Councilor – Augusta	LPC/Senate District 21: *Lewiston appoints both members Robert Macdonald, Mayor – Lewiston Ed Barrett, Administrator – Lewiston	LPC/Senate District 27: *Portland appoints both members Michael Brennan, Mayor – Portland Jill Duson, Councilor – Portland	LPC/Senate District 33: *Sanford appoints 1 member Steven Buck, Manager – Sanford Douglas Hawkins Selectman – Parsonsfield
LPC/Senate District 4: Matthew Pineo Manager – Brownville Jack Clukey Manager – Dover-Foxcroft	LPC/Senate District 10: Michael Crooker Manager – Glenburn Donald Carroll Selectman – Stetson	LPC/Senate District 16: *Waterville appoints 1 member John O'Donnell, Councilor – Waterville Rosemary Winslow Councilor – Waterville	LPC/Senate District 22: Mark Lunt Councilor – Lisbon Sarah Hall Selectman – Durham	LPC/Senate District 28: *Portland appoints 1 member Ed Suslovic, Councilor – Portland Paul Emery Councilor – Westbrook	LPC/Senate District 34: Thomas Wright Selectman – Berwick Richard Morin Selectman – Kennebunk
LPC/Senate District 5: Thomas Perry Councilor – Orono Dawn Adams Manager – Milford	LPC/Senate District 11: Kathy Littlefield Chair of Selectboard – Waldo Galen Larrabee Chair of Selectboard – Knox	LPC/Senate District 17: Michelle Clark Selectman – Temple Richard Davis Manager – Farmington	LPC/Senate District 23: William Post Manager – Bowdoinham William "Bill" Giroux Manager – Bath	LPC/Senate District 29: *South Portland appoints 1 member James Gailey, Manager – South Portland *Cape Elizabeth appoints 1 member Molly MacAuslan, Councilor – Cape Elizabeth	LPC/Senate District 35: Torbert Macdonald, Jr. Selectman – York Perry Ellsworth Manager – South Berwick
LPC/Senate District 6: Harry Fish, Jr. Selectman – Jonesport Christopher Loughlin Manager – Machias	LPC/Senate District 12: William Chapman Chair of Selectboard – Rockport Jay Feyler Manager – Union	LPC/Senate District 18: John Madigan, Jr. Manager – Mexico Gregory Buccina Selectboard Chair – Rumford	LPC/Senate District 24: Elinor Multer Selectman – Harpswell *Brunswick appoints 1 member Sarah Brayman, Councilor – Brunswick	LPC/Senate District 30: Jean-Marie Caterina Councilor – Scarborough David Cole Manager – Gorham	LPC Chair: (3/15 to 12/15) Laurie Smith Manager – Kennebunkport
LPC/Senate District 7: Gary Fortier	LPC/Senate District 13: Harry Lowd Selectman – Bristol	LPC/Senate District 19: Leonard Adler Selectman – Otisfield	LPC/Senate District 25: Claudia King Councilor – Falmouth		

MUBEC (cont'd)

way will make Maine an “outlier” state.

- Whether the consumers of construction services know it or not, the MUBEC standards will save them money in the long run by providing longer lasting and more energy efficient structures.

- The solution to the problem of development retreating to non-MUBEC communities is not to relax the mandate where it presently exists but, rather, to spread the mandate out to all the towns and cities in Maine.

- There are nearly 200 “third party inspectors” statewide, so alternatives to municipal enforcement already exist (a grossly inaccurate claim...the function and public costs of “enforcement” is primarily focused on people who violate the code, not those who would willingly

utilize third party inspectors).

- Without MUBEC, allegedly, people will not be able to get federal loans for construction because the federal government requires code compliance for housing assistance.

Only the Maine Real Estate and Developers’ Association (MEREDA) pointed out that MMA’s bill, as originally proposed, was not trying to repeal MUBEC but only relax the municipal obligation to enforce. MEREDA’s observation was that relaxing the municipal mandate would not change the MUBEC-compliant behavior of that organization’s membership...a refreshingly mature observation.

For their part, several members of the Labor, Commerce, Research and

Economic Development Committee expressed concern and confusion about why MMA’s Legislative Policy Committee would advance a proposal to allow Maine’s largest municipalities to make choices about whether to use public resources or rely on the private sector to enforce the MUBEC standards. Not for the first time, these Committee members questioned whether the municipal point of view was being fairly represented by MMA’s Legislative Policy Committee. A side bar to this article includes the current membership of MMA’s Legislative Policy Committee. LCRED Committee members are invited to contact those municipal officials directly if they wish to ascertain how well they represent their municipal constituents and counterparts.

Broadband Bills Back Online

The Energy, Utilities and Technology Committee held hearings on another three bills in the batch of a dozen “serious” broadband bills on Tuesday this week. These bills continue to suggest different approaches to enabling a quicker build-out of high-speed internet infrastructure, and continue to be resisted by the existing providers.

The bill that arguably has the most “legs” because it has been sponsored or co-sponsored by bi-partisan legislative leadership from both chambers, LD 1063, *An Act To Promote Community Broadband Planning and Strengthen Economic Opportunity throughout Maine*, would re-orient the ConnectME Authority. The mission of that Authority has been to help with last-mile internet build out to areas without reliable internet access, or any internet access at all. For many, that build out has not seemed fast enough nor the funds adequate for the task. The Authority’s new orientation would be towards issuing planning grants to fill connection gaps and ensure actual broadband penetration. Funding for these grants would come from expanding the current 25 cent assessment on landline telephones by imposing this fee on mobile phones as well.

Also heard was LD 1185, *An Act To Establish the Municipal Gigabit Broadband Network Access Fund*, sponsored by Rep. Norman Higgins (Dover-Foxcroft). Rep. Higgins’ bill would have the Maine Department of Economic and Community Development administer planning grants instead of the ConnectME Authority, aiming to allocate grants that would achieve the appropriate price points and speeds and be able to withstand the rapidly changing pace of technology. With some amendment, LD 1185 now seeks \$6 million for 25 grants with funding from the state’s General Fund because, according to Rep. Higgins, if broadband access is worth achieving it deserves a General Fund appropriation.

Supporters of the bills included the Public Advocate, the ConnectME Authority, the University of Maine, Great Works Internet, Maine Fiber Company, the AARP, and the Coastal Enterprise and Island Institutes. In addition to the Mayors’ Coalition, several municipal of-

ficials testified including Rockport Town Manager Rick Bates, Islesboro Broadband Internet Working Group Chair Page Clason, South Portland Information Technology Director Chris Dumais, and Orono Assistant Town Manager Belle Ryder.

Mr. Clason sees Islesboro’s lack of broadband as a threat to his community’s ability to attract and retain young people and businesses. Working with ConnectME has been helpful, but his group knows firsthand that the Authority needs more capacity for planning assistance. Mr. Bates emphasized the need to employ broad vision in planning for what may be a dramatic shift in how people live and work. Mr. Dumais explained South Portland’s recent roll-out and 50/50 partnership that created a twenty-year lease between the city and provider GWI. Ms. Ryder did the same for Orono’s experience, providing hard data for the Committee to consider. According to Ryder, fiber optic cable costs roughly \$15,000 per-mile to hang, and

investments from Orono and Old Town are allowing those municipalities to lease fiber to the service providers. This effort aims to ultimately result in residents and businesses being offered more reliable access at more affordable prices.

Internet service providers Verizon, Metrocast, Fairpoint, Time Warner Cable, and the Telecommunications Association of Maine testified either in opposition or neither for nor against the bills. In various ways, each utility company criticized the municipal interest in affordable, dependable broadband, calling for municipalities to be better informed before making decisions and to “step up to the plate” financially.

Inherent in the opponents’ strategy is a call for further delay and study, which is exactly what has led to residents’ and business’ calls for action at the local level. One member of the peanut gallery noted they had never seen this much opposition to small scale planning grants.

No work sessions on the broadband bills have been scheduled yet.

Jails (cont’d)

amended or refreshed as necessary to ensure that the existing county budget/finance committees have the final say on county jail budgets before municipal budgets are required to pay for them.

Perhaps not surprisingly, the counties took issue with the suggestion that the governmental entity saddled with obtaining the financial resources to satisfy the jail budgets, be it the state or the municipalities, should have any special level of oversight over the budgets. In the view of at least a majority of counties, they are entirely accountable to the property taxpayers and cooperate admirably with one another. Unfortunately, history does not help prove their point when it comes to the management of county jails.

After a decidedly circular discussion on Tuesday, Committee member Rep. Rick Long (Sherman) arrived with an amendment on Thursday that he hoped would lead to a more targeted discussion. This amendment begins to demonstrate in a concrete way how the property taxpayers are going to be put in harm’s way with the enactment of LD 186.

As proposed by Rep. Long, the new

approach to Maine’s jail management would be accomplished in three steps. First, the Board of Corrections would be repealed. Second, responsibility for the county jails would be returned to the counties and they would be allowed to charge \$108/day prisoner boarding rates to the other counties. Third, the state Department of Corrections would be required to provide funding, as follows: \$14.7 million in state funding would be allocated for FY 2016, roughly \$11.9 million would be allocated for FY 2017, and roughly \$9.2 million would be allocated for FY 2018. For FY 2019 and beyond, the state may or may not pay \$7.9 million annually and property taxpayers will cover the rest of the estimated \$82.5 million – in today’s dollars – it costs to run the county jails every year.

Several Committee members found it difficult to appreciate how revoking state funding will in fact provide a “soft landing,” which is the term proponents of shifting jails costs to the property taxpayers have used to describe their proposal. More work sessions will be held on these

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Rethinking Abandoned Property Management

On Wednesday this week, the Judiciary Committee held a series of hearings on bills related to mortgages and things that can go wrong with mortgages, like title defects, power of sale, improper discharges, notice, mediation, pre-mediation, good faith and bad faith, and the topic of municipal importance, which is owner abandonment. Presented to the Committee by its sponsor, Senator Nate Libby (Androscoggin Cty.), LD 1203, *An Act To Address the Detrimental Effects of Abandoned Property*, was advanced as part of MMA's 2015 legislative policy platform. The bill allows municipalities, after giving ample notice to both resident owners and financing institutions, to maintain properties abandoned by their resident owners in order to prevent dilapidation and recoup the costs of that maintenance from the remaining owners, which are typically the foreclosing banks.

LD 1203 has four components. The first is to allow Maine's municipalities to hold hearings that would determine whether a property is abandoned, and to order maintenance when it is. Second, if the resident owner or mortgagee lender will not comply with the order to maintain the property, the municipality can step in to do so before the property dilapidates, utilizing a lien process to recoup the costs of the property maintenance. Third, municipalities would also be able to fine owners and lenders who have not responded to maintenance orders. Fourth, the bill requires lenders to have an in-state contact so that municipalities can at least have someone to talk to in the circumstances of property abandonment and foreclosure.

Properties in various regions of the state, both single family and multi-unit, new and historic, are being abandoned, leaving a range of impacts. In individual cases the empty property may exist as a stand-alone, but when abandonment is aggregated the vacant properties contribute to the deterioration of entire neighborhoods. Municipalities currently only have the tax lien foreclosure process and condemnation authority in their toolkit to address problematic properties. The issue with these two approaches is that by the time either kicks-in the property can

already have become an irreparable loss.

Additional tools that enable municipal intervention before the point of no return are sorely needed throughout the state, and acutely in the cities of Lewiston and Bangor. In Lewiston, 58 properties, enough to house hundreds of residents, have been demolished since 2012. Lewiston's City Administrator, Ed Barrett, explained to the committee that there is a clear need for a shift in this area of property law that will allow municipalities to get out of the "let's tear it down" business and into the "let's build it up" business.

In Bangor, the number of buildings being torn down has been lower, totaling six in 2014. The city had been interested in restoring and re-selling these properties, but they were too far out of code for rehab. According to Assistant City Solicitor Paul Nicklas, Bangor started implementing a vacant properties registry ordinance in 2013. Nicklas cited statistics showing foreclosed homes, which often house squatters and drug dealers, to be 2 to 4 times as likely to be abandoned as homes that have not been foreclosed upon.

The Mayors' Coalition backed these cities up at the public hearing, explaining how municipalities must be allowed to step in when mortgage holders won't act. Pine Tree Legal Assistance testified neither for nor against LD 1203, observ-

ing that cities would not demolish properties without good reason and the fact that substantial demolition is occurring suggests the situation is critical.

The Judiciary Committee room was packed with representatives of many of the major in-state and national financial institutions, but only three spoke in opposition to LD 1203: the Maine Credit Union League, the Maine Bankers Association, and Wells Fargo. None disputed the fact that a problem exists, but all took serious issue with the bill. It is clear the lending banks or "mortgagee" community is strongly opposed to the language of LD 1203 as drafted. In their view, requiring mortgage holders to maintain the properties they initially financed and ultimately foreclosed upon is a sea change that could result in less loans being issued and a drought on lending.

According to Sen. Libby, Maine banks have been responsive to property care needs in his city. But other lending institutions seem to want to delay either due to not having a clear picture of what they own, or a desire not to take responsibility. Sen. Libby is sick of seeing well-built and once cared-for buildings go derelict, and so are other municipal officials.

The bill is now in the hands of the Judiciary Committee, which has asked the parties to attempt to find common ground.

Municipal Authority To Issue Concealed Weapons Permits In Play

Legislation that would make the Chief of the State Police the sole authority in the State for the issuance of concealed weapons permits, thereby revoking the municipal authority to do so, was heard along with a slew of other weapons-related bills on April 8. It has been brought to the attention of MMA's State and Federal Relations staff that there seems to be a lack of awareness at the local level regarding this legislation, which was opposed by MMA's Legislative Policy Committee but has not yet been reported on in the *Legislative Bulletin*. Here is the latest:

The bill at issue is LD 823, *An Act To*

Upgrade the Concealed Handgun Permit Law. LD 823 amends the laws concerning permits to carry concealed handguns by: (1) making the Chief of the State Police the sole issuing authority for a permit; (2) extending the term of a concealed weapons permit from 4 years to 10 years; and (3) removing the requirement that a handgun safety course taken by an applicant must have been taken within 5 years of the date of application.

Members of the Criminal Justice and Public Safety Committee as well as the state law enforcement community are

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Opening Up Tax Abatement Law

Wednesday a week ago, April 15, the Taxation Committee received testimony on LD 1055, *An Act To Allow a Municipality To Abate Taxes Assessed on Property That is Destroyed*. As proposed by Rep. Janice Cooper of Yarmouth, municipalities would be allowed to abate the taxes paid on property that after the April 1 date of assessment suffers a 50% or greater decrease in just value due to fire, explosion or natural disaster. The bill also caps the value of any abatement provided to an individual homesteader to 10% of that tax year's "overlay." In cases where a municipality receives multiple requests for abatements, no more than 50% of the value of the overlay can be used to fund the abatements.

The public policy question at the center of LD 1055 is whether or not the April 1 "universal date of assessment" is a hard or flexible deadline, and if a flexible deadline, how should it be flexed.

Under existing law, the value of all real and personal property in existence in the community is cemented as of April 1. All property value lost or created after that date is neither added to nor subtracted from the community's total assessed value until the next year. As a result, some property owners who build new homes or make improvements to existing homes after April 1 experience a benefit for that tax year. In this case, property taxes are not assessed on the increased value until the following year. In other cases, however, where a home is damaged after the April 1 date, an owner is still taxed on the value of the property as it existed on April 1. To the extent that the date provides an advantage, all

similarly situated property owners are advantaged. To the extent that the date creates a disadvantage, all similarly situated property owners are disadvantaged.

Rep. Cooper believes that, in certain circumstances, the assessment date should be flexible to help to ease the property tax burdens placed on homeowners that experience significant losses of value after the date of assessment. For that reason, she advanced LD 1055.

Municipal officials, however, believe that in order to practicably administer the property tax system, ensure the equitable assessment of property taxes and implement a similarity of treatment for all property taxpayers, an "all in" date must be established and adhered to regardless of the situation.

From the municipal perspective, the abatement authority provided in LD 1055 chips away at the foundation of tax policy equity by designating a class of property owners as being more deserving of a tax break than others. Community leaders are concerned that if this request for special treatment is granted, in the future the Legislature will be regularly fielding requests for abatement authority for other classes of property taxpayers (e.g., commercial property, non-primary residential property, etc.) who experience less significant losses of property tax value (e.g., 40% damage, 20% damage, etc.), at virtually any time of the year. As history has taught us, exceptions beget exceptions.

Municipal officials are concerned with the requirement in LD 1055 that an abatement must be granted to a qualifying taxpayer regardless of when the loss of property occurs. For example, a resident who loses a home to fire on March 31 after receiving a year's worth of municipal services would be entitled to the same abatement provided to a resident who lost her home on the previous April 2. From property owner to property owner, there is no equity in that approach.

As part her testimony on LD 1055, Rep. Cooper was dismissive of the concerns raised by MMA and stated that municipalities routinely provide abatements for destruction of property in violation of state law. According to the bill's sponsor, "*Many towns, I have*

learned, either ignore the MMA's legal analysis (or) reject it. They routinely re-assess homes destroyed after April 1 and make adjustment to the victim's tax bill. They understand that that's the fair thing to do. I know, for example, that my neighboring town, North Yarmouth, has done so. Other legislators have told me that is what happens in their towns."

The allegation that municipalities are assessing property contrary to law is serious and deserving of further exploration. It is doubtful municipal assessors regularly abridge their oath, but it is possible that an owner of a destroyed property is able to demonstrate eligibility for a poverty abatement, which is a different process that does not involve changing the assessed value of the property. The communities that are abating taxes in violation of state law referred to by Rep. Cooper were unnamed, so it is difficult for MMA to get the municipal side of those claims. However, the towns of Yarmouth and North Yarmouth were contacted. According to the managers from both municipalities, neither community has modified an April 1-based assessment other than for one of the three reasons allowed by law, which are error, overvaluation based on the April 1 condition of the property, or "inability to contribute to the public charge" (poverty).

LD 1055 is slated for work session on Monday, April 27.

Jails (cont'd)

bills over the coming week or weeks, and it is still too soon to predict how the Committee will vote.

County officials in at least one county are providing excellent town-by-town impact information to their municipal counterparts, based on LD 186 being enacted under this most recent proposal from Rep. Long. Municipal officials in counties where that information is not being provided by county officials are encouraged to generate that type of data for public review or ask their county counterparts to generate and share the impact information that the towns and their property taxpayers deserve. The Criminal Justice Committee needs to assess just how hard of a landing property taxpayers should expect with the passage of LD 186 and the withdrawal of state financial support for the county jails.

Legislative Bulletin

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LEGISLATIVE HEARINGS

Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. For the Legislative Events Calendar, see the Legislature's web site at <http://www.mainelegislature.org/legis/calendar/>. If you wish to look up schedules by Committee, go to <http://www.mainelegislature.org/legis/bills/phwkSched.html>.

Monday, April 27

State & Local Government

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

LD 862 – An Act To Clarify Who May Authorize Repairs in a Burying Ground.

LD 1328 – An Act To Clarify the Ownership of and Access to Ancient and Family Burying Grounds.

Veterans & Legal Affairs

Room 437, State House, 9:00 a.m.
Tel: 287-1310

LD 1066 – An Act to Provide for the Licensing of a Casino Owned by the Maliseet Tribal Government on Tribal Lands in Aroostook County.

LD 620 – An Act To Allow Veterans' Organizations To Own and Operate Slot Machines.

LD 1213 – An Act To Ensure Fair Competition by and between Maine's Commercial Tracks.

LD 1280 – An Act To Provide Income Tax Relief by Expanding Gaming Opportunities.

LD 1283 – An Act To Stimulate Economic Development and Create Jobs by Amending the Laws Governing Gaming.

Tuesday, April 28

Education & Cultural Affairs

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

LD 933 – An Act To Implement the Recommendations of the Task Force To End Student Hunger in Maine.

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.
Tel: 287-1338

LD 1226 – An Act To Establish a Comprehensive Hunting License.

Judiciary

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

LD 1085 – An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Receipt of a Request for Public Records.

LD 1086 – An Act To Implement the Recommendations of the Right To Know Advisory Committee To Create a Remedy for Unduly Burdensome and Oppressive Requests.

LD 1087 – An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Response Deadlines and Appeals.

LD 1088 – An Act To Implement Recommendations of the Right To Know Advisory Committee.

LD 1241 – An Act To Increase Government Efficiency.

Labor, Commerce, Research & Economic Development

Room 208, Cross State Office Building, 1:00 p.m.
Tel: 287-1331

LD 1361 – An Act To Promote Minimum Wage Consistency.

Transportation

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

LD 1110 – An Act To Modernize Road User Fees.

LD 1301 – An Act To Improve the Safety of Vulnerable Users in Traffic and To Clarify the Responsibilities of Bicyclists and Pedestrians.

LD 1308 – An Act To Eliminate the Requirement That Truck Campers Be Registered.

LD 1320 – An Act To Amend the Motor Vehicle Laws.

Wednesday, April 29

Energy, Utilities & Technology

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

LD 1309 – An Act To Create the Central Maine Water District.

State & Local Government

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

LD 494 – An Act Regarding the Maintenance of Easements.

LD 1325 – An Act To Ensure a Public Process When Discontinuing or Abandoning a Public Road.

Taxation

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

LD 183 – An Act To Decrease Property Taxes by Increasing the Sales Tax.

LD 786 – An Act To Help Property Taxpayers.

LD 899 – An Act To Ensure a Stable Percentage of Revenue Sharing for Municipalities.

LD 910 – An Act To Fully Fund Municipal Revenue Sharing.

LD 980 – An Act To Restore Revenue Sharing.

LD 1060 – An Act To Strengthen Revenue Sharing.

Thursday, April 30

Agriculture, Conservation & Forestry

Room 214, Cross State Office Building, 1:00 p.m.
Tel: 287-1312

LD 783 – RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food.

Education & Cultural Affairs

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

LD 1081 – An Act To Change the Individualized Education Program Notice Requirements.

LD 1180 – An Act To Require Education in Public Preschool Programs and Elementary School Regarding Child Sexual Abuse.

Inland Fisheries & Wildlife

Room 206, Cross State Office Building, 1:00 p.m.
Tel: 287-1338

LD 913 – An Act To Expand Public Opportunities for Wildlife Management Education.

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Weapons (cont'd)

reportedly not seeking to revoke the authority for municipalities to issue concealed weapons permits willy nilly. They appreciate that the demand from citizens and responsiveness of local governments is driving the 150-plus municipalities who issue these permits to provide that service.

Even though LD 823 is not widely supported as printed, the bill has not been disposed of by the Committee because it may be necessary in the event that other legislation is enacted to allow for what is known as “Constitutional Carry” in Maine. A Constitutional Carry law would nullify the need for weapons permits within state borders, although residents may be interested in obtaining certain certification when travelling to other states. Such permits would arguably need to be issued at the state level to satisfy the reciprocity requirements in other states.

The bottom line is that the municipal authority to issue concealed weapons permits is unlikely to be repealed unless Constitutional Carry passes, in which

case the municipal concealed weapons permitting authority would, in a matter

of speaking, be thrown out with the bath water.

HEARINGS (cont.)

Judiciary

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

Tel: 287-1327

LD 686 – An Act To Promote Privacy in Social Media.

LD 1168 – An Act To Prohibit the Use of Eminent Domain in Certain Public-private Partnerships and To Prohibit the Use of Eminent Domain by a Private Business Entity in a Public-private Partnership.

Taxation

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

Tel: 287-1552

LD 967 – An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2015-16.

Friday, May 1

Criminal Justice & Public Safety

Rm. 436, State House, 9:00 a.m.

Tel: 287-1122

LD 1200 – An Act to Create a Civil Cause of Action for Intentional Interference with Business Operations.

LD 1243 – An Act To Make the Law Regarding Critical Incident Stress Management Teams More Beneficial and Effective.