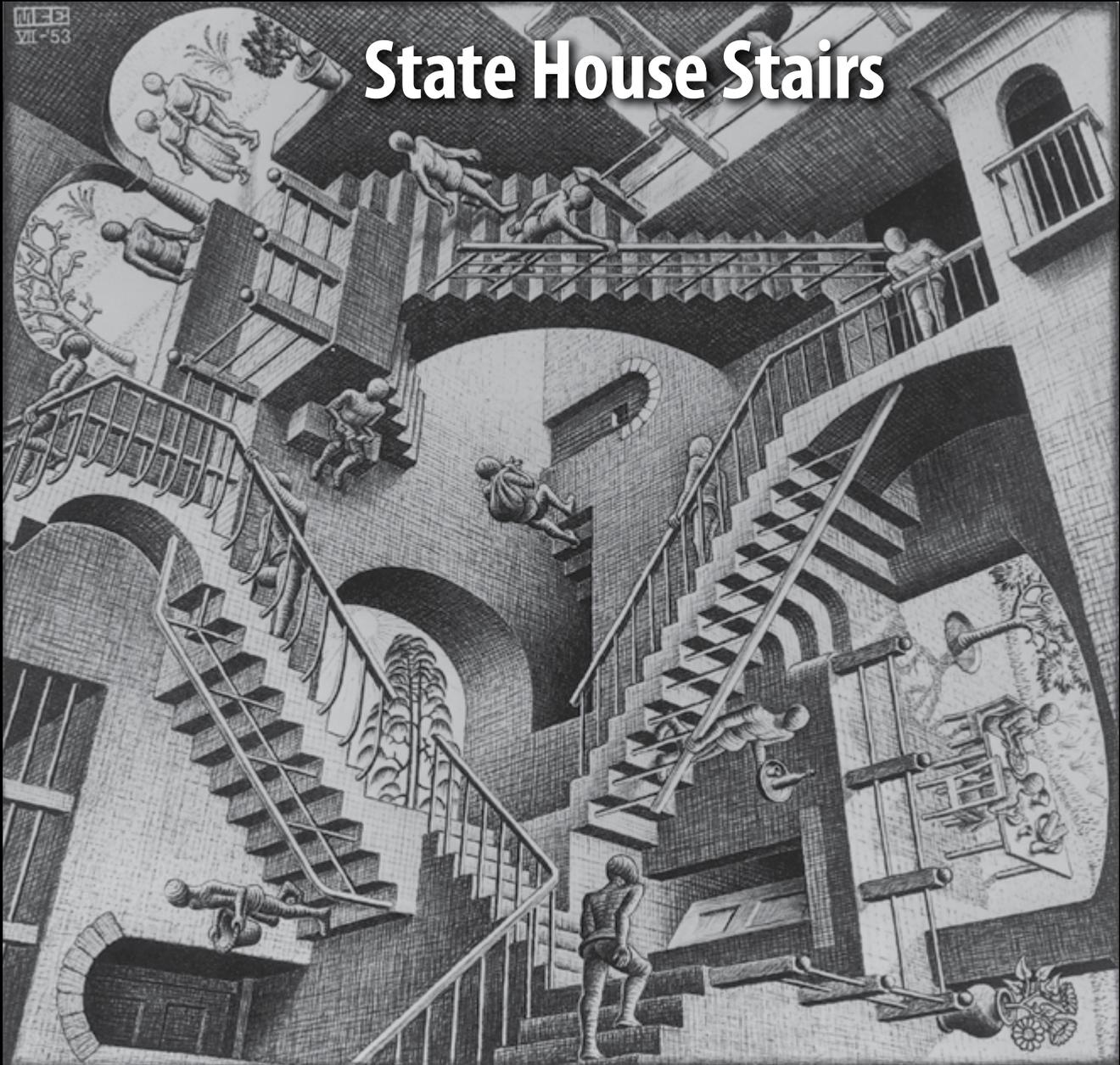


Maine Townsman

The Magazine
of the Maine Municipal Association

MAY 2016



State House Stairs

**2016 Legislative Session:
Differing Senses of Direction**



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Jungle Land



Assistant Attorney General Brenda Kielty, also known as Maine's Public Access Ombudsman, writes that municipal use of email can get complicated, and should be an area of attention for towns and cities.

Succession planning. Maine Municipal Association Executive Director Stephen Gove says succession planning is a challenge for members, and MMA wants to help. [Page 5](#)

Seventh-grade essay winners. MMA's Fifth Annual Essay Contest produced winners from Cumberland, Hampden and Madison. Go here to read their work. [Page 35](#)

ABOUT THE COVER: The cover illustration is a lithograph print done by the great Dutch artist M.C. Escher in 1953. It's called *Relativity* and it is reprinted with permission, on a one-time basis.

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Municipalities Treated Fairly

You might not believe it, but from a complicated and sometimes confusing Legislative session emerged the sense that towns and cities were treated squarely overall. [Page 7](#)

New Laws

As usual, MMA provides the most comprehensive list of new laws that affect our members. Here it is. [Page 11](#)

More on Drones

The more things stay the same, the more they change? Model airplanes and remote-control helicopters used to draw attention. Now we have aerial drones, which are not the same. [Page 23](#)

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A MESSAGE FROM MMA

BY STEPHEN W. GOVE / EXECUTIVE DIRECTOR

As we get older, is your municipality prepared?

Look around. Maine is aging. According to the Maine Council on Aging, right now, Maine's population looks like this:

- We have the oldest population by median age (43) in the country.
- We have the highest concentration of baby boomers (age 52-70 today) per capita.
- Our citizens live rurally – most away from service centers.
- We have the lowest 0-18 population.
- We have very low in-migration to our state.

The implications of these facts are varied and many for local government. They range from transportation issues, public safety and housing to workforce availability, funding essential municipal services and succession planning.

The Maine Town, City and County Management Association (MTCMA) focused on aging in communities at its March Interchange. Sessions included Maine's demographic realities and our economic future, aging in place and what's working in Maine to help support the needs of older adults. Town and city managers from across the state discussed the service delivery side of the aging equation in our communities. Kudos to MTCMA for framing the issue and introducing approaches to meeting the challenges of providing vital municipal services to the growing older population. And kudos to all those boards and councils around the state that are addressing the aging issue and partnering with local organizations who are making their communities more age friendly. This will be a dominant issue for Maine's cities and towns for the foreseeable future.

On the other side of the aging equation is the issue of employers, including municipalities, planning for the workforce of the future. No organization in Maine is immune from the challenges of an aging workforce and finding younger, skilled employees to fill the void created by baby boomer retirements. Succession planning is key. Faced

with the not-too-distant retirement of a number of senior staff members at the Maine Municipal Association, we have engaged in succession planning, working with the MMA Executive Committee and staff to ensure the continuity of our member services and the sustainability of our mission.

Here's what I've learned about succession planning. First, it's a process of affirming the organization's mission and strategic goals. Does the organization expect to continue doing what it's been doing? How will we ensure that we deliver valued services in the future? Second, succession planning involves meeting with senior staff, identifying the key competencies of their jobs and determining their work horizons (i.e. retirement dates).

It also involves candid, confidential discussions with senior staff about potential successors to their jobs – both in-house candidates and possible external candidates. Who might be considered for promotion to a senior position, what areas of development might that person need in order to be ready to advance and when might they be ready? How will we support the develop needs of the staff? Where might the organization look externally, if necessary, to find candidates best suited for a senior position? How do we attract younger people to our organization's professional opportunities?

Finally, there are many ways of wrapping up all this information into a confidential document that serves as the organization's personnel succession plan. I would suggest that keeping it as simple as possible is important, as the document is subject to constant updating and change. It serves as a road map for a board, manager or department head to follow as senior staff retire and succession begins.

Addressing Maine's aging population is certainly a challenge for local governments on several fronts. Planning and partnering are key. Were it as simple as Groucho Marx is attributed as saying: "Getting older is no problem. You just have to live long enough." ■

LOCAL GOVERNMENT
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New Legislative Policy Committee Elections Taking Place this Spring and Summer

Have you ever wondered how the Maine Municipal Association takes positions on legislation, or how it sets its legislative priorities? Would you like to play a role in that process? If so, please consider asking your selectboard or town or city council to nominate you.

MMA takes its direction on all legislative matters from its Legislative Policy Committee (LPC) which is comprised of 70 members who are municipal officials nominated and elected by their peers. Two members are elected from each of Maine's 35 Senate Districts.

Qualifications. The only criterion for being a nominee is that you must be an elected or appointed municipal official (e.g., selectperson, councilor, planning board or board of appeals member, assessor, manager, clerk, treasurer, road commissioner, etc.) from any MMA member municipality within the Senate District for which you are running.

Expectations. Meetings are held roughly once per month during legislative session, usually on a Thursday. The newly elected LPC also meets once or twice in the fall to set its two-year legislative priorities. According to its bylaws, the purpose of the LPC is to define municipal interests and to maximize those interests through effective participation in the legislative process. The deliberations of the LPC are often rich in matters of public policy with a strong focus on the appropriate role, responsibilities and opportunities of local government to advance the interests of the state and its citizens. LPC meetings are run much like a town meeting and moderated by a Chair, who is the Vice President of the Association's Executive Committee.

Members are also called upon from time to time to communicate with their legislators regarding LPC positions; sometimes even testifying at the Legislature if schedules permit.

Nominations. If the idea of serving on the LPC appeals to you, or if you know of somebody in your Senate District who may be interested in being nominated, please talk to your selectboard or council and seek the nomination.

Nomination papers were mailed to the key official (town or city manager or chair of the selectboard) on Monday, May 2 with a return deadline of Tuesday, June 21. The nomination form must be signed by the Chairman of the Board or Council as well as the nominee. The nominee should also fill out the Nominee Profile Sheet included in that mailing so that a brief biography can be provided on the ballot which will be mailed all key officials within each Senate District on Thursday, June 23 with a return deadline of Friday, August 5.

Questions. If you have any questions about the LPC or the process by which they are elected, please contact Laura Ellis in MMA's Advocacy Department at 1-800-452-8786 or lellis@memun.org.

The 2016 Legislative Session

Few points scored for elegance, but local government was treated squarely.

**By Geoff Herman, Director
State & Federal Relations, MMA**

If the recently concluded legislative session was a play, a theater critic would likely describe the production as disjointed in presentation and awkwardly staged; the plot line seemed to bump along from topic to topic without much thought given to choreography. The playwright would complain that at times the actors seemed to be just going through the motions. A psychologist critiquing the theatrical offering would describe its overall emotional affect as “flat.” A liquor connoisseur in the audience would likely remark about the sullen notes in the aftertaste.

General overview. From the highest balcony seats, the major policy issues in 2016 included responding to escalating opioid addiction, enhancing renewable energy policy (or not), “conforming” to the federal income tax code on business expenses, and putting up (or not putting up) a measure to compete against the citizens’ initiative on the Nov. 8 ballot incrementally increasing the minimum wage to \$12 an hour by 2020. Competing plans between the Republicans and the Democrats to “reform” the state’s welfare policies played out their respective debates, and in an unexpected plot twist, common sense prevailed and a long-awaited compromise was enacted into law. The retrenchment of the paper industry and a string of recent mill closings colored the legislative session and gave sobriety to its tone. The yield in terms of tangible legislative results included two enacted measures. One provided some school funding relief to four industrial towns experiencing sudden and steep losses in taxable valuation. The other diverted \$13.5 million in surplus state revenue to indirectly subsidize the logging industry by directing the Public Utilities Commission to cover above-market prices for electricity generated by certain biomass operations.

The major procedural matter of controversy was the absence of a traditional supplemental state budget process, which is often the centerpiece of each second legislative session. State budget bills are submitted to the Legislature by the state’s Chief Executive Officer, but Governor LePage chose to pass on that opportunity this year. The initial state budget covers a two-year period. The function of a supplemental state budget, therefore, is to assemble and then prioritize proposed adjustments to the state spending decisions locked in place by last year’s budget. Without such a vehicle in 2016, new state spending proposals were either approved or rejected as stand-alone bills on a piecemeal basis and often financed with one-time money.

Municipal matters.

One of the consequences of there being no supplemental state budget was the possibility that state funding for K-12 education would be flat funded between the current school year and next. As a stand-alone measure enacted in mid-March, \$15 million was added to the FY 2017 appropriation for school subsidy, providing some relief to well over 100 school systems that were trying to budget their way through significant red ink.

Along the same lines, very late in the session the Legislature coalesced behind a \$2.5 million supplemental appropriation to be distributed to those counties in greatest need of financial assistance to operate their jails.

In the category of enactments deal-



Serving the past two terms on the Transportation Committee, Rep. Christine Powers of Naples has consistently advocated for more strongly supporting the state’s road and bridge infrastructure. Rep. Powers also authorized the distribution of MMA’s Legislative Bulletin to all members of the House during the session. For these efforts and others, Rep. Powers receives our thanks.

ing with the problem of escalating opioid addiction, at least two measures directly involve municipal law enforcement. Legislation enacted early in the session provided funding for 10 additional drug enforcement agents in the Department of Public Safety, and those agents are often specially trained local law enforcement officers given temporary assignments as state drug enforcement agents. Another bill enacted at the end of the session appropriates funding for municipal and county-based diversion programs to provide opportunities for low-level drug offenders to receive treatment rather than jail.

Beyond the budget bills, a watered-down version of a bill originally developed as a bold updating of the state’s solid waste management policies was ultimately enacted.

In response to a U.S. Supreme Court decision, the standards governing the placement of signs (including political signs) in the road right-of-ways were changed to accommodate a “content neutral” regulatory requirement established by the nation’s highest court.

Also on the subject of roads, a \$100 million bond proposal for highway and bridge construction and related transportation infrastructure will be presented to the voters in November. A separate bill MMA worked on to update the road discontinuation process also received legislative approval.

If the session was relatively sparse in overall production, it was practi-



MMA is grateful to State Sen. Brian Langley of Hancock County for signing off on the disbursement of MMA's Legislative Bulletin this year to his colleagues in the Senate. Although we don't normally make a point at MMA of comparing or contrasting the qualities or styles of committee chairs (at least publicly), it deserves to be mentioned that Sen. Langley's thoughtful chairmanship of the Education Committee sets a high bar for his colleagues.

cally effusive regarding election procedures; no less than four bills were enacted that make changes to the way elections are conducted and managed. This is not to mention the citizen initiative on election matters which waits in the wings.

In summary, the session did not produce a long list of public policy enactments directly affecting local government. In the Legislature's defense it should be noted that on that short list there are zero unfunded state mandates of any significance or enactments otherwise disrespectful of local government, there are glimmerings of constructive state-municipal partnerships in some of the measures, and others were just straight-up positive. These enactments and a smattering of other bills of direct municipal impact are described in the pages that follow.

Dead bills. What won't be covered in those pages, however, are the stories behind the bills that escaped enactment. Of potential interest are the legislative proposals that died somewhere along the rigorous road to adoption even though they were helpful to local government and broadly supported by lawmakers. Most often, when popular bills die it is because the broad-based legislative support was cast in principle but not matched with a parallel willingness to financially support in practice. An example in this category of dead bills is the effort to invigorate state financial investments in broadband expansion. Another example is the push to increase reimbursement rates under the MaineCare program for ambulance services, although a study on the subject was authorized.

A bill creating a regulatory framework for community level investments in solar power generation did not pose any burden on the state's General Fund but died, instead, in an ideological crossfire over energy policy. Municipal

officials supported the legislation because it provided opportunities for the constructive utilization of undevelopable properties in municipal ownership (e.g., capped landfills, brown-field sites, etc.) and could help reduce municipal electricity costs, especially for high-energy functions such as waste water treatment, solid waste management or lighting up large school facilities. The Legislature strongly supported the bill as well, but the Governor disagreed on the belief that the legislation provided an unwarranted subsidy to solar power generation and would hurt economic development potential by increasing the costs of energy. The Governor's veto was sustained in the House by a very narrow margin.

Initiated legislation. Finally, among the several elephants in the room

during this legislative session, one of the biggest was the citizen initiative. At least five measures involving major areas of public policy will be sent to the state's voters to decide in the General Election next November. The issues that will be decided by the voters directly are whether to:

- Increase the state's minimum wage to \$12 per hour over a four-year period.
- Add three percentage points to the income tax rate applied to Maine's more affluent citizens in order to increase the state's financial contribution toward K-12 education.
- Require background checks for people buying guns from someone other than a licensed gun dealer.
- Significantly change the election system when three or more candidates are competing on the same ballot for state office by implementing the "ranked choice" voting system.
- Legalize the possession, cultivation, processing, manufacture, and retail sale and distribution of marijuana in the state. ■



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MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.

For more information visit the MMA website: www.memun.org

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NEW LAWS

127th Legislature – Second Session

Effective dates. Emergency legislation became effective on the date it was signed by the Governor unless otherwise noted. If the new law was an emergency measure, it is so noted before the Public Law citation. Non-emergency legislation becomes effective 90 days after adjournment of the legislative session in which it was enacted. The effective date of non-emergency legislation enacted this session will be July 29, 2016.

Mandate preamble. Legislation enacted with a “mandate preamble” contains the following language: *“This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two-thirds of all of the members elected to each House have determined it necessary to enact this measure.”* If the new law was enacted with a mandate preamble, it is so-noted along with the Public Law citation. Only one municipally-related mandate bill was enacted this session, and the financial implications of that mandate are not significant.

Agriculture, Conservation & Forestry

LD 1485 – An Act To Allow the Director of the Bureau of Parks and Lands To Transfer Ownership of Snowmobile Trail Maintenance Equipment to Incorporated Nonprofit Snowmobile Clubs. (Sponsored by Rep. Black of Wilton.) **P & SL 2015, c. 16**

This Act authorizes the Director of the Bureau of Parks and Lands, with the consent of the Commissioner of Agriculture, Conservation and Forestry, to enter into agreements with incorporated nonprofit snowmobile clubs to transfer ownership of state-owned snowmobile trail maintenance equipment (including trail-grooming equipment, snowmobiles, trail drags and tools) for the purpose of maintaining snowmobile trail systems that have been maintained by the state.

Appropriations & Financial Affairs

LD 995 – An Act To Amend the Laws Governing Participating Local Districts in the Maine Public Employees Retirement System. (Sponsored by Rep. Foley of Wells.) **PL 2015, c. 384**

In response to a 2014 decision of the Maine Supreme Court, this Act: (1) clarifies that the Board of Trustees of the Maine Public Employees Retirement System has no jurisdiction to make administrative decisions regarding claims of an employee of a local participating district if the employee’s membership in the plan is optional and the claim applies to a time when the employee was not a member of the retirement system; (2) requires that if an employee claims that he or she was not offered membership in a participating local district, that claim must be made within 6 years of the date upon which the employee was first eligible for membership; and (3) clarifies the employer’s required contribution if an employee requests retroactive membership in the plan and is allowed to retroactively enroll. In that case, all employer contributions to an alternative plan in which

the employee was enrolled, plus earnings, must be paid to the retirement system up to the amount the employer is required to fund the retroactive benefits under the participating local district program. Only if the employer contributions and earnings are not sufficient to fund the employer’s contribution to the retirement system plan must the employer pay any remaining required employer contributions.

LD 1537 – An Act To Combat Drug Addiction through Enforcement, Prevention, Treatment and Recovery. (Sponsored by Sen. Thibodeau of Waldo Cty.) **Emergency Enacted; PL 2015, c. 378 (1/19/16)**

This Act appropriates \$3.73 million (\$725,000 in FY 2016 and \$3,005,000 in FY 2017) to fund enforcement, prevention, treatment and recovery programs to combat drug use, trafficking and addiction. Specifically, the Act appropriates:

- **State Drug Enforcement Agents.** \$1,230,000 in FY 2017 to provide ongoing funding for 10 Maine Department of Public Safety investigative agents, who are typically specially trained local law enforcement officers temporarily assigned as drug enforcement agents.

- **Community-based Program Grants.** \$50,000 in FY 2016 and \$50,000 in FY 2017 to provide grants to local law enforcement agencies and county jails located in geographically diverse communities throughout the state to fund projects designed solely to facilitate pathways to community-based treatment, recovery and support services.

- **10 bed Detoxification Center in Northern or Eastern Maine.** \$200,000 in FY 2016 and \$700,000 in FY 2017 for the development of a 10-bed detoxification center that provides a residential, nonmedical detoxification program designed to provide 24-hour monitoring, observation and support services necessary to support initial recovery for the effects of alcohol or other drugs. The treatment entity must be located in northern or eastern Maine, specialize in treating substance abuse and mental health disorders, and have an established history of providing substance abuse treatment and residential programs in the region. At least 40% of the beds in the center must be made available to individuals who do not have health insurance coverage for the detoxification treatment.

- **Peer Support Recovery Centers.** \$200,000 in FY 2016 and \$500,000 in FY 2017 to provide grants to an organization with expertise and experience in substance abuse prevention, treatment and peer recovery services to: (1) establish and expand peer support recovery centers in underserved areas of the state; (2) coordinate the efforts of law enforcement, treatment and recovery programs; (3) facilitate the delivery of effective prevention and education programming in schools and communities; and (4) maintain a directory of substance abuse providers and prevention and recovery services that is publicly available.

- **Residential Treatment for the Uninsured.** \$200,000 in FY 2016 and \$400,000 in FY 2017 to the Office of Substance Abuse and Mental Health Services to increase substance abuse residential treatment for the uninsured.

- **Outpatient Services for the Uninsured.** \$75,000 in FY 2016 and \$125,000 in FY 2017 to the Office of Substance Abuse and Mental Health Services to increase substance abuse outpatient service for the uninsured.

LD 1583 – An Act To Provide for Tax Conformity and

Funding Methods. (Submitted by the Joint Standing Committee on Appropriations and Financial Affairs.) **Emergency Enacted; PL 2015, c. 388 (3/10/16)**

This Act amends Maine income tax law in order to conform, either directly or in effect, with changes to the federal income tax code enacted by Congress in December 2015, particularly with respect to depreciation allowances for business expenses. The municipal impacts of this Act are found more in the way the tax breaks are paid for (i.e., in the legislation's fiscal note) than in the tax changes themselves. The Act "decouples" the Maine individual and corporate income taxes from the federal bonus depreciation deductions for tax years beginning on or after January 1, 2015 and provides an equivalent Maine capital investment credit for that same period. The Act also establishes an itemized deduction for tuition related expenses. The income tax benefits provided by this Act cost the state's General Fund approximately \$38 million over the FY 2016-2017 biennium. The Act covers the negative fiscal note with a number of appropriations, including:

- \$9.5 million transfer from the Tax Relief Fund for Maine Residents;
- \$13.5 million in unexpended state employee salary plans savings;
- Over \$6 million in debt service savings;
- \$1.5 million by repealing the recently enacted Fund for the Efficient Delivery of Local and Regional Services;
- \$1.5 million by repealing the recently enacted Fund for Efficient Delivery of Educational Services; and
- Nearly \$1.5 million by diverting casino revenue that would otherwise be used to fund K-12 education.

LD 1606 – An Act To Provide Funding to the Maine Budget Stabilization Fund and To Make Additional Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2016 and June 30, 2017. (Sponsored by Sen. Hamper of Oxford Cty.) **Emergency Enacted; PL 2015, c. 481 (4/16/16)**

Although there wasn't a traditional supplemental state budget process throughout most of the legislative session, this Act became the *de facto* supplemental state budget by the session's end. The various appropriations and allocations of state revenue within this Act include two appropriations of direct municipal interest:

- A \$1.5 million supplemental appropriation for the Jobs for Maine's Graduates program, which is a line within the total General Purpose Aid for Local Schools appropriation (GPA). For municipal officials keeping track of the state's share of the cost of K-12 education (as measured by the Essential Programs and Services, or EPS, school funding model), the total amount of money the EPS model calculates as necessary to fund an adequate K-12 education system for the upcoming school year (including the "normal cost" of the teachers' retirement premium) is \$2.082 billion. The state share of that total will be \$1.002 billion, or 48.14%.
- A \$1.1 million appropriation for the purpose of establishing the Substance Abuse Assistance program. Administered by the Commissioner of Public Safety, at least eight grants are to be issued under this program to municipal and county governments to help pay for programs designed to assist low-level drug offenders with presumed substance abuse disorders. The focus of one type of qualifying program is on diverting low-level offenders from jails into community-based treatment and support services, including services for housing, health care, mental health care and job training. The focus of the other type of qualifying program is on providing treatment, including

medically-assisted treatment, to jail inmates and providing case management and support services to those inmates when transitioning from jail after release. The Act details the required components of a grant application, and of the eight grants to be disbursed, the Act requires at least two to be provided to municipal applicants and at least two to be provided to county or regional jail applicants. As the grants are awarded and the programs developed, the Act directs the Commissioner to provide status reports to the Legislature describing the program's implementation and effectiveness no later than mid-January 2017, 2018 and 2019.

LD 1694 – An Act To Authorize a General Fund Bond Issue To Improve Highways, Bridges and Multimodal Facilities. (Sponsored by Sen. Collins of York Cty.) **PL 2015, c. 478**

This Act sends out to the voters in November 2016 a proposed \$100 million bond issue for transportation purposes. \$80 million of the bond revenue is dedicated to the construction, reconstruction and rehabilitation of Priority #1, #2 and #3 state highways, the municipal partnership initiative, and to replace and rehabilitate bridges. \$20 million is dedicated to capital improvements to ports, harbors, marine transportation, aviation, freight and passenger railroads, transit, and bicycle and pedestrian trails. The bond proceeds are estimated to leverage \$137 million in federal and other funds.

Criminal Justice & Public Safety

LD 1476 – An Act To Improve the Law Concerning Carbon Monoxide Detectors. (Sponsored by Sen. Diamond of Cumberland Cty.) **Emergency Enacted; PL 2015, c. 396 (3/16/16)**

For a range of buildings including educational facilities, multifamily housing, fraternity/sorority houses, children's homes, shelters, residential care facilities licensed by the Department of Health and Human Services, and eating and lodging places, current law requires carbon monoxide detectors to be powered in certain ways, including by both direct electrical service and a battery or by means of a non-replaceable 10-year battery. This Act allows for the use of a replaceable battery system if the detector uses a low-power radio frequency wireless communication signal or multiple sensors, has a low-frequency audible notification capability or is connected to a control panel.

LD 1516 – An Act To Clarify the Authority of County Sheriffs To Grant Law Enforcement Powers. (Sponsored by Rep. Grohman of Biddeford.) **Emergency Enacted; PL 2015, c. 419 (3/31/16)**

This Act allows a board of municipal officers to authorize the municipality's police chief or other designee to request the county sheriff to appoint a properly trained law enforcement officer from the municipality as a deputy sheriff. That arrangement must include a formal agreement between the municipality and the county that specifies the purpose and duration of the deputy sheriff appointment and the designation of liability for any damage or injury incurred by or to the appointed deputy. The deputy sheriff appointed under this authority has the same authority of any deputy sheriff with the exception of the authority to serve civil process.

LD 1540 – An Act To Protect All Students in Elementary or Secondary Schools from Sexual Assault by School Officials. (Sponsored by Sen. Cyrway of Kennebec Cty.) **PL 2015, c. 509**

Current law establishes the various sexual assault and unlawful sexual contact crimes applicable to acts by a school teacher

or employee against a student of that school when the student victim is less than 18 years of age and the school teacher or employee has instructional, supervisory or disciplinary authority over the student. This Act removes the student age limit.

LD 1614 – Resolve, To Provide Funding for the County Jail Operations Fund. (Reported by Sen. Rosen of Hancock Cty. for the Joint Standing on Criminal Justice & Public Safety.) **Emergency Passed; Resolves 2015, c. 90 (4/29/16)**

This Resolve appropriates \$2.47 million in FY 2016 to the Department of Corrections to be distributed to the county jails to supplement the state share of county jail operations costs. The revenue must be distributed on the basis of the financial needs of each county jail as determined by the Department of Corrections in cooperation with the Maine Sheriffs' Association and the Maine County Commissioners Association.

LD 1683 – An Act To Increase Penalties for the Use of Violence against Firefighters. (Sponsored by Sen. Cyrway of Kennebec Cty.) **PL 2015, c. 471**

Current law provides that an assault on an emergency care provider while in the act of providing emergency medical care is a Class C crime. This Act provides that an assault on a municipal or volunteer firefighter while the firefighter is providing emergency services is also a Class C crime.

Education & Cultural Affairs

LD 1459 – An Act To Clarify the Use of Student Data from the Statewide Assessment Test. (Sponsored by Rep. Espling of New Gloucester.) **PL 2015, c. 405**

This Act delays until the 2017-2018 school year the use of statewide assessment data of student academic achievement as part of a system to evaluate or rate the performance of the state's public schools that is similar to or different from the school performance grading system developed by the Department of Education in 2013. The Act also similarly delays the use of these data as part of the performance evaluation and professional growth system to measure educator effectiveness.

LD 1475 – An Act To Facilitate the Use of State Education Subsidies. (Sponsored by Sen. Millett of Cumberland Cty.) **Emergency Enacted; PL 2015, c. 463 (4/13/2016)**

This Act authorizes the inclusion of an article on a school budget warrant that gives direction to the school board with respect to the appropriation of any unexpected state education subsidy that may be provided to the school system after the development of the proposed budget. Through the adoption of such an article, the school system could forego holding a supplemental budget meeting and a second school budget validation referendum when late-session actions of the state Legislature result in the school subsidy distribution being greater than originally forecast. The three warrant article options provided in the Act are: (1) to authorize increased expenditures for school purposes in the various cost center categories of the school budget at the school board's discretion; (2) to authorize an increased allocation of finances in a designated reserve fund; or (3) to authorize decreasing the "local cost share expectation", which is the local contribution to the school budget derived from the property tax.

LD 1517 – An Act To Enable an Alternative Organizational Structure To Purchase Group Health Insurance for Its Employees. (Sponsored by Rep. Hubbell of Bar Harbor.) **Emergency Enacted; PL 2015, c. 420 (3/31/16)**

This Act allows the governing body of the various school systems organized as an Alternative Organizational Structure (AOS) to purchase a single health insurance policy that is of-

fered to all the schools' employees, dependents and retirees within the AOS.

LD 1641 – An Act To Establish a Commission To Reform Public Education Funding and Improve Student Performance in Maine and Make Supplemental Appropriations and Allocations for the Expenditures of the Department of Education and To Change Certain Provisions of the Law Necessary to the Proper Operations of Government for the Fiscal Year Ending June 30, 2017. (Sponsored by Rep. Fredette of Newport.) **Emergency Enacted; PL 2015, c. 389 (3/10/16)**

This Act appropriates an additional \$15 million in state aid for K-12 education for FY 2017 (July 1, 2016 to June 30, 2017). As a result of that appropriation, the local mill rate expectation is decreased from 8.44 to 8.30 mills. That rate for the current school year (FY 2016) is 8.23 mills.

The Act also directs the Commissioner of the Department of Education (DOE) to convene no later than May 1, 2016 a 15-member commission to reform public education funding and improve student performance in the state. The members of the commission include: (1) the Governor or his designee; (2) a representative of DOE; (3) the majority and minority leaders from both the House of Representatives and the Senate; (4) a member of the State Board of Education; (5) a recipient of the Maine Teacher of the Year award; (6) a representative of the Maine Charter School Commission; (7) a teacher or administrator from one of the state's career and technical education centers; (8) a representative from the Maine School Management Association, the University of Maine System and the Maine Community College System; and (9) two members of the public, one of whom must have municipal management experience. Among its many assigned duties, the commission is directed to: (1) evaluate the successes and shortcomings of the current school funding model; (2) identify the causes of increased per-pupil education expenditures; (3) examine the state's special education spending, including its impact on school administrative units; (4) identify trends and disparities across the state in student performance; (5) review the existing laws governing the process of school administrative unit consolidation and withdrawal; (6) identify state and federal mandates that increase local property taxpayer burden and propose options for addressing those increased costs; and (7) assist school boards and municipal leaders in identifying opportunities to leverage state or regional resources in efforts to reduce costs. The commission must submit a report, including findings and recommendations, to the Governor and the Legislature no later than January 10, 2017 and the final report no later than January 10, 2018. The commission expires on July 31, 2018.

LD 1699 – An Act To Provide Relief for Significant Reductions in Municipal Property Fiscal Capacity. (Sponsored by Sen. Whittemore of Somerset Cty.) **PL 2015, c. 487**

For the benefit of towns hosting paper mills and experiencing sharp drops in taxable value, this Act creates an exception to the calculation of certain municipalities' "property fiscal capacity" for the FY 2017 distribution of General Purpose Aid for Local Schools. The "property fiscal capacity" is the term used to describe the municipality's valuation for the purposes of determining the required property tax contribution for the K-12 school budget pertaining to that municipality. Under current law a municipality's "fiscal capacity" is the average of the certified state valuations for the three years prior to the most recently certified state valuation. This Act creates an exception to that general rule with respect to FY 2017 when a municipality's most recent certified state valuation declines more than 4.5% from the immediately preceding certified state valuation and the loss in value is attributable to a single taxpayer. If a loss

of that magnitude is verified by Maine Revenue Services, the municipality's amended "fiscal capacity" for FY 2017 is the average of its most recently certified reduced state valuation and its "property fiscal capacity" as normally calculated.

Energy, Utilities & Technology

LD 466 – An Act to Increase Competition and Ensure a Robust Information and Telecommunications Market. (Sponsored by Rep. Dunphy of Embden.) **PL 2015, c. 462**

This Act provides the regulatory framework to effect the removal of the obligation of certain incumbent telephone exchange carriers from providing access to basic-cost, basic-service "provider of last resort" telephone services in geographic areas offering strongly competitive telephone service options. The framework identifies 22 of the state's largest municipalities where, in a phased-in manner, the provider of last resort obligation can be lifted for an incumbent telephone service provider as long as the provider meets specific service quality reporting metrics (e.g., acceptably low network trouble rates, network trouble clearing times, missed or delayed installation appointments, etc.). The Act also provides that the lifting of the provider of last resort obligation cannot occur until the Public Utilities Commission (PUC) has held a public meeting in the affected municipality for the purpose of providing information to customers about the upcoming changes to service. The first 7 municipalities where this process could begin are Portland, Lewiston, Bangor, South Portland, Auburn, Biddeford and Sanford. The 15 municipalities in the second phase are Scarborough, Gorham, Waterville, Kennebunk, Cape Elizabeth, Old Orchard Beach, Yarmouth, Bath, Westbrook, Freeport, Brewer, Kittery, Windham, Brunswick and Augusta. The process could continue in its third phase to include additional, unnamed municipalities upon the petition of the incumbent provider to the PUC, and the determination by the PUC that in those municipalities adequate levels of competition exist among exchange carriers. The PUC must also submit a report to the Legislature in both 2018 and 2020 assessing the effects of the removal of provider of last resort obligations on former customers.

LD 1482 – An Act To Revise the Charter of the Rumford Water District. (Sponsored by Sen. Patrick of Oxford Cty.) **P & SL 2015, c. 14**

This Act amends the charter of the Rumford Water District.

LD 1495 – An Act To Allow the Kennebec Sanitary District To Establish and Maintain a Capital Reserve Account. (Sponsored by Rep. Nadeau of Winslow.) **P & SL 2015, c. 12**

This Act amends the charter of the Kennebec Sanitary District to allow for the establishment of a capital reserve fund.

Environment & Natural Resources

LD 313 – An Act To Create a Sustainable Solution to the Handling, Management and Disposal of Solid Waste in the State. (Sponsored by Rep. Campbell of Orrington.) **PL 2015, c. 461**

This Act makes a number of changes to the state's solid waste management policies. Specifically, the Act:

- Establishes a new schedule for the state to recycle or compost 50% of the municipal solid waste tonnage. When the 50% goal was first established in law in 1989, the schedule was to meet the 50% recycling rate by January 1, 1994. Current law schedules the date of compliance to be January 1, 2014. This Act advances the compliance deadline to January 1, 2021.

- Establishes but does not capitalize the *Maine Solid Waste Diversion Grant Program*. To be administered by the Department of

Environmental Protection (DEP), this program provides grants to municipalities and other public and private entities submitting a proposal or plan that will be likely to increase composting or recycling rates within a community, municipality or region. Those proposals might include, but are not limited to, establishing or providing the infrastructure for municipal or regional composting or recycling programs, establishing or supporting residential composting programs, supporting business models designed to collect, transport or process compostable or recyclable materials, supporting pilot programs designed to evaluate the feasibility of targeted composting/recycling programs and advancing composting/recycling educational programs. The grant funds are to be provided using existing resources, if any, within the Maine Solid Waste Management Fund.

- Authorizes but does not require the DEP to promulgate as "major substantive" rules amendments to the fees currently authorized by statute that apply to the landfilling of various types of "special" solid wastes as well as the fees that apply to the landfilling of municipal solid waste and the ash and other residues that are associated with the incineration of municipal solid waste at waste-to-energy facilities. Those fees currently capitalize the Maine Solid Waste Management Fund. If the DEP undertakes such a rule-making effort, the amended fee structure would have to be consistent with the solid waste management hierarchies established in statute. Any "major substantive" rules promulgated by the DEP under this authority need to be approved by the Legislature before implementation.

- Establishes as a subset to the state's existing solid waste management hierarchy a related "food recovery" hierarchy designed to guide programs preventing and diverting surplus food and food scraps from landfilling or incineration. The most favored policy is to reduce the volume of surplus food at the source, followed by: donation of surplus food to food banks, soup kitchens, etc.; diversion of food scraps for animal feed; utilization of food scraps for digestion systems to recover energy or the composting of food scraps to create soil amendments; and, at the bottom of the hierarchy, land disposal or incineration.

- Directs the DEP to implement composting pilot programs. Specifically, the DEP is directed to invite municipalities, educational institutions, correctional institutions, hospitals and commercial restaurants to participate in a pilot program, potentially with financial assistance provided from the *Maine Solid Waste Diversion Grant Program*. Qualified participants would be selected to develop and implement a food waste composting program, with a primary purpose of collecting data on the amount of food waste diverted from the municipal solid waste stream. In addition, the Act directs the DEP to invite the Department of Administrative and Financial Services and the Legislative Council to participate in a food scrap composting pilot program for the food waste generated by the State House and Cross Office Building cafeterias.

LD 1254 – Resolve, To Further Study the Implementation and Funding of an Integrated Beach Management Program. (Sponsored by Rep. Foley of Wells.) **Emergency Passed; Resolves 2015, c. 66 (3/27/16)**

This Resolve directs the Commissioners of the Department of Environmental Protection and the Department of Agriculture, Conservation and Forestry to convene a working group to review a 2006 report entitled "Protecting Maine's Beaches for the Future: A Proposal to Create an Integrated Beach Management Program", update the data and findings contained in that report and develop recommendations regarding the implementation and funding of an integrated beach management program. The working group's report and recommendations must be submitted to the Legislature by January 31, 2017.

Health & Human Services

LD 622 – An Act To Require Training of Mandated Reporters under the Child Abuse Laws. (Sponsored by Sen. Diamond of Cumberland Cty.) **PL 2015, c. 407**

This Act requires all persons mandated by law to report suspicions of child abuse or neglect to the Department of Health and Human Services (DHHS) to complete at least once every four years a training program for mandated reporters approved by DHHS. In the area of local government, the list of mandated reporters includes teachers, school guidance counselors, school officials, school bus drivers and bus attendants, law enforcement officials, state and local fire inspectors and municipal code enforcement officers.

LD 1097 – An Act To Improve the Integrity of Maine’s Welfare Programs. (Sponsored by Sen. Libby of Androscoggin Cty.) **PL 2015, c. 484**

Federal and federal-state public assistance benefits are provided through the use of the electronic benefits transfer system, or EBT cards, which operate like credit cards. This Act prohibits the use of EBT cards to purchase or pay for tobacco products, liquor, gambling activities, lotteries, bail, firearms and ammunition, vacations, tattoos, and publications, services or entertainment containing or promoting obscene matter. Upon receipt of clear and convincing documented evidence that a recipient has knowingly used electronically issued benefits to purchase a banned product or service, the Department of Health and Human Services is authorized to recover from the recipient the value of the banned purchase. In addition, recipients found to have violated program purchasing limits are disqualified from receiving cash assistance benefits for up to 3 months for the first offense, up to 12 months for the second offense, and up to 24 months for the third and subsequent violations. No later than October 1, 2016 the Commissioner of the Health and Human Services Department is directed to convene an eight-member “feasibility working group” made up of legislators and representatives of retailers, banks and program beneficiaries. The working group is tasked with studying and recommending the most effective means for ensuring that the prohibited uses of EBT cards are blocked at the point of sale. The working group must submit a report of its findings and recommendations to the Legislature no later than December 15, 2016.

LD 1465 – Resolve, To Require the Department of Health and Human Services to Conduct a Study of Ambulance Services. (Sponsored by Rep. Lajoie of Lewiston.) **Resolves 2015, c. 87**

This Resolve directs the Department of Health and Human Services (DHHS) to contract with a 3rd party consultant to conduct a study of the MaineCare reimbursement rates for ambulance services. The study must account for the provider costs related to ambulance services, assess the feasibility of reimbursing for community paramedicine services, and identify the potential rates for those services. DHHS must submit a report to the Legislature on its progress on developing a reimbursement rate for community paramedicine services no later than January 1, 2017.

LD 1470 – An Act To Amend Maine’s Death Certificate Disclosure Law. (Sponsored by Sen. Libby of Androscoggin Cty.) **PL 2015, c. 393**

This Act amends the law governing persons to whom certified or noncertified copies of a death certificate may be issued. The Act requires that a death certificate of a minor’s parent must be made available at any reasonable time upon the request of that minor’s living parent provided that requester’s parental rights with respect to the minor have not been terminated and

the state registrar is satisfied as to the identity of the requester.

LD 1547 – An Act To Facilitate Access to Affordable Naloxone Hydrochloride. (Sponsored by Rep. Gideon of Freeport.) **PL 2015, c. 508**

This Act directs the Maine Board of Pharmacy to promulgate rules to implement the authority provided in the legislation allowing pharmacists to dispense naloxone hydrochloride, often referred to as Narcan, which is a drug that if timely administered can reverse or mitigate the effects of an opioid overdose. When implemented through the rulemaking process, pharmacists will be able to directly dispense units of Narcan to individuals at risk of overdose, members or friends of individuals at risk of overdose, or other individuals in a position to assist those at-risk individuals. The Act also amends existing law to clarify that law enforcement agencies and municipal fire departments are authorized to obtain and use supplies of Narcan according to current statutorily established training and administration protocols.

Judiciary

LD 775 – An Act To Streamline Judicial Review of Certain Land Use Decisions. (Sponsored by Rep. Hobbins of Saco.) **PL 2015, c. 459**

This Act establishes a special appeal process with respect to “significant municipal land use decisions”. “Significant municipal land use decisions” are defined for this purpose as the final municipal permitting decision for land use proposals that involve:

- One or more buildings that occupy a total ground area in excess of 10,000 square feet or contain a total floor area in excess of 40,000 square feet, or
- A total ground area in excess of 3 acres occupied by buildings, parking lots, roads, paved areas and other areas to be stripped or graded and not revegetated, or
- Subdivisions consisting of 10 or more lots.

The special process established by this Act directs an appeal from the final municipal decision, upon request of any party to the proceeding, to what is called the “Business Court”, which is a branch of the Superior Court designated by the Supreme Judicial Court for business matters. The Act also requires the defendant municipality to file with the Business Court a complete record of the permitting process within 35 days of the commencement of the action and requires the plaintiff to reimburse the municipality for the cost of producing the record. Appeals from decisions of the Business Court go to the State Supreme Judicial Court.

LD 1241 – An Act To Increase Government Efficiency. (Sponsored by Sen. Katz of Kennebec Cty.) **PL 2015, c. 449**

Although not directly related to municipal government, this Act does pertain to the conduct of certain public bodies. Specifically, this Act authorizes the Maine Governmental Facilities Authority, the Maine Health and Higher Educational Facilities Authority, the Maine State Housing Authority and the Maine Municipal Bond Bank to conduct public proceedings with one or more members of the board or commission participating via remote access technology even without a quorum being physically present provided: (1) each participating member can hear, speak to, and, to the extent reasonably practicable, see all other members participating in the meeting regardless of physical location through videoconferencing-type technology; (2) all members of the public attending the meeting can hear, speak to, and, to the extent reasonably practicable, see all members of the board or commission participating from a remote location in the meeting through videoconferencing-type technology; (3) each member who is not physically present identifies all persons

who are also present at the remote location; (4) the reason for the non-attendance of any member who is not physically present is because his or her attendance would not be reasonably practical and that reason is stated in the minutes of the meeting; and (5) all members participating at remote locations have previously received all documents and materials discussed at the meeting.

LD 1500 – An Act To Protect and Promote Access to Sport Shooting Ranges. (Sponsored by Rep. Corey of Windham.) **PL 2015, c. 433**

This Act makes several amendments to the laws governing potential nuisance actions that might be taken against pre-existing shooting ranges, as well as the municipal regulation of those ranges. Current law restricts nuisance actions being brought against pre-existing shooting ranges for noise complaints. This Act expands the general limitation to cover nuisance actions for any reason, including noise complaints, but expressly provides that the limitation does not apply to nuisance actions that allege negligence or recklessness in the operation of the range or by a person using the range. With respect to municipal regulation of pre-existing shooting ranges, current law restricts the ability of newly enacted noise ordinances being enforced so as to limit the shooting activities that have regularly occurred at a pre-existing shooting range. This Act restricts the ability of any newly-enacted ordinance, including noise ordinances, to limit previously allowed activities that regularly occurred at the shooting range provided the shooting range conforms to generally accepted gun safety and shooting range operation practices or is constructed in a manner not reasonably expected to allow bullets to cross the range's boundaries. The Act expressly authorizes municipalities to regulate the construction and location of both new shooting ranges and other substantial changes in use of existing ranges, as well as proposals to maintain or improve existing grounds and facilities. With respect to municipal ordinances that may require shooting ranges that are substantially destroyed by fire or other causes to be rebuilt within a certain time period in order to retain their legal zoning status, this Act provides those ranges with a 2-year period to complete that reconstruction.

LD 1601 – An Act To Implement the Recommendations of the Task Force To Ensure Integrity in the Use of Service Animals. (Reported by Rep. Hickman of Winthrop for the Joint Standing Committee on Agriculture, Conservation and Forestry.) **PL 2015, c. 457**

This Act amends the law governing "service animals", which under the Maine Human Rights Act prevents landlords and the owners of other places of public accommodation from disallowing or discriminating against tenants or customers from accessing their facilities who qualify to be accompanied by a dog or other animal meeting the "service animal" definition. In effect, the Act retains existing law with respect to rental housing but narrows its application with respect to stores, offices and other places of "public accommodation". Specifically, this Act: (1) replaces the general definition of "service animal" with the same definition for "assistance animal"; and (2) narrows the existing definition of "service animal", which pertains specifically to the restrictions on discrimination in places of public accommodation, to include only a dog (rather than any other type of animal) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The Act also establishes a civil violation subject to a fine of not more than \$1,000 against anyone who knowingly misrepresents an animal as either a service animal or assistance animal through the creation or use of false documents or the unwarranted use of animal harnesses, collars, vests or signs.

Labor, Commerce, Research & Economic Development

LD 1607 – An Act To Implement the Recommendations of the Maine Affordable Housing Working Group. (Reported by Rep. Herbig of Belfast for the Joint Standing Committee on Labor, Commerce, Research and Economic Development.) **PL 2015, c. 424**

This Act directs the Maine State Housing Authority (MSHA) and the municipal housing authorities to create a single, state-wide application and waiting list for "Section 8" housing with online accessibility. The Act also directs MSHA and the Department of Health and Human Services to ensure that an application for the Section 8 housing may be simultaneously used as an application for the Bridging Rental Assistance Program and the federal "shelter plus care" program. The Act also directs MSHA to identify unused vouchers under the federal Housing Choice Voucher Program and to use those vouchers to establish a rental assistance pilot program.

State & Local Government

LD 1325 – An Act To Ensure a Public Process When Discontinuing or Abandoning a Public Road. (Sponsored by Rep. Nadeau of Winslow.) **Mandate Enacted; PL 2015, c. 464**

This Act amends the law governing the process of discontinuing a "town way" to municipal maintenance in several ways.

First, the Act provides more guidelines to the formal discontinuation process by providing a standard for proper notification of abutters of the town way in question (U.S. first class mail, postage prepaid) as well as the required contents of the discontinuation order to be considered by the municipal legislative body (e.g., town meeting or town or city council). The Act also requires one public meeting of the municipal officers to discuss the discontinuation order as well as a subsequent public hearing to be held at least 10 days before the discontinuation order is taken up by the municipal legislative body. More directly than is the case in current law, the Act requires the municipality to file the discontinuation order in the registry of deeds after it is approved by the legislative body.

Second, the Act requires the municipal officers to file in the registry any determination that they may make identifying a town way or segment of a town way that has been discontinued by abandonment (i.e., after 30 years of non-maintenance), and provide a copy of that recording to the Maine Department of Transportation. The Act stipulates that the absence of such a filing cannot be construed as evidence against the road's abandoned status.

Third, the Act encourages municipalities to develop or update inventories relating to all town ways or segments of town ways formally discontinued or discontinued by abandonment, and to share such inventories with the Maine Department of Transportation. The inventories being encouraged are expected to include sufficient descriptions of the former town ways, the date of discontinuance, the governmental entity effecting the discontinuance, any known judicial determinations regarding the status of the public easement and, in the case of abandonment, the last known date of regular, publicly-funded maintenance.

The Act also creates for the owner of property abutting a discontinued or abandoned road in which a public easement exists a right to bring a civil action in Superior Court for damages and injunctive relief against a person who causes damage to the public easement that impedes reasonable access. Law enforcement officers and emergency responders acting within the scope of their authority are immune from such civil complaints.

LD 1504 – An Act To Establish November 1st as Veterans in the Arts and Humanities Day. (Sponsored by Rep.

Duchesne of Hudson.) **PL 2015, c. 399**

This Act encourages municipalities, other political subdivisions and school administrative units to celebrate “Veterans in the Arts and Humanities Day” on November 1st of each year. The Act elaborates on the various activities that may take place during the newly established day of celebration.

LD 1635 – An Act Authorizing the Deorganization of Oxbow Plantation. (Sponsored by Rep. Martin of Eagle Lake.) **P&SL 2015, c. 17**

This Act provides for the deorganization of Oxbow Plantation in Aroostook County to become the Oxbow North Township subject to approval at local referendum and the execution of a withdrawal agreement from the plantation’s Regional School Unit.

Taxation

LD 1551 – An Act To Make Additional Technical Changes to Recently Enacted Tax Legislation. (Sponsored by Sen. McCormick of Kennebec Cty.) **Emergency Enacted; PL 2015, c. 390 (3/10/16)**

This Act makes a number of technical changes to tax-related legislation enacted in 2015. Among the various technical changes, the Act establishes that the municipal reimbursement rate for the Homestead property tax exemption, beginning with the tax year starting April 1, 2017 (when the value of the Homestead exemption will be increased to \$20,000) will be 62.5%. Under the law on this subject enacted in 2015, the reimbursement rate would be 50% for the first \$10,000 of the exemption and 75% for the second \$10,000 of the exemption, implying that an analysis would need to be conducted with respect to the proper reimbursement for any homestead property valued at less than \$20,000. This Act homogenizes the two reimbursement rates to 62.5%.

LD 1623 – An Act to Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2016-17. (Reported by Rep. Goode of Bangor for the administrator of the unorganized territory.) **PL 2015, c. 432**

This Act establishes the “municipal cost components” for state and county services provided to the unorganized territory (UT). The municipal cost components form the basis of the property tax for the UT. After computing all the appropriations, identifying tax increment financing payments, and subtracting the general revenue and educational revenue deductions, the total UT tax assessment for FY 2017 is \$22,379,429, representing a 1.5% increase over the previous year.

Transportation

LD 1483 – An Act To Amend Maine’s Motor Vehicle Laws. (Sponsored by Sen. Collins of York Cty.) **Emergency Enacted; PL 2015, c. 473 (4/15/16)**

This Act makes a number of changes to the state’s motor vehicle laws. With respect to municipal administration, the Act: (1) allows municipal agents to issue registrations for pick-up trucks up to 10,000 pounds rather than the current 9,000 pound limit; and (2) removes an obsolete requirement in statute that an agent of the Secretary of State who issues temporary registered gross weight increases must be either a municipal tax collector or town or city manager.

LD 1567 – An Act To Amend the Laws Regarding the Operation of an All-terrain Vehicle or Snowmobile on a Controlled Access Highway. (Sponsored by Rep. Saucier of Presque Isle.) **Emergency Enacted; PL 2015, c. 413 (3/29/16)**

This Act authorizes a person to operate a properly registered snowmobile or ATV within the right-of-way limits of a controlled access highway on a snowmobile or ATV trail segment approved by the Commissioner of the Department of Transportation or the board of directors of the Maine Turnpike Authority (MTA), as applicable. The Commissioner or the MTA board may also permit the construction of all-terrain vehicle and snowmobile trails within the right-of-way limits of controlled access highways in areas of new highway construction when requested by the Commissioner of the Department of Agriculture, Conservation and Forestry. Funding for the construction of those trails within the right-of-way may not be provided from the Highway Fund.

LD 1592 – An Act To Amend the Maine Traveler Information Services Law. (Reported by Sen. Collins of York Cty. for the Joint Standing Committee on Transportation.) **PL 2015, c. 403**

In response to a U.S. Supreme Court decision in 2015 (Reed v. Town of Gilbert), this Act significantly amends the statute governing the placement of what are referred to as categorical signs both within and outside of the public right of way in order to regulate in a content neutral manner, as the Supreme Court decision generally required. Specifically, the Act deletes references in the current law to: (1) signs showing the place and time of service or meetings of religious and civic organizations; (2) memorial signs or tablets; (3) signs bearing political messages relating to an election, primary or referendum; (4) signs erected by a producer that directs travelers to the location where farm and food products are grown; and (5) signs erected for a farmers’ market that are directional in nature.

Instead of referring to allowable signs by content, the Act provides that any temporary sign bearing a non-commercial message and not exceeding 4 feet by 8 feet in size may be placed in the right-of-way for a maximum of six weeks per calendar year. The temporary sign may not be placed within 30 feet of another temporary sign bearing the same or substantially same message. Each temporary sign must be labeled with the name and address of the individual, organization or entity that placed the sign within the public right-of-way and the designated time period the sign will be maintained there. The Act similarly repeals the content-based elements of current signage law governing the placement of signs outside of the right of way and replaces the previous language with a content-neutral standard allowing the installation and maintenance of signs no greater than 50 square feet in size, without time limitation. The Act also establishes a civil violation subject to a fine of not more than \$250 against anyone who takes, defaces or disturbs a sign legally placed within the public right-of-way without the authority to do so.

Veterans & Legal Affairs

LD 1484 – An Act Regarding the Election Laws. (Sponsored by Sen. Cyrway of Kennebec Cty.) **Emergency Enacted; PL 2015, c. 447 (4/10/16)**

This Act makes several changes to Maine’s election laws. Those changes include:

- Expanding the periods of time the municipal registrar must update the central voter registration system to reflect voter participation history. The current 10 business day period after a statewide election to reflect voter registration activity after the incoming voting list was printed is extended to a 15 business day period. The current 20 business day period after an election to update the central voter registration system for voter participation history is extended to a 45 business day period.

- Allowing the state to charge the municipality for the costs borne by the state for providing a “courier” to pick up an election return from the municipality if the municipality’s election

clerk fails to provide that information to the Secretary of State within 3 business days after an election.

- Amending the minimum number of days for a person to file a declaration of write-in candidacy with the Secretary of State from 45 days prior to an election to 60 days. This change affects state-level candidates' write-in procedures as well as the write-in procedures in local elections for those municipalities that have adopted the "Title 21-A" write-in procedures by reference.

- Disqualifying an election registrar from serving during an election period if and when the registrar or any immediately family member of the registrar becomes a candidate for a federal office on the ballot. The same disqualification already exists in law when the registrar or immediate family members are candidates on the ballot for any state, county or local offices.

- Requiring the clerk to notify the Secretary of State of the poll opening times at least 60 days before each election. Current law requires the notification at least 30 days before the election.

- Establishing a more detailed process in a certain circumstance to check a voter's name and issue the voter a ballot within the polling place. The current requirements in statute are for the election clerk to mark the voter's name on the voting list, provide the voter with the appropriate ballot or ballots, and allow the voter to enter the area "enclosed by the guardrail". This Act adds the requirement that when there is more than one "party or district ballot style" that the voter may be given (e.g., two different state representative districts being decided within the same municipal polling place), the election clerk in charge of the incoming voting list must state in a loud, clear voice the party or district ballot style that the voter must be given and the election clerk in charge of the ballots must repeat out loud the party or district ballot style being given to the voter.

- Current law prohibits the distribution of campaign literature, posters, palm cards, etc. within the polling place area. This Act clarifies that those materials cannot be displayed, either.

- As part of the identification of a voter's prior residence in voter registration documentation, this Act requires the municipality, county and state of previous residence.

- Requiring the consent form prepared by the Secretary of State to be signed by a candidate chosen by a political committee to include a place for the municipal registrar to certify the candidate's registration and enrollment status.

- Amending the sufficient number of days prior to a primary election or general election day that a candidate may choose to withdraw and a replacement candidate can be chosen and included on the printed ballot. Under current law, a candidate has to withdraw at least 60 days before the election. This Act requires notice of withdrawal at least 70 days before the election.

- Removing statutory references to the "supplemental incoming voting list".

- Expanding the standard for a candidate vacancy being declared by the Secretary of State for reason of "catastrophic illness" to include "catastrophic illness, condition or injury".

LD 1539 – An Act To Expand the Early Processing of Absentee Ballots. (Sponsored by Rep. O'Connor of Berwick.) **Emergency Enacted; PL 2015, c. 406 (3/24/16)**

This Act allows municipal election personnel to process absentee ballots beginning on the 3rd day prior to election day, which would be the Saturday before a Tuesday election. The Act prohibits processing absentee ballots on a Sunday. Current law allows early processing of absentee ballots only on the day immediately preceding the election day.

LD 1574 – An Act To Protect Maine Voters from Intimidating Video Recording at the Polls. (Sponsored by Sen. Diamond of Cumberland Cty.) **PL 2015, c. 422**

This Act provides that a person video recording within an election polling place must remain outside the guardrail and may not conduct video recording closer than 15 feet from a voter being recorded, including when a voter is located where a person is collecting voters' signatures. A person violating the 15 foot standard may be removed from the voting place by the municipal clerk at the recommendation of the election warden.

LD 1673 – An Act To Establish a Presidential Primary System in Maine. (Sponsored by Sen. Alford of Cumberland Cty.) **PL 2015, c. 474**

This Act establishes the framework of a presidential primary election system for the state which would replace the current system of caucusing to determine the political preferences among presidential candidates for each of the political parties. The Act requires the Secretary of State to make nomination petitions available for circulation on or before November 1 of the year prior to the primary election year (e.g., 2019), and that the primary election must be held on a Tuesday in March of the year in which the presidential election is held. The Act also establishes that only voters enrolled in the political party are eligible to vote in that party's primary election. The Act establishes a "sunset" provision designed to repeal the primary election process on December 1, 2018 if legislation is not enacted during the 2017-2018 legislative biennium that provides more detail and structure to the implementation of the primary system. To that end, the Act directs the Secretary to study the costs to both the municipalities and the state associated with conducting a primary election, including the ordinary costs of municipal elections, any special costs that might be triggered by holding a primary election in March, and the costs related to both personnel and the need for voting facilities. The Act also directs the Secretary to submit a bill to the Legislature during the 2017-2018 biennium that includes the formatting of the primary ballot and how to effectively administer the absentee voting process. The Secretary is required to seek recommendations on the subject of implementing a presidential primary system from the state's political parties and from organizations representing municipal election clerks.

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Devil's in emails: How to manage Freedom of Access requests

Maine's top expert on the Freedom of Access Act cites, as a top priority, the need for municipal email to be treated with care. She outlines helpful search steps when FOA requests are received.

**By Brenda Kielty, Public Access Ombudsman,
Maine Attorney General's Office**

Freedom of Access Act requests for the email communications of local government staff and elected or appointed officials have become commonplace. As the requests for email swell, the volume, complexity and problems managing these public records grow. Despite the predictability of requests for email, some are caught off guard and react with little more than an impromptu response.

In a perfect world of local government email, staff and officials would share a common understanding of the responsibilities, policies and procedures covering the life cycle of email from creation through disposition. Responding to a request for emails would be less of a headache and more of a routine function guided by a common sense protocol.

Any good email protocol must address the practical considerations in conducting a search and creating an estimate for such a search.

The Freedom of Access Act (FOAA) defines searching, retrieving, compiling, reviewing, redacting and converting as actions an agency or official may charge a requester in responding to a FOAA request. Of all of these activities, the search for records can be the most challenging. Especially with broad or vague FOAA requests for email, figuring out how to proceed with a search that will be complete but not pose an undue burden on the normal operations of staff or officials can be troublesome. A systematic approach that is reasonably calculated to uncover all relevant emails will save time, avoid haphazard

results and prevent due diligence from coming into question.

The FOAA search is one step in a five-part process that begins with the proper preservation of public records and ends with the timely delivery of a responsive but not confidential subset of documents. To be useful in practice, any protocol for responding to a request for emails should include instructions for the retention, search, assembly, review and production of the records.

1. Retain: Preserve the entire pool of emails subject to public records law.

Email communications in the possession or custody of staff, elected or appointed officials that concern the transaction of government business are public records and must be retained according to state retention schedules. Preservation of public records in a recordkeeping system sanctioned and maintained by the municipality ensures control of the public email of both current and former employees and officials.

Access to email is obviously hindered by the use of personal email accounts for public business. Requiring public email, regardless of origin, to be maintained on the municipal server protects against the loss or destruction of these records.

2. Search: Collect a raw subset of relevant emails.

Clarifying the request with the requester to narrow the time frame, content area and possible staff or officials who may have communications will help make relevant emails easier to find.

Custodians are individuals who are likely to be in possession or custody of emails responsive to the FOAA re-

quest. Identification of custodians is crucial to targeting the location of potentially responsive records within the larger pool of emails that have been retained.

After the custodians have been named, their repositories containing potentially responsive records are identified. This includes all sources and formats of email and any attachments that may be stored on the local network mail server, in a remote mail server, in a web-based account such as Yahoo or Gmail, or in locally saved Personal Storage (PST) or individual files.

Once the repositories have been identified, filter criteria such as the date range of the request and relevant keywords can be used to winnow out a subset of records that are responsive. The subset of records produced from this initial electronic search will include "hits" that are responsive but also some emails that are outside the request parameters. These raw search results are collected in a working file for the next step in the process.

3. Assemble: Process the selected emails to create a subset for review.

A secondary search is conducted by the custodian to remove nonresponsive emails and duplicates. The review set of responsive emails can then be exported from the custodian to the person designated as the reviewer.

4. Review: Identify and redact confidential or privileged information.

The review set of documents is checked for confidentiality and redactions or denials are marked as appropriate. The subset of responsive, non-confidential emails is prepared for production.

5. Access: Production of respon-

Assistant Attorney General Brenda Kielty is Maine's first Public Access Ombudsman, Brenda.Kielty@maine.gov.

sive, non-confidential subset of records.

The production set of public records is exported or sent to the requester. If the scope of the first production set is too narrow, the criteria for an expanded search can be determined for a subsequent response.

How to build an estimate

The Freedom of Access Act requires that a good faith estimate of time and cost be provided within a reasonable period of time. For complex email requests, trying to accurately

forecast how long it will take to respond can be as challenging as collecting the records. Although the estimate is non-binding, problems arise with estimates that are either too low or too high. A low estimate sets expectations and upward adjustments often generate opposition from the requester. A high estimate can simply be prohibitive or appear to be an intentional barrier to access. The best estimate will forecast a range close enough to the actual time and cost so that changes made as the request is clarified or the search progresses will be incremental.

Each FOAA request is unique; requests for email fall somewhere on a scale from narrow and specific to broad and vague. It is faster and easier to respond to a request for one individual's email about a specific topic during a recent period of time. It is much more difficult to respond to a sweeping request for "information from anyone who has ever had anything to do with" a wide-ranging topic. Despite the different levels of complexity presented by email requests, using a consistent methodology for creating estimates demonstrates good faith and produces estimates that are closer to the actual billed time and cost.

Once a request has been clarified and narrowed to the extent possible, six factors can be considered to create the estimate.

The scope of the request will determine the number and identity of key custodians. Depending on the record-keeping system, the status of the identified custodians as either staff, elected or appointed officials may determine the location and accessibility of custodian repositories. A system where all public business transacted by email is stored on a municipal server with a global search capacity allows for the fastest and most cost effective search. Where some of the public email is stored on the local network and some is stored in a web-based webmail repository, such as personal Gmail or Yahoo accounts, individual accounts must be searched separately.

The specificity of the requested content area and the number of search terms used to find responsive records is a key driver in the time estimate. Except in simple requests, the search process is not an exact science and often involves trial and error to target the most relevant subset of records. A "country doctor" approach of a little of this and a little of that is sometimes the only way to settle on the most fruitful keywords.

The time frame of the FOAA request will affect the time needed to find, load and search files. The custodian's current mailbox for email may have a limited amount of storage. Personal Storage (PST) archive files that are stored outside the user's active mailbox may have to be located, attached and indexed before being search-ready.

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The skill level of the person conducting the search will affect not only the time needed, but the quality of the resulting set of records. A custodian without technical training and support may search by manually rummaging through their email and trying to remember what they have that is relevant to the request. Even a person with medium skills may not know how to search archive files or assemble the results for review. The time needed to conduct the search will be difficult to predict and the results are likely to be incomplete.

The volume of responsive records determines how much time is needed to assemble, review and redact confidential information. The number of custodians searching will affect the assembly and review time needed to process the results. The complexity of confidentiality laws covering information in the records will impact the time reviewing each document. Prior to determining how many responsive emails will be collected, the estimate for the time needed to review is little more than a guess.

Production of the emails in paper or electronic format can be another significant factor in the estimate depending on the volume of responsive records.

As long as email is used to transact business, managing and producing these public records will continue to be a core function of government staff and officials. Yet, the training and skill of custodians to conduct searches and produce the public records varies con-

siderably.

Asking the requester to bear the cost is fair when it is based on the time a competent person could conduct a search in a reliable and complete manner. A standardized estimate for the search shifts the burden to the public agency to ensure that staff and officials have the resources needed to efficiently perform these duties.

Significant discrepancies between the estimate and actual search time should not be charged to the requester if the skill level of the person conducting the search does not meet a minimum level. A sample email search

schedule might set 15 minutes for the search of a single, active mailbox with one search term; 30 minutes for the search of a single, active and archived mailbox with one search term; and one hour for the search of a single, active and archived mailbox with up to five search terms.

Conclusion

According to a 16th Century Italian proverb, "Perfect is the enemy of good." With that principle in mind, there is nothing to impede even a small, practical step toward good email management and access. ■

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Waiting on the FAA: Drone regulations likely, in 2016-17

In the meantime, legal experts say, local and state officials should use care before enacting laws of their own, or deciding to purchase a drone for official use.

**By Eric Conrad, Director of
Communication & Educational Services, MMA**

If you are a leader in municipal life, and you haven't encountered an issue with an "unmanned aerial vehicle" – otherwise known as a drone – rest assured, you probably will.

It may come in the form of a request from a fire-rescue or police department employee who wants to research whether an aerial drone could help in that line of work.

It may come from irritated lakeside or ocean front residents, where tranquility is a thing of the past, now that the neighbors bought a drone to use as a toy.

Or it may come from a summer-season starlet – Maine has more of them than many people realize, each summer – whose privacy is threatened by a nearby photographer, whose drone has become a most valuable "tool."

The hardest part about dealing with any of these issues is that the Federal Aviation Administration, which was tasked in 2012 to develop regulations for drone use, has not done so to date, at least not in a thorough manner.

One of the most important things to know about drones in the United States is that there are a lot of them. An estimated 1 million drones have been sold to date, and 350,000 have been registered with the FAA. By law, any drone weighing more than 0.55 pounds must be registered, no matter what its intended use is.

"A lot of people think these will be good for kids," said Jason Levasseur, a drone enthusiast, videographer and consultant to the Maine-based law firm, Bernstein Shur. "The first thing kids do with drones is fly them around and look in people's windows, not thinking about the legality of all that."

FAA WEBSITE

For more information about aerial drones, visit the FAA website at: <http://federaldroneregistration.com/>



Here's some of what is known about drones at present:

- The FAA has retained primary regulatory authority over them. The idea here is that drones share airspace with airplanes and helicopters, thus regulating drones is not a local or state issue.

- For recreational drone owners, regulations are few beyond registration. However, drones must be flown only in the operator's line of sight, for safety reasons.

- Drones must be flown below 400 feet and remain clear of surrounding obstacles.

- Drones cannot be flown within five miles of an airport, unless the operator contacts the airport and control tower before flying. This includes major airports such as in Bangor and Portland, and the smaller airports scattered throughout Maine.

- For municipal departments considering using drones for professional reasons, the regulations are steeper. For example, currently – and this very well may change – an airplane pilot's license is required by the FAA.

To date, at least 20 state and municipal regulations have been adopted, despite the FAA's assertion that it has primary regulatory authority, according to Kelsey Wilcox Libby, an attorney with Bernstein Shur.

Maine law on the books

Maine is among them, but not in the way you might think.

Maine's law prevents police and other law-enforcement agencies from using aerial drones for surveillance and evidence gathering, without a search warrant.

Beyond that, information about drone use and regulation is coming out in drips and drabs.

On April 6, the FAA announced that it is considering allowing small drones – weighing less than 0.55 pounds – to fly over people and crowds without restriction, under the belief that small, lightweight drones are unlikely to cause injury should they hit someone. Larger drones, the FAA advised, also are likely to be permitted to fly over people, so long as they stay at least 20 feet above them and 10 feet away on either side.

That may not sit well with your average, non-drone enthusiast, citizen.

The Academy of Model Aeronautics said it fears that "allowing unmanned aircraft to operate over and within close proximity to people will heighten the anxiety in a society that is already hypersensitive to the introduction of 'drones' in our communities."

Here are some other things that experts believe the FAA *may* require or recommend, when its formal regulations are promulgated, which is expected to occur this year or in 2017:

- Operators must be 13 years of age or older. (The final age figure could be as high as 17 years of age, however.)
- Drone use will be permitted only during daylight hours.
- Drones will have to carry registration numbers prominently, as most airplanes and boats already do.
- Penalties will be developed for people who violate the FAA's regulations.

Phil Saucier, another attorney with Bernstein Shur and chair of its Municipal and Governmental Services Group, said legal experts, in general, have empathy for state and local officials, regarding drone use.

"These are the people who get the complaints," Saucier said. "The FAA regulates this, but they are not on the ground when people fly these by other people's windows."

The legal issues surrounding drones get dicey in a hurry, as major, Constitutional issues arise over privacy rights, freedom of speech issues, law

LOCAL REGULATION

Although formal FAA regulations have not been adopted, here are some areas where legal experts believe local and state regulation of aerial drones will be permitted:

- The areas of land use and zoning.
- Prohibitions on using drones for voyeurism.
- Requiring search warrants for police surveillance.
- Prohibiting the surveillance of individuals while they are hunting and fishing.
- Prohibiting hunters and fishermen from using drones to more effectively find game and fish.
- Outlawing the practice of attaching firearms or weapons to aerial drones.

(Sources: FAA Fact Sheet; Bernstein Shur)

enforcement procedures and due process rights.

For example, members of the news media have for decades used helicopters to cover news stories. We've all seen that kind of footage, as television stations have covered events from major wildfires to the O.J. Simpson Bronco chase. The federal government does not have the right to tell the media it cannot fly over scenes where news is unfolding. And, the same right

to news gathering pertains to aerial drones.

But where does that line end and a celebrity's right to relax in his or her backyard, in privacy, end?

With questions such as that, even when the FAA releases its regulations, one can see how Congress, state legislatures, municipal governing boards and ultimately the courts will be asked to weigh in, experts say.

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Positive uses

Lest we get “all negative” on drones, there can be – and there have been – some wonderful examples of how they are, and can be, used positively.

For example, search and rescue operations can benefit from aerial drones that are equipped with cameras (most are) and infrared heat-sensors, which can detect the body heat of a lost or injured hiker or animal.

Many communities and colleges are using drones as marketing tools. The visual images from overhead drones can be strikingly beautiful as they fly over a community on a sunny day, during peak foliage season. Put a video like that on the local Chamber of Commerce website, and voila!

The same is true for colleges aiming to lure students and coax alumni into opening their wallets. Virtual tours of college campuses have been used on university websites for years. But now, overhead video can enhance that, plus give viewers a sense of how large or small a campus is, and how its buildings are laid out.

Levasseur, the Maine-based drone consultant, said there are some built-in tools that people who worry about

drones should know. For example, many of them come with automatic “return to operator” devices, if the signal from the ground to the airborne drone is disrupted.

However, “unexpected things will happen,” Levasseur warned. He primarily flies his drones in areas where the public is not, because he doesn’t want to attract attention – or be distracted. That doesn’t mean things always go well.

“Crashes will happen,” he said, citing wind, loss of GPS signal and a drone leaving the operator’s line of sight as chief reasons why.

Finally, there is the inevitable property owners’ question about what can

and cannot be done if someone flies a drone over your property: “Can I shoot it?”

The answer is: Probably not. In the old days, common law held that people owned not just their homes and land, but the sky above that property up to the heavens. But then airplanes and helicopters came along, as well as the FAA, so airspace became public, subject to federal regulation.

Having said that, there was a case in Kentucky where a landowner shot down a drone over his property because he felt the drone operator was spying on and harassing his daughters. He was charged, and a Kentucky judge dismissed the case against him. ■



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4 Godfrey Dr., Orono, ME 04473

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Bridgton Town Hall
3 Chase St., Ste. 1
Bridgton, ME 04009

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Maine Municipal Association
60 Community Dr., Augusta, ME 04330

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11 West Presque Isle Rd., Caribou, ME 04743

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490 Pleasant St., Lewiston, ME 04240



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Roads, local laws, solid waste focus of spring town meetings

As usual, the topics tackled during town meeting season were broad and varied. In many cases, voters seemed willing to spend money, if a strong case was made.

By Liz Mockler

Maine voters in March and April debated, compromised, resolved problems and exercised total control over local spending as myriad towns held annual spring town meetings.

Solid waste disposal, road projects, ordinances and fracking were among the thousands of warrant articles and questions decided by voters. In some towns, elections were held by secret ballot, often the day prior to the business meeting, while other elections were held directly from the floor.

Turnout was typical – light to moderate. March and April town meetings feature some of the smallest towns in Maine. In many communities, residents will turn out to vote for local officials or to decide referendums, but not necessarily attend the business portion of the town meeting.

A review of 75 town meeting reports shows an increasingly common issue in Maine: Whether to change tradition and have selectmen appoint clerks and treasurers instead of being elected by voters.

Some voters like to choose their own town hall officers, believing they are more accountable and transparent. But people who want to appoint these positions note that many towns struggle to find people who are able to perform the increasingly complex jobs. They say that elected clerks and treasurers also do not work full time in many small towns, and therefore aren't always available when residents want to pay their taxes or register their vehicles.

Among the towns making the change to appointed town office

Liz Mockler is a freelance writer from Randolph and regular contributor to the Maine Townsman, lizmockler@hotmail.com

professionals were Wiscasset, Alna, Benton and Norridgewock. Burnham voters rejected the change and Embden voters, asked to return to elected clerks and other officials, decided to continue appointing personnel. Norridgewock voters defeated the change in 2008 and 2012.

Town Manager Richard LaBelle said Norridgewock voters this year gave up control over electing a town clerk because they want the clerk to be accessible full-time.

LaBelle said the former elected town clerk was not being paid a high enough stipend to have time to keep all the work updated and be available to tax payers.

"The clerk is a position that needs fixed hours," LaBelle said. He said voters agreed overwhelmingly that the change "would be in the best interest" of the town.

Disposal dilemma

A number of town meeting voters agreed to support the Maine Review Committee (MRC) effort to build a new biofuel facility in Hampden, including China, Thomaston, South Thomaston and St. Albans.

The towns pledge to send their trash to the new waste-to-energy facility, which will need 150,000 tons of municipal trash annually to be financially viable.

MRC has pledges from 72 municipalities, which would generate an estimated 78,600 tons of waste a year, according to Greg Lounder, MRC executive director.

PERC will lose its largest customer, Emera Maine, in 2018, at the same time 30-year municipal contracts expire. PERC tipping fees will be markedly higher after that, officials have

said.

"We felt it was the right thing to do," St. Albans Town Manager Rhonda Stark said. Stark, along with St. Albans Selectman Josh Gould, represent the town on the Mid Maine Solid Waste Association board.

The association runs a transfer station in Corinna and is headquartered in Dexter. The group is part of the MRC.

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“The (MRC) had the most complete explanation” for voters, Stark said.

The MRC was chartered in 1991 by 86 communities that banded together to supply solid waste to the Penobscot Energy Recovery Co. (PERC) in Hampden.

However, other municipalities and consortiums opted for PERC, the landfill in Norridgewock and the ecomaine disposal system in Portland.

Just once

The question of the controversial process of fracking, or hydraulic fracturing, was raised in the rural Somerset County town of Solon, where residents banned it on a vote of 32-12.

There are no plans to frack in Solon, but townspeople preferred to have a local plan in place in case someone comes knocking. The ordinance was penned by the planning board at the request of town meeting voters last year.

Fracking is the process of widening rocks below the earth’s surface and injecting chemicals at high pressure to reach oil and gas deposits.

In another single-issue ballot, Smithfield voters overwhelmingly agreed to put aside \$500 a year toward financing a Leap Year birthday party in 2020. Smithfield, population about 1,000, is the only municipality in Maine incorporated on a Leap Year – February 29, 1840.

Residents enjoyed the day so much this year they decided to make it a regular every-fourth-year event, supporters said.

In Whitefield, March town meeting voters declined to fund an elderly tax break proposal by a 10-vote margin. However, selectmen in April decided to put the question to voters again – on the June ballot, coinciding with the school referendum. The tax program allows seniors who qualify financially to defer payment of their property taxes.

In Athens, residents braced for a \$322,000 increase in their education bill by scrapping a \$350,000 borrowing plan for roadwork by a vote of 53-63 and halved the town’s highway reserves.

Big jobs

As usual, voters in many towns strongly endorsed proposed highway projects and other public works improvements. Some will be expensive:

- Belgrade voters agreed to borrow \$809,000 and to raise \$400,000 from taxes to finance \$1.2 million, three-year paving program.
- Burnham residents voted to borrow \$800,000 to pave sections of five town roads.
- Newry voters approved borrowing \$850,000 to pave part of the Sunday River Road.
- Rome voters agreed to spend \$225,000 to rebuild a mile of road.
- Carrabassett Valley voters will contribute \$100,000 toward a \$21 mil-

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lion competition center at Carrabassett Valley Academy. The new complex, which will be part of the Sunday River Ski Resort, will be used by the private school, Sunday River and the Sugarloaf Ski Club. It is expected to open in the fall.

- Farmington residents funded the fourth of five payments on a five-year road plan by raising \$233,000 and using \$159,000 in state aid.

Local control

There were lots of local questions that reflected the diversity of town meeting concerns in Maine.

- Poland voters dipped into the Tax Increment Financing (TIF) account by \$240,000 to hold down property taxes.

- Whitefield voters joined the federal flood insurance program, OK'd installing solar panels on municipal buildings and agreed to remove the Coopers Mills Dam.

- Voters in Bristol rejected a town-owned dog park after deciding no one wants liability for it, nor does anyone want to keep it clean.

- Alna residents, unhappy with the

costs and response time from the Wiscasset Ambulance Service, switched to the Central Lincoln County Ambulance in Damariscotta.

- Woodstock voters quickly approved buying the former Maine Department of Transportation garage for \$85,000, down from the state's \$125,000 starting price.

- Wiscasset voters funded an extra 10 hours of training for firefighters by a vote of 47-11, but declined to offer life insurance for on-duty coverage.

Officials said firefighters are already covered.

- Washington residents rejected hiring a part-time town administrator, but agreed the issue should be studied over the next year and revisited next year.

- Steuben residents approved a \$750 anti-litter campaign to buy 10 signs reading "Please help keep our roadways clean." Town students will be asked to help promote the campaign.

The next round of town meetings will be held in June. ■

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Town meeting time: Here's a roundup of election results

By Liz Mockler

Following are among the municipal election results from March and April annual town meetings.

Albion: Kevin Bradstreet ran unopposed to fill the final year of former Selectman Kayla Dow's term. Dow served two years before moving out of town.

Andover: Voters elected Sharon Hutchins over a challenger, by a vote of 64-61, to replace Keith Farrington, who retired this year.

Anson: Select board Chairman Arnold Luce and newcomer Angela Manzer defeated a challenger to win with election with 80 votes and 93 votes, respectively.

Burnham: Incumbent Selectman Anne Goodblood defeated a challenger by a vote of 150-122.

Chesterville: Voters re-elected David Archer, who has served as selectmen for 43 years, with 139 votes. He received the most votes in the four-way contest for two open seats. Newcomer Matthew Welch won the second three-year seat with 117 votes. Two other contenders collected 74 and 65 votes. Meanwhile, newcomer Anne Lambert garnered 125 votes, holding off two contenders, to win a one-year term on the board. She replaces Scott Gray, who did not seek re-election.

Corinna: Barbara Marshall was elected to replace Selectman Richard Otis, who did not seek re-election.

Eustis: Residents honored outgoing Selectman John Caldwell during the March 5 town meeting, thanking him for 50 years of service to the town. Jed Whiting will replace Caldwell, after holding off a challenger by a vote of 34-21.

Fort Kent: Madawaska Police Chief Carroll Theriault was elected selectman by holding off a challenger by a vote of 164-147. Joey Ouellette collected 147 votes to defeat former Selectman Priscilla Staples, who received 119 votes.

Liz Mockler is a freelance writer from Randolph and regular contributor to the Maine Townsman, lizmockler@hotmail.com

New Sharon: Robert Neal defeated a challenger by a vote of 91-43 to replace Milton Sinclair, who did not seek re-election.

New Vineyard: Jeff Allen defeated incumbent Selectman Frank Forester by a vote of 44-21. Forester served for about 10 years.

Norridgewock: All five selectmen won re-election against six challengers. Voters elect selectmen each year for one-year terms. The incumbents are Ronald Frederick, Charlotte Curtis, Matthew Everett, James Lyman and Sara Wilder.

Owls Head: Tom VonMalder ran unopposed to win a three-year term on the Board of Selectmen. He succeeds Richard Carver, who did not seek re-election after serving for more than a decade.

Palmyra: Incumbent Vondell Dunphy and newcomer Joann Brown won three-year terms with 86 votes and 82 votes, respectively. A third candidate collected 61 votes. Incumbent Brian Barrows defeated a challenger, 107-37, to win a one-year term.

Rome: Incumbent Malcolm Charles held off an opponent to win re-election by vote of 82-39.

Sangerville: William Rowe has completed his term as a selectmen and now will serve on the MSAD 4 Board of Education. Dale Gray was elected to replace Rowe.

Sedgwick: Colby Pert defeated incumbent Selectman Nelson Grindal, 171-118, to win a three-year term on the board.

Sidney: Sandra Tibbetts ran unop-

posed to replace Peter Schutte, who did not seek re-election.

Smithfield: Molly Gould Chapman unseated incumbent Selectman Dale "Bud" Churchill by a vote of 110-75. Churchill was first elected in 2008.

South Bristol: Selectman Christian "Chris" Plummer won his fourth consecutive three-year term by defeating former Selectman Donald Stanley by a vote of 80-21.

Washington: Wesley Daniel, who has served as Washington selectman for 18 years, defeated a challenger, 207-131, to win another term. Former Fire Chief Thomas Johnson defeated a challenger, 184-145, to serve the final year of Duane Vigue's term. Vigue resigned at the March 25 town meeting.

West Gardiner: Voters elected Randall Macomber to the board of selectman with 159 votes, just ahead of a challenger with 131. Macomber will replace Earle McCormick, who did not seek re-election.

Weld: Douglas Voter and Benjamin Hout were elected with 107 votes and 105 votes, respectively, to replace Joseph Demers, who did not seek re-election and Wayne DuBois, who moved out of town. Demers served a total of six years, while Dubois served from 2001-2003 and then again from 2010-2015.

Whitefield: Incumbents Tony Marple and Frank Ober won re-election with 152 votes and 133 votes, respectively. They held off a challenge from former Selectman Bruce Matthews, who received 130 votes. ■

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2nd Annual **Municipal**
HR & Management
Conference

ATTENDEE REGISTRATION

June 7, 2016
Thomas College
Waterville, ME



Maine Municipal Association

Presented by: Maine Municipal Association

In Cooperation with: Maine Local Government Human Resources Association



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Keynote Speaker – Sandra Matheson



The 2nd Annual Municipal Human Resources & Management

Conference – Ever-tightening municipal budgets in Maine are creating increased challenges for municipal elected officials, managers, human resource directors, supervisors and department heads. As a result, municipalities are more concerned than ever about uses of technology in the workplace, health-care and other employee benefits, initiatives aimed at reducing costs and services, optimizing employee performance and following all of the assorted laws that go along with these topics.

This timely conference is designed to be a “one-stop shop” – one day, very well spent, concentrating on management topics.

As the executive director of the Maine Public Employees Retirement System, Sandra is well-known in Maine for overseeing its largest retirement system. She will provide an update on Maine PERS, and will discuss pension and retirement benefits trends and changes.

Conference Agenda:

8:00 am: Registration

8:45 am: Welcome

Stephen W. Gove, Executive Director, Maine Municipal Association, and Nick Isgro, Mayor of Waterville.

9:00 – 10:00 am: Keynote Presentation

What is the Future of Maine Retirement?

Session Summary: Maine’s leading authority on retirement benefits, and the administrator of its largest public-sector retirement system, Sandra will share her insights into Maine PERS, public pensions and benefits trends in general. We all look forward to enjoying our “golden years.” What will they look like when we get there?

Presenter: Sandra J. Matheson, Executive Director, Maine Public Employees Retirement System.

MTCMA Certification – 1 point Human Resources category

10:00 – 10:15 am: Break/Visit with Sponsors

10:20 – 11:20 am: Block 1

Creating A Safe Workplace

We all know that municipal employees do stressful and sometimes hazardous work. From Public Works to Fire-Rescue, from staffing the front counter at city hall to handling stray animals, there are ways to minimize risks and create workplaces that are as safe as possible. Here are some of the best strategies.

Presenter: Ann Schneider, Loss Control Supervisor, Risk Management Services, Maine Municipal Association.

MTCMA Certification – 1 point Human Resources category

Defensible Documentation

A little preparation goes a long way. Attendees at this session will be presented with templates that are necessary inclusions in every employee’s personnel file. The workshop addresses

topics like: “Why do we do this?” “This law requires documentation” and “Really consider this before implementing a change in your practice.” Deb’s motto is “let’s keep this simple.” By the end of the session, participants will have a greater understanding of what to do and how to do it.

Presenter: Deb Whitworth, owner and CEO of HR Studio Group.

MTCMA Certification – 1 point Human Resources and Legal categories

Social Media Dos and Don’ts

Towns and cities are in the communications game, whether they really want to be or not. Along with showing attendees effective ways to operate, and control, their social media outlets, this workshop includes practical advice on limiting employee influence over official social media channels and what to do – and what not to do – about employee use of social media in their personal lives.

Presenters: Amanda Meader, Staff Attorney, MMA’s Legal Services Department; Detective Dorothy Small, Ellsworth City Police Department; Eric Conrad, Director of Communication & Educational Services, MMA.

MTCMA Certification – 1 point Leadership and Human Resources categories

11:25 – 12:25 pm: Block 2

How to Plan for a Maine Department of Labor Inspection

This session will discuss the Department of Labor’s Safety Works! program, which is designed to assist employers (at no cost) correct hazards and reduce their injury and illness rates. We also will discuss public sector enforcement, the most frequently issued citations and voluntary protection programs (SHAPE).

Presenter: Michael LaPlante, Occupational Safety and Health Supervisor, Maine Department of Labor, Division of Workplace Health & Safety.

MTCMA Certification – 1 point Leadership and Human Resources categories

(Cont’d on next page)

Conference Agenda:

Yes, Here's Another Update on the ACA

Worried about the seemingly ever-changing nature of the Affordable Care Act? We'll walk you through the latest requirements, changes and deadlines and offer some helpful hints to make it all more understandable. Then we'll spend a little time talking about the Act's "Cadillac Tax" – just for fun!

Presenter: Anne Wright, Director, Maine Municipal Employees Health Trust.

MTCMA Certification – 1 point Human Resources category

Collective Bargaining

Successful collective bargaining requires understanding labor law, developing an effective strategy, researching the comparables, being familiar with union players and most of all learning the lessons of The Gambler: "Ya gotta know when to hold 'em, know when to fold 'em..." In this session, we'll cover the legal knowledge, factual information and other tools that the successful management negotiator needs to play a winning hand at the bargaining table. We will review how to stay on the right side of the law, how to use dispute resolution tools to your advantage – all of the tricks that make bargaining less of a gamble and more of a plan.

Presenter: Linda McGill, attorney, Bernstein Shur.

MTCMA Certification – 1 point Leadership, Human Resources and Legal categories

12:30 – 1:30 pm: Lunch

Cafeteria style, "picnic" stations, can sit in cafeteria or outside.

1:30 – 2:30 pm: Block 3

Making Great Hires

One of the most costly mistakes that employers make – is hiring the wrong person. Listen to one of Maine's best-known consultants as he talks about making not just good hires, but great ones. He uses real-life examples of companies and organizations, from Maine and beyond, that have done just that.

Presenter: Ray Inglesi, President, Drake Inglesi Milardo, Portland.

MTCMA Certification – 1 point Leadership category

Creating, Maintaining a Healthy Worksite Wellness Program

Join Anne to learn strategies on how to create an effective wellness program. In this session, we will discuss how to do that, what to consider and how to maintain your program for the long-term. Examples from successful municipal programs, right here in Maine, will be shared.

Presenter: Anne Charles, Health Promotion Manager, Maine Municipal Employees Health Trust.

MTCMA Certification – 1 point Human Resources category

How To Keep Employment Practices 'Discrimination Proof'

Attorneys from Eaton Peabody will help you navigate the employment discrimination laws that cause municipal officials to lose sleep at night. This session will provide information that

you need to ensure that your city or town follows the law and uses good judgment in hiring, managing and terminating employees.

Presenters: Thad Zmistowski, Attorney, Eaton Peabody; Sarah Newell, Attorney, Eaton Peabody.

MTCMA Certification – 1 point Human Resources and Legal categories

2:30 – 2:45 pm: Break/Visit with Sponsors

2:50 – 3:50 pm: Block 4

Stretching in the Workplace

End your program day in invigorating fashion, as experts and presenters explain why – and demonstrate how – stretching in the workplace is so important to maintain employee health and morale.

Presenters: Denise Dumont-Bernier, Workplace Health Director, MaineGeneral Medical Center; Gary Bowman, Manager, Town of Oakland.

MTCMA Certification – 1 point Human Resources category

Common Supervisor Pitfalls & How to Avoid Them

This session will focus on typical mistakes that municipal supervisors can make, how to prevent them and what to do when they happen anyway. Topics will include: unintended discrimination in the hiring process; understanding employees' proper rights in their jobs; and union contracts, including how they fit into decision making and terminating employees.

Presenter: Robert W. Bower, Jr., Attorney, Norman Hanson & DeTroy.

MTCMA Certification – 1 point Leadership, Human Resources and Legal categories

2016 MMA Salary Survey: An Update

Maine Municipal Association's Annual Salary Survey is back in 2016, and better than ever. Working with our vendor, Dynamic Benchmarking, MMA soon will release important data on municipal salary and benefits, in database-searchable form.

Presenters: Carol Weigelt, Web Publishing Technician, MMA; Ben Thomas, Website & Social Media Editor, MMA; Eric Conrad, Director of Communication & Educational Services, MMA.

MTCMA Certification – 1 point Leadership and Human Resources categories

3:50 – 4:00 pm: Wrap up and thank you

Directions to Thomas College:

Thomas College is located at 180 West River Road in Waterville, Maine. From Interstate 95 exit 127 (formerly 33), go east on Kennedy Memorial Drive (Route 137). In approximately 1.5 miles, turn right onto West River Road (Route 104 South). Thomas College is 1.5 miles on the left. **Please follow these directions instead of those provided by your GPS for the best route to campus.**



Attendee Registration

June 7, 2016 – Thomas College, Waterville, Maine

Presented by: Maine Municipal Association

In Cooperation with: Maine Local Government Human Resources Association

Registration Type *(please check ONE):*

- MMA Member Municipality/Patron/Non-Profit/State Agency-\$75.00
- Non Member Municipality-\$150.00 / Business Representative-\$100.00

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Payment Options: Send invoice* Check will be mailed** Payment Enclosed** PO #: _____

*(*You will be invoiced after the Conference – **Please send a copy of this registration form with payment)*

Fax registration form to: (207) 626-5947

Mail form to: HR Conference Registration, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330.

Please make check payable to: Maine Municipal Association

Dietary Requirements: We do our best to plan meals according to general dietary guidelines. If you have a specific dietary restriction, please contact the Educational Services at: 207-623-8428. Please note that we are not able to accommodate on site requests, as catering planning happens in advance of the event.

ADA Message: In order to ensure your complete participation, we would appreciate your informing us of any special requirements you may have due to a disability.

Questions & Cancellations: If you have any questions regarding registration, please call Educational Services at 1-800-452-8786 or 623-8428. Notification must be given at least 72 hours before the conference to receive a refund (minus processing fee). **All** cancellations are subject to a \$10 administrative fee for processing.

If I led my community...

Maine Municipal Association

7th Grade Essay Contest **Winners**

Abigail Jean Steinberg

Greely Middle School, Cumberland

If I led my community, there are three things I would focus on: Allowing residents to vote on the town's real priorities; helping the schools meet their needs; and, encouraging greater protections for our environment. Children's thoughts for the community are never accounted for, but I now have the chance to share my ideas on this matter.

First, I would take a comprehensive survey of residents' needs, wants and priorities.

Citizens are paying huge tax dollars and they have a right to direct the money. I would publish the results of the survey, discuss the results and then have the town residents vote on the top priorities. I would use leadership skills, put the town's priorities before my personal wants and I would help residents understand how to spend their tax dollars wisely and for the greater long-term good. For example, if someone wanted to put in an ice skating rink, I would encourage the town to vote, as it may be important to some, but not all. We might discuss whether an ice rink is a greater priority than a turf field or another park. When leading a community, you must let everyone have a say in how money is spent.

Another thing I would do is improve our school facilities. The school plays a major role in my community and has many needs the town must support. One thing I would do to make the school a better place is to add a real auditorium, as the school is currently using the cafeteria. Maintaining and regularly upgrading our school facilities should be a top priority for our town. As a leader in my community, I would try to fully meet the needs of our schools and look for opportunities to improve facilities that could be used by the whole community. It is important to have strong public schools to educate and enrich our children. These are the children that will grow up and help lead our town in the future.

Finally, I would make it easier for residents to take care of our environment. Although not at the top of everyone's to-do list, a clean environment provides a lasting, long-term benefit to the town. I would propose adding an easy town composting system. This would be great for the environment because food is not trash. Composting would significantly reduce the amount of trash we send to landfills. Taking action in helping the environment is not always easy, but it helps the world become a better place.

To sum up, I think it is important as a leader to focus on the needs of others, listen to what they really want and help communities prioritize their financial resources. I think it is important to maintain strong public

schools, and protect our environment. If I led my community, I would make my town a better place to live.

CONTEST JUDGING

Seventh-grade teachers from around the state submitted 172 students' essays for judging in Maine Municipal Association's fifth annual essay contest, which is part of our Citizen Education program. Essays were judged based on clarity of writing, quality of writing and showing an understanding of municipal government.

MMA wants to thank and recognize the contest judges: Calais Mayor Marianne Moore, who serves on MMA's Executive Committee; Kate Dufour, Senior Legislative Advocate at MMA; and, Doug Eugley, a town meeting moderator and former Selectman with the Town of Sidney, who works as an accountant in MMA's Finance Department.

LOCAL GOVERNMENT
begins with **YOU**

If I led my community...

Maine Municipal Association 7th Grade Essay Contest **Winners**

Jeffrey Daniels

Madison Junior High School

If I led my community, I would do everything in my power to help develop it further. I would do this without taking away the “small town” feel of Madison. Many people feel they don’t have a chance to state their opinions, and this should change. In order to have a successful town and a positive community, I would like to start a trade school, have a town meeting every month and try and promote people to open businesses.

I would also like to start a trade school at the high school level to put our juniors and seniors into. This would help them in the process of being sent out into the local work force so that they would hopefully stay here after graduating. The trade school would offer a variety of programs in many different fields of work. Some of the programs would be welding, automotives, health-care careers, culinary and more. Many students don’t get the opportunity to have a trade school to attend, and I feel it would benefit the community.

At least once a month, I would like to hold an open meeting for the townspeople. In addition to that, I would have an office in one of the local buildings, where I would be available for the citizens to come in to me with their ideas and concerns of our Town of Madison. These meetings would be held in hopes to answer any questions about the town that people have. In order to keep the town happy and thriving, I would need to put effort into these meetings to get the main concerns taken care of. I believe that these meetings would help benefit the town and would give the people a chance to speak.

I would try to get new businesses to come to our area by offering them tax breaks and free advertisements, along with offering them community support. This community support would be done in the way of open houses and fairs to help introduce them to the citizens of Madison. I would also promote the people of the area to use their imaginations to help open businesses in areas of their educations, jobs or trades. Some examples would be helping out the local banks to finance and support small business owners, helping with car repairs, and helping out at restaurants, clothing stores and entertainment centers. This would help to get the community more involved.

Madison is a “family-like” community where people are used to working together, helping each other out and supporting the town. These things all happen in the forms of school activities, town fairs, and local fundraisers. In order for me to make a change, I would need to take the people’s thoughts into consideration. To me, these are all the essentials any leader would need to successfully run a town.

LOCAL GOVERNMENT
begins with **YOU**

If I led
my
community...



Maine Municipal Association 7th Grade Essay Contest **Winners**

Meghan Ireland

Reeds Brook Middle School, Hampden

If I led my community, I would lead it with dignity and trust. A community is like a human body consisting of government, citizens and the environment. The government is the brain: Feeding the directions to all the other parts, connecting the citizens to their community and making it a better place. I would strive for harmony between all the parts of the community "body."

To enhance this idea, I will start with the citizens. First I will start with the children.

Knowing that these children will be actively participating in our government, I want them to be well educated. To start this, I will apply for a teaching grant to get our teachers better prepared. This will make the children want to stay in the community and raise their children here. I will also think about the elders of our community. I will create retirement communities so they enjoy being there, and want to continue to actively participate in the community.

In addition to thinking of the citizens, I want to think about our environment. To reduce littering, I will place recycling bins on the corners of the dirtiest areas and give messages that encourage recycling over littering. To finalize this, I will impose strict fines for anyone disregarding the law. Another aspect of the environment I would like to improve is landscaping. I would hire some landscapers to re-design some of the public areas, to make them more aesthetically pleasing. This should improve the citizens' view on the environment they chose to live in. With these areas revised our town can be beautiful and enticing to outsiders.

Safety is another aspect of our town that should be improved. To make the citizens feel safe, there will be a neighborhood watch set up so the citizens are partially in control of their own safety. To complement this idea, I apply for a grant allowing the hire of policemen and firemen to protect our town.

To add to those ideas, I will add some more attractions to our town, specifically shopping centers. In my town the shopping centers we have are only for necessities. I will add a small mall with clothing shopping, and places to shop for pleasure. This will make it so our residents will shop in our town instead of going off to another town to support their businesses. Also by doing this it will open up more job possibilities, this would make it more convenient for our residents who need a part time job. This can bind our citizens making the community more like a family.

In this town of ours the brain is always thinking, sending messages to other places telling them to improve. It's always working trying to improve itself. Solving problems is the main mission of this brain. Issues like education conditions, living conditions, the environment, town safety and above all the happiness of the citizens. Improving to the point of perfection is a goal. This community is shaped around one thing, its citizens.

LOCAL GOVERNMENT
begins with **YOU**

PEOPLE

Former Kennebunk Selectman **Al Searles** died on March 29, two days from his 63rd birthday. His colleagues remembered him for his respect for the office he held, how informed he was and what a prolific volunteer he was at all major festivals and other events. He served as selectmen from 2008 through 2015.

Dean Campbell has been named Minot fire chief after being elected by his peers in the volunteer department. One of Campbell's first duties was to report to the state that all labor standards have all been addressed.

Rockland City Manager **James Chaouis** has taken medical leave to get treatment for a small growth on his brain. He planned to stay on leave through May 13, then begin "light work" from home through early June. He did not expect the surgery to be complicated. Assistant City Manager **Audra Caler-Bell** is the temporary manager and will consult him when necessary.

Kennebunk Recreation Director **Brian Costello** retired in April after 30 years with the town. Hired in 1986, with 16 children enrolled, Costello is credited with developing now-busy and varied programs for dozens of children at a time. He credits his parents' active community involvement for inspiring his career and wide volunteerism efforts. **Tashia Pinkham**, former director of Buxton's Recreation Department, will replace Costello.

Gouldsboro's new police chief is among the youngest ever appointed in Maine at the age of 23. **Tyler Dunbar**, a law officer for one year, impressed selectmen so much they named him chief of the small department in late April. Dunbar will oversee the department and the staff of one full-time patrol officer, now vacant with Dunbar's promotion, and three part-time positions.

The Deer Isle 2015 annual town report was dedicated to former veteran Selectman **Neville Hardy** and **Hubert Billings**, who is the town's former code enforcement officer. Hardy served as selectman for 48 years, while Billings was CEO for 30 years. Both retired.

Eastport City Clerk **Ella Kowall** was recognized with the Spirit of America



Ella Kowall

Award for her volunteerism and dedication to the community. Kowall was nominated for the award by the Eastport City Council. She was given the award during National Volunteer Week on April 13. Kowall, who started

her city hall career in 1998 as an office clerk, was promoted to town clerk in April 2010. City officials said the award underscores Kowall's 18 years of "unsurpassed" service to Eastport and "her spirit of giving and unwavering love for the community." Kowall is the first Washington County resident to win the award.



Jeff Lange

Jeff Lange has been hired as Wiscasset police chief, effective May 23. Lange most recently worked as interim police chief for the town of Paris. He replaces **Troy Cline**, who resigned earlier this year. Lange has

years of experience as a firefighter, reserve police officer, detective sergeant and lieutenant. A veteran, he is presently finishing his study for a bachelor's degree in public safety management. Lange served in both Afghanistan and Iraq as a Department of Defense law enforcement officer. He served two tours.

John Madigan Jr., who has managed Maine towns since 1978, will retire in June and run for a seat in the Legislature. Madigan was hired out of college to manage Monson in Piscataquis County.



John Madigan Jr.

Madigan, 66, also managed Eastport, Rumford, Mexico and Dixfield over his career. He managed Rumford from 1985 to 1992 and then decided to work as a carpenter for 12 years before being named Mexico manager in 2005. For the past two years, he has managed both Rumford and Mexico.

Jason Warlick has been named Officer of the Year for the Damariscotta Police Department for hard work and dedication. Warlick joined the town as a reserve officer in November 2011 and was hired full-time in 2012. He was promoted to sergeant in November 2014.

Howland Town Manager **William Lawrence** has been hired to manage the Town of Warren, effective June 1. Lawrence was named Howland manager in May 2015, after serving as manager of White Springs, Fla., and previously 20 years in law enforcement. Warren selectmen said Lawrence's municipal experience was key to their decision. Lawrence will replace **Robin Bennett**, who has served as acting interim manager for a year.

Freeport Public Works Director and Engineer **Albert Presgraves** will retire on June 9 after 30 years with the town. Presgraves grew up in the Washington, D.C., area and moved to Maine in 1981 to work on Peaks Island as an energy resource official. He lived on the island until last year. He plans to sail with his wife for the first year or two of his retirement in a sailboat they have spent years refurbishing. ■

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STATEWIDE

Five Maine airports will share a \$7.1 million federal grant for improvement of operations at all facilities. Bangor will get \$900,000 in Federal Aviation Administration (FAA) money to finance modifications to passenger terminals. The Sugarloaf Regional Airport in Kingfield will receive \$298,000 to build a self-service fuel station; the Auburn/Lewiston Municipal Airport will receive \$298,000 to expand and improve terminals; the Machias Valley Airport will receive \$150,000 to fund replacement of the airport beacon and wind cone; and Newton Field in Jackman will receive \$92,000 to finance a survey about whether a navigational approach should be installed.

STATEWIDE

Only 13 other states have more parents in prison than Maine. In New England, Maine ranks first with 8 percent of all children having had at least one parent incarcerated during their childhoods. The independent analysis is for the year 2011 to 2012. By comparison regionally, Vermont has a rate of 6 percent and the other four New England states have 5 percent each. The national average is 7 percent.

AUBURN

Police Chief Phil Crowell presented councilors with a report in April on the advantages and drawbacks of merging the city's fire and police departments into a new public safety department. The presentation was straightforward, without endorsement or recommendation. Crowell told councilors that he and others were disappointed that potentially merging the two departments would be an outcome of this year's municipal budget process. Councilors will continue studying the idea.

BATH

After hearing about it from residents last month, the city council abandoned its idea to draft a mass gathering ordinance. Although councilors did not encounter problems early on, a packed house greeted them in early April. Opponents said such an ordinance could impede residents' right to assemble and free speech. Councilors told residents the ordinance would only affect large public gatherings, but that was little solace to residents who asked the council to drop the idea. The

NEW ON THE WEB www.memun.org

Highlights of what's been added at www.memun.org since the last edition of the Maine Townsman.

2016 Municipal Salary Survey. Attention selectmen, councilors and municipal managers: Has your staff completed MMA's new Salary Survey? The survey is "in the field" now, and more than 120 municipalities have done so. Valuable, user-friendly results will come out later this year, but remember: The data is only as good as the number of communities that enter it.

Essay Contest Winners. MMA's fifth annual seventh-grade essay contest is over, and we have three winners – from Cumberland, Hampden and Madison. The contest is an integral part of MMA's Citizen Education Program.

Right to Know Training. Elected officials are reminded that training on Maine's Freedom of Access laws is required every time you are elected or re-elected. In addition to reading the state's FOAA website, that requirement can be met by attending an upcoming Elected Officials Workshop, offered by MMA.

council indefinitely postponed any work on an ordinance.

CARIBOU

City officials are working with tech giant Google to help small businesses get more exposure and sales by putting city companies "on the map." According to Google officials, only 37 percent of U.S. businesses are listed on a search engine. The city planned to hold an interactive workshop this month to show business owners how they can get on search engines and ways to boost their position on them. Four out of five people use the internet to find local businesses.

EAST MILLINOCKET

The town has been awarded \$7.1 million in federal funding to upgrade the wastewater treatment facility. About half the money is a grant and the other a low-interest loan from USDA's Rural Development program. A USDA official said the federal department is working with municipalities across Maine in upgrading aging systems.

KINGFIELD

Selectmen in April unanimously rejected borrowing up to \$350,000 for landscaping in the center of town, as part

of the Village Enhancement Committee's vision. Selectmen said they are eager to go get input from the public. The board agreed that any request would need to be taken up at town meeting.

SKOWHEGAN

The town will partner with Winslow to share the cost of repainting yellow and white traffic lines in each town, sharing the estimated \$16,000 cost. Skowhegan and Winslow, joined by the town of Madison, have partnered on road painting for 12 years. This time, Madison wanted to seek its own contract for the work, since the town has parking lots and other areas to paint this season.

SOUTH PORTLAND

Police will be equipped with body cameras and stun guns if the city council endorses the proposed \$8.3 million capital improvement budget for fiscal 2017. The department asked for 24 body cameras and three media stations where data can be collected from the cameras, as well as docking and charging them. The cost is estimated at \$68,000 and would be funded by \$18,000 in grants and \$50,000 from the undesignated fund. The cameras will last five to 10 years. ■

The Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine.

MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.

For more information visit the MMA website: www.memun.org

MUNICIPAL BULLETIN BOARD

MAY 23

Elected Officials Workshop: Union

Attorneys and staff from MMA's Legal Services and Communication & Educational Services departments will lead a workshop for Elected Officials on May 23 at Union Town Hall. The evening workshop begins with registration at 4 p.m. and ends at 8:30 p.m., including a light dinner. Officials who attend receive a certificate saying they have met the state's Freedom of Access training requirement.

The workshop is designed for newly elected officials, but veteran councilors and select board members may benefit from the refresher and legal updates as well. Topics include: open meeting and records; roles and responsibilities; effective communication; media relations; and, conflicts of interest, among others. Cost for the workshop is \$55 for MMA members and \$110 for non-members.

MAY 24

Boards of Assessment Review: Augusta, Caribou (video)

The Maine Association of Assessing Officers will cover an overview of the Board of Assessment Review process during an evening workshop, from 4 p.m. to 7 p.m., at the Maine Municipal Association's Christopher G. Lockwood Conference Center in Augusta. Sally Daggett and William Dale, attorneys for Jensen Baird Gardner and Henry, will instruct the class, which will be available at the Northern Maine Development Commission office in Caribou via teleconference.

While the seminar focuses on responsibilities of the BAR member, it is beneficial for assessors and other municipal officials who handle assessing questions. Cost is \$50 per person. The Maine Town, City & County Management Association offers certification credits for attending this class.

JUNE 2

Planning Boards/BOA: Augusta, Caribou (video)

MMA's Legal Services Department will host a session for local Planning Board and land use Boards of Appeal members from 4 p.m. to 8:30 p.m. on June 2 at the MMA Conference Center in Augusta. The workshop will be available at the NMDC office in Caribou via video conference.

The workshop is designed as an in-

roduction for new or less experienced members, but veterans may find an update useful as well. Among the topics to be covered: jurisdictional issues; conflicts of interest and bias; public notice requirements; site visits; procedure for decisions; and, variances. The cost is \$55 for MMA members and \$110 for non-members in Augusta, and \$45 in Caribou (MMA members only).

JUNE 2

Highway Congress: Skowhegan

This is a big one! The Maine Chapter of the American Public Works Association will hold its 25th Annual Highway Congress at the Skowhegan Fairgrounds on June 2, starting with registration at 7 a.m.

The full day of events includes demonstrations on crack sealing, welding and heavy equipment operating, as well as a skid steer rodeo and equipment tryouts. The event, which features its legendary chicken barbecue lunch, will conclude by 3 p.m.

JUNE 9

Elected Officials Workshop: Orono

Attorneys and staff from MMA's Legal Services and Communication & Educational Services departments will lead a workshop for Elected Officials on June 9 at the Black Bear Inn in Orono. The evening workshop begins with registration at 4 p.m. and ends at 8:30 p.m., including a light dinner. Officials who attend receive a certificate saying they have met the state's Freedom of Access training requirement.

The workshop is designed for newly elected officials, but veteran councilors and select board members may benefit from the refresher and legal updates as well. Topics include: open meeting and records; roles and responsibilities; effective communication; media relations; and, conflicts of interest, among others. Cost for the workshop is \$55 for MMA members and \$110 for non-members.

JUNE 17

Advanced General Assistance: Augusta

The Maine Welfare Directors Association will hold an Advanced GA session on June 17, starting with registration at 8:15 a.m., at the MMA Conference Center in Augusta. The training is designed for peo-

ple who have completed General Assistance Basics and are seeking certification.

Among the topics to be covered: statutes and state ordinances; lump sums; burials; fair hearings; and, some time with the state Department of Health & Human Services. The workshop will end at 3 p.m. Cost is \$40 for MWDA members and \$60 for non-members.

JUNE 21

New Managers Workshop: Augusta

A workshop for new municipal managers will be held on June 21 at the MMA Conference Center in Augusta. The workshop will feature numerous speakers from MMA staff and from the Maine Town, City & County Management Association, including MMA Executive Director Stephen Gove and MTCMA President Tom Goulette, manager in the Town of Guilford.

The workshop will provide information about the roles of municipal managers, the rights and protections offered to public employees in Maine, the International City/County Management Association Code of Ethics and the variety of services offered at MMA. Attendees also will benefit from discussions involving fellow managers. While aimed at new managers, veteran managers may benefit from hearing new information. Municipal administrative assistants are also encouraged to attend.

Managers "new" to Maine since May 2015 are invited on a complimentary basis. For other MMA member attendees the cost is \$45 and for non-members it is \$90. The event begins with registration at 8:15 a.m. Lunch is provided.

JUNE 23

MMTCTA Cash Management: Augusta

The Maine Municipal Tax Collectors' and Treasurers' Association will hold a workshop on cash management at the MMA Conference Center on June 23, starting with registration at 8:30 a.m. and concluding at 3:30 p.m. James Bennett, City Manager in Biddeford, is the instructor.

The session will look at receipts and receivables, disbursements, cash flow forecasts, deposits and investments and banking relations. There will be time for questions and answers. Attendees are advised to bring a calculator. Cost is \$55 for MMTCTA members and \$75 for non-members. ■

LEGAL NOTES

Nomination Papers

Last month we noted that the law on circulating local voter petitions has changed, with new restrictions on who may circulate petitions and new requirements for circulators to witness signatures and sign an affidavit (see “New Requirements for Local Petitions,” *Maine Townsman*, Legal Notes, April 2016). In the same piece, however, we noted that these changes do *not* apply to nomination papers unless similar requirements are imposed by municipal charter. The law on circulating local nomination papers is in fact largely silent and remains unchanged.

Title 30-A M.R.S.A. § 2528(4) imposes no restrictions on who may circulate nomination papers and prescribes no requirements for doing so. For example:

Anyone may request and circulate papers on behalf of a candidate – it need not be with the candidate’s knowledge or consent. (However, the clerk must write in the candidate’s name and the title and term of the office sought, and when filed, the papers must be accompanied by the candidate’s written consent to run and serve.)

A circulator may circulate several sets of papers for the same candidate.

A circulator may circulate papers for the same candidate but for different offices.

A circulator may circulate papers for different candidates for different offices.

A circulator need not witness signatures, vouch for the signers’ identity, or execute an affidavit or statement of any kind.

To repeat, there are no restrictions or requirements on the circulation of local nomination papers unless imposed by charter.

As for signatures, each signer must add their residence with the street and number, if any. Signers may sign as many papers for each office as they wish, no matter how many vacancies. A nomination paper is valid if signed by the following number of voters: not less than 3 nor more than 10 in towns with a population of 200 or less; not less than 10 nor more than 25 in towns with a population of 200 to 500; and not less than 25 nor more than 100 in towns with a population of more than 500.

For more on secret ballot nominations

for local office, see Chapter 8 of MMA’s *Town Meeting & Elections Manual*, available free to members at www.memun.org. (By R.P.F.)

Joint Executive Session OK’d

The Maine Supreme Court has upheld the right of two municipal boards to use a joint executive session to consult with legal counsel about proper wording for a proposed ordinance.

In *Hughes Bros., Inc. v. Town of Eddington*, 2016 ME 13, a would-be quarry operator challenged a moratorium on quarrying, arguing that the selectmen and the planning board had illegally met in a joint executive session with the town attorney to wordsmith the ordinance. A skeptical Law Court, however, was unpersuaded.

Writing for a unanimous panel, the Chief Justice noted that Maine’s Freedom of Access Act (FOAA) contains no prohibition against boards jointly using an executive session to consult with legal counsel. Indeed, in her words, “[This] does not offend the FOAA and demonstrates prudent fiscal management.” She also observed that obtaining legal advice on how to comply with governing laws (in this case, the moratorium law) was a legitimate consultation about the boards’ legal rights and duties, as authorized under FOAA’s executive session provisions (see 1 M.R.S.A. § 405(6)(E)).

For more on executive sessions, including permissible subjects and procedural ground rules, see MMA’s “Information Packet” on the “Right to Know” law, available free to members at www.memun.org. (By R.P.F.)

Is There a State Leash Law?

In a word, no. Maine law requires only that a dog, when off the owner’s premises, be “under the control” of someone, except when used for hunting (see 7 M.R.S.A. §§ 3907(6), 3911). The law does not specify the method of control, although presumably it includes voice command and holding a dog by its collar as well as a leash. The point is, nowhere in the law does the term “leash” appear.

In fact, to the best of our knowledge, only one state (Michigan) has an explicit statewide leash law, with exceptions for working dogs, guard dogs, hunting dogs, and so on (see M.C.L.A. 287.262).

MUNICIPAL CALENDAR

ON OR BEFORE JUNE 15 — Monthly/Quarterly expenditure statement and claim for General Assistance reimbursement to be sent to Department of Human Services, General Assistance Unit, DHS #11, Augusta, ME 04333 (22 MRSA §4311).

JUNE 30 — Pinball machine licenses expire on this date (8 MRSA §443). ■

The prevailing view in most states seems to be that leash requirements are better left to local policymakers based on local sentiments and circumstances.

As we’ve noted here before, municipalities in Maine are expressly authorized to enact more stringent ordinances dealing with dogs, such as requiring leashes, or prohibiting dogs in certain public places at certain times, or requiring owners to clean up after their pets (see “Dog Ordinances,” *Maine Townsman*, Legal Notes, June 2011). Dog ordinances cannot, however, be breed-specific (see “Banning Pit Bulls,” *Maine Townsman*, Legal Notes, September 2014).

The notion that Maine has a state leash law is one of those persistent legal myths – like “landlocked” lots are not allowed, or the “good” side of a fence must face the neighbors (both of which are also false, see “‘Landlocked’ Lots,” *Maine Townsman*, Legal Notes, December 2013, and “Fence Laws,” *Maine Townsman*, Legal Notes, July 1999).

Incidentally, if a dog is “at large” (not under someone’s control as required), the animal control officer (ACO) must seize, impound or restrain it and must deliver it to an animal shelter if the owner is unknown (see 7 M.R.S.A. § 3912). For a summary of other municipal duties re dogs, see “ACOs, Stray Dogs & Animal Shelters,” *Maine Townsman*, Legal Notes, May 2011. (By R.P.F.)

Can a Chairman Vote?

Question: Can the chairman (or chairwoman) of a municipal board vote just like other members do?

Answer: Yes, unless prohibited by municipal charter, ordinance, or board by-laws or rules of procedure, a chairman may vote, make or second motions, and

LEGAL NOTES

participate in deliberations in the same manner and to the same extent as other board members. There is no State law limiting the role of a municipal board chairman in these respects.

As noted, a charter, ordinance or board bylaws may restrict the role of chairman to that of presiding officer only, with no right to make motions, debate, or vote, except possibly to break a tie. We don't generally recommend this approach, though, especially for smaller boards where full participation by every member present is often critical to the conduct of business.

We do endorse sensible board bylaws, however – to ensure the fair, orderly and efficient conduct of business. Unless prohibited by law, boards have inherent authority to adopt their own bylaws or rules of procedure provided they do not conflict with other applicable laws. For some tips, samples and why we don't generally recommend *Robert's Rules of Order* for board bylaws, see our "Information Packet" on this subject, available free to members at www.memun.org. (By R.P.F.)

Who Can Post a Warrant

For posting, a town meeting warrant must be directed to a town constable or to any town resident by name (see 30-A M.R.S.A. § 2523(3)).

Many years ago every municipality in Maine effectively had to have a constable because only constables could post town meeting warrants. But this was changed, first, to any "person," and later, to any "resident," by name.

"Resident" does not necessarily mean "voter" – the resident need not be a registered voter in the municipality. But even though the statute does not spe-

cifically say so, we recommend that the resident be at least 18 years of age.

Also, while the statute says "any resident," a town meeting warrant should not be posted by a municipal officer (selectman or councilor) – the municipal officers should not direct one of their own to post a warrant. Similarly, a warrant should not be posted by the municipal clerk – it is the clerk who customarily attests the posted copy of the warrant, and these roles should not be confused.

The person to whom a warrant is directed, whether a constable or a named resident, must of course make out a "return" on the warrant stating the time

and manner of posting (see 30-A M.R.S.A. § 2523(5)). A properly completed return showing that the warrant was duly posted is *essential* to the validity of a town meeting and any action taken (see, e.g., *Tozier v. Woodworth*, 136 Me. 364 (1940)).

For sample town meeting warrants and returns, see Appendix 2 of MMA's *Town Meeting & Elections Manual*, available free to members at www.memun.org.

For more on what must be in a warrant, see the last issue of this magazine. For more on when and where to post a warrant, see the next two issues. (By R.P.F.) ■

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