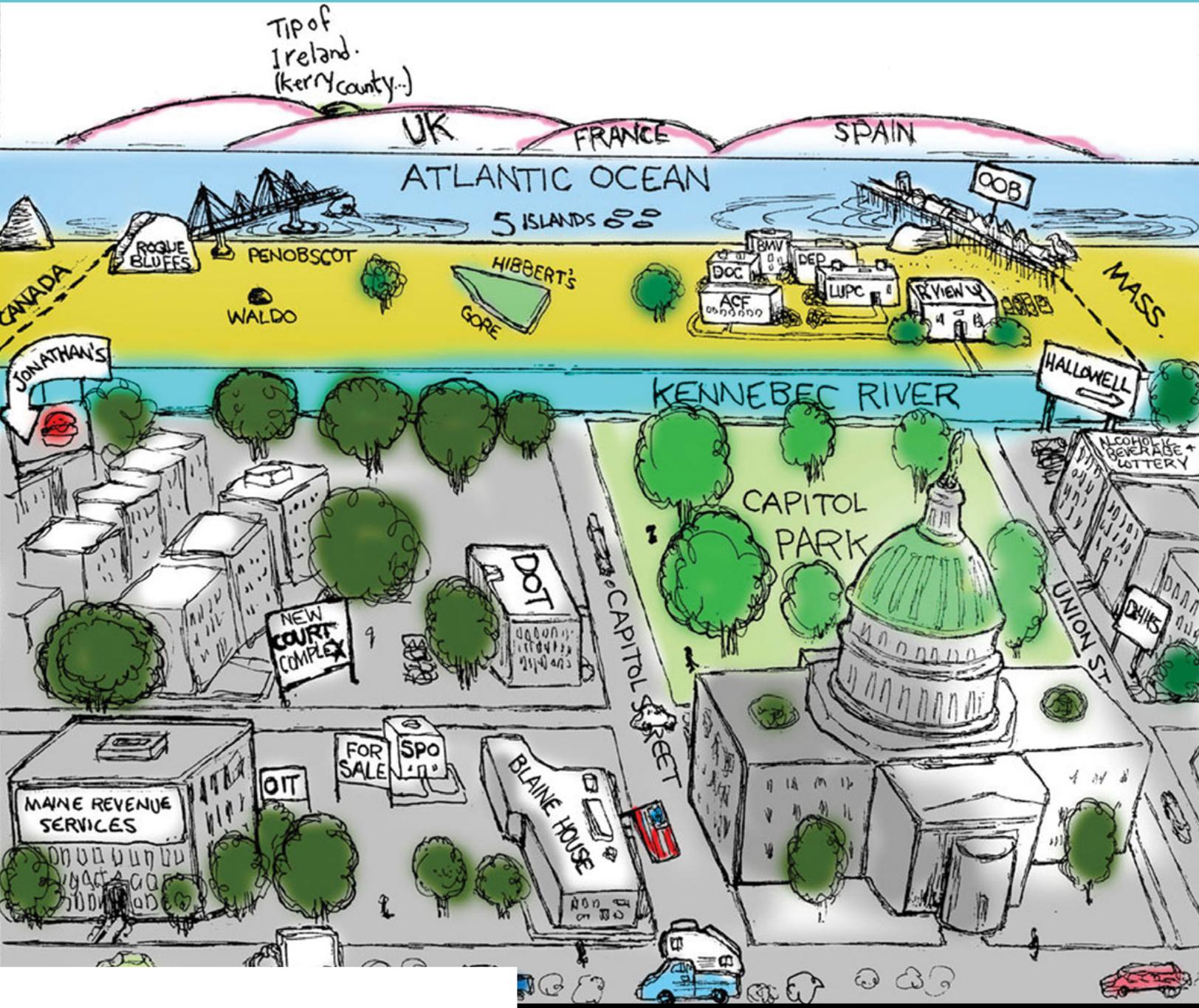


# Maine Townsman

The Magazine  
of the Maine Municipal Association

JULY 2015



**SPECIAL EDITION**  
Complete summary of the  
2015 Legislative Session



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# Maine Townsman

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**FEATURED STORY | 5**

## Don't Look Back



*The 2015 legislative session offered surprises, budget brinksmanship and many variations of using the word "no."*

**MMA's 2015 Convention** will be about substance, advice and answers. From transportation to fire-rescue, collaboration to economic development, Maine Municipal Association will offer a "can't miss" event. Turn here to learn about our featured speakers and read the complete program. **Page 48**

**Cover photo:** At the request of MMA's advocacy staff, cartoonist George Danby created a Maine-based version of Saul Steinberg's iconic 1976 cover of the New Yorker, depicting a view of the world from 9th Avenue in Manhattan. In this rendering, it's a view of the world from the State House.

## 'Death by Non-Concurrence'

*An unusually high number of bills this session perished as the result of non-concurrence between the state Senate and House. **Page 13***

## Carryovers and Studies

*It is common for bills introduced during the first year of a session to be carried over and/or studied before year two. This time, that practice was discouraged. **Page 19***

## New Laws

*This edition of the Townsman includes the most comprehensive list of municipally relevant bills you will find anywhere, with descriptions and updates. **Page 23***

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# 2015 session characterized by the negative, yielded some positives

*The session started with a surprise, saw a record number of vetoes and ended with a bang. As one might say, in Western understatement, it 'had a hard bark on it.'*

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

All the words that fairly characterize the 2015 legislative session contain within them an element of the word “no” or some linguistic variant of the negative.

Beginning with the surprise of comprehensive tax reform and ending with budget brinksmanship, the legislative session was certainly *unconventional*. No one old enough who retains a functioning memory will contest the claim that it was the most *contentious* session since 1991. A majority of the bills that Maine Municipal Association was tracking for their impact on local government, whether that impact would be positive or negative, are now found in what are officially referred to as the Legislature’s *DEAD* files.

The most common cause of fatality for bills that made it through the legislative committee process was death by *non-concurrence*. State House observers will maintain that none of this is uncommon in the circumstance of *divided government*, but there is no disputing that this legislative session was marked by more *non-public deliberations* over public policy matters than ever in the past. The use of gubernatorial *vetoes* was also *unprecedented*, matched only by the Legislature’s *veto overrides*. The session closed out with some legislators considering *impeachment* proceedings against the Governor.

All in all, this was not a six-month period characterized by comity, good will or magnanimity of spirit. To borrow an expression of Western understatement, this legislative session had a hard bark on it.

**The budget is only half the story.** The New Laws article beginning on page 23 lays out the Legislature’s accomplishments as they pertain to Maine’s towns and cities and the prop-

erty taxpayers who support the services provided by local government. A cluster of those accomplishments are found in the two year state budget, which after an explosive start and six months of wrangling ended up treating municipal government respectfully and providing clear benefit – within the confines of the state budget – to Maine’s resident property taxpayers. In a separate enactment outside of the state budget, however, the Legislature laid down a new unfunded mandate by abandoning its county jail management program and installing a spigot into the property tax base in order to pay for jail operations state government once committed to both funding and managing. As enacted, the new mandate will represent a \$2 million hit to the state’s property taxpayers, year in and year out.

**State budget.** When dawn broke over the legislative session in January, Governor LePage presented a proposed state budget that laid out a comprehensive tax reform plan of the most sweeping variety. A comprehensive reform package that would better balance the state’s tax code and lift some of the burden off the property tax has long been a goal of municipal officials, so the initial proposal offered some promising potential. Unfortunately, the Governor’s vision of reform placed all of its eggs in the basket of reducing the state’s income tax in stages down to zero, and that process included repealing the Municipal Revenue Sharing Program, repealing the homestead property tax exemption for two-thirds of Maine’s homesteaders, exempting a few billion dollars worth of taxable property enrolled in the business tax reimbursement program and otherwise increasing rather than decreasing



*Veteran lawmaker, Rep. Christine Powers of Naples (pictured on the right), and first-year State Representative Rep. Denise Tepler of Topsham, both took the bull by the horns this session and sponsored legislation to fully restore funding for the municipal revenue sharing program. In addition to her advocacy for revenue sharing, Rep. Powers deserves municipal thanks for allowing MMA’s Legislative Bulletin to be distributed to the members of the House each week throughout the session. (Photo by Kevin Bennett)*

the burden on the property tax.

With the state budget finally enacted, the Legislature accommodated some income tax reduction, but to a much more modest degree, by swapping some rate changes between the state’s sales and income tax codes. For the towns and cities and Maine’s property owners, the Legislature rejected the Governor’s proposals to shift burden off the state’s broad-based taxes and onto the locally administered property tax. A more detailed description of the state budget as it will impact Maine’s towns and cities is found in the Appropriations Committee section of the New Laws article, under LD 1019. In quick summary, after being

finally enacted over the Governor's veto, the state budget:

- Retains municipal revenue sharing at current funding levels, pegged at 2% of all state sales and income tax receipts rather than the 5% dedication that has been in place for the last 30 years, for the next four-year period.

- Ramps up the \$10,000 Homestead property tax exemption in two steps to a \$20,000 exemption, with the state level of reimbursement for the lost tax revenue kicked up from 50% to 62.5%.

- Ramps up the state's appropriation for General Purpose Aid to Education by doubling the Governor's proposed increase and actually moving the state's share of the total cost of K-12 education three quarters of one percent closer to, rather than away from, the mythical 55% standard dictated by the voters in 2004.

- Rejects the conversion of all the taxable property in the business equipment reimbursement program to tax exempt status.

- Amends the General Assistance reimbursement formula to create a common, 70% reimbursement standard that applies to all municipal programs, regardless of size. The change is positive for almost all municipalities except for the two major service center communities with the largest GA programs, which are disadvantaged by the new formula.

As importantly, the Legislature's actions within the budget reveal a pattern of design that restores stability and predictability to the state-local financial interrelationship for the next four-year period, including both the upcoming two-year budget cycle and the following biennium as well. In this political environment, stability by itself is a commodity of value. Since 2009, inter-governmental financing predictability has been in short supply.

**The thorn of a broken state commitment.** The towns and cities and the property taxpayers did not get out of this legislative session unscathed. Supermajorities in both the House and the Senate enacted LD 186, *An Act To Reverse Jail Consolidation*, as one of their final, emergency enactments. Although the bill is at least potentially subject to an attempted gubernatorial veto, it appears headed to clearing that final hurdle as well.

A more detailed description of LD 186 is provided in the *Criminal Justice and Public Safety* section of the Municipally related Bills in Limbo article, but



*Sen. Brian Langley of Hancock County, a veteran of the Education Committee, took the reins as Committee Chair this year and expertly guided his colleagues on the adoption of several bills to improve the delivery and funding of public education. In addition to his performance as Committee chair, Sen. Langley is owed thanks for ensuring that MMA's Legislative Bulletin was delivered to the members of the Senate week in and week out. (Photo by Kevin Bennett)*

in summary, LD 186:

- Eliminates the State Board of Corrections.

- Returns to the county governments the responsibility of managing and coordinating the management of the county jails.

- Breaks open the property tax cap that has been in place since 2008 so that the counties will now be allowed to increase the county property tax assessments by up to 3% a year for jail operation purposes.

- Sets a trigger in the law so that if the Legislature fails to appropriate a specified amount of money for county jail purposes, the prisoner boarding rates charged to the "sending counties" by the "receiving counties" can balloon from \$25 per day to \$108 per day.

- Obligates the counties to use 30% of the funding they receive from the state for certain anti-recidivism programs, and counties that fail to do so will suffer a 20% withholding of state funds.

Over the last six months, as LD 186 was developed by the Criminal Justice Committee, the bill identified \$14.668 million as the appropriate level of state financial support to operate the 15 jails over the next fiscal year, when combined with over \$62 million in property taxes already dedicated by law for that purpose. The first irony is that the strong legislative support for more aggressively funding the jails with property tax dollars didn't change whatsoever when the Appropriations Committee determined, after the bill had been debated and initially approved, that no more than

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\$12.2 million could be allocated for that purpose. Even though state support for the jails became significantly underfunded the very instant LD 186 was being enacted – to the tune of \$5 million dollars over the biennium – legislators, the state’s sheriffs and county commissioners continued to strongly support the bill.

The second irony is that even though LD 186 turns back the responsibility of managing the coordination of the jails to the county governments and expressly recognizes that property taxes will need to be increased to accomplish that result, LD 186 was not formally recognized by the Legislature as a state mandate and was not enacted with the required “mandate preamble.” The definition of a state mandate in the Constitution, to paraphrase, is a “*required expansion or modification of a local government’s activities that leads to increased expenditures.*” LD 186 certainly meets that definition. It’s a shame when mandates are enacted incognito, especially mandates of this magnitude.

The third irony is that when the property taxes increase as a result of the *Act To Reverse Jail Consolidation*, the increases will be blamed on the towns and cities that administer and collect the taxes and remit the property tax revenues to the counties, and the politicians in Augusta will wring their hands about the rampant growth in property taxes, linking the phenomenon to the alleged municipal failure to “consolidate services.” A sidebar

## GOVERNOR’S VETO MESSAGE – LD 247

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
1 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0001  
June 19, 2015

The 127th Legislature of the State of Maine

State House

Augusta, Maine

Dear Honorable Members of the 127th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 247, “An Act To Create Corridor Districts for the Purpose of Funding Transportation and Transit Services.”

This bill would grow government. In fact, it would create a whole new type of government, transit corridor districts. Maine is already over-burdened with too many duplicative layers of government – municipal, county, state, regional planning organizations, metropolitan planning organizations, councils of governments and on and on. And to what end? To borrow money for pie in the sky special interest projects.

This entire legislative session has had a cacophony of complaining from municipal officials hung over Augusta with the refrain that municipal government must receive revenue sharing, general assistance and a host of other programs. Without these subsidies, they cried, property taxes must go up. How is this bill expected to help Mainers when municipalities currently refuse to consolidate services with their neighbor communities in order to provide the best possible value for their taxpayers’ dollar? We can’t afford all the government we have now, so we don’t need to add to it.

For these reasons, I return LD 247, unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,  
S/Paul R. LePage  
Governor

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*During what must have been a torturous state budget development process, Senator Mike Thibodeau, in his role as President of the State Senate, appeared to be a participant who kept calm, held his head above the fray, and worked hard at the difficult task of keeping people talking to each other who are otherwise mightily engaged in heated dispute. Sen. Thibodeau also deserves municipal thanks for sponsoring a bill on behalf of MMA's Legislative Policy Committee that would back off the unfunded municipal mandate to enforce the state's building and energy code (LD 1191). (Photo by Kevin Bennett)*

to this article provides an example in Governor LePage's veto message regarding LD 247. The substance of that bill was entirely unrelated to the issue of county jail funding, but the messaging in the veto document about the costs of local government and the cost benefits of "consolidation" are pervasive in the State House.

**The Grateful (and not so grateful) Dead.** What the New Laws article does not include, of course, are all the proposals the Legislature ultimately rejected for one reason or other. The article entitled "Death by Non-Concurrence" (page 13) describes the public policies that might have become law had the 127<sup>th</sup> Maine State Legislature been a different person, if the Legislature can be described as a person, with a less markedly split personality. Or a person, perhaps, less heartily disliked by Governor LePage.

**General Assistance and Welfare Reform.** Two calls for reform generated most of the rhetoric upon which this legislative session floated: comprehensive tax reform and "welfare reform".

On the welfare reform front, doz-

ens of bills were submitted with the goal of tightening up the distribution of benefits provided by the federal (e.g., Supplemental Nutrition Assistance Program), federal-state (e.g., Temporary Assistance for Needy Families Program), and state-local (e.g., General Assistance) public assistance programs. Although the surge of legislative initiatives on the topic might have predicted a sea-change overhaul, the final results were more modest, measured and entirely reasonable.

For example, the state budget included changes to the state-administered public assistance programs to soften the so-called "welfare cliff" issue, which is experienced when a recipient is immediately kicked-out of a public assistance program the moment the recipient's earned income exceeds a fixed dollar amount. By feathering the recipient's exit from

the public assistance program as his or her earned income increases, rather than slamming the assistance door shut altogether, re-engagement with the workplace is programmatically encouraged rather than discouraged.

In the General Assistance (GA) area, a "welfare reform" bill strongly supported by municipal officials was enacted (LD 722) that expands the penalty to be applied to any recipient of GA who obtained the benefits through fraud or false representation. The existing 120-day disqualification will still apply, but the recipient will now also have to pay the municipality back for the inappropriately obtained public benefits before becoming eligible for any additional assistance.

The eligibility of people for General Assistance who are in this state seeking asylum according to the procedures required by federal law was

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also addressed positively by the Legislature, at least from the perspective of MMA's Legislative Policy Committee.

The bill is LD 369, *An Act To Align Municipal General Assistance Programs with the Immigration Status Policies of the Department of Health and Human Services*. As printed, LD 369 would provide that a person who is determined ineligible to receive public assistance benefits administered by the Department of Health and Human Services for reasons related to that person's immigration status is also ineligible to receive municipal General Assistance. MMA's 70-member Legislative Policy Committee voted to oppose the printed bill in recognition of the impact, if enacted, on the single municipality most affected, the City of Portland. Policy Committee members also took the position that the state and local governments should provide some level of public assistance, even if only temporary, to people residing in Maine in full compliance with the federally prescribed process of seeking asylee status and who are therefore made temporarily ineligible to work by rules of the federal government.

As amended, LD 369 subsequently flipped its posture. The version passed to be enacted by both the Senate and the House provides that a person who is not a U.S. citizen but who is lawfully present in the United States or who is pursuing a lawful process to apply for immigration relief is eligible to receive General Assistance benefits for a period not to exceed 24 months. The enacted LD 369 represents a disciplined compromise and when the content and substance of the bill flipped, MMA's position flipped as well, from opposition to full support.

Although the Governor certainly had every intention to veto LD 369, his veto message was not delivered in the 10-day time period required after the bill was passed to be enacted by both chambers of the Legislature, as required by Maine's Constitution.

MMA's Legislative Policy Committee voted to support a number of bills fitting squarely into the "welfare reform" category that were based in common sense, equity and fair treatment. Many of those bills got caught up in the fundamental ideological disagreements between the House and the Senate this session and died in non-concurrence. As first printed, LD

369 didn't meet the municipalities' common sense, equity and fair treatment standard, but it certainly does as enacted. The City of Portland should not be tasked all by itself with managing the public policy breakdowns precipitated by poorly administered federal asylee law.

**Final Tally on MMA's Legislative Agenda.** Protecting and ultimately restoring the municipal revenue sharing program after years of increasing legislative raids on its distribution is the centerpiece of MMA's 2015-2016 legislative agenda. The Association's 70-member Legislative Policy Committee also developed nine initiatives to be presented to the Legislature in 2015 to augment that agenda. The report card on the advancement of those bills is very mixed, with five of the

bills falling through a trap door into oblivion somewhere along the road to enactment, three of the bills enacted either directly or indirectly, to some degree, and one bill carried over for further consideration next year.

Three of MMA's nine initiatives were "killed in committee," which means that none of the 13 lawmakers on the legislative committee with jurisdiction over the bill's subject area thought the bill deserved being considered for enactment. Those bills were:

- LD 632, *An Act To Require the State To Administer and Fund the General Assistance Program.*

- LD 724, *An Act To Authorize Municipal Fire Districts To Impose Service Charges.*

- LD 901, *An Act To Ensure Sustainable Infrastructure Funding.*

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One of MMA's initiatives limped out of Committee but was quickly snuffed out when presented to the full Legislature. That bill was:

- LD 505, *An Act To Increase the Funding Level of the Local Road Assistance Program*

Another bill suffered "death by non-concurrence," fatally caught between the chambers, with the Senate voting to support the legislation and the House opposed. That bill was:

- LD 1191, *An Act To Remove the Municipal Mandate To Enforce the Maine Uniform Building and Energy Code*

And one of MMA's initiatives died "on the table," which occurs when the Legislature refuses to fund the cost of an initiative that is generally supported at the Committee level and by both House and Senate, but places a financial demand on the state's treasury. That bill was:

- LD 60, *An Act To Ensure Proper Funding for Teacher Retirement*

Three bills advanced by MMA were either enacted or effectively enacted, which occurs when another bill accomplishing the same goal (more or less) is enacted instead. Those three bills were:

- LD 265, *An Act To Require the State To Fund Public Charter Schools* (similar but not identical result accomplished with the enactment of LD 131)

- LD 628, *An Act To Authorize a General Fund Bond Issue To Invest in Transportation Infrastructure* (the thrust of this bill was included as part of the bond package approved by the Legislature (see LD 1415), albeit at a substantially reduced amount)

- LD 1203, *An Act To Address the Detrimental Effects of Abandoned Property*

Finally, the MMA bill carried over to the 2016 legislation for further consideration was LD 68, *An Act To Authorize a General Fund Bond Issue To Attract Business by Investing in High-speed Broadband Infrastructure*.

Municipal officials from all corners of the state are looking for options to significantly increase the reach and the quality of internet capacity in their regions for economic development purposes. Although a slew of bills on that subject were introduced this session in addition to LD 68, no new financial investment from the state level was accomplished in 2015. Maybe that priority will be better focused in 2016. ■

**Maine's Legislators and Municipal Officers.** At least once every legislative biennium, the legislative wrap-up edition of the Maine Townsman includes a photograph of the State Representatives and State Senators who also serve as the elected municipal officers (selectperson/councilor) of their home municipalities. For the 126th Legislature, a year ago, the photograph identified seven such lawmakers. For the 127th Maine State Legislature, the number has jumped to a dozen.



Pictured here in front of the State House portrait of George Washington, from left to right, are Rep. Bob Foley, Selectman, Wells; Rep. John Picchiotti, Councilor, Town of Fairfield; Rep. Brian Hobart, Selectman, Bowdoinham; Rep. Christine Powers, Selectwoman, Naples; Rep. Peter Lyford, Selectman, Eddington; Rep. Andrew Buckland, Selectman, Farmington; and Rep. Tom Skolfield, Selectman, Weld. Not pictured in the photo is Rep. Will Tuell, Selectman, East Machias. (Photo by Kevin Bennett)



Pictured here, also in front of the portrait of General Washington, is Sen. Tom Saviello, Selectman, Wilton; Sen. David Woodsome, Selectman, Waterboro; and Sen. Nate Libby, Councilor, City of Lewiston. Not pictured in the photo is Sen. Earle McCormick, Selectman, West Gardiner. (Photo by Kevin Bennett)

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# 'Death by Non-Concurrence' reaches new heights this session

*During this divisive legislative session, in a Legislature where Democrats control the House and Republicans the Senate, many municipally relevant bills were not enacted.*

**By Kate Dufour, Senior Legislative Advocate,  
State & Federal Relations, MMA**

**A**lthough the primary goal of this edition of the Maine Townsman is to provide descriptions of the newly enacted laws of significance to local government officials, it is important to point out that the majority of bills of close municipal interest were rejected by the Legislature, which taken by itself is not uncommon. Any bill in any legislative session has to overcome many hurdles in order to be enacted. It's just that there were more hurdles than usual to jump over this legislative session.

Some 1,450 bills were submitted to the Legislature for consideration and MMA kept track of 491 of those bills that would impact local government either directly or indirectly if enacted. Of the nearly 500 "tracked" bills of municipal interest, MMA's advocacy staff attempted to influence the outcome of 200 bills at the direction of the Association's 70-member Legislative Policy Committee. By the close of the session, 124 of those 200 bills (67%) had perished. In some cases, the death of a bill was a positive outcome from the municipal perspective. In other cases, the demise of legislation meant the loss of an opportunity to advance an important change in public policy.

The four major causes of a bill's demise include:

- **Committee Consensus.** When a bill is given a unanimous "ought not to pass" recommendation by the legislative committee to which it was referred, the bill is "killed in committee."

- **Legislative Consensus.** A bill that limps out of committee without strong support from any quarter is often rejected by both the House and Senate, particularly bills with lopsided major-

ity "ought not to pass" committee recommendations.

- **Death by Non-Concurrence.** A bill is killed by non-concurrence when supported by either the House or the Senate but opposed by the other chamber, and the two chambers insist upon their differing opinions. Since the Republicans held a strong majority in the Senate and the Democrats a sufficient majority in the House, the dynamics were such that the death by non-concurrence method was prevalent throughout the session.

- **Gubernatorial Veto.** When a bill is vetoed by the Governor, the Legislature has to muster a two-thirds majority vote in each chamber to override the veto or the bill dies. If either one of the chambers fails to override, the veto is "sustained." The animosity between the executive and legislative branches of government reached an historic level this session, as did the unprecedented number of vetoes and veto overrides.

- **Municipally Relevant Bills Killed by Committee Action.** Of the 200 bills being closely monitored by MMA, 74 were killed in committee. MMA's Legislative Policy Committee voted to oppose 44 of those bills. Two municipally-supported bills suffering this fate were LD 632, *An Act to Require the State to Administer and Fund the General Assistance Program* and LD 724, *An Act to Authorize Municipal Fire Districts to Impose Service Charges*.

LD 632 was developed and advanced by MMA as a result of the municipal frustration over being required to administer a public assistance program and at the same time getting hammered from all quarters – state government, lawmakers, low-income

advocates, property taxpayers – for allegedly not administering the program correctly. Because the Executive branch had no interest in directly administering General Assistance, and because some lawmakers would be concerned about direct Department of Health & Human Services' administration, not a single member of the Health & Human Services Committee supported the bill.

LD 724 also was advanced at the request of MMA. As proposed, the bill would have authorized municipalities to adopt ordinances creating municipal fire districts and fund the provision of fire protection services through the assessment of fees, rather than through the property tax. Unfortunately, there was little legislative appetite for providing municipalities with the tools necessary to more equitably distribute the cost of fire protection among taxable and exempt property owners.

- **Municipally Relevant Bills Killed by Legislative Action.** Twenty-six bills MMA was closely monitoring were killed by both chambers of the Legislature acting in agreement. MMA was on record as opposing 15 of those 26 bills. Examples of municipal bills suffering this fate include LD 413, *An Act to Expand Access to Absentee Ballots* and LD 505, *An Act to Increase the Funding Level of the Local Road Assistance Programs*.

Municipal officials strongly opposed LD 413, which represented a significant elections management mandate. Under current election law a voter must request absentee ballots within three days of the election and provide a reason for needing to vote absentee (e.g., unexpected absence

from the municipality during the entire time the polls are open on Election Day, physical disability, inability to travel to the polls, incapacity or illness). As proposed in LD 413, that requirement would be repealed, and voters would have been allowed to “vote absentee” anytime up to 8 p.m. on Election Day at any election. The Legislature’s action on this bill was welcome.

On the other hand, LD 505 would have restored the annual funding

dedicated for the Local Road Assistance Program (LRAP) to 10% of the Highway Fund for highway and bridge purposes. This bill was also killed by House and Senate consensus. In 2013, the Legislature reduced that dedication to 9%. The LRAP program, or its predecessor programs, has been funded at the 10% level since the 1940s. LD 505 was developed and advanced by MMA but didn’t make it very far.

**Municipally Relevant Bills Killed in Non-Concurrence.** MMA was closely

watching 17 bills that died because the members of the House and Senate insisted on their disagreement.

As it turns out, MMA’s Policy Committee opposed most of these bills (13 of 17). The bills suffering this fate can clearly be linked to political ideologies. Policy directives favored by members of the Democratic Party (e.g., bills supported by organized labor) were favored in the House but opposed in the Senate. Certain election issues and welfare reform bills were favored in the Republican-controlled Senate, but opposed in the House. The table on page 15 describes the bills of municipal interest that died because of core ideological differences between the chambers. The table includes information on MMA’s position on the bill along with the prevailing stance in the House and Senate.

**Municipally Relevant Bills Killed by Veto.** Six legislative initiatives being closely followed by MMA died as result of a gubernatorial veto that was sustained by the Legislature. MMA’s Policy Committee supported five of these bills and had dropped any opposition to the sixth bill because of the way it was amended in Committee.

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## MUNICIPALLY RELEVANT BILLS KILLED IN NON-CONCURRENCE

Description of Proposed Legislation	POLICY STANCE		
	MMA	House	Senate
LD 117 expanded the requirement that prevailing wages be provided for a public works projects contracted by schools and municipalities.	Oppose	Support	Oppose
LD 197 required a voter to provide photographic proof of identification in order to cast a ballot.	Oppose	Oppose	Support
LD 301 established a rebuttable presumption in Maine's Worker's Comp law that a personal injury sustained by a firefighter is a workplace-related injury if it occurs after an emergency tone is sounded.	Oppose	Support	Oppose
LD 309 created a right of action for a property owner where a state law or regulation reduces the value of property by 50% or more of its pre-regulatory value.	Oppose	Oppose	Support
LD 368 provided that a person who is ineligible to receive benefits under the state-federal Temporary Assistance for Needy Families program because the 60-month lifetime limit has been exhausted would also be ineligible to receive municipal General Assistance.	Support	Oppose	Support
LD 530 required that all collective bargaining negotiation meetings included a member of the body with final authority to approve the agreement.	Oppose	Support	Oppose
LD 587 prohibited indemnification agreements in construction contracts that required a contractor to indemnify the owner against liability for negligence or willful misconduct.	Oppose	Oppose	Support
LD 715 directed the Department of Health and Human Services to hire a sufficient number of state-certified health inspectors to inspect Maine restaurants on an annual basis.	Oppose	Support	Oppose
LD 980 implemented a plan for requiring the state to fully fund municipal revenue sharing by FY 2020.	Support	Support	Oppose
LD 1015 required employers who employ over 100 workers to annually report total compensation of the chief executive officer and the lowest rate of pay for a full-time employee.	Oppose	Support	Oppose
LD 1035 limited the amount of time a person without dependents and who is capable of working to no more than 275 days of General Assistance every 5 years.	Oppose	Oppose	Support
LD 1036 made an applicant for General Assistance who voluntarily abandons or refuses to use an available resource ineligible to receive GA for 120 days from the date the resource was abandoned or refused.	Support	Oppose	Support
LD 1037 established a 180-day residency requirement for MaineCare benefits, food supplement assistance, the Temporary Assistance for Needy Families program and General Assistance.	Oppose	Oppose	Support
LD 1191 eliminated the mandate that municipalities with populations greater than 4,000 enforce the Maine Uniform Building and Energy Code, allowing those municipalities to choose entirely private sector enforcement instead.	Support	Oppose	Support
LD 1354 repealed (in part) a requirement that proposed state agency rules be approved for form and legality by the Attorney General.	Oppose	Oppose	Support
LD 1361 prohibited municipalities from enacting ordinances governing the minimum wage employers within the jurisdiction of the municipality must pay their employees.	Oppose	Oppose	Support
LD 1367 prohibited the Legislature on and after January 1, 2020 from ever enacting, imposing, levying or collecting a tax upon the income of any person.	Oppose	Oppose	Support

## MUNICIPALLY RELEVANT BILLS KILLED VIA GOVERNOR'S VETO

Description of Proposed Legislation	MMA's Position	Governor's Reason for Veto
LD 64 reduced from 5 years to 3 years the period of time a person may commence an action against the validity of a governmental taking of real estate for nonpayment of property taxes.	Support	Law was amended in the previous year to reduce the wait time from 15 to 5 years. Time is necessary to determine if that change resolves the issue.
LD 247 proposed to allow the creation of multi-modal, multi-jurisdictional transportation districts along defined transportation corridors and form service sharing and revenue partnerships.	Support	Would continue to grow government at a time when municipalities continue to refuse to consolidate services in efforts to provide the best possible value for the property taxpayer dollar.
LD 311 provided school boards the authority to establish a younger compulsory age to attend public school, to as young as 5 years of age.	Support	Interferes with the rights of parents to determine when their children should attend school.
LD 408 required a coastal municipality or multi-municipal region that is developing a comprehensive plan to include information on the impact of changes in sea level.	Support	The legislation is unnecessary, as nothing currently prohibits coastal towns from planning for changes in sea level.
LD 660 allowed a consumer-owned water utility to establish a homeowner protection fund to reimburse a homeowner in the event of a water system failure that causes damage to the homeowner's property.	Support	Nothing currently prohibits water utilities from budgeting for these situations. If the bill passed, it is unlikely these entities would create a contingency fund.
LD 757 limited the amount of a construction contract's value that may be retained pending the completion of contractor or subcontractor performance to 5%.	Oppose (printed bill, not Committee amendment)	All contractors should be protected. This bill provides government entities, rather than private business, a higher level of protection.

The table to the left describes the bills of municipal interest that died by veto, MMA's position on each initiative and a synopsis of the Governor's reason for vetoing the bill as provided in each "veto message." ■



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# 2015 carryover, study bills, plus matters for consideration in 2016

By Garrett Corbin, Legislative Advocate,  
State & Federal Relations, MMA

During the first year of each two-year legislative term, it is common practice for legislative committees to ask permission to carry over into the term's second year those bills that need more debate, discussion and study. The following descriptions cover several bills of varying municipal significance, the outcomes of which will be finally decided next year.

These bills could be sorted into five categories: (1) major policy decisions; (2) legislation benefiting popular constituencies; (3) ideas that are missing significant details or need more work; (4) bills dealing with environmental issues; and (5) bond bills.

**Major Policy Decisions.** Legislation that seeks to either comprehensively rework existing law or implement significant change in public policy can take some time to develop. This session, several legislative committees decided to postpone decisions on a half-dozen bills of municipal interest that are complicated, controversial or otherwise propose a significant policy change. Two examples include:

- *Road Abandonment and Discontinuation.* LD 1325 makes a number of changes to the laws governing the abandonment and the discontinuation of town ways. The general thrust of the bill is to effectively repeal road abandonment policy and require a formal discontinuation process for all abandoned roads in the future. MMA will work with some stakeholders before the 2016 legislative session to see how the distinction between abandonment and discontinuation may be further clarified without deeply uprooting existing law and imposing new unfunded mandates on municipalities.

- *Facilitating Interlocal Cooperation.* LD 646 provides a valuation incentive for municipalities to enter into collaborative agreements with other municipalities or units of local government

to provide joint services under the terms of the state's longstanding laws governing interlocal cooperation. The incentive provided by the bill is the ability of the municipalities participating in an interlocal agreement to calculate the value of taxable property within the municipality that is dedicated to financing the joint agreements and cause that value to be sheltered in the calculation of each municipality's equalized just value. The equalized just value is a determining factor in the distribution of General Purpose Aid to local schools, municipal revenue sharing and the apportionment of county taxes.

Others bills that could lead to substantial changes in existing policy include: imposing limitations on the placement of political signs in public rights of way (LD 287); authorizing public-private infrastructure partnerships (LD 1298); and, changing teacher certification requirements and salaries (LD 1370).

**Benefiting Popular Constituencies.** Lawmakers often find themselves caught between limited resources and the interests of a popular constituency. It is not uncommon for bill of this nature to be carried over into the second legislative session so all possible funding options can be explored.

The key example this year is LD 655, a resolve that appropriates \$200,000 and directs the Department of Public Safety to hire an independent consultant to study the feasibility



*Rep. Jim Campbell (Newfield) sponsored in his steadfast fashion MMA's \$10 million broadband bond proposal (LD 68). Rep. Campbell also lobbied hard for a relaxing of the MUBEC mandate (LD 1191) when the bill came before the Committee on which he serves (Labor, Commerce, Research and Economic Development) and when it was presented on the floor of the House. (Photo by Kevin Bennett)*

of establishing a statewide, centrally located firefighter training facility and several regional firefighter training facilities. According to the printed bill, the regional training facilities must be located so that 90% of the intended trainees would be within one hour of the facility. Committee discussions seemed to focus on the complexity of establishing a central state training facility as the basis for the carryover.

**Under Construction.** "Under construction" bills are often those presented to the Legislature as "concept drafts." Concept draft bills are commonly used when a legislator has an idea for legislation but is unsure how best to implement the proposal. Concept draft bills include only a summary of the proposal rather than any statutory language. What follows is a description of two of this year's most significant

"under construction" carryover bills MMA has been following.

- *Sustainable Transportation Funding.* LD 1110 is a "concept draft" bill focused on the adequacy of the state's Highway Fund and proposes to require some or all of the following: (1) a review of the funding levels and anticipated shortfalls necessary to achieve the state's highway and bridge capital goals; (2) a mechanism to address the erosion of Highway Fund revenues caused in part by higher automobile fuel efficiency; (3) a method of placing a more equitable share of the cost of the highway system on non-residents such as reducing baseline

fuel tax rates and adding a reasonable gasoline tax surcharge; (4) a reduction in baseline fuel tax rates and adding a wholesale tax component; (5) the establishment of fuel tax surcharges tied to fuel prices or federal fuel taxes that would be eliminated as fuel prices or the federal fuel tax increases; and (6) the dedication of a portion of sales tax receipts from the sale of transportation-related products for transportation needs.

- *OUI Response Cost Recovery*. LD 944 makes a person liable for up to \$2,500 in costs if the person causes an incident while committing the offense of operating a motor vehicle under the influence that requires an appropriate response by a private or public law enforcement agency, fire department or organization that provides emergency medical services.

**Environmental.** The following carry-over bills pertain to ongoing environmental matters with municipal implications.

- *Updating Maine's Solid Waste Management Policies*. LD 313 proposes in its printed form to advance a number of goals, including: (1) provide incentives for source reduction, reuse,

recycling and composting in an effort to meet the 50% recycling goal; (2) achieve economic stability for the three existing waste-to-energy facilities; (3) develop a plan to minimize the need for future landfill expansion; and (4) identify additional strategies to increase the beneficial use of waste materials.

The plan of the Environment and Natural Resources Committee is to engage in efforts on at least two fronts between sessions in order to be prepared to replace by next January the conceptual language in the bill with the programmatic details that could be recommended to the full Legislature for enactment. In addition to the initiatives contained in the concept draft, the Committee plans to thoroughly review:

- The fee structure that applies to disposal of various types of solid waste in landfills on the theory that the current structure does not appropriately support the solid waste hierarchy.

- Composting efforts in both the public and private sectors, and whether banning the disposal of compostable organic material

by large, institutional generators could stimulate private sector composting programs.

- Which programs would be most helpful to municipal efforts in their respective regions of the state.

- Whether existing bottle redemption centers could be expanded to handle other recycling functions.

- And, developing a plan to fund a program to incentivize recycling and composting at the municipal and private-sector level, which could include tapping lightly into the "unclaimed deposit" revenue that accrues to the state's General Fund and/or modifying the state's bottle bill redemption program in a way that removes some of the largest containers from the redemption program and applies a tax on the distributors of those containers instead.

- *Shoreland Zoning*. LD 713 is a resolve that directs the Department of Environmental Protection (DEP) to amend its shoreland zoning rules in a variety of ways to protect lake water quality. The printed bill further directs the DEP to convene a stakeholder

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Dan Pittman is a member of our municipal finance team. He has acted as bond counsel for towns, cities, counties, sanitary districts and other governmental entities to help them find creative and effective ways to build and maintain public infrastructure, including roads, schools, water and sewer systems, municipal buildings and capital equipment. He has also advised tax-exempt educational and charitable institutions about how to partner with their local communities to issue tax-exempt bonds. He also advises tax-exempt bond issuers regarding their ongoing compliance responsibilities, and helps them navigate the complex tax rules surrounding arbitrage and rebate.

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group to conduct a study regarding the effectiveness of the department's shoreland zoning rules and to report its findings to the Legislature by Jan. 1, 2016. Instead of advancing the bill, the Environment and Natural Resources Committee has asked MMA to convene a less formal shoreland zoning study group between now and the next legislative session (see Study Bills, below).

• *Waste as Renewable Energy.* For the purpose of encouraging the generation of renewable energy resources, current law requires each competitive electricity provider in the state to demonstrate that no less than 30% of the electricity portfolio provided to its retail customers consists of eligible renewable energy resources. LD 273 adds "waste energy resource" to the list of eligible types of renewable energy and establishes a 3.5% portfolio requirement for that renewable energy resource. The bill, which is before the Energy, Utilities and Technology Committee, defines "waste energy resource" as electrical generation fueled by municipal solid waste in conjunction with recycling, where the total power capacity does not exceed 35

megawatts.

• *Direct Land Use Decision Appeals.* Initially a "concept draft" bill, LD 775 as proposed to be amended by its chief proponents would establish a streamlined judicial review process of major land use permitting decisions directly to Maine's Law Court (bypassing Maine's Superior Court) in order to facilitate economic development and reduce the time associated with issuing permits.

**Bond Bills.** Among the 38 bills submitted to the Legislature proposing bond issues for various purposes, the Legislature only advanced two (see LD 1415 and LD 1205 in the *Appropriations* section of the two New Laws articles). Seventeen bond bills of some municipal interest will be carried over into the 2016 legislative session. In addition to supplemental bonding for transportation infrastructure, the bond carryover of greatest municipal interest would invest in Broadband Expansion. Sponsored on behalf of MMA by Rep. Jim Campbell of Newfield, LD 68 would provide \$10 million in funding to support the existing and newly-expanded broadband planning and development charges given to

the ConnectME Authority. The Authority currently relies on \$1 million annually for infrastructure build-out, and this amount has been widely acknowledged to be too insignificant to make meaningful, timely progress that would bolster both commercial and residential growth throughout the state.

**Study Bills.** Between July and late November, interested parties are often involved in efforts to study topics of legislation that warrant additional information. This year, however, an unusually small number of requests for legislative studies were made and very few were approved by the Legislative Council. One formally enacted study and two informally created study groups are of direct municipal interest.

The formal study group of direct municipal relevance created by LD 500 is the *Municipal Volunteer Working Group*. This resolve, which has yet to be finally enacted, establishes a seven-member group charged with finding solutions to the recruitment, training and retention problems facing volunteer fire departments and volunteer emergency medical service providers.

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In addition to three legislators, the Working Group must include one representative from the Maine State Federation of Firefighters, one volunteer firefighter, one chief of a volunteer fire department and one representative from the Maine Fire Chief's Association. The Working Group is directed to solicit input from municipalities with volunteer fire departments, volunteer firefighters and emergency medical services providers. The Working Group report must be submitted to the Legislature by Dec. 2, 2015.

Throughout the summer and fall months MMA staff will monitor and contribute to other informal information gathering efforts pertaining to the carried over bills described above. Two such informal study efforts pertain to shoreland zoning (LD 713) and cemetery access (LD 862). Details on the cemetery working group are still being formulated as of the date of publication.

The Shoreland Zoning Working Group will consist of five members representing lake associations or environmental advocacy groups, five members representing municipal government (both CEOs and non-CEOs),

a representative from the Maine Real Estate and Developers Association, a representative from the Associated General Contractors of Maine and a representative from the Department of Agriculture, Conservation and Forestry. Several individuals were invited to participate from the Department of Environmental Protection and the Department of Economic and Community Development, but they declined. The list of shoreland zoning issues

for the Working Group to consider includes compliance and enforcement trends, identification of typical violations and effective enforcement responses, municipal enforcement liability and accountability, how shoreland zoning enforcement is financed, Code Enforcement Officer certification standards and training resources, etc. The Group plans to meet once in July, September, October and November. ■

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# NEW LAWS

127th Legislature – First 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 October 15, 2015.

Eighteen of the municipally related new laws have yet to be assigned a Public Law (PL) chapter. These laws were passed to be enacted late in the legislative session and as this edition of the Maine Townsman goes to press they are subject to a potential if not probable gubernatorial veto and the subsequent attempt to override the veto by the Legislature on “veto day” scheduled for July 16. Those bills are listed separately, immediately after this New Laws article, because of the uncertainty with respect to their outcome. All actions taken on these legislative initiatives will be updated on the web versions of the LD List and New Laws section of this Townsman, which will be posted on the MMA website under Legislative & Advocacy/ Resources & Publications.

**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.

## Agriculture, Conservation & Forestry

LD 203 – Resolve, Regarding Legislative Review of Portions of Chapter 28: Notification Provisions for Outdoor Pesticide Applications, a Major Substantive Rule of the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control. (Presented by Rep. Hickman of Winthrop for the Department of Agriculture, Conservation & Forestry.) **Emergency Passed; Resolves 2015, c. 6 (3/29/15)**

This Resolve provides without amendment final legislative approval of Chapter 28: Notification Provisions for Outdoor Pesticide Application, a major substantive rule provisionally adopted by the Department of Agriculture, Conservation and Forestry.

LD 598 – An Act To Strengthen the Maine Agriculture Protection Act. (Sponsored by Rep. Timberlake of Turner.) **PL 2015, c. 145**

Under Maine’s current “right to farm” law, farm operations in a land use zone where agricultural activities are permitted may not be considered a violation of municipal ordinance if the operation conforms to best management practices as determined by the Department of Agriculture, Conservation and Forestry. This Act adds agricultural composting operations to that policy. The Act also amends the definition of “agricultural products” as that definition is used in the right-to-farm law to include manure and compost.

LD 1023 – An Act To Revise the Animal Welfare Laws. (Sponsored by Rep. Marean of Hollis.) **PL 2015, c. 223**

This Act amends the animal welfare laws to: (1) amend and expand the definition of “animal shelter” to clarify that animal shelters house domestic animals and can include a rescue group that receives domesticated animals; (2) transfer the responsibility for the animal shelter costs associated with an animal taken from a home pursuant to the animal cruelty statutes from the Department of Agriculture, Conservation and Forestry to whichever authorized entity seized the animal; (3) expand the allowance in current law for the euthanization of cats in certain circumstances to also include “small animals,” and (4) make it unlawful under the animal cruelty statutes to dispose of a deceased animal in public or private property without permission from the landowner.

LD 1408 – Resolve, Regarding Legislative Review of Portions of Chapter 21: Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas, a Late-filed Major Substantive Rule of the Department of Agriculture, Conservation and Forestry, Bureau of Forestry. (Reported by Rep. Hickman of Winthrop for the Department of Agriculture, Conservation and Forestry, Bureau of Forestry.) **Emergency Passed; Resolves 2015, c. 26 (6/16/15)**

This Resolve provides without amendment final legislative approval of portions of Chapter 21: Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas, a major substantive rule provisionally adopted by the Department of Agriculture, Conservation and Forestry.

## Appropriations & Financial Affairs

LD 236 – An Act To Adjust Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2015, June 30, 2016 and June 30, 2017. (Sponsored by Rep. Rotundo of Lewiston; additional cosponsor.) **Emergency Enacted; PL 2015, c. 16 (4/12/15)**

This is one of several supplemental state budget Acts designed to balance the state budget for the most recently completed fiscal year (FY 2015). Among the various appropriations, allocations and financial adjustments, the Act identifies changes in the projected revenue sharing distribution for FY 2015 that net out to approximately \$500,000 in increased distributions relative to previous projections. The Act also appropriates nearly \$2.5 million to be provided to certain counties as supplemental payments to support county jail operations and designates the Commissioner of the Department of Corrections to serve in the capacity of the State Board of Corrections.

LD 1019 – An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2015, June 30, 2016 and June 30, 2017. (Sponsored by Rep. Rotundo of Lewiston; additional cosponsor.) **Emergency Enacted; PL 2015, c. 267 (6/30/15)**

This Act is the state budget covering the two-year period beginning on July 1, 2015 and ending on June 30, 2017. Elements of the budget of municipal interest include:

**Municipal revenue sharing.** The Act revises the revenue sharing law for the next four fiscal years (FY 2016-FY 2019) to require the distribution to be 2% of state sales and income tax receipts, rather than 5% as has been required by law for the last several decades. On a year-by-year basis, the Legislature has been raiding the municipal revenue sharing distribution over the last several years so that approximately 2% of those state revenues has been distributed rather than the 5% required by law. This Act effectively codifies that practice but purports to reinstate the 5% requirement for FY 2020 and thereafter. Under current projections, 2% of sales and income tax revenue (compared with the 5% distribution) would yield revenue sharing distributions of:

- FY 2016 - \$62.6 million (rather than \$156.4 million)
- FY 2017 - \$62.1 million (rather than \$155.2 million)
- FY 2018 - \$64.8 million (rather than \$161.9 million)
- FY 2019 - \$67.5 million (rather than \$168.7 million)

**Homestead property tax exemption.** The Act increases the value of the Homestead property tax exemption from \$10,000 to \$15,000 beginning April 1, 2016. For that year, the state reimbursement to each municipality for the lost property tax revenue will remain at 50% for the \$15,000 exemption.

Beginning on April 1, 2017, the Act increases the value of the Homestead exemption an additional \$5,000, from \$15,000 to \$20,000. For that year and subsequently, the state reimbursement for the lost property tax revenue will be 50% for the first \$10,000 of the exemption and 75% for the second \$10,000 of the exemption, creating an overall or effective reimbursement rate of 62.5%.

**Funding for K-12 Education.** The Act appropriates \$983.65 million as the state share of the total amount the Essential Programs and Services school funding model (EPS) calculates as necessary for FY 2016. That appropriation represents a 4.2% increase over the FY 2015 contribution of \$943.85 million. The total amount of money – both state and local – the EPS model identifies as the necessary cost for K-12 education is \$2.069 billion, which puts the proposed state share at 47.54%, compared to the FY 2015 state share of 46.80%, and sets the local share at 52.46%. To meet the local share burden, the mill rate expectation is set at 8.23 mills, up from the FY 2015 level of 8.10 mills. The recent history of the required “mill rate expectation” is provided in this table.

Fiscal Year	Mill Rate Expectation
2007	7.6
2008	7.44
2009	6.79
2010	6.69
2011	6.96
2012	7.5
2013	7.8
2014	7.86
2015	8.10
2016	8.23

**General Assistance.** The Act makes two substantive changes to the General Assistance program (GA).

Beginning July 1, 2015, the GA reimbursement formula is changed to provide all municipalities with 70% reimbursement

for General Assistance benefits issued. The vast majority of municipalities will experience an increase in reimbursement from 50% to 70%. Maine’s two largest service center communities, however, will experience a decrease in reimbursement because in the process of establishing the flat 70% reimbursement rate, the Act repeals the 90% reimbursement formula that applies under current law to GA expenditures exceeding a certain percentage (.0003) of the municipality’s state valuation.

The Act also amends GA law to provide that when GA applicants apply for benefits within 45 days of being released from a correctional facility, the municipality of financial responsibility will be that of the applicant’s residence prior to incarceration.

**Calculation of the “LD 1” property tax levy limit.** The Act amends the way the “income growth” factor is calculated for the purpose of determining a municipality’s “property tax levy limit.” Under current law, the index that increases the previous year’s property tax levy limit is a combination of two indices: (1) the income growth factor, which is calculated by the Office of Policy and Management and used in common by all municipalities; and (2) each municipality’s unique “growth factor.” The Act does not change that system except to amend the way the “income growth factor” is calculated. Under current law, the income growth factor is the 10-year average real growth in total personal income, which is the average annual growth in total personal income less the effects of inflation. The Act changes the income growth factor to be just the 10-year average growth in total personal income, without amending that average annual growth to discount the effects of inflation.

**Efficiency Funds.** The Act appropriates \$750,000 for the Fund for the Efficient Delivery of Local and Regional Services for each year of the biennium and \$750,000 for the Fund for the Efficient Delivery of Educational Services for each year of the biennium.

**Tax reform.** The budget proposal originally submitted by Governor LePage in January included sweeping and comprehensive tax reform. The amendments to Maine’s tax code that were ultimately enacted are more modest in scope.

In 2013, the Legislature enacted a “temporary” increase to the state sales tax rate on general sales from 5% to 5.5% and on the meals and lodging sales tax rates from 7% to 8%. Those temporary rate increases were scheduled to sunset back to the baseline rates on July 1, 2015. This Act retains the current tax rate on general sales (5.5%) rather than letting it sunset to 5%. The Act also retains the current tax rate on meals served in restaurants at 8% rather than letting it sunset to 7%. In addition, the Act increases the sales tax rate on lodging from the current rate of 8% to 9%.

Using the revenue generated by the sales tax rate changes, the Act implements a two-year phase-down of the top income tax rate from 7.95% to 7.15%, adjusts the bracketing system to apply an income tax rate to all adjusted gross income by removing the current “0%” bracket, significantly increases the standard deduction and phases out the ability to utilize the standard deduction (or itemized deductions if applicable) at higher income levels, establishes a “sales tax fairness credit” within the income tax code for lower-income tax filers to reflect the increases in sales tax exposure, brings the exclusion value under Maine’s estate tax into conformity with the federal exclusion value, exempts military pensions, and implements other related income tax code adjustments.

**LD 1415 – An Act To Authorize Two General Fund Bond Issues To Improve Highways, Bridges and Multimodal Facilities.** (Sponsored by Sen. Hamper of Oxford Cty) **PL 2015, c. 305**

This Act sends out to the voters in November 2015 a proposed \$85 million transportation bond issue that would provide \$68 million for the construction, reconstruction or rehabilita-

tion of the Priority #1, #2 and #3 state highways, the municipal partnership initiative and to replace and rehabilitate bridges, bridges, as well as \$17 million for facilities and equipment related to ports, harbors, marine transportation, freight and passenger railroads, aviation, transit and bicycle and pedestrian trails.

## **Criminal Justice & Public Safety**

**LD 62 – An Act To Require Notice to Municipalities of Certain Licensing and Registration Actions Taken by the Emergency Medical Services Board.** (Sponsored by Rep. Gerrish of Lebanon.) **PL 2015, c. 6**

This Act requires the Emergency Medical Services Board to notify in writing the town or city manager of a municipality and the municipality's officers when the Board takes disciplinary action or issues a guidance document with respect to an ambulance service owned and operated by a municipality or a private ambulance service with which the municipality contracts for services. The notice must be provided within 5 business days of taking the action.

**LD 379 – An Act To Create the Sex Offender Management and Risk Assessment Advisory Commission.** (Sponsored by Sen. Diamond of Cumberland Cty.) **PL 2015, c. 86**

This Act establishes a 7 member Sex Offender Management and Risk Assessment Advisory Commission, with membership appointed by the Maine Attorney General. The Commission is charged with consulting with experts in the field of sex offender matters, developing recommendations pertaining to sex offender management and risk assessment, and making policy recommendations to agencies of the executive, judicial and legislative branches.

**LD 600 – An Act To Prohibit a Person Convicted of a Crime of Domestic Violence from Possessing a Firearm for a Period of 5 Years and To Better Align Maine Law with Federal Law Regarding Persons Prohibited from Possessing Firearms.** (Sponsored by Rep. Pickett of Dixfield.) **PL 2015, c. 287**

This Act amends Maine law prohibiting the possession of firearms to conform to federal law. This Act adds the following to the list of persons who may not possess firearms: (1) fugitives from justice; (2) persons who are unlawful users of or are addicted to any controlled substance and as a result are prohibited from possession of a firearm under 18 U.S. Code, Section 922(g)(3); (3) aliens who are illegally or unlawfully in the United States or who were admitted under nonimmigrant visas and who are prohibited from possession of a firearm under 18 U.S. Code, Section 922(g)(5); (4) persons who have been discharged from the United States Armed Forces under dishonorable conditions; or (5) persons who have renounced United States citizenship. The Act also prohibits persons convicted of any in a set of Class D crimes of domestic violence from possessing a firearm for a 5-year period from the time the person is discharged from the sentence imposed as a result of committing the crime.

**LD 652 – An Act To Authorize the Carrying of Concealed Handguns without a Permit.** (Sponsored by Sen. Brakey of Androscoggin Cty.) **PL 2015, c. 327**

This Act authorizes a person who is not prohibited from possessing a firearm to carry a concealed handgun without a permit. The Act also authorizes a person to possess a loaded pistol or revolver in a motor vehicle or a trailer or other vehicle being hauled by a motor vehicle. The authority to carry a concealed weapon without a permit applies to persons 21 years of age or older and persons between the ages of 18 and 21 if they are on active duty in the armed forces of the U.S. or

if they have been honorably discharged from such duty. The Act further requires that anyone purchasing a firearm formally recognize that they have been provided a safety brochure by the firearms dealer and the Act provides guidelines for the contents of those brochures. Finally, the Act provides that anyone carrying a concealed weapon without a permit who is in the process of being arrested or detained by a law enforcement officer or who has been stopped for a routine traffic violation must inform the law enforcement officer that they are carrying a concealed weapon.

**LD 697 – An Act To Restore Public Safety Programs in the Department of Public Safety.** (Sponsored by Rep. Lajoie of Lewiston; additional cosponsor.) **Emergency Enacted; PL 2015, c. 148 (6/09/15)**

This Act modernizes and re-establishes a regulatory system for all amusement rides as well as amusement devices that may be made available to the public during amusement shows. The regulations rely on annual inspections by certified amusement ride inspectors employed by the State Fire Marshal's Office.

**LD 868 – An Act To Remove Limitations on Reciprocity for Concealed Handguns Permits.** (Sponsored by Sen. Davis of Piscataquis Cty.) **PL 2015, c. 144**

Current law authorizes the Chief of the State Police to grant reciprocity to a person permitted to carry a concealed handgun from another state if the other state has substantially equivalent or stricter requirements for the issuance of a permit. This Act removes as unnecessary the authority of the Chief to enter into reciprocity, eliminates the required equivalency provisions, and simply recognizes a concealed weapons permit issued by another state if the other state honors concealed weapons permits issued in Maine.

**LD 1057 – Resolve, To Review and Report Recommendations on the Safety of Motorized Farm Rides Provided for a Fee to the Public.** (Sponsored by Rep. Nutting of Oakland.) **Resolves 2015, c. 32**

This Resolve directs the State Fire Marshal and the Chief of the Maine State Police to convene a working group of stakeholders to review methods of ensuring the safety of the public on motorized hayrides, pumpkin rides and other farm rides that are offered for a fee to the public on farms and rural land. The working group's report and recommendations must be submitted to the Legislature by February 1, 2016.

**LD 1068 – An Act To Require That Certain Active Duty Military Personnel Are Eligible for the Resident Application Fee for a Concealed Handgun Permit.** (Sponsored by Rep. Campbell of Orrington.) **PL 2015, c. 123**

This Act provides that a person on active duty in the U.S. Armed Forces who qualifies as a resident of Maine according to rules developed by the Department of Administrative and Financial Services, and who is otherwise qualified to be issued a concealed weapons permit, is eligible for the permit upon payment of the application fee for a resident.

**LD 1112 – An Act To Make Technical Changes to the Sex Offender Registration and Notification Acts of 1999 and 2013.** (Reported by Rep. Fowle for the Criminal Law Advisory Commission.) **PL 2015, c. 280**

This Act makes a number of technical and minor substantive amendments to the laws governing the registration requirements for sex offenders. One of the changes authorizes the adoption of rules that would allow for the suspension of certain information updates required of registered sex offenders with respect to address, current photographic identification, etc. when the sex offender has left the state or is hospitalized, in-

capacitated or incarcerated. The Act also creates a verification process for persons sentenced in another jurisdiction before 1982 who is a lifetime sex offender registrant.

**LD 1243 – An Act To Make the Law Regarding Critical Incident Stress Management Teams More Beneficial and Effective.** (Sponsored by Sen. Burns of Washington Cty.) **PL 2015, c. 112**

Under current law, when one or more members of a law enforcement agency experience a “critical incident”, such as a use-of-force encounter resulting in serious injury or death, the affected members are provided assistance from “critical incident stress management teams” that must be in place, according to certain standards established by rules of the Department of Public Safety. This Act amends the law to also apply the assistance program to employees of, or dispatchers for, a criminal justice agency.

**LD 1275 – An Act Regarding Notice to the Public Pertaining to a Resident Person Deported from Canada to the United States for Committing a Sex Offense against a Child.** (Reported by Rep. Fowle of Vassalboro for the Joint Standing Committee on Criminal Justice and Public Safety.) **PL 2015, c. 76**

This Act authorizes a law enforcement agency to provide notice to the public as determined by the agency to be appropriate to ensure the public safety when the agency obtains written documentation from U.S. Customs and Border Protection that a person residing in the jurisdiction of the law enforcement agency has been deported from Canada to the United States because the person was convicted in Canada of a sex offense against a child. The Act also provides immunity for the law enforcement agency in any civil action based on the agency’s actions either to provide the public notice or not provide the public notice.

## Education & Cultural Affairs

**LD 3 – An Act To Ensure Consistent Certification of Graduation Standards in Publicly Funded Secondary Schools.** (Sponsored by Rep. Hubbell of Bar Harbor.) **Emergency Enacted; PL 2015, c. 40 (4/30/15)**

Current law requires all public schools and private schools with 60% or more publicly funded students to graduate students that have demonstrated proficiency in the system of learning results, a requirement often referred to as “proficiency-based diplomas.” This Act applies that requirement to public charter schools, as well, and also provides that the public charter schools are eligible for certain “transition” grants to implement those standards.

**LD 129 – An Act To Provide Options to Schools for Making Up School Days.** (Sponsored by Rep. Tuell of East Machias.) **Emergency Enacted; PL 2015, c. 60 (5/10/15)**

This Act authorizes public school systems, pursuant to rules adopted by the Department of Education, to extend the school day by one hour for up to 25 school days for the purpose

of substituting 5 one-hour extensions for an additional school day on the calendar as a make-up day as may be required in response to excessive weather or emergency school closings.

**LD 131 – An Act To Amend the Laws Related to Public Funding of Charter Schools.** (Sponsored by Rep. Hubbell of Bar Harbor; additional cosponsor.) **Emergency Enacted; PL 2015, c. 54 (5/08/15)**

This Act establishes in detail how the public charter schools must be funded using the formula in the Essential Programs and Services school funding model to determine the total allocation of funds to be provided through the General Purpose Aid to Local Schools (GPA) distribution rather than as a mixture of GPA funds and locally allocated funds, as is required under current law.

**LD 201 – Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a Major Substantive Rule of the Department of Education.** (Presented by Rep. Kornfield of Bangor for the Department of Education.) **Emergency Passed; Resolves 2015, c. 25 (6/11/15)**

This Resolve authorizes the final adoption of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a major substantive rule of the Department of Education, provided that several changes regarding the procedures for evaluating and providing special education and related services are implemented.

**LD 763 – An Act To Change the Budget Approval Process for Alternative Organizational Structures.** (Sponsored by Rep. Tuell of East Machias.) **PL 2015, c. 286**

Under current law, the decision to change how the budget for an Alternative Organizational Structure school system (AOS) is approved, whether by the voters within the AOS at referendum or by the AOS governing body, must be done by referendum at the time of a statewide election. This Act allows that decision to be done either at the next regular election or at a special referendum election called by the governing body of the AOS.

**LD 1048 – An Act To Allow School Administrative District No. 27 To Transfer Ownership of the St. Francis Elementary School to the Town of St. Francis.** (Sponsored by Rep. Martin of Eagle Lake; additional cosponsor.) **Emergency Enacted; P & SL 2015, c. 4 (4/30/15)**



*Rep. Brian Hubbell of Bar Harbor, a veteran member of the Education Committee, led his peers through the adoption of municipally important legislation that relieves the property taxpayers of the burden of directly funding charter schools. (Photo by Kevin Bennett)*



*Rep. Paul Stearns (left) of Guilford, a retired school superintendent, is to be credited for his valuable contributions to the Education Committee’s deliberations. Thanks is owed to Rep. Stearns for co-sponsoring legislation on behalf of the Association seeking to return to the state the obligation to fund the normal cost of teacher retirement (LD 60).*

*Rep. Walter Kumiega (right) of Deer Isle was the key legislative sponsor of a bill to obligate the state to fund the normal cost of teacher retirement (LD 60), which sought to shift nearly \$37 million of burden off the property taxpayers and back onto the state’s broad-based tax base, where until recently it had rested since the inception of the Maine State Retirement System. (Photos by Kevin Bennett)*

This Act authorizes the board of directors of School Administrative District 27 to transfer ownership of the St. Francis Elementary School building and its site to the Town of St. Francis, subject to the approval of the voters of that town.

**LD 1180 – An Act To Require Education in Public Preschool Programs and Elementary Schools Regarding Child Sexual Abuse.** (Sponsored by Rep. Maker of Calais.) **(Mandate) PL 2015, c. 292**

This Act, identified as a state mandate, directs the Department of Education to develop a model policy on child sexual abuse prevention and response protocols by July 1, 2016 for all public preschool programs and elementary schools. The Department must make the model policy available to the school systems for the purpose of developing and adopting their own policies, which must be adopted and implemented for the 2017-2018 school year.

**LD 1222 – An Act To Remove Barriers to School Construction Financing in Regional School Units.** (Sponsored by Rep. Babbidge of Kennebunk.) **PL 2015, c. 181**

This Act allows a bond issued by a regional school unit for a construction project to utilize a “level debt payment structure” under certain circumstances. Under a “level debt payment structure,” the combined annual principal and interest payments remain approximately the same throughout the life of the bond with increasing principal amounts and decreasing interest amounts each year. The level debt payment structure may be used only with respect to school construction projects that are totally locally funded and only when that payment structure results in lower costs for the school system throughout the life of the bond issue.

## Energy, Utilities & Technology

**LD 192 – An Act To Clarify the Law Governing the Collection of Unpaid Sanitary District Charges.** (Sponsored by Sen. Saviello of Franklin Cty.) **(Mandate) PL 2015, c. 174**

This Act, identified as a state mandate, makes two changes to the section of the Maine Sanitary District Enabling Act governing the administration of liens of real estate to enforce the collection of unpaid sanitary district charges. The Act removes language regarding committing a rate, toll, rent or other charge to the treasurer of a sewer district because that process does not entail an act of “commitment.” For the purpose of fixing the time when the lien “arises and is perfected”, the Act replaces “commitment” with the term “as services are provided.” For the purposes of providing appropriate periods of redemption for additional owners of record and mortgage holders who may not have been provided the original demand and notice of lien, the Act requires the district’s treasurer to issue a copy of the lien certificate by certified mail to any record owner or mortgagee who was not provided the initial notice of lien/demand for payment and provide such owners and mortgagees a right to redeem the real estate within 3 months after receipt.

**LD 200 – Resolve, Regarding Legislative Review of portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission.** (Reported by Rep. Dion of Portland for the PUC.) **Emergency Passed; Resolves 2015,**



*First-term legislator Rep. Norm Higgins (Dover-Foxcroft) put much effort into the bills heard by the Energy, Utilities and Technology Committee that help expand high-speed internet access to rural communities. Two such bills that Rep. Higgins sponsored, LD 465 and LD 1185, have been enacted and should help expand high-speed internet access to rural municipalities. (Photo by Kevin Bennett)*

## c. 9 (4/14/15)

This Resolve provides for legislative review of Chapter 895: Underground Facility Damage Prevention Requirements, a major substantive rule of the Public Utilities Commission (PUC). As finally authorized, among the several amendments to the PUC rule, there is a provision that requires any operator of underground facilities who is not a member of Dig Safe (a nonmember operator), such as a municipal water or wastewater system operator, to notify the PUC within 10 days of any change with respect to the contact person’s contact information for the purpose of updating the Commission’s OKTODIG database.

**LD 216 – An Act To Amend the Charter of the Hampden Water District.** (Sponsored by Sen. Cushing of Penobscot Cty.) **Emergency Enacted; P & SL 2015, c. 2 (4/16/15)**

This Act amends the charter of the Hampden Water District.

**LD 339 – An Act To Clarify That the Telephone Number 9-1-1 Is the Only Number Advertized or Promoted for Emergency Response Services.** (Sponsored on behalf of the PUC by Rep. Dion of Portland; additional cosponsor.) **PL 2015, c. 62**

This Act removes some out-of-date language in the law governing the E-9-1-1 telephone system, prohibits a person from advertising or promoting any other telephone number for emergency response services, and provides a process for the imposition of a penalty for a person who uses a telephone number other than 9-1-1 to advertise or promote emergency response service.

**LD 465 – An Act To Eliminate the Broadband Sustainability Fee.** (Sponsored by Rep. Higgins of Dover-Foxcroft.) **PL 2015, c. 151**

Under current law, a “broadband sustainability fee” of \$2 or \$3 per mile of federally supported dark fiber purchased or leased by an entity to “light-up” the dark fiber is assessed against the entity and dedicated to a broadband sustainability fund. Incumbent local exchange carriers are eligible to apply for grants from that fund provided the revenue is used to expand broadband into underserved areas. This Act terminates the assessments in the fall of 2015 and rededicates all remaining resources in the sustainability fund to support and promote broadband service in the unserved and underserved areas of the state.

**LD 589 – An Act To Increase the Beneficial Reuse of Waste Materials.** (Sponsored by Sen. Saviello of Franklin Cty.) **PL 2015, c. 220**

This Act expands the range of electricity generators that meet the definition of “renewable capacity resource” under the electricity generation supply source portfolio requirements to include electricity generators that use anaerobic digestion of by-products of waste from animals or agricultural crops, food or vegetative material, algae or organic refuse.

**LD 650 – An Act To Amend the Brunswick Sewer District Charter.** (Sponsored by Sen. Gerzofsky of Cumberland Cty.) **P & SL 2015, c. 5**

This Act amends the charter of the Brunswick Sewer District.

**LD 880 – An Act To Permit Rate-adjustment Mechanisms**

for Water Utilities. (Sponsored by Rep. Hobbins of Saco.) **PL 2015, c. 115**

This Act allows the Public Utilities Commission to establish or authorize a reasonable rate adjustment mechanism to “decouple” water utility revenues from water utility sales through revenue reconciliation when there is a change in sales due to a change in the number of customers or a change in the volume of consumption.

**LD 912 – An Act To Allow the Establishment of Regional Municipal Utility Districts To Support Broadband Communications.** (Sponsored by Rep. Foley of Wells.) **PL 2015, c. 222**

This Act amends the state’s interlocal agreement law to allow an agreement that establishes a regional multi-municipal utility district to provide, support or promote the provision of broadband services and internet services and to issue revenue bonds in support of the district’s activities. A municipal utility district established in this manner would be subject, as applicable, to the pertinent regulations of the Public Utilities Commission.

**LD 1063 – An Act To Promote Community Broadband Planning and Strengthen Economic Opportunity throughout Maine.** (Sponsored by Rep. Gideon of Freeport.) **PL 2015, c. 284**

This Act amends the law governing the state’s policy on the deployment of broadband infrastructure and services to unserved and underserved regions as well as the role of the ConnectME Authority to implement that policy. A particular focus of the Act is to provide broadband expansion planning grants to municipalities working in collaboration with each other as well as nonprofit local or regional community organizations providing economic development programs. The Act: (1) rewrites the state’s 3 broadband goals and 5 broadband policies; (2) assigns the ConnectME Authority to implement those goals and policies; (3) directs the ConnectME Authority to provide technical and financial assistance to communities in the state that include unserved and underserved areas in order to generate broadband investments; (4) prohibits the ConnectME Authority from undertaking projects that would still occur in the same time frame without the efforts of the Authority; and (5) establishes the 5 required elements to be included in plans developed by a municipality or a group of municipalities if recipients of the broadband expansion planning grants.

**LD 1124 – An Act To Manage Risks Associated with the Installation of Natural Gas Pipelines.** (Sponsored by Rep. Dunphy of Embden.) **PL 2015, c. 216**

This Act establishes construction standards for the installation of natural gas pipelines that would be applied to all gas utilities. The Act: (1) expressly requires a gas utility to provide notice of an installation to all other owners of facilities within the right-of-way when it applies for an installation permit to the municipality or other permitting authority; (2) authorizes the owners of the other infrastructure buried in the right-of-way to file objections with the permitting authority within 14 days; and (3) provides that the Maine Department of Transportation (MDOT) Utility Accommodation Rules serve as the minimum rules governing the gas line installation standards in the compact areas of urban compact municipalities and as the default construction standards with respect to all other local roads unless otherwise specified by municipal ordinance. The minimum separation standard in the MDOT rule is 3 feet (horizontal) and 1 foot (vertical), with pipe crossings to be as close to 90 degrees as possible. The Act provides that the local licensing authority that is relying on the MDOT rules may grant exceptions to the standards upon a finding that one or more of the

following circumstances exists: (1) the MDOT standards would present an exceptional hardship or unreasonable cost, (2) all affected parties to the installation have agreed to alternative standards that adequately ensure public safety, (3) a unique situation exists that requires an adjustment to the standards in a manner that ensures public safety, or (4) the location standards exceed the limits of the available space within the right-of-way.

**LD 1185 – An Act To Establish the Municipal Gigabit Broadband Network Access Fund.** (Sponsored by Rep. Higgins of Dover-Foxcroft.) **PL 2015, c. 323**

This Act creates the Municipal Gigabit Broadband Network Access Fund to be administered by the ConnectME Authority. The Fund is capitalized with a \$500 state appropriation necessary to establish the Fund, plus any federal funds and awards, proceeds of bond issues, and any other funds from public or private sources that may be used for the purposes of the Fund. The Fund’s purpose is to provide planning grants of up to \$20,000 and implementation grants of up to \$200,000 to municipalities or regional partnerships of municipalities to allow public-private partnerships that implement a municipal gigabit fiber-optic broadband network in their regions. The stated goals of the grant program are to provide high-speed broadband access for economic development purposes, provide expanded health care services by facilitating access to telemedicine, expand education opportunities for virtual and distance learning, and facilitate broader access to the public for municipal and county services. The Act establishes the elements of the municipal or multi-municipal plan that must be submitted to the Authority in order to access the grants, as well as the specific standards that must be met in order to obtain a planning grant. Municipalities selected for funding must provide a 25% cash match to any grants awarded. Because the Fund is not capitalized by the Act, the Authority is only required to issue grants to the extent funding is made available.

**LD 1223 – An Act to Revise the Charter of the Kennebunk Sewer District.** Sponsored by Rep. Dunphy of Embden.) **Emergency Enacted; P & SL 2015, c. 9 (6/15/15)**

This Act revises the charter of the Kennebunk Sewer District.

**LD 1231 – An Act To Create the Southwest Harbor Water and Sewer District.** (Sponsored by Sen. Langley of Hancock Cty.) **P & SL 2015, c. 11**

This Act creates the Southwest Harbor Water and Sewer District and transfers all water and sewer assets of the Town of Southwest Harbor to the new district.

**LD 1245 – An Act to Preserve the Efficiency of Transportation Maintenance and Construction Activities.** (Sponsored by Sen. Collins of York Cty.) **PL 2015, c. 177**

The Overhead High-voltage Line Safety Act currently prohibits activities occurring within 10 feet of overhead high-voltage lines. This Act creates an exemption from that Act for employees or independent contractors engaged on behalf of the state, quasi-independent state agencies or municipalities who are maintaining or installing traffic lighting, including signals, traffic beacons, dynamic signs or luminaries. The exemption requires that the person performing the installation or maintenance has met applicable training certification or licensing requirements and that the installation or maintenance is conducted in accordance with all applicable federal, state and local laws, regulations, safety codes and ordinances.

**LD 1256 – An Act To Improve the Safety and Survival of 9-1-1 Callers and First Responders.** (Sponsored by Rep. Beavers of South Berwick.) **PL 2015, c. 230**

This Act directs the Bureau of Emergency Services within

# The Municipal RISK MANAGER

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## Cyber Attack or Human Error?

Cyber attacks continue to make front page news. Security breaches at large retailers and insurance carriers have exposed millions of people to fraud and potential identity theft. CEOs and IT professionals face public embarrassment as they attempt to apologize for their organizations' cyber security shortcomings. It's no wonder that the rhetoric coming out of these press conferences always points the finger at sophisticated hackers that are able to overcome the best cyber defenses.

Unfortunately, the truth of cyber attacks hits much closer to home. Statistics vary depending on who you ask, but it's safe to say that well over half of computer security breaches are caused by human error or negligence. All it takes is one employee opening an attachment on an email or sending work home to a personal computer to be breached or for employees to lose sensitive data on unprotected laptops, cell phones, and thumb drives.

Even third party vendors can open the door to a malicious attack. For example a payroll company could hold sensitive information from your human resources database, and a breach could prove disastrous. Keep in mind that third party vendors may not have the same level of cyber protection in place as your systems, creating a chink in your cyber armor.

Clearly, human behavior is a key component in your cyber security defenses. Do you have training and policies in place to address the human element of cyber risk? All employees should be taught to take these precautions to help protect your network:

**Use strong passwords, and change them frequently.** Don't assume every

employee knows how to create a strong password. If possible, configure your network to require passwords that meet your parameters and automatically require users to change passwords on a set schedule. A good rule of thumb would require passwords with a minimum of eight characters, including upper case letters, lower case letters, numbers and symbols.

**Keep your computer current with the latest patches and updates.** Attackers are looking for any vulnerability



that will allow them to break into your system. You can't prevent every attack, but you can make it harder for an attacker to gain entrance if you apply patches and other software fixes when they become available. Set your computer

to automatically check for updates on a weekly basis.

**Beware of phishing emails.** Don't click on links within emails unless you are certain of their source. If you weren't expecting an email, don't rush to open

**Story Continued on Page 30**

## Preflight Coverage Check for your DRONES

Did you know that drones are considered aircraft and are potentially subject to Federal Aviation Administration regulations?

**Public aircraft operations** are limited by federal statute to certain government operations within U.S. airspace. Title 49 U.S.C. § 40102(a)(41) provides the definition of "Public Aircraft" and § 40125 provides the qualifications for public aircraft status and drones can meet the definition.

As such, it is of critical importance to note that most standard insurance policies do not automatically include



"Aircraft" as covered property and further excludes "bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft.

Therefore, before you buy and attempt to fly be sure to verify:

- Compliance with Federal Aviation Administration laws.
- Insurability of the aircraft for property damage to the drone itself.
- Confirm availability of liability insurance. ■■

## Improve Your Performance Evaluations

Would you like assistance and training on how to deliver a lawful employee performance evaluation?

MMA Risk Management Services online training offers assistance on topics like this to participating members of the MMA Workers Compensation Fund and Property & Casualty Pool. In partnership with FirstNet Learning Inc. Risk Management Services Online University has assembled a group of courses that address the needs of our Membership. If you are interested in a particular topic, please let your underwriter or loss control consultant know. We will do our best to add it to expanding list.

Other courses offered:

- Ethical Decision Making
- Ethics in the Workplace
- Guide to Interviewing
- Hiring High Quality Diverse Candidates
- Information Security and Privacy Awareness
- Lawful Hiring
- Managing the Multigenerational Workforce
- Performance Evaluations
- The Power of Respectful Language
- Unlawful Harassment Prevention
- Workplace Bullying and Violence Prevention
- And Many More!!!



The course offerings will continue to grow, so watch the *Risk Manager* for announcements of new courses. Visit the website to preview courses and the online university or to register for courses at: <http://www.memun.org/InsuranceServices/RiskManagementServices.aspx> 📄

## 24th Annual Highway Congress



The 24th Annual Highway Congress was held June 4<sup>th</sup> at the Skowhegan Fairgrounds and Risk Management Services again provided a “Time- Out- for- Training” booth. The RMS booth is a fixture at the Congress and this year was staffed by Bob Thomas, Lance Lemieux, Dan Whittier, John Waterbury and Ed MacDonald from the RMS Loss Control Department. The Congress provides our loss control staff an opportunity to

visit with many of our members, affiliates and vendors as well as to view the latest equipment.

This year’s training topic was prevention of injuries when working with heavy machinery and off-road equipment. The booth featured displays, provided handouts and asked visitors to answer quiz questions. More than 220 persons visited the booth, completed the quiz and registered for the “Bags of Stuff” raffle. This year’s winners were Bobby Bellows of the Waterville Public Works Department (PWD) and Larry Mosher, Lewiston PWD.

A “Safety Short” for preventing slip/fall injuries when working on and around maintenance vehicles and mechanized equipment is featured in this *Risk Manager*. This and other Safety Shorts are available on the MMA website:

<http://www.memun.org/InsuranceServices/RiskManagementServices/LossControl/SafetyShorts.aspx> 📄

## Cyber (cont'd)

that attachment or click on an embedded link. Check for spelling and grammatical errors, which are often giveaways that an email does not come from a legitimate source. If you are unsure as to the content of an email attachment, it is recommended that you do not open it and attempt to contact the sender to verify.

**Limit the use of removable media.** If you must use a flash drive, use one that is encrypted. At the very least, password protect any documents you transfer to portable media. Programs like Word and Excel have password protection options that are easy to configure.

**Establish policies to control use of web-based applications for business purposes.** This may include restricting access to social media sites and file sharing sites which can open a back door for malware to enter.

MMA Risk Management Services can help you establish procedures and policies to help lower your cyber risk. For help please contact our Underwriting Department at 1-800-590-5583. 📄

## Welcome New Member

### Workers Compensation Fund

Warren Sanitary District



The Municipal Risk Manager

The Municipal Risk Manager is published seasonally to inform you of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question; you should consult with legal counsel or other qualified professional of your own choice.

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# Controlling Vacant Buildings

Vacant buildings are a potential exposure for any municipality. The location of the property and the potential hazards that exist are as diverse as the State of Maine.



Vacant structures are more susceptible to claims arising from vandalism, burglaries, water damage, fires and storm damage. We are all aware that losses can occur at anytime, but without the proper precautions, the likeliness of a claim occurring at a vacant property increases greatly. Therefore, it is of critical importance for all municipalities to understand and recognize the most common vacant property risks and to implement recommended actions to protect the property and ultimately the Town.

## Plan for the Vacancy

- If you have prior knowledge that a building is becoming vacant or if you are acquiring a vacant property, you can take steps to help reduce the chances of a loss.
- Remove known hazards such as flammable liquids and hazardous materials.
- Secure and shut off unnecessary utilities and drain water lines if they are not to be used for emergencies.
- Eliminate fire hazards by clearing combustibles and debris within 25 feet of the property.
- Maintain alarms and fire suppression systems if applicable and test the systems regularly.
- Notify authorities such as police and fire departments that the property will be vacant.
- Secure the location and consider the installation of fencing or other barriers to limit access to the property.
- Consider installing variable light timers to increase the appearance the building is occupied, and en-

sure lights do not turn on and off at the same time each day.

- Inspect the building and location to ensure condition.

## Lighting

It is reported

that over 90% of crime occurs after dark. Therefore, the use of lighting can be a strong deterrent while increasing the security and safety of your vacant property.

Lighting should be bright and positioned to prevent dark areas around the property. Bright lights provide greater visibility for law enforcement, security personnel, neighbors and passersby to identify suspicious activity or damage.

## Frequent Property Inspections

Potentially one of the best and most cost effective tools available to reduce losses associated with vacant properties is frequent and unscheduled inspections. Working with a security service or local law enforcement to conduct frequent rounds will detract vandals and thieves.

Visit vacant property at least once per week to evaluate the condition and ensure that no damage has occurred. The

inspection should include:

- Verification and documentation of the general conditions,
- Ensuring that the property is secure and free of damage,
- Confirmation that all fire protection and intrusion detection systems are working.

## Maintain the Property

Plan regular maintenance routines to check pipes, foundation, roof, gutters; look for insects or other pests that may damage the property. Regular maintenance can reduce the risk of damaged or frozen pipes, sprinklers that leak, or damages associated with weather.

The municipality should maintain landscaping to give the appearance of occupancy and to reduce the exposure of fire, and to eliminate hiding spaces in the shrub and foliage for pests and vandals. If damage is discovered, take immediate steps to repair and remediate. Frequent maintenance will help lower the cost of repairs and potential claims.

## Review Your Coverage with Your Insurer

Coverage for vacant property generally has conditions, notification requirements and limitations in the event of a loss. Therefore it is important to notify and discuss all vacant property with your insurer. ■■

## “Additional Insured” Status Can Eliminate Unwarranted Defense Costs

Why is it important for a Town to obtain a Certificate of Insurance which names the Town as an “ADDITIONAL INSURED” from groups and individuals utilizing municipal facilities, vehicles or equipment? Since the Town owns the property, the Town may find itself named as a defendant in a lawsuit arising out of that outside third party’s negligence using that property. *Additional Insured Status* may mean that the third party’s insurance company will defend the Town and cover the associated expenses to have the Town released from the suit. The extent of the coverage offered depends upon the exact language used in the *Additional Insured Endorsement* which is why we recommend that you request a copy of the endorsement for your records. Without the Town being named as an Additional Insured, the Town is forced to incur the cost of defense through their own insurance carrier and have those costs included as part of the Town’s loss history. ■■

## SAFETY SHORTS

### *Working Safely On and Around Maintenance Vehicles and Mechanized Equipment*

#### Tips for Prevention of Slip/Fall Accidents:

- ✓ Most equipment is designed to be entered with the person facing it. This equipment should be exited the same way: facing it. This allows the operator to see the steps and handholds and keeps the person's center of gravity close to the machine.
- ✓ Never jump from equipment. Always climb all the way down. This will prevent injuries from jumping onto uneven surfaces or loose objects.
- ✓ Examine how you and others enter and exit machinery and equipment. Are there adequate steps, rungs and handholds? Are the surfaces in good condition and non-slip? Consider retro-fitting equipment to make it safer when mounting and dismounting.
- ✓ Don't stop with the cab! If you "check the load", make sure that ladder rungs and handholds are available to allow checking to be done safely. Don't use a wheel as a step or sideboards as a handhold.
- ✓ Apply non-slip surfaces to running boards, deck plates and smooth step surfaces. If it's necessary to climb on fenders or other equipment parts to provide maintenance, apply non-slip material to those surfaces also.
- ✓ Make sure the shops, garages and cold storage areas are adequately lighted and that good housekeeping eliminates trip hazards.
- ✓ Always wear the proper footwear for the job and for the weather conditions. A good work boot must have adequate tread to reduce friction. Use "ice-grip" footwear when warranted by conditions.
- ✓ Use special caution when walking on snow and ice. Take small steps and walk carefully. When called in for plowing, plow and sand your facility first.
- ✓ Keep floor areas in garages free of debris, tools, parts, materials, etc. Mark parking lanes on the garage floor and keep the area inside of the lanes clear.
- ✓ Establish a maintenance schedule to steam clean concrete shop and garage floors at least annually to prevent buildup of oil, grease and hydraulic fluid.
- ✓ When doing vehicle or machinery maintenance, don't stand on bumpers, pallets, oil drums or similar unstable surfaces. Purchase proper ladders or platforms which are sturdy and stable for work. 🏠



## May 2015 Safety Grants Awarded

Risk Management Services is pleased to announce that in May, 135 requests for safety grants were funded with a commitment of \$149,860. Grants will also be awarded in October. The deadline for the next grant period is September 30, 2015.

In 2014, a total of 250 grants were awarded, with a total MMA commitment of \$306,121. Since the inception of the grant program in 1999 more than \$3.36 million dollars has been committed to members through safety enhancement grants.

To be eligible, MMA members must be participants in the Workers Compensation Fund and requested items must directly enhance employee safety. Grants are a 2:1 match with a maximum of \$2,000. Our Claims Department handles a considerable number of workers compensation claims resulting from slips, trips and falls and also muscle strains and sprains and back injuries from manual materials handling. Grant requests for items such as tailgate lifts, mechanized hoists, equipment dollies, computer

workstation enhancements (document holders, monitor platforms, wrist rests, etc) are encouraged. It's not too soon to think about "ice grip" footwear, plow racks and other winter weather related safety equipment.

Information for Safety Enhancement Grants can be found on the MMA website at <http://www.memun.org/> or by calling the Loss Control Department at 626-5583. Applications for the upcoming October grant period are being accepted until September 30, 2015. 🏠

the Public Utilities Commission to assist the Public Safety Answering Points (PSAPs) in the mandatory adoption and implementation of standardized dispatch protocols for answering fire-related 9-1-1 calls. The adoption and implementation process is to be phased-in over a three-year period according to the Act and is financed by dedicating up to 5 cents of the telephone surcharge revenue currently in place (45 cents per telephone line per month) to accomplish that task. The Bureau is directed to expend those funds to provide dispatcher training consistent with the protocols, necessary software and printed support materials. The Bureau is authorized to adopt "routine technical rules" related to the task of adopting, implementing and administering these required protocols.

LD 1362 – An Act Concerning Membership on the Board of Directors of the Lewiston-Auburn Water Pollution Control Authority. (Sponsored by Sen. Brakey of Androscoggin Cty.) **P & SL 2015, c. 8**

This Act amends the charter of the Lewiston-Auburn Water Pollution Control Authority.

LD 1444 – An Act To Correct an Inconsistency in the So-called Dig Safe Law. (Reported by Sen. Woodsome of York for the Joint Standing Committee on Energy, Utilities and Technology) **PL 2015, c. 213**

This Act amends the "Dig Safe" law to require that a person who has given notice of an intention to excavate in a public roadway for the purpose of installing or maintaining underground utility infrastructure must commence the excavation within 30 days of providing the notice to Dig Safe, and that if the excavation or blasting is not completed within 60 days of providing notice, the Dig Safe program must be re-notified.

## Environment & Natural Resources

LD 147 – Resolve, Regarding Legislative Review of Portions of Chapter 500: Stormwater Management, a Major Substantive Rule of the Department of Environmental Protection. (Reported by Rep. Welsh of Rockport for the Department of Environmental Protection.) **Emergency Passed; Resolves 2015, c. 12 (4/29/15)**

This Resolve provides with some amendment final legislative approval of Chapter 500: Stormwater Management regulations as provisionally adopted by the Department of Environmental Protection (see LD 1427, below).

LD 307 – An Act To Amend the Shoreland Zoning Laws To Exempt Certain Walkways and Trails from Setback Requirements. (Sponsored by Sen. Dutremble of York Cty.) **PL 2015, c. 11**

This Act exempts from the normal shoreland zoning river setback requirements the construction of a walkway or trail if located over rivers located within a downtown revitalization project approved by the legislative body of the municipality. The exemption must be expressly provided in the municipality's shoreland zoning ordinance and is subject to several limitations with respect to elements of the design that cantilever the walkway over any river segments.

LD 395 – An Act To Clarify Storm Water Management Standards for Expansions of Existing Projects. (Sponsored by Rep. Martin of Eagle Lake.) **PL 2015, c. 34**

This Act provides an exemption from the storm water management laws enforced by the Department of Environmental Protection with respect to the existing portion of a project that is proposed to be expanded as long as the existing portion met all the applicable and municipal standards for storm water management in effect at the time the existing portion was con-

structed. The exemption does not apply to the expanded part of the existing project, nor does it apply to the existing part of the project that is being expanded if the existing storm water management system will be used to treat storm water flowing from the expanded portion of the existing project.

LD 442 – An Act To Clarify Municipal Capacity of Site Location of Development and Encourage Local Development. (Sponsored by Sen. Volk of Cumberland Cty.) **PL 2015, c. 28**

Current law allows municipalities that have been designated by the Department of Environmental Protection (DEP) to have capacity to conduct Site Location Act regulatory review of major development proposals to also review modifications to developments that the municipality originally permitted. This Act allows those municipalities to also review modifications to developments originally permitted by the DEP if the municipality was designated to have Site Location Act review authority subsequent to the development's original permitting.

LD 568 – An Act To Protect Maine Lakes. (Sponsored by Rep. Chipman of Portland.) **PL 2015, c. 75**

This Act prohibits the application of a fertilizer containing phosphorus or nitrogen within 25 feet of the normal high-water line of a great pond except that such application may occur up to 10 feet from the high-water line if the fertilizer is applied using a drop spreader, rotary spreader with a deflector or targeted spray liquid.

LD 580 – An Act To Extend the Funding Period for Landfill Closure Costs. (Sponsored by Rep. Duchesne of Hudson.) **PL 2015, c. 302**

Under current law, the state share of the costs of closing certain municipal landfills that meet statutory qualifications is 75% of the costs incurred before December 31, 2015. This Act extends that state-share program to December 31, 2025. The current statutory qualifications are that the landfill is causing contamination and must be closed and was issued a license by the Department of Environmental Protection on or before September 1, 1989 for operation and met the design requirements at the time of licensing.

LD 1366 – An Act To Promote Recycling Program Integration and Efficiencies. (Sponsored by Sen. Saviello of Franklin Cty.) **PL 2015, c. 166**

This Act transfers administration of the provisions regarding returnable beverage containers from the Department of Agriculture, Conservation and Forestry to the Department of Environmental Protection.

LD 1427 – Resolve, Regarding the Department of Environmental Protection's Rule Chapter 500: Stormwater Management. (Reported by Sen. Saviello of Franklin Cty. for the Joint Standing Committee on Environment and Natural Resources pursuant to Joint Order 2015, S.P. 528.) **Emergency Passed; Resolves 2015, c. 22 (6/09/15)**

This Resolve amends the action previously taken by the Legislature (see LD 147, above) to finally adopt the major substantive rules promulgated by the Department of Environmental Protection (DEP) regarding stormwater management regulation (Chapter 500 of the DEP's rules). This Resolve corrects for an inadvertent omission in that previous final approval.

## Health & Human Services

LD 139 – An Act To Allow the Electronic Transfer of Marriage Certificates. (Sponsored by Rep. Duchesne of Hudson.) **PL 2015, c. 104**



*Sen. Tom Saviello (Franklin Cty.), having served for the last six years as a selectman for the Town of Wilton, is certainly sensitive to issues of municipal concern. On behalf of MMA's Legislative Policy Committee, Sen. Saviello sponsored LD 632, a bill that would give over to the state the responsibility of administering the General Assistance program. Sen. Saviello also sponsored LD 192 for MMA, a bill that addresses inconsistencies in the way sewer and sanitary district liens for nonpayment are administered. (Photo by Kevin Bennett)*

This Act allows both the municipal clerk that issued a marriage license and the clerk from the municipality where the marriage occurred to issue a certified copy of the marriage certificate using the state's electronic vital statistics registration system.

**LD 369 – An Act To Align Municipal General Assistance Programs with the Immigration Status Policies of the Department of Health and Human Services.** (Sponsored by Sen. Brakey of Androscoggin Cty.) **(Mandate) PL 2015, c. 324**

With a retroactive effective date of July 1, 2015, this Act, identified inaccurately as a state mandate, provides that a person who is not a U.S. citizen but who is lawfully present in the United States or who is pursuing a lawful process to apply for immigration relief is eligible to receive General Assistance benefits for a period not to exceed 24 months.

**LD 722 – An Act To Strengthen Penalties for Abuse of General Assistance.** (Sponsored by Sen. Brakey of Androscoggin Cty.) **PL 2015, c. 312**

This Act amends the penalty for making a false representation to obtain General Assistance (GA) benefits. Under current law, the penalty is disqualification from the program for 120 days. This Act amends the disqualification period to also require that either the value of the GA provided as a result of the false representation be reimbursed to the municipality or the GA recipient enters into a written agreement to reimburse the municipality. Therefore, the disqualification period would be either the 120 day disqualification or the time it takes to be provided total reimbursement of the falsely obtained GA or a written agreement to reimburse, whichever period of disqualification is longer.

**LD 1237 – An Act Regarding the Filing of Death and Marriage Records.** (Sponsored by Sen. Brakey of Androscoggin Cty.) **PL 2015, c. 193**

This Act amends the laws governing the filing of death and marriage records to: (1) authorize the parties to a marriage that occurred more than one year ago, or their legal representatives, to apply for a "delayed certificate of marriage" by submitting to the State Registrar of Vital Statistics the required marriage license and certification statement, the filing fee, and a "late-filed" application for a certificate of marriage including a copy of the marriage intentions obtained for the clerk of the municipality where the intentions were filed; and (2) establish a procedure for registering an official record of death when a death is presumed to have occurred but the body has not been located.

## **Inland Fisheries & Wildlife**

**LD 22 – An Act Regarding the Removal of Moorings and Floating Docks in Great Ponds During Ice-in Conditions.** (Sponsored by Rep. Shaw of Standish.) **PL 2015, c. 105**

This Act authorizes a municipal harbor master or code enforcement officer to direct the master or owner of a boat or vessel to remove that person's mooring or floating dock from a great pond if the municipal official determines that leaving the mooring or floating dock during ice-in conditions would create a public safety hazard.

**LD 88 – An Act To Authorize Snowmobile Registration Reciprocity with the Provinces of New Brunswick and Quebec.** (Sponsored by Rep. Martin of Sinclair.) **PL 2015, c. 130**

There is a reciprocity agreement in current law allowing for the operation in Maine of snowmobiles registered in other states. This Act extends that reciprocity to snowmobiles registered in the Canadian provinces of New Brunswick and Quebec.

**LD 156 – An Act To Eliminate the Minimum Age Requirement for a Junior Hunting License and Increase the Number of Times a Person May Hold an Apprentice Hunter License.** (Sponsored by Rep. Hilliard of Belgrade.) **PL 2015, c. 136**

This Act removes the minimum age requirement for a junior hunting license effective January 1, 2016. The Act provides that a hunter who is under the age of 10 may not hunt unless that person holds a junior hunting license and is in the presence of and under the effective control of an adult supervisor who remains at all times within 20 feet of that hunter.

**LD 256 – An Act To Allow Nonresident College Students To Obtain Hunting, Fishing and Trapping Licenses at the Resident Fee and with Resident Privileges.** (Sponsored by Sen. Davis of Piscataquis Cty.) **PL 2015, c. 226**

This Act provides that a nonresident student 18 years of age or older and under 24 years of age enrolled as a full-time student in an institution of higher education in Maine is eligible for any hunting, fishing, trapping or combination hunting and fishing license or permit at the resident fee and has the same privileges as a resident holder of the licenses or permits. The authority to issue these licenses rests with the Commissioner of the Department of Inland Fisheries and Wildlife and not the Commissioner's agents.

**LD 275 – An Act To Allow the Use of a Crossbow for Recreational Target Practice within 100 Yards of a Building without the Owner's Permission.** (Sponsored by Rep. Wood of Sabattus.) **PL 2015, c. 71**

Current law prohibits discharging a crossbow within 100 yards of a building or residential dwelling, along with the same general prohibition for discharging firearms within that distance from such structures. This Act authorizes as an exception to the general prohibition, unless otherwise prohibited by a municipal ordinance limiting firearm discharges, a landowner or the landowner's invitees to discharge a crossbow for recreational target practice purposes on the landowner's property within 100 yards of a building or residential dwelling without the permission of the owners of those buildings or dwellings.

**LD 716 – An Act To Amend the Fees for Snowmobile Registrations and To Create the Snowmobile Trail Fund Donation Sticker.** (Sponsored by Rep. Stanley of Medway.) **Emergency Enacted; PL 2015, c. 237 (6/23/15)**

This Act makes a number of changes regarding snowmobile registrations. Specifically, the Act: (1) increases the resident snowmobile registration fee from \$40 to \$45 and dedicates the \$5 increase to the Snowmobile Trail Fund; (2) increases the 3-day nonresident registration fee from \$43 to \$49 and dedicates the \$6 increase to the Trail Fund; (3) creates a 10-day nonresident snowmobile registration fee and sets the fee for



*Rep. Henry Beck of Waterville, House Chair of the Insurance and Financial Services Committee, assisted municipal government with his work on LD 337, a bill requiring the timely discharge of liens once satisfied. Due in large part to Rep. Beck's efforts, LD 337 was amended to avoid an unnecessary state mandate as well as municipally expensive litigation. (Photo by Kevin Bennett)*

that registration at \$75 with \$6 of the fee dedicated to the Trail Fund; (4) increases the nonresident seasonal registration fee from \$88 to \$99 and dedicates the \$11 increase to the Trail Fund; (5) directs the Department of Inland Fisheries and Wildlife to create a Snowmobile Trail Fund Donation Sticker Program which will involve the distribution of special stickers reflecting donations of \$25, \$50 and \$100, respectively, of which \$2 is retained by the Department and the remainder is dedicated to the Trail Fund; and (6) directs the Department of Agriculture, Conservation and Forestry to develop written policies specifying how the additional Trail Fund resources created by this Act will be distributed to the snowmobile clubs.

**LD 913 – An Act To Expand Public Opportunities for Wildlife Management Education.** (Sponsored by Rep. Shaw of Standish.) **PL 2015, c. 245**

This Act increases hunting and trapping license fees by \$1 across the board and directs the Department of Inland Fisheries and Wildlife to use that revenue to educate the public on the management of game species.

**LD 942 – An Act To Permit the Use of Firearm Noise Suppression Devices in Hunting and To Provide for a Chief Law Enforcement Officer's Certification for Certain Firearms.** (Sponsored by Sen. Mason of Androscoggin Cty.) **PL 2015, c. 262**

This Act establishes a procedure for a person to obtain a certification apparently required under federal law from a chief law enforcement officer qualified under federal law to issue such a certification that allows for the certificate holder to either transfer or make a firearm, including a firearm noise suppression device. The Act also provides an opportunity for a person to obtain permission from the Commissioner of the Department of Inland Fisheries and Wildlife to use a firearm noise suppression device when hunting any wild animals or birds the person is licensed to hunt.

With respect to obtaining permission to transfer or make a firearm or noise suppression device, the Act requires that the qualified chief law enforcement officer provide the certification within 15 days of receiving the request and a written reason for denial if the request is denied. The Act establishes limits on the information the chief law enforcement officer may request or review to determine the eligibility for the certificate, and provides a right of appeal for any denial to court.

**LD 1196 – An Act To Correct and Clarify Maine's Fish and Wildlife Laws.** (Sponsored by Sen. Davis of Piscataquis Cty.) **PL 2015, c. 301**

This Act makes a number of amendments to the fish and wildlife laws, including: (1) eliminating the 5% surcharge on agents who fail to pay the amount owed to the State for watercraft, snowmobile and ATV registrations; and (2) repealing the law that prohibits a person from operating an ATV on a private road after being forbidden to do so by the owner or a municipal official on the apparent belief on the part of the Wardens Service that the elements of the law requiring ATV operators to

gain permission to operate on all private property is sufficient to enforce unpermitted ATV operations on private roads.

**LD 1225 – An Act Concerning Swim Area Permits.** (Sponsored by Rep. Shaw of Standish.) **PL 2015, c. 252**

This Act amends the standards governing the issuance of a permit by the Director of the Bureau of Parks and Lands for swim areas that may be established by municipalities and recreational camps on the inland waters of the state. Specifically, the Act provides that: (1) the Director may revoke, and the Commissioner of the Department of Inland Fisheries and Wildlife may request the Director to revoke, any permit if it is determined after notice and hearing that the developed swim area is being used for purposes other than to provide recreational swimming opportunities to the public; (2) in order to obtain a permit, the length of the developed swim area or the area delineated by a swim line must be equal to or less than 50% of the entire length of the shore frontage of the property from which the developed swim area or the area delineated by a swim line extends or 200 feet, whichever is greater; (3) the exemption provided in current law that exempts governmental entities, such as municipalities, from being required to pay the permit fee for a swim area is repealed; and (4) the provision in current law that does not require a swim area developed by a municipality to obtain a reauthorized permit every 5 years providing the originally-permitted swim area has not been altered is repealed.

## Insurance & Financial Affairs

**LD 337 – An Act To Require Lienholders To Remove Liens Once Satisfied.** (Sponsored by Rep. Campbell of Orrington.) **PL 2015, c. 210**

This Act requires any lien holder, including municipalities that have established liens for property tax or sewer tax lien delinquency, to remove the lien within 60 days after the demand covered by the lien has been fully satisfied. The Act further provides that a holder of a lien who fails to discharge the lien within 60 days of full payment, other than the state, a municipality or other governmental entity, is liable for the actual damages suffered by the debtor or owner of the property as a result of the failure to discharge the lien.

**LD 1379 – An Act To Establish Transportation Network Company Insurance.** (Sponsored by Rep. Beck of Waterville.) **PL 2015, c. 279**

This Act establishes various requirements for relatively new and previously un-regulated companies that use an online booking system to prearrange transportation services in personal vehicles. The requirements imposed include basic safety and administrative protocols as well as minimum liability insurance coverage. The Act also prohibits municipalities from regulating these "transportation network companies".



*Throughout the session Lewiston City Councilor and State Senator Nate Libby (Androscoggin Cty.) lent his support to bills helpful to municipal government. On behalf of MMA's Legislative Policy Committee, Sen. Libby sponsored a bill that allows municipalities to prevent the deterioration of abandoned properties in the limbo state of bank foreclosure. LD 1203 received bi-partisan support and ultimately overcame a gubernatorial veto. (Photo by Kevin Bennett)*



*Rep. Kim Monaghan (Cape Elizabeth) agreed to sponsor LD 136 for MMA. This legislation corrected a conflict between Maine's Freedom of Access law and the municipal process of granting disability variances. (Photo by Kevin Bennett)*

## Judiciary

**LD 25 – An Act To Regulate Domestic Unmanned Aerial Vehicle Use.** (Sponsored by Rep. Russell of Portland) **PL 2015, c. 307**

This Act regulates the use of unmanned aerial vehicles (a.k.a., drones) by law enforcement agencies. The Act: (1) requires the governing body of the governmental unit overseeing the law enforcement agency to approve any purchase of an unmanned aerial vehicle; (2) requires the law enforcement agency to adopt standards governing the use of drones that comply with the minimum standards adopted by the Maine Criminal Justice Academy; (3) prohibits the use of drones for investigative purposes without a warrant unless a permitted exception to the requirement for a warrant under the Maine and U.S. Constitutions; (4) prohibits the use of a weaponized drone; (5) prohibits the use of a drone to conduct surveillance of private citizens peacefully exercising their rights

of free speech and assembly; (6) allows for the use of drones for the purpose of search and rescue operations when considered necessary to alleviate immediate danger or to train for such events; (7) allows for the use of drones to photograph for the assessment of accidents, forest fires, fire scenes, flood stages and storm damage if those assessments are being conducted for reasons other than criminal investigation; and (8) allows for the use of drones for a use approved by the chief administrative officer of the law enforcement agency or the Governor. The Act also directs the Maine Criminal Justice Academy to establish minimum standards for written policies and protocols governing the use of unmanned aerial vehicles by law enforcement agencies and provides a dozen components of those standards that must be included in the Academy's final product.

**LD 136 – An Act To Clarify That the Medical Records of Applicants for Disability Variances Submitted to Municipal Boards of Appeal Are Not Public Records.** (Sponsored by Rep. Monaghan of Cape Elizabeth.) **PL 2015, c. 152**

This Act provides that medical records or other documents submitted to a municipal board of appeals or a municipal code enforcement officer that describe or verify the disability of a person who is seeking a variance from municipal zoning ordinances in order to accommodate the disability are not public records under the state's Freedom of Access Act.

**LD 199 – An Act To Improve the Reporting of Child Abuse.** (Sponsored by Sen. Diamond of Cumberland Cty.) **PL 2015, c. 117**

Current law governing persons who are mandated to report suspected child abuse to the Department of Health and Human Services (DHHS) provides that a "mandatory reporter" who works as a member of a staff may either make such a report directly to DHHS or, instead, to the person in charge of the organization for which the mandatory reporter works, and the person in charge is then required to make the report to DHHS. Local government officials included on the list of mandatory reporters include school teachers, guidance counselors, school officials, school bus drivers, law enforcement officers, municipal fire inspectors, and municipal code enforcement officials. This Act amends that law by requiring that in any circumstance

when the mandatory reporter elects not to report directly to DHHS but, rather, reports to the person in charge of the organization for which the mandatory reporter works, the supervisory person ultimately in charge of notifying DHHS must provide a confirmation in writing to the mandatory reporter that the institution or organization has made the required report to DHHS. This confirmation must include the name of the individual making the report to DHHS, the date and time of the report, and a summary of the information conveyed. If the mandatory reporter does not receive the confirmation from the institution or organization for which he or she works within 24 hours of the notification, the mandatory reporter must report directly to DHHS.

**LD 206 – An Act To Clarify Restrictions on Disclosure of E-9-1-1 System Information.** (Reported by Rep. Hobbins of Saco for the Criminal Law Advisory Commission.) **PL 2015, c. 153**

This Act amends the confidentiality provisions of the E-9-1-1 system in several ways. The Act: (1) amends the definition of "confidential information" related to E-9-1-1 calls to include the "personally identifying information" of the caller or a person receiving services, expanding on current law which made just the name, address and telephone number of the caller or recipient of services confidential; (2) expands the confidentiality requirement to include any "personally identifying information" of any third party referenced during a E-9-1-1 call; (3) allows a public safety answering point (PSAP) to disclose confidential information to a "criminal justice agency" as that term is defined in statute, rather than a law enforcement officer, as authorized in current law; and (4) allows the release of audio recordings of E-9-1-1 calls to a person accused of a crime or that person's agent or attorney if the release is authorized by the prosecutor's office or court order or ruling.

**LD 756 – An Act To Enhance the Address Confidentiality Program Regarding Property Records.** (Sponsored by Rep. Dunphy of Old Town.) **PL 2015, c. 313**

This Act amends the law governing the governmental use of the physical address or mailing address of a participant in the "address confidentiality program", which is designed to protect access to that information for certain individuals who are being stalked, threatened or harassed and who enter into the program administered by the Secretary of State's Office. Under current law, the address or addresses for program participants created and designated by the Secretary of State's Office must be used by governmental entities unless the Secretary of State's Office has determined that the governmental entity has a bona fide statutory or administrative requirement to use the participant's actual address. This Act requires rules to be promulgated that will allow the various governmental entities who need to use the participants' actual address, such as law enforcement agencies or other state, local or county agencies, to request that the Secretary make an exception to the general rule that the participant's specially designated address be used. The Act also authorizes a program participant to request that the municipal assessor redact the name of the participant's address on any declaration of value form in the possession of the municipal assessor that contains the participant's name before releasing the declaration of value form or allowing its public inspection.

**LD 891 – An Act To Help Municipalities Dispose of Certain Abandoned Property.** (Sponsored by Rep. Maker of Calais.) **PL 2015, c. 244**

This Act provides a process for municipalities to manage mobile homes that have been abandoned by their owners. Specifically, the Act: (1) defines the responsible party with respect to the maintenance of a mobile home as the record owner or

owners of the home; (2) authorizes the municipality to initiate corrective actions to address property defects if the mobile home has been found by either a court or the municipal officers to be abandoned; (3) requires the municipal officers wishing to implement corrective actions to hold a public hearing to determine if the mobile home has been abandoned according to certain indications of property abandonment already established in law; (4) authorizes the municipal officers to identify property defects to be addressed by the responsible parties and provide those parties a 60-day period to correct the defects, and formalize the order to correct the property defects in a notice to be sent to the responsible parties by certified mail, return receipt requested; and (5) authorizes the municipality, by means of a special assessment on the property tax, to collect all costs associated with initiating the corrective actions and/or taking possession and disposing of the mobile home if the corrective actions are not taken.

**LD 1085 – An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Receipt of a Request for Public Records.** (Reported by Rep. Hobbins of Saco for the Joint Standing Committee on Judiciary.) **PL 2015, c. 317**

For the purpose of measuring the responsive timeframes already established in law, this Act amends the state's Freedom of Access Act to establish as the formal date a request has been made to copy or inspect a public record as the date a "sufficient description" of the public record is received by the governmental entity possessing the record. The Act also requires a governmental agency receiving a request for public records that are in the possession of the agency but not maintained by the office of the agency that received the request to forward the request to the appropriate office of the agency or appropriate official "without willful delay," and to notify the requester that the request has been forwarded and that the office to which the request has been forwarded will acknowledge receipt within 5 working days of receiving the request.

**LD 1086 – An Act To Implement the Recommendations of the Right To Know Advisory Committee To Create a Remedy for Unduly Burdensome and Oppressive Requests.** (Reported by Rep. Hobbins of Saco for the Joint Standing Committee on Judiciary.) **PL 2015, c. 248**

This Act amends the state's Freedom of Access Act by establishing a procedure that a governmental entity may follow to deny a request for public records that the governmental entity believes is "burdensome or oppressive". The procedure involves filing an action for an order of protection in Superior Court. At least 10 days prior to filing the action in Superior Court, the governmental agency must provide notice of intent to file with the person making the burdensome information request. The Act details the information that the governmental entity must file with the court to support such an action, including the terms of the records request and any modifications made to those terms, a statement demonstrating the burdensome or oppressive nature of the request, estimates of the time required by the governmental entity to respond to the request, and a description of the efforts made by the governmental entity to work with the person requesting the records to reduce the burdensome nature of the request.

**LD 1087 – An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Response Deadlines and Appeals.** (Presented by Rep. Hobbins of Saco for the Joint Standing Committee on Judiciary.) **PL 2015, c. 249**

Under Maine's current Freedom of Access law, a governmental entity has 5 working days after receiving a request to

inspect or copy a public record to issue a written denial of the request, including the reason of the denial, if it is the intention of the governmental entity to deny the request. This Act amends that requirement to allow the governmental entity to issue an expectation of denying the request following a review of the requested record so that the five-day timeframe can be met even if a thorough review of the requested records cannot be accomplished within that timeframe.

**LD 1088 – An Act To Implement Recommendations of the Right To Know Advisory Committee.** (Presented by Rep. Hobbins of Saco for the Joint Standing Committee on Judiciary.) **PL 2015, c. 250**

This Act makes a number of relatively non-substantive amendments to 7 Titles of Maine law all for the purpose of clarifying, amending, or reorganizing various provisions of law governing the confidentiality of certain records, primarily associated with non-governmental records management.

**LD 1168 – An Act To Prohibit the Use of Eminent Domain in Certain Public-private Partnerships and To Prohibit the Use of Eminent Domain by a Private Business Entity in a Public-private Partnership.** (Sponsored by Sen. Davis of Piscataquis Cty.) **PL 2015, c. 263**

This Act amends the laws governing the Department of Transportation's (DOT) involvement with public-private partnerships to require that: (1) all such partnerships involve transportation proposals that comply with Maine Sensible Transportation Act; (2) the DOT is prohibited from conferring its right of eminent domain on a private entity; and (3) DOT annually report to the Legislature with respect to any substantive changes regarding any public-private partnership proposals.

**LD 1203 – An Act To Address the Detrimental Effects of Abandoned Property.** (Sponsored by Sen. Libby of Androscoggin Cty.) **PL 2015, c. 276**

This Act provides a process for municipalities to manage properties that have been abandoned by their owners. Specifically, the Act: (1) defines the responsible party with respect to the maintenance of potentially abandoned property as the record owner or owners of the property; (2) authorizes the municipality to initiate corrective actions to address property defects if the property has been found by either a court or the municipal officers to be abandoned; (3) requires a financial institution that has initiated a foreclosure action on a property (the foreclosing mortgagee) to notify the municipality where the property is located and designate an in-state representative of the lending institution responsible for the foreclosure action; (4) requires the municipal officers wishing to implement corrective actions to hold a public hearing to determine if the property has been abandoned according to certain indications of property abandonment already established in law; (4) authorizes the municipal officers to identify property defects to be addressed by the responsible parties and provide those parties a 30-day period to correct the defects, and formalize the order to correct the property defects in a notice to be sent to the responsible parties by either hand delivery or certified mail, return receipt requested (with published newspaper notice as an alternative if the record owners cannot be determined); and (5) authorizes the municipality, by means of a special assessment on the property tax, to collect all costs associated with initiating the corrective actions and/or taking possession and disposing of the abandoned property if the corrective actions are not taken.

**LD 1434 – An Act To Amend the Laws Governing Law Enforcement's Access to, and Access to Information about, Certain Persons in Hospitals and Mental Health Facilities.**

(Sponsored by Rep. Stetkis of Canaan.) **PL 2015, c. 218**

This Act allows a law enforcement officer to request that a hospital provide access to a defendant who is receiving care in the hospital for the purpose of serving the patient with a protection from abuse order; authorizes the hospital to disclose that the defendant to that order is a patient in the hospital, and requires the hospital to allow the law enforcement agency to provide that service in a clinically appropriate time and manner. The Act also allows a law enforcement officer to request that a hospital provide notice to the law enforcement agency that a person is going to be released from the hospital to allow for that person's arrest and requires the hospital to provide that notice when the person to be released was transported or caused to be transported to the hospital by the law enforcement agency. The Act also provides hospitals and hospital employees acting in good faith certain immunities from civil or criminal liability or potential professional licensure actions with respect to the notices and information that may be provided to law enforcement agencies.

**LD 1438 – An Act To Include Muzzle-loading Firearms, Bows and Crossbows as Dangerous Weapons for Purposes of Protection from Abuse Orders.** (Sponsored by Rep. Head of Bethel.) **PL 2015, c. 217**

This Act adds bows, crossbows and muzzle-loading firearms to the list of dangerous weapons a court may prohibit a defendant who is subject to a protection from abuse order from possessing throughout the duration of the order.

### Labor, Commerce, Research & Economic Development

**LD 299 – An Act To Protect Children in School Facilities by Requiring Boiler Inspections.** (Sponsored by Sen. Hill of York.) **(Mandate) PL 2015, c. 311**

This Act, identified as a state mandate, re-establishes the requirement that heating boilers in school buildings be subject to state inspection requirements to ensure their proper performance even though no other owners of these boilers are required to undergo the state inspection requirements or pay the related inspection fees. The special requirement that both municipal and school heating boilers be subject to the state inspection process was repealed in 2014 along with a number of old laws determined to be unnecessary state mandates. This Act re-instates the requirement for boilers located in school buildings but not for boilers located in municipal buildings.

**LD 699 – An Act To Update Maine Law To Conform to New Federal Occupational Safety and Health Administration Regulations.** (Sponsored by Rep. Herbig of Belfast.) **Emergency Enacted; PL 2015, c. 138 (6/03/15)**

Under current law, a person in charge of a public sector workplace is required to report in writing or by

telephone to the Director of the Bureau of Labor Standards the death of any person occurring in the workplace or a serious physical injury requiring hospitalization sustained by a person in the workplace. This Act replaces the requirement to report in writing or by telephone with a requirement to report by telephone or electronically and provides that the report may be to the director or the director's designee. The Act reorganizes the definition of "serious physical injury." The Act also authorizes the director and any authorized agent of the bureau to enter a public sector workplace for the purpose of examining the safety and health of employees, in addition to the list of reasons in current law that authorize such inspections.

**LD 1182 – An Act To Exempt Certain Agricultural Buildings from the Maine Uniform Building and Energy Code.** (Sponsored by Rep. Farrin of Norridgewock.) **PL 2015, c. 126**

This Act requires the Technical Building Codes and Standards Board to exempt buildings used to house livestock or harvested crops from the Maine Uniform Building and Energy Code.

### Marine Resources

**LD 255 – An Act To Preserve the Integrity of Maine's Shellfish Industry by Increasing the Penalty for Interfering with Permitted Harvest.** (Sponsored by Sen. Gerzofsky of Cumberland Cty.) **PL 2015, c. 225**

This Act increases the fine for a person who commits the civil violation of interfering with the ability of a permit holder to harvest shellfish within the intertidal zone pursuant to the terms of a municipal shellfish aquaculture permit. The current fine runs from \$100 to \$500. Under this Act, the fine would run from \$500 to \$1,000 and the person who commits the interference violation is required under the Act to provide restitution to the permittee in an amount equal to twice the replacement value of any damaged equipment on the permit site.

### State & Local Government

**LD 82 – An Act Concerning the Salary of Sheriffs.** (Sponsored by Sen. Davis of Piscataquis Cty.) **PL 2015, c. 41**

This Act provides that an action of the county commissioners to reduce the salary of a state sheriff for cause must provide the normal due process elements of notice and hearing.

**LD 862 – An Act To Clarify Who May Authorize Repairs in a Burying Ground.** (Sponsored by Sen. Cushing of Penobscot Cty.) **PL 2015, c. 294**

This Act amends the law governing the system of approval before tombs, monuments, gravestones and other memorial structures in cemeteries are removed, repaired or altered. The Act requires any person seeking to remove or repair a cemetery structure to first obtain written permission by the owner or operator of the cemetery as well as written permission from one of



*Searsport Town Manager and State Rep. James Gillway kept municipal concerns front-and-center throughout the session, sponsoring a bill on behalf of MMA's Policy Committee to restore the historic and proper level of funding for the Local Road Assistance Program (LD 505). Rep. Gillway also advocated against several other proposals before the Transportation Committee, on which he serves, that would have been financially harmful to local government. (Photo by Kevin Bennett)*



*MMA's Legislative Policy Committee greatly appreciates the willingness of Rep. Andrew McLean (Gorham) to sponsor the MMA bill that would support the sustainability of the state's Highway Fund by indexing the motor fuels tax to federal fuel economy standards (LD 901). The need for a predictable and sustainable Highway Fund is acknowledged by all, but the solution remains politically elusive. Rep. McLean is not going to stop trying to find it. (Photo by Kevin Bennett)*

the following, in order of priority: (1) the owner of the burial lot or lineal descendent if the owner or lineal descendent can be reasonably located; (2) a next of kin if the owner or lineal descendent cannot be reasonably located; or (3) the municipality (or county in the case of cemeteries located in the unorganized territory), if neither the owner, lineal descendent or next-of-kin can be reasonably located. The Act also establishes a process governing the permanent removal of a memorial structure in a cemetery. After following the same written permission system governing repairs or alternations, the person seeking to remove the memorial must provide a notice to the municipality (or county, as applicable) stating the location and identification of the memorial, the authority requesting the removal and the site to which the memorial will be removed, and documentation justifying the removal. A replacement of the removed memorial must be placed in the original location if possible, and if not possible, a sign must be placed there recording the new location. All costs associated with the removal process must be borne by the person or entity initiating and implementing the removal, and the owner or operator of the cemetery is not responsible or liable for the location of care of the removed memorial.

**LD 1074 – An Act To Make Damaging a Public Easement with a Motor Vehicle a Class E Crime.** (Sponsored by Sen. Davis of Piscataquis Cty.) **PL 2015, c. 258**

This Act establishes the offense of operating a motor vehicle to damage a public easement as a Class E crime as the term “public easement” is defined in law, essentially to include all local roads for which the obligation for municipal maintenance has been either formally discontinued or discontinued by abandonment and the public easement has been retained. The assignment of a Class E crime does not apply under the Act to motor vehicle damage to a public easement caused by a law enforcement officer or responder acting in accordance with their respective duties.

**LD 1161 – Resolve, To Modify the Deed for a Parcel of Property in the Town of Carrabassett Valley.** (Sponsored by Sen. Saviello of Franklin Cty; additional cosponsor.) **Emergency Passed; Resolves 2015, c. 17 (5/26/15)**

This Resolve amends private and special law governing the use of former state property that was transferred to the Town of Carrabassett Valley in order to allow for the lease of 2 acres of the property to a non-profit organization for the development of an outdoor recreational and educational center for persons with disabilities.

**LD 1390 – An Act To Amend the Boundaries of the Capitol Area.** (Sponsored by Sen. Willette of Aroostook Cty.) **Emergency Enacted; PL 2015, c. 168 (6/12/15)**

This Act redefines the boundaries of the Capitol Area within the City of Augusta to exclude an area primarily occupied by the Department of Transportation’s former motor transport facility.

**Taxation**

**LD 118 – An Act To Authorize**

**Municipalities To Refund Amounts Collected in Excess of Tax Liens.** (Sponsored by Sen. McCormick of Kennebec Cty.) **Emergency Enacted; PL 2015, c. 53 (5/08/15)**

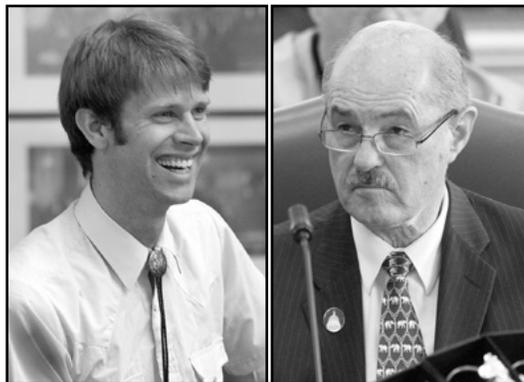
This Act authorizes but does not require municipalities to adopt an ordinance that allows the municipality to disburse to the former owner of property acquired by the municipality through the property tax lien foreclosure process certain “excess funds” obtained through the sale of the foreclosed property. The Act requires the ordinance adopted by the municipality to contain certain standards governing the disbursement of the “excess funds” in order to protect the interests of all the municipality’s property taxpayers. “Excess funds” are defined in the Act as the proceeds of the sale of tax acquired property after subtracting all unpaid taxes, interest, collection costs, lien and foreclosure costs, any municipal costs associated with maintaining or disposing of the property, and any unpaid sewer, water or other municipal utility costs. The Act authorizes the terms of the ordinance to be applied to the sale of any tax acquired property occurring on or after January 1, 2015.

**LD 279 – An Act Regarding Payment under the Business Equipment Tax Reimbursement Program.** (Sponsored by Rep. Stanley of Medway.) **PL 2015, c. 239**

This Act establishes a process that allows a municipality to cause reimbursements provided to a taxpayer under the state’s Business Equipment Tax Reimbursement program (BETR) to be withheld by the state if the taxpayer is significantly delinquent in making property tax payments to the municipality. In order to initiate the process, the municipal tax collector must certify to the State Tax Assessor that that the taxpayer is delinquent in property tax payments to the municipality in the amount of \$10,000 or more attributable to assessments on personal property. Within 10 days of providing that certification to the State Tax Assessor, the municipal tax collector must notify the taxpayer in writing that their BETR reimbursements could be withheld as a result of their tax delinquency to the municipality. Upon receiving that notice, the taxpayer must pay the delinquent taxes to the municipality by the last day of the BETR reimbursement filing period. If and when the taxpayer pays the delinquent taxes to the municipality, the municipal tax collector must notify the State Tax Assessor. If the taxpayer does not repair the delinquency by the filing deadline, the related reimbursement claim to the State Tax Assessor must be denied.

**LD 444 – An Act To Allow a Motor Vehicle Excise Tax Credit for a Vehicle No Longer in Use.** (Sponsored by Sen. Thibodeau of Waldo Cty.) **PL 2015, c. 87**

Current law provides a motor vehicle excise tax credit to the owner of a vehicle that is sold or totally lost by fire, theft or accident or is totally junked or abandoned. This Act adds another situation that allows for the application of a motor vehicle excise tax credit, which is when the use of the vehicle is totally discontinued. To obtain the credit, the Act requires the owner of the vehicle to provide a signed statement attesting that the vehicle from which the credit is being transferred is totally discontinued and states that if the owner who has totally discontinued use of a vehicle later seeks to register that vehicle, no



*Sen. Earle McCormick of Kennebec County (pictured on the right) and Rep. Adam Goode of Bangor deserve credit as co-chairs of the Taxation Committee for guiding their colleagues through the process of making budget recommendations that creates balance among the state’s three major tax sources and avoids increasing the overreliance on the property tax. Although not all the Tax panel’s budget recommendations were implemented, the Committee’s efforts are imprinted on the finally adopted budget. (Photo by Kevin Bennett)*

excise tax credits may be applied with respect to the registration of that vehicle or any subsequent transfer of that vehicle's registration.

**LD 514 – An Act To Amend the Laws Governing the Location of Motor Vehicle Excise Tax Collection for Motor Vehicles Owned by Public Utilities.** (Sponsored by Rep. Buckland of Farmington.) **PL 2015, c. 98**

Current law requires an owner of a public utility to pay excise tax for its motor vehicles to the municipality where the utility's central office is located regardless of where its vehicle fleets are garaged. Other corporations and partnerships are required to pay the excise tax to the municipalities where their vehicle fleets are customarily kept. Effective January 1, 2017, this Act applies the standard for non-utility corporations to the public utilities. The Act also creates a process whereby a municipality or motor vehicle owner can appeal to the State Tax Assessor if either entity is of the belief that the new standard is not being properly applied.

**LD 550 – An Act To Improve the Process for Obtaining an Adjustment in State Valuation Due to Sudden and Severe Reduction in Municipal Valuation.** (Sponsored by Rep. Campbell of Orrington.) **Emergency Enacted; PL 2015, c. 236 (6/23/15)**

This Act amends the law governing threshold eligibility for a municipality seeking an expedited adjustment to the town or city's state valuation in the case of sudden and severe loss in value related to single taxpayer. One of the current eligibility thresholds is that the municipality's full-value tax rate, prior to the sudden and severe loss in value, exceeds the state average. This Act redefines that threshold to allow for eligibility for an adjusted valuation if the state average full value tax rate will be exceeded after the sudden and severe loss in value.

**LD 967 – An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2015-16.** (Reported by Rep. Goode of Bangor for the administrator of the unorganized territory.) **Emergency Enacted; PL 2015, c. 197 (6/16/15)**

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, less deductions, the total UT tax assessment for FY 2016 is \$22,045,575.

## Transportation

**LD 37 – An Act Regarding Emergency Lights on a Vehicle Used by a Member of a Municipal or Volunteer Fire or Emergency Medical Services Department.** (Sponsored by Rep. Evangelos of Friendship.) **PL 2015, c. 31**

This Act amends the law governing the warning lights that may be mounted, if local permission is granted, on the personal vehicles used by municipal firefighters and medical services personnel. Under the terms of the Act, red or red and white lights can be mounted in the vehicle's windshield or on the dashboard, and one red auxiliary light may be mounted in the rear windshield area.

**LD 78 – An Act Regarding Limitations on Certain Storm Water Fees.** (Sponsored by Sen. Libby of Androscoggin Cty.) **PL 2015, c. 310**

A law enacted in 2007 exempted the Maine Turnpike Authority (MTA) and the Maine Department of Transportation (MDOT) from any stormwater management fees imposed by municipal ordinance on the owners of property containing significant amounts of impervious area. This Act limits that exemption to the "transportation system" under the jurisdiction of the MTA or MDOT, defines the term "transportation system" and excludes from that definition office buildings, commercial property, maintenance facilities and park-and-ride lots.

**LD 196 – An Act To Ensure the Safety of Public Service Vehicles.** (Sponsored by Sen. Rosen of Hancock Cty.) **PL 2015, c. 32**

Current law requires motorists to attempt to use a non-adjacent travel lane, if safely possible, when passing certain stationary emergency vehicles in or adjacent to a roadway while attending an emergency. This bill expands the number and types of vehicles to which the requirement applies to include all "public service vehicles." A public service vehicle is defined as a vehicle used to assist members of the public or law enforcement officers with disabled vehicles or to remove debris from a roadway, or a vehicle used to construct, maintain, inspect or repair utility infrastructure, including, but not limited to, electricity, water, sewer, cable, telephone, gas and natural gas infrastructure. Public service vehicles also include wreckers.

**LD 286 – An Act Making Supplemental Allocations from the Highway Fund and Other Funds for the Expenditures of State Government Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2015.** (Sponsored by Rep. McLean of Gorham.) **Emergency Enacted; PL 2015, c. 10 (4/02/15)**

This Act is a supplemental Highway Fund budget Act designed to balance the Highway Fund budget for the current fiscal year (FY 2015). Among other changes in appropriations and allocations, the Act appropriates an additional \$6.787 million in recently re-projected Highway Fund resources to the Department of Transportation's (DOT) Highway Light Capital program, along with an additional \$610,810 for the Local Road Assistance Program (LRAP). The LRAP increase represents 9% of the increased appropriation to the DOT highway program. Historically, and until this year, the LRAP increase would have been 10% of the increased DOT allocation.

**LD 288 – An Act To Amend the Requirement of When Headlights Must Be Used.** (Sponsored by Sen. Diamond of Cumberland Cty; additional cosponsor.) **PL 2015, c. 51**

Current law requires the utilization of motor vehicle headlights during the period ½ hour after sunset to ½ hour before sunrise. This Act expands that window of required use of headlights from the moment of sunset to the moment of sunrise.

**LD 390 – An Act To Enforce Restrictions in Parking Spaces and Access Aisles Designated for Persons with a Walking Disability.** (Sponsored by Rep. Crafts of Lisbon; additional cosponsor.) **PL 2015, c. 52**

This Act provides that testimony given under oath by a disabled person or the driver of a vehicle transporting a disabled person, along with clear photographic evidence, is prima facie evidence that a violation of a disability parking restriction has occurred.



*Senator Bill Diamond (Cumberland Cty.) sponsored a bond proposal developed by MMA's Legislative Policy Committee that would provide \$125 million, with additional matching funds, for much-needed transportation infrastructure improvements. The bill, LD628, was tailored to robustly support both highway/bridge and railroad infrastructure. (Photo by Garrett Corbin)*

LD 529 – An Act To Amend the Law Concerning Motor Vehicles at Railroad Crossings. (Sponsored by Sen. Diamond of Cumberland County.) **PL 2015, c. 89**

This Act upgrades the current law governing how a motor vehicle must approach a railroad crossing in the circumstance of an approaching train. Specifically, the Act provides that an operator of a motor vehicle must approach a railroad crossing in a manner so that the operator will be able to stop if necessary. The operator must stop the vehicle not less than 15 feet and not more than 50 feet from the nearest rail of the railroad track and may not proceed if a clearly visible electric or mechanical signal device warns of the approach of a train; a crossing gate is lowered or a flagger gives a signal or warning of the approach or passage of a train; a train is visible and is in hazardous proximity to the crossing; or a sign, device or law requires the vehicle to stop.

LD 844 – An Act To Improve Transit Services Statewide. (Sponsored by Rep. McLean of Gorham.) **PL 2015, c. 182**

For state-level transportation infrastructure planning purposes, this Act replaces the requirement for biennial plans and replaces it with required five-year plans. The Act also eliminates the current Interagency Transportation Coordinating Committee and replaces it with the Public Transit Advisory Council, which is one of the entities that must participate in the development of the five-year transportation plans. The Transit Advisory Council must include in its membership the Commissioner of the Departments of Transportation or the Commissioner's designee and 13 other stakeholders, including one representative each from the federally designated transportation planning organizations for the Bangor, Kittery, Lewiston/Auburn and Portland regions. The Transit Council is required to report annually to the Legislature by March 1 of each odd-numbered year.

LD 1080 – An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Other Funds and Changing 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 Rep. McLean of Gorham; additional cosponsor.) **PL 2015, c. 268**

This Act is the Governor's proposed Highway Fund budget for the FY 2016-2017 biennium. Among the various allocations in the proposed budget of state Highway Fund resources to various state agencies and programs administered by those agencies, primarily the Department of Transportation (DOT), the Department of Public Safety and the Secretary of State's Office, the proposed budget allocates \$20.2 million in FY 2016 and nearly \$21 million in FY 2017 to the Local Road Assistance Program (LRAP). Those allocations are based on the law which formerly provided 10% and now provides 9% of the Highway Fund resources allocated to the Department of Transportation to LRAP. Approximately \$250 million of the \$320 million Highway Fund Resources are allocated to the DOT. Before the Legislature enacted the 10% reduction in the LRAP allocation in 2013, the amount of Local Road Assistance to the municipalities would have been \$22.4 million in FY 2016 and \$23.3 million in FY 2017.

LD 1175 – An Act To Amend Maine's Motor Vehicle Statutes. (Sponsored by Rep. Parry of Arundel.) **PL 2015, c. 176**

This Act makes a number of amendments to the laws governing the operation of motor vehicles. The Act includes: (1) the adoption by reference of federal rules governing texting and the use of hand-held telephone while operating commercial motor vehicles; (2) the requirement that all motor vehicles on the roads except for unregistered farm tractors have two brake lights; (3) the clarification and further definition of the restriction on the placement of television screens within the view of operators of

motor vehicles; (4) repealing the law prohibiting a person from riding in any type of towed trailer; and (5) prohibiting the attachment or display on a vehicle's registration plate a validation device issued for another vehicle.

LD 1301 – An Act To Improve the Safety of Vulnerable Users in Traffic and To Clarify the Responsibilities of Bicyclists and Pedestrians. (Sponsored by Sen. Volk of Cumberland Cty.) **PL 2015, c. 164**

This Act establishes a list of 16 potential "vulnerable users" (e.g., pedestrians, bicyclists, roller skaters, etc.) who might be in the public roadway and entitled to protections from motor vehicle traffic or, to some degree, from the actions of each other. With respect to signage and other traffic control devices, the Act establishes or clarifies the degree to which the rules governing motor vehicle operation apply to bicyclists and persons on roller skis, and generally prohibits the operation of a bicycle the wrong way on a one-way street.

LD 1320 – An Act To Amend the Laws Relating to Motor Vehicles. (Sponsored by Rep. McLean of Gorham.) **PL 2015, c. 206**

This Act makes a number of changes to the motor vehicle registration and operating laws. Of interest to municipal officials registering motor vehicles, the Act increases the gross weight requirements for pickup trucks from 6,000 pounds to 10,000 pounds so pickup trucks under 10,001 pounds can be registered with passenger plates. The Act also increases the registration fee for antique autos from \$15 to \$30.

## Veterans & Legal Affairs

LD 176 – An Act To Amend the Law Governing the Gathering of Signatures for Direct Initiatives and People's Veto Referenda. (Sponsored by Rep. Short of Pittsfield.) **Emergency Enacted; PL 2015, c. 99 (5/24/15)**

This Act clarifies that only a person who is a Maine resident and a registered voter may be the circulator of a statewide citizen initiative or people's veto petition, which includes presenting the petition to registered voters, asking the voter to sign the petition and personally witnessing the signature. The Act also requires an organization engaged in the activity of circulating petitions to provide to the Secretary of State a list of all the individuals hired to assist in the effort.

LD 508 – An Act To Amend the Laws Governing the Number of Agency Liquor Stores Allowed in a Municipality. (Sponsored by Rep. Lyford of Eddington.) **PL 2015, c. 128**

Current law allows up to 8 agency liquor licenses for municipalities with a population from 20,000 to 50,000 and up to 10 agency liquor licenses for municipalities with a population over 50,000. This Act changes that allotment to allow up to 8 agency liquor licenses for municipalities with a population over 20,000 to 30,000, 9 agency liquor licenses for municipalities with a population over 30,000 to 45,000 and 10 agency liquor licenses for municipalities with population over 45,000.

LD 626 – An Act Regarding Write-in Candidates in Municipal and City Elections. (Sponsored by Sen. Mason of Androscoggin Cty.) **PL 2015, c. 160**

Current law requires municipal ballot clerks to count all write-in votes in a municipal election regardless of the number of write-in votes cast. This Act amends that requirement in several ways: (1) the Act allows the legislative body of any municipality that does not already follow the state election provisions provided under Title 21-A, and instead relies on municipal election law provided in Title 30-A, to adopt according to certain procedures the two provisions in Title 21-A that require write-in candidates

to declare their candidacy to the municipal election clerk at least 45 days before any election in order to be considered a viable write-in candidate, and subsequently be governed by those provisions unless and until the legislative body chooses to opt-out of that process; (2) for those municipalities that do not choose to adopt the Title 21-A provisions regarding write in candidates, and as a way of limiting the mandate to formally count the ballots cast for all write in candidates, the Act requires the formal counting of those ballots only when (a) the printed ballot does not include a properly nominated candidate for the office, (b) the properly nominated candidate withdraws from the race before or on election day, or (c) the number of write-in votes exceeds the number of votes for a candidate printed on the ballot; (3) the Act expressly allows a municipality that has not chosen to adopt the Title 21-A provisions regarding write-in candidates to formally count all ballots cast for write in candidates even if the counting is not mandated by law; and (4) the Act makes it clear that election clerks are not required to count or tally write-in votes for write-in candidates that are fictitious, deceased, or expressly unqualified such as a non-resident when residency is a qualification for office.

**LD 779 – An Act to Increase the Minimum Population Requirement for a Municipality in Which the Bureau of Alcoholic Beverages and Lottery Operations May Locate an Additional Agency Liquor Store.** (Sponsored by Sen. Katz of Kennebec Cty.) **PL 2015, c. 221**

This Act amends the law governing the licensing of agency liquor stores in municipalities by allowing the Bureau of Alcoholic Beverages to issue one additional liquor store license in a municipality with a population of 10,000.

**LD 858 – An Act To Better Inform the Public of Election Results.** (Sponsored by Sen. Baker of Sagadahoc Cty.) **PL 2015, c. 146**

This Act requires an election official to post a paper copy of the unofficial results of an election as soon as practicable after the ballots are counted at the voting place or municipal office if there is a secure place at the voting place or municipal office where the public may view the results even when the voting place or municipal office is closed. ■

# Municipally related Bills in Limbo

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The following bills, presented according to the legislative committees to which they were referred, are listed separately here rather than in the New Laws article because at the time this edition of the Maine Townsman went to press, the bills were “passed to be enacted” by both the House and the Senate but either vetoed by the Governor or subject to gubernatorial veto, and therefore also subject to an attempted veto override by the Legislature on the scheduled July 16 “veto day”. All actions taken on these legislative initiatives will be updated on the web versions of the LD List and New Laws section of this Townsman, which will be posted on the MMA website under Legislative & Advocacy/ Resources & Publications.

## Appropriations & Financial Affairs

**LD 1205 – An Act To Authorize a General Fund Bond Issue To Support the Independence of Maine’s Seniors.** (Sponsored by Rep. Eves of North Berwick.) **PL 2015, c. 337**

This bill sends out to the voters in November 2015 a proposed \$15 million bond issue, administered by the Maine State Housing Authority, to provide funds for the construction of new energy-efficient affordable homes, as well as adaptive reuse of structures or homes, for low-income households headed by persons 55 years of age or older, with preference given to homes in locations that have access to health care services and other essential goods and services.

## Criminal Justice & Public Safety

**LD 186 – An Act To Reverse Jail Consolidation.** (Sponsored by Sen. Davis of Piscataquis Cty.) **Emergency Enacted; PL 2015, c. 335 7/12/15**

This Act, which meets the definition of a state mandate but not identified as such, repeals the jail consolidation law enacted in 2008 that gave over to the State Board of Correc-

tions the authority to manage the utilization of the county jails in coordination with the state’s overall corrections system and capped the property tax assessment for the operations of county jails at the FY 2008 level (\$62 million). Accordingly, the Act returns to the county governments the obligation to fully manage and manage the coordination of the county jails. The Act removes the cap placed in 2008 on the property tax assessments that can be levied by the counties for the purpose of jail operations by allowing the counties to increase the property tax assessment for that purpose each year by either the county’s “LD 1” growth factor or 3%, whichever is less. The Act also sets the maximum per-day boarding rate at \$25 unless the Legislature fails to appropriate at least \$12.2 million each year into the County Jail Operations Fund, in which case the per-day boarding rates can balloon up to \$108. The Act establishes that 30% of the state funding provided through the County Jail Operations Fund must be used for “community corrections” purposes, which are defined to include preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative sentencing or housing programs, residential treatment and halfway house programs, and other programs designed to reduce jail recidivism. In addition, and as part of returning the operational management of the county jails to the respective counties, the Act directs the Department of Corrections to establish by rule a formula for the distribution of the resources in the County Jail Operations Fund to the respective counties for jail operations.

**LD 623 – An Act To Expand Maine’s Carbon Monoxide Detectors Law.** (Sponsored by Sen. Diamond of Cumberland Cty.) **PL 2015, c. 375**

Current law requires installations of carbon monoxide detectors in each bedroom area in units in any building of multifamily occupancy and in the circumstances of expansions or conversions to certain other types of structures, such as fraternity/sorority houses, dormitories, etc. This Act establishes an unconditioned requirement that carbon monoxide detectors, wired and operated according to certain prescribed standards, be installed in each bedroom area in any building of multifam-

ily occupancy as well as the housing for fraternities, sororities, dormitories, a children's home, children's shelter, children's residential care facility, shelter for homeless children, specialized children's home, hotel, motel, bed and breakfast facility or inn. The Act also requires carbon monoxide detectors to be installed in educational facilities in each building of the facility that is used for educational purposes by at least 6 persons for at least 4 hours per day or more than 12 hours per week. The term "educational facility" is defined as a public or private postsecondary institution incorporated or chartered under state law, or a child care facility as defined in state law.

**LD 823 – An Act To Upgrade the Concealed Handgun Permit Law.** (Sponsored by Rep. Shaw of Standish.) **Carried Over**

This Act amends the laws concerning permits to carry concealed handguns by: (1) making the Chief of the State Police the sole issuing authority for a permit; (2) extending the term of a concealed weapons permit from 4 years to 5 years; (3) restructuring the fees for concealed weapons permits to \$52.50 for residents (up from \$35 for first applications and \$20 for renewals) and \$120 for nonresidents (up from \$60); and (4) removing the requirement that a course that includes handgun safety taken by an applicant must have been taken within 5 years of the date of application. The Act does not apply to or affect a valid concealed weapons permit issued before the effective date of the law until such a time as the permit needs to be renewed.

## Education & Cultural Affairs

**LD 231 – An Act To Ensure That Schoolchildren with Dyslexia Receive the Assistance Needed.** (Sponsored by Rep. Morrison of South Portland.) **(Mandate) PL 2015, c. 338**

Identified as a state mandate, this Act requires public school systems to conduct screenings of students from Kindergarten to grade 2 for dyslexia who are identified by the classroom teacher as having one or more language related difficulties listed in the Act. Although no additional funding for the Department of Education is provided in the legislation, the Act also creates the position of dyslexia consultant within the Department of Education to assist the Department in complying with the screening system and developing a dyslexia awareness training program for school teachers.

**LD 418 – Resolve, To Study the Use of Social Impact Bonds as a Funding Mechanism for Public Education Programs in Maine.** (Sponsored by Rep. Pouliot of Augusta.) **Resolves 2015, c. 52**

This Resolve directs the University of Maine's Education Research Institute to study the use of "social impact bonds" to fund extended learning programs and prekindergarten programs. According to the Resolve, a social impact bond involves a governmental entity that partners with a private service provider who puts up the financing for the project and the governmental entity is required to pay back the bond only if success is demonstrated by a measurable outcome.

**LD 1042 – Resolve, To Create the Task Force on School Leadership.** (Sponsored by Sen. Langley of Hancock Cty.) **Emergency Passed; Resolves 2015, c. 46 (7/12/15)**

This Resolve establishes a 17-member Task Force on School Leadership, consisting of 3 legislators, the Commissioner of the Department of Education, and 13 school superintendents and other school personnel. The Task Force is charged with conducting a comprehensive study on excellence in school leadership leading to the development of strategies

to enhance the identification, recruitment, preparation, mentoring, evaluation, professional development and retention of effective school principals and other school leaders. The Task Force report must be submitted to the Legislature by December 2, 2015.

## Energy, Utilities & Technology

**LD 1309 – An Act To Create the Central Maine Water District.** (Sponsored by Rep. Warren of Hallowell.) **DEAD**

This Act creates the Central Maine Water District, which includes within its service territory the towns of Chelsea, Farmingdale, Pittston and Randolph and the cities of Hallowell and Gardiner. The Act provides that the creation of the district is contingent on a favorable vote on three separate referendum questions related to the district's formation, one presented to all the voters within the 6-municipality district authorizing district formation, one presented to the voters of Hallowell on the issue of transferring existing Hallowell Water District property to the new district and one presented to the voters of Gardiner on the issue of transferring existing Gardiner Water District property to the new district.

## Environment & Natural Resources

**LD 727 – An Act To Allow the Retrofit of Underground Oil Storage Tanks.** (Sponsored by Sen. Woodsome of York Cty.) **PL 2015, c. 361**

This Act authorizes the retrofitting of single-walled underground oil storage tanks with secondary containment as long as the retrofitted tank complies with certain Underwriters' Laboratories standards, interstitial monitoring equals or exceeds the monitoring of a newly installed tank, and a site assessment of the retrofitted tank is provided.

## Labor, Commerce, Research & Economic Development

**LD 93 – An Act To Amend the Laws Governing Pine Tree Development Zone Benefits for the Town of Berwick and the City of Sanford.** (Sponsored by Rep. O'Connor of Berwick.) **PL 2015, c. 336**

This Act allows the Town of Berwick to be designated as a Pine Tree Development Zone "tier 1" community and directs the Commissioner of the Department of Economic and Community Development to establish a pilot project in the City of Sanford for tourism development, which may include theme park resort facility development.

**LD 125 – An Act Extending Workers' Compensation Benefits to Certain Employees of the Office of the State Fire Marshal Who Contract Cancer.** (Sponsored by Sen. Diamond of Cumberland Cty.) **PL 2015, c. 373**

This Act amends the cancer presumption in Workers' Compensation law that currently provides that a municipal firefighter who contracts one of 10 possible types of cancer is presumed to have contracted the cancer as a work-related disease unless the municipal employer can establish otherwise. The amendment extends the cancer-related rebuttable presumption to fire investigators and sergeants employed in the State Fire Marshal's Office provided the employee seeking the workers' compensation benefit is able to represent that he or she used protective equipment in compliance with the policies of the Fire Marshal's Office in effect during the course of the investigator's or sergeant's employment.

**LD 164 – An Act To Establish the Maine Length of Service Award Program.** (Sponsored by Rep. Evangelos of

Friendship.) **PL 2015, c. 352**

This Act establishes the framework for a statewide pension-type program for municipal volunteer firefighters and emergency medical services personnel known as the “Length of Service Award Program.” Even though the pension system is not capitalized with any funding, the Act establishes a 7-member Board of Trustees which is charged with administering the program utilizing the services of firms providing administrative, investment, custodial, and auditing functions. It is not clear how the administration of the pension system would be paid for, not to mention the pension benefits themselves. Each municipal fire chief would be responsible for posting a list of volunteer firefighters and EMS volunteers working for the municipality that year, providing an opportunity for the list to be challenged, and ultimately submitting a certified list to the trustees. Since no state funding is provided to capitalize the pension system, the program is authorized to collect and invest funds that may be voluntarily provided by state government, local governments, municipal fire departments or fire companies, and the federal government, all of which would be authorized but not required to contribute to the program. Eligible firefighters or emergency medical services personnel vest in the program after 5 years of service, and receive a pension upon the attainment of 65 years of age or having earned 20 years of service credit before 65 years of age.

**LD 767 – An Act To Create Jobs in Aroostook and Washington Counties.** (Sponsored by Rep. McElwee of Caribou.) **PL 2015, c. 368**

This Act amends the Pine Tree Development Zone tax program to provide a separate standard for businesses creating new employment in Aroostook and Washington counties, and an additionally modified standard in those counties when the business creating the new employment is a call center. With respect to any qualifying business in Aroostook and Washington counties, the Act requires the weekly wage covering the newly created employment to exceed the average weekly wage as compiled from data covering 14 of the state’s counties, excluding York and Cumberland. With respect to qualifying call center businesses, the Act requires the weekly wage covering the newly created employment to exceed 90% of that average weekly wage. The Act also allows a call center to ramp-up to that minimum level of weekly wage over a three-year period.

**LD 1372 – An Act To Encourage the Redevelopment of Upper Floors of Buildings in Downtowns and on Main Streets.** (Sponsored by Rep. Campbell of Orrington.) **(Mandate) PL 2015, c. 349**

This Act inserts into the state’s Growth Management Act and the standards governing the development of comprehensive plans language to encourage municipalities to develop policies that assess community needs and environmental effects of municipal regulations, lessen the effect of excessive parking requirements for buildings in downtowns and on main streets and provide for alternative approaches for compliance relating to the reuse of upper floors of buildings in downtowns and on main streets.

## State & Local Government

**LD 1378 – An Act to Amend the Laws Governing the Issuance of Bonds and To Effectuate the Issuance of Bonds To Support Maine’s Natural Resource-based Economy.** (Sponsored by Sen. Katz of Kennebec Cty.) **DEAD - Veto Sustained**

This Act amends the law that applies to the issuance of general obligation bonds after having been authorized by the voters. The law removes the requirement that the registered bonds bear the signature of the Governor and requires the Governor to authorize the issuance of the bonds unless one (or more) of 5 circumstances can be identified (debt service costs not properly budgeted, adverse impact on credit rating, delay would result in better interest rate, the project requiring the borrowed funds is not proceeding, or alternative funding sources have been identified).

## Taxation

**LD 170 – An Act To Remove the 180-day Active Duty Requirement for the Property Tax Exemption for Vietnam Veterans.** (Sponsored by Rep. Nadeau of Winslow.) **PL 2015, c. 353**

Current law provides the veterans’ property tax exemption to a veteran of the Vietnam War as long as the veteran served on active duty for at least 180 days during the period between February 27, 1961 and May 8, 1975. This Act retains the official period of time in statute referencing the Vietnam War, but repeals the requirement that the duration of active duty service had to be at least 180 days.

**LD 500 – Resolve, To Create a Working Group To Develop Solutions To Meet the Needs for Municipal Volunteer Personnel.** (Sponsored by Rep. Eves of North Berwick.) **Resolves 2015, c. 49**

This Resolve establishes the 7-member Municipal Volunteer Working Group which is charged with finding solutions to the recruitment, training and retention problems facing volunteer fire departments and volunteer emergency medical service providers. In addition to 3 legislators, the Working Group must include 1 representative from the Maine State Federation of Firefighters, 1 volunteer firefighter, 1 chief of a volunteer fire department, and 1 representative from the Maine Fire Chief’s Association. The Working Group is directed to solicit input from municipalities with volunteer fire departments, volunteer firefighters and emergency medical services providers. The Working Group report must be submitted to the Legislature by December 2, 2015. ■

# Maine Municipal Association Ethel Kelley Memorial Award

...MMA's Most Prestigious Award

## NOMINATIONS BEING ACCEPTED

**Deadline for Receipt of Nominees – Friday, August 28, 2015.**



Ethel Kelley devoted 45 years of service to the Maine Municipal Association – from its founding in 1936 until her death in 1981. The award honors her immense contributions to the MMA and the cause of strong local government in Maine. Some have described her as the “cement” that held the organization together, particularly during World War II. During those years, she served in many capacities. She virtually held every title and did every job in the Association.

In celebration of MMA's 50th Anniversary in 1986, the Association honored Ethel Kelley's memory by recognizing other volunteer or employed municipal officials of the same character and dedication. This year MMA will recognize its 30th Recipient!

### **CRITERIA: Do you know someone in your municipality who...**

- ★ *Is dedicated to the cause of good local government.*
- ★ *Has conscientiously served local government and made this a lifetime achievement for 20 years or more.*
- ★ *Has demonstrated the capability and willingness to “Hold the Community Together.”*
- ★ *Has a selfless concern for others in their community.*
- ★ *Has not received full recognition for their service in local government.*
- ★ *Is currently serving or has retired in the past two years (may be given posthumously if within the past two years).*

**MMA wants to know about them! Send your nomination and give MMA the opportunity to recognize their achievement and dedication to local government.**

**NOMINATION PROCESS:** Please forward your Nomination and up to five letters of support from local or state officials, business leaders and/or members of the community. The Nomination Form is available on the reverse side or can be completed interactively on the MMA website at [www.memun.org](http://www.memun.org). **The supporting letters are a critical part of the process.** Care should be taken to describe in detail why your Nominee should receive this award and to assure that they highlight the criteria referenced above. Please give examples of your Nominee's efforts.

**SELECTION PANEL:** The Award Selection Panel will consist of three MMA Past Presidents who will meet in mid to late September to make their selection.

**PRESENTATION:** The Award will be presented at the MMA Annual Convention during the Awards Luncheon with the Recipient's family and friends, coworkers and the statewide municipal family present. The MMA Awards Luncheon is scheduled for **Wednesday, October 7, 2015 at 12:00 p.m. at the Augusta Civic Center.**

For more information, please contact Theresa Chavarie, MMA Manager of Members Relations at 1-800-452-8786 ext. 2211 or by e-mail at [tchavarie@memun.org](mailto:tchavarie@memun.org)



60 Community Dr., Augusta, ME 04330  
207-623-8428 • [www.memun.org](http://www.memun.org)

LOCAL GOVERNMENT  
*begins with* **you.**

# Maine Municipal Association Ethel Kelley Memorial Award

## NOMINATION FORM

**\*\*\*\* Due Date – Friday, August 28, 2015 \*\*\*\***  
**(Please complete all applicable sections)**

Nominee's Name: \_\_\_\_\_

Municipality Served: \_\_\_\_\_

**LIST MUNICIPAL POSITIONS** (Please include information relating to services provided to your municipality as well to other municipalities):

Position(s): \_\_\_\_\_ Municipality: \_\_\_\_\_ Length of Service: \_\_\_\_\_

Position(s): \_\_\_\_\_ Municipality: \_\_\_\_\_ Length of Service: \_\_\_\_\_

Position(s): \_\_\_\_\_ Municipality: \_\_\_\_\_ Length of Service: \_\_\_\_\_

Total Length of Local Government Service: \_\_\_\_\_

**Membership in Professional Associations:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Community Service and Recognitions Received:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is the Nominee Retired?     YES (When did Nominee retire? \_\_\_/\_\_\_/\_\_\_)  
    NO (Anticipated retirement date? \_\_\_/\_\_\_/\_\_\_)

**Signed by:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Municipality: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Municipality: \_\_\_\_\_ Date: \_\_\_\_\_

Please complete and return with up to **(5) supporting letters**. ***The supporting letters are critical to your success.*** Care should be taken to describe in detail why your nominee should receive MMA's most prestigious award. Send completed Nomination Form and letters by **Friday, August 28, 2015** to:

**Ethel Kelley Memorial Award – Selection Panel**  
**Maine Municipal Association, 60 Community Drive, Augusta, ME 04330**

# - 2015 -

## Elected Officials Training Opportunities

### Elected Officials Workshops

#### Who Should Attend:

This workshop is a "must" for newly elected and veteran officials-councilors & select persons-as well as a wonderful opportunity to learn key points of your new position while networking with officials from around the state. (Qualifies as Maine FOAA Training.)

- What are our rights and duties as officials?
- Can we hold multiple offices?
- Which of our meetings are open to the public?
- Must we have an agenda and take minutes?
- What ordinances can we enact?
- What authority do we have over the schools?
- What are our liabilities and immunities?
- What is a disqualifying conflict of interest?

As part of our ongoing efforts to bring training to our members, MMA is pleased to announce that the Jan. 28th course will be offered in two formats: In classroom and remotely at the Northern Maine Development Commission in Caribou. Attendees can participate via ITV Technology by viewing the presentation remotely. ITV broadcasting allows for live viewing as well as interactive participation with the attendees.

A perfect opportunity for elected officials to take advantage of the expertise that the Maine Municipal Association has to offer, attain a better understanding of their role as public officials, and stay abreast of ever-changing local government responsibilities and issues.

**Course meet state FOAA training requirements (Right to Know).**

### Roles of Elected Officials & Municipal Managers

#### Who Should Attend:

This four-hour course is presented by the MMA and is designed for Elected Officials and Municipal Managers and Administrators that focuses on the differing roles and responsibilities of these positions. Topics include Key Responsibilities, Legal Requirements, Personnel Issues, Communication and Goal Setting. This is an excellent opportunity to come as a board along with your municipal manager.

### Managing Freedom of Access Requests

#### Who Should Attend:

This timely workshop is aimed at helping municipal staffs, newly designated "Public Access Officers" and elected and appointed officials understand Maine's Freedom of Access Act, why FOAA requests are filed and how to handle them properly.

**Course meet state FOAA training requirements (Right to Know).**

**Online registration is easy!**

<http://www.memun.org/TrainingResources/WorkshopsTraining.aspx>

#### Elected Officials:

##### Dates & Locations:

**Waldoboro – 7/29/2015**

Soule-Shuman VFW Post #4525 - 50 Mill St.  
Waldoboro, ME 04572-6128

#### Roles of Elected Officials & Municipal Managers

##### Date & Location:

**Gray – 12/8/2015**

Spring Meadows - 59 Lewiston Rd., Gray, ME 04039

#### Managing Freedom of Access Requests

##### Dates & Locations:

**Saco – 10/20/2015**

Saco City Hall Auditorium - 300 Main St., Saco, ME 04072



Maine Municipal Association

60 Community Drive – Augusta, ME  
1-800-452-8786

[www.memun.org](http://www.memun.org)



**DON'T MISS THESE SPECIAL FEATURES & EVENTS!**

# 2015 MMA Convention

## October 7-8, 2015

Augusta Civic Center, Augusta, ME



### Keynote – Eric Klinenberg

#### Going Solo: A Demographic Sea Change

**Wednesday, October 7 – 9:00-10:15 a.m.**

Our special guest is Eric Klinenberg, a New York University professor whose ground-breaking demographic research and book – “Going Solo: The Extraordinary Rise and Surprising Appeal of People Living Alone” – holds dramatic implications for town and city officials and the important work that we do.

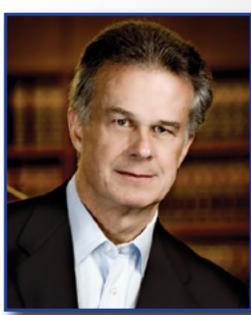
An internationally recognized and oft-interviewed expert on sociology and American demographics, Eric’s presentation is sure to challenge the conventional wisdom about living in families and separately. He will also explore the trend’s effects on economic development, planning, transportation and even fire-rescue and police service.



### Municipal Collaboration: Real-Life Case Studies

**Wednesday, October 7 – 10:30-11:45 a.m. – FEATURED SPEAKER**

Our featured speaker this morning is Suzanne Leland, a professor at the University of North Carolina at Charlotte who has worked hands-on with municipal collaboration and consolidation projects in Kansas, Kentucky and elsewhere in the U.S. What works? What doesn’t? What should local and state leaders really expect from collaborative efforts? Suzanne will bring hard facts and data to this discussion, which comes at an important point in Maine government and politics.



### Killer Show: Lessons from the Station Nightclub Fire

**Thursday, October 8 – 9:00 – 10:20 a.m. – FEATURED SPEAKER**

In recognition that this is National Fire Prevention Week, our featured speaker this year is John Baryllick, an attorney who represented many families whose loved ones died in the fire and a sought-after lecturer on safety, medical and legal issues. On Feb. 20, 2003, the world was stunned by the news of a tragic fire at The Station nightclub in West Warwick, R.I. This presentation analyzes the causes of that fire, conditions that contributed to its severity, and will include discussion of the aftermath and what can be done to prevent similar catastrophes.

 [www.memun.org](http://www.memun.org)

# 2015 MMA Convention

## General Sessions & Events *(preliminary)*

**Wednesday, October 7, 2015**

**7:30 a.m. Registration Begins**

**7:30 Continental Breakfast**

**9:00 – 10:15 a.m. WELCOME AND KEYNOTE SPEAKER**

### **Eric Klinenberg – Going Solo: A Demographic Sea Change**

Our special guest is Eric Klinenberg, a New York University professor whose ground-breaking demographic research and book – “Going Solo: The Extraordinary Rise and Surprising Appeal of People Living Alone” – holds dramatic implications for town and city officials and the important work that we do.

An internationally recognized and oft-interviewed expert on sociology and American demographics, Eric’s presentation is sure to challenge the conventional wisdom about living in families and separately. He will also explore the trend’s effects on economic development, planning, transportation and even fire-rescue and police service.

*Certification: Valid for 1.25 MTCMA Certification credits in the following category: Leadership.*

**10:15 – 10:30 a.m. Break/Visit with Exhibitors**

**10:30 – 11:45 a.m. Concurrent Sessions**

### **Municipal Collaboration: Real-Life Case Studies**

Our featured speaker this morning is **Suzanne Leland**, a professor at the University of North Carolina at Charlotte who has worked hands-on with municipal collaboration and consolidation projects in Kansas, Kentucky and elsewhere in the U.S. What works? What doesn’t? What should local and state leaders really expect from collaborative efforts? Suzanne will bring hard facts and data to this discussion, which comes at an important point in Maine government and politics.

*Presenter:* Dr. Suzanne Leland, Professor at the University of North Carolina at Charlotte and Director of its Gerald G. Fox Master of Public Administration Program.

*Certification: Valid for 1.25 MTCMA Certification credits in the following categories: Leadership, Finance/Budget.*

### **Credit Card Use: Growing & Inevitable**

Dozens of Maine municipalities accept credit card these days – basically, because citizens expect it. They don’t necessarily work for major items, like paying property taxes, but they do for many other transactions. Plus, towns and cities themselves are using credit card and e-payments more. This workshop offers valuable tips on what to do and what not to do when accepting and issuing credit cards.

*Presenters:* Androscoggin Bank.

*Certification: Valid for 1.25 MTCMA Certification credits in the following category: Finance/Budget.*

**11:45 a.m. – Noon Break/Visit with Exhibitors**

**Noon – 1:30 p.m. Awards Luncheon**

**1:30 – 2:30 p.m. Concurrent Sessions**

### **MMA Annual Business Meeting**

Please join us as President Stephan Bunker, Vice President Laurie Smith and Deputy Executive Director Steve Gove shed light on MMA’s upcoming priorities and issues that arose in 2015, including the legislative fight to preserve revenue-sharing funds and MMA’s role in a court case over General Assistance spending and qualifications.

*Certification: Valid for 1.00 MTCMA Certification credit in the following category: Leadership.*

### **Preparing for a DOL Safety Audit**

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

*Presenter:* Steven L. Greeley, Director, Maine Department of Labor Workplace Safety & Health Division, Augusta.

*Certification: Valid for 1.00 MTCMA Certification credit in the following category: Human Resources.*

### **More on Municipal Broadband**

Municipal efforts continue to expand ultra high speed Internet service into communities and parts of them. This panel discussion talks about the status of these efforts in Maine and abroad, and offers advice to municipal leaders looking into this issue.

*Moderator:* MMA’s State & Federal Relations staff.

**2:30 – 2:45 p.m. Break/Visit with Exhibitors**

**2:45 – 4:00 p.m. Concurrent Sessions**

### **Freedom of Access: How Is It Working?**

Maine’s Freedom of Access Act has been around a long time, but it’s often updated and modified. Changes also come in the way that citizens, media and outside organizations “use” the law. This panel of experts represents differing viewpoints on open records and open meetings. Come hear what these panelists have to say.

*Moderator:* Eric Conrad, Director of Communication & Educational Services, Maine Municipal Association.

*Presenters:* Brenda Kiely, FOA Ombudsman, Maine Attorney General’s Office; Nathan Poore, Manager, Town of Falmouth; Adria LaRose, Attorney, Eaton Peabody, Bangor.

*Certification: Valid for 1.25 MTCMA Certification credits in the following category: Legal.*

### **Climate Change’s Impact on Your Community**

Many planners, scientists and meteorologists assure us that climate change is happening. They also say climate change will have – and is having – widespread municipal consequences here in Maine, from rising ocean

## Wednesday, October 7, 2015

levels to turbulent weather patterns. Those developments, in turn, affect low-lying coastal areas but also public works and planning decisions no matter where you live and work.

*Moderator:* Elizabeth Hertz, Director, Municipal Planning Assistance Program Maine Department of Agriculture, Conservation and Forestry;

*Panelists:* Matt Lutkus, Town Manager, Damariscotta; Maureen O'Meara, Town Planner, Cape Elizabeth .

### The ABCs of Health Care

Do you know the difference between an HRA and an HSA? How about an FSA? And what's the big deal about the ACA, anyway? Come to

this informative session and learn more about the Alphabet Soup of Health Care, and why this area is so important for municipal leaders and employees.

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

*Certification:* Valid for 1.25 MTCMA Certification credits in the following category: Human Resources.

### 4:00 – 5:30 p.m. Member Appreciation Reception

## Thursday, October 8, 2015

### 7:30 a.m. Registration Begins

### 7:30 – 9:00 a.m. Continental Breakfast

### 9:00 – 10:15 a.m. FEATURED SPEAKER

#### John Barylick – Killer Show: Lessons from the Station Nightclub Fire

In recognition that this is National Fire Prevention Week, our featured speaker this year is John Barylick, an attorney who represented many families whose loved ones died in the fire and a sought-after lecturer on safety, medical and legal issues.

On Feb. 20, 2003, the world was stunned by the news of a tragic fire at The Station nightclub in West Warwick, R.I. This presentation analyzes the causes of that fire, conditions that contributed to its severity, and will include discussion of the aftermath and what can be done to prevent similar catastrophes.

*Certification:* Valid for 1.25 MTCMA Certification credit in the following category: Legal.

### 10:15 – 10:30 a.m. Break/Visit with Exhibitors

### 10:30 – 11:45 a.m. Concurrent Sessions

#### Community Risk Reduction & Fire Safety

Fighting fires gets all the media and public attention, but the smart money also gets spent on prevention – which touches on many aspects of municipal government. This session takes a new look at community risk reduction in relationship to traditional fire suppression. It may leave you feeling differently about fire safety in your community.

*Presenter:* Maine State Fire Marshal Joseph E. Thomas, Jr.

*Certification:* Valid for 1.25 MTCMA Certification credits in the following categories: Leadership, Finance/Budget.

#### Strategic Planning Done Right

It's not easily done in these fast changing times, but this session will examine the importance of strategic planning for municipalities of all sizes. How do you start the process? How do you include the public? And, of course, how do you pay for it all, especially if you come up with or get presented with popular "big" ideas?

*Presenters:* David Nadeau, Councilor, Town of Windham; James Bennett, Manager, City of Biddeford.

*Certification:* Valid for 1.25 MTCMA Certification credits in the following categories: Leadership, Finance/Budget.

#### Effective Meeting Facilitation

Are your meetings forced, stiff, dull or indecisive? Worse yet, did you just answer "all of the above?" This workshop focuses on how to lead and guide effective meetings, a developable skill that can make a major difference to your town, city or municipal department.

*Presenter:* Merlene Sanborn, Assistant Dean of Graduate and Continuing Studies, Thomas College, Waterville.

*Certification:* Valid for 1.25 MTCMA Certification credits in the following category: Leadership.

### 11:45 a.m. – 12:45 p.m. Networking Luncheon

### 12:45 – 1:15 p.m. Dessert Social/Grand Prize and Exhibitor Prize Giveaways – Exhibit Hall

### 1:15 – 2:15 p.m. Concurrent Sessions

#### Conflicts of Interest: How and Why to Avoid Them

There are many rules and laws that govern what municipal officials can and cannot do regarding conflicts of interest, when their personal interests and public roles come into conflict. This workshop will walk attendees through common scenarios and offers ways to foresee sticky situations and to avoid them.

*Presenters:* Phil Saucier and Mary Costigan, Attorneys, Bernstein Shur, Portland.

*Certification:* Valid for 1.00 MTCMA Certification credits in the following categories: Legal, Elected Relations.

#### Conversing with State Agencies

There are times when policy-level representatives of state agencies would like to have a conversation with policy-level representatives of municipal government. This session sets the stage for three 20-minute conversations between state agency officials and municipal managers, selectmen, councilors and other municipal leaders. One conversation seeks municipal feedback on ideas to avert an anticipated problem in the near future. Another looks for ideas to avoid the need for legislation to address issues of state agency concern occurring in real time.

*Moderator:* MMA State & Federal Relations Staff

*Panelists:* TBD

## Thursday, October 8, 2015

### Trends in Municipal Manager Searches

One of the most important things that many elected officials do – if it isn't *the* most important – is evaluate the municipal manager. But the process and the prospects for mutual success do change over the years, as influenced by the availability of qualified managers, the economy, pay scales and more.

*Presenters:* David Barrett, Director of Human Resources and Personnel Services, MMA. Other presenters TBD.

*Certification:* Valid for 1.00 MTCMA Certification credits in the following category: Human Resources.

### 2:20 – 3:30 p.m. Ask the Experts: Interactive Discussions

#### New Approaches to New Energy

As technology improves and municipal budgets tighten even more, communities are looking at ways to control energy costs, well into the future. This workshop provides a working overview of alternative energy sources for municipalities to consider. It also touches on start-up costs and financial expectations.

*Presenter:* Chris Dwinal, PE, Senior Project Manager, Wright-Pierce Engineering.

### Right to Know

Attorneys from MMA's Legal Services Department offer Right to Know training that is required for both elected officials and municipally appointed Public Access Officers.

*Presenters:* Bill Livengood, Director, Legal Services, MMA; Richard Flewelling, Assistant Director, Legal Services, MMA.

*Certification:* Valid for 1.00 MTCMA Certification credits in the following category: Legal.

### Updating the MMA Salary Survey

MMA's Salary Survey – an important tool for elected officials and municipal staff – returns in 2016, and it will be better than ever. Join us to learn more about the new and improved Salary Survey, and to offer your suggestions and insight into what questions and data should be included.

*Presenters:* Kristy Gould, Director of Human Resources, City of Augusta and President, Maine Local Government Human Resources Association; Eric Conrad, Director of Communication & Educational Services, MMA.

### 3:30 p.m. Adjourn

## Affiliate Association Programs

Please see full convention program for additional offerings, highlights, special events and CEU/Certification credits/points. The following sessions have been prepared by and are sponsored by individual affiliate associations. All sessions are open to all attendees.

### Maine Association of Assessing Officers (MAAO)

*Wednesday, October 7*

#### 1:30 – 4:00 p.m.: What's New with BETE!

*Presenter:* Joe Salley, Maine Revenue Services.

*Certification:* This session approved for 2.5 CMA/CAT recertification credit through Maine Revenue Services.

### Maine Animal Control Association (MACA)

*Thursday, October 8*

#### 1:15 – 3:20 p.m.: The Mutual Expectations Between the Animal Control Officer and the Municipality

*Presenter:* Sue Milligan, President of MACA; Pat Faucher, Vice President of MACA.

### Maine Association of Local Emergency Managers (MALEM)

*Thursday, October 8*

#### 1:15 – 2:15 p.m.: Non-Disaster Grants for Emergency Preparedness and Performance – Get Your Community The Funding it Deserves

*Presenters:* Alex Hammerle, City of Sanford; Robert Bohlmann, Retired EMA Director, York County & FEMA Reservist.

### Maine Association of Planners (MAP)

*Thursday, October 8*

#### 10:30 – 11:45 a.m.: A Conversation about Municipal Planning

*Presenters:* Beth Della Valle, AICP, Planning Consultant; Rich Roedner, Town Manager, Topsham; Judy East, Washington County COG; Amanda Bunker, Planning Consultant; Dennis Douglas, Code Enforcement Officer, Lisbon.

*Credits:* This session approved for 2 land-use credits for Code Enforcement Officers.

### Maine Chapter of American Public Works Association

*Thursday, October 8*

#### 8:00 – Noon: MCAPWA Annual Meeting & Sessions

#### 8:30 – 8:45 a.m.: Opening Remarks, Election of Officers, and General Business Meeting

#### 8:45 – 9:30 a.m.: Pavement Preservation – Keeping Ahead of the Curve

*Presenter:* Ron Simbari, Director of Marketing, All States Materials Group

#### 10:00 – 10:45 a.m.: Proper Pavement Preservation

*Presenter:* Allan Viall, Seal Coating, Inc.

#### 10:45 – 11:00am: Discovering the APWA National Website

*Presenter:* Doug Howard, South Portland Public Works.

#### 11:00 – Noon: What's Happening at MaineDOT?

*Presenter:* MaineDOT Commissioner, David Bernhardt

## Affiliate Association Programs

Noon: Luncheon at the Augusta Elks Lodge (pre-registration required)

### **Maine Fire Chiefs' Association (MFCA)**

Wednesday, October 7

10:00 – 11:45 a.m.: MFCA Annual Membership Meeting and Presentation of the Maine Fire Chief of the Year Award.

Noon: Maine Fire Chief of the Year Awards Luncheon

### **Maine Local Government Human Resources Association (MLGHRA)**

Wednesday, October 7

10:30 – 11:45 p.m.: Workplace Investigations

Presenter: Peter D. Lowe, Attorney, Brann & Isaacson

1:30 – 2:30 p.m.: MLGHRA Annual Meeting

### **Maine Resource Recovery Association (MRRA)**

Wednesday, October 7

2:45 – 4:00 p.m.: Tomorrow's Solid Waste Solutions - Today!

Presenter: Travis Blackmer, Mitchell Center for Sustainability Solutions.

### **Maine Town, City & County Management Association (MTCMA)**

MTCMA Certification: See *general sessions* for additional MTCMA Certification points.

Wednesday, October 7

1:30 – 2:30 p.m.: Talking to Municipal Managers about the Future of Assessing

MTCMA Certification: This session approved for 1 credit Finance/Budget categories.

### **Maine Town & City Clerks' Association (MTCCA)**

Wednesday, October 7

10:30 – 11:45 a.m.: State Agency Updates

1:30 – 4:00 p.m.: The Ins and Outs of the DS200!

Presenter: Julie Flynn, Deputy Secretary of State, State of Maine

Certification: Attendance at the MMA Convention is valid for 2 optional points for MTCCA Certification.

## Overnight Accommodations

There is a Room Block (under Maine Municipal Association) at the BEST WESTERN PLUS, Augusta Civic Center Inn, Augusta, ME. 110 Community Drive, Augusta, ME 04330, TEL: (207) 622-4751 / FAX (207) 622-3108 EMAIL: [info@augustaciviccenterinn.com](mailto:info@augustaciviccenterinn.com)

Reservations can be made by calling (207) 622-4751 or online by clicking here: <http://book.bestwestern.com/bestwestern/US/ME/Augusta-hotels/BEST-WESTERN-PLUS-Augusta-Civic-Center-Inn/Group-Hotel-Overview.do?propertyCode=20023>

Rate: \$72.00/night (All prices are subject to Maine State Occupancy Tax – current rate is 8%)

Check-in time: 3:00 p.m. Check-out time: 12 noon

\*\*All the reservations must be received at least two (2) weeks prior to your arrival date in order to insure availability. Registrations made after Tuesday, September 23, 2015 will be made on a space available basis.\*\*

If requesting tax exemption, you will be asked to provide your tax exemption certificate and municipal payment (municipal credit card or check) at the time of check-in.

# Attendee Registration Form

**MMA Convention – Augusta Civic Center – October 7 & 8, 2015**

**One registrant per form (please photocopy for additional registrations)**

BILLING INFORMATION:	NAME BADGE INFORMATION: <small>*Name badge will read as indicated here.</small>
Full Name: _____	First Name: _____
Employer: _____	Last Name: _____
Billing Address: _____	Primary Title: _____ <small>(Please list one)</small>
City, State, Zip: _____	Employer: _____
Phone: _____	
Email: _____	

**I am a current member of MMA's Legislative Policy Committee.**

**I plan to attend (choose ONE):**  **Wed 10/7**  **Thur 10/8**  **Both Days**

CONVENTION REGISTRATION FEES (For one or both days)			Cost
<input type="checkbox"/> MMA Members	Pre-Registration - received by 9-12-15	\$ 70.00	
<input type="checkbox"/> MMA Members	Registration - after 9-12-15	\$ 85.00	
<input type="checkbox"/> Non-members	Pre-Registration -received by 9-12-15	\$ 140.00	
<input type="checkbox"/> Non-members	Registration - after 9-12-15	\$ 170.00	

MEALS		Cost
<b>WEDNESDAY LUNCHEON (OCT 7):</b>		
<input type="checkbox"/> Awards Luncheon (Buffet) – Civic Center (North Wing)	\$ 17.00	
<b>THURSDAY LUNCHEONS (OCT 8):</b>		
<input type="checkbox"/> Networking Luncheon (Buffet) – Civic Center (North Wing)	\$ 17.00	
<input type="checkbox"/> Maine Chapter of American Public Works Association (MCAPWA) – Augusta Elks Lodge	\$ 18.00	
<small><b>Civic Center Luncheons:</b> Due to ticket demand, there are two luncheon rooms - assigned on a first-served, first-served basis. There will be a live video feed of the presentations in the 2nd luncheon room.</small>		
<b>TOTAL (Registration Fee &amp; Meals) \$</b>		

## SPECIAL EVENTS - for Wednesday, October 7 and Thursday, October 8

**For planning purposes, please select which complimentary activities you plan to attend:**  
 Member Appreciation Reception on Wednesday 10/7.  Dessert social on Thursday 10/8.

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

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

**Fax registration form to:** (207) 626-5947 **Mail form to:** Convention Registration, Maine Municipal Association, 60 Community Drive, Augusta, ME 04330

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Please make check payable to Maine Municipal Association

**Questions/Cancellations:** Please call Louise Ridley at MMA, 1-800-452-8786. Notification must be given three business days in advance of the start of Convention to obtain a refund. All cancellations are subject to a \$10 processing fee. Registrations may be transferred to another official or employee. Please inform us of any special dietary needs or special requirements you may have due to a disability.

**Please keep a copy of this form for your records.**

# PEOPLE



**James Bennett**

Thorndike residents and municipal leaders are mourning the death of First Selectman **James Bennett**, who died June 21 at the age of 68. Bennett was remembered for his dedication to the community and his superior

knowledge of local issues and the needs of residents. Bennett was serving his 13<sup>th</sup> year as a selectman and county budget committee faithful at the time of his death. Town leaders said Bennett's seat would remain vacant until the March 2016 town meeting.



**Jon Jennings**

**Jon Jennings** was named manager of Maine's largest city, effective July 13. Jennings moves across the bay from South Portland, where he worked as assistant city manager since 2007. Jennings offered the right mix

of private and public service and experience, city officials said. Jennings moved to Maine after working for then-U.S. Sen. John Kerry of Massachusetts, now U.S. secretary of state. He also worked for the Clinton Administration in many positions. A lawyer and Harvard University graduate, Jennings is a former U.S. acting attorney general. He also is the former owner of the Maine Red Claws professional basketball team.

Maine lawmakers this spring passed a legislative sentiment honoring **Leonard Adler** of Otisfield for his 50 years of firefighting service to the Oxford County town and region. Adler has served as a firefighter, assistant chief and deputy chief, as well as fire chief from 1982 to 1984. Presently, he serves as a lieutenant. Adler was named Maine's best firefighter in 2005. "We send Mr. Adler our appreciation for his dedicated commitment to firefighting and to his community," the sentiment read in part.

West Bath Selectman and veteran Phippsburg firefighter and EMT **David "Beav" Bourget** died May 23 at the age of 59. His sudden death struck both com-



**David "Beav" Bourget**

munities hard; he was serving as West Bath selectman at the time of his death and his 40-year dedication to Phippsburg fire and rescue efforts was legendary region-wide. He was a Bath history buff, a hunter and an avid recreational lobsterman.

Camden officials have tapped **Karen Brace** of Hope as their new community development director. Most recently, Brace worked for five years as membership development director for the Penobscot Bay area chamber. Brace is only the town's second development director. The position was created in 2011; the former director resigned in August 2014. Among many career successes, Brace, a Dartmouth College graduate, is the founding executive director of Ski Maine Association.

Standish councilors on June 23 appointed **Steven Nesbitt** to fill the vacancy created by the death in May of Councilor **Wayne Newbegin**. Nesbitt is a former planning board member who was appointed last year to fill a one-year term. In early June, he lost a close contest to replace outgoing Councilor Phil Pomerleau. Nesbitt will serve as an at-large councilor until the 2016 municipal election.

Fort Fairfield councilors have hired **James Risner** of Virginia to replace outgoing Town Manager Michael Bosse. Risner retired in February from federal civilian service, ending a 31-year career with the Department of the Army as a Pentagon liaison. Prior to civil service, he



**James Risner**

enlisted in the Marines and attained the rank of sergeant. Risner also has municipal government experience as a former two-term town councilor in Culpeper, Va., as well as chairman of the town planning commission and a zoning appeals member. Risner and his wife have been looking for several years for a retirement home in Maine. He said he was happy to get back to work and that Fort Fairfield was just the kind of small town he and his wife were hoping to call home.

Longtime Madawaska Town Manager **Christina Therrien** resigned June 23 without making her reasons public. The former Machias manager has led the northern border town of 4,000 since 2006. Selectmen are moving quickly to start the search for her replacement.

After nearly 30 years with the Bangor Police Department, Sgt. **Larry Weber** resigned in May. Weber began his career in 1984, first working for Brewer and Orono before joining the Bangor force in 1987. Weber served as the city's first domestic violence investigator and was promoted to sergeant in 1998.

**Christine Wolfe**, Wiscasset town clerk since 2009, has been hired as Freeport town clerk. Her first day in her new job was June 29. Wolfe started her municipal career in 2006 in Dresden and credits former Wiscasset Town Manager Laurie Smith for inspiring her to make a major career change at age 50 by becoming a town clerk. ■

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## STATEWIDE

Two Maine counties and 11 municipalities will share \$2.7 million in state Community Development Block Grants in the latest round of awards. In each case, leaders secured grant funds for specific businesses to expand, buy equipment and inventory or to secure working capital. All 13 business projects will match the CDBG grants by 100 percent or more of private investment. The recipients include: Brunswick, \$350,000; Caribou, \$150,000; Fort Kent, \$100,000; Frenchville, \$120,000; Gardiner, \$300,000 and \$540,000; Piscataquis County, \$120,000; Presque Isle, \$690,000; St. Agatha, \$60,000; and Sidney, \$200,000. Also, the towns of Eagle Lake, Otis and St. John, joined by Piscataquis County, will share \$185,000 in micro-enterprise assistance grants through the CDBG program.

## BANGOR

Fire officials have revived a city apartment-inspection program and have scheduled 539 buildings for review. Even more structures will be inspected in the future, officials said. The new effort comes in response to complaints by tenants on city public assistance who are concerned their apartments are unhealthy and unsafe. Inspections will be conducted by five teams in-between emergency calls. The program will focus first on three- and four-unit apartment dwellings.

## BRUNSWICK

Town planners last month unanimously denied a couple's business plan of hosting weddings on their 1800s farm. The couple wanted to offer their farm to up to 20 couples a year as a destination for "farm-to-table" wedding affairs. Neighbors prevailed, however, when they argued the couple's idea would ruin the nature of the area as quiet, rural farmland – ironically, they said, destroying the ambiance that the couple planned to market. The couple argued unsuccessfully the venture would also help feed the local economy and other farms.

## DENMARK

Secret ballot voters on June 30 rejected recall petitions against Selectmen Chairman Richard Mason Jr. and Beverly Caparco. Both retained their seats by similar margins – 182-156 for Mason and 185-151 for Caparco, according to Town

NEW ON THE WEB | [www.memun.org](http://www.memun.org)

Highlights of what's been added at [www.memun.org](http://www.memun.org) since the last edition of the *Maine Townsman*.

**Ethel Kelley Award.** Maine Municipal Association encourages members to nominate long-time, community-minded public servants for its most prestigious award, the Ethel Kelley Memorial Award. The deadline for nominations is Aug. 28. The winner will be honored at MMA's Annual Convention, Oct. 7-8 in Augusta.

**Revenue Sharing Numbers.** Final revisions to the 2016 municipal revenue sharing projections are available on the State Treasurers' website and can be accessed through MMA's home page. These figures reflect recent changes made by the Legislature.

**Executive Director Search.** Maine Municipal Association's Executive Committee is moving ahead with plans to replace Christopher Lockwood, who will retire as executive director on Aug. 21. Updated information on the search process is available and details will be provided as the process unfolds.

**Project Canopy.** This organization (Project Canopy) and the Maine Forest Service seek information on how much forest land cities and towns own, "operate" and maintain. Their survey also asks questions about park land, green space and cemeteries. They want municipal input as they learn more about tree stewardship.

Clerk Alvina Day. In regular voting earlier in June, one of the petition organizers, Richard Snow, was elected unopposed to replace retiring Selectman Edward Enos. The petition effort was launched after the former board of selectmen refused to fire the town manager over personnel decisions he had made over his eight months on the job.

## EAST MILLINOCKET

Voters on June 29 rejected a proposed national park in a nonbinding referendum by a vote of 320-191, following their counterparts in Medway who, on June 23, panned the plan by a vote of 252-102. Voter turnout was 40 percent and 39 percent, respectively. Although the park proponents downplayed the import of the vote, the tallies were seen as influential as to whether the state's Congressional delegation will support it. Promises of job creation and economic development held little regard with voters, who said they don't see a need for the 75,000-acre park nor how it would help their communities.

## FAYETTE

The town's Board of Appeals voted 4-0 in June to deny an appeal against a commercial firearms and retail store. The appeal by a neighbor expressed concerns the store could jeopardize public safety

and lower property values.

## ISLEBORO

Special town meeting voters in June agreed to allow an unlimited deer hunt on the Waldo County island town for the next three years. The vote was 45-27. The renewed hunt effort aims to reduce the white tailed deer population from 50 to 10 per square mile. However, by a one-vote margin, voters decided the unlimited (buck or doe) hunt would be off-limits during the fall, when the deer are fat, active and most vulnerable. Residents have been increasingly worried about myriad deer-related problems, but in particular Lyme disease, which is spread by deer ticks.

## WATERBORO

Residents learned in June that a \$424,000 tax commitment error made last year will be used to reduce taxes in the new budget year. Officials explained that county taxes were entered twice into the current-year budget, but the error was only noted in mid-June.

## CORRECTION

An item on the People page in the June edition contained incorrect information about new Frenchville manager Ryan Pelletier and was accompanied by the incorrect photo. We apologize for the errors. ■

# MUNICIPAL BULLETIN BOARD

**JULY 24**

## **Customer Service Excellence: Augusta**

Margaret Noel, Manager of Educational Services at MMA, will lead a workshop on Customer Service at the MMA Conference Center in Augusta on July 24. The interactive workshop walks participants through the customer-service cycle and targets key strategies for implementing and maintaining an excellent customer-service plan.

Registration will begin at 8:30 a.m. and the workshop will end at 4 p.m. Cost is \$75 for MMA members and \$150 for non-members, including workshop materials and a light lunch.

**JULY 24**

## **MFCA Meeting, Luncheon**

The Maine Fire Chiefs' Association will hold a membership meeting and networking luncheon on July 24, beginning at 9 a.m., at the Hope Fire Station. The event includes a lobster bake or steak dinner. All fire chiefs and members are welcome.

Cost for registration is \$35 for members who pre-registered or \$45 for those who register after July 10. Guests can attend as well. Please provide a billing address if it will be different from the municipal address.

**JULY 29**

## **Elected Officials Workshop: Waldoboro**

Attorneys and staff from MMA's Legal Services and Communication & Educational Services departments will lead a workshop for Elected Officials on July 29 at the Soule-Shuman VFW Post 4525 in Waldoboro. The evening workshop begins with registration at 4 p.m. and ends at 8:30 p.m., including a light dinner.

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.

**JULY 30**

## **Vital Records: Caribou**

The Maine Town & City Clerks' Association will hold a Vital Records Workshop on July 30 at the Caribou Inn and Convention Center. The day-long session will provide municipal clerks with an overview of the law, rules and regulations concerning vital records in Maine.

The instructors include: Patty Brochu, City Clerk in Old Town; and, Roberta Fogg from the Maine State Office of Vital Records. The history and integrity of vital records, certified copies, amendment of vital records and death and marriage records are among the topics on the agenda. Registration begins at 8:30 a.m. The workshop concludes with a Q&A session at 4 p.m. Cost is \$55 for MTCCA members and \$75 for non-members.

**AUG. 12-14**

## **70<sup>th</sup> New England Management Institute: Newry**

The Maine Town, City & County Management Association's biggest training event of the year will be held on Aug. 12-14 at the Sunday River Resort in Newry. The program begins with registration at 7:30 a.m. on Wednesday, Aug. 12 and will run through noon on Friday, Aug. 14. Costs vary depending on number of days attending and accommodation requests.

The program will offer a wide range of informative presentations that will challenge attendees, focusing on the areas of strategic planning and community relations. Networking with fellow managers is also an important and valuable part of the Institute.

**AUG. 19**

## **I've Got the Job – What Now?**

The Maine Municipal Tax Collectors' and Treasurers' Association will hold a one-day workshop designed to take clerks through a significant portion of their roles and responsibilities in public office. The workshop may include topics such as: nature of the job; settlement and discharge; delinquent property taxes; excise taxes; role of the treasurer;

disbursements and warrants; investments; and, much more.

Presenter will be Gilberte Mayo, a lifetime MMTCTA member and leader. The workshop will begin with registration at 8:30 a.m. and will conclude at 3:30 p.m. Cost is \$50 for MMTCTA members and \$60 for non-members. The workshop will be held at the MMA Conference Center in Augusta.

**SEPT. 1 and SEPT. 15**

## **Voter Registration: Presque Isle, Augusta**

The Maine Town & City Clerks' Association will hold day-long sessions on voter registration on Sept. 1 at the Presque Isle Inn & Convention Center and on Sept. 15 at the MMA Conference Center in Augusta. Patti Dubois, City Clerk in Waterville, and Maine Deputy Secretary of State Julie Flynn will conduct the workshops. They will include a review of duties for registrars of voters and outline their tasks before, during and after Election Day.

The workshops start with registration at 8:30 a.m. and end at 4 p.m. The cost is \$55 for MTCCA members and \$75 for non-members.

**SEPT. 2 and SEPT. 16**

## **Title 21-A: Presque Isle, Augusta**

Kim McLaughlin, Town Clerk in Old Orchard Beach, Patti Dubois, City Clerk in Waterville, and Julie Flynn, Deputy Secretary of State, will present workshops on Title 21-A at the Presque Isle Inn & Convention Center on Sept. 2 and at the MMA Conference Center on Sept. 16. (McLaughlin will co-present on Sept. 16; Dubois on Sept. 2.) The workshops will cover all aspects of administering state and federal elections at the municipal level.

Sponsored by the Maine Town & City Clerks' Association, the workshops will begin with registration at 8:30 a.m. and end at 4 p.m. Cost is \$55 for MTCCA members and \$75 for non-members. Member attendees are encouraged to wear their name badges. ■

All of the upcoming workshops can be found on the MMA website. Use the following link:  
<http://www.memun.org/TrainingResources/WorkshopsTraining.aspx>

# LEGAL NOTES

## Job Interviews: What Not to Ask

Most of the litigation and liability associated with the hiring process result from claims of discrimination against applicants – in advertisements and application forms and especially during the interview process.

Municipalities, like other employers, are subject to both Maine and federal employment anti-discrimination laws. Both laws prohibit employment discrimination based on age, physical or mental disability, sex, ancestry or national origin, race or color, religion, genetic information, and union membership or activity. In addition, Maine law prohibits employment discrimination based on sexual orientation, workers compensation history, whistleblower history, and smoking status.

Job interviews should avoid questions that either intentionally or inadvertently raise these issues. For example, do *not* ask applicants about their:

- *Age* (When did you graduate? What are your retirement plans?)
- *Ancestry* (What is your nationality? Where were you born?)
- *Criminal arrests* (Have you ever been arrested for a crime? If so, for what?)
- *Medical condition* (How is your health? Do you take prescription drugs?)
- *Sex* (Do you have children? Do you plan to?)
- *Sexual orientation* (Are you married? Who is your spouse or partner?)
- *Religion* (What church do you attend? Can you work on holy days?)
- *Workers comp history* (Ever been injured on the job or applied for workers comp?)

While this list is by no means exhaustive, it is illustrative of the kinds of questions that should not be asked (but nevertheless sometimes are).

One particularly effective way to avoid these pitfalls is to prepare a list of permissible questions beforehand so that all applicants are asked the same questions. An evaluation form, to be completed following each interview, also helps ensure that all applicants are judged fairly and uniformly.

For much more on all of this, including job descriptions, advertising, application forms and special topics, such as the ADA (Americans with Disabilities Act), background checks, “new hire” reporting

requirements, and so on, see our “Information Packet” on the hiring process, available free to members at [www.meremun.org](http://www.meremun.org). (By R.P.F.)

## Speed Limits on Local Roads

*Question:* Who sets speed limits on local roads, the Maine Department of Transportation (MDOT) or municipalities?

*Answer:* Under State law the MDOT does. The law includes a local option authorizing “qualifying municipalities” to set their own speed limits on local roads, but the technical requirements are so costly and burdensome that no municipality currently does so (see “Speed Limits: A Local Option,” *Maine Townsman*, “Legal Notes,” November 2001). Except for this local option, the MDOT has the *exclusive* authority to set speed limits on all public ways, local roads included (see 29-A M.R.S.A. § 2073(1)).

A municipality may request the MDOT to change a speed limit, and the MDOT must, if asked, hold a local public hearing, but the MDOT is not required to approve the request. It must, however, provide written reasons if the request is denied and must, if asked, meet with municipal officials to review the reasons (see 29-A M.R.S.A. § 2073(2)).

The MDOT is not required to erect speed limit signs on local roads (see 29-A M.R.S.A. § 2703(4)). A municipality may do so, but the posted speed limit must be the same as that set by the MDOT.

Unless otherwise posted the speed limit in a business or residential area or compact or built-up portion of a municipality is 25 miles per hour; on all other public ways it is 45 miles per hour (see 29-A M.R.S.A. § 2074(1)).

Except for speed limits the municipal officers (selectmen or councilors) have exclusive authority to enact all ordinances regulating traffic on local roads (see 30-A M.R.S.A. § 3009). (By R.P.F.)

## Public Access Officers

Since 2012 every municipality (and every State agency, county, school system and other public entity subject to Maine’s Freedom of Access Act or FOAA) has been required to have a designated public access officer (PAO) to be the contact person for public records requests (see 1 M.R.S.A. § 413, enacted by PL 2011, c. 662). This was one of several important changes

## MUNICIPAL CALENDAR

**BY AUGUST 1** — Local Roads Assistance Program (LRAP) certification forms must be returned to MaineDOT Community Services Division prior to August 1st. This is an annual certification that must be completed by a municipality to receive URIP funds. Effective July 1, 2008, there is a requirement for municipalities to provide information on how the previous fiscal year’s funds were expended.

**ON OR BEFORE AUGUST 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).

**BETWEEN MAY 1 AND OCTOBER 1** — Municipal officers may initiate process to close certain ways during winter months (23 MRSA §2953). For further information, see the MMA Municipal Roads Manual.

**BY SEPTEMBER 1** — Clerks of organized plantations shall make return to the Secretary of State, on blanks furnished by him for that purpose, of the names of the assessors and clerks of their plantation and that the same have been sworn. There is a penalty for failure to make such a return (30-A MRSA §7005). ■

made to Maine’s “Right to Know” law in 2012 (see “New Amendments to FOAA ‘Open Records’ Provisions,” *Maine Townsman*, “Legal Notes,” July 2012).

The PAO must be an existing employee and is subject to the same FOAA training requirement as selectmen, councilors, school board members, and *elected* clerks, treasurers, assessors and budget committee members (see 1 M.R.S.A. § 412).

The PAO is responsible for ensuring that each public records request is acknowledged within five working days and that an estimate of the response time is given within a reasonable time. Nevertheless, a request must be acknowledged and responded to regardless of whether it is de-

# LEGAL NOTES

livered or directed to the PAO. Moreover, a response cannot be delayed because the PAO is unavailable. (If the PAO does not have regular business hours, the PAO's name and contact info must be posted in a public place and at the PAO's office, see 1 M.R.S.A. § 408-A(5)).

The PAO is also tasked with being a resource to the municipality on freedom of access questions and compliance. In this, the PAO has a valuable mentor: the State Attorney General's Public Access Ombudsman. One of the Ombudsman's responsibilities is to answer questions from public officials about the requirements of the law. For the Ombudsman's name and contact information as well as FAQs and other helpful FOAA resources, go to [www.maine.gov/foaa](http://www.maine.gov/foaa).

Municipal officials are always welcome to contact MMA's Legal Services as well. For more on this subject, see our "Information Packet" on Right to Know, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.)

## Failure to Take the Oath

Last month we wrote that every elected or appointed municipal official must take an oath before assuming their duties (see "The Oath of Office," *Maine Townsman*, "Legal Notes," June 2015). Several officials have since asked what happens if a new official fails or refuses to take the oath. Here's what *should* happen:

For persons elected but not sworn following election, the clerk must immediately issue a warrant to a constable naming those persons (see 30-A M.R.S.A. § 2526(9)(C)). The constable must immediately summon them to appear before the clerk within seven days to be sworn and must also make a return (a report) to the clerk. If those summoned fail to

be sworn as directed, the clerk should immediately notify the municipal officers (selectmen or councilors), who may then do the following:

For those elected officials who fail to respond to the clerk's warrant, and for all persons appointed but not yet sworn, the municipal officers may issue a written demand that they qualify (be sworn) within 10 days; if they fail to do so, the office is deemed vacant (see 30-A M.R.S.A. § 2602(1)(F)). It may then be filled as provided by law (see "How Vacancies Are Filled," *Maine Townsman*, "Legal Notes," August 2007). (By R.P.F.)

## Timber Harvesting on Tax-Acquired Property

Several years ago we advised that the former owner has no right to cut timber on tax-acquired property and that doing so could constitute theft and trespass, for which double and even triple damages can be recovered (see "Timber Theft,"

*Maine Townsman*, "Legal Notes," August 2012).

Recently we were asked if a municipality itself could harvest timber on a tax-acquired woodlot. We answered that it shouldn't, not without a release deed from the former owner or a quiet title action (a lawsuit to clear title).

The reason is that title based on a tax lien foreclosure alone is considered questionable, because any error in the assessment or in the tax lien process could mean the foreclosure was defective and the municipality acquired nothing. Thus, harvesting timber (or other products, such as sand or gravel) on tax-acquired land could render the municipality itself liable for theft and trespass unless it first ensures that it has clear title.

For much more on tax-acquired property, see our "Information Packet" on the subject, available free to members at [www.memun.org](http://www.memun.org). (By R.P.F.) ■



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