

Just-Published Report: Maine's Local Governments Score Highest in Efficiency in New England

A recently published report by the New England Policy Center, which is located at the Federal Reserve Bank of Boston, gives local government in Maine the highest marks throughout New England for the efficient delivery of the three governmental services being studied: emergency call handling and dispatch, public health services, and public pension plan administration.

The report, *The Quest for Cost-Efficient Local Government in New England: What Role for Regional Consolidation?*, written by Yolanda Kodrzycki, is especially on-point because a few politicians in Maine are currently making the claim that municipal "consolidation" is the way the state's towns and cities can absorb the enormous package of cuts to local government that Governor LePage is seeking in his proposed state budget. The Governor's proposals include eliminating municipal revenue sharing altogether, taking for the state certain motor vehicle excise tax revenues collected at the local level, repealing certain General Assistance reimbursement systems that have been part of that program's state-local "partnership" agreement for 30-plus years, creating an immediate tax exemption for large amounts of commercial and industrial personal property, and having the property taxpayers pick up half the tab for the "normal cost" appropriation of the Teachers' Retirement premium for the first time in history.

We are posting the entire report under the "Municipal Collaboration" section of our website dedicated to the Governor's budget proposals www.memun.org/MaineTaxShift. The MaineTaxShift website provides key facts about the Governor's proposals, impact analysis on a town-by-town basis, news articles and

editorials on the subject, and related data and information, including information about municipal "consolidation" efforts.

A paragraph on page 5 of the report summarizes its findings:

"The evidence suggests that, among the New England states, Massachusetts would experience the largest long-run percentage cost savings from regionalizing emergency call handling and dispatch, public health, and local public pension administration, followed closely by Con-

necticut. The overall potential for further savings would be lowest in Maine, which already provides these services on a regional or statewide level."

And on page 27 of the report:

"Although these services tend to be delegated to local governments or authorities, in fact the New England states differ in the degree to which service areas cross geographic or political boundaries. For all three functions, Maine has extensive service sharing and centralization."

Volunteer Firefighters/EMS Providers Seek Expansion of Workers' Compensation Law

A public hearing was held on Wednesday this week before the Labor, Commerce, Research and Economic Development Committee that puts the interests of municipal volunteer firefighters and emergency medical services providers in conflict with the interests of the state's elected municipal leaders. LD 235, *An Act to Improve Insurance Coverage for Volunteer First Responders*, is sponsored by Senator Chris Johnson (Lincoln Cty.).

LD 235 amends Workers' Compensation law so that any volunteer firefighter or volunteer emergency medical services provider who sustains an injury after receiving an electronic notification of an emergency would be automatically covered by Workers' Compensation for medical coverage and wage replacement regardless of the nature of the activity that led to the injury and regardless of where the injury is actually sustained. The volunteer firefighter would be covered

by Workers' Compensation for injuries sustained in the home and caused entirely by his or her own negligent actions. The proposal is nick-named "tone to tone" or "bell to bell" coverage, and the theory behind the bill is that as soon as that tone is sounded, the employee is on the job and Workers' Compensation benefits should be provided no matter what.

That is not the way Workers' Compensation law works currently or should be designed as a matter of public policy. Court decisions over the years, in Maine and throughout the nation, have created what might be considered a body of legal "doctrine" that governs the issue of when and where an injury that is sustained somewhere other than the actual "workplace" is covered by Workers' Compensation. The doctrine in this case is called the "going and coming" rule, which generally holds that a regular employee is not covered by Workers' Compensation when he or

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Volunteer Firefighters (cont'd)

she is merely preparing to go to work or actually commuting to work, until the employee is on property under the control or maintenance of the employer. There is a “travel exception” to the going and coming rule which allows for Workers’ Compensation coverage for employees required to undertake special travel for the employer and the employee gets injured while traveling. There is no “while in your own home and preparing to travel” exception to the going and coming rule, however. Generally speaking, Workers’ Compensation benefits are not provided when an employee sustains an injury in or around the private home during preparation for travel. Companies providing insurance coverage for volunteer firefighters, emergency medical service providers, police personnel, etc. generally hold that Workers’ Compensation coverage kicks in for employees called out to an emergency when the employee “enters the travelled way”, that is, has established him or herself in the motor vehicle and left the home driveway.

LD 235 would change that, and was developed by its supporters precisely to address the situation of a volunteer firefighter who slips and falls in his or her home or on the front steps while leaving the home or while getting into his or her vehicle to drive to the emergency or fire station.

The sponsor of the bill spoke in favor of the bill, as did Rep. Jethro Pease from Morrill. Representatives from the Professional Firefighters of Maine, the Maine State Federation of Firefighters, the Maine Fire Chiefs Association, and a member of the Buckfield Fire Department also spoke in support of LD 235.

The principle arguments given to support the bill were that:

- The failure of Workers’ Compensation to apply to home-based injuries when responding to a call represents a “gap” in coverage that needs to be closed;
- The five home-based slip-and-fall cases that have been decided by hearing officers over the last 15 years have reached different conclusions; therefore, a “bright line” standard is needed;
- The ability to recruit new volunteer firefighters/EMS providers and retain them will be improved if this expanded benefit is provided; and
- The tone-to-tone standard is recognized by the Bureau of Labor Standards with respect to the application of OSHA guidelines, so Workers’ Compensation should follow.

The supporters’ most repeated argument was that the lack of home-based Compensation coverage was a “gap” that needed to be filled. In his testimony on behalf of the Maine Fire Chiefs’ Association, former Bangor Fire Chief Jeff Cammack provided the Committee with a brief issue of how this issue developed as a matter of concern among the firefighters and how in working with the Maine Municipal Association’s Risk Pool, a “gap” insurance policy was created that is available to all member municipalities. This “gap” insurance provides levels of coverage not only for the “tone to tone” issue but also for other firefighter activities that may not be otherwise covered by Workers’ Compensation because they are not directly related to either suppressing a fire or required training programs, activities such as fund raising, parades, and firehouse-related building construction projects. The gap policy is mainly a medical cost protection policy that does not exactly match Workers’ Compensation, but Chief Cammack’s testimony did not make clear why the availability of the “gap” coverage didn’t directly help address the firefighters’ concerns, at least in the 150-plus communities that have purchased the product.

Five people spoke in opposition to LD 235, including the Executive Director of the Workers’ Compensation Board, MMA, the Maine State Chamber of Commerce, the Executive Director of the Workers’ Compensation Coordinating Council and representatives of several national and regional insurance companies.

Paul Sighinolfi, the Executive Director and Chair of the Workers’ Compensation Board, speaking as the Executive Director and not on behalf of the Board, laid out the reasons to reject LD 235 as clearly as they could be stated.

- If the failure of Workers’ Compensation

to provide benefits in the case of an injury sustained in the private home is accurately described as a “gap” in coverage, it is a “gap” in coverage for virtually all employees whose employment preparation time at home and even during their normal commute is not covered by the Workers’ Compensation law;

- There is already a system of analysis that takes place under current Workers’ Compensation law that guides an insurance company as to whether an emergency services employee who suffers an injury in response to an emergency is entitled to Compensation. It is a fact-based process of systematic analysis and not a “bright line” test because all the fact patterns are different. Home-based injuries are not commonly determined to be “compensable” but such a determination is possible;
- LD 235 creates a special exception to well established standards of Workers’ Compensation coverage. If this exception is provided to one class of employees who protect lives and property, it will surely need to be expanded to all classes of employees who perform the same services in both the public and private sector;
- All the claims filed to date, that under LD 235 would be made automatically “compensable” under the law, are slip-and-fall cases that occurred in the home or on the steps and driveway near the home. In short, LD 235 would require the employers, who are all municipalities, to provide insurance coverage for areas over which the municipality has absolutely no control;
- Workers’ Compensation, by its very structure, is a no-fault system and does not allow for any prorating of liability based on comparative negligence; therefore, the municipalities would be entirely liable for injuries that were largely or even entirely sustained because of the employee’s negligence; and
- The five home-based slip-and-fall cases that were decided by hearings officers and described by the supporters as being inconsistent could actually be described as evolving, as “case law” tends to evolve, to a

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uniform interpretation of Workers' Compensation law.

MMA's testimony could not add much to the testimony of the Executive Director of the Workers' Compensation Board. It was pointed out that the Association's opposition was based on a very strong vote of the Legislative Policy Committee. MMA also pointed out that what the volunteer firefighters were seeking was not the way it currently works for any other first responders or state or local public safety personnel, such as the State Police, game wardens, sheriff personnel, etc. MMA also amplified the point that current Compensation law provides policy-based guidelines that determine the compensability of any claim based on the facts rather than the size or scale of a benefit package that might be provided to a certain class of employees.

With respect to the issue of the recruitment and retention of certain employees. Employers regularly need to face that problem. The answer to the challenge might be in actual, straight-up remuneration or some other type of locally-provided benefit. The solution should not be found in twisting Workers' Compensation law out of its established purpose.

The work session on LD 235 is scheduled for 10:00 a.m. on Wednesday, February 27 in Room 208 of the Cross State Office Building.

MMA's Bill Addressing "Public Records" Issues Gets Public Hearing

On Tuesday this week, the Judiciary Committee held a public hearing on LD 104, *An Act to Amend the Laws Governing Public Records*. LD 104 was developed by MMA's Legislative Policy Committee, which asked that it be submitted to the Legislature this year for consideration. Representative Mary Nelson of Falmouth agreed to submit the bill on MMA's behalf and made an admirable presentation of the bill's merits to the Committee.

LD 104 makes three amendments to Maine's law on public governmental records. Each amendment is independent from the others and stands on its own as a separate public-record issue that has cropped up in recent years that municipal officials believe should be addressed.

The first issue in the bill deals with a situation that first occurred in Falmouth but could easily occur in any municipality that creates a customer-friendly notification system whereby subscribers can receive automatic notifications of municipal events, scheduling changes, recreational programming, etc. In Falmouth's case, partisans on both sides of an issue of controversy used the Freedom of Access Act (FOAA) to obtain the e-mail data base of all subscribers in order to communicate their views on the issue of controversy. Many of those recipients were unaware that their subscription to the simple notification service would put them on the list for advocacy solicitation. Municipal officials do not believe Maine law should require the subscribers to these notification systems to give up their email contact information to any commercial or political solicitor who may want to utilize that database. These email addresses are not in the municipality's possession as a result of communications to the governmental entity. There is no dialogue, the notices are entirely non-interactive, and the subscribers to the notification service are not engaging in the public debate in any way. Accordingly, LD 104 would make it clear that e-mail addresses in the government's possession for no other reason than a one-way, non-interactive notification

system are not a "public record" under the Freedom of Information Act. Another way to achieve some protection would be to allow those subscribers to individually choose to keep private their e-mail address. This is a choice that can currently be made by people obtaining a hunting or fishing license. The optional privacy system created for the issuance of hunting/fishing licenses was enacted for the same reason; that is, to allow those people merely utilizing a governmental service the option of avoiding unwanted solicitation.

The second issue in LD 104 revisits the system in the FOAA to calculate the charges that can be assessed when people make significant requests for public records that take more than an hour of municipal staff time to assemble and review. Current law caps the hourly charge at \$15 per hour, a maximum hourly rate that was increased from \$10 per hour in FOAA legislation enacted last year. Municipal officials appreciate the Legislature's recognition last year that the maximum hourly rate does not reflect actual costs, especially with very large, sweeping public records requests that involve careful review of the requested documents for redaction purposes. With that said, LD 104 seeks a method used in Massachusetts that allows the municipality to apply the actual hourly rate of the public entity's lowest paid employee qualified to perform the tasks of complying with the information request, not including attorney consultations.

The third issue in LD 104 deals with what appears to be an oversight in current law. When a person seeks a disability variance in order to build a wheelchair ramp or other access structure into their home that needs to invade a setback area, the municipal board of appeals may require the submission of individual-specific medical information to verify the circumstance of the disability. Even though Maine law generally protects medical information of a personal nature from public inspection, it does not in this case, which LD 104 seeks to correct.

Testimony in support of LD 104 was

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Legislative Bulletin

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Editorial Staff: Geoffrey Herman, Kate Dufour and Laura Veilleux of the State & Federal Relations staff.

MMA's Bill Addressing Pubic Records (cont'd)

provided by Gardiner's City Manager, who has experience working with Massachusetts' actual-cost system, Falmouth's Town Manager, who has ample experience being made subject to significant FOAA requests, including requests for e-mail data bases, MMA and the Maine School Management Association.

A representative from the Maine branch of the American Civil Liberties Union (ACLU) testified "neither for nor against" LD 104 because of a mixed reaction to the bill. According to the testimony, in the balancing act between the one FOAA goal of "governmental transparency" and another FOAA goal, in certain circumstances, of "personal privacy", the ACLU supported for privacy reasons the first part and the last part of LD 104; that is, excepting from the public records law both non-interactive e-mail data bases and the medical information of certain disabled applicants for land use variances. The ACLU does not support changing the system of calculating the charge for responding to large-scale public records requests.

There were seven opponents to LD 104.

Michael Doyle of Falmouth opposed the bill as a personal attack on his activities in Falmouth. Mr. Doyle characterized his activities as those of an alert taxpayer who is regularly exposing overspending in the community in the areas of raised crosswalks, legal services, office supplies, banking fees, electricity services, etc. He likened his FOAA activities, as applied to both the school system and the town office, to the work of those that exposed the practices of the Maine Turnpike Authority's Paul Violette, implying a connection. The legislative public hearing process is particularly frustrating for the recipients of one-sided claims and innuendo, because there is no opportunity to respond. A tax activist from another community, Dwight Hines of Livermore, also spoke in opposition to the bill.

The Maine Trial Lawyers Association spoke in strong opposition to the bill, with their lobbyist stating without equivocation that anytime anyone gives their email address to any governmental entity for any reason, they automatically are giving their email address over to the public domain and that is the way it should be as a matter of

public policy even if the results are uncomfortable or harmful or unintended. Some brush-back from Committee members was given for the unequivocal nature of that statement, pointing out, for example, the right for people to keep their e-mail addresses from becoming public records when they get a hunting license. For reasons that were not explained, Maine's trial lawyers are apparently adamant that in no circumstance should an email address in a municipality's computer be confidential.

And finally, a block of press groups spoke in opposition to LD 104, including Judy Meyers of the Lewiston Sun Journal and the Chair of the state's Right to Know Advisory Committee (RTKAC), and representatives from the Maine Press Association and the Maine Broadcasters' Association. The press groups' oppositional testimony was more tempered and reasoned than that of the trial lawyers. Judy Meyers made it clear that she recognized some municipalities are facing real issues dealing with the management of email data bases and certain individuals who aggres-

sively use the FOAA law as "nuisance requestors". She told the Committee that the Right to Know Law Advisory Committee was currently working on that issue and had asked the Right to Know "Ombudsman" in the Attorney General's Office -- a newly created position -- to begin collecting data on the extent of the problem, the number of communities affected, etc. Ms. Meyers urged the Committee, as did the other press groups, to assign the task of dealing with the issues raised in LD 104 to the RTKAC so that Committee could develop recommendations for the Judiciary Committee to consider in 2014.

Taken together with the ACLU testimony, it appears that there is some interest in dealing with the e-mail data base issue and the disabled applicant medical information issue. Neither Judy Meyers nor any other opponent of LD 104 expressed the slightest support for revisiting the hourly maximum rate that can be charged for sweeping public records requests.

It does not appear that the Committee's work session on LD 104 has been scheduled as of yet.

Budget Forum Schedule – February 23 to March 16			
In preparation for the upcoming debates on Governor LePage's proposed FY 14 – FY 15 General Fund budget, state and local decision makers, as well as members of the general public, are gathering to discuss how these proposals will impact municipalities, property taxpayers and residents. What follows is a schedule of the meetings that will be held in the next two weeks. Municipal officials are encouraged to attend these important public forums.			
Date	Host	Location	Time
February 23	York County Advocacy Group for Municipal Officials	York County Government Center (Old Jail)	9:00 a.m.
February 25	Sen. Colleen Lachowicz	Benton Elementary School	6:30 – 8:30 p.m.
February 25	Sen. Ed Mazurek	Union Town Office meeting room	6:00 p.m.
February 26	Sen. Linda Valentino	Saco Town Hall	7:00 – 8:30 p.m.
February 27	Sen. John Cleveland	Durham School Cafeteria	6:00 – 7:30 p.m.
February 28	Sen. Ed Mazurek	Rockland City Council Chambers	6:00 p.m.
February 28	Sen. Chris Johnson	Lincoln County 911 Call Center	6:30 – 8:30 p.m.
March 4	Penobscot River Educational Partnership	Hampden Academy Performing Arts Center	7:00 – 8:30 p.m.
March 6	Sen. John Cleveland	New Gloucester Town Meeting House	6:30 – 8:00 p.m.
March 6	Sen. Chris Johnson	Windsor Town Hall	6:00 p.m.
March 16	Sen. John Tuttle	Waterboro Town Hall	10:00 a.m. – noon

MMA's Road "Turnback" Bill Heard

On Wednesday of this week, the Transportation Committee held a public hearing on LD 67, *An Act To Strengthen Collaboration in the Transfer of Responsibilities for State and State Aid Highways*. The bill, graciously sponsored on behalf of MMA's 70-member Legislative Policy Committee by Rep. Andrea Boland of Sanford, seeks to build greater integrity, uniformity and collaboration into the so-called road "turnback" process.

For purposes of determining whether a municipality, rather than the state, is responsible for the year-round maintenance of state and state aid highways located within the so-called compact (or built-up) area of a community, the municipality must either: (1) have a population that exceeds 7,500; or (2) have a population greater than 2,499 and deemed a net importer of jobs. In order to transfer state and state aid road maintenance responsibilities to compact communities, the Department of Transportation must ensure that the roads over which responsibility is transferred are in "good repair". Generally speaking, a road that meets the "good repair" standard is in the condition necessary to avoid non-routine maintenance activities for a minimum of 10 years.

Some municipal officials have expressed concern with both the vagueness of the existing "good repair" standard, as well as the role of municipal officials in the transfer process. As a result, MMA's Legislative Policy Committee asked for a bill to be submitted to ensure that the process used to transfer responsibilities over roads in the urban compact area treat both the Department of Transportation and the affected municipality fairly.

LD 67 amends the existing road "turnback" process in the following ways:

Formalizing the Process. The proposal builds more formality into the process by requiring certain information about the road in question to be provided to the municipalities, such as survey and layout plans, maintenance records, legal documents, etc. The bill also requires the development of a memorandum of agreement between the Maine Department of Transportation (MDOT) and the municipality describing the road improvements necessary before the transfer takes effect.

Clarifying Expectations. LD 67 addresses expectations by describing the elements of "good condition", including pavement condition, alignment, sight distance, clearance zones, guardrails, signs, striping, sidewalks, shoulders, and culverts.

Dispute Resolution. Finally, the proposal includes a process for resolving disputes, which is available to either the state or the municipality. A three-member review board is created and includes one member appointed by MDOT, one member appointed by municipalities, and one member with road construction or engineering expertise appointed jointly by the MDOT and municipal appointees. MDOT is further directed to develop, through the rule making process, the procedures to be used by the review board.

Alfred selectmen John Sylvester, Wa-

terboro road commissioner Doug Foglio, and MMA provided testimony in support of the bill.

Mr. Sylvester's testimony focused on the need to amend the existing road turnback process to replace what can be perceived as a subjective approach with one that is more formal and objective and achieves an acceptable outcome for both the municipality and Department.

Mr. Foglio shared with the Committee his firsthand experience with the road turnback process, which was both drawn-out and divisive. In the negotiations over the turnback of a segment of the Old Alfred Road in Waterboro, the interactions between the state and municipal officials became increasingly contentious, with the community feeling that it had no say in the process.

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Concealed Handgun Info is Confidential – For Now

On February 19, 2013 the Maine Legislature enacted a temporary moratorium on public access to information contained in concealed handgun permits, including the names, addresses and birthdates of permit holders. The moratorium was enacted as an emergency and was signed into law by the Governor on the same day, making it effective immediately. It remains in place until April 30, 2013.

The moratorium was prompted by a controversial public records request made the week before by the *Bangor Daily News*. Although since withdrawn, the request for names, addresses and birthdates of concealed handgun permit holders was sent to virtually all State and local law enforcement agencies. At the time the request was made, this information was a public record under 25 M.R.S.A. § 2006 and was subject to public inspection and dissemination under Maine's Freedom of Access Act ("Right to Know" law). The moratorium now suspends public access to this information pending the Legislature's consideration of a bill that would make it permanently confidential. (All other records relating to concealed handgun permits, including applications, denials and information collected by the

issuing authority in order to determine the applicant's eligibility, already are and remain confidential.)

Under the moratorium, any request for this information which was pending on February 19 or which is made thereafter and until April 30 must be denied. The denial must be given in writing, stating the reason, within five business days of the request (see 1 M.R.S.A. § 408-A(4)). The moratorium expressly authorizes disclosure of this information to law enforcement officers and issuing authorities for criminal justice and permitting purposes, however.

Also, the moratorium does not prohibit anyone from applying for a concealed handgun permit, nor does it prevent the issuing authority from granting or denying one. The information in any permit granted during the moratorium will be governed by whatever law is in effect after the moratorium expires.

For much more on concealed weapons, see MMA Legal Services' "Information Packet" on the subject, available free to members at www.memun.org. (*This legal note was written by Richard Flewelling, Assistant Director of MMA's Legal Services Department.*)

LEGISLATIVE HEARINGS

Note: You should check your newspapers for Legal Notices as there may be changes in the hearing schedule. Weekly "Advance Notice of Public Hearing" (ANPH) schedules and supplements are no longer available at the Senate Office at the State House and the Legislature's web site. Work Session and Hearing schedules by Committee are available at the Legislative Information page at http://www.mainelegislature.org/legis/bills/phwksched_ps.asp?PID=1456.

Monday, February 25

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

LD 238 – An Act To Designate the Jail in Franklin County as a Jail Rather than a Holding Facility.

LD 298 – An Act Regarding the Membership of the Emergency Medical Services' Board.

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

LD 155 – An Act To Streamline the Approval of Accessibility Structures.

LD 357 – An Act To Amend the Charter of the Augusta Parking District.

1:00 p.m.

LD 211 – An Act To Amend the Laws Governing the Limitation on County Assessments.

LD 315 – An Act To Ban the Purchase of Bottled Water by State Agencies.

Taxation
Room 127, State House, 10:00 a.m.
Tel: 287-1552

LD 400 – An Act To Amend the Maine Tree Growth Tax Law.

LD 402 – An Act To Exempt Members of the Houlton Band of Maliseet Indians from Property Tax.

LD 492 – An Act To Increase Reimbursement to Municipalities under the Maine Tree Growth Tax Law.

Tuesday, February 26

Agriculture, Conservation & Forestry
Room 206, Cross State Office Building, 1:00 p.m.
Tel: 287-1312

LD 285 – An Act To Electronically Issue Permits for Burning.

Energy, Utilities & Technology
Room 211, Cross State Office Building, 1:30 p.m.
Tel: 287-4143

LD 196 – An Act Regarding the Implementation of the Quality Assurance Program for Public Safety Answering Points.

LD 275 – Resolve, To Require the Emergency Services Communication Bureau To Expand the Existing Quality Assurance System.

LD 372 – An Act To Transfer the Responsibilities of the Department of Public Safety, Maine Communications System Policy Board to the Bureau of Consolidated Emergency Communications.

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

LD 224 – An Act To Streamline the Change of Name Process for Persons Getting Married.

LD 236 – An Act To Protect the Privacy of Citizens from Domestic Unmanned Aerial Vehicle Use.

Wednesday, February 27

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

LD 331 – Resolve, To Expand Economic Development in the Town of Orrington by Releasing Certain Riverfront Land from State-imposed Environmental Restrictions.

Health & Human Services
Room 209, Cross State Office Building, 1:30 p.m.
Tel: 287-1317

LD 330 – An Act To Require All Lodging Places To Be Licensed by the State.

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

LD 274 – An Act To Preserve and Protect Ancient Burial Grounds and Burial Grounds in Which Veterans are Buried.

Transportation
Room 126, State House, 10:00 a.m.
Tel: 287-4148

LD 324 – An Act To Make Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2013.

1:00 p.m.

LD 226 – An Act To Establish a Renewable Energy License Plate.

LD 405 – An Act To Increase Municipal Agent Fees for Licensing and Registration of Motor Vehicles.

Veterans & Legal Affairs
Room 437, State House, 10:00 a.m.
Tel: 287-1310

LD 174 – An Act To Prohibit the Placement of Political Signs within 25 Feet of a Cemetery or Burial Site.

LD 320 – An Act To Ensure the Integrity of the Election Process.

Thursday, February 28

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

LD 303 – An Act To Authorize the Public Advocate To Publish and Distribute Consumer Information.

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

LD 153 – An Act To Establish a Comprehensive Hunting and Fishing License.

LD 229 – An Act To Simplify and Encourage the Sale of Hunting and Fishing Licenses and Permits.

Labor, Commerce, Research & Economic Development
Room 208, Cross State Office Building, 1:00 p.m.
Tel: 287-1331

LD 246 – An Act To Provide for the 2013 and 2014 Allocations of the State Ceiling on Private Activity Bonds.

Road Turnback (cont'd)

Mr. Foglio supported the legislation as an opportunity to place the municipality on equal footing with the Department in the process of negotiating the terms of the turn back.

The Maine Department of Transportation provided testimony in opposition to the bill raising concerns with increasing the cost to the state for transferring these roads, and suggesting that the bill created a solution for a problem that does not exist. According to Deputy Commissioner Bruce Van Note, in the course of the four “turnback” transfers conducted in the past year, only one was contentious.

Based on the comments and concerns raised by the members of the Committee, there was general resistance to the creation of the dispute resolution board. Some members were concerned that this would add an unnecessary layer of bureaucracy that could have the unintended consequences of slowing down the process.

The most straightforward comments came from Rep. Ann Peoples of Westbrook, who accurately observed that the underlying issue was the lack of resources and as a result of that reality, the state is shifting its burdens to municipalities who are also lacking sufficient resources.

Although municipal officials wholeheartedly agree with Rep. Peoples, it does not mean that nothing should be done to address the concern raised by the municipalities. One way to provide some level of equity in the process would be to require the state to at least draw up written agreements with the communities in the circumstance of a road turnback transfer that provide basic information about the road or segment of road being transferred to the community.

If nothing else, municipal officials urge the Committee to amend the bill to ensure that municipal officials have all of the data necessary to assume full ownership and maintenance responsibilities over the road. It really isn't too much to ask.

IN THE HOPPER

(The bill summaries are written by MMA staff and are not necessarily the bill's summary statement or an excerpt from that summary statement. During the course of the legislative session, many more bills of municipal interest will be printed than there is space in the *Legislative Bulletin* to describe. Our attempt is to provide a description of what would appear to be the bills of most significance to local government, but we would advise municipal officials to also review the comprehensive list of LDs of municipal interest that can be found on MMA's website, www.memun.org.)

Criminal Justice & Public Safety

LD 498 – An Act To Allow a Municipality To Prohibit a Sex Offender from Residing within 750 Feet of a Recreational Facility. (Sponsored by Rep. Pouliot of Augusta; additional cosponsors.)

Current law authorizes a municipality to enact an ordinance to prevent certain sex offenders from residing within 750 feet of public or private schools or real property owned by a municipality where children are the primary users, such as a park or playground. This bill expands the ordinance authority to also include privately owned property where children are the primary users.

Education & Cultural Affairs

LD 485 – An Act To Amend and Clarify Certain Education Laws. (Sponsored by Rep. Johnson of Greenville; additional cosponsors.)

This bill makes a number of technical, minor, minor substantive and substantive changes to the laws governing public education. Of particular municipal interest, the bill separates the voting criteria with respect to the referendum vote to finally approve a school withdrawal plan. For those school districts that were not reformulated as a regional school unit pursuant to the school consolidation law of 2007, the current voting criteria pertains, which is a majority vote provided a quorum of voters is achieved equaling 50% of the number of voters in the municipality who voted in the last gubernatorial election. For those school districts that were reformulated as regional school units pursuant to the 2007 school consolidation law, the voting criteria is a supermajority vote of the referendum electorate, at least at two-thirds vote. The bill also requires the school system's annual audit to include a schedule of expenditures of “federal awards”.

LD 638 – An Act To Require That School Budget Referenda Be Held on the Same Day as Primary Elections. (Sponsored by Sen. Whittemore of Somerset Cty; additional cosponsors.)

This bill requires all school budget “validation” referenda to be held on the 2nd Tuesday in June, which is the day a primary election is held during primary election years. The bill also requires the initial or provisional school budget approval meeting that must be held before the validation referendum to be held no later than 30 days before the

2nd Tuesday in June, and further requires that absentee ballots must be made available to voters on the day after the initial school budget approval meeting.

State & Local Government

LD 315 – An Act To Ban the Purchase of Bottled Water by State Agencies. (Sponsored by Rep. Jones of Freedom; additional cosponsors.)

This bill prohibits the state or any political subdivision of the state, governmental agency or public benefit corporations from purchasing bottled water.

LD 559 – An Act To Change Document Filing Fees for County Registries of Deeds. (Sponsored by Rep. Morrison of South Portland; additional cosponsors.)

This bill increased the filing fee for the first page of regarding an instrument at all registry of deeds by \$6, from \$13 to \$19 for general records and from \$15 to \$21 for plans. The bill also authorized the county commissioners to raise the filing fees for the first page by a majority vote.

Taxation

LD 492 – An Act To Increase Reimbursement to Municipalities under the Maine Tree Growth Tax Law. (Sponsored by Sen. Jackson of Aroostook Cty; additional cosponsors.)

This “concept draft” bill proposes to increase reimbursement to municipalities for property tax losses resulting from the current use classification of land under the Tree Growth tax law.

LD 562 – An Act Related to Service Charges in Lieu of Property Taxes on Tax-exempt Property. (Sponsored by Rep. Wilson of Augusta; additional cosponsors.)

This bill repeals and replaces the current law that authorizes municipalities to impose service charges on tax exempt entities. Current law allows those services charges to be applied only to low income housing rented for residential purposes and are 100% exempt from taxation. This bill allows the service charges to be applied to most

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non-governmental tax exempt institutions, such as the “charitable” institutions, but not educational institutions, houses of worship or parsonages. The service charges under this bill must be calculated to cover the cost of municipal services actually provided to the exempt property and be based on the square footage of the building space occupied by the institution unless the municipality determines a more accurate assessment may be differently calculated.

Transportation

LD 483 – An Act To Promote Small Businesses by Enhancing the Use of On-premises Signs. (Sponsored by Rep. Keschl of Belgrade; additional cosponsors.)

This bill makes a number of changes to the laws governing the use, placement, size and nature of on-premise signs erected by businesses. The bill: (1) increases the distance that a sign may be erected from the principal structure of a business from 1,000 to 1,500 feet; (2) allows on-premise signs to be placed within 20 feet of the edge of the paved portion of two-lane travel roadways at least 24 feet wide if mounted on certain break-away post systems; (3) increases from 2 the 3 the number of approach signs a business with certain location features may have on its lot and expands the limit of the total surface area of those signs to 100 square feet per side; (4) allows changeable signs to change once per minute and removes the restrictions on the percentage of a changeable sign that can be used for display; (5) allows a business to have one changeable sign per public way that the business abuts; (6) allows time and temperature signs to change as frequently as once every 2 seconds; (7) allows for changeable signs to be erected adjacent to and for viewing from the interstate highway system; and (8) increases the maximum height of a freestanding sign structure statewide from 25 feet to 35 feet above grade.

Veterans & Legal Affairs

LD 518 – An Act To Establish Ranked-choice Voting in the State. (Sponsored by Sen. Woodbury of Cumberland Cty; additional cosponsors.)

This bill creates the ranked-choice voting method of determining winners in elections for United States Senator, United States Representative to Congress, Governor, State Senator and State Representative when there are more than two candidates on the ballot in the general elections. Ranked-choice voting is the method utilized by the City of Portland to elect its mayor in 2011. The method simulates the ballot counts that would occur if all voters participated in a series of run-off elections by allowing each voter to rank candidates according to that voter’s preferences. Each voter has only one vote and the ballot counting is done in rounds, with the candidate with the fewest votes eliminated after each round of counting.

LD 573 – Resolution, Proposing an Amendment to the Constitution of Maine To Restrict the Voting Privileges of Persons Incarcerated for Murder or Class A Crimes. (Sponsored by Rep. Knight of Livermore Falls; additional cosponsors.)

This resolution sends out to the voters a proposed amendment to Maine’s Constitution that prohibits an incarcerated person from voting if the person is incarcerated for committing a crime for which a sentence of more than 10 years may be imposed.